

**City and County of San Francisco  
San Francisco Public Utilities Commission  
525 Golden Gate Avenue  
San Francisco, CA 94102**

**Second Amendment**

**PRO.0028, New Headworks Facility Construction Management (CM) Staff Augmentation Services**

THIS **SECOND** AMENDMENT (“Amendment”) is made as of **April 29, 2024**, in San Francisco, California, by and between **HDR Engineering, Inc.** (“Contractor”), and the City and County of San Francisco, a municipal corporation (“City”).

**Recitals**

WHEREAS, City and Contractor have entered into the Agreement (as defined below); and  
WHEREAS, City and Contractor desire to modify the Agreement on the terms and conditions set forth herein to extend the performance period and update standard contractual clauses; and  
WHEREAS, SFPUC competitively selected Contractor pursuant to a Request for Proposals entitled PRO.0028, New Headworks Facility Construction Management (CM) Staff Augmentation Services issued through Sourcing Event ID PRO.0028 and this Amendment is consistent with the terms of the RFP and the awarded Contract; and

WHEREAS, this is a contract for Services, there is a Local Business Enterprise (“LBE”) subcontracting participation requirement, and this Amendment is consistent with that requirement; and

WHEREAS, this Amendment is consistent with an approval obtained on July 17, 2023, from the Department of Human Resources on behalf of the Civil Service Commission under PSC number 44553-16/17 which authorizes the award of multiple agreements, the total value of which cannot exceed \$121,000,000 and the individual duration of which cannot exceed 11 years and 17 weeks; and

Now, THEREFORE, the parties agree as follows:

**Article 1      Definitions**

The following definitions shall apply to this Amendment:

1.1      **Agreement.** The term “Agreement” shall mean the Agreement dated May 31, 2017 between Contractor and City, as amended by the:

First Amendment,                      dated May 3, 2021.

1.2 **Other Terms.** Terms used and not defined in this Amendment shall have the meanings assigned to such terms in the Agreement.

## **Article 2 Modifications of Scope to the Agreement**

The Agreement is hereby modified as follows:

2.1 Term of the Agreement. Article 2 Term of the Agreement of the Agreement currently reads as follows:

2.1 The term of this Agreement shall commence on the latter of: (i) June 15, 2017; or (ii) the Effective Date and expire on June 14, 2024, unless earlier terminated as otherwise provided herein.

2.2 The City shall have the sole discretion to extend the Agreement term for up to a total of nine (9) years (or 108 months), by modifying this Agreement as provided in Section 11.5, "Modification of this Agreement."

**Such section is hereby amended in its entirety to read as follows:**

2.1 The term of this Agreement shall commence on the latter of: (i) June 15, 2017; or (ii) the Effective Date and expire on December 14, 2024, unless earlier terminated as otherwise provided herein.

2.2 The City shall have the sole discretion to extend the Agreement term for up to a total of nine (9) years (or 108 months), by modifying this Agreement as provided in Section 11.5, "Modification of this Agreement."

## **Article 3 Updates of Standard Terms to the Agreement**

The Agreement is hereby modified as follows:

3.1 **Section 10.15 Public Access to Nonprofit Records and Meetings.** *Section 10.15 of the Agreement is replaced in its entirety to read as follows:*

### **10.15. Nonprofit Contractor Requirements.**

**10.15.1. Good Standing.**

If Contractor is a nonprofit organization, Contractor represents that it is in good standing with the California Attorney General's Registry of Charitable Trusts and will remain in good standing during the term of this Agreement. Contractor shall immediately notify City of any change in its eligibility to perform under the Agreement. Upon City's request, Contractor shall provide documentation demonstrating its compliance with applicable legal requirements. If Contractor will use any subcontractors to perform the Agreement, Contractor is responsible for ensuring they are also in compliance with the California Attorney General's Registry of Charitable Trusts for the duration of the Agreement. Any failure by Contractor or its subcontractors to remain in good standing with applicable requirements shall be a material breach of this Agreement.

**10.15.2. Public Access to Nonprofit Records and Meetings.** If Contractor is a nonprofit organization; provides Services that do not include services or benefits to City employees (and/or to their family members, dependents, or their other designated beneficiaries); and receives a cumulative total per year of at least \$250,000 in City funds or City-administered funds, Contractor must comply with the City’s Public Access to Nonprofit Records and Meetings requirements, as set forth in Chapter 12L of the San Francisco Administrative Code, including the remedies provided therein.

3.2 **Section 4.2 Personnel.** *Section 4.2 of the Agreement is replaced in its entirety to read as follows:*

**4.2 Qualified Personnel.** Contractor represents and warrants that it is qualified to perform the Services required by City, and that all Services will be performed by competent personnel with the degree of skill and care required by current and sound professional procedures and practices. Contractor will comply with City’s reasonable requests regarding assignment and/or removal of personnel, but all personnel, including those assigned at City’s request, must be supervised by Contractor. Contractor shall commit sufficient resources for timely completion within the project schedule

3.3 **Section 1.10 Confidential Information.** *The following Section 1.10 is hereby added to the Agreement as a Definition in Article 1:*

**1.10 “Confidential Information”** means confidential City information including, but not limited to, personally-identifiable information (“PII”), protected health information (“PHI”), or individual financial information (collectively, “Proprietary or Confidential Information”) that is subject to local, state or federal laws restricting the use and disclosure of such information, including, but not limited to, Article 1, Section 1 of the California Constitution; the California Information Practices Act (Civil Code § 1798 et seq.); the California Confidentiality of Medical Information Act (Civil Code § 56 et seq.); the federal Gramm-Leach-Bliley Act (15 U.S.C. §§ 6801(b) and 6805(b)(2)); the privacy and information security aspects of the Administrative Simplification provisions of the federal Health Insurance Portability and Accountability Act (45 CFR Part 160 and Subparts A, C, and E of part 164); and San Francisco Administrative Code Chapter 12M (Chapter 12M).

3.4 **Section 4.5 Assignment.** *Section 4.5 of the Agreement is replaced in its entirety to read as follows:*

**4.5 Assignment.** Services to be performed by Contractor are personal in character. This Agreement may not be directly or indirectly assigned, novated, or otherwise transferred unless first approved by City by written instrument executed and approved in the same manner as this Agreement. Any purported assignment made in violation of this provision shall be null and void.

**3.5 Article 13 Data and Security. Article 13 is hereby added to the Agreement to read as follows:**

**13.1 Nondisclosure of Private, Proprietary or Confidential Information.**

**13.1.1 Protection of Private Information.** If this Agreement requires City to disclose “Private Information” to Contractor within the meaning of San Francisco Administrative Code Chapter 12M, Contractor and subcontractor shall use such information only in accordance with the restrictions stated in Chapter 12M and in this Agreement and only as necessary in performing the Services. Contractor is subject to the enforcement and penalty provisions in Chapter 12M.

**13.1.2 City Data; Confidential Information.** In the performance of Services, Contractor may have access to, or collect on City’s behalf, City Data, which may include proprietary or Confidential Information that if disclosed to third parties may damage City. If City discloses proprietary or Confidential Information to Contractor, or Contractor collects such information on City’s behalf, such information must be held by Contractor in confidence and used only in performing the Agreement. Contractor shall exercise the same standard of care to protect such information as a reasonably prudent contractor would use to protect its own proprietary or Confidential Information.

**13.2 Reserved.** Assessor (PA-QSA). A

**13.3 Reserved.**

**13.4 Management of City Data.**

**13.4.1 Use of City Data.** Contractor agrees to hold City Data received from, or created or collected on behalf of, City, in strictest confidence. Contractor shall not use or disclose City Data except as permitted or required by the Agreement or as otherwise authorized in writing by City. Any work by Contractor or its authorized subcontractors using, or sharing or storage of, City Data outside the United States is prohibited, absent prior written authorization by City. Access to City Data must be strictly controlled and limited to Contractor’s staff assigned to this project on a need-to-know basis only. City Data shall not be distributed, repurposed or shared across other applications, environments, or business units of Contractor. Contractor is provided a limited non-exclusive license to use City Data solely for performing its obligations under the Agreement and not for Contractor’s own purposes or later use. Nothing herein shall be construed to confer any license or right to City Data, by implication, estoppel or otherwise, under copyright or other intellectual property rights, to any third-party. Unauthorized use of City Data by Contractor, subcontractors or other third-parties is prohibited. For purpose of this requirement, the phrase “unauthorized use” means the data mining or processing of data, stored or transmitted by the service, for commercial purposes, advertising or advertising-related purposes, or for any purpose other than security or service delivery analysis that is not explicitly authorized.

**13.4.2 Disposition of City Data.** Upon request of City or termination or expiration of this Agreement, Contractor shall promptly, but in no event later than thirty (30) calendar days, return all City Data given to, or collected or created by Contractor on City’s behalf, which includes all original media. Once Contractor has received written confirmation from City that City Data has been successfully transferred to City, Contractor shall within ten (10) business days clear or purge all City Data from its servers, any hosted environment Contractor has used in performance of this Agreement, including its subcontractor’s environment(s), work stations

that were used to process the data or for production of the data, and any other work files stored by Contractor in whatever medium. Contractor shall provide City with written certification that such purge occurred within five (5) business days of the purge. Secure disposal shall be accomplished by “clearing,” “purging” or “physical destruction,” in accordance with National Institute of Standards and Technology (NIST) Special Publication 800-88 or most current industry standard.

**13.5 Ownership of City Data.** The Parties agree that as between them, all rights, including all intellectual property rights, in and to City Data and any derivative works of City Data is the exclusive property of City.

**13.6 Loss or Unauthorized Access to City’s Data; Security Breach Notification.** Contractor shall comply with all applicable laws that require the notification to individuals in the event of unauthorized release of PII, PHI, or other event requiring notification. Contractor shall notify City of any actual or potential exposure or misappropriation of City Data (any “Leak”) within twenty-four (24) hours of the discovery of such, but within twelve (12) hours if the Data Leak involved PII or PHI. Contractor, at its own expense, will reasonably cooperate with City and law enforcement authorities to investigate any such Leak and to notify injured or potentially injured parties. The remedies and obligations set forth in this subsection are in addition to any other City may have. City shall conduct all media communications related to such Leak.

#### **Article 4      Effective Date**

Each of the modifications set forth in Articles 2 and 3 shall be effective on and after the date of this Amendment.

#### **Article 5      Legal Effect**

Except as expressly modified by this Amendment, all of the terms and conditions of the Agreement shall remain unchanged and in full force and effect.

IN WITNESS WHEREOF, Contractor and City have executed this Amendment as of the date first referenced above.

CITY

Recommended by:

DocuSigned by:  
*Dennis J. Herrera*

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Dennis J. Herrera  
General Manager  
San Francisco Public Utilities Commission

CONTRACTOR

HDR Engineering, Inc.

DocuSigned by:  
*Holly Kennedy*

BB33F4D632C342A...  
Holly Kennedy  
Senior Vice President

City Supplier number: 0000019147

Approved as to Form:

David Chiu  
City Attorney

By: DocuSigned by:  
*Randy Parent*  
0BC11F915778410...  
Randy Parent  
Deputy City Attorney