



DESIGN PROFESSIONAL SERVICES AGREEMENT (MASTER) WITH

1. PARTIES

This Master Agreement is made and entered into as of _____
("Effective Date"), by and between the City of Cupertino, a municipal corporation ("City"), and
_____, ("Consultant"),
a _____ for _____
_____ ("Project").

2. SERVICES

2.1 Scope of Services. Consultant agrees to provide the services "as needed" and as set forth in the Scope of Services, attached and incorporated here as **Exhibit A**. The Services must comply with this Agreement and with each Service Order issued under the authority of the City Director of Public Works or his designee, in accordance with the following procedures.

2.2 Service Orders. Before issuing a Service Order the City Director/Designee will request Services in writing and hold a meeting with Consultant to discuss it. Consultant will submit a written proposal that includes a specific Scope of Services, Schedule of Performance and Compensation, which the Parties will discuss. Thereafter City Director/Designee will execute a Service Order using the Service Order Form attached and incorporated in **Exhibit B**. Each Service Order will specify its scope of services, deliverables, schedule of performance, compensation and any other applicable terms. Issuance of a Service Order is discretionary and the Director/Designee may streamline these procedures, e.g., conferring by telephone instead of a meeting, if it is in the City's best interests. Consultant will not be compensated for Services performed without a duly executed Service Order.

3. TIME OF PERFORMANCE

3.1 Term. This Agreement begins on the Effective Date and ends on _____
("Contract Time"), unless terminated earlier as provided herein.

3.2 Schedule of Performance. All Services must be provided within the times specified in each Service Order, and under no circumstances should the Services go beyond the Contract Time. Consultant must promptly notify City of any actual or potential delay in providing the Services as scheduled to afford the Parties adequate opportunity to address or mitigate delays. If the Services are divided by tasks, Consultant must begin work on each separate task upon receiving City's Notice to Proceed ("NTP"), and must complete each task within the time specified in each Service Order.

3.3 Time is of the essence for the performance of all the Services required by this Agreement and in each Service Order. Consultant must have sufficient time, resources and qualified staff to deliver the

Services on time. Consultant must respond promptly to the City's Service Orders and any change orders that may be issued.

4. COMPENSATION

4.1 Maximum Compensation. City will pay Consultant for satisfactory performance of the Services a total amount that will be based upon actual costs but that will be capped so as not to exceed \$_____ ("Contract Price"), based on the budget and rates set forth in **Exhibit C, Compensation**, attached and incorporated here. The Contract Price includes all expenses and reimbursements and will remain in place even if Consultant's actual costs exceed the capped amount. No extra work or payment is permitted in excess of the Contract Price.

4.2 Invoices and Payments. City will pay Consultant for Services satisfactorily provided under a Service Order, within 30 days following receipt of a properly submitted invoice for Services provided during the preceding calendar month. Unless otherwise provided by a Service Order, each invoice must include for each day of Services:

- a. The name of each individual providing Services;
- b. A succinct summary of the Services performed by each such individual;
- c. The time spent by each individual providing those Services;
- d. The applicable hourly billing rate and payment due; and
- e. A detailed breakdown of all allowable expenses.

All hourly rates and allowable expenses must conform to City-approved rates set forth in **Exhibit C**.

4.3 Final Payment. At least 30 days prior to end of the Agreement, Consultant must submit a requisition for final and complete payment of costs and any pending claims for City approval. Noncompliance with this requirement relieves City of further payments/obligations under the Agreement.

5. INDEPENDENT CONSULTANT

5.1 Status. Consultant is an independent Consultant and not an employee, partner, or joint venture of City. Consultant is solely responsible for the means and methods of performing the Services and for the persons hired to work under this Agreement. No civil service status or other right of employment will be acquired by virtue of Consultant's performance of the Services. Consultant is not entitled to health, worker's compensation or other benefits from City.

5.2 Consultant Qualifications. Consultant warrants on behalf of itself and its Subconsultants that they have the qualifications and skills to perform the Services in a competent and professional manner and according to the highest standards and best industry practices for similar services performed in the San Francisco Bay Area.

5.3 Permits and Licenses. Consultant warrants on behalf of itself and its Subconsultants that they are properly licensed, registered, and/or certified to perform the Services as required by law.

5.4 Subconsultants. Unless prior written approval from City is obtained, only Consultant's employees and Subconsultants whose names are included in this Agreement and incorporated Exhibits may provide Services under this Agreement. Consultant must require all Subconsultants to furnish proof of insurance for workers' compensation, commercial liability, auto, and professional liability in reasonable conformity to the insurance required of Consultant. The terms and conditions of this Agreement shall be binding on all Subconsultants relative to the portion of their work.

5.5 Tools, Materials and Equipment. Consultant will supply and shall be responsible for all the tools, materials and equipment required to perform the Services.

5.6 Payment of Taxes. Consultant must pay income taxes on the money earned under this Agreement. Upon City's request, Consultant will provide proof of payment and will indemnify City for violations pursuant to the indemnification provision of this Agreement.

5.7 Errors and Omissions. Consultant is solely responsible for its errors and omissions and those of its Subconsultants, and must take prompt measures to avoid, mitigate, and correct them at its sole expense.

6. PROPRIETARY/CONFIDENTIAL INFORMATION

During the Contract Time Consultant may have access to private or confidential information owned or controlled by the City, which may contain proprietary or confidential details the disclosure of which to third parties may be damaging to City. Consultant shall hold in confidence all City information and use it only to perform this Agreement. Consultant shall exercise the same standard of care to protect City information as a reasonably prudent Consultant would use to protect its own proprietary data.

7. OWNERSHIP OF MATERIALS

7.1 Property Rights. Subject to City meeting its payment obligations for the Services, any interest (including copyright interests) of Consultant or its Subconsultants in any product, memoranda, study, report, map, plan, drawing, specification, data, record, document or other information or work, in any medium (collectively, "Work Product"), prepared by Consultant in connection with this Agreement will be the exclusive property of the City and shall not be shown to any third-party without prior written approval of City.

7.2 Copyright. To the extent permitted by Title 17 of U.S. Code, all Work Product prepared/created by Consultant and its Subconsultants and all copyrights in such Work Product shall constitute City property. If it is determined under federal law that the Work Product is not "works for hire", Consultant and Subconsultants hereby assign to City all copyrights to the Work Product when and as created. Consultant may retain copyrights to its standard details, but hereby grants City a perpetual, non-exclusive license to use such details.

7.3 Patents and Licenses. Consultant must pay royalties or license fees required for authorized use of any third party intellectual property, including but not limited to patented, trademarked, or copyrighted intellectual property if incorporated into the Services or Work Product of this Agreement.

7.4 Re-Use of Work Product. Unless prohibited by law and without waiving any rights, City may use or modify the Work Product of Consultant and Subconsultants to execute or implement any of the following, but Consultant shall not be responsible or liable for City's re-use of Work Product:

- (a) For work related to the original Services for which Consultant was hired;
- (b) To complete the original Services with City personnel, agents or other Consultants;
- (c) To make subsequent additions to the original Services; and/or
- (d) For other City projects.

7.5 Deliverables and Format. Electronic and hard copies of the Work Product constitute part of the Deliverables required under this Agreement, which shall be provided to City on recycled paper and copied on both sides, except for one single-sided original. Large-scale architectural plans and similar items must be in CAD and PDF formats, and unless otherwise specified, other documents must be in Microsoft Office applications and PDF formats.

8. RECORDS

8.1 Consultant must maintain complete, accurate, and detailed accounting records relating to the Services and Compensation, in accordance with generally accepted accounting principles and procedures. The records must include detailed information about Consultant's performance, benchmarks and deliverables. The records and supporting documents must be kept separate from other files and maintained for a period of four years from the date of City's final payment.

8.2 City will have free and full access to Consultant's books and records for review and audit, to make transcripts or copies, and to conduct a preliminary examination of all the work, data, documents, proceedings, and activities related to this Agreement. If a supplemental examination or audit of Consultant's records discloses non-compliance with appropriate internal financial controls, a contract breach, or a failure to act in good faith, City will be entitled to recover from Consultant the costs of the supplemental examination. This Section survives the expiration/termination of this Agreement.

9. ASSIGNMENT

Consultant shall not assign, sublease, hypothecate, or transfer this Agreement, or any interest therein, directly or indirectly, by operation of law or otherwise, without prior written consent of City. Any attempt to do so will be null and void. Any changes related to the financial control or business nature of Consultant as a legal entity will be considered an Assignment subject to City approval, which shall not be unreasonably withheld. For purposes of this provision, control means 50% or more of the voting power of the business entity. This Agreement binds Consultant, its heirs, successors and assignees.

10. PUBLICITY / SIGNS

Any publicity generated by Consultant in connection with the Project and Services during the Contract Time and for one year thereafter will reference City contributions in making the Project possible. The words "City of Cupertino" shall be displayed in all pieces of publicity, including flyers, press releases, posters, brochures, public service announcements, interviews and newspaper articles. No signs may be

posted, exhibited or displayed on or about City property, except signage required by law or this Agreement without prior written approval from City.

11. INDEMNIFICATION

11.1 To the fullest extent allowed by law and except for losses caused by the sole or active negligence or willful misconduct of City personnel, Consultant agrees to indemnify, defend, and hold harmless the City, its City Council, boards and commissions, officers, officials, employees, agents, servants, volunteers and consultants (collectively, "Indemnitees"), as follows:

a. Indemnity Obligations Subject to Civil Code Section 2782.8. With respect to the Services performed in connection with the Agreement, Consultant shall indemnify, defend, and hold harmless Indemnitees from and against any and all liability, claims, actions, causes of action, demands or charges whatsoever against any Indemnitee, including any injury to or death of any person or damage to property or other liability of any nature (collectively, "Liability"), that arise out of, pertain to, or relate to the negligence, recklessness, or willful misconduct of Consultant, its officers, officials, employees, agents or Subconsultants. Such costs and expenses shall include reasonable attorney fees for legal counsel of City's choice, expert fees, and all other costs and fees of litigation. In addition to its indemnity obligations, Design Professional will provide its immediate and active cooperation and assistance to the City, at no additional cost to the City, in analyzing, defending, and resolving such Liability.

b. Claims Involving Intellectual Property. Consultant shall indemnify, defend, and hold harmless Indemnitees from and against any claim involving intellectual property, infringement or violation of a United States patent right or copyright, trade secret, trademark, or service mark or other proprietary or intellectual property rights, which arises out of, pertains to, or relates to Consultant's negligence, recklessness, or willful misconduct. Such costs and expenses will include reasonable attorney fees for legal counsel of City's choice, expert fees and all other costs and fees of litigation.

c. Claims for Other Liability. For all other liabilities not included in provisions "a" and "b" above, Consultant shall indemnify, defend, and hold harmless the Indemnitees against any and all liability, claims, actions, causes of action or demands whatsoever, including any injury to or death of any person or damage to property, or other liability of any nature arising out of, pertaining to, or relating to the performance of this Agreement by Design Professional, its employees, officers, officials, agents or Subconsultants, including liability based on breach of contract, obligations, or warranties, or any unauthorized use or disclosure of City's confidential and proprietary information.

11.2 Consultant will assist City, at no additional cost, in the defense of any claim, dispute or lawsuit arising out of this Agreement. Consultant's duties herein are not limited to or subject to the Contract Price, to Workers' Compensation claims, or to the Insurance or Bond limits and provisions. Nothing in this Agreement shall be construed to give rise to an implied right of indemnity in favor of Consultant against any Indemnitee.

11.3 If this Agreement is entered into or amended on or after January 1, 2018, Consultant's duty to pay for any of Indemnitees' defense related costs will be limited to its proportionate share of fault, as determined by final decision by a court of competent jurisdiction, subject to any applicable exceptions in Civil Code section 2782.8.

11.4 Consultant agrees to pay the reasonable costs City may incur in enforcing this provision related to Consultant's indemnification duties, including reasonable attorney fees, fees for legal counsel acceptable to City, expert fees, and all other costs and expenses related to a claim or counterclaim, a purchase order, another transaction, litigation, or dispute resolution. Without waiving any rights, City may deduct money from Consultant's payments to cover moneys due to City. Section 11 survives expiration or termination of this Agreement.

12. INSURANCE

On or before the Contract Time commences, Consultant shall furnish City with proof of compliance with City insurance requirements, attached and incorporated here as **Exhibit D**. City will not execute the Agreement until it has approved receipt of satisfactory certificates of insurance and endorsements evidencing the type, amount, class of operations covered, and the effective and expiration dates of coverage. Alternatively, City may terminate this Agreement or in its sole discretion purchase insurance at Consultant's expense and deduct costs from payments to Consultant.

13. COMPLIANCE WITH LAWS

13.1 General Laws. Consultant shall comply with all local, state and federal laws and regulations applicable to this Agreement. Consultant will promptly notify City of changes in the law or other conditions that may affect the Project or Consultant's ability to perform. Consultant is responsible for verifying the employment authorization of employees performing the Services, as required by the Immigration Reform and Control Act, or other federal or state law, rule or regulation.

13.2 Labor Laws. Consultant shall comply with all labor laws applicable to this Agreement. If the Services include a "public works" component, Consultant must comply with prevailing wage laws under Labor Code Section 1720 and other labor laws. To the extent applicable, Consultant must comply with City's Labor Compliance Program, and with state labor laws pertaining to working days, overtime, payroll records and Department of Industrial Relations (DIR) Registration and Oversight. If the Contract Price is \$30,000 or more, Consultant must comply with the apprenticeship requirement in Labor Code Section 1777.5.

13.3 Discrimination Laws. Consultant shall not discriminate on the basis of race, religious creed, color, ancestry, national origin, ethnicity, handicap, disability, marital status, pregnancy, age, sex, gender, sexual orientation, gender identity, Acquired-Immune Deficiency Syndrome (AIDS) or any other protected classification. Consultant shall comply with all anti-discrimination laws, including Government Code Sections 12900 and 11135, and Labor Code Sections 1735, 1777 and 3077.5. Consistent with City policy prohibiting harassment and discrimination, Consultant understands that harassment and discrimination directed toward a job applicant, an employee, a City employee, or any other person is strictly prohibited.

13.4 Conflicts of Interest. Consultant shall comply with all conflict of interest laws and regulations applicable to this Agreement and must avoid any conflict of interest. Consultant warrants that no public official, employee, or member of a City board or commission who might have been involved in the making of this Agreement, has or will receive a direct or indirect financial interest in this Agreement, in violation of California Government Code Section 1090 et seq. Consultant may be required to file a

conflict of interest form if Consultant makes certain governmental decisions or serves in a staff capacity, as provided in Section 18700 of the California Code of Regulations and other laws. Services may only be performed by persons who are not employed by City and who do not have any contractual relationship with City, with the exception of this Agreement. Consultant agrees to abide by City policies and administrative rules prohibiting gifts to City officials and employees.

13.6 Remedies. A violation of Section 13 constitutes a material breach and may result in City suspending payments, requiring reimbursement, or terminating this Agreement. City reserves all its rights and remedies under law and this Agreement, including the right to seek indemnification under Section 11. Consultant agrees to indemnify, defend, and hold City harmless from and against any loss, liability, and expenses arising from noncompliance with this Section.

14. PROJECT COORDINATION

14.1 City Project Manager. The City's Project Manager for all purposes under this Agreement will be _____, who shall have the authority to manage this Agreement and oversee the progress and performance of the Services. City in its sole discretion may substitute another Project Manager at any time and will advise Consultant of the new representative.

14.2 Consultant Project Manager. Subject to City approval, the Consultant's Project Manager for all purposes under this Agreement will be _____, who shall be the single representative for Consultant with the authority to manage compliance with this Agreement and oversee the progress and performance of the Services. This includes responsibility for coordinating and scheduling the Services in accordance with City instructions, service orders, and the Schedule of Performance, and providing regular updates to the City's Project Manager on the Project status, progress, and any delays. City written approval is required prior to Consultant substituting a new Project Manager, which shall result in no additional costs to City or Project delays.

15. ABANDONMENT OF PROJECT

City may abandon or postpone the Project with thirty (30) calendar days' written notice to Consultant. Consultant will be compensated for satisfactory Services performed through the date of abandonment and will be given reasonable time to assemble the work and close out the Services. No close out work shall be conducted without City reasonable approval of closure costs, which may not exceed ten percent (10%) of the total time expended to the date of abandonment. All charges including job closure costs will be paid in accordance with the provisions of this Agreement and within thirty (30) days of Consultant's final invoice reasonably approved by the City.

16. TERMINATION

City may terminate this Agreement for cause or without cause at any time, following reasonable written notice to Consultant at least thirty (30) calendar days prior to the termination date. Consultant will be paid for satisfactory Services rendered through the date of termination, but final payment will not be made until Consultant closes out the Services and delivers all Work Product to City. All charges approved by City including job closure costs will be paid within 30 days of Consultant's final invoice.

17. GOVERNING LAW, VENUE AND DISPUTE RESOLUTION

This Agreement is governed by the laws of the State of California, excepting any choice of law rules which may direct the application of laws of another jurisdiction. Any lawsuits filed related to this Agreement must be filed with the Superior Court for the County of Santa Clara, State of California. Consultant must comply with the claims filing requirements under the Government Code prior to filing a civil action in court. If a dispute arises, Consultant must continue to provide the Services pending resolution of the dispute. If the Parties elect arbitration, the arbitrator's award must be supported by law and substantial evidence and include detailed written findings of law and fact.

18. ATTORNEY FEES

If City files a complaint or cross-complaint, or pursues arbitration, appeal, or other proceeding to enforce its rights or a judgment in connection with this Agreement, the prevailing party will be entitled to reasonable attorney fees and costs. This attorney fee provision does not apply to legal actions initiated by Consultant or Subconsultant. This Section survives termination of this Agreement.

19. THIRD PARTY BENEFICIARIES

There are no intended third party beneficiaries of this Agreement.

20. WAIVER

Neither acceptance of the Services nor payment thereof shall constitute a waiver of any contract provision. City's waiver of any breach shall not be deemed to constitute waiver of another term, provision, covenant or condition, or a subsequent breach, whether of the same or a different character.

21. ENTIRE AGREEMENT

This Agreement and all its Sections represent the full and complete understanding of every kind or nature between the Parties, and supersedes any other agreements and understandings, either oral or written, between the Parties. Any modification of this Agreement will be effective only if in writing and signed by each Party's authorized representative. No verbal agreement or implied covenant will be valid to amend or abridge this Agreement. If there is any inconsistency between the main Agreement and the attachments or exhibits thereto, the text of the main Agreement shall prevail.

22. INSERTED PROVISIONS

Each contractual provision or clause that may be required by law is deemed to be included and will be inferred in this Agreement. Either party may request an amendment to cure any mistaken insertion or omission of a required provision.

23. HEADINGS

The headings in this Agreement are for convenience only, are not a part of the Agreement and in no way affect, limit or amplify the terms or provisions of this Agreement.

24. SEVERABILITY/PARTIAL INVALIDITY

If any term or provision of this Agreement, or their application to a particular situation, is found by the court to be void, invalid, illegal or unenforceable, such term or provision shall remain in force and effect to the extent allowed by such ruling. All other terms and provisions of this Agreement or their application to specific situations shall remain in full force and effect.

25. SURVIVAL

All provisions which by their nature must continue after the Agreement ends, including without limitation those referenced in specific Sections herein, survive this Agreement and shall remain in full force and effect.

26. NOTICES

All notices, requests and approvals must be sent in writing to the persons below, which will be considered effective on the date of personal delivery or the date confirmed by a reputable overnight delivery service, on the fifth calendar day after deposit in the United States Mail, postage prepaid, registered or certified, or the next business day following electronic submission:

To City of Cupertino 10300 Torre Ave. Cupertino CA 95014 Attention: _____ Email: _____	To Consultant: _____ _____ _____ Attention: _____ Email: _____
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27. VALIDITY OF CONTRACT

This Agreement is valid and enforceable only if it complies with the contract provisions of Cupertino Municipal Code Chapters 3.22 and 3.23, is signed by the City Manager or authorized designee, and is approved for form by the City Attorney's Office.

28. EXECUTION

The person executing this Agreement on behalf of Consultant represents and warrants that Consultant has full right, power, and authority to enter into and carry out all actions contemplated by this Agreement and that he or she is authorized to execute this Agreement, which constitutes a legally binding obligation of Consultant. This Agreement may be executed in counterparts, each one of which is deemed an original and all of which, taken together, constitute a single binding instrument.

IN WITNESS WHEREOF, the parties have caused the Agreement to be executed.

CONSULTANT

By _____

Name _____

Title _____

Date _____

Tax I.D. No.: _____

CITY OF CUPERTINO

A Municipal Corporation

By _____

Name _____

Title _____

Date _____

APPROVED AS TO FORM:

RANDOLPH STEVENSON HOM
Cupertino City Attorney

ATTEST:

GRACE SCHMIDT
City Clerk

EXHIBIT A SCOPE OF SERVICES

The CONSULTANT shall provide certain Construction Management services as required and requested by the CITY.

The CONSULTANT shall provide services under this Master Agreement on an “as needed” basis and only (1) upon written request from the CITY’s Director of Public Works or authorized Agent as defined in Section 14, PROJECT COORDINATION and (2) as defined in a fully executed SERVICE ORDER, Exhibit B.

SECTION 1- GENERAL PROVISIONS

- A. The CONSULTANT shall perform all services to the satisfaction of the CITY’s Public Works Director or authorized Agent.
- B. The CONSULTANT shall perform all services under this agreement to the currently prevailing professional standards and quality found among Program and Project Management Consultants with similar knowledge and skill engaged in related work throughout the San Francisco Bay Area under the same or similar circumstances.
- C. The CONSULTANT shall perform services under this AGREEMENT only by authorization of a fully executed SERVICE ORDER which shall clearly provide the nature of the specific services, the time limit within which such services must be completed, and the compensation for such services. Unauthorized services performed by the CONSULTANT shall be at no cost to the CITY.
- D. The CONSULTANT shall begin work only after receipt of a fully authorized and executed SERVICE ORDER. The CITY shall incorporate each authorized and fully executed SERVICE ORDER into the terms and conditions of this MASTER AGREEMENT.
- E. The CITY shall designate a Project Manager for each authorized and fully executed SERVICE ORDER under this AGREEMENT. The CONSULTANT shall coordinate the SERVICE ORDER performance with the CITY’s designated Project Manager.

SECTION 2. BASIC SERVICES

The Consultant shall provide Construction Management services for various CITY Public Works projects. All services performed shall be authorized by a fully executed SERVICE ORDER prior to work commencement.

A. General Performance Requirements

EXHIBIT A SCOPE OF SERVICES

1. The performance of all services by CONSULTANT shall be to the satisfaction of the CITY, in accordance with the express terms hereof, including but not limited to the terms set out in detail in this scope of services and the standard of care provisions contained in this AGREEMENT.
2. CONSULTANT shall be responsible for coordinating the work of all consultants and contractors, as needed or as directed by the CITY. CONSULTANT shall schedule meetings and prepare meeting agendas and minutes for all PROJECT meetings during the execution of this agreement under the scope of work. All minutes of meetings are due to the CITY within five (5) working days after the meeting. CONSULTANT shall provide copies of such documentation to the CITY, and as directed by the CITY, to other appropriate agencies and entities.
3. CONSULTANT shall designate and provide to the CITY the names of their team members for the PROJECT. The team members shall be satisfactory to the CITY. CONSULTANT shall not substitute any team members without the prior approval of the CITY. CITY retains the right to reject team members assigned by CONSULTANT or require replacement of team members.
4. CONSULTANT shall manage its SUBCONSULTANTS, and administer the PROJECT. CONSULTANT shall consult with the CITY, research applicable information, and communicate with members of the PROJECT team.
5. During the course of work of an assigned PROJECT, CONSULTANT shall meet weekly with CITY's assigned project manager for the respective construction projects to provide an update on the current status of the construction project. Construction Manager (CM) will provide the CITY's assigned project manager with a summary report.

- B.** CONSULTANT shall effectively manage the assigned construction projects for the efficient, progressive, and proactive delivery of each construction project. For each assigned construction project, the CONSULTANT may provide any or all of the following tasks and subtasks under Section 2, as is required for each specific project.

C. TASKS

Consultant services for any assigned project under this Master Agreement may include, but is not limited to the following tasks:

Task 1 – Pre-Construction Phase - work shall include but is not limited to the following:

- 1) Conduct a constructability review of the construction documents (50%, 95% and 100%) for the various projects. Provide a written report with recommendations for changes.
- 2) Cost Estimate review and value engineering for various projects. Provide a written report with recommendations.

EXHIBIT A SCOPE OF SERVICES

- 3) Utility coordination for projects. Work shall include a survey of existing utilities, the development of utility service plan for new and existing structures, coordinating with consultant preparing the project plans and making application to the utility companies for service.
- 4) Assist with the building permit approval process. Work shall include but is not limited to coordinating with design consultant and building department to receive an approved building permit.
- 5) Assist with the review and approval process for other permits and regulatory requirements. Work shall include but is not limited to coordinating with design consultant, city staff, and regulatory agencies to apply for and secure approved permits and authorizations as needed.
- 6) Assist with the development and conducting of public outreach programs to assist in providing public information regarding project.
- 7) Assist with grant administration during the project.

Task 2 – Bid Phase - work shall include but is not limited to the following:

- 1) Conduct a pre-bid Conference with prospective Bidders.
- 2) Assist with the issuing of Addendums.
- 3) Assist in the development of bidders' interest in a project.
- 4) Review bid documents and assist the CITY in evaluation of bidders Statement of Qualifications for responsible low bidder and assist in analyzing bid protest as may be necessary.
- 5) Tabulation and evaluation of bid results. Assist in the evaluation of bid alternatives and make recommendations on award.
- 6) Assist in review and processing of substitution submittals during bid and construction phase.

Task 3 – Construction Phase – work shall include but is not limited to the following:

- 1) Administration and Coordination of Construction Contract: CM will provide administrative, construction management and related services necessary to administer the Construction Contract on each assigned project. CM's services shall include but are not limited to the following:
 - a. Scheduling, coordinating and conducting pre-construction and construction meetings; recording, maintaining and distributing minutes thereof.
 - b. Prior to start of project construction the CM and CITY will come to agreement on the format for all project records to be kept and turned over to the CITY at the completion of the project. Documents may be hard copies and/or electronic. CM will make recommendations on programs to be used for tracking and other record keeping needs.

EXHIBIT A SCOPE OF SERVICES

- c. Develop and implement a procedure for the submittal and processing of submittals with the design consultant. This shall include preparing and updating logs. Provide preliminary review for completeness and general compliance of submittals that are to be reviewed by the design consultant. Provide review and response for submittals that do not involve the design consultant (such as Safety Plan, Fire Protection Plan). Sign and date such submittals with response: Reviewed or Revise and Resubmit.
 - d. Develop and implement a procedure for the submittal and processing of substitution requests with the CITY and the design consultant. This shall include preparing and updating logs.
 - e. Develop and implement a procedure for timely handling and disposition of the Contractor's Request For Information (RFI) or clarifications with the design consultant. This shall include preparing and updating logs.
 - f. Establish and implement procedures for the timely transmittal and receipt of communications, drawing and other information between CM, design consultant and the Contractor relating to construction of the project.
 - g. Develop and implement a procedure for the timely submittal, processing and tracking of Contract Change Orders (CCO), Request for Price Quote (RPQ), etc. with the CITY. This shall include preparing and updating logs.
 - h. Coordinate and maintain a project directory for the project, with emergency contact information.
 - i. Review the Contractor's comprehensive schedule that establishes a base line and reports the status and progress of the project. The schedule should include details such as milestones and key activities to track project progress. Review the Contractor's three week look ahead schedule. Verify that schedules conform to the construction contract documents.
 - j. Work with CITY and Contractor to maintain use of existing facilities that are affected by the construction, to minimize the disruption to the existing facilities and to have their continued use during the construction of the project. This includes all phase of construction and delivery of materials.
- 2) Monitoring of construction costs and progress payments, CM services shall include but are not limited to the following:
- a. Provide and maintain project level reports for budgeting and contingency tracking; contract payment status; cash flow forecasting and analysis; grant documentation; and other financial reporting as necessary to support the CITY's accounting needs. CM shall maintain records reflecting the actual costs for activities completed or in progress, including records relating to work performed on a unit cost basis and additional work performed by the Contractor on a time and materials basis. CM shall monitor and advise the CITY of costs pertaining to potential, pending and completed changes; and potential or pending claims.
 - b. Develop a procedure for submittal, review and processing of the progress

EXHIBIT A SCOPE OF SERVICES

payments to Contractor, along with associated forms and reporting systems. CM shall review progress payment applications and work with Contractor to achieve agreement on the progress payment amount. CM will verify that the “as built” check set of plans by the Contractor are updated prior to approval of progress payment being submitted to the CITY. CM will require Contractor to provide a conditional waiver and release for progress payments and a final release and waiver for the final payment. CM will certify that the data in each application for progress payment is to the best of CM’s knowledge, information and belief, the work has progressed to the point indicated in the application for progress payment and the quality of the work is generally in accordance with the contract documents. CM’s review of application for progress payment shall be undertaken and completed in a timely manner so that the CITY can meet its obligations to make progress payment due Contractor within the time permitted by applicable law without incurring interest liability or other penalties/liabilities. CM shall also verify the progress payment satisfies any grant requirement.

- 3) Substantial completion and final completion, CM services shall include but are not limited to the following:
 - a. Consult with the design consultants and CITY to jointly ascertain the achievement of substantial completion of the project. If upon inspection of the project substantial completion has not been achieved, the CM will assist the design consultant in noting the conditions of the work and the measures necessary for the Contractor to achieve substantial completion. Upon determining that the Contractor has achieved substantial completion the CM will coordinate the CITY’s and design consultant’s final inspection of the work to note punch list items to be completed by the Contractor as a condition to achieve final completion.
 - b. Assist the CITY in issuing a certificate of substantial completion and final completion, as applicable.
- 4) Progress Records, CM services shall include but are not limited to the following:
 - a. Maintain records of the progress of construction of the project, including written progress reports and photographs reflecting the status of construction and percentage completion of the project. CM will maintain daily records during construction of the project showing weather conditions, personnel of the Contractor and Subcontractor at the site, work accomplished, problems encountered and other matters materially affecting the project, completion of the project or construction cost to complete construction of the project. CM shall maintain project records for test results and special inspection results.
 - b. Provide monthly progress reports on the project.
- 5) Site observations of project, CM services shall include but are not limited to the following:
 - a. CM shall be on-site during construction of the project and substantially at all

EXHIBIT A

SCOPE OF SERVICES

times during which there are construction activities at the site. CITY and CM may agree to the amount of time required to be at the site for observation, however this does not relieve the CM from the requirement of having knowledge of the status of the work.

- b. Coordinate testing, lab services and inspections, this includes by outside firms. CM will work with the Building Department for permit inspections coordination and final approvals of permit. Provide testing and test results by testing firm acceptable to CITY. Such testing services shall be a reimbursable expense as described in Task 4.
- c. Maintain at the site the following documents at a minimum: Contract, Drawings, Specifications, approved Change Orders, Submittals, building permit, SWPPP and associated testing or monitoring documentation, other permits, applicable codes, rules and regulation and other written or electronic materials relating to the project.
- d. CM will endeavor to guard the CITY against defects and deficiencies in construction and workmanship of the project on the basis of its site observations, and a quality control program established and implemented hereunder to monitor construction workmanship for conformity: 1) accepted industry standards; 2) applicable laws, codes, regulations, ordinances or rules: 3) and the requirements of the construction documents.
- e. CM shall reject work whenever in the ordinary course of discharging its services the CM discovers or observes patent conditions of defective or deficient construction and workmanship which as or may have an adverse impact upon the project's life-safety systems or operations, structural elements or integrity of the safety of persons or property. CM shall take prompt action appropriate under the circumstances, including stopping the work and thereupon notifying the CITY in writing. CM's responsibilities hereunder shall be limited to defective or deficient work or an apparent or patent nature.
- f. Review the Contactor safety program and the requirements of the construction documents and applicable law. CM shall monitor the Contractor's compliance with safety programs and advise the CITY of measures, if any, necessary or appropriate to obtain the Contractor's compliance. By undertaking the obligation hereunder, CM shall not be deemed to have assumed responsibility of the adequacy or sufficiency of safety programs implemented by the Contractor, but the CM is responsible for verifying that the Contractor has established a safety program, that the safety program established by the Contractor is in compliance with applicable law, rule or regulation and that the Contractor has implemented its safety program.
- g. CM shall promptly notify the CITY in writing of all CM observed instances of Contractor's failure to comply with applicable safety requirements. If in the course of performing services during the construction, the CM observes a safety

EXHIBIT A SCOPE OF SERVICES

- violation or other unsafe condition on or about the site or surrounding area which have a immediate or potential or actual adverse effect on life or property, the CM is authorized, without prior notice to the CITY or prior directive by the CITY, to take all actions deemed necessary and appropriate by the CM under the then existing circumstances to prevent such actual or potential adverse effect.
- h. CM shall become familiar with all CEQA documents and permit requirements from other agencies having jurisdictions over the site or work that will affect the project and the construction site. CM shall be responsible for monitoring all aspects of the project as it relates to the requirements. CM shall monitor the Contractor's compliance with all requirements of the CEQA documents and permits by other agencies. CM shall take prompt action appropriate under the circumstances, including stopping the work and thereupon notifying the CITY in writing if Contractor is not following all requirements.
- 6) Contract Change Order (CCO) processing, CM services shall include but are not limited to the following:
- a. Coordinate and disseminate correspondence, drawings and other written materials by and between the Contractor, the CITY and the design consultants relating to changes to the project. CM will coordinate the Contractor's performance of changes authorized by the CITY. CM shall maintain a log or other written records to monitor the pendency and disposition of change and CCOs to keep the CITY advised of the status of the same and the actual or potential impact of any particular change or CCO or the cumulative effects thereof on the construction cost or time for completion of construction of the project.
 - b. Assist the CITY and design consultant in evaluation of requests for the Contractor for issuance of CCOs, assist in negotiations with the Contractor relative to the CCOs proposals and the adjustment of the contract price or the contract time under the construction contract. CM will make recommendations to the CITY and the design consultant for handling and disposition of the Contractor's proposal relative to the changes. If a change to the construction contract is approved or authorized by the CITY, CM will assist the CITY and the design consultant in the preparation of a CCO reflecting such approved or authorized change to the construction contract. The CM is not authorized, without the prior consent and approval of the CITY, to effectuate or authorize any change to the work of the project. The CM shall be liable to the CITY for all direct and consequential costs, losses or damage resulting from the CM's direction or authorization of effectuate a change to the work of the project without the prior direction and authorization by the CITY.
- 7) Claims handling, CM service shall include but are not limited to the following:
- a. Assist the design consultant in the review, evaluation and processing of claims asserted by the Contractor; CM will make recommendations to the CITY as to

EXHIBIT A SCOPE OF SERVICES

merit, handling and disposition of Contractor's claims. Except in the event that the CM is alleged to have caused or contributed to the circumstances giving rise to a Contractor claim or other Contractor demand for compensation, services of the CM to prepare documentation or provide testimony in a mediation, arbitration or judicial proceeding arising out of such a claim or demand for compensation shall be deemed additional services. If the CM is alleged to have caused or contributed to a Contractor claim, the CM's claims handling services, including without limitation, claims analysis, assistance in preparing briefs/graphic materials in connection with negotiations or dispute resolution proceeding relating to a Contractor claim shall be deemed part of the CM's basic services under this agreement.

- 8) CM equipment, CM shall provide the following equipment necessary to carry out CM duties:
 - a. Provide all equipment, furnishings and other items necessary to complete the services required for the project. Including without limitation, trailer, computers, related hardware, software, vehicles, cell phones, office equipment and copiers.

Task 4 – Inspections and Testing – work shall include but is not limited to the following:

- 1) CM shall conduct routine inspection of the construction work over the course of construction to ensure compliance of the work with the construction contract, including all drawings and specifications.
- 2) CM shall monitor the contractor's compliance with required Regulatory Agency Permit inspections and advise CITY of coordination problems and Contractor's compliance with permit/inspection requirements.
- 3) CM shall engage the necessary subconsultants to perform the necessary inspections and testing as required for the project. CM shall schedule and coordinate with the contractor and subconsultant for the necessary testing and inspection for the project.
- 4) Compensation to the CM for inspections and testing by subconsultant shall be for the actual billed amount only, no mark up or overhead will be allowed for these subcontracted services. CM shall bill monthly for actual inspections and testing completed. CM shall attach copies of subconsultants' invoice for verification of cost being billed.

Task 5 – Post-Construction Phase – work shall include but is not limited to the following:

- 1) Contractor closeout document review, CM services shall include but are not limited to the following:
 - a) Receive from the Contractor the closeout documents and items to be submitted

EXHIBIT A SCOPE OF SERVICES

by the Contractor under the terms of the Construction Contract upon completion of its obligations under the Construction Contract. The CM shall review each Contractor's closeout submittals to determine conformity with the requirements of the Construction Contract. If the CM determines that any Contractor's closeout submittals are not in conformity with requirements of the construction contract, the CM shall make recommendations to the CITY for measures to secure compliance with the requirements of the construction contract. The CM shall deliver to the CITY all of the Contractor's closeout submittals, including the Contractor's as-build drawings which the CM shall transmit to the design consultant for preparation of the record drawings. The CM shall monitor the design consultant's preparation and completion of the project record drawings prior to delivering to the CITY.

- 3) Within thirty (30) days of the date of issuance of a Certificate of Final Completion for the construction contract, the CM shall assemble and deliver to the CITY all of the records maintained by the CM relating to the project.

Task 6 – Additional Services

- 1) Services provided by CM that are different from or in addition to those described herein are being included in the scope of Basic Services are referred to as "Additional Services". No Additional Services shall be performed without the prior written authorization of the CITY. No compensation shall be due from the CITY to the CM for any Additional Services provided or performed by the CM without the prior written authorization of the CITY.
- 2) Compensation to the CM for Additional Services directed and authorized by the CITY shall be on the basis of either: 1) actual and reasonable time of the CM's personnel necessary to complete the authorized Additional Service computed in accordance with the Rate Schedule attached to this Agreement; or 2) a fixed price mutually agreed upon by the CITY and the CM. The forgoing notwithstanding, if Additional Services authorized by the CITY result from the neglect of CM or CM's default under this Agreement, CM shall complete Additional Services at no cost to the CITY.

END OF EXHIBIT

EXHIBIT B

SERVICE ORDER PROCESS

The CONSULTANT shall provide services under this Master Agreement on an “as needed” basis and only (1) upon written request from the CITY’s Director of Public Works or authorized Agent as defined in Section 14, Project Coordination, and (2) as defined in a fully executed Service Order..

SECTION 1- SERVICE ORDER INITIATION

- A. The City Public Works Director or his designee shall provide written request for Consultant services as defined in this agreement. The Consultant and City shall meet to discuss the services after which the consultant shall provide a written proposal including specific scope of services, performance schedule, and compensation to the City.
- B. The City and Consultant shall discuss the proposal in detail and agree upon the terms of the Service Order.
- C. The City shall prepare a Project Service Order consistent with the City’s standard form, Service Order, and Attachment A. The Service Order shall, at a minimum, include (1) specific scope of services, deliverables, schedule of performance, and compensation.

SECTION 2- SERVICE ORDER EXECUTION

- D. Both parties shall execute the Service Order as evidenced by the signatures of the authorized representatives defined in Section 14 of the Master Agreement, Project Coordination, and the date signed.
- E. The Consultant shall begin work on the scope of services only after receipt of a fully executed authorized Service Order defining those services. Consultant understands and agrees that work performed before the date of the authorized Service Order or outside the scope of services once a Service Order is signed and authorized shall be at no cost to the City.
- F. The maximum compensation authorized by a single Service Order and/or the aggregate of Service Orders shall not exceed the maximum compensation set forth in Article 4 of the Master Agreement.

EXHIBIT C COMPENSATION

The City shall compensate the Consultant according to the hourly rate(s) stated in this Exhibit which shall remain in effect for the Master Agreement schedule of performance unless changed by written amendment to the Master Agreement.

Each authorized Service Order under this Master Agreement shall identify the method of compensation consistent with the scope of services provided by the Consultant. In any case, the Consultant's total payment for each authorized Service Order shall not exceed the maximum compensation identified in that Service Order, unless authorized by a written amendment executed by the City and the Consultant, and the total compensation for all authorized Service Orders shall not exceed the maximum compensation stated in Article 4, Compensation, of the Master Agreement.

Work exceeding the total authorized amount for a Service Order or the total compensation for the Master Agreement shall be at no cost to the City.

Consultant Hourly Rate(s)

The Consultant shall be compensated according to the following hourly rate(s) for all work performed under authorized Service Orders:

Labor Category	Master Agreement Hourly Rate
Resident Engineer	\$190
Assistant Resident Engineer / Office Engineer	\$160
Construction Inspector	\$135

Reimbursable Expenses

Reimbursable expenses represent the acquisition cost of items, other than direct labor, specifically required to perform the scope of services and beyond normal business operating expenses which are included in the direct labor rate. Such expenses include, but are not limited to:

- Individual or multiple document reproductions that exceed 50 pages;
- Drawing or bid set reproductions;
- Software required by City other than Microsoft Word, Excel, PowerPoint, and Project; Adobe Acrobat; and a photo editor program.

EXHIBIT C COMPENSATION

- Travel expenses to the extent allowed by City policy;
- Sub-consultants required by project scope of services;
- Safety equipment required by City policy or the project scope of services;
- Mass mailing notifications;
- Expenses for public meetings, such as refreshments, interpreters, security, valet parking, facility rental, tents or booths, easels, markers, paper, presentation equipment.

The City shall compensate the Consultant for such reimbursable expenses **only** with prior written authorization by the City representative designated in Section 14, Project Coordination, of the Master Agreement. All compensation, including reimbursable expenses, shall not exceed the maximum compensation for the Service Order.

The City shall compensate the Consultant for reimbursable expenses for the documented actual cost only, allowing for no surcharge for Consultant administration. Reimbursable expenses shall be separately identified on the Consultant invoice.

Method of Payment

The Consultant shall submit an invoice to the City by the 5th business day of each month that clearly identifies the work performed in the previous month and authorized reimbursable expenses. All invoices from Consultant shall be e-mailed to City at:

PWinvoices@cupertino.org

The invoice shall identify the applicable period of work, a description of the work performed consistent with the Service Order scope of services, the number of hours, hourly rate, reimbursable expenses, Service Order maximum compensation, Service Order compensation to date including invoice number, total invoice amount for current invoice, Service Order maximum compensation balance remaining.

All Consultant payments shall be addressed to:

CSG Consultants, Inc.
550 Pilgrim Drive
Foster City, CA 94404
Attention: Nourdin Khayata

END OF EXHIBIT

EXHIBIT D
Insurance Requirements
Design Professionals & Consultants Contracts

Consultant shall procure prior to commencement of Services and maintain for the duration of the contract, at its own cost and expense, the following insurance policies and coverage with companies doing business in California and acceptable to City.

INSURANCE POLICIES AND MINIMUMS REQUIRED

1. ***Commercial General Liability*** (CGL) for bodily injury, property damage, personal injury liability for premises operations, products and completed operations, contractual liability, and personal and advertising injury with limits no less than **\$2,000,000** per occurrence (ISO Form CG 00 01). If a general aggregate limit applies, either the general aggregate limit shall apply separately to this project/location (ISO Form CG 25 03 or 25 04) or it shall be twice the required occurrence limit.
 - a. It shall be a requirement that any available insurance proceeds broader than or in excess of the specified minimum insurance coverage requirements and/or limits shall be made available to the Additional Insured and shall be (i) the minimum coverage/limits specified in this agreement; or (ii) the broader coverage and maximum limits of coverage of any insurance policy, whichever is greater.
 - b. Additional Insured coverage under Consultant's policy shall be "primary and non-contributory," will not seek contribution from City's insurance/self-insurance, and shall be at least as broad as ISO Form CG 20 01 (04/13).
 - c. The limits of insurance required may be satisfied by a combination of primary and umbrella or excess insurance, provided each policy complies with the requirements set forth in this Contract. Any umbrella or excess insurance shall contain or be endorsed to contain a provision that such coverage shall also apply on a primary and non-contributory basis for the benefit of City before the City's own insurance or self-insurance shall be called upon to protect City as a named insured.
2. ***Automobile Liability***: ISO CA 00 01 covering any auto (including owned, hired, and non-owned autos) with limits no less than **\$1,000,000** per accident for bodily injury and property damage.
3. ***Workers' Compensation***: As required by the State of California, with Statutory Limits and Employer's Liability Insurance of no less than **\$1,000,000** per occurrence for bodily injury or disease.
☐ *Not required. Consultant has provided written verification of no employees.*
4. ***Professional Liability*** for professional acts, errors and omissions, as appropriate to Consultant's profession, with limits no less than **\$2,000,000** per occurrence or **\$2,000,000** aggregate. If written on a claims made form:
 - a. The Retroactive Date must be shown and must be before the Effective Date of the Contract.
 - b. Insurance must be maintained for at least five (5) years after completion of the Services.
 - c. If coverage is canceled or non-renewed, and not replaced with another claims-made policy form with a Retroactive Date prior to the Contract Effective Date, the Consultant must purchase "extended reporting" coverage for a minimum of five (5) years after completion of the Services.

OTHER INSURANCE PROVISIONS

The aforementioned insurance shall be endorsed and have all the following conditions and provisions:

Additional Insured Status

The City of Cupertino, its City Council, officers, officials, employees, agents, servants and volunteers ("Additional Insureds") are to be covered as additional insureds on Consultant's CGL policy. General Liability coverage can be provided in the form of an endorsement to Consultant's insurance (at least as broad as ISO Form CG 20 10 (11/ 85) or both CG 20 10 and CG 20 37 forms, if later editions are used).

Primary Coverage

Coverage afforded to City/Additional Insureds shall be primary insurance. Any insurance or self-insurance maintained by City, its officers, officials, employees, or volunteers shall be excess of Consultant's insurance and shall not contribute to it.

Notice of Cancellation

Each insurance policy shall state that coverage shall not be canceled or allowed to expire, except with written notice to City 30 days in advance or 10 days in advance if due to non-payment of premiums.

Waiver of Subrogation

Consultant waives any right to subrogation against City/Additional Insureds for recovery of damages to the extent said losses are covered by the insurance policies required herein. Specifically, the Workers' Compensation policy shall be endorsed with a waiver of subrogation in favor of City for all work performed by Consultant, its employees, agents and subconsultants. This provision applies regardless of whether or not the City has received a waiver of subrogation endorsement from the insurer.

Deductibles and Self-Insured Retentions

Any deductible or self-insured retention must be declared to and approved by the City. At City's option, either: the insurer must reduce or eliminate the deductible or self-insured retentions as respects the City/Additional Insureds; or Consultant must show proof of ability to pay losses and costs related investigations, claim administration and defense expenses. The policy shall provide, or be endorsed to provide, that the self-insured retention may be satisfied by either the insured or the City.

Acceptability of Insurers

Insurers must be licensed to do business in California with an A.M. Best Rating of A-VII, or better.

Verification of Coverage

Consultant must furnish acceptable insurance certificates and mandatory endorsements (or copies of the policies effecting the coverage required by this Contract), and a copy of the Declarations and Endorsement Page of the CGL policy listing all policy endorsements prior to commencement of the Contract. City retains the right to demand verification of compliance at any time during the Contract term.

Subconsultants

Consultant shall require and verify that all subconsultants maintain insurance that meet the requirements of this Contract, including naming the City as an additional insured on subconsultant's insurance policies.

Higher Insurance Limits

If Consultant maintains broader coverage and/or higher limits than the minimums shown above, City shall be entitled to coverage for the higher insurance limits maintained by Consultant.

Adequacy of Coverage

City reserves the right to modify these insurance requirements/coverage based on the nature of the risk, prior experience, insurer or other special circumstances, with not less than ninety (90) days prior written notice.



CERTIFICATE OF LIABILITY INSURANCE

DATE (MM/DD/YYYY)

3/27/2018

THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AFFIRMATIVELY OR NEGATIVELY AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW. THIS CERTIFICATE OF INSURANCE DOES NOT CONSTITUTE A CONTRACT BETWEEN THE ISSUING INSURER(S), AUTHORIZED REPRESENTATIVE OR PRODUCER, AND THE CERTIFICATE HOLDER.

IMPORTANT: If the certificate holder is an **ADDITIONAL INSURED**, the policy(ies) must have **ADDITIONAL INSURED** provisions or be endorsed. If **SUBROGATION IS WAIVED**, subject to the terms and conditions of the policy, certain policies may require an endorsement. A statement on this certificate does not confer rights to the certificate holder in lieu of such endorsement(s).

PRODUCER Arthur J. Gallagher & Co. Insurance Brokers of CA, Inc. LIC #0726293 1255 Battery Street, Suite 450 San Francisco CA 94111	CONTACT NAME: PHONE (A/C, No, Ext): 415-536-8617 FAX (A/C, No): 415-536-8627 E-MAIL ADDRESS:														
INSURED CSGCONS-01 CSG Consultants, Inc. 550 Pilgrim Drive Foster City, CA 94404	<table><tr><th>INSURER(S) AFFORDING COVERAGE</th><th>NAIC #</th></tr><tr><td>INSURER A: American Fire and Casualty Company</td><td>24066</td></tr><tr><td>INSURER B: Arch Insurance Company</td><td>11150</td></tr><tr><td>INSURER C: West American Insurance Company</td><td>44393</td></tr><tr><td>INSURER D: Berkshire Hathaway Homestate Insurance</td><td>20044</td></tr><tr><td>INSURER E:</td><td></td></tr><tr><td>INSURER F:</td><td></td></tr></table>	INSURER(S) AFFORDING COVERAGE	NAIC #	INSURER A: American Fire and Casualty Company	24066	INSURER B: Arch Insurance Company	11150	INSURER C: West American Insurance Company	44393	INSURER D: Berkshire Hathaway Homestate Insurance	20044	INSURER E:		INSURER F:	
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INSURER D: Berkshire Hathaway Homestate Insurance	20044														
INSURER E:															
INSURER F:															

COVERAGES**CERTIFICATE NUMBER:** 874196608**REVISION NUMBER:**

THIS IS TO CERTIFY THAT THE POLICIES OF INSURANCE LISTED BELOW HAVE BEEN ISSUED TO THE INSURED NAMED ABOVE FOR THE POLICY PERIOD INDICATED. NOTWITHSTANDING ANY REQUIREMENT, TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THIS CERTIFICATE MAY BE ISSUED OR MAY PERTAIN, THE INSURANCE AFFORDED BY THE POLICIES DESCRIBED HEREIN IS SUBJECT TO ALL THE TERMS, EXCLUSIONS AND CONDITIONS OF SUCH POLICIES. LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS.

INSR LTR	TYPE OF INSURANCE	ADDL INSD	SUBR WVD	POLICY NUMBER	POLICY EFF (MM/DD/YYYY)	POLICY EXP (MM/DD/YYYY)	LIMITS
C	<input checked="" type="checkbox"/> COMMERCIAL GENERAL LIABILITY <input type="checkbox"/> CLAIMS-MADE <input checked="" type="checkbox"/> OCCUR GEN'L AGGREGATE LIMIT APPLIES PER: <input type="checkbox"/> POLICY <input type="checkbox"/> PRO-JECT <input checked="" type="checkbox"/> LOC OTHER:	Y	Y	BKW(18)57695795	12/4/2017	12/4/2018	EACH OCCURRENCE \$1,000,000 DAMAGE TO RENTED PREMISES (Ea occurrence) \$500,000 MED EXP (Any one person) \$5,000 PERSONAL & ADV INJURY \$1,000,000 GENERAL AGGREGATE \$2,000,000 PRODUCTS - COMP/OP AGG \$2,000,000 \$
A	<input checked="" type="checkbox"/> AUTOMOBILE LIABILITY <input checked="" type="checkbox"/> ANY AUTO <input type="checkbox"/> OWNED AUTOS ONLY <input type="checkbox"/> SCHEDULED AUTOS <input type="checkbox"/> HIRED AUTOS ONLY <input type="checkbox"/> NON-OWNED AUTOS ONLY	Y	Y	BAA(18)57695795	12/4/2017	12/4/2018	COMBINED SINGLE LIMIT (Ea accident) \$1,000,000 BODILY INJURY (Per person) \$ BODILY INJURY (Per accident) \$ PROPERTY DAMAGE (Per accident) \$ \$
A	<input checked="" type="checkbox"/> UMBRELLA LIAB <input checked="" type="checkbox"/> OCCUR <input type="checkbox"/> EXCESS LIAB <input type="checkbox"/> CLAIMS-MADE DED <input checked="" type="checkbox"/> RETENTION \$0			USA(18)57695795	12/4/2017	12/4/2018	EACH OCCURRENCE \$5,000,000 AGGREGATE \$5,000,000 \$
D	WORKERS COMPENSATION AND EMPLOYERS' LIABILITY ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? (Mandatory in NH) If yes, describe under DESCRIPTION OF OPERATIONS below	Y/N <input checked="" type="checkbox"/> N	N/A	CSWC821833	12/4/2017	12/4/2018	<input checked="" type="checkbox"/> PER STATUTE <input type="checkbox"/> OTH-ER E.L. EACH ACCIDENT \$1,000,000 E.L. DISEASE - EA EMPLOYEE \$1,000,000 E.L. DISEASE - POLICY LIMIT \$1,000,000
B	Professional Liability retro date: 1/1/1991			PAAEP0008802	12/4/2017	12/4/2018	Each Claim \$5,000,000 Aggregate \$5,000,000 Deductible: \$50,000

DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES (ACORD 101, Additional Remarks Schedule, may be attached if more space is required)

RE: Master Agreement for Consultant Construction Management Services on Various Capital Improvement Projects dated from 4/1/16 to 4/17/18. The City of Cupertino, its City Council, boards and commissions, officers, employees and volunteers are included as additional insureds on GL & Auto with Waiver of Subrogation and 30 Day Notice of Cancellation per attached. 30 Day Notice of Cancellation on Professional per attached. Additional Insured status and 30 Day Notice of Cancellation on WC is not available.

CERTIFICATE HOLDER**CANCELLATION**

City of Cupertino
10300 Torre Avenue
Cupertino CA 95014
USA

SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, NOTICE WILL BE DELIVERED IN ACCORDANCE WITH THE POLICY PROVISIONS.

AUTHORIZED REPRESENTATIVE

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ACORD 25 (2016/03)

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THIS CERTIFICATE SUPERSEDES PREVIOUSLY ISSUED CERTIFICATE

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

COMMERCIAL GENERAL LIABILITY EXTENSION

This endorsement modifies insurance provided under the following:

COMMERCIAL GENERAL LIABILITY COVERAGE PART

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With respect to coverage afforded by this endorsement, the provisions of the policy apply unless modified by the endorsement.

A. NON-OWNED AIRCRAFT

Under Paragraph 2. **Exclusions of Section I - Coverage A - Bodily Injury And Property Damage Liability**, exclusion **g. Aircraft, Auto Or Watercraft** does not apply to an aircraft provided:

1. It is not owned by any insured;
2. It is hired, chartered or loaned with a trained paid crew;
3. The pilot in command holds a currently effective certificate, issued by the duly constituted authority of the United States of America or Canada, designating her or him a commercial or airline pilot; and
4. It is not being used to carry persons or property for a charge.

However, the insurance afforded by this provision does not apply if there is available to the insured other valid and collectible insurance, whether primary, excess (other than insurance written to apply specifically in excess of this policy), contingent or on any other basis, that would also apply to the loss covered under this provision.

B. NON-OWNED WATERCRAFT

Under Paragraph 2. **Exclusions of Section I - Coverage A - Bodily Injury And Property Damage Liability**, Subparagraph (2) of exclusion **g. Aircraft, Auto Or Watercraft** is replaced by the following:

This exclusion does not apply to:

- (2) A watercraft you do not own that is:
 - (a) Less than 52 feet long; and
 - (b) Not being used to carry persons or property for a charge.

C. PROPERTY DAMAGE LIABILITY - ELEVATORS

1. Under Paragraph 2. **Exclusions of Section I - Coverage A - Bodily Injury And Property Damage Liability**, Subparagraphs (3), (4) and (6) of exclusion **j. Damage To Property** do not apply if such "property damage" results from the use of elevators. For the purpose of this provision, elevators do not include vehicle lifts. Vehicle lifts are lifts or hoists used in automobile service or repair operations.
2. The following is added to **Section IV - Commercial General Liability Conditions**, Condition 4. **Other Insurance**, Paragraph **b. Excess Insurance**:

The insurance afforded by this provision of this endorsement is excess over any property insurance, whether primary, excess, contingent or on any other basis.

D. EXTENDED DAMAGE TO PROPERTY RENTED TO YOU (Tenant's Property Damage)

If Damage To Premises Rented To You is not otherwise excluded from this Coverage Part:

1. Under Paragraph 2. **Exclusions of Section I - Coverage A - Bodily Injury and Property Damage Liability**:
 - a. The fourth from the last paragraph of exclusion **j. Damage To Property** is replaced by the following:

Paragraphs (1), (3) and (4) of this exclusion do not apply to "property damage" (other than damage by fire, lightning, explosion, smoke, or leakage from an automatic fire protection system) to:

- (i) Premises rented to you for a period of 7 or fewer consecutive days; or
- (ii) Contents that you rent or lease as part of a premises rental or lease agreement for a period of more than 7 days.

Paragraphs (1), (3) and (4) of this exclusion do not apply to "property damage" to contents of premises rented to you for a period of 7 or fewer consecutive days.

A separate limit of insurance applies to this coverage as described in **Section III - Limits of Insurance**.

- b. The last paragraph of subsection **2. Exclusions** is replaced by the following:

Exclusions c. through n. do not apply to damage by fire, lightning, explosion, smoke or leakage from automatic fire protection systems to premises while rented to you or temporarily occupied by you with permission of the owner. A separate limit of insurance applies to Damage To Premises Rented To You as described in **Section III - Limits Of Insurance**.

2. Paragraph 6. under **Section III - Limits Of Insurance** is replaced by the following:

6. Subject to Paragraph 5. above, the Damage To Premises Rented To You Limit is the most we will pay under Coverage A for damages because of "property damage" to:

- a. Any one premise:

(1) While rented to you; or

(2) While rented to you or temporarily occupied by you with permission of the owner for damage by fire, lightning, explosion, smoke or leakage from automatic protection systems; or

- b. Contents that you rent or lease as part of a premises rental or lease agreement.

3. As regards coverage provided by this provision **D. EXTENDED DAMAGE TO PROPERTY RENTED TO YOU (Tenant's Property Damage)** - Paragraph 9.a. of **Definitions** is replaced with the following:

9.a. A contract for a lease of premises. However, that portion of the contract for a lease of premises that indemnifies any person or organization for damage by fire, lightning, explosion, smoke, or leakage from automatic fire protection systems to premises while rented to you or temporarily occupied by you with the permission of the owner, or for damage to contents of such premises that are included in your premises rental or lease agreement, is not an "insured contract".

E. MEDICAL PAYMENTS EXTENSION

If **Coverage C Medical Payments** is not otherwise excluded, the Medical Payments provided by this policy are amended as follows:

Under Paragraph 1. **Insuring Agreement** of **Section I - Coverage C - Medical Payments**, Subparagraph (b) of Paragraph a. is replaced by the following:

- (b) The expenses are incurred and reported within three years of the date of the accident; and

F. EXTENSION OF SUPPLEMENTARY PAYMENTS - COVERAGES A AND B

1. Under **Supplementary Payments - Coverages A and B**, Paragraph 1.b. is replaced by the following:

- b. Up to **\$3,000** for cost of bail bonds required because of accidents or traffic law violations arising out of the use of any vehicle to which the Bodily Injury Liability Coverage applies. We do not have to furnish these bonds.

2. Paragraph 1.d. is replaced by the following:

- d. All reasonable expenses incurred by the insured at our request to assist us in the investigation or defense of the claim or "suit", including actual loss of earnings up to **\$500** a day because of time off from work.

G. ADDITIONAL INSURED - BY CONTRACT, AGREEMENT OR PERMIT

1. Paragraph 2. under **Section II - Who Is An Insured** is amended to include as an insured any person or organization whom you have agreed to add as an additional insured in a written contract, written agreement or permit. Such person or organization is an additional insured but only with respect to liability for "bodily injury", "property damage" or "personal and advertising injury" caused in whole or in part by:

- a. Your acts or omissions, or the acts or omissions of those acting on your behalf, in the performance of your on going operations for the additional insured that are the subject of the written contract or written agreement provided that the "bodily injury" or "property damage" occurs, or the "personal and advertising injury" is committed, subsequent to the signing of such written contract or written agreement; or

- b. Premises or facilities rented by you or used by you; or
- c. The maintenance, operation or use by you of equipment rented or leased to you by such person or organization; or
- d. Operations performed by you or on your behalf for which the state or political subdivision has issued a permit subject to the following additional provisions:
 - (1) This insurance does not apply to "bodily injury", "property damage", or "personal and advertising injury" arising out of the operations performed for the state or political subdivision;
 - (2) This insurance does not apply to "bodily injury" or "property damage" included within the "completed operations hazard".
 - (3) Insurance applies to premises you own, rent, or control but only with respect to the following hazards:
 - (a) The existence, maintenance, repair, construction, erection, or removal of advertising signs, awnings, canopies, cellar entrances, coal holes, driveways, manholes, marquees, hoist away openings, sidewalk vaults, street banners, or decorations and similar exposures; or
 - (b) The construction, erection, or removal of elevators; or
 - (c) The ownership, maintenance, or use of any elevators covered by this insurance.

However:

- 1. The insurance afforded to such additional insured only applies to the extent permitted by law; and
- 2. If coverage provided to the additional insured is required by a contract or agreement, the insurance afforded to such additional insured will not be broader than that which you are required by the contract or agreement to provide for such additional insured.

With respect to Paragraph 1.a. above, a person's or organization's status as an additional insured under this endorsement ends when:

- (1) All work, including materials, parts or equipment furnished in connection with such work, on the project (other than service, maintenance or repairs) to be performed by or on behalf of the additional insured(s) at the location of the covered operations has been completed; or
- (2) That portion of "your work" out of which the injury or damage arises has been put to its intended use by any person or organization other than another contractor or subcontractor engaged in performing operations for a principal as a part of the same project.

With respect to Paragraph 1.b. above, a person's or organization's status as an additional insured under this endorsement ends when their written contract or written agreement with you for such premises or facilities ends.

With respects to Paragraph 1.c. above, this insurance does not apply to any "occurrence" which takes place after the equipment rental or lease agreement has expired or you have returned such equipment to the lessor.

The insurance provided by this endorsement applies only if the written contract or written agreement is signed prior to the "bodily injury" or "property damage".

We have no duty to defend an additional insured under this endorsement until we receive written notice of a "suit" by the additional insured as required in Paragraph b. of Condition 2. **Duties In the Event Of Occurrence, Offense, Claim Or Suit under Section IV - Commercial General Liability Conditions.**

2. With respect to the insurance provided by this endorsement, the following are added to Paragraph 2. **Exclusions under Section I - Coverage A - Bodily Injury And Property Damage Liability:**

This insurance does not apply to:

- a. "Bodily injury" or "property damage" arising from the sole negligence of the additional insured.
- b. "Bodily injury" or "property damage" that occurs prior to you commencing operations at the location where such "bodily injury" or "property damage" occurs.
- c. "Bodily injury", "property damage" or "personal and advertising injury" arising out of the rendering of, or the failure to render, any professional architectural, engineering or surveying services, including:
 - (1) The preparing, approving, or failing to prepare or approve, maps, shop drawings, opinions, reports, surveys, field orders, change orders or drawings and specifications; or
 - (2) Supervisory, inspection, architectural or engineering activities.

This exclusion applies even if the claims against any insured allege negligence or other wrongdoing in the supervision, hiring, employment, training or monitoring of others by that insured, if the "occurrence" which caused the "bodily injury" or "property damage", or the offense which caused the "personal and advertising injury", involved the rendering of, or the failure to render, any professional architectural, engineering or surveying services.

- d. "Bodily injury" or "property damage" occurring after:

- (1) All work, including materials, parts or equipment furnished in connection with such work, on the project (other than service, maintenance or repairs) to be performed by or on behalf of the additional insured(s) at the location of the covered operations has been completed; or
- (2) That portion of "your work" out of which the injury or damage arises has been put to its intended use by any person or organization other than another contractor or subcontractor engaged in performing operations for a principal as a part of the same project.

- e. Any person or organization specifically designated as an additional insured for ongoing operations by a separate **ADDITIONAL INSURED -OWNERS, LESSEES OR CONTRACTORS** endorsement issued by us and made a part of this policy.

3. With respect to the insurance afforded to these additional insureds, the following is added to **Section III - Limits Of Insurance:**

If coverage provided to the additional insured is required by a contract or agreement, the most we will pay on behalf of the additional insured is the amount of insurance:

- a. Required by the contract or agreement; or
 - b. Available under the applicable Limits of Insurance shown in the Declarations;
- whichever is less.

This endorsement shall not increase the applicable Limits of Insurance shown in the Declarations.

H. PRIMARY AND NON-CONTRIBUTORY ADDITIONAL INSURED EXTENSION

This provision applies to any person or organization who qualifies as an additional insured under any form or endorsement under this policy.

Condition 4. Other Insurance of SECTION IV - COMMERCIAL GENERAL LIABILITY CONDITIONS is amended as follows:

- a. The following is added to Paragraph a. **Primary Insurance:**

If an additional insured's policy has an Other Insurance provision making its policy excess, and you have agreed in a written contract or written agreement to provide the additional insured coverage on a primary and noncontributory basis, this policy shall be primary and we will not seek contribution from the additional insured's policy for damages we cover.

b. The following is added to Paragraph b. Excess Insurance:

When a written contract or written agreement, other than a premises lease, facilities rental contract or agreement, an equipment rental or lease contract or agreement, or permit issued by a state or political subdivision between you and an additional insured does not require this insurance to be primary or primary and non-contributory, this insurance is excess over any other insurance for which the additional insured is designated as a Named Insured.

Regardless of the written agreement between you and an additional insured, this insurance is excess over any other insurance whether primary, excess, contingent or on any other basis for which the additional insured has been added as an additional insured on other policies.

I. ADDITIONAL INSURED - EXTENDED PROTECTION OF YOUR "LIMITS OF INSURANCE"

This provision applies to any person or organization who qualifies as an additional insured under any form or endorsement under this policy.

1. The following is added to Condition 2. Duties In The Event Of Occurrence, Offense, Claim or Suit:

An additional insured under this endorsement will as soon as practicable:

- a. Give written notice of an "occurrence" or an offense that may result in a claim or "suit" under this insurance to us;
- b. Tender the defense and indemnity of any claim or "suit" to all insurers whom also have insurance available to the additional insured; and
- c. Agree to make available any other insurance which the additional insured has for a loss we cover under this Coverage Part.
- d. We have no duty to defend or indemnify an additional insured under this endorsement until we receive written notice of a "suit" by the additional insured.

2. The limits of insurance applicable to the additional insured are those specified in a written contract or written agreement or the limits of insurance as stated in the Declarations of this policy and defined in **Section III - Limits of Insurance** of this policy, whichever are less. These limits are inclusive of and not in addition to the limits of insurance available under this policy.

**J. WHO IS AN INSURED - INCIDENTAL MEDICAL ERRORS / MALPRACTICE
WHO IS AN INSURED - FELLOW EMPLOYEE EXTENSION - MANAGEMENT EMPLOYEES**

Paragraph 2.a.(1) of **Section II - Who Is An Insured** is replaced with the following:

(1) "Bodily injury" or "personal and advertising injury":

- (a) To you, to your partners or members (if you are a partnership or joint venture), to your members (if you are a limited liability company), to a co-"employee" while in the course of his or her employment or performing duties related to the conduct of your business, or to your other "volunteer workers" while performing duties related to the conduct of your business;
- (b) To the spouse, child, parent, brother or sister of that co-"employee" or "volunteer worker" as a consequence of Paragraph (1) (a) above;
- (c) For which there is any obligation to share damages with or repay someone else who must pay damages because of the injury described in Paragraphs (1) (a) or (b) above; or
- (d) Arising out of his or her providing or failing to provide professional health care services. However, if you are not in the business of providing professional health care services or providing professional health care personnel to others, or if coverage for providing professional health care services is not otherwise excluded by separate endorsement, this provision (Paragraph (d)) does not apply.

Paragraphs (a) and (b) above do not apply to "bodily injury" or "personal and advertising injury" caused by an "employee" who is acting in a supervisory capacity for you. Supervisory capacity as used herein means the "employee's" job responsibilities assigned by you, includes the direct supervision of other "employees" of yours. However, none of these "employees" are insureds for "bodily injury" or "personal and

advertising injury" arising out of their willful conduct, which is defined as the purposeful or willful intent to cause "bodily injury" or "personal and advertising injury", or caused in whole or in part by their intoxication by liquor or controlled substances.

The coverage provided by provision J. is excess over any other valid and collectable insurance available to your "employee".

K. NEWLY FORMED OR ADDITIONALLY ACQUIRED ENTITIES

Paragraph 3. of Section II - Who Is An Insured is replaced by the following:

3. Any organization you newly acquire or form and over which you maintain ownership or majority interest, will qualify as a Named Insured if there is no other similar insurance available to that organization. However:
 - a. Coverage under this provision is afforded only until the expiration of the policy period in which the entity was acquired or formed by you;
 - b. Coverage A does not apply to "bodily injury" or "property damage" that occurred before you acquired or formed the organization; and
 - c. Coverage B does not apply to "personal and advertising injury" arising out of an offense committed before you acquired or formed the organization.
 - d. Records and descriptions of operations must be maintained by the first Named Insured.

No person or organization is an insured with respect to the conduct of any current or past partnership, joint venture or limited liability company that is not shown as a Named Insured in the Declarations or qualifies as an insured under this provision.

L. FAILURE TO DISCLOSE HAZARDS AND PRIOR OCCURRENCES

Under Section IV - Commercial General Liability Conditions, the following is added to Condition 6. Representations:

Your failure to disclose all hazards or prior "occurrences" existing as of the inception date of the policy shall not prejudice the coverage afforded by this policy provided such failure to disclose all hazards or prior "occurrences" is not intentional.

M. KNOWLEDGE OF OCCURRENCE, OFFENSE, CLAIM OR SUIT

Under Section IV - Commercial General Liability Conditions, the following is added to Condition 2. Duties In The Event of Occurrence, Offense, Claim Or Suit:

Knowledge of an "occurrence", offense, claim or "suit" by an agent, servant or "employee" of any insured shall not in itself constitute knowledge of the insured unless an insured listed under Paragraph 1. of Section II - Who Is An Insured or a person who has been designated by them to receive reports of "occurrences", offenses, claims or "suits" shall have received such notice from the agent, servant or "employee".

N. LIBERALIZATION CLAUSE

If we revise this Commercial General Liability Extension Endorsement to provide more coverage without additional premium charge, your policy will automatically provide the coverage as of the day the revision is effective in your state.

O. BODILY INJURY REDEFINED

Under Section V - Definitions, Definition 3. is replaced by the following:

3. "Bodily Injury" means physical injury, sickness or disease sustained by a person. This includes mental anguish, mental injury, shock, fright or death that results from such physical injury, sickness or disease.

P. EXTENDED PROPERTY DAMAGE

Exclusion a. of **COVERAGE A. BODILY INJURY AND PROPERTY DAMAGE LIABILITY** is replaced by the following:

a. Expected Or Intended Injury

"Bodily injury" or "property damage" expected or intended from the standpoint of the insured. This exclusion does not apply to "bodily injury" or "property damage" resulting from the use of reasonable force to protect persons or property.

Q. WAIVER OF TRANSFER OF RIGHTS OF RECOVERY AGAINST OTHERS TO US - WHEN REQUIRED IN A CONTRACT OR AGREEMENT WITH YOU

Under **Section IV - Commercial General Liability Conditions**, the following is added to **Condition 8. Transfer Of Rights Of Recovery Against Others To Us**:

We waive any right of recovery we may have against a person or organization because of payments we make for injury or damage arising out of your ongoing operations or "your work" done under a contract with that person or organization and included in the "products-completed operations hazard" provided:

1. You and that person or organization have agreed in writing in a contract or agreement that you waive such rights against that person or organization; and
2. The injury or damage occurs subsequent to the execution of the written contract or written agreement.

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

AMENDMENT OF CANCELLATION PROVISIONS

This endorsement modifies insurance provided under the following:

COMMERCIAL GENERAL LIABILITY COVERAGE PART

Any term or provision of the Cancellation Conditions of the policy or any endorsement amending or replacing such Conditions is amended by the following:

If you have agreed in a written contract or written agreement to provide a person or organization notice of cancellation we agree to the following:

Provide 30 days prior written cancellation notice to such person or organization for reasons other than nonpayment of premium, but only if we are provided with a schedule of persons or organizations with whom you have agreed to provide notification more than 30 days before the cancellation is to take effect.

For purposes of this endorsement, knowledge of the agent as to the persons or organizations requesting notice of cancellation is insufficient to invoke our duty to provide notice of cancellation unless the identity of the persons or organizations is provided directly to us in accordance with the terms of this endorsement.

Failure to provide notice to a person or organization in accordance with the terms of this endorsement shall not extend the effective date of the cancellation or otherwise affect cancellation of the policy as to any insured.

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.**BUSINESS AUTO COVERAGE ENHANCEMENT ENDORSEMENT**

This endorsement modifies insurance provided under the following:

BUSINESS AUTO COVERAGE FORM

With respect to coverage afforded by this endorsement, the provisions of the policy apply unless modified by the endorsement.

COVERAGE INDEX

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SECTION II – LIABILITY COVERAGE is amended as follows:**1. BROAD FORM INSURED**SECTION II – LIABILITY COVERAGE, paragraph **A.1. –WHO IS AN INSURED** is amended to include the following as an insured:

- d.** Any legally incorporated entity of which you own more than 50 percent of the voting stock during the policy period. However, “insured” does not include any organization that:

- (1)** Is a partnership or joint venture; or
- (2)** Is an insured under any other automobile policy; or
- (3)** Has exhausted its Limit of Insurance under any other automobile policy.

Paragraph **d. (2)** of this provision does not apply to a policy written to apply specifically in excess of this policy.

- e.** Any organization you newly acquire or form, other than a partnership or joint venture, of which you own more than 50 percent of the voting stock. This automatic coverage is afforded only for 180 days from the date of acquisition or formation. However, coverage under this provision does not apply:

- (1)** If there is similar insurance or a self-insured retention plan available to that organization;

- (2) If the Limits of Insurance of any other insurance policy have been exhausted; or
- (3) To "bodily injury" or "property damage" that occurred before you acquired or formed the organization.

2. EMPLOYEES AS INSURED

SECTION II – LIABILITY COVERAGE, paragraph A.1. –WHO IS AN INSURED is amended to include the following as an insured:

- f. Any "employee" of yours while using a covered "auto" you do not own, hire or borrow, but only for acts within the scope of their employment by you. Insurance provided by this endorsement is excess over any other insurance available to any "employee".
- g. An "employee" of yours while operating an "auto" hired or borrowed under a written contract or agreement in that "employee's" name, with your permission, while performing duties related to the conduct of your business and within the scope of their employment. Insurance provided by this endorsement is excess over any other insurance available to the "employee".

3. ADDITIONAL INSURED BY CONTRACT, AGREEMENT OR PERMIT

SECTION II – LIABILITY COVERAGE, paragraph A.1. –WHO IS AN INSURED is amended to include the following as an insured:

- h. Any person or organization with respect to the operation, maintenance or use of a covered "auto", provided that you and such person or organization have agreed in a written contract, agreement, or permit issued to you by governmental or public authority, to add such person, or organization, or governmental or public authority to this policy as an "insured".

However, such person or organization is an "insured":

- (1) Only with respect to the operation, maintenance or use of a covered "auto";
- (2) Only for "bodily injury" or "property damage" caused by an "accident" which takes place after you executed the written contract or agreement, or the permit has been issued to you; and
- (3) Only for the duration of that contract, agreement or permit

4. SUPPLEMENTARY PAYMENTS

SECTION II – LIABILITY COVERAGE, Coverage Extensions, 2.a. Supplementary Payments, paragraphs (2) and (4) are replaced by the following:

- (2) Up to \$3,000 for cost of bail bonds (including bonds for related traffic violations) required because of an "accident" we cover. We do not have to furnish these bonds.
- (4) All reasonable expenses incurred by the insured at our request, including actual loss of earnings up to \$500 a day because of time off from work.

5. AMENDED FELLOW EMPLOYEE EXCLUSION

In those jurisdictions where, by law, fellow employees are not entitled to the protection afforded to the employer by the workers compensation exclusivity rule, or similar protection, the following provision is added:

SECTION II – LIABILITY, exclusion B.5. FELLOW EMPLOYEE does not apply if the "bodily injury" results from the use of a covered "auto" you own or hire.

SECTION III – PHYSICAL DAMAGE COVERAGE is amended as follows:

6. HIRED AUTO PHYSICAL DAMAGE

Paragraph A.4. Coverage Extensions of SECTION III – PHYSICAL DAMAGE COVERAGE, is amended by adding the following:

If hired "autos" are covered "autos" for Liability Coverage, and if Comprehensive, Specified Causes of Loss or Collision coverage are provided under the Business Auto Coverage Form for any "auto" you own, then the Physical Damage coverages provided are extended to "autos":

- a. You hire, rent or borrow; or

- b. Your "employee" hires or rents under a written contract or agreement in that "employee's" name, but only if the damage occurs while the vehicle is being used in the conduct of your business,

subject to the following limit and deductible:

- A. The most we will pay for "loss" in any one "accident" or "loss" is the smallest of:
- (1) \$50,000; or
 - (2) The actual cash value of the damaged or stolen property as of the time of the "loss"; or
 - (3) The cost of repairing or replacing the damaged or stolen property with other property of like kind and quality, minus a deductible.
- B. The deductible will be equal to the largest deductible applicable to any owned "auto" for that coverage.
- C. Subject to the limit, deductible and excess provisions described in this provision, we will provide coverage equal to the broadest coverage applicable to any covered "auto" you own.
- D. Subject to a maximum of \$1,000 per "accident", we will also cover the actual loss of use of the hired "auto" if it results from an "accident", you are legally liable and the lessor incurs an actual financial loss.
- E. This coverage extension does not apply to:
- (1) Any "auto" that is hired, rented or borrowed with a driver; or
 - (2) Any "auto" that is hired, rented or borrowed from your "employee".

For the purposes of this provision, SECTION V – DEFINITIONS is amended by adding the following:

"Total loss" means a "loss" in which the cost of repairs plus the salvage value exceeds the actual cash value.

7. TOWING AND LABOR

SECTION III – PHYSICAL DAMAGE COVERAGE, paragraph A.2. Towing, is amended by the addition of the following:

We will pay towing and labor costs incurred, up to the limits shown below, each time a covered "auto" classified and rated as a private passenger type, "light truck" or "medium truck" is disabled:

- a. For private passenger type vehicles, we will pay up to \$50 per disablement.
- b. For "light trucks", we will pay up to \$50 per disablement. "Light trucks" are trucks that have a gross vehicle weight (GVW) of 10,000 pounds or less.
- c. For "medium trucks", we will pay up to \$150 per disablement. "Medium trucks" are trucks that have a gross vehicle weight (GVW) of 10,001 – 20,000 pounds.

However, the labor must be performed at the place of disablement.

8. PHYSICAL DAMAGE - ADDITIONAL TRANSPORTATION EXPENSE COVERAGE

Paragraph A.4.a., Coverage Extension of SECTION III – PHYSICAL DAMAGE COVERAGE, is amended to provide a limit of \$50 per day and a maximum limit of \$1,500

9. RENTAL REIMBURSEMENT

SECTION III – PHYSICAL DAMAGE COVERAGE, **A. COVERAGE**, is amended by adding the following:

- a. We will pay up to \$75 per day for rental reimbursement expenses incurred by you for the rental of an "auto" because of "accident" or "loss", to an "auto" for which we also pay a "loss" under Comprehensive, Specified Causes of Loss or Collision Coverages. We will pay only for those expenses incurred after the first 24 hours following the "accident" or "loss" to the covered "auto."
- b. Rental Reimbursement will be based on the rental of a comparable vehicle, which in many cases may be substantially less than \$75 per day, and will only be allowed for the period of time it should take to repair or replace the vehicle with reasonable speed and similar quality, up to a maximum of 30 days.
- c. We will also pay up to \$500 for reasonable and necessary expenses incurred by you to remove and replace your tools and equipment from the covered "auto".
- d. This coverage does not apply unless you have a business necessity that other "autos" available for your use and operation cannot fill.
- e. If "loss" results from the total theft of a covered "auto" of the private passenger type, we will pay under this coverage only that amount of your rental reimbursement expenses which is not already provided under Paragraph 4. Coverage Extension.
- f. No deductible applies to this coverage.

For the purposes of this endorsement provision, materials and equipment do not include "personal effects" as defined in provision 11.

10. EXTRA EXPENSE - BROADENED COVERAGE

Under SECTION III – PHYSICAL DAMAGE COVERAGE, **A. COVERAGE**, we will pay for the expense of returning a stolen covered "auto" to you. The maximum amount we will pay is \$1,000.

11. PERSONAL EFFECTS COVERAGE

- A.** SECTION III – PHYSICAL DAMAGE COVERAGE, **A. COVERAGE**, is amended by adding the following:

If you have purchased Comprehensive Coverage on this policy for an "auto" you own and that "auto" is stolen, we will pay, without application of a deductible, up to \$600 for "personal effects" stolen with the "auto."

The insurance provided under this provision is excess over any other collectible insurance.

- B.** SECTION V – DEFINITIONS is amended by adding the following:

For the purposes of this provision, "personal effects" mean tangible property that is worn or carried by an insured." "Personal effects" does not include tools, equipment, jewelry, money or securities.

12. ACCIDENTAL AIRBAG DEPLOYMENT

SECTION III – PHYSICAL DAMAGE COVERAGE, **B. EXCLUSIONS** is amended by adding the following:

If you have purchased Comprehensive or Collision Coverage under this policy, the exclusion for "loss" relating to mechanical breakdown does not apply to the accidental discharge of an airbag.

Any insurance we provide shall be excess over any other collectible insurance or reimbursement by manufacturer's warranty. However, we agree to pay any deductible applicable to the other coverage or warranty.

13. AUDIO, VISUAL AND DATA ELECTRONIC EQUIPMENT COVERAGE

SECTION III – PHYSICAL DAMAGE COVERAGE, **B. EXCLUSIONS**, exception paragraph a. to exclusions 4.c. and 4.d. is deleted and replaced with the following:

Exclusion 4.c. and 4.d. do not apply to:

- a. Electronic equipment that receives or transmits audio, visual or data signals, whether or not designed solely for the reproduction of sound, if the equipment is permanently installed in the covered "auto" at the time of the "loss" and such equipment is designed to be solely operated by use of the power from the "auto's" electrical system, in or upon the covered "auto" and physical damage coverages are provided for the covered "auto"; or

If the "loss" occurs solely to audio, visual or data electronic equipment or accessories used with this equipment, then our obligation to pay for, repair, return or replace damaged or stolen property will be reduced by a \$100 deductible.

14. LOAN / LEASE GAP COVERAGE

- A. Paragraph C., LIMIT OF INSURANCE of SECTION III – PHYSICAL DAMAGE COVERAGE is amended by adding the following:

The most we will pay for a "total loss" to a covered "auto" owned by or leased to you in any one "accident" is the greater of the:

1. Balance due under the terms of the loan or lease to which the damaged covered "auto" is subject at the time of the "loss" less the amount of:
 - a. Overdue payments and financial penalties associated with those payments as of the date of the "loss",
 - b. Financial penalties imposed under a lease due to high mileage, excessive use or abnormal wear and tear,
 - c. Costs for extended warranties, Credit Life Insurance, Health, Accident or Disability Insurance purchased with the loan or lease,
 - d. Transfer or rollover balances from previous loans or leases,
 - e. Final payment due under a "Balloon Loan",
 - f. The dollar amount of any unrepaired damage which occurred prior to the "total loss" of a covered "auto",
 - g. Security deposits not refunded by a lessor,
 - h. All refunds payable or paid to you as a result of the early termination of a lease agreement or as a result of the early termination of any warranty or extended service agreement on a covered "auto",
 - i. Any amount representing taxes,
 - j. Loan or lease termination fees; or
2. The actual cash value of the damage or stolen property as of the time of the "loss".

An adjustment for depreciation and physical condition will be made in determining the actual cash value at the time of the "loss". This adjustment is not applicable in Texas.

- B. **ADDITIONAL CONDITIONS**

This coverage applies only to the original loan for which the covered "auto" that incurred the loss serves as collateral, or lease written on the covered "auto" that incurred the loss.

- C. **SECTION V – DEFINITIONS** is changed by adding the following:

As used in this endorsement provision, the following definitions apply:

"Total loss" means a "loss" in which the cost of repairs plus the salvage value exceeds the actual cash value.

A "balloon loan" is one with periodic payments that are insufficient to repay the balance over the term of the loan, thereby requiring a large final payment.

15. GLASS REPAIR - WAIVER OF DEDUCTIBLE

Paragraph **D. Deductible** of SECTION III – PHYSICAL DAMAGE COVERAGE is amended by the addition of the following:

No deductible applies to glass damage if the glass is repaired rather than replaced.

16. PARKED AUTO COLLISION COVERAGE (WAIVER OF DEDUCTIBLE)

Paragraph **D. Deductible** of SECTION III – PHYSICAL DAMAGE COVERAGE is amended by the addition of the following:

The deductible does not apply to “loss” caused by collision to such covered “auto” of the private passenger type or light weight truck with a gross vehicle weight of 10,000 lbs. or less as defined by the manufacturer as maximum loaded weight the “auto” is designed to carry while it is:

- a. In the charge of an “insured”;
- b. Legally parked; and
- c. Unoccupied.

The “loss” must be reported to the police authorities within 24 hours of known damage.

The total amount of the damage to the covered “auto” must exceed the deductible shown in the Declarations.

This provision does not apply to any “loss” if the covered “auto” is in the charge of any person or organization engaged in the automobile business.

17. TWO OR MORE DEDUCTIBLES

Under SECTION III PHYSICAL DAMAGE COVERAGE, if two or more company policies or coverage forms apply to the same accident, the following applies to paragraph D. Deductible:

- a. If the applicable Business Auto deductible is the smaller (or smallest) deductible it will be waived; or
- b. If the applicable Business Auto deductible is not the smaller (or smallest) deductible it will be reduced by the amount of the smaller (or smallest) deductible; or
- c. If the loss involves two or more Business Auto coverage forms or policies the smaller (or smallest) deductible will be waived.

For the purpose of this endorsement company means any company that is part of the Liberty Mutual Group.

SECTION IV – BUSINESS AUTO CONDITIONS is amended as follows:

18. UNINTENTIONAL FAILURE TO DISCLOSE HAZARDS

SECTION IV- BUSINESS AUTO CONDITIONS, Paragraph **B.2.** is amended by adding the following:

If you unintentionally fail to disclose any hazards, exposures or material facts existing as of the inception date or renewal date of the Business Auto Coverage Form, the coverage afforded by this policy will not be prejudiced.

However, you must report the undisclosed hazard of exposure as soon as practicable after its discovery, and we have the right to collect additional premium for any such hazard or exposure.

19. AMENDED DUTIES IN THE EVENT OF ACCIDENT, CLAIM, SUIT, OR LOSS

SECTION IV – BUSINESS AUTO CONDITIONS, paragraph **A.2.a.** is replaced in its entirety by the following:

- a. In the event of “accident”, claim, “suit” or “loss”, you must promptly notify us when it is known to:
 - 1. You, if you are an individual;
 - 2. A partner, if you are a partnership;
 - 3. Member, if you are a limited liability company;
 - 4. An executive officer or the “employee” designated by the Named Insured to give such notice, if you are a corporation.

To the extent possible, notice to us should include:

- (1) How, when and where the "accident" or "loss" took place;
- (2) The "insureds" name and address; and
- (3) The names and addresses of any injured persons and witnesses.

20. WAIVER OF TRANSFER OF RIGHTS OF RECOVERY AGAINST OTHERS TO US

SECTION IV – BUSINESS AUTO CONDITIONS, paragraph **A.5.**, Transfer of Rights of Recovery Against Others to Us, is amended by the addition of the following:

If the person or organization has waived those rights before an "accident" or "loss", our rights are waived also.

21. HIRED AUTO COVERAGE TERRITORY

SECTION IV – BUSINESS AUTO CONDITIONS, paragraph **B.7.**, Policy Period, Coverage Territory, is amended by the addition of the following:

- f. For "autos" hired 30 days or less, the coverage territory is anywhere in the world, provided that the insured's responsibility to pay for damages is determined in a "suit", on the merits, in the United States, the territories and possessions of the United States of America, Puerto Rico or Canada or in a settlement we agree to.

This extension of coverage does not apply to an "auto" hired, leased, rented or borrowed with a driver.

SECTION V – DEFINITIONS is amended as follows:

22. BODILY INJURY REDEFINED

Under SECTION V – DEFINITIONS, definition **C.** is replaced by the following:

"Bodily injury" means physical injury, sickness or disease sustained by a person, including mental anguish, mental injury, shock, fright or death resulting from any of these at any time.

COMMON POLICY CONDITIONS

23. EXTENDED CANCELLATION CONDITION

COMMON POLICY CONDITIONS, paragraph **A.**– CANCELLATION condition applies except as follows:

If we cancel for any reason other than nonpayment of premium, we will mail to the first Named Insured written notice of cancellation at least 60 days before the effective date of cancellation. This provision does not apply in those states which require more than 60 days prior notice of cancellation.

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

DESIGNATED INSURED

This endorsement modifies insurance provided under the following:

BUSINESS AUTO COVERAGE FORM
GARAGE COVERAGE FORM
MOTOR CARRIER COVERAGE FORM
TRUCKERS COVERAGE FORM

With respect to coverage provided by this endorsement, the provisions of the Coverage Form apply unless modified by this endorsement.

This endorsement identifies person(s) or organization(s) who are "insureds" under the Who Is An Insured Provision of the Coverage Form. This endorsement does not alter coverage provided in the Coverage Form.

This endorsement changes the policy effective on the inception date of the policy unless another date is indicated below.

Effective Date: 12/4/2017
Named Insured: CSG Consultants, Inc.; Precision Inspection-CSG

SCHEDULE

Name of Person(s) or Organization(s): as required by written contract

(If no entry appears above, information required to complete this endorsement will be shown in the Declarations as applicable to the endorsement.)

Each person or organization shown in the Schedule is an "insured" for Liability Coverage, but only to the extent that person or organization qualifies as an "insured" under the Who Is An Insured Provision contained in **Section II** of the Coverage Form.

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

DESIGNATED INSURED – NONCONTRIBUTING

This endorsement modifies insurance provided under the following:

BUSINESS AUTO COVERAGE FORM
GARAGE COVERAGE FORM
MOTOR CARRIER COVERAGE FORM
TRUCKERS COVERAGE FORM

With respect to coverage provided by this endorsement, the provisions of the Coverage Form apply unless modified by this endorsement.

This endorsement identifies person(s) or organization(s) who are "insureds" under the Who Is An Insured Provision of the Coverage Form. This endorsement does not alter coverage provided in the Coverage Form.

Schedule

Name of Person(s) or Organization(s): Any entity with respect to a covered "auto" provided that you and such entity have agreed in a written contract, agreement, or permit to add such entity as an "insured".

Regarding Designated Contract or Project: N/A

Each person or organization shown in the Schedule of this endorsement is an "insured" for Liability Coverage, but only to the extent that person or organization qualifies as an "insured" under the Who Is An Insured Provision contained in Section II of the Coverage Form.

The following is added to the Other Insurance Condition:

If you have agreed in a written agreement that this policy will be primary and without right of contribution from any insurance in force for an Additional Insured for liability arising out of your operations, and the agreement was executed prior to the "bodily injury" or "property damage", then this insurance will be primary and we will not seek contribution from such insurance.

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

AMENDMENT OF CANCELLATION PROVISIONS

This endorsement modifies insurance provided under the following:

BUSINESS AUTO COVERAGE FORM
MOTOR CARRIER COVERAGE FORM
GARAGE COVERAGE FORM

With respect to coverage provided by this endorsement, the provisions of the policy apply unless modified by this endorsement.

Any term or provision of the Cancellation Conditions of the policy or any endorsement emending or replacing such Conditions is amended by the following:

If you have agreed in a written contract or written agreement to provide a person or organization notice of cancellation we agree to the following:

- a. Provide a 30 days prior written cancellation notice to such persons or organization for reasons other than nonpayment of premium, but only if we are provided with a schedule of persons or organizations with whom you have agreed to provide notification more than 30 days before the cancellation is to take effect.

As a condition of this endorsement, you must notify your agent of any written contract or agreement where you have agreed to provide notice of cancellation, other than nonpayment of premium, to a specific person or organization.

Failure to provide to a person or organization in accordance with the terms of this endorsement shall not extend the effective date of the cancellation or otherwise affect cancellation of the policy as to any insured.

**WAIVER OF OUR RIGHT TO RECOVER FROM OTHERS ENDORSEMENT-CALIFORNIA
BLANKET BASIS**

We have the right to recover our payments from anyone liable for an injury covered by this policy. We will not enforce our right against the person or organization named in the Schedule. (This agreement applies only to the extent that you perform work under a written contract that requires you to obtain this agreement from us.)

The additional premium for this endorsement shall be 2% of the total manual premium otherwise due on such remuneration. The minimum premium for this endorsement is \$350.

This agreement shall not operate directly or indirectly to benefit anyone not named in the Schedule.

SCHEDULE**BLANKET WAIVER****Person/Organization**

Blanket Waiver – Any person or organization for whom the Named Insured has agreed by written contract to furnish this waiver.

Job Description**Waiver Premium**

All CA Operations

2935.00

This endorsement changes the policy to which it is attached and is effective on the date issued unless otherwise stated.

(The information below is required only when this endorsement is issued subsequent to preparation of the policy.)

Endorsement Effective 12/1/17

Policy No. CSWC821833

Endorsement No.

Insured CSG Consultants, Inc.

Premium \$

Insurance Company Berkshire Hathaway Homestate Ins Co

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

**NOTICE OF CANCELLATION – CERTIFICATE HOLDERS
(SPECIFIED DAYS)**

The person(s) or organization(s) listed or described in the Schedule below have requested that they receive written notice of cancellation when this policy is cancelled by us. We will mail or deliver to the Person(s) or Organization(s) listed or described in the Schedule a copy of the written notice of cancellation that we sent to you. If possible, such copies of the notice will be mailed at least 30 days, except for cancellation for non-payment of premium which will be mailed 10 days, prior to the effective date of the cancellation, to the address or addresses of certificate holders as provided by your broker or agent.

Schedule

Person(s) or Organization(s) including mailing address:

All certificate holders where written notice of the cancellation of this policy is required by written contract, permit or agreement with the Named Insured and whose names and addresses will be provided by the broker or agent listed in the Declarations Page of this policy for the purposes of complying with such request.

This notification of cancellation of the policy is intended as a courtesy only. Our failure to provide such notification to the person(s) or organization(s) shown in the Schedule will not extend any policy cancellation date nor impact or negate any cancellation of the policy. This endorsement does not entitle the person(s) or organization(s) listed or described in the Schedule above to any benefit, rights or protection under this policy.

Any provision of this endorsement that is in conflict with a statute or rule is hereby amended to conform to that statute or rule.

All other terms and conditions of this policy remain unchanged.

Endorsement Number: 7

Policy Number: PAAEP0008802

Named Insured: CSG Consultants, Inc.

This endorsement is effective on the inception date of this Policy unless otherwise stated herein:

Endorsement Effective Date: December 4, 2016