

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

**Modification No. 5**

**PRO.0101  
Tunnel Engineering Services for the  
Folsom Area Stormwater Improvement Project**

THIS MODIFICATION No. 5 (this “Modification”) is made as of [Insert date], in San Francisco, California, by and between McMillen Jacobs Associates/Stantec, Joint Venture (“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 increase the contract amount; and

WHEREAS, On March 26, 2018, the City competitively procured the Agreement in accordance with San Francisco Administrative Code Section 6.40 through a Request for Proposals, and this Modification is consistent therewith; and

WHEREAS, City and Contractor previously agreed to modify the Agreement through the First Amendment, dated May 11, 2020; Second Amendment, dated September 1, 2020; Third Amendment, dated September 22, 2021; and Fourth Amendment, dated April 11, 2023; and

WHEREAS, Effective with this Modification No. 5, any written changes to the Agreement shall be referred to as a Modification to the Agreement; and

WHEREAS, On [Insert date of Civil Service Commission action or DHR approval date if under \$100K], the SFPUC obtained approval for this Modification from the [Civil Service Commission or Department of Human Resources on behalf of the Civil Service Commission] under PSC number 49868-17/18 in the amount of \$17,200,000 for the period of 9 years 26 weeks; and

WHEREAS, On June 13, 2023, the City’s Public Utilities Commission approved this Modification by Resolution No. 23-0119; and

WHEREAS, On [Insert date of Board action], the San Francisco Board of Supervisors approved this Modification pursuant to San Francisco Charter Section 9.118 by Resolution No. [Insert resolution number].

NOW, THEREFORE, Contractor and the City agree as follows:

**Article 1      Definitions**

The following definitions shall apply to this Modification:

1.1 **Agreement.** The term “Agreement” shall mean the Agreement dated October 17, 2018 between Contractor and City, as amended by the:

First Amendment,	dated May 11, 2020;
Second Amendment,	dated September 1, 2020;
Third Amendment,	dated September 22, 2021; and
Fourth Amendment,	dated April 11, 2023.

1.2 **Modification.** Effective with this Modification, the term “Modification” shall mean any written changes to the Agreement that modifies the scope or standard terms of the Agreement.

1.3 **Other Terms.** Terms used and not defined in this Modification 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.** *Section 2.1 of the Agreement currently reads as follows:*

2.1 The term of this Agreement shall commence on the later of: (i) November 1, 2018; or (ii) the Effective Date and expire on November 30, 2023, unless earlier terminated as otherwise provided herein.

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

2.1 The term of this Agreement shall commence on the later of: (i) November 1, 2018; or (ii) the Effective Date and expire on November 30, 2027, unless earlier terminated as otherwise provided herein.

2.2 **Payment.** *Section 3.3.1 of the Agreement currently reads as follows:*

3.3.1 **Payment.** Contractor shall provide an invoice to the City on a monthly basis for Services completed in the immediate preceding month, unless different schedule is set out in Appendix B, "Calculation of Charges." Compensation shall be made for Services identified in the invoice that the General Manager of the SFPUC, in his or her sole discretion, concludes Contractor has been satisfactorily performed. Payments shall be made within 30 calendar days of receipt of the invoice, unless the City notifies the Contractor that a dispute as to the invoice exists. In no event shall the amount of this Agreement exceed Nine Million Seven Hundred Thousand Dollars (\$9,700,000). The breakdown of charges associated with this Agreement appears in Appendix B, "Calculation of Charges," attached hereto and incorporated by reference as though fully set forth herein. A portion of payment may be withheld until conclusion of the Agreement if agreed to both parties as retainage, described in Appendix B. In no event shall the City be liable for interest or late charges for any late payments except as permitted under Administrative Code Section 6.22(j).

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

**3.3.1 Calculation of Charges.** Contractor shall provide an invoice to the City on a monthly basis for Services completed in the immediately preceding month, unless a different schedule is set out in Appendix B, "Calculation of Charges." City shall compensate Contractor for Services identified in the invoice that the General Manager of the SFPUC, in his or her sole discretion, concludes have been satisfactorily performed. City shall issue payment within 30 calendar days of receipt of the invoice unless the City notifies the Contractor that a dispute as to the invoice exists. In no event shall the amount of this Agreement exceed Seventeen Million Two Hundred Thousand Dollars (\$17,200,000). The breakdown of charges associated with this Agreement appears in Appendix B, "Calculation of Charges," attached hereto and incorporated by reference as though fully set forth herein. City may withhold a portion of any payment until conclusion of the Agreement if agreed to by both parties as retainage, described in Appendix B. In no event shall the City be liable for interest or late charges for any late payments except as permitted under Administrative Code Section 6.22(j).

**Article 3      Reserved (Updates of Standard Terms to the Agreement)**

**Article 4      Effective Date**

Each of the modifications set forth in Article 2 shall be effective on and after the date of this Modification.

**Article 5      Legal Effect**

Except as expressly modified by this Modification, 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 Modification as of the date first referenced above.

**CITY**

**CONTRACTOR**

McMillen Jacobs Associates/Stantec, Joint  
Venture

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Dennis J. Herrera  
General Manager  
San Francisco Public Utilities Commission

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Victor Romero  
President-Underground Division  
McMillen Jacobs Associates

Approved as to Form:

David Chiu  
City Attorney

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Tama Snow  
Vice President, Regional Business Leader,  
Pacific Water  
Stantec

By: \_\_\_\_\_  
Randy Parent  
Deputy City Attorney

City Supplier Number: 0000037192

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