

File No. 250247

Committee Item No. 3

Board Item No. _____

COMMITTEE/BOARD OF SUPERVISORS

AGENDA PACKET CONTENTS LIST

Committee: Budget and Finance Committee Date April 30, 2025

Board of Supervisors Meeting Date _____

Cmte Board

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☒	☐	<u>PLN Mitigation Monitoring and Reporting Program 9/2023</u>
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Completed by: Brent Jalipa Date April 24, 2025

Completed by: Brent Jalipa Date _____

1 [Agreement Amendment - Moffatt & Nichol-AGS JV - Engineering Services for South Ocean
2 Beach Coastal Erosion and Wastewater Infrastructure Protection - Not to Exceed
3 \$12,750,000]

4 **Resolution approving and authorizing the General Manager of the San Francisco Public**
5 **Utilities Commission to execute Amendment No. 3 to Contract No. PRO.0092,**
6 **Engineering Services for South Ocean Beach Coastal Erosion and Wastewater**
7 **Infrastructure Protection, with Moffatt & Nichol-AGS Joint Venture, increasing the**
8 **contract amount by \$7,000,000 for a new not to exceed contract amount of \$12,750,000**
9 **and increasing the contract duration by six years from July 30, 2027, for a new total**
10 **contract duration of approximately 15 years from September 26, 2018, through**
11 **September 25, 2033, to continue providing engineering design and support services for**
12 **the Ocean Beach Climate Change Adaptation Project, pursuant to Section 9.118 of the**
13 **San Francisco Charter.**

14
15 WHEREAS, The San Francisco Public Utilities Commission (SFPUC) is leading efforts
16 to implement one of the City and County of San Francisco's (the City) first climate change
17 adaptation initiatives, the Ocean Beach Climate Change Adaptation Project located at Ocean
18 Beach, south of Sloat Boulevard in San Francisco; and

19 WHEREAS, The SFPUC's partner agencies include San Francisco Recreation and
20 Park Department, San Francisco Municipal Transportation Agency, and San Francisco Public
21 Works; and

22 WHEREAS, The project is a large, cross-agency infrastructure project being built in the
23 City to address the long-term physical changes needed to combat climate-induced sea level
24 rise, specifically at Ocean Beach; and

1 WHEREAS, The project is necessary to protect the integrity of the SFPUC's
2 wastewater assets that protect public health and the environment, including the Lake Merced
3 Tunnel, the Westside Pump Station, and the Oceanside Wastewater Treatment Plant; and

4 WHEREAS, The Lake Merced Tunnel has a storage capacity of up to 10 million gallons
5 of combined sewage and stormwater flows and is located closest to the section of South
6 Ocean Beach most severely impacted from, and most vulnerable to, continued bluff erosion;
7 and

8 WHEREAS, The Lake Merced Tunnel could become structurally compromised if
9 sudden bluff retreat is experienced, resulting in significant environmental and public health
10 impacts; and

11 WHEREAS, The project will implement a comprehensive shoreline management and
12 protection plan in partnership with relevant stakeholders and regulatory agencies to provide a
13 long-term solution to the climate-related shoreline erosion along South Ocean Beach, and to
14 mitigate potential impacts to the Lake Merced Tunnel and other critical wastewater assets at
15 this location; and

16 WHEREAS, On July 24, 2018, by Resolution No. 18-0128, the SFPUC Commission
17 awarded Contract No. PRO.0092, Engineering Services for South Ocean Beach Coastal
18 Erosion and Wastewater Infrastructure Protection, to Moffatt and Nichol-AGS Joint Venture
19 (JV), for an amount not to exceed \$3,750,000 and a contract duration of five years; and

20 WHEREAS, On December 17, 2018, pursuant to the authority delegated to the General
21 Manager by Resolution No. 09-0017, the SFPUC approved Amendment No.1 to Contract No.
22 PRO.0092, to address an insurance requirement; and

23 WHEREAS, On April 13, 2021, by Resolution No. 21-0056, the SFPUC Commission
24 approved Amendment No. 2 to Contract No. PRO.0092, increasing the contract amount by
25 \$2,000,000 for a total of \$5,750,000 and increasing the contract duration by four years from

1 July 30, 2023, for a new contract duration of nine years, from July 24, 2018, through July 30,
2 2027, to address increased complexity and scope of design elements, increased
3 environmental analysis, and to cover an identified increase in construction duration; and

4 WHEREAS, On September 28, 2023, by Motion No. 21398, the San Francisco
5 Planning Commission certified the Final Environmental Impact Report (EIR) for the Ocean
6 Beach Climate Change Adaptation Project (Case No. 2019-020115ENV) prepared pursuant to
7 the California Environmental Quality Act (CEQA); and

8 WHEREAS, On October 10, 2023, by Resolution No. 23-0190, the SFPUC approved
9 the project and adopted the CEQA Findings and a Mitigation Monitoring and Reporting
10 Program required by CEQA; and

11 WHEREAS, The project is located in the California Coastal Zone and requires a
12 Coastal Development Permit issued by the California Coastal Commission; and

13 WHEREAS, To meet the terms of the 2015 Coastal Development Permit, which
14 expired on June 30, 2024, the SFPUC submitted all required documentation and was
15 prepared to attend the June 12, 2024, Coastal Commission Hearing to secure a new Coastal
16 Development Permit; and

17 WHEREAS, The project has reached 95% design and was the product of more than a
18 decade of collaboration, planning, technical study, design, and environmental review; and

19 WHEREAS, Reaching the 95% design milestone required extensive consultation,
20 collaboration, and negotiation among several departments within the City and across multiple
21 levels of government, countless hours of staff time and a significant financial investment; and

22 WHEREAS, The SFPUC met with Coastal Commission staff on a regular basis to
23 discuss the technical work that supported the project design; and

24 WHEREAS, These extensive coordination efforts led the SFPUC to believe that
25 Coastal Commission staff substantially agreed with most of the project elements; and

1 WHEREAS, Despite this work and coordination, the SFPUC received several
2 significant and substantive comments on the project design from Coastal Commission staff in
3 the weeks before the June hearing; and

4 WHEREAS, On June 10, 2024, the SFPUC submitted a letter to Coastal Commission
5 staff requesting postponement of the Coastal Commission hearing; and

6 WHEREAS, After six months of negotiations, the SFPUC and Coastal Commission
7 staff reached substantial agreement on what design changes would be reasonably feasible;
8 and

9 WHEREAS, After reaching substantial agreement, the SFPUC presented the project at
10 the November 14, 2024, Coastal Commission hearing and secured unanimous approval of the
11 Coastal Development Permit application; and

12 WHEREAS, The Coastal Commission required major changes to the project's scope;
13 and

14 WHEREAS, The SFPUC is seeking approval of Amendment No. 3 to Contract No.
15 PRO.0092 to increase the agreement amount by \$7,000,000 and to extend the contract
16 duration by six years, to address Coastal Commission mandated design changes, increased
17 design complexities related to interdepartmental shared scope elements, and an anticipated
18 increase in the construction duration of the project, increasing the total not-to-exceed amount
19 to \$12,750,000 and extending the agreement duration to approximately 15 years; and

20 WHEREAS, On March 11, 2025, by Resolution No. 25-0047 the SFPUC Commission
21 approved Amendment No. 3 to Contract No. PRO.0092, Engineering Services for South
22 Ocean Beach Coastal Erosion and Wastewater Infrastructure Protection with Moffatt & Nichol-
23 AGS JV, increasing the contract amount by \$7,000,000 for a new total contract amount of
24 \$12,750,000 and increasing the contract duration by six years, from July 30, 2027, for a new
25 total contract duration of approximately 15 years from September 26, 2018, through

1 September 25, 2033, for a new total contract duration of 15 years, to continue providing
2 engineering design and support services for the Ocean Beach Climate Change Adaptation
3 Project, subject to the Board of Supervisors approval pursuant to Charter, Section 9.118; and

4 WHEREAS, Section 9.118(b) of the San Francisco Charter requires Board of
5 Supervisors' approval by Resolution of a contract that extends over 10 years, and of any
6 contract that costs the City \$10,000,000 or more; and

7 WHEREAS, Engineering design and construction services and support under this
8 Amendment for the elements of the project that have been approved by the SFPUC are within
9 the scope of the Project authorized under the Final EIR; and

10 WHEREAS, For any new or modified project elements, engineering services under this
11 Amendment would be limited to design and support prior to construction, and engineering
12 services and support during construction-related activities for the new or modified project
13 elements will not be initiated under this Amendment until any additional CEQA review, if
14 required, has been completed and until the SFPUC has reviewed and considered the CEQA
15 determination and has approved the changes to the project; and

16 WHEREAS, Funds are available from the Wastewater Enterprise, Facilities and
17 Infrastructure Program-funded Project No. 10015554, Ocean Beach Climate Change
18 Adaptation Project; and

19 WHEREAS, The Contract Monitoring Division established a 10% Local Business
20 Enterprise (LBE) subcontracting requirement for this contract and the contractor remains
21 committed to a 10.5% LBE subcontractor participation with its bid submittal; now, therefore,
22 be it

23 RESOLVED, That this Board of Supervisors hereby authorizes the General Manager of
24 the SFPUC to execute to Contract No. PRO.0092, Engineering Services for South Ocean
25 Beach Coastal Erosion and Wastewater Infrastructure Protection with Moffatt & Nichol-AGS

JV, increasing the contract amount by \$7,000,000 for a new total contract amount of \$12,750,000 and increasing the contract duration by six years, from July 30, 2027, for a new total contract duration of approximately 15 years from September 26, 2018, through September 25, 2033, to continue providing engineering design and support services for the Ocean Beach Climate Change Adaptation Project; and, be it

FURTHER RESOLVED, That within 30 days of Amendment No. 3 being fully executed by all parties for each contract, the SFPUC shall provide the resigned revised contracts to the Clerk of the Board for inclusion in the official file.

Item 3
File 25-0247

Department:
Public Utilities Commission

EXECUTIVE SUMMARY

Legislative Objectives

- The proposed resolution would approve Amendment No. 3 to the Engineering Services for South Ocean Beach Coastal Erosion and Wastewater Infrastructure Protection contract between the San Francisco Public Utilities Commission (SFPUC) and Moffatt & Nichol-AGS Joint Venture (Moffatt), increasing the contract amount by \$7,000,000 for a total not-to-exceed amount of \$12,750,000, and extending the contract duration by six years through September 25, 2033, for a total contract term of approximately 15 years.

Key Points

- Moffatt will provide professional engineering services to support the design, construction, and geotechnical services for the Ocean Beach Climate Change Adaptation Project. The purpose of the project is to mitigate the impacts of coastal erosion to the Wastewater Lake Merced Transport Tunnel and other Wastewater assets. The project includes a seawall, SFPUC access road, coastal trail, public restrooms, a public parking lot, beach access, and habitat mitigation.
- According to the SFPUC, the California Coastal Commission mandated changes to the project design that will extend the design phase and delay construction by approximately 18 months.
- In June 2024, the SFPUC conducted an annual performance evaluation of Moffatt for FY 2023-24, awarding the consultant “Excellent” ratings in six of the seven evaluated categories, and a rating of “Good” in Administrative Functions because SFPUC believes they need to take more initiative in managing subconsultants and increasing progress on their usage.

Fiscal Impact

- The proposed resolution authorizes an additional \$7 million in spending, bringing the total contract not-to-exceed amount to \$12.75 million.
- Currently, the total project cost is increasing from \$209 million to \$216 million because of the addition of the contract amendment for \$7 million. The project is funded by Wastewater capital revenues.

Recommendation

- Approve the proposed resolution.

MANDATE STATEMENT

City Charter Section 9.118(b) states that any contract entered into by a department, board, or commission that (1) has a term of more than ten years, (2) requires expenditures of \$10 million or more, or (3) requires a modification of more than \$500,000 is subject to Board of Supervisors approval.

BACKGROUND

Since the late 1990s, climate-driven shoreline erosion at Ocean Beach south of Sloat Boulevard has repeatedly threatened multiple City assets. The City declared three erosion emergencies within a 15-year span and installed temporary rock barriers and sandbags to stabilize the bluff. Although these actions prevented immediate damage to public assets, they encroached on the coastal zone and restricted safe public access to the beach, recreational use, and habitat, and were cited by the California Coastal Commission as violations of the Coastal Act.

Ocean Beach Climate Change Adaptation Project

The Ocean Beach Climate Change Adaptation Project, located at Ocean Beach south of Sloat Boulevard in San Francisco, is a cross-agency infrastructure project required to address coastal armoring violations (i.e., rock used to armor the bluff) and shoreline erosion that threatens multiple City assets. The project includes a seawall, SFPUC access road, coastal trail, public restrooms, a public parking lot, beach access, and habitat mitigation. This project is identified in the City's Hazards and Climate Resilience Plan, which is required for San Francisco to comply with the Stafford Act and Disaster Mitigation Act.

The Project is necessary to protect the integrity of the San Francisco Public Utilities Commission's (SFPUC) Wastewater assets, including the Lake Merced Tunnel, the Westside Pump Station, and the Oceanside Wastewater Treatment Plant. The Lake Merced Tunnel, part of the Oceanside Treatment Plant, is a 14-foot-wide conveyance pipe running beneath the Great Highway that can store up to 10 million gallons of combined sewage and stormwater flows. This tunnel is situated closest to the most severely impacted area of South Ocean Beach, where erosion continues to undermine the stability of coastal cliff edges that overhang the water. As waves erode the base of these bluffs, they become increasingly unstable, posing significant risks to nearby infrastructure. The tunnel could become structurally compromised if sudden bluff collapse is experienced, resulting in environmental and public health impacts.

The SFPUC serves as the lead agency for the project. Partner departments include the Recreation and Parks Department for public-access elements such as the coastal access trail and overlooks, public restrooms, and a parking lot; the Municipal Transportation Agency for roadway redesign following Proposition K land use changes; and the Department of Public Works for design support for various elements of the project.

Engineering Services Agreement History

On July 24, 2018, the SFPUC Commission awarded a professional-services contract to Moffatt & Nichol-AGS Joint Venture (Moffatt) for the South Ocean Beach Coastal Erosion and Wastewater Infrastructure Protection project, now referred to as the Ocean Beach Climate Change Adaptation Project, in a not-to-exceed amount of \$3.75 million for an initial term of five years ending July 30, 2023, with options to extend the agreement for four additional years. Moffatt was the sole proposer to the Request-For-Proposals. The Contract Monitoring Division confirmed that Moffatt met all minimum qualification requirements.

On December 17, 2018, the SFPUC approved Amendment No. 1 to address an insurance requirement with no change to the not-to-exceed amount or term length.

On April 13, 2021, the SFPUC approved Amendment No. 2 to increase the contract amount by \$2 million, raising it from \$3.75 million to \$5.75 million, and extending the initial contract term by four years through July 30, 2027, to accommodate an increased complexity and scope of design elements, increased environmental analysis, and to cover an identified increase in construction duration.

California Coastal Commission Mandate Changes

During the nearly 15 years of planning for this project, City staff coordinated with both the Coastal Commission and the National Park Service to reach consensus on the design of the project. On June 12, 2024, a Coastal Commission Hearing was scheduled to obtain a new project permit. However, on May 20, 2024, SFPUC received comments from the Coastal Commission requiring significant changes to the project's scope although the project design had already achieved 95 percent completion. The changes impacted the service road and coastal access trail, required the addition of four overlooks, another beach stairway (since removed), expanding the parking lot, the addition of a second restroom, addition of electric vehicle charging stalls to the parking lot, landscape changes, increased dune habitat mitigation, among other changes. These revisions resulted in the postponement of the hearing until November 2024 so that the SFPUC and other partner departments could evaluate the feasibility of the changes.

At that November 2024 hearing, the Coastal Commission unanimously approved the City's Coastal Development Permit, contingent upon implementing the revised design, consequently extending the anticipated construction schedule.

To minimize future project changes, the SFPUC will adopt an iterative review process that obtains written concurrence from the Coastal Commission at each design milestone before bidding and award. The SFPUC believes it conducted a sufficient community input process prior to the Coastal Commission decision on the permit.

On March 11, 2025, the SFPUC approved Amendment No. 3 to increase the contract amount by \$7 million, from \$5.75 million to \$12.75 million, and extending the contract duration by six years,

for a total contract duration of approximately 15 years, from September 26, 2018¹ to September 25, 2033, to account for Coastal Commission mandated design changes, increased design complexities related to interdepartmental shared scope elements, and an anticipated increase in the duration of construction.

DETAILS OF PROPOSED LEGISLATION

The proposed resolution would approve Amendment No. 3 to the Engineering Services for South Ocean Beach Coastal Erosion and Wastewater Infrastructure Protection contract between the San Francisco Public Utilities Commission (SFPUC) and Moffatt & Nichol-AGS Joint Venture (Moffatt), increasing the contract amount by \$7,000,000 for a total not-to-exceed amount of \$12,750,000, and extending the contract duration by six years through September 25, 2033, for a total contract term of approximately 15 years.

The contract may be further extended to align with the construction schedule for the Ocean Beach Climate Change Adaptation Project; however, any changes to the contract value that exceeds \$500,000 would require Board of Supervisors approval.

Scope of Work

Moffatt will provide professional engineering services to support the design, construction, and geotechnical services for the Project to mitigate the impacts of coastal erosion to the Lake Merced Transport Tunnel and other wastewater assets. According to the SFPUC, the mandated California Coastal Commission changes will extend the design phase and delay construction by approximately 18 months.

Local Business Enterprise Participation

Moffatt committed to a 10.5 percent Local Business Enterprise (LBE) subcontracting requirement and identified six certified San Francisco LBEs to meet that goal². To date, the contractor has achieved an actual LBE utilization rate of 10.1 percent. The breakdown of firms, their related services, and participation to-date is detailed below in Exhibit 1.

¹ Although previous amendments of the contract recorded the effective date of the contract as July 24, 2018, September 26, 2018, was the date the contract became active. Amendment No. 3 corrects this oversight.

² Moffatt also provided Non-LBE sub-consultants which will assist on the project. They are Kennedy Jenks Consultants (constructability review/Computer Aided Design), McMillen Jacobs Associates (tunnel engineering), Marta Fry Landscape (landscape architecture), Sherwood Design Engineering (drainage), and Professors Nicholas Sitar and Thomas O'Rourke (geotechnical support).

Exhibit 1: Local Business Enterprise Participation To-Date (April 2025)

Firm	Service	Amount	Percent
CHS Consulting	Traffic Engineering	\$300,694	5.58%
Davis & Associates	Outreach	\$0	0.00%
Meridian Surveying	Photogrammetry & Surveys	\$60,781	1.13%
Saylor Consulting	Cost Estimating & Scheduling	\$184,194	3.42%
RES Engineering	Materials Testing & Inspection	\$0	0.00%
CADNET	Computer-Aided Design	\$0	0.00%
Total		\$545,669	10.13%

Source: SFPUC

Note: Participation To-Date does not include Amendment No. 3, and unused subconsultants might see utilization in the following term.

Social Impact Partnership Requirement

Social Impact Partnership (SIP) contributions are direct community benefits supported by contractors and are optional for vendors to include in their proposals when bidding on contracts valued above \$5 million. This original contract did not meet that threshold. Because a SIP commitment was not advertised or agreed upon during the Request-For-Proposals process, this amendment does not add a SIP commitment.

Performance

In June 2024, the SFPUC conducted an annual performance evaluation of Moffatt for FY 2023-24, awarding the consultant a rating of “Excellent” in six of the seven evaluated categories (Quality of Service, Schedule Management, Cost Management, Scope Management, Staff and Resources, and Value of Services). However, the consultant was awarded a rating of “Good” in Administrative Functions because SFPUC believes they need to take more initiative in managing subconsultants and increasing progress on their usage.

FISCAL IMPACT

The proposed resolution authorizes an additional \$7 million, bringing the total contract not-to-exceed amount to \$12.75 million. The breakdown of contract costs is detailed below in Exhibit 2.

Exhibit 2: Contract Budget Summary FY 2018-2033

Phase	Current Budget	Proposed Budget	Proposed Change	Percent Change
Planning	\$1,380,000	\$1,380,000	\$0	0%
Environmental Support	375,000	1,475,000	1,100,000	293%
Design	2,717,500	6,395,000	3,677,500	135%
Engineering Support During Construction	1,277,500	3,500,000	2,222,500	174%
Total	\$5,750,000	\$12,750,000	7,000,000	122%

Source: SFPUC

The proposed amendment adds additional funding for environmental support, design, and engineering support during construction associated with the Coastal Commission mandated scope changes, interdepartmental changes, and anticipated increase in duration of construction of the Project.

Total Project

The total project cost is expected to increase to address the identified mandated and interdepartmental changes. The total budget impacts will not be known until design is advanced on these mandated changes. Currently, the total project cost is increasing from the 10-Year Capital Improvement Plan (CIP) Fund approved budget of \$209 million to \$216 million because of the addition of the contract amendment for \$7 million.

Exhibit 3: Current Project Costs

Phase	Cost
Planning and Environmental Review/Soft Costs	\$24,000,000
Design	\$11,000,000
Construction Management	\$22,000,000
Construction	\$152,000,000
Total	\$209,000,000

Source: SFPUC

The total approved 10-Year CIP budget for the project is \$209 million which was based on 95 percent design, established prior to receiving the coastal commission mandated changes. The Engineering Services contract accounts for approximately six percent of the total project cost. According to the SFPUC, this is a consistent cost for engineering services when compared to similarly sized capital projects.

Source of Funds

The contract is funded by Wastewater Enterprise capital revenues.

RECOMMENDATION

Approve the proposed resolution.

Instructions

1. **When to use the P-650:** This template is designed for the amendment of a P-600 or other P-6XX series template. Although this P-650 can be used to modify any P-6XX series contract, you must confirm that the numbering is correct and does not result in inconsistency. **If you are modifying a P-5XX series template, use the P-550.**
2. **Who must sign:** This Amendment must be executed on behalf of each entity that signed the original Agreement.
3. **Updated contract sections:** In April 2019, the P-600 was updated substantially. See Purchaser's memo of April 2019 for further detail. Some minor updates were also made in November 2020. In November 2023, updates were made relating to nonprofit compliance and removing Covid related vaccination requirements. Not all of the cumulative updates must be incorporated into amended contracts, but the following are required:
 - Section 4.5 Assignment
 - Section 7.3 Withholding
 - Section 10.4 Consideration of Salary History
 - Section 10.11 Limitations on Contributions
 - Section 10.17 Distribution of Beverages and Water
 - Article 13 Data and Security
4. **How to show updated contract sections:** In Articles 2 and 3, set forth the section or subsection of the contract (either in the original or as previously amended) to be modified.
5. **Other things to consider:**
 - a. In complicated amendments, running a compare function from the original contract to the current version of the P-600 is advised to fully understand the scope of changes.
 - b. Confirm no new Administrative Code provisions are required if increases in compensation surpass monetary thresholds.
 - c. Review the entire original Agreement to confirm that changing something in one section does not result in an inconsistency elsewhere.
 - d. Complete all **Green** fields.
 - e. Reserve sections based on instructions in this document. Replace headings with "reserved."
 - f. If a link is not accessible, contact Oca@sfgov.org.
 - g. Track **all** Changes.
 - h. Have your city attorney review the proposed redlined amendment before sending to the contractor.
 - i. Most importantly, **delete all blue and red** instructions before sending to the contractor.

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

Third Amendment

PRO.0092

**Engineering Services for South Ocean Beach Coastal Erosion and Wastewater
Infrastructure Protection**

THIS **THIRD** AMENDMENT (“Amendment”) is made as of **[insert date]**, in San Francisco, California, by and between **Moffatt and Nichol-AGS, JV** (“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, increase the contract amount, and update standard contractual clauses; and

WHEREAS, Contractor was competitively selected as required by San Francisco Administrative Code section 6.40, pursuant to a Request for Proposals entitled Engineering Services for South Ocean Beach Coastal Erosion and Wastewater Infrastructure Protection issued through Sourcing Event ID PUC.PRO.0092, 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 February 3, 2025 from the Civil Service Commission under PSC number DHRPSC0001922 in the amount of \$12,750,000 for the period of 15 years and 11 months; and

WHEREAS, this Amendment is consistent with an approval obtained from City’s **[name of Commission]** under **[insert resolution number]** approved on **[insert date of Commission action]** in the amount of **[insert Dollar Amount]** for the period commencing **[Insert Start Date]** and ending **[Insert End Date]**; and

WHEREAS, this Amendment is consistent with an approval obtained from the City’s **[Board of Supervisors]** under **[insert resolution number]** approved on **[insert date of Commission or Board action]** in the amount of **[insert Dollar Amount]** for the period commencing **[Insert Start Date]** and ending **[Insert End Date]**; and

WHEREAS, the Department has filed Ethics Form 126f4 (Notification of Contract Approval) because this Agreement, as amended herein, has a value of \$100,000 or more in a fiscal year and will require the approval of the Board of Supervisors; 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 July 24, 2018 between Contractor and City, as amended by the:

First Amendment, dated December 17, 2018, and
Second Amendment, dated June 21, 2021.

1.2 **San Francisco Labor and Employment Code.** As of January 4, 2024, San Francisco Administrative Code Chapters 21C (Miscellaneous Prevailing Wage Requirements), 12B (Nondiscrimination in Contracts), 12C (Nondiscrimination in Property Contracts), 12K (Salary History), 12P (Minimum Compensation), 12Q (Health Care Accountability), 12T (City Contractor/Subcontractor Consideration of Criminal History in Hiring and Employment Decisions), and 12U (Sweatfree Contracting) are redesignated as Articles 102 (Miscellaneous Prevailing Wage Requirements), 131 (Nondiscrimination in Contracts), 132 (Nondiscrimination in Property Contracts), 141 (Salary History), 111 (Minimum Compensation), 121 (Health Care Accountability), 142 (City Contractor/Subcontractor Consideration of Criminal History in Hiring and Employment Decisions), and 151 (Sweatfree Contracting) of the San Francisco Labor and Employment Code, respectively. Wherever this Agreement refers to San Francisco Administrative Code Chapters 21C, 12B, 12C, 12K, 12P, 12Q, 12T, and 12U, it shall be construed to mean San Francisco Labor and Employment Code Articles 102, 131, 132, 141, 111, 121, 142, and 151, respectively.

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

Article 2 Modifications to Scope of the Agreement

The Agreement is hereby modified as follows:

2.1 Article 2 Term of the Agreement. Sections 2.1 and 2.2 of the Agreement currently reads as follows:

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

2.2 The City has options to renew the Agreement for a period of four years for a total duration of up to nine years. The City may extend this Agreement beyond the expiration date by

exercising an option at the City's sole and absolute discretion and 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 September 26, 2018 and Expire fifteen years later, unless earlier terminated as otherwise provided herein.

2.2 The City has options to renew the Agreement for a duration that is coextensive with the duration of the construction project that this Agreement supports for the Lake Merced Transport Tunnel.

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

3.3.1 Payment. Consultant 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 Consultant 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 Consultant that a dispute as to the invoice exists. In no event shall the amount of this Agreement exceed **Five Million Seven Hundred Fifty Thousand Dollars and no cents (\$5,750,000.00)**. 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 set forth in Administrative Code Section 6.22(j).

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

3.3.1 Payment. Consultant 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 Consultant 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 Consultant that a dispute as to the invoice exists. In no event shall the amount of this Agreement exceed **Twelve Million Seven Hundred Fifty Thousand Dollars (\$12,750,000)**. 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 set forth in Administrative Code Section 6.22(j).

2.3 **Appendix B Calculation of Charges Revision January 2025.** Appendix B Calculation of Charges is hereby replaced in its entirety by Appendix B Calculation of Charges Revision January 2025, attached to this Amendment and fully incorporated within the Agreement. To the extent the Agreement refers to Appendix B Calculation of Charges in any place, the true

meaning shall be Appendix B Calculation of Charges Revision January 2025, which is a correct and updated version.

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 Qualified 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 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.

3.4 **Section 10.11 Limitations on Contributions.** *Section 10.11 of the Agreement is replaced in its entirety to read as follows:*

10.11 Limitations on Contributions. By executing this Agreement, Contractor acknowledges its obligations under Section 1.126 of the City’s Campaign and Governmental Conduct Code, which prohibits any person who contracts with, or is seeking a contract with, any department of the City for the rendition of personal services, for the furnishing of any material, supplies or equipment, for the sale or lease of any land or building, for a grant, loan or loan guarantee, or for a development agreement, from making any campaign contribution to (i) a City elected official if the contract must be approved by that official, a board on which that official serves, or the board of a state agency on which an appointee of that official serves, (ii) a candidate for that City elective office, or (iii) a committee controlled by such elected official or a candidate for that office, at any time from the submission of a proposal for the contract until the later of either the termination of negotiations for such contract or twelve months after the date the City approves the contract. The prohibition on contributions applies to each prospective party to the contract; each member of Contractor’s board of directors; Contractor’s chairperson, chief executive officer, chief financial officer and chief operating officer; any person with an ownership interest of more than 10% in Contractor; any subcontractor listed in the bid or contract; and any committee that is sponsored or controlled by Contractor. Contractor certifies that it has informed each such person of the limitation on contributions imposed by Section 1.126 by the time it submitted a proposal for the contract, and has provided the names of the persons required to be informed to the City department with whom it is contracting

3.5 **Article 13 Data and Security.** *Article 13 of the Agreement is replaced in its entirety 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.

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:

CONTRACTOR
Moffatt and Nichols-AGS, JV

Dennis J. Herrera
General Manager
San Francisco Public Utilities Commission

[name of authorized representative]
[title]

City Supplier number: 0000014873

Approved as to Form:

David Chiu
City Attorney

By: _____
Tyson Arbuthnot
Deputy City Attorney

Attached Appendices:

Appendix B: Calculation of Charges Revision January 2025

Appendix B Calculation of Charges Revision January 2025

As part of Consultant's proposal dated **May 25, 2018**, Consultant submitted proposed billing rates, attached hereto as Appendix B-1, Fee Schedule, for the requested tasks identified in Appendix A, Scope of Services which are incorporated herein by this reference.

As provided in the Fee Schedule, the budget identified for tasks is an estimate, and the City reserves the right to modify the budget allocated, if applicable, to any task as more specific information concerning the task order scope becomes available.

The City will not pay any invoices for Services provided by law firms or attorneys, including, without limitation, as subconsultants of Consultant, unless the provider received advance written approval from the City Attorney.

1. Billing Rates. Consultant's billing rates and each and every staff classification as stated in Appendix C will be the billing rates for the listed individuals. The billing rate may not exceed the lowest rate charged to any other governmental entity except the City and County of San Francisco. Billing rates will be fixed for the first two years of the contract, and may be adjusted annually thereafter. The first adjustment may be made no earlier than the second anniversary of the effective start date as indicated in the original Notice of Contract Award letter. The amount of the adjustment is limited to a maximum of the CPI annual percentage change increase (San Francisco Bay Area for Urban Wage Earners and Clerical Workers) for the previous calendar year. No increase, including the annual CPI adjustment, is allowed to billing rates exceeding \$240 per hour, unless Project Manager and Bureau Manager authorize an increase to the rate in writing.

2. Personnel Changes. Any proposed changes to project personnel or staff classification as listed in Appendix C must be approved in advance of any work commencing on the project and in writing by the SFPUC Project Manager. These personnel changes may include but are not limited to:

- Proposed addition of new project personnel to perform requested services that are within the scope of the Agreement;
- Proposed change of staff classification for existing personnel; and/or
- Proposed replacement or substitution of any employee listed in Appendix B-1 due to termination, promotion or reclassification.

All proposed personnel must meet all qualification requirements established by the Agreement.

3. Effective Overhead and Profit Rate. The Effective Overhead and Profit Rate (EOPR) for PRO.0092 is **2.80**. The EOPR or Individual Firm Overhead and Profit Rate will apply to the billing rate of all individuals not listed in Appendix C. The EOPR will also apply to all amendments to the Agreement. If Consultant adds a new subconsultant during the duration of the Agreement, the new individual firm multiplier can be no more than the EOPR.

4. Other Direct Costs (ODC). Direct reimbursable expenses (ODCs – Other Direct Costs) shall include actual direct costs (with no markup) of expenses directly incurred in performing the work. All ODCs are subject to pre-approval in writing by the SFPUC Project Manager.

- a. The following items will be eligible for reimbursement as ODCs:
- Out-of-town travel (“out-of-town” shall mean outside the nine Bay Area counties: San Francisco, Alameda, Marin, Santa Clara, Sonoma, Contra Costa, Napa, San Mateo, Solano);
 - Out- of town meal, travel and lodging expenses for project-related business trips, including, but not limited to:
 - o Rental vehicle: traveler must select the most economical Consultant and type of vehicle available and acquire any commercial rate or government discount available when the vehicle is rented;
 - o Personal vehicle use: Consultant will be paid per mile as established by the United State Internal Revenue Service and only for that portion of travel that is outside the nine Bay Area counties and non-routine. Should the travel begin or end on a normal workday, the Consultant shall subtract commuting mileage from total mileage to calculate reimbursable mileage. The Consultant shall submit to the City an approved mileage log with its monthly invoices;
 - o Meal and lodging expenses shall be reasonable and actual but limited to Federal government per diem rates;
 - Specialty printing (“specialty” as used herein shall mean large volume printing and color printing and requires prior written approval by SFPUC project staff and documentation of the written approval by the SFPUC must be included with the invoice);
 - Specialty computer hardware and software (only with prior written approval by SFPUC project staff and documentation of the written approval by the SFPUC must be included with the invoice – all hardware and software will be the property of the City);
 - Courier services that are project related and originated from the project site offices;
 - Permit fees;
 - Expedited courier services when requested by SFPUC staff; and
 - Safety equipment.
- b. Only charges listed above are eligible for reimbursement. Cost that are not eligible for reimbursement include, but are not limited to:
- All other travel expenses such as parking, bridge tolls, public transit, vehicle mileage within the nine Bay Area Counties, travel from Consultant’s home office to SFPUC facilities;
 - Consultant personnel relocation costs;
 - Any home or regional office labor charges or pass-throughs, including but not limited to, administrative and clerical personnel time;
 - Personnel relocation and temporary assignment expenses;
 - Entertainment expenses;
 - Cell phones;
 - Home office expenses;
 - Telephone calls and faxes originating in the firm’s home office, standard computer use charges, computer hardware or software computer hardware or software (other than the specialty hardware or software mentioned above), communication devices, and electronic equipment;
 - Meal expenses which are not related to project-related business trips, including refreshments and working lunches with SFPUC staff;

- Equipment to be used by SFPUC staff; and
- Postage and courier services that the SFPUC staff has not requested.

5. Subconsultant make-up and documentation. Second-tier and pass-through subcontracting is prohibited. Consultant may add additional subconsultants to the Consultant team after obtaining pre-authorization by the SFPUC Project Manager, Bureau/Division Manager and the Contract Monitoring Division (CMD).

6. Subconsultant Fees:

- Subject to the restrictions in this Section 4;
- Shall be subject to written pre-approval by the Consultant's liaison with the SFPUC;
- Subconsultant administration markup is limited to five percent (5%) of subconsultants' actual labor costs.

7. Retention. The City will withhold five percent (5%) of each invoice payment for each task order. When Consultant completes the work for a task order or critical milestones to the satisfaction of the SFPUC Project Manager, the City has received all required work product, and the City Project Manager has approved all required work products, the Consultant may request the City to release the retention. Consultant may substitute an irrevocable letter of credit acceptable to the City in lieu of money retention.

8. Invoice Requirements. As part of its contracting obligations, the Consultant is required to utilize the City's approved invoicing and time-keeping systems, as specified by the SFPUC project team. Consultant shall not bill the SFPUC to use these systems. Consultant shall not charge SFPUC to send appropriate personnel to user training. Consultant shall follow the invoicing and supporting documentation instructions as prescribed by the SFPUC.

Invoice Supporting Documentation:

Consultant must substantiate all labor hours by timesheet summaries extracted from the Consultant's accounting system. Each timesheet summary shall include the staff person's name, company, dates of the days worked, and the number of hours worked each day.

Consultant must submit any mileage ODCs accompanied by mileage logs providing the beginning and ending mileage to substantiate the variable portal-to-portal distance and local driving required while performing the work. Consultant must submit all other ODCs with copies of original receipts including a brief description for each receipt memorializing the purpose.

CMD Form 7 "Progress Payment Form" must be included with each invoice to identify the participation and amount payable to the subconsultants.

Consultant must submit CMD Form 9 "Payment Affidavit" within ten (10) days of receiving payment for each invoice to document the subconsultant's payment by the prime Consultant.



San Francisco
Water Power Sewer
Services of the San Francisco Public Utilities Commission

Sloat Boulevard

File No. 250247:

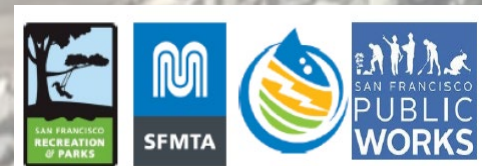
Oceanside

*Amendment - Moffatt & Nichol-AGS JV - Engineering Services for
South Ocean Beach Coastal Erosion and Wastewater
Infrastructure Protection - Not to Exceed \$12,750,000*

Budget and Finance Committee
April 30, 2025

Anna M. Roche, Project Manager, Climate Change, Wastewater Enterprise

Ft. Funston



PRO.0092 Contract Scope Overview

- Professional Services Contract PRO.0092 – Engineering Services for South Ocean Beach Coastal Erosion and Wastewater Infrastructure Protection
 - SFPUC Commission Resolution No. 18-0128
 - Contract Award, September 26, 2018
 - Contractor: Moffat and Nichol - AGS Joint Venture
 - Contract Amount: \$3,750,000
 - Contract Duration: Five (5) years
- The primary role of the Consultant is to provide planning, design and engineering support during construction (ESDC) services for the Long-term Improvements phase of the Ocean Beach Climate Change Adaptation Project.
- The consultant team is meant to supplement the city design team and provide expertise (i.e., coastal engineers) that does not exist in-house.



San Francisco
Water Power Sewer
Services of the San Francisco Public Utilities Commission

Climate Change Focused Planning for San Francisco's Ocean Beach, south of Sloat Blvd.





San Francisco
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Project Meets Major City Priorities

1. Coastal Act Compliance
2. Maintain Water Quality via Infrastructure Protection
3. Adapt to Climate Change



1994



2010



San Francisco
Water Power Sewer
Services of the San Francisco Public Utilities Commission

San Francisco's Historic Approaches to Coastal Erosion





Project Evolution Since June 2024



Original Design



Revised Design

Why Are We Requesting This Amendment

➤ Why Contract Amendment is Required:

- Total project scope, complexity, cost and schedule increased significantly during planning and design
- Extensive coordination among multiple stakeholders, navigation of inherent technical complexities to effectively integrate diverse agency perspectives and priorities
- Coastal Commission Mandated Design Changes requiring additional analysis and design efforts among the multiple stakeholders, including the National Park Service
- Increased duration of construction to address traffic flow in coordination with other San Francisco priority projects

PRO.0092 Amendment No. 3 Summary

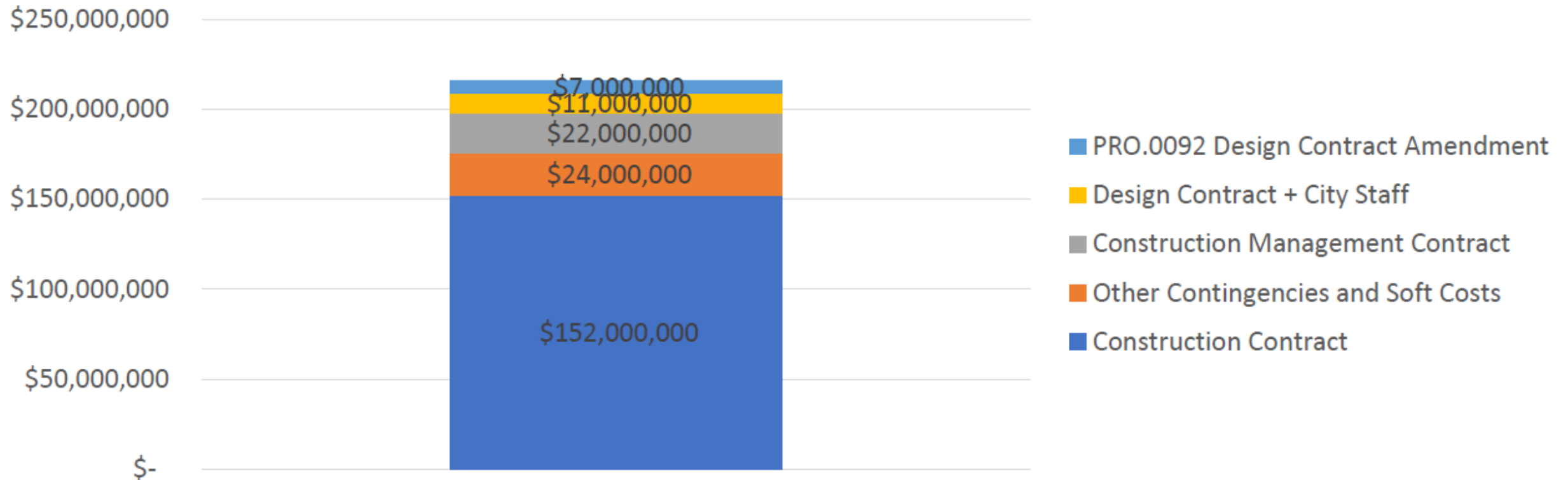
Phase	Original Budget	Amendment Nos. 1+2	Current Budget	*Reallocated Budget	Amendment No. 3 (This Request)	Proposed Budget
Planning	\$1,255,000	\$125,000	\$1,380,000	\$1,380,000	\$0	\$1,380,000
Environmental Support	\$250,000	\$125,000	\$375,000	\$575,000	\$900,000	\$1,475,000
Design	\$1,817,500	\$900,000	\$2,717,500	\$3,795,000	\$2,600,000	\$6,395,000
Engineering Support during Construction	\$427,500	\$850,000	\$1,277,500	\$0	\$3,500,000	\$3,500,000
Total	\$3,750,000	\$2,000,000	\$5,750,000	\$5,750,000	\$7,000,000	\$12,750,000

*Funds for Engineering Support during Construction were reallocated to design and environmental support to address on-going extensive coordination with multiple project partners and navigation of inherent technical complexities.



PRO.0092, Amendment No. 3, Increase in Context

Ocean Beach Climate Change Adaption Project - Total 10 YR CIP Approved Budget \$209M



PRO.0092 Contract Background

Awarded July 24, 2018, by SFPUC Commission Resolution No. 18-0128, contract amount not-to-exceed \$3,750,000 and a duration of five years

Amendment No. 1 on December 17, 2018, by SFPUC staff amended contract to address insurance requirement.

Amendment No. 2 on April 13, 2021, by SFPUC Commission Resolution No. 21-0056, contract increase amount of \$2,000,000 and duration by four years for a total not-to-exceed amount of \$5,750,000, and total duration of 9 years

Amendment No. 3 on March 11, 2025, by SFPUC Commission Resolution No. 25-0047, contract increase amount of \$7,000,000 and duration by six year for a total not-to-exceed amount of \$12,750,000 and total duration of 15 years

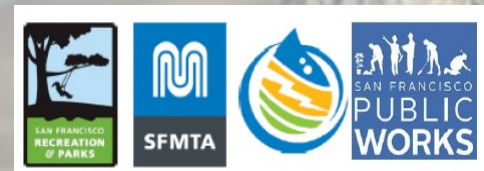


San Francisco
Water Power Sewer
Services of the San Francisco Public Utilities Commission

Thank you!

Budget and Finance Committee
May 30, 2025

Anna M. Roche, Project Manager, Climate Change, Wastewater Enterprise





September 27, 2018

Dilip Trivedi
Moffatt and Nichol-AGS, JV
2185 N. California Blvd., Suite 500
Walnut Creek, CA 94596
Email: dtrivedi@moffattnichol.com

RE: 1) Notice of Contract Award
2) Executed Agreement between the City and County of San Francisco
Public Utilities Commission and Moffatt and Nichol-AGS, JV.

Dear Mr. Trivedi,

This letter provides a *Notice of Contract Award* for the following contracted work:

Contract ID Number: PRO.0092 (1000012212)

Contract Title: Engineering Services for South Ocean Beach Coastal
Erosion and Wastewater Infrastructure Protection

Effective Date: September 26, 2018 to September 25, 2023

Amount: Total value of contract not to exceed
\$3,750,000.00

Work may not be charged against the Contract ID Number. Invoices must be charged against specific task orders only after a *Notice to Proceed* has been issued.

Sincerely,

Rosiana Angel
Infrastructure Budget and Payment Processing

Enclosure: Executed Agreement
cc: Heather Manders

File/PRO.0092 NCA

London Breed
Mayor

Ike Kwon
President

Vince Courtney
Vice President

Ann Moller Caen
Commissioner

Francesca Vietor
Commissioner

Anson Moran
Commissioner

Harlan L. Kelly, Jr.
General Manager



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

Agreement between the City and County of San Francisco and

Moffatt and Nichol-AGS, JV

PUC.PRO.0092

**Engineering Services for South Ocean Beach Coastal Erosion and Wastewater
Infrastructure Protection**

This Agreement is made this 24th day of July 2018, in the City and County of San Francisco (“City”), State of California, by and between Moffatt and Nichol-AGS, JV (“Consultant”) and City.

Recitals

WHEREAS, the San Francisco Public Utilities Commission (“Department,” or “SFPUC”) wishes to retain the services of a qualified consultant to provide professional engineering services to support the design, engineering, construction administration services, and geotechnical services for coastal erosion management of existing buried wastewater infrastructure (Lake Merced Transport Tunnel) along South Ocean Beach as it runs from Sloat Boulevard to the Oceanside Water Pollution Control Plant; and,

WHEREAS, this Agreement was competitively procured as required by San Francisco Administrative Code Chapter 6 through a Request for Proposal (“RFP”) issued on April 25, 2018, in which City selected Consultant as the highest qualified scorer pursuant to the RFP; and

WHEREAS, the Local Business Enterprise (“LBE”) subcontracting participation requirement for this Agreement is 10%;

WHEREAS, Consultant represents and warrants that it is qualified to perform the Services required by City as set forth under this Agreement; and

WHEREAS, the City’s Civil Service Commission approved Contract number 46784-16/17 on August 21, 2017;

WHEREAS, the San Francisco Public Utilities Commission awarded this Agreement to Consultant under Resolution No. 18-0128 on July 24, 2018;

Now, THEREFORE, the parties agree as follows:

Article 1 Definitions

The following definitions apply to this Agreement:

1.1 "Agreement" means this contract document, including all attached appendices, and all applicable City Ordinances and Mandatory City Requirements, which are specifically incorporated into this Agreement by reference as provided herein.

1.2 "City" or "the City" means the City and County of San Francisco, a municipal corporation, acting by and through the SFPUC.

1.3 "CMD" means the Contract Monitoring Division of the City.

1.4 "Consultant" or "Consultant" means Moffatt and Nichol-AGS, JV.

1.5 "Deliverables" means Consultant's work product resulting from the Services that Consultant provides to City during the course of Consultant's performance of the Agreement, including without limitation, the work product described in the "Scope of Services" attached as Appendix A.

1.6 "Effective Date" means the date upon which the City's Controller certifies the availability of funds for this Agreement as provided in Section 3.1.

1.7 "Mandatory City Requirements" means those City laws set forth in the San Francisco Municipal Code, including the duly authorized rules, regulations, and guidelines implementing such laws, which impose specific duties and obligations upon Consultant.

1.8 "Party" and "Parties" mean the City and Consultant either collectively or individually.

1.9 "Services" means the work performed by Consultant under this Agreement as specifically described in the "Scope of Services" attached as Appendix A, including all services, labor, supervision, materials, equipment, actions and other requirements to be performed and furnished by Consultant under this Agreement.

Article 2 Term of the Agreement

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

2.2 The City has options to renew the Agreement for a period of four years for a total duration of up to nine years. The City may extend this Agreement beyond the expiration date by exercising an option at the City's sole and absolute discretion and by modifying this Agreement as provided in Section 11.5, "Modification of this Agreement."

Article 3 Financial Matters

3.1 **Certification of Funds; Budget and Fiscal Provisions; Termination in the Event of Non-Appropriation.** This Agreement is subject to the budget and fiscal provisions of the City's Charter. Charges will accrue only after prior written authorization certified by the Controller, and the amount of City's obligation hereunder shall not at any time exceed the amount certified for the purpose and period stated in such advance authorization. This Agreement will terminate without penalty, liability or expense of any kind to City at the end of any fiscal year if City does not appropriate funds for the next succeeding fiscal year. If the City appropriates funds for a portion of the fiscal year, this Agreement will terminate, without penalty, liability or expense of any kind at the end of the term for which the City appropriated

funds. City has no obligation to make appropriations for this Agreement in lieu of appropriations for new or other agreements. City budget decisions are subject to the discretion of the Mayor and the Board of Supervisors. Consultant's assumption of risk of possible non-appropriation is part of the consideration for this Agreement.

THIS SECTION CONTROLS AGAINST ANY AND ALL OTHER PROVISIONS OF THIS AGREEMENT.

3.2 Guaranteed Maximum Costs. The City's payment obligation to Consultant cannot at any time exceed the amount certified by City's Controller for the purpose and period stated in such certification. Absent an authorized Emergency per the City Charter or applicable Code, no City representative is authorized to offer or promise, nor is the City required to honor, any offered or promised payments to Consultant under this Agreement in excess of the certified maximum amount without the Controller having first certified the additional promised amount and the Parties having modified this Agreement as provided in Section 11.5, "Modification of this Agreement."

3.3 Compensation.

3.3.1 Payment. Consultant shall provide an invoice to the City on a monthly basis for Services completed in the immediate preceding month, unless a different schedule is set out in Appendix B, "Calculation of Charges." City shall compensate Consultant 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 Consultant that a dispute as to the invoice exists. In no event shall the amount of this Agreement exceed **Three Million Seven Hundred Fifty Thousand Dollars (3,750,000)**. 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 set forth in Administrative Code Section 6.22(j).

3.3.2 Payment Limited to Satisfactory Services. Consultant is not entitled to any payments from City until SFPUC approves Services, including any furnished Deliverables, as satisfying all of the requirements of this Agreement. Payments to Consultant by City shall not excuse Consultant from its obligation to replace unsatisfactory Deliverables, including equipment, components, materials, or Services even if the unsatisfactory character of such Deliverables, equipment, components, materials, or Services may not have been apparent or detected at the time such City issued a payment. The City may reject any deliverables, equipment, components, materials and Services that do not conform to the requirements of this Agreement and in such case Consultant shall replace what the City rejected without delay at no cost to the City.

3.3.3 Withhold Payments. If Consultant fails to provide Services in accordance with Consultant's obligations under this Agreement, the City may withhold any and all payments due Consultant until such failure to perform is cured, and Consultant shall not stop work as a result of City's withholding of payments as provided herein.

3.3.4 Invoice Format. Invoices furnished by Consultant under this Agreement must be in a form acceptable to the Controller and City, and must include a unique invoice number. City shall issue payment as specified in 3.3.6, or in such alternate manner as the Parties have mutually agreed upon in writing.

3.3.5 LBE Payment and Utilization Tracking System. Consultant shall submit all required payment information using the online LBE Utilization Tracking System (LBEUTS) as required by CMD to enable the City to monitor Consultant's compliance with the LBE subcontracting commitments in this Agreement. Consultant shall pay its LBE subconsultants within three working days after receiving payment from the City, except as otherwise authorized by the LBE Ordinance. The Controller is not authorized to pay invoices submitted by Consultant prior to Consultant's submission of all required CMD payment information. Failure to submit all required payment information to the LBEUTS with each payment request may result in the Controller withholding 20% of the payment due pursuant to that invoice until Consultant provides the required payment information. Following City's payment of an invoice, Consultant has ten calendar days to utilize the online LBEUTS to confirm that Consultant has paid its subconsultants. Consultant shall attend a LBEUTS training session. LBEUTS training session schedules are available at www.sfgov.org/lbeuts.

3.3.6 Getting paid for goods and/or services from the City.

(a) All City vendors receiving new contracts, contract renewals, or contract extensions must sign up to receive electronic payments through the City's Automated Clearing House (ACH) payments service/provider. The City processes electronic payments every business day and they are safe and secure. To sign up for electronic payments, visit www.sfgov.org/ach.

(b) Consultant shall comply with the following requirements and provide the following information to sign up for electronic payments: (i) the enroller must be the company's authorized financial representative, (ii) the company's legal name, main telephone number and all physical and remittance addresses used by the company, (iii) the company's U.S. federal employer identification number (EIN) or Social Security number (if they are a sole proprietor), and (iv) the company's bank account information, including routing and account numbers.

3.3.7 Reserved. (Grant Funded Contracts)

3.3.8 Subconsultant Prompt Payment. Except as otherwise required by Chapter 14B of the Administrative Code, and consistent with the provisions of Section 6.42(f) of the Administrative Code, Consultant shall pay its subconsultants within seven calendar days after receipt of each progress payment from the City, unless otherwise agreed to in writing by both Consultant and the subconsultant. In the event that there is a good faith dispute over all or any portion of the amount due on a progress payment from Consultant to a subconsultant, the Consultant may withhold the disputed amount, but shall pay the undisputed amount. If Consultant violates the provisions of Section 6.42(f), then Consultant shall pay to the subconsultant directly the penalty specified in Section 6.42(f).

3.4 Audit and Inspection of Records. Consultant agrees to maintain and make available to the City, during regular business hours, accurate books and accounting records relating to its Services. Consultant will permit City to audit, examine and make excerpts and

transcripts from such books and records, and to make audits of all invoices, materials, payrolls, records or personnel and other data related to all other matters covered by this Agreement, whether funded in whole or in part under this Agreement. Consultant shall maintain such data and records in an accessible location and condition for a period of not fewer than five years after final payment under this Agreement or until after final audit has been resolved, whichever is later. The State of California or any Federal agency having an interest in the subject matter of this Agreement shall have the same rights as conferred upon City by this Section. Consultant shall include the same audit and inspection rights and record retention requirements in all subcontracts.

3.5 Submitting False Claims. Pursuant to Article V of Chapter 6 of the Administrative Code, any Consultant, subconsultant, supplier, consultant or subconsultant who submits a false claim may be subject to monetary penalties, investigation and prosecution and may be declared an irresponsible bidder or an unqualified consultant and debarred as set forth in that Article. The City will deem a Consultant, subconsultant, supplier, consultant or subconsultant to have submitted a false claim to the City if the Consultant, subconsultant, supplier, consultant or subconsultant: (a) knowingly presents or causes to be presented to an officer or employee of the City a false claim or request for payment or approval; (b) knowingly makes, uses, or causes to be made or used a false record or statement to get a false claim paid or approved by the City; (c) conspires to defraud the City by getting a false claim allowed or paid by the City; (d) knowingly makes, uses, or causes to be made or used a false record or statement to conceal, avoid, or decrease an obligation to pay or transmit money or property to the City; or (e) is a beneficiary of an inadvertent submission of a false claim to the City, subsequently discovers the falsity of the claim, and fails to disclose the false claim to the City within a reasonable time after discovery of the false claim.

3.6 Payment of Prevailing Wages

3.6.1 Covered Services. Consultant's Services under this Agreement may involve the performance of trade work covered by the provisions of Section 6.22(e) [Prevailing Wages] of the Administrative Code (collectively, "Covered Services"). The provisions of Section 6.22(e) of the Administrative Code are incorporated as provisions of this Agreement as if fully set forth herein and will apply to any Covered Services performed by Consultant and its subconsultants.

3.6.2 Wage Rates. The latest prevailing wage rates for private employment on public contracts as determined by the San Francisco Board of Supervisors and the Director of the California Department of Industrial Relations, as such prevailing wage rates may be changed during the term of this Agreement, are hereby incorporated as provisions of this Agreement. Copies of the prevailing wage rates as fixed and determined by the Board of Supervisors are available from the Office of Labor Standards and Enforcement ("OLSE") and are also available on the Internet at <http://www.dir.ca.gov/DLSR/PWD>. Consultant agrees that it shall pay not less than the prevailing wage rates, as fixed and determined by the Board, to all workers employed by Consultant who perform Covered Services under this Agreement. Consultant further agrees as follows:

3.6.3 Subcontract Requirements. As required by Section 6.22(e)(5) of the Administrative Code, Consultant shall insert in every subcontract or other arrangement that it may make for the performance of Covered Services under this Agreement a provision that said

subconsultant shall pay to all persons performing labor in connection with Covered Services under said subcontract or other arrangement not less than the highest general prevailing rate of wages as fixed and determined by the Board of Supervisors for such labor or services.

3.6.4 Posted Notices. As required by Section 1771.4 of the California Labor Code, Consultant shall post job site notices prescribed by the California Department of Industrial Relations ("DIR") at all job sites where Covered Services are to be performed.

3.6.5 Payroll Records. As required by Section 6.22(e)(6) of the Administrative Code and Section 1776 of the California Labor Code, Consultant shall keep or cause to be kept complete and accurate payroll records for all trade workers performing Covered Services. Such records shall include: (1) the name address and social security number of each worker who provided Covered Services on the project, including apprentices; (2) his or her classification; (3) a general description of the services each worker performed each day; (4) the rate of pay (including rates of contributions for, or costs assumed to provide fringe benefits); (5) daily and weekly number of hours worked; (6) deductions made; and (7) actual wages paid. Every subconsultant who shall undertake the performance of any part of Covered Services shall keep a like record of each person engaged in the execution of Covered Services under the subcontract. Consultant shall make all such records available at all times for inspection of and examination by the City and its authorized representatives and the DIR.

3.6.6 Certified Payrolls. Consultant shall prepare certified payrolls in accordance with the requirements of Administrative Code Section 6.22(e)(6) and California Labor Code Section 1776 for the period involved for all employees, including those of subconsultants, who performed labor in connection with Covered Services. Consultant and each subconsultant performing Covered Services shall submit certified payrolls to the City and to the DIR electronically. Consultant shall submit payrolls to the City via the reporting system selected by the City. The DIR will specify how to submit certified payrolls to it. The City will provide basic training in the use of the reporting system at a scheduled training session. Consultant and all subconsultants that will perform Covered Services must attend the training session. Consultant and applicable subconsultants shall comply with electronic certified payroll requirements (including training) at no additional cost to the City.

3.6.7 Compliance Monitoring. Consultant's Covered Services under this Agreement are subject to compliance monitoring and enforcement of prevailing wage requirements by the DIR and/or the OLSE. Consultant and any subconsultants performing Covered Services shall cooperate fully with the DIR and/or the OLSE and other City employees and agents authorized to assist in the administration and enforcement of the prevailing wage requirements and shall take the specific steps and actions required by Section 6.22(e)(7) of the Administrative Code. Steps and actions Consultant is required to take include, but are not limited to, the following requirements: (A) the Consultant shall cooperate fully with the Labor Standards Enforcement Officer and other City employees and agents authorized to assist in the administration and enforcement of the Prevailing Wage requirements and other labor standards imposed on Public Works Consultant by the Charter and Chapter 6 of the San Francisco Administrative Code; (B) the Consultant agrees that the Labor Standards Enforcement Officer and his or her designees, in the performance of their duties, shall have the right to engage in random inspections of job sites and to have access to the employees of the Consultant, employee time sheets, inspection logs, payroll records and employee paychecks; (C) the Consultant shall maintain a sign-in and sign-out sheet showing which employees are present on the job site; (D)

the Consultant shall prominently post at each job-site a sign informing employees that the project is subject to the City's Prevailing Wage requirements and that these requirements are enforced by the Labor Standards Enforcement Officer; and (E) the Labor Standards Enforcement Officer may audit such records of the Consultant as he or she reasonably deems necessary to determine compliance with the Prevailing Wage and other labor standards imposed by the Charter and this Chapter on Public Works Consultants. Failure to comply with these requirements may result in penalties and forfeitures consistent with analogous provisions of the California Labor Code, including Section 1776(g), as amended from time to time.

3.6.8 Remedies. Should Consultant, or any subconsultant who shall undertake the performance of any Covered Services, fail or neglect to pay to the persons who perform Covered Services under this Contract, subcontract or other arrangement for the Covered Services, the general prevailing rate of wages as herein specified, Consultant shall forfeit, and in the case of any subconsultant so failing or neglecting to pay said wage, Consultant and the subconsultant shall jointly and severally forfeit back wages due plus the penalties set forth in Administrative Code Section 6.22 (e) and/or California Labor Code Section 1775. The City, when certifying any payment that may become due under the terms of this Agreement, shall deduct from the amount that would otherwise be due on such payment the amount of said forfeiture.

Article 4 Services and Resources

4.1 Services Consultant Agrees to Perform. Consultant agrees to perform the Services and provide the Deliverables specified in Appendix A, "Scope of Services." Officers and employees of the City do not have the authority to request, and the City is not required to reimburse the Consultant for, Services beyond the Scope of Services listed in Appendix A, unless Appendix A is modified as provided in Section 11.5, "Modification of this Agreement."

4.2 Qualified Personnel. Consultant shall utilize only competent personnel under the supervision of, and in the employment of, Consultant (or Consultant's authorized subconsultants) to perform the Services. Consultant 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 Consultant. Consultant shall commit adequate resources to allow timely completion within the project schedule specified in this Agreement.

4.3 Subcontracting.

4.3.1 Consultant may subcontract portions of the Services only upon prior written approval of City. Consultant is responsible for its subconsultants throughout the course of the work required to perform the Services. All Subcontracts must incorporate the terms of Article 10 "Additional Requirements Incorporated by Reference" of this Agreement, unless inapplicable. Neither Party shall, based on this Agreement, contract on behalf of, or in the name of, the other Party. Any agreement made in violation of this provision shall be null and void.

4.3.2 City's execution of this Agreement constitutes its approval of the subconsultants listed in Appendix B, Calculation of Charges. Consistent with SFPUC policy, Consultant must make any modification to the list of subconsultants through the City's approved invoice processing system, subject to the written approval of the City, and CMD, as needed.

4.4 Independent Consultant; Payment of Employment Taxes and Other Expenses.

4.4.1 Independent Consultant. For the purposes of this Article 4, "Consultant" shall be deemed to include not only Consultant, but also any agent or employee of Consultant. Consultant acknowledges and agrees that at all times, Consultant or any agent or employee of Consultant shall be deemed at all times to be an independent Consultant and is wholly responsible for the manner in which it performs the services and work requested by City under this Agreement. Consultant, its agents, and employees will not represent or hold themselves out to be employees of the City at any time. Consultant or any agent or employee of Consultant shall not have employee status with City, nor be entitled to participate in any plans, arrangements, or distributions by City pertaining to or in connection with any retirement, health or other benefits that City may offer its employees. Consultant or any agent or employee of Consultant is liable for the acts and omissions of itself, its employees and its agents. Consultant shall be responsible for all obligations and payments, whether imposed by federal, state or local law, including, but not limited to, FICA, income tax withholdings, unemployment compensation, insurance, and other similar responsibilities related to Consultant's performing services and work, or any agent or employee of Consultant providing same. Nothing in this Agreement shall be construed as creating an employment or agency relationship between City and Consultant or any agent or employee of Consultant. Any terms in this Agreement referring to direction from City shall be construed as providing for direction as to policy and the result of Consultant's work only, and not as to the means by which Consultant obtains such a result. City does not retain the right to control the means or the method by which Consultant performs work under this Agreement. Consultant agrees to maintain and make available to City, upon request and during regular business hours, accurate books and accounting records demonstrating Consultant's compliance with this section. Should City determine that Consultant, or any agent or employee of Consultant, is not performing in accordance with the requirements of this Agreement, City shall provide Consultant with written notice of such failure. Within five (5) business days of Consultant's receipt of such notice, and in accordance with Consultant policy and procedure, Consultant shall remedy the deficiency. Notwithstanding, if City believes that an action of Consultant, or any agent or employee of Consultant, warrants immediate remedial action by Consultant, City shall contact Consultant and provide Consultant in writing with the reason for requesting such immediate action.

4.4.2 Payment of Employment Taxes and Other Expenses. Should City, in its discretion, or a relevant taxing authority such as the Internal Revenue Service or the State Employment Development Division, or both, determine that Consultant is an employee for purposes of collection of any employment taxes, the amounts payable under this Agreement shall be reduced by amounts equal to both the employee and employer portions of the tax due (and offsetting any credits for amounts already paid by Consultant that can be applied against this liability). City shall then forward those amounts to the relevant taxing authority. Should a relevant taxing authority determine a liability for past services performed by Consultant for City, upon notification of such fact by City, Consultant shall promptly remit such amount due or arrange with City to have the amount due withheld from future payments to Consultant under this Agreement (again, offsetting any amounts already paid by Consultant that can be applied as a credit against such liability). A determination of employment status pursuant to the preceding two paragraphs shall be solely for the purposes of the particular tax in question; for all other purposes of this Agreement, Consultant shall not be considered an employee of City. Notwithstanding the foregoing, Consultant agrees to indemnify and save harmless City and its

officers, agents and employees from, and, if requested, shall defend them against any and all claims, losses, costs, damages, and expenses, including attorneys' fees, arising from this section.

4.5 **Assignment.** Consultant's Services under this Agreement are personal in character. Consultant shall not assign or delegate this Agreement nor any duties or obligations hereunder 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.

4.6 **Warranty.** Consultant warrants to City that it will perform Services with the degree of skill and care that is required by current, good and sound professional procedures and practices, and in conformance with generally accepted professional standards prevailing at the time the Services are performed so as to ensure that all Services performed are correct and appropriate for the purposes contemplated in this Agreement.

4.7 **Reserved. (Liquidated Damages)**

Article 5 Insurance and Indemnity

5.1 Insurance.

5.1.1 **Required Coverages.** Without in any way limiting Consultant's liability pursuant to the "Indemnification" section of this Agreement, Consultant must maintain in force, during the full term of the Agreement, insurance in the following amounts and coverages:

(a) Workers' Compensation, in statutory amounts, with Employers' Liability Limits not less than \$1,000,000 each accident, injury, or illness; and

(b) Commercial General Liability Insurance with limits not less than \$1,000,000 each occurrence for Bodily Injury and Property Damage, including Contractual Liability, Personal Injury, Products and Completed Operations; and

(c) Commercial Automobile Liability Insurance with limits not less than \$1,000,000 each occurrence, "Combined Single Limit" for Bodily Injury and Property Damage, including Owned, Non-Owned and Hired auto coverage, as applicable.

(d) Professional liability insurance, applicable to Consultant's profession, with limits not less than \$1,000,000 each claim with respect to negligent acts, errors or omissions in connection with the Services.

5.1.2 Commercial General Liability and Commercial Automobile Liability Insurance policies must be endorsed to provide:

(a) Name as Additional Insured the City and County of San Francisco, its Officers, Agents, and Employees.

(b) That such policies are primary insurance to any other insurance available to the Additional Insureds, with respect to any claims arising out of this Agreement, and that insurance applies separately to each insured against whom claim is made or suit is brought.

5.1.3 Consultant shall provide certificates for all policies that are endorsed by its carrier(s) for the carrier(s) to provide thirty (30) days' advance written notice to the City of cancellation for any reason, intended non-renewal, or reduction in coverages, except for non-

payment for which carrier promises to provide no less than ten (10) days' notice. Insurance carriers shall send notices to the City address set forth in Section 11.1, entitled "Notices to the Parties."

5.1.4 If Consultant provides any of the required insurance under a claims-made form, Consultant shall maintain such coverage continuously throughout the term of this Agreement without lapse for a period of three years beyond the expiration of this Agreement. Such claims-made policies must provide coverage for any occurrences during the contract term that give rise to claims.

5.1.5 Should any of the required insurance be provided under a form of coverage that includes a general annual aggregate limit or provides that claims investigation or legal defense costs be included in such general annual aggregate limit, such general annual aggregate limit shall be double the occurrence or claims limits specified above.

5.1.6 Should any required insurance lapse during the term of this Agreement, the City will not process requests for payments originating after such lapse until the City receives satisfactory evidence of reinstated coverage as required by this Agreement, effective as of the lapse date. If Consultant's carrier does not reinstate the insurance, the City may, at its sole option, terminate this Agreement effective on the date of such lapse of insurance.

5.1.7 Before commencing any Services, Consultant shall furnish to City certificates of insurance and additional insured policy endorsements with insurers with ratings comparable to A-, VIII or higher that the State of California authorizes to do business in the State of California, and that are satisfactory to City, in form evidencing all coverages set forth above. Approval of the insurance by City shall not relieve or decrease Consultant's liability hereunder.

5.1.8 If Consultant will use any subconsultant(s) to provide Services, Consultant shall require the subconsultant(s) to provide all necessary insurance and to name the City and County of San Francisco, its officers, agents and employees and the Consultant as additional insureds.

5.2 Indemnification For Design Professionals. To the fullest extent permitted by law, Consultant shall assume the defense of (with legal counsel subject to approval of the City), indemnify and save harmless the City, its boards, commissions, officers, and employees (collectively "Indemnitees"), from and against any and all claims, loss, cost, damage, injury (including, without limitation, injury to or death of an employee of the Consultant or its subconsultants), expense and liability of every kind, nature, and description (including, without limitation, incidental and consequential damages, court costs, attorneys' fees, litigation expenses, fees of expert consultants or witnesses in litigation, and costs of investigation), that arise out of, pertain to, or relate to, directly or indirectly, in whole or in part, the negligence, recklessness, or willful misconduct of the Consultant, any subconsultant, anyone directly or indirectly employed by them, or anyone that they control (collectively, "Liabilities").

5.2.1 Limitations. No insurance policy covering the Consultant's performance under this Agreement shall operate to limit the Consultant's Liabilities under this provision. Nor shall the amount of insurance coverage operate to limit the extent of such Liabilities. The Consultant assumes no liability whatsoever for the sole negligence, active negligence, or willful misconduct of any Indemnatee or the contractors or consultants of any Indemnatee.

5.2.2 Copyright Infringement. Consultant shall also indemnify, defend and hold harmless all Indemnitees from all suits or claims for infringement of the patent rights, copyright, trade secret, trade name, trademark, service mark, or any other proprietary right of any person or persons in consequence of the use by the City, or any of its boards, commissions, officers, or employees of articles, work or deliverables supplied in the performance of Services. Infringement of patent rights, copyrights, or other proprietary rights in the performance of this Agreement, if not the basis for indemnification under the law, shall nevertheless be considered a material breach of contract.

Article 6 Liability of the Parties

6.1 Liability of City. CITY'S PAYMENT OBLIGATIONS UNDER THIS AGREEMENT SHALL BE LIMITED TO THE PAYMENT OF THE COMPENSATION PROVIDED FOR IN SECTION 3.3.1, "PAYMENT," OF THIS AGREEMENT. NOTWITHSTANDING ANY OTHER PROVISION OF THIS AGREEMENT, IN NO EVENT SHALL CITY BE LIABLE, REGARDLESS OF WHETHER ANY CLAIM IS BASED ON CONTRACT OR TORT, FOR ANY SPECIAL, CONSEQUENTIAL, INDIRECT OR INCIDENTAL DAMAGES, INCLUDING, BUT NOT LIMITED TO, LOST PROFITS, ARISING OUT OF OR IN CONNECTION WITH THIS AGREEMENT OR THE SERVICES PERFORMED IN CONNECTION WITH THIS AGREEMENT.

6.2 Liability for Use of Equipment. City shall not be liable for any damage to persons or property because of the use, misuse or failure of any equipment used by Consultant, or any of its subconsultants, or by any of their employees, even though the City furnishes, rents or loans such equipment to Consultant.

6.3 Liability for Incidental and Consequential Damages. Consultant shall be responsible for incidental and consequential damages resulting in whole or in part from Consultant's acts or omissions.

Article 7 Payment of Taxes

7.1 Except for any applicable California sales and use taxes charged by Consultant to City, Consultant shall pay all taxes, including possessory interest taxes levied upon or as a result of this Agreement, or the Services delivered pursuant hereto. Consultant shall remit to the State of California any sales or use taxes paid by City to Consultant under this Agreement. Consultant agrees to provide information requested by the City promptly to verify Consultant's compliance with any State requirements for reporting sales and use tax paid by City under this Agreement.

7.2 Consultant acknowledges that this Agreement may create a "possessory interest" for property tax purposes. Generally, such a possessory interest is not created unless the Agreement entitles the Consultant to possession, occupancy, or use of City property for private gain. If such a possessory interest is created, then the following shall apply:

7.2.1 Consultant, on behalf of itself and any permitted successors and assigns, recognizes and understands that Consultant, and any permitted successors and assigns, may be subject to real property tax assessments on the possessory interest.

7.2.2 Consultant, on behalf of itself and any permitted successors and assigns, recognizes and understands that the creation, extension, renewal, or assignment of this Agreement may result in a "change in ownership" for purposes of real property taxes, and

therefore may result in a revaluation of any possessory interest created by this Agreement. Consultant accordingly agrees on behalf of itself and its permitted successors and assigns to report on behalf of the City to the County Assessor the information required by Revenue and Taxation Code section 480.5, as amended from time to time, and any successor provision.

7.2.3 Consultant, on behalf of itself and any permitted successors and assigns, recognizes and understands that other events also may cause a change of ownership of the possessory interest and result in the revaluation of the possessory interest. (see, e.g., Rev. & Tax. Code section 64, as amended from time to time). Consultant accordingly agrees on behalf of itself and its permitted successors and assigns to report any change in ownership to the County Assessor, the State Board of Equalization or other public agency as required by law.

7.2.4 Consultant further agrees to provide such other information as may be requested by the City to enable the City to comply with any reporting requirements for possessory interests that are imposed by applicable law.

Article 8 Termination and Default

8.1 Termination for Convenience

8.1.1 City shall have the option, in its sole discretion, to terminate this Agreement, at any time during the term hereof, for convenience and without cause. City shall exercise this option by giving Consultant written notice of termination. The notice shall specify the date on which termination shall become effective.

8.1.2 Upon receipt of the notice of termination, Consultant shall commence and perform, with diligence, all actions necessary on the part of Consultant to effect the termination of this Agreement on the date specified by City and to minimize the liability of Consultant and City to third parties as a result of termination. All such actions shall be subject to the prior approval of City. Such actions shall include, without limitation:

(a) Halting the performance of all Services under this Agreement on the date(s) and in the manner specified by City.

(b) Terminating all existing orders and subcontracts, and not placing any further orders or subcontracts for materials, Services, equipment or other items.

(c) At City's direction, assigning to City any or all of Consultant's right, title, and interest under the orders and subcontracts terminated. Upon such assignment, City shall have the right, in its sole discretion, to settle or pay any or all claims arising out of the termination of such orders and subcontracts.

(d) Subject to City's approval, settling all outstanding liabilities and all claims arising out of the termination of orders and subcontracts.

(e) Completing performance of any Services that City directs Consultant to complete prior to the date of termination specified by City.

(f) Taking such action as may be necessary, or as the City may direct, for the protection and preservation of any property related to this Agreement which is in the possession of Consultant and in which City has or may acquire an interest.

8.1.3 Within 30 days after the specified termination date, Consultant shall submit to City an invoice, which shall set forth each of the following as a separate line item:

(a) The reasonable cost to Consultant, without profit, for all Services prior to the specified termination date, for which Services City has not already tendered payment. Reasonable costs may include a reasonable allowance for actual overhead, not to exceed a total of 10% of Consultant's direct costs for Services. Consultant shall separately itemize any overhead allowance. Consultant may also recover the reasonable cost of preparing the invoice.

(b) A reasonable allowance for profit on the cost of the Services described in the immediately preceding subsection (a), provided that Consultant can establish, to the satisfaction of City, that Consultant would have made a profit had all Services under this Agreement been completed, and provided further, that the profit allowed shall in no event exceed 5% of such cost.

(c) The reasonable cost to Consultant of handling material or equipment returned to the vendor, delivered to the City or otherwise disposed of as directed by the City.

(d) A deduction for the cost of materials to be retained by Consultant, amounts realized from the sale of materials and not otherwise recovered by or credited to City, and any other appropriate credits to City against the cost of the Services or other work.

8.1.4 In no event shall City be liable for costs incurred by Consultant or any of its subconsultants after the termination date specified by City, except for those costs specifically enumerated and described in Section 8.1.3. Such non-recoverable costs include, but are not limited to, anticipated profits on the Services under this Agreement, post-termination employee salaries, post-termination administrative expenses, post-termination overhead or unabsorbed overhead, attorneys' fees or other costs relating to the prosecution of a claim or lawsuit, prejudgment interest, or any other expense which is not reasonable or authorized under Section 8.1.3.

8.1.5 In arriving at the amount due to Consultant under this Section, City may deduct: (i) all payments previously made by City for Services covered by Consultant's final invoice; (ii) any claim which City may have against Consultant in connection with this Agreement; (iii) any invoiced costs or expenses excluded pursuant to the immediately preceding subsection 8.1.4; and (iv) in instances in which, in the opinion of the City, the cost of any Service performed under this Agreement is excessively high due to costs incurred to remedy or replace defective or rejected Services, the difference between the invoiced amount and City's estimate of the reasonable cost of performing the invoiced Services in compliance with the requirements of this Agreement.

8.1.6 City's payment obligation under this Section shall survive termination of this Agreement.

8.2 Termination for Default; Remedies.

8.2.1 Each of the following shall constitute an immediate event of default ("Event of Default") under this Agreement:

(a) Consultant fails or refuses to perform or observe any term, covenant or condition contained in any of the following Sections of this Agreement:

3.5	Submitting False Claims.	10.10	Alcohol and Drug-Free Workplace
4.5	Assignment		
Article 5	Insurance and Indemnity	11.10	Compliance with Laws
Article 7	Payment of Taxes	13.1	Nondisclosure of Private, Proprietary or Confidential Information

(b) Consultant fails or refuses to perform or observe any other term, covenant or condition contained in this Agreement, including any obligation imposed by ordinance or statute and incorporated by reference herein, and such default continues for a period of ten days after written notice thereof from City to Consultant.

(c) Consultant (i) is generally not paying its debts as they become due; (ii) files, or consents by answer or otherwise to the filing against it of a petition for relief or reorganization or arrangement or any other petition in bankruptcy or for liquidation or to take advantage of any bankruptcy, insolvency or other debtors' relief law of any jurisdiction; (iii) makes an assignment for the benefit of its creditors; (iv) consents to the appointment of a custodian, receiver, trustee or other officer with similar powers of Consultant or of any substantial part of Consultant's property; or (v) takes action for the purpose of any of the foregoing.

(d) A court or government authority enters an order (i) appointing a custodian, receiver, trustee or other officer with similar powers with respect to Consultant or with respect to any substantial part of Consultant's property, (ii) constituting an order for relief or approving a petition for relief or reorganization or arrangement or any other petition in bankruptcy or for liquidation or to take advantage of any bankruptcy, insolvency or other debtors' relief law of any jurisdiction or (iii) ordering the dissolution, winding-up or liquidation of Consultant.

8.2.2 On and after any Event of Default, City shall have the right to exercise its legal and equitable remedies, including, without limitation, the right to terminate this Agreement or to seek specific performance of all or any part of this Agreement. In addition, where applicable, City shall have the right (but no obligation) to cure (or cause to be cured) on behalf of Consultant any Event of Default; Consultant shall pay to City on demand all costs and expenses incurred by City in effecting such cure, with interest thereon from the date of incurrence at the maximum rate then permitted by law. City shall have the right to offset from any amounts due to Consultant under this Agreement or any other agreement between City and Consultant: (i) all damages, losses, costs or expenses incurred by City as a result of an Event of Default; and (ii) any liquidated damages levied upon Consultant pursuant to the terms of this Agreement; and (iii), any damages imposed by any ordinance or statute that is incorporated into this Agreement by reference, or into any other agreement with the City.

8.2.3 The City may exercise all remedies provided for in this Agreement individually or in combination with any other remedy available hereunder or under applicable laws, rules and regulations. The exercise of any remedy shall not preclude or in any way be deemed to waive any other remedy. Nothing in this Agreement shall constitute a waiver or limitation of any rights that City may have under applicable law.

8.2.4 The Parties must send any notice of default by registered mail to the address set forth in Article 11.

8.3 **Non-Waiver of Rights.** The omission by either party at any time to enforce any default or right reserved to it, or to require performance of any of the terms, covenants, or provisions hereof by the other party at the time designated, shall not be a waiver of any such default or right to which the party is entitled, nor shall it in any way affect the right of the party to enforce such provisions thereafter.

8.4 **Rights and Duties upon Termination or Expiration.**

8.4.1 This Section and the following Sections of this Agreement listed below, shall survive termination or expiration of this Agreement:

3.3.2	Payment Limited to Satisfactory Services	9.1	Ownership of Results
		9.2	Works for Hire
3.4	Audit and Inspection of Records	11.6	Dispute Resolution Procedure
3.5	Submitting False Claims	11.7	Agreement Made in California; Venue
Article 5	Insurance and Indemnity	11.8	Construction
6.1	Liability of City	11.9	Entire Agreement
6.3	Liability for Incidental and Consequential Damages	11.10	Compliance with Laws
Article 7	Payment of Taxes	11.11	Severability
8.1.6	Payment Obligation	13.1	Nondisclosure of Private, Proprietary or Confidential Information

8.4.2 Subject to the survival of the Sections identified in Section 8.4.1, above, if the City terminates this Agreement prior to expiration of the term specified in Article 2, this Agreement shall be of no further force or effect. Consultant shall transfer title to City, and deliver in the manner, at the times, and to the extent, if any, directed by City, any work in progress, completed work, supplies, equipment, and other materials produced as a part of, or acquired in connection with the performance of this Agreement, and any completed or partially completed work which, if this Agreement had been completed, would have been required to be furnished to City.

Article 9 Rights In Deliverables

9.1 **Ownership of Results.** Consultant shall transmit to the City any interest of Consultant or its subconsultants in the Deliverables, including any drawings, plans, specifications, blueprints, studies, reports, memoranda, computation sheets, computer files and media or other documents prepared by Consultant or its subconsultants for the purposes of this agreement, which shall become the property of the City. However, unless expressly prohibited elsewhere in this Agreement, Consultant may retain and use copies for reference and as documentation of its experience and capabilities.

9.2 **Works for Hire.** If, in connection with Services, Consultant or its subconsultants creates Deliverables including, without limitation, artwork, copy, posters, billboards,

photographs, videotapes, audiotapes, systems designs, software, reports, diagrams, surveys, blueprints, source codes, or any other original works of authorship, whether in digital or any other format, such works of authorship shall be works for hire as defined under Title 17 of the United States Code, and all copyrights in such works shall be the property of the City. If any Deliverables created by Consultant or its subconsultant(s) under this Agreement are ever determined not to be works for hire under U.S. law, Consultant hereby assigns all Consultant's copyrights to such Deliverables to the City, agrees to provide any material and execute any documents necessary to effectuate such assignment, and agrees to include a clause in every subcontract imposing the same duties upon subconsultant(s). With City's prior written approval, Consultant and its subconsultant(s) may retain and use copies of such works for reference and as documentation of their respective experience and capabilities.

Article 10 Additional Requirements Incorporated by Reference

10.1 Laws Incorporated by Reference. The Parties incorporate by reference into this Agreement the full text of the laws listed in this Article 10, including enforcement and penalty provisions. The full text of the San Francisco Municipal Code provisions incorporated by reference in this Article and elsewhere in the Agreement ("Mandatory City Requirements") are available at http://www.amlegal.com/codes/client/san-francisco_ca/ .

10.2 Conflict of Interest. By executing this Agreement, Consultant certifies that it does not know of any fact which constitutes a violation of Section 15.103 of the City's Charter; Article III, Chapter 2 of City's Campaign and Governmental Conduct Code; Title 9, Chapter 7 of the California Government Code (Section 87100 *et seq.*), or Title 1, Division 4, Chapter 1, Article 4 of the California Government Code (Section 1090 *et seq.*), and further agrees to notify the City promptly if it becomes aware of any such fact during the term of this Agreement.

10.3 Prohibition on Use of Public Funds for Political Activity. In performing the Services, Consultant shall comply with San Francisco Administrative Code Chapter 12G, which prohibits funds appropriated by the City for this Agreement from being expended to participate in, support, or attempt to influence any political campaign for a candidate or for a ballot measure. Consultant is subject to the enforcement and penalty provisions in Chapter 12G.

10.4 Reserved.

10.5 Nondiscrimination Requirements.

10.5.1 Non Discrimination in Contracts. Consultant shall comply with the provisions of Chapters 12B and 12C of the San Francisco Administrative Code. Consultant shall incorporate by reference in all subcontracts the provisions of Sections 12B.2(a), 12B.2(c)-(k), and 12C.3 of the San Francisco Administrative Code and shall require all subconsultants to comply with such provisions. Consultant is subject to the enforcement and penalty provisions in Chapters 12B and 12C.

10.5.2 Nondiscrimination in the Provision of Employee Benefits. San Francisco Administrative Code 12B.2. Consultant does not as of the date of this Agreement, and will not during the term of this Agreement, in any of its operations in San Francisco, on real property owned by San Francisco, or where work is being performed for the City elsewhere in the United States, discriminate in the provision of employee benefits between employees with domestic partners and employees with spouses and/or between the domestic partners and spouses

of such employees, subject to the conditions set forth in San Francisco Administrative Code Section 12B.2.

10.5.3 Prohibition Related to States with Anti-LGBT Laws. In performing the Services, Consultant shall comply with San Francisco Administrative Code Chapter 12X, which prohibits the City from entering into contracts with companies headquartered in states with laws that perpetuate discrimination against LGBT populations or where any or all of the work on the contract will be performed in any of those states.

10.6 Local Business Enterprise and Non-Discrimination in Contracting Ordinance. Consultant shall comply with all applicable provisions of Chapter 14B ("LBE Ordinance"). Consultant is subject to the enforcement and penalty provisions in Chapter 14B. Consultant shall utilize LBE Subconsultants for at least 10% of the Services except as otherwise authorized in writing by the Director of CMD. Consultant shall incorporate the requirements of the LBE Ordinance in each subcontract made in the fulfillment of Consultant's LBE subcontracting commitments.

10.7 Minimum Compensation Ordinance. Consultant shall pay covered employees no less than the minimum compensation required by San Francisco Administrative Code Chapter 12P. Consultant is subject to the enforcement and penalty provisions in Chapter 12P. By signing and executing this Agreement, Consultant certifies that it complies with Chapter 12P.

10.8 Health Care Accountability Ordinance. Consultant shall comply with San Francisco Administrative Code Chapter 12Q. Consultant shall choose and perform one of the Health Care Accountability options set forth in San Francisco Administrative Code Chapter 12Q.3. Consultant is subject to the enforcement and penalty provisions in Chapter 12Q.

10.9 First Source Hiring Program. Consultant must comply with all of the provisions of the First Source Hiring Program, Chapter 83 of the San Francisco Administrative Code, that apply to this Agreement, and Consultant is subject to the enforcement and penalty provisions in Chapter 83.

10.10 Alcohol and Drug-Free Workplace. City reserves the right to deny access to, or require Consultant to remove from, City facilities personnel of any Consultant or subconsultant who City has reasonable grounds to believe has engaged in alcohol abuse or illegal drug activity that in any way impairs City's ability to maintain safe work facilities or to protect the health and well-being of City employees and the general public. City shall have the right of final approval for the entry or re-entry of any such person previously denied access to, or removed from, City facilities. Illegal drug activity means possessing, furnishing, selling, offering, purchasing, using or being under the influence of illegal drugs or other controlled substances for which the individual lacks a valid prescription. Alcohol abuse means possessing, furnishing, selling, offering, or using alcoholic beverages, or being under the influence of alcohol.

10.11 Limitations on Contributions. By executing this Agreement, Consultant acknowledges that it is familiar with section 1.126 of the City's Campaign and Governmental Conduct Code, which prohibits any person who contracts with the City for the rendition of personal services, for the furnishing of any material, supplies or equipment, for the sale or lease of any land or building, or for a grant, loan or loan guarantee, from making any campaign contribution to (1) an individual holding a City elective office if the contract must be approved by the individual, a board on which that individual serves, or the board of a state agency on

which an appointee of that individual serves, (2) a candidate for the office held by such individual, or (3) a committee controlled by such individual, at any time from the commencement of negotiations for the contract until the later of either the termination of negotiations for such contract or six months after the date the contract is approved. The prohibition on contributions applies to each prospective party to the contract; each member of Consultant's board of directors; Consultant's chairperson, chief executive officer, chief financial officer and chief operating officer; any person with an ownership interest of more than 20 percent in Consultant; any subconsultant listed in the bid or contract; and any committee that is sponsored or controlled by Consultant. Consultant must inform each such person of the limitation on contributions imposed by Section 1.126 and provide the names of the persons required to be informed to City.

10.12 Reserved. (Slavery Era Disclosure)

10.13 Reserved. (Working with Minors)

10.14 Consideration of Criminal History in Hiring and Employment Decisions.

10.14.1 Consultant agrees to comply fully with and be bound by all of the provisions of Chapter 12T, "City Consultant/Subconsultant Consideration of Criminal History in Hiring and Employment Decisions," of the San Francisco Administrative Code ("Chapter 12T"), including the remedies provided, and implementing regulations, as may be amended from time to time. The Parties hereby incorporate by this reference the provisions of Chapter 12T and make them a part of this Agreement as though fully set forth herein. The text of the Chapter 12T is available on the web at <http://sfgov.org/olse/fco>. Consultant is required to comply with all of the applicable provisions of 12T, irrespective of the listing of obligations in this Section. Capitalized terms used in this Section and not defined in this Agreement shall have the meanings assigned to such terms in Chapter 12T.

10.14.2 The requirements of Chapter 12T shall only apply to a Consultant's or Subconsultant's operations to the extent those operations are in furtherance of the performance of this Agreement, shall apply only to applicants and employees who would be or are performing work in furtherance of this Agreement, and shall apply when the physical location of the employment or prospective employment of an individual is wholly or substantially within the City of San Francisco. Chapter 12T shall not apply when the application in a particular context would conflict with federal or state law or with a requirement of a government agency implementing federal or state law.

10.15 Reserved. (Public Access to Nonprofit Records and Meetings)

10.16 Food Service Waste Reduction Requirements. Consultant shall comply with the Food Service Waste Reduction Ordinance, as set forth in San Francisco Environment Code Chapter 16, including but not limited to the remedies for noncompliance provided therein.

10.17 Reserved. (Sugar-Sweetened Beverage Prohibition)

10.18 Tropical Hardwood and Virgin Redwood Ban. Pursuant to San Francisco Environment Code Section 804(b), the City urges Consultant not to import, purchase, obtain, or use for any purpose, any tropical hardwood, tropical hardwood wood product, virgin redwood or virgin redwood wood product.

10.18.1 Consultant shall comply with San Francisco Environment Code Chapter 8, which provides that except as expressly permitted by the application of Sections 802(b) and 803(b) of the San Francisco Environment Code, Consultant shall not provide any items to the City in performance of this contract which are tropical hardwoods, tropical hardwood wood products, virgin redwood or virgin redwood wood products. Consultant is subject to the penalty and enforcement provisions of Chapter 8.

10.19 Reserved. (Preservative Treated Wood Products)

Article 11 General Provisions

11.1 Notices to the Parties. Unless otherwise indicated in this Agreement, all written communications sent by the Parties may be by U.S. mail or e-mail, and shall be addressed as follows:

To City: Heather Manders
San Francisco Public Utilities Commission
525 Golden Gate Avenue
San Francisco, CA 94102
hmanders@sfgwater.org

To Consultant: Dilip Trivedi
Moffatt and Nichol-AGS, JV
2185 N. California Blvd., Suite 500
Walnut Creek, CA 94596
dtrivedi@moffattnichol.com

A Party must send any notice of default by registered mail. Either Party may change its address for receipt of notices by giving written notice thereof to the other Party. If email notification is used, the sender must specify a receipt notice.

11.2 Compliance with Americans with Disabilities Act. Consultant shall provide the Services in a manner that complies with the Americans with Disabilities Act (ADA), including but not limited to Title II's program access requirements, and all other applicable federal, state and local disability rights legislation.

11.3 Sunshine Ordinance. Consultant acknowledges that this Agreement and all records related to its formation, Consultant's performance of Services, and City's payment are subject to the California Public Records Act, (California Government Code §6250 et. seq.), and the San Francisco Sunshine Ordinance, (San Francisco Administrative Code Chapter 67). Such records are subject to public inspection and copying unless exempt from disclosure under federal, state or local law.

11.4 Modification of this Agreement. This Agreement may not be modified, nor may compliance with any of its terms be waived, except as noted in Section 11.1, "Notices to Parties," regarding change in personnel or place, and except by written instrument executed and approved in the same manner as this Agreement. Consultant shall cooperate with Department to submit to the Director of CMD any amendment, modification, supplement or change order that

would result in a cumulative increase of the original amount of this Agreement by more than 20% (CMD Contract Modification Form).

11.5 Dispute Resolution Procedure.

11.5.1 Negotiation; Alternative Dispute Resolution. The Parties will attempt in good faith to resolve any dispute or controversy arising out of or relating to the performance of services under this Agreement. If the Parties are unable to resolve the dispute, then, pursuant to San Francisco Administrative Code Section 21.36, Consultant may submit to the Contracting Officer a written request for administrative review and documentation of the Consultant's claim(s). Upon such request, the Contracting Officer shall promptly issue an administrative decision in writing, stating the reasons for the action taken and informing the Consultant of its right to judicial review. If agreed by both Parties in writing, the Parties may seek to resolve disputes by a mutually agreed-upon alternative dispute resolution process. If the parties do not mutually agree to an alternative dispute resolution process or such efforts do not resolve the dispute, then either Party may pursue any remedy available under California law. The status of any dispute or controversy notwithstanding, Consultant shall proceed diligently with the performance of its obligations under this Agreement in accordance with the Agreement and the written directions of the City. Neither Party will be entitled to legal fees or costs for matters resolved under this section.

11.5.2 Government Code Claim Requirement. Contract may not bring suit for money or damages against the City until a written claim therefor has been presented to and rejected by the City in conformity with the provisions of San Francisco Administrative Code Chapter 10 and California Government Code Section 900, et seq. Nothing set forth in this Agreement shall operate to toll, waive or excuse Consultant's compliance with the California Government Code Claim requirements set forth in San Francisco Administrative Code Chapter 10 and California Government Code Section 900, et seq.

11.6 Agreement Made in California; Venue. The laws of the State of California govern the formation, interpretation and performance of this Agreement. Venue for all litigation relative to the formation, interpretation and performance of this Agreement shall be in San Francisco.

11.7 Construction. All paragraph captions are for reference only and shall not be considered in construing this Agreement.

11.8 Entire Agreement. This contract sets forth the entire Agreement between the parties, and supersedes all other oral or written provisions. The Parties may modify the Agreement only as provided in Section 11.5, "Modification of this Agreement."

11.9 Compliance with Laws. Consultant shall keep itself fully informed of the City's Charter, codes, ordinances and duly adopted rules and regulations of the City and of all state and federal laws in any manner affecting the performance of this Agreement. Consultant must comply with such local codes, ordinances, and regulations at all times including all applicable laws as they may be amended from time to time.

11.10 Severability. Should the application of any provision of this Agreement to any particular facts or circumstances be found by a court of competent jurisdiction to be invalid or unenforceable, then (a) the validity of other provisions of this Agreement shall not be affected or impaired thereby, and (b) such provision shall be enforced to the maximum extent possible so as

to effect the intent of the Parties and shall be reformed without further action by the parties to the extent necessary to make such provision valid and enforceable.

11.11 Cooperative Drafting. The City and Consultant have drafted this Agreement through a cooperative effort of City and Consultant, and both Parties have had an opportunity to have the Agreement reviewed and revised by legal counsel. No Party shall be considered the drafter of this Agreement, and no presumption or rule that an ambiguity shall be construed against the Party drafting the clause shall apply to the interpretation or enforcement of this Agreement.

11.12 Order of Precedence. Consultant agrees to perform the services described below in accordance with the terms and conditions of this Agreement, implementing task orders, the RFP, and Consultant's proposal dated [May 25, 2018](#). The RFP and Consultant's proposal are incorporated by reference as though fully set forth herein. Should there be a conflict of terms or conditions, this Agreement and any implementing task orders shall control over the RFP and the Consultant's proposal.

Article 12 Department Specific Terms

12.1 Reserved.

Article 13 Data and Security

13.1 Nondisclosure of Private, Proprietary or Confidential Information.

13.1.1 If this Agreement requires City to disclose "Private Information" to Consultant within the meaning of San Francisco Administrative Code Chapter 12M, Consultant and subconsultant 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. Consultant is subject to the enforcement and penalty provisions in Chapter 12M.

13.1.2 In the performance of Services, Consultant may have access to City's proprietary or confidential information, the disclosure of which to third parties may damage City. If City discloses proprietary or confidential information to Consultant, such information must be held by Consultant in confidence and used only in performing the Agreement. Consultant shall exercise the same standard of care to protect such information as a reasonably prudent Consultant would use to protect its own proprietary or confidential information.

13.2 Reserved. (Payment Card Industry ("PCI") Requirements)

13.3 Reserved. (Business Associate Agreement)

Article 14 MacBride And Signature

14.1 MacBride Principles - Northern Ireland. The provisions of San Francisco Administrative Code §12F are incorporated herein by this reference and made part of this Agreement. By signing this Agreement, Consultant confirms that Consultant has read and understood that the City urges companies doing business in Northern Ireland to resolve employment inequities and to abide by the MacBride Principles, and urges San Francisco companies to do business with corporations that abide by the MacBride Principles.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement on the day first mentioned above.

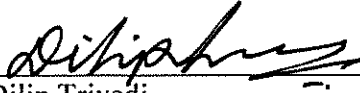
CITY



Harlan L. Kelly, Jr.
General Manager
San Francisco Public Utilities Commission

CONSULTANT

Moffatt and Nichol-AGS, JV

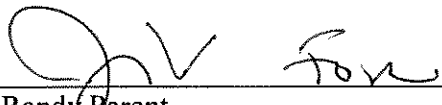


Dilip Trivedi
Vice President

City vendor number: **12725**

Approved as to Form:

Dennis J. Herrera
City Attorney

By: 

Randy Parent
Deputy City Attorney

Appendices

- A: Scope of Services
- B: Calculation of Charges

Appendix A Scope of Services

1. Description of Services. Consultant agrees to perform the following Services:

Professional engineering services to support the design, engineering construction administration services, and geotechnical services for coastal erosion management of existing buried wastewater infrastructure (Lake Merced Transport Tunnel) along South Ocean Beach as it runs from Sloat Boulevard to the Oceanside Water Pollution Control Plant.

The following is a detailed description of the tasks required to complete the assignment.

TASK 1 MANAGEMENT AND COORDINATION OF CONSULTANT SERVICES

The Consultant will provide coordination for keeping project participants informed of progress, technical issues, and planned activities and events. Project participants include (1) SFPUC staff in project management, engineering, planning and public outreach, operations, and environmental roles; (2) independent experts; and (3) other parties such as public agencies, contractors, and other Consultants. For scheduling of design phase activities, the Consultant must include three weeks for SFPUC review of each Consultant deliverable unless otherwise noted. The Consultant will perform coordination activities described below:

- Based on the Project Approach Coordination and Control, the Task Description, and the Overhead and Profit Schedule submitted with the proposal, prepare a Draft Management Work Plan within two (2) weeks following NTP for review and acceptance by the SFPUC. The Final Management Work Plan must be submitted including all applicable comments within four (4) weeks of the NTP. The Work Plan is intended to lay the groundwork for efficient execution of contracted engineering services. The Plan should include the following information:
 - Project Team organization and responsibility (including SFPUC and prospective bidder subconsultants);
 - Consultant's contract administration procedures;
 - Cost and schedule control procedures;
 - List of tasks and corresponding staff and budget;
 - Detailed Critical Path Method (CPM) design schedule of tasks, milestones and deliverable due dates;
 - File management, using SharePoint and coordination guidelines to allow integration with project team members within SFPUC, consultant firms, agencies and others;
 - Detailed change control procedures to be instigated no later than the 35% design level to track and control changes during design development particularly those impacting

the construction cost estimate. Construction cost impacts to the 35% baseline estimate shall be identified and communicated to the SFPUC in a timely fashion; and

- Prepare for and attend project kick-off meeting to review tasks, milestones, roles, and communication and coordination processes. SFPUC and Consultant will discuss the management work plan during orientation meeting.
- Prepare for and attend coordination progress meetings for the duration of the contract. Assume one and a half (1.5) hours per meeting, twice per month between SFPUC staff and two (2) senior project staff from the Consultant.
- Prepare and make the CER presentations to the SFPUC project team as well as SFPUC WVE.
- Prepare and make presentations to the SFPUC project team of the Design Criteria Report (prepared prior to 35% design); Prepare and make presentations of design details and cost estimate to SFPUC WVE at all deliverable milestones.
- Prepare for and participate in a minimum of five (5) design coordination workshops, at the discretion of the SFPUC. Each design workshop will be half day and will be coordinated between the Consultant and the SFPUC after the CER, and the 35%, 65%, and 95% and 100% deliverable presentations. SFPUC may require the Consultant to lead these workshops.
- Submit monthly progress reports, with highlights of work achievements, and for each task: forecasted schedule and expenditures for next reporting period, estimate of physical percent complete, and summary of current expenditures (man hours, expenditure, and percent of task budget expended). The report will identify any issues or scope changes that may affect cost and/or schedule of design and/or construction. Consultant will email this report to the SFPUC Project Engineer, Contract Manager and Project Manager.
- Maintain project files (hard and electronic) utilizing Sharepoint, including all plans, reports, correspondence, calculations, and other documents pertaining to the design. Consultant will be required to transfer all electronic files (include workable format and pdf files) and a fully collated, organized, indexed set of copies to the SFPUC within twenty (20) working days of the 100% design completion, including copies of documents already passed to SFPUC during the assignment. Consultant will be required to fully check and sign off on all documents in accordance with their QA/QC procedures.
- Coordinate and address review comments provided by others on reports, memoranda, contract documents and other work products. Document and disseminate responses to comments logs.

The Consultant will be required to prepare and submit a Draft QA/QC Plan within two (2) weeks following NTP, for review and acceptance by the SFPUC. Consultant will submit the Final QA/QC Plan incorporating all applicable comments within three (3) weeks from NTP. The

QA/QC Plan must align with the SFPUC QA/QC program and identify the Consultant's requirements and procedures for ongoing QA/QC efforts, including, but not limited to:

- Ensuring all design work is in compliance with applicable codes and standards and industry practices;
- Procedures for reviewing, distributing, checking, tracking, controlling and documentation of all documents; and procedures for enforcing the QA/QC; and
- Procedures for resolution of review comments; procedures for coordination with the SFPUC project team, and any independent technical advisory panel.

The Consultant will be required to implement QA/QC procedures uniformly for construction contract documents and design process resulting in high-quality facilities while minimizing construction change orders. At a minimum, Consultant must conduct internal QA/QC prior to presenting deliverables to the SFPUC. Established QA/QC procedures, to be employed by all designers, must address the use of quality control review, calculation checking, design checking, AutoCAD interference and interface checking, construction and operation issues, and other measures necessary to maintain a consistent, complete, high quality, and compatible design. Establish QA/QC procedures for interfacing the design with subconsultants and SFPUC design team.

Deliverables:

- Draft Management Work Plan, two (2) hard copies and one (1) copy in digital format, within four (4) weeks from NTP.
- Final Management Work Plan, five (5) hard copies and one (1) copy in digital format, within two (2) weeks from receiving City's comments.
- Draft QA/QC Plan, two (2) hard copies and one (1) copy in digital format, within two (2) weeks from NTP.
- Final QA/QC Plan, two (2) hard copies and one (1) copy in digital format, within four (4) weeks from NTP.
- Agenda (in electronic form) for project meetings and workshops, delivered two (2) days prior to meeting and/or workshop date.
- Meeting minutes for project meetings and workshops, one (1) copy in digital format, within two (2) weeks of project meeting and workshop.
- Monthly progress reports, one (1) copy in digital format emailed to the SFPUC Project Engineer, Contract Manager, and Project Manager, conjointly, within five (5) calendar days after the end of each month.
- Monthly invoices, three (3) hard copies, one (1) copy in digital format emailed to the SFPUC Project Engineer, Contract Manager, and Project Manager, conjointly.

- Project correspondence, calculations, and other project records, one (1) copy in digital or hard copy format within twenty (20) working days of the 100% design completion.
- Responses to review comments, one (1) copy in digital format.

TASK 2 REVIEW BACKGROUND INFORMATION

This task will include the review of relevant project documents. At a minimum, the Consultant must review the following documents:

Reports:

- “Alternative Analysis Report For Coastal Adaptation Strategies For South Ocean Beach Wastewater Systems,” prepared by SFPUC Engineering Management Bureau, 2018.
- “Coastal Protection Measures & Management Strategy For South Ocean Beach,” prepared by SPUR, April 2015.
- “Ocean Beach Master Plan,” prepared by SPUR, May 2012.

After completing the review of all background information, the Consultant will be responsible for preparing a technical memorandum identifying any data gaps not covered by the background information, but necessary to complete the planning tasks (CER and CEQA checklist). The memorandum should include any additional field investigation needed to confirm site conditions such as potholing or surveying.

Deliverables:

- Draft and Final Technical memorandum identifying data gaps not covered in existing information but necessary for completing the planning tasks (CER and CEQA checklist).
- Draft technical memorandum to SFPUC within 4 weeks of Notice to Proceed.
- Meeting/presentation to project team, one (1) week after draft technical memorandum is submitted.

TASK 3 GEOTECHNICAL INVESTIGATION AND SITE CHARACTERIZATION

The Consultant will be responsible for developing and performing all geotechnical investigation and site characterization work necessary for the conceptual engineering report and design work. Consultant’s characterization program must provide information necessary to make the characterization of ground conditions conclusive for an effective design and minimize construction risks.

Consultant will be responsible to develop and prepare a draft and final Geotechnical Investigation and Site Characterization Work Plan that describes the geotechnical investigation and site characterization program. Consultant’s Work Plan must include a map identifying the location of the investigation (i.e., borings, test pits, fault trenches, geophysical surveys, geologic mapping, piezometers), access routes to the investigation sites; purpose and estimated depths of borings, test pits, and trenches; in-situ and laboratory testing on rock and soil samples;

exploration schedule and cost; and environmental considerations for the investigation. Applicable portions of the Plan must provide sufficient detail for obtaining permits for fieldwork and for the public outreach staff to notify affected public in advance of fieldwork.

The exploratory drilling, boring, testing, and inspection program must provide site specific geotechnical and seismic information for the facilities, temporary shoring, realignment of roadways/access roads, retaining structures and vaults, together with the groundwater table elevation. Report any potential hazardous material that the borings may encounter during the exploratory drilling program. The geotechnical exploration and characterization program may include, but not be limited to:

- Geologic conditions,
- Groundwater levels, water quality/chemistry (especially with respect to corrosivity), and monitoring, including seasonal variations,
- Liquefaction potential and hazards,
- Mitigation methods for liquefaction hazards,
- Differential settlement hazards,
- Mitigation methods for differential settlement,
- Bedrock elevation,
- Slope stability and landslide hazards,
- Mitigation methods for slope stability and landslide hazards,
- Lateral spread hazards,
- Mitigation methods for lateral spread hazards,
- Design requirements and parameters for shoring/bracing, retaining walls, backfilling, and other required features of the construction and facilities, if applicable,
- Corrosive properties of soil and groundwater,
- Site-specific seismic design response spectrum for maximum probable and credible earthquake,
- Site-specific seismic design time-history for maximum probable and credible earthquake,
- Coefficient of friction between concrete and soil or structural fill material,
- Design parameters for shallow and deep foundations, and
- Hazardous soil materials.

The Consultant will be responsible for obtaining the necessary environmental clearances and/or permits from regulatory agencies to carry out the proposed field investigation work, which has the potential to impact both biological and cultural resources. The Consultant must meet with the environmental representative in the field as needed to discuss the field investigation procedures, stake exploration locations and make adjustments to exploration locations as required. Consultant must perform field work in consideration of public safety, per industry standards, and in accordance with applicable permit and environmental regulations. Consultant must survey all boring, trench locations, and geophysical test locations.

Based on the results of the Geotechnical Investigation, the Consultant will be responsible for preparing reports summarizing the information obtained, interpreting geologic and geotechnical conditions, and providing recommendations for design. The geotechnical reports shall encompass two separate reports: the Geotechnical Data Report (GDR) and the Geotechnical Interpretive Report (GIR).

Deliverables:

- Draft and Final Geotechnical Investigation and Site Characterization Work Plan. Provide five (5) hard copies and one (1) digital copy of draft and final plans.
- Permit Applications. If permit applications to regulatory agencies are required, Consultant will prepare and submit the permit application with input from SFPUC.
- Draft and Final GDR - The report must provide factual data and information obtained from the geotechnical investigation efforts. The report must include, geologic maps, information from borings, test pits and groundwater well completion logs including groundwater levels, locations of soil or groundwater containing hazardous materials, results of geophysical surveys, results from borability study, and results from in-situ and laboratory test results.
- Draft and Final GIR - Consultant's GIR's must provide interpretation of factual data derived from field investigations.

The GDR will be included in the construction contract documents for reference purposes.

TASK 4 CONCEPTUAL ENGINEERING

Based on the information obtained from the AAR and background information reports, the Consultant will be responsible for preparing a Draft and Final Conceptual Engineering Report (CER). The CER will contain preliminary analysis of the preferred alternative required to develop a 10% level design, preliminary design criteria, and preliminary drawings, including site layouts. In addition, the CER, at a minimum should address the following:

- Project history, purpose and summary.
- Existing conditions, including identification and summary of natural hazards including erosion and coastal related hazards in the SOB area.
- Proposed design scheme for structural protection of the existing LMT structure, including proposed foundation and type of structural wall used including overall concept for coastal management in the SOB area.
- Basis of Design (Design Objectives and Preliminary Design Criteria).
- Description of proposed major project elements and anticipated construction method, including any phasing that will be utilized.
- Preliminary structural analysis modeling results.
- Right-of-Way Considerations (temporary and permanent).
- Environmental Considerations.

- Permitting Considerations.
- Utility identification and relocation considerations. Consultant is responsible for performing surveys of the existing facilities, including utility surveys and potholing if required.
- Anticipated Regulatory Requirements.
- Draft specifications section list.
- 10% Design drawings, in conformance with SFPUC standards and procedures.
- Project schedule.
- Anticipated construction phasing strategy and construction schedule.
- Construction and O&M cost estimates.
- Prepare Draft and Final CEQA Checklist, including technical memorandum including assumptions for CEQA checklist information provided.

Deliverables:

- Draft and Final CER, containing the minimum requirements listed above. This report requires SFPUC approval prior to proceeding with the detailed design. Consultant's lead design engineer must sign and stamp the final report. Provide ten (10) hard copies and one (1) digital copy of draft and final report.
- Draft and Final CEQA Checklist, including technical memorandum. Provide five (5) hard copies and one (1) digital copy of draft and final checklist and memorandum.
- Conduct one (1) workshop and two (2) presentations (SFPUC WVE and Project Team) with the submittal of the final Conceptual Engineering Report (CER).

TASK 5 DETAILED DESIGN

Upon completion of the CER and acceptance by the SFPUC, the Consultant will develop the detailed design for the conceptual design presented in the CER. This task includes all engineering and design services required to perform, document and prepare a complete detailed design package and Design Criteria Report, including, but not limited, to:

In preparation of the Design Criteria Report:

- Conduct a design criteria workshop, as early as possible in the design phase with the final Design Criteria Report finalized at the 35% design level.
- Identify applicable federal, state, and local building codes, regulations and standards.
- Identify applicable general SFPUC design criteria.
- Define project-specific design criteria and parameters.
- Include project-specific functional, operational, and maintenance requirements.
- Identify existing site conditions, history and restrictions.
- Include construction sequencing, shutdown, and start-up considerations.

- The SFPUC has developed a general seismic design criteria. Consultant must review this criteria and use it to form the basis of the specific design criteria developed for this project.
- Criteria should be developed for the following at a minimum: geotechnical, seismic, structural, civil, pipeline, architectural, hydraulics, electrical and instrumentation, mechanical, corrosion, site restoration, environmental, landscaping, traffic, security and health and safety.

In preparation of the Detailed Design Package:

- If not completed in CER, perform surveys of the existing facilities, including utility surveys and potholing if required.
- Perform analysis and design calculations, signed and stamped by the lead design engineer. Collate design calculations and analysis files into one design calculation file per discipline for each design milestone.
- Prepare Design Reports. Provide preliminary and final design reports. Subjects to be addressed in design reports, include but are not limited to: type of proposed structural wall including analysis justifying the design choice, deep foundation design, shoring methods, groundwater control and disposal, utility conflicts, staging areas, and construction sequencing.
- Prepare plans and technical specifications according to standard SFPUC format for each design milestone. Contract documents shall include plans and specifications for environmental mitigation, to obtain construction contractor compliance with mitigation requirements contained in EIR and permit documents.
- Provide technical information for and assist SFPUC staff in preparation of Division 0 and 1 of the project specifications.
- Prepare construction cost estimates and CPM schedules for each design milestone.
- Present the design, cost estimate and schedule at the 35%, 65%, and 95%, and 100% design milestones to the SFPUC and stakeholders.
- Present the analysis and design at the 35%, 65%, and 95% design milestones to a technical advisory panel comprised of independent experts and/or consultants, as required.
- Evaluate and respond to comments from a constructability review at the 35%, 65%, and 95% design milestone.
- Evaluate and respond to comments from third-party independent peer reviews at the 35%, 65%, and 95% design milestones.
- Conduct a risk register workshop at the 35% design for risk identification and qualitative risk analysis. Risk register shall be updated at 65% and 95% design with risk qualification and mitigation.

- Prepare draft and final risk assessment register technical memorandum, to be included in 95% submittal.

Deliverables:

- Draft Design Criteria Report, including comment responses.
- Final Design Criteria Report, which must be stamped and signed by the Lead Design Engineer.
- Draft and Final Design Reports. Provide five (5) hard copies and one (1) electronic copy of draft design reports and fifteen (15) hard copies and one (1) electronic copy of all final design reports.
- 35% design submittal including plans, outline of specifications, design calculation files, construction cost estimate and construction schedule. Provide 15 bound copies of half-size plans and specifications.
- 35% design submittal presentation, one (1) electronic copy.
- 35% design submittal comment responses, one (1) electronic copy.
- 65% design submittal including plans, outline of specifications, design calculation files, construction cost estimate and construction schedule. Provide 15 bound copies of half-size plans and specifications.
- 65% design submittal Presentation, one (1) electronic copy.
- 65% design submittal comment responses, one (1) electronic copy.
- 95% design submittal including plans, outline of specifications, design calculation files, construction cost estimate and construction schedule. Provide 15 bound copies of half-size plans and specifications.
- 95% design submittal Presentation, one (1) electronic copy.
- 95% design submittal comment responses, one (1) electronic copy.
- 100% design submittal including contract drawings, contract specifications, design calculation files, construction cost estimate, and construction schedule. Provide 15 bound copies of half-size plans and specifications. Provide electronic copy of 100% submittal. Electronica copy shall include AutoCAD files of all contract drawings, Adobe Acrobat PDF files of all contract drawings and MS Word and Adobe Acrobat PDF files of all specifications.
- Risk Register Technical Memorandum. Provide five (5) hard copies and one (1) electronic copy of the draft and final technical memorandum, as part of the 95% submittal.

TASK 6 ENGINEERING SUPPORT SERVICES FOR ENVIRONMENTAL REVIEW

The proposed project will require California Environmental Quality Act (CEQA) and National Environmental Policy Act (NEPA) review. In support and at the discretion of the Project

Engineer, the Consultant may be requested to provide engineering support services during the environmental review period for the project, including but not limited to:

- Assist the SFPUC Project Engineer in completing the CEQA, NEPA and resource agency permitting checklists.
- Provide technical information for the CEQA documents, NEPA documents and resource agency permit applications (permits will be obtained by the SFPUC).
- Review and provide comments on environmental documents.
- Provide technical information for environmental analysis and documents, including responses to RFIs from SFPUC Bureau of Environmental Management and environmental consultants.

For budgeting purposes and preparation of the proposal OPS, provide an allowance of \$250,000 for this task.

TASK 7 ENGINEERING SUPPORT FOR BID AND AWARD

Provide engineering support services during the bidding period of the project, including, but not limited, to:

- Attend the project pre-bid conference and the site visit.
- Assist in preparing Contractor's pre-qualification requirements.
- Assist in evaluating Contractor's submitted qualifications.
- Respond to Questions on Bid Documents (QBDs).
- Prepare addenda to Contract Documents.
- Assist in the analysis and evaluation of bid packages.
- Review Requests for Substitutions of construction items (RFSs).

TASK 8 TECHNOLOGY TRANSFER

Provide SFPUC technology transfer/cross training related to the scope of work and deliverables. While training content will be identified jointly by the SFPUC during the Design Phase, training areas include but are not limited to structural sea wall design, structural modeling and geotechnical considerations related to sea walls. Services to be provided under this task include preparing, coordinating and providing training sessions. The training duration shall be approximately 80 hours of training and preparation time, and may be covered in a classroom, field visits or on-the-job sessions. These training shall be independent of the other workshops held for this project and the services provided for other tasks.

TASK 9 ENGINEERING SUPPORT FOR CONSTRUCTION

Provide engineering support services during the construction of the project, including, but not limited, to:

- Attend weekly construction progress meetings, at the discretion of the Project Engineer, to discuss specific construction issues.

- Perform periodic site visits to observe construction work.
- Review and respond to RFIs.
- Review and respond to RFSSs.
- Review and respond to submittals.
- Prepare revisions to contract documents, as required.
- Provide technical support for preparation of Proposed Change Orders (PCOs) and review of Change Order Requests (CORs).
- Perform substantial completion inspection walkthrough, and prepare punch list items.
- Provide assistance in project closeout.

*The following tasks are **optional**. Consultant shall not commence work on these tasks without prior written authorization from the SFPUC. Note that the “not-to-exceed” Agreement value specified for this project includes the budget allowances for these optional tasks.*

TASK 10 OPTIONAL ENGINEERING SERVICES

Provide as-needed engineering services for the project, including, but not limited, to:

- Tunnel engineering
- Additional engineering analysis
- Inspection services, including inspection of existing sewer/storm drain lines.

All written Deliverables, including any copies, shall be submitted on recycled paper and printed on double-sided pages to the maximum extent possible.

2. Services Provided by Attorneys. The City will not pay for any legal services provided to Consultant by a law firm or attorney unless the City Attorney reviews and approves such services in writing in advance. The City will not pay any invoices for services provided by law firms or attorneys, including, without limitation, as subconsultants of Consultant, unless the provider received advance written approval from the City Attorney.

3. Reports. Consultant shall submit written reports as requested by the SFPUC. Format for the content of such reports shall be determined by the SFPUC. The timely submission of all reports is a necessary and material term and condition of this Agreement. The reports, including any copies, shall be submitted on recycled paper and printed on double-sided pages to the maximum extent possible.

4. Department Liaison. In performing the Services provided for in this Agreement, Consultant’s liaison with the SFPUC will be Heather Manders.

5. Task Orders. Consultant will perform Service under this Agreement under a task order process, and Consultant is required to provide adequate quality control processes and deliverables in conformance with the technical requirements of the task order. The SFPUC

Project Manager will initially identify tasks and request the Consultant to propose a project scope, sub tasks, staffing plan, LBE utilization, schedule, deliverables, budget and costs to complete the task in accordance with Appendix B. All costs associated with the development of the scope of work for each task order shall be borne by Consultant. The SFPUC Project Manager and the Consultant will negotiate a final task order subject to approval by the SFPUC Bureau Manager. However, as provided in the RFP, the budget, if applicable, identified for tasks is an estimate, and the City reserves the right to modify the applicable budget allocated to any task as more specific information concerning the task order scope becomes available.

The City will process the task order request for Controller certification of funding, after which the City will issue a "Notice to Proceed." Consultant shall not commence Services hereunder until the Consultant receives a written Notice to Proceed in accordance with the San Francisco Administrative Code. ***Any work performed without a Notice to Proceed will be at the Consultant's own commercial risk.*** The calculations of costs and methods of compensation for all task orders under this Agreement shall be in accordance with Appendix B.

6. Reports. Consultant shall submit reports as requested by the SFPUC in a format specified by the SFPUC. The timely submission of all reports is a necessary and material term and condition of this Agreement. Consultant shall submit written reports, including any copies, on recycled paper and printed on double-sided pages to the maximum extent possible.

7. Performance Evaluation. Performance evaluations support the SFPUC's objective of continuously improving the quality of Consultant services. The SFPUC may or may not, at its sole discretion, conduct evaluation/s of Consultant's performance. Ratings are ultimately the decision of the SFPUC and are not subject to negotiation with the Consultant. However, the Consultant may provide comments on a performance evaluation form if the City performs an evaluation. In the event that the SFPUC conducts performance evaluation(s) of the Consultant, such performance evaluation(s) shall not confer any express or implied rights upon Consultant, nor shall they shift any liability to the SFPUC for the Consultant's performance of the contract.

8. Standard of Care for Design Professionals. Consultant acknowledges and agrees that Consultant shall perform its services under this Agreement in accordance with the professional standard of care applicable to professionals providing similar services for projects of similar type, size and complexity in the San Francisco Bay Area.

Appendix B Calculation of Charges

As part of Consultant's proposal dated **May 25, 2018**, Consultant submitted proposed billing rates, attached hereto as Appendix B-1, Fee Schedule, for the requested tasks identified in Appendix A, Scope of Services which are incorporated herein by this reference.

As provided in the Fee Schedule, the budget identified for tasks is an estimate, and the City reserves the right to modify the budget allocated, if applicable, to any task as more specific information concerning the task order scope becomes available.

The City will not pay any invoices for Services provided by law firms or attorneys, including, without limitation, as subconsultants of Consultant, unless the provider received advance written approval from the City Attorney.

1. Billing Rates. Consultant's billing rates and each and every staff classification as stated in Appendix C will be the billing rates for the listed individuals. The billing rate may not exceed the lowest rate charged to any other governmental entity except the City and County of San Francisco. Billing rates will be fixed for the first two years of the contract, and may be adjusted annually thereafter. The first adjustment may be made no earlier than the second anniversary of the effective start date as indicated in the original Notice of Contract Award letter. The amount of the adjustment is limited to a maximum of the CPI annual percentage change increase (San Francisco Bay Area for Urban Wage Earners and Clerical Workers) for the previous calendar year. No increase, including the annual CPI adjustment, is allowed to billing rates exceeding \$220 per hour, unless Project Manager and Bureau Manager authorize an increase to the rate in writing.

2. Personnel Changes. Any proposed changes to project personnel or staff classification as listed in Appendix C must be approved in advance of any work commencing on the project and in writing by the SFPUC Project Manager. These personnel changes may include but are not limited to:

- Proposed addition of new project personnel to perform requested services that are within the scope of the Agreement;
- Proposed change of staff classification for existing personnel; and/or
- Proposed replacement or substitution of any employee listed in Appendix B-1 due to termination, promotion or reclassification.

All proposed personnel must meet all qualification requirements established by the Agreement.

3. Effective Overhead and Profit Rate. The Effective Overhead and Profit Rate (EOPR) for PRO.0092 is **2.80**. The EOPR or Individual Firm Overhead and Profit Rate will apply to the billing rate of all individuals not listed in Appendix C. The EOPR will also apply to all

amendments to the Agreement. If Consultant adds a new subconsultant during the duration of the Agreement, the new individual firm multiplier can be no more than the EOPR.

4. Other Direct Costs (ODC). Direct reimbursable expenses (ODCs – Other Direct Costs) shall include actual direct costs (with no markup) of expenses directly incurred in performing the work. All ODCs are subject to pre-approval in writing by the SFPUC Project Manager.

a. The following items will be eligible for reimbursement as ODCs:

- Out-of-town travel (“out-of-town” shall mean outside the nine Bay Area counties: San Francisco, Alameda, Marin, Santa Clara, Sonoma, Contra Costa, Napa, San Mateo, Solano);
- Out- of town meal, travel and lodging expenses for project-related business trips, including, but not limited to:
 - Rental vehicle: traveler must select the most economical Consultant and type of vehicle available and acquire any commercial rate or government discount available when the vehicle is rented;
 - Personal vehicle use: Consultant will be paid per mile as established by the United State Internal Revenue Service and only for that portion of travel that is outside the nine Bay Area counties and non-routine. Should the travel begin or end on a normal workday, the Consultant shall subtract commuting mileage from total mileage to calculate reimbursable mileage. The Consultant shall submit to the City an approved mileage log with its monthly invoices;
 - Meal and lodging expenses shall be reasonable and actual but limited to Federal government per diem rates;
- Specialty printing (“specialty” as used herein shall mean large volume printing and color printing and requires prior written approval by SFPUC project staff and documentation of the written approval by the SFPUC must be included with the invoice);
- Specialty computer hardware and software (only with prior written approval by SFPUC project staff and documentation of the written approval by the SFPUC must be included with the invoice – all hardware and software will be the property of the City);
- Courier services that are project related and originated from the project site offices;
- Permit fees;
- Expedited courier services when requested by SFPUC staff; and
- Safety equipment.

b. Only charges listed above are eligible for reimbursement. Cost that are not eligible for reimbursement include, but are not limited to:

- All other travel expenses such as parking, bridge tolls, public transit, vehicle mileage within the nine Bay Area Counties, travel from Consultant's home office to SFPUC facilities;
- Consultant personnel relocation costs;
- Any home or regional office labor charges or pass-throughs, including but not limited to, administrative and clerical personnel time;
- Personnel relocation and temporary assignment expenses;
- Entertainment expenses;
- Cell phones;
- Home office expenses;
- Telephone calls and faxes originating in the firm's home office, standard computer use charges, computer hardware or software computer hardware or software (other than the specialty hardware or software mentioned above), communication devices, and electronic equipment;
- Meal expenses which are not related to project-related business trips, including refreshments and working lunches with SFPUC staff;
- Equipment to be used by SFPUC staff; and
- Postage and courier services that the SFPUC staff has not requested.

5. Subconsultant make-up and documentation. Second-tier and pass-through subcontracting is prohibited. Consultant may add additional subconsultants to the Consultant team after obtaining pre-authorization by the SFPUC Project Manager, Bureau/Division Manager and the Contract Monitoring Division (CMD).

6. Subconsultant Fees:

- Subject to the restrictions in this Section 4;
- Shall be subject to written pre-approval by the Consultant's liaison with the SFPUC;
- Subconsultant administration markup is limited to five percent (5%) of subconsultants' actual labor costs.

7. Retention. The City will withhold five percent (5%) of each invoice payment for each task order. When Consultant completes the work for a task order or critical milestones to the satisfaction of the SFPUC Project Manager, the City has received all required work product, and the City Project Manager has approved all required work products, the Consultant may request the City to release the retention. Consultant may substitute an irrevocable letter of credit acceptable to the City in lieu of money retention.

8. Invoice Requirements. As part of its contracting obligations, the Consultant is required to utilize the City's approved invoicing and time-keeping systems, as specified by the SFPUC project team. Consultant shall not bill the SFPUC to use these systems. Consultant shall not charge SFPUC to send appropriate personnel to user training.

Consultant shall follow the invoicing and supporting documentation instructions as prescribed by the SFPUC.

Invoice Supporting Documentation:

Consultant must substantiate all labor hours by timesheet summaries extracted from the Consultant's accounting system. Each timesheet summary shall include the staff person's name, company, dates of the days worked, and the number of hours worked each day.

Consultant must submit any mileage ODCs accompanied by mileage logs providing the beginning and ending mileage to substantiate the variable portal-to-portal distance and local driving required while performing the work. Consultant must submit all other ODCs with copies of original receipts including a brief description for each receipt memorializing the purpose.

CMD Form 7 "Progress Payment Form" must be included with each invoice to identify the participation and amount payable to the subconsultants.

Consultant must submit CMD Form 9 "Payment Affidavit" within ten (10) days of receiving payment for each invoice to document the subconsultant's payment by the prime Consultant.

Appendix B-1 Fee Schedule

OVERHEAD AND PROFIT SCHEDULE for PRO.0092: Engineering Services for South Ocean Beach Coastal Erosion and Wastewater Infrastructure Protection [Moffatt & Nichol + AGS Joint Venture]

OVERHEAD AND PROFIT SCHEDULE							
Firms	Staff Classification/Title	Name of Proposed Staff Person	Base Rate (\$/hour)	Firm's Overhead and Profit Rate (OPR, or "multiplier")	Billing Rate (\$/hour, not to exceed \$240/hour)	Estimated Participation per CMD Form 5 or 5A (% of Contract)	Contribution to Effective Overhead and Profit Rate
[A]	[B]	[C]	[D]	[E]	[F]=[D]x[E]	[G]	[H]=[G]x[E]
AGS	Lead Geotechnical Engineer	Bahram Khamenehpour	\$90.00	2.79	\$240.00	0.312	87%
	Principal Geotechnical Engineer	Kamran Ghiassi	\$74.75		\$208.55		
	Principal Geotechnical Engineer	Keyvan Fotoohi	\$65.50		\$182.75		
	Senior Geotechnical Engineer	Michelle Shiro	\$65.00		\$181.35		
	Senior Geotechnical Engineer	Steve Tsang	\$58.30		\$162.66		
	Project Geotechnical Engineer	Anthony Argriou	\$47.00		\$131.13		
	Principal Geologist	Rick Harlan	\$72.00		\$200.88		
	Senior Staff Geologist	Joseph Farrow	\$41.20		\$114.95		
	Senior Principal Civil Engineer	Kenneth Lile	\$90.00		\$240.00		
	Principal Civil Engineer	Erik Scheller	\$68.50		\$191.12		
	Senior Civil Engineer	Stefan Hoffmeister	\$61.50		\$171.59		
	Project Civil Engineer	Jeffrey Leung	\$45.00		\$125.55		
	Project Civil Engineer	Pavel Guevarro	\$43.50		\$121.37		
	Senior Structural Engineer	Huanz Wang	\$72.00		\$200.88		
	Project Structural Engineer	Jeffrey Yip	\$48.00		\$133.92		
	Project Engineer	Jacob Horwath	\$42.75		\$119.27		
	CAD/BIM	Steve Grist	\$34.00		\$94.86		
Moffatt & Nichol	Principal	Richard Domheilm	\$105.88	3.00	\$240.00	0.468	140%
	Principal	Dilip Trivedi	\$93.50		\$240.00		
	Supervisory Engineer	James Brady	\$84.26		\$240.00		
	Supervisory Scientist	Stephanie Ostlick	\$77.00		\$231.00		
	Senior Engineer	Jack Fink	\$78.00		\$234.00		
	Senior Engineer	Mads Jorgensen	\$75.92		\$227.76		
	Senior Engineer	Azadeh Bozorgzadeh	\$72.80		\$218.40		
	Senior Engineer	Marc Percher	\$72.80		\$218.40		
	Senior Engineer	Neil Nichols	\$61.36		\$184.08		
	Designer	Elena Pleschuk	\$53.56		\$160.68		
	Eng II	Cheng-Feng Tsai	\$49.66		\$148.98		
	Eng II	Sam Tooley	\$40.56		\$121.68		
	Word Processing	Jagbir Dhaliwal	\$44.72		\$134.16		
	Staff Eng	Babak Tehranirad	\$41.60		\$124.80		
	Staff Eng	Katie Moyano	\$33.28		\$99.84		
	Engineer 9	Joel Faller	\$95.91		\$240.00		
	Engineer 9	Kerwin C. Allen	\$93.44		\$240.00		
Kennedy Jenks	Engineer 8	John Bergen	\$83.03	3.05	\$240.00	0.030	9%
	Engineer 8	David Williams	\$90.66		\$240.00		
	Engineer 8	Don Barraza	\$76.02		\$231.86		
	Engineer 4	Sony Sin	\$37.78		\$115.23		
	Engineer 6	Bob Ryder	\$69.39		\$211.64		
	Engineer 7	Emily Hudish	\$60.50		\$184.53		
	Engineer 4	Adam Butler	\$55.04		\$167.87		
	Engineer 3	Nick Lazarakis	\$39.36		\$120.05		
	Engineer 7	Sachi Itagaki	\$71.20		\$217.16		
	Project Administrator	Carol Toy	\$36.29		\$110.68		
	Project Administrator	Jim Aquino	\$34.68		\$105.77		
	Lead Associate	Shawn Spreng	\$62.64		\$181.66		
McMillen Jacobs Associates	Senior Associate	Norman Joyal	\$77.39	2.90	\$224.43	0.030	9%
	Senior Associate	Yiming Sun	\$81.14		\$235.31		
	Senior Project Engineer	Roozbeh Mikola	\$50.95		\$147.76		
	Principal	Chi-Hsin Shao	\$110.16		\$240.00		
CHS Consulting Group	Project Manager	Soroush Khadem	\$70.00	2.97	\$207.90	0.010	3%
	Senior Transportation Planner	Andrew Kluter	\$54.24		\$161.09		
	Senior Transportation Planner	Byung Lee	\$47.01		\$139.62		
	Senior Transportation Planner	Yashu Rastogi	\$47.04		\$139.71		
	Assistant Transportation Engineer	Frank Feng	\$34.13		\$101.37		
Davis & Associates Communications Inc.	Principal	Darolyn Davis	\$80.00	3.00	\$240.00	0.010	3%
	Project Manager	Scott Wintner	\$62.00		\$186.00		
	Project Supervisor	Matt Malbie	\$55.00		\$165.00		
	Associate	Aaron Bialick	\$48.00		\$144.00		
Marta Fry Landscape Associates	Principal + Owner	Marta Fry	\$80.00	2.80	\$224.00	0.025	7%
	Principal + Project Manager	James Munden	\$65.00		\$182.00		
	Design Associate + production	Ambrose Luk	\$45.00		\$126.00		
Meridian Surveying Engineering	Design Associate + production	Alexandra Mei	\$41.67	2.80	\$116.67	0.010	3%
	Licensed Engineer / Surveyor	Stanley Gray	\$113.30		\$240.00		
	Project Surveyor	Keith Robichaud	\$50.00		\$140.00		
	Project Surveyor	Tim Robinson	\$50.00		\$140.00		
	Project Manager	Nathan Foley	\$45.00		\$126.00		
	Technician/CAD Operator	Ron Kuehn	\$38.00		\$106.40		
	Office/Project Accounting	Emily Thomas	\$35.00		\$98.00		
	Junior Engineer / Surveyor	Randall Cohen	\$35.00		\$98.00		
	Junior Engineer / Surveyor	Emily Thomas	\$38.00		\$106.40		
	Junior Engineer / Surveyor	Eric Ward	\$34.00		\$95.20		
Saylor Consulting Group	Field Chief (Prevailing Wage)	Varies	\$64.08	2.34	\$179.42	0.025	6%
	Field Rodman (Prevailing Wage)	Varies	\$58.11		\$162.71		
	Managing/Senior Estimator	Ian Slight	\$100.00		\$234.00		
	Senior Estimator	Bob Griesinger	\$72.00		\$168.48		
	Senior Mechanical Estimator	Tim Coyle	\$85.10		\$199.13		
RES Engineers	Senior Scheduler	Deviprasad Pentapati	\$100.00	2.80	\$234.00	0.010	3%
	Principal Engineer	Ross Esfandiani	\$80.00		\$224.00		
	Senior Special Inspector	Dennis Vargas	\$45.02		\$126.06		
	Special Inspector	Orion Berdick	\$43.02		\$120.46		
Professor Sitar	Bluff Erosion Expert	Nicholas Sitar	\$240.00	1.00	\$240.00	0.010	1%
Professor O'Roarke	Tunnel Seismic Safety Expert	Thomas O'Roarke	\$240.00	1.00	\$240.00	0.010	1%
CADNET	CAD/BIM Designer	Charlie Thomas	\$65.00	1.30	\$84.50	0.040	5%
	CAD Designer	Pavla Fumankova	\$50.00		\$65.00		
Sherwood Design Engineering	Principal	John Leys	\$115.76	3.05	\$240.00	0.010	3%
	Project Manager	Clara Tang	\$59.17		\$180.47		

Effective Project Overhead & Profit Rate (EOPR):
Maximum Allowable Effective Project Multiplier = 3.20

2.80



February 07, 2019

Dilip Trivedi
Moffatt and Nichol-AGS, JV
2185 N. California Blvd., Suite 500
Walnut Creek, CA 94596
Email: dtrivedi@moffattnichol.com

RE: 1) Notice of Contract Amendment Certification
2) Executed Amendment #1 between the City and County of San Francisco Public Utilities Commission and Moffatt and Nichol-AGS, JV.

Dear Mr. Trivedi,

This letter provides a **Notice of Contract Amendment Certification** for the following contracted work:

Contract ID Number: PRO.0092 (1000012212)

Contract Title: Engineering Services for South Ocean Beach Coastal Erosion and Wastewater Infrastructure Protection

Effective Date: September 26, 2018 to July 30, 2023

Amount: Total value of contract not to exceed \$3,750,000.00

Work may not be charged against the Contract ID Number. Invoices must be charged against specific task orders only after a *Notice to Proceed* has been issued.

Sincerely,

Rosiana Angel
Infrastructure Budget and Payment Processing

Enclosure: Executed Agreement
cc: Heather Manders

File/PRO.0092 Amendment #1 - NCAC

OUR MISSION: To provide our customers with high-quality, efficient and reliable water, power and sewer services in a manner that values environmental and community interests and sustains the resources entrusted to our care.

London N. Breed
Mayor

Vince Courtney
President

Ann Moller Caen
Vice President

Francesca Vietor
Commissioner

Anson Moran
Commissioner

Ike Kwon
Commissioner

Harlan L. Kelly, Jr.
General Manager



**City and County of San Francisco
San Francisco Public Utilities Commission
525 Golden Gate Avenue, 8th Floor
San Francisco, California 94102**

**First Amendment
Between the City and County of San Francisco and
Moffatt and Nichol-AGS, JV
Engineering Services for South Ocean Beach Coastal Erosion and Wastewater
Infrastructure Protection
PUC.PRO.0092**

THIS AMENDMENT (this "Amendment") is made as of **December 17, 2018**, in San Francisco, California, by and between **Moffatt and Nichol-AGS, JV**

("Contractor"), and the City and County of San Francisco, a municipal corporation ("City"), acting by and through its San Francisco Public Utilities Commission.

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 add additional insured language, and update standard contractual clauses; and

NOW, THEREFORE, Contractor and the City 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 July 24, 2018 between Contractor and City.

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 to the Agreement.

The Agreement is hereby modified as follows:

2.1 **Insurance.** Section 5.1.2 of the Agreement currently reads as follows:

5.1.2 Commercial General Liability and Commercial Automobile Liability Insurance policies must be endorsed to provide:

(a) Name as Additional Insured the City and County of San Francisco, its Officers, Agents, and Employees.

(b) That such policies are primary insurance to any other insurance available to the Additional Insureds, with respect to any claims arising out of this Agreement, and that insurance applies separately to each insured against whom claim is made or suit is brought.

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

5.1.2 Commercial General Liability and Commercial Automobile Liability Insurance policies must be endorsed to provide:

(a) Name as Additional Insured the City and County of San Francisco, its Officers, Agents, and Employees.

(b) Name as Additional Insured the United States of America, Department of the Interior, National Park Service, Golden Gate National Recreation Area, its Officers, Agents and Employees.

(c) That such policies are primary insurance to any other insurance available to the Additional Insureds, with respect to any claims arising out of this Agreement, and that insurance applies separately to each insured against whom claim is made or suit is brought.

Article 3 Effective Date

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

Article 4 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:



Harlan L. Kelly, Jr.

General Manager

San Francisco Public Utilities Commission

CONTRACTOR

Moffatt and Nichol-AGS, JV



Dilip Trivedi

Vice President

City vendor number: 12725

Approved as to Form:

Dennis J. Herrera

City Attorney

By: 

Randy Parent

Deputy City Attorney

**CERTIFICATE OF PROPOSER REGARDING CONTRACTING IN STATES THAT ALLOW
DISCRIMINATION AGAINST LGBT INDIVIDUALS**

Proposer, by submitting its Proposal, hereby acknowledges that Proposer has read San Francisco Administrative Code Chapter 12X "Prohibiting City Travel and Contracting in States that Allow Discrimination Against LGBT Individuals" ("Chapter 12X") and understands that the City and County of San Francisco cannot enter into contracts with companies with United States headquarters in states that perpetuate discrimination against LGBT populations ("Covered States") or where any or all of the work on the contract will be performed in Covered States.

I Richard Dornhelm, certify that at the time of submitting my Proposal, the address of the United States headquarters for my company is
3780 Kilroy Airport Way, Suite 750
Long Beach, CA 90806. I will notify the City if my company's

headquarters moves. I also certify that none of the work performed on this Contract will be performed in any Covered State.



Signature of Bidder or Authorized Representative

Richard Dornhelm

Print Name of Authorized Representative

Vice President, JV Principal

Position in Firm or Corporation

Note: A list of Covered States is available at:
<http://sfgsa.org/chapter-12x-anti-lgbt-state-ban-list> and Section 10.11 of the RFP.

The text Chapter 12X is posted on the Web at:
[http://library.amlegal.com/nxt/gateway.dll/California/administrative/administrativecode?f=templates\\$fn=default.htm\\$3.0\\$vid=amlegal:sanfrancisco_ca\\$sync=1](http://library.amlegal.com/nxt/gateway.dll/California/administrative/administrativecode?f=templates$fn=default.htm$3.0$vid=amlegal:sanfrancisco_ca$sync=1).

END OF DOCUMENT

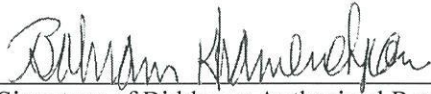
**CERTIFICATE OF PROPOSER REGARDING CONTRACTING IN STATES THAT ALLOW
DISCRIMINATION AGAINST LGBT INDIVIDUALS**

Proposer, by submitting its Proposal, hereby acknowledges that Proposer has read San Francisco Administrative Code Chapter 12X "Prohibiting City Travel and Contracting in States that Allow Discrimination Against LGBT Individuals" ("Chapter 12X") and understands that the City and County of San Francisco cannot enter into contracts with companies with United States headquarters in states that perpetuate discrimination against LGBT populations ("Covered States") or where any or all of the work on the contract will be performed in Covered States.

I Bahram Khamenehpour, Ph.D., GE, certify that at the time of submitting my Proposal, the address of the United States headquarters for my company is

5 Freelon Street, San Francisco, CA 94107. I will notify the City if my company's

headquarters moves. I also certify that none of the work performed on this Contract will be performed in any Covered State.



Signature of Bidder or Authorized Representative

Bahram Khamenehpour, Ph.D., GE

Print Name of Authorized Representative

President

Position in Firm or Corporation

Note: A list of Covered States is available at:

<http://sfgsa.org/chapter-12x-anti-lgbt-state-ban-list> and Section 10.11 of the RFP.

The text Chapter 12X is posted on the Web at:

[http://library.amlegal.com/nxt/gateway.dll/California/administrative/administrativecode?f=templates\\$fn=default.htm\\$3.0\\$vid=amlegal:sanfrancisco_ca\\$sync=1](http://library.amlegal.com/nxt/gateway.dll/California/administrative/administrativecode?f=templates$fn=default.htm$3.0$vid=amlegal:sanfrancisco_ca$sync=1).

END OF DOCUMENT

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

Second Amendment

**Between the City and County of San Francisco and
Moffatt and Nichol-AGS, JV
Engineering Services for South Ocean Beach Coastal Erosion and Wastewater
Infrastructure Protection
PUC.PRO.0092**

THIS AMENDMENT (this “Amendment”) is made as of June 21, 2021, in San Francisco, California, by and between **Moffatt and Nichol-AGS, JV** (“Contractor”), and the City and County of San Francisco, a municipal corporation (“City”), acting by and through its Director of the Office of Contract Administration.

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, increase the contract amount, and update standard contractual clauses; and

WHEREAS, the San Francisco Public Utilities Commission (“SFPUD”) competitively procured the Agreement as required by San Francisco Administrative Code Chapter 6.40 through RFP issued April 25, 2018 and this Second Amendment is consistent therewith; and

WHEREAS, the Civil Service Commission this Second Amendment when it approved Contract number 46784-16/17 on June 7, 2021; and

WHEREAS, the City’s San Francisco Public Utilities Commission approved this Agreement by 21-0056 on April 13, 2021.

NOW, THEREFORE, Contractor and the City 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 July 24, 2018 between Contractor and City, as amended by the:

First Amendment, dated December 17, 2018, and

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

Article 2 Modifications to the Agreement.

The Agreement is hereby modified as follows:

2.1 Definitions. *The Parties agree to add the following Definition to Article 1 of the Agreement:*

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).

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

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

The Parties agree to amend Section 2.1 in its entirety to read as follows:

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

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

3.3.1 **Payment.** Consultant shall provide an invoice to the City on a monthly basis for Services completed in the immediate preceding month, unless a different schedule is set out in Appendix B, "Calculation of Charges." City shall compensate Consultant 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 Consultant that a dispute as to the invoice exists. In no event shall the amount of this Agreement exceed **Three Million Seven Hundred Fifty Thousand Dollars and no cents (\$3,750,000.00)**. 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 set forth in Administrative Code Section 6.22(j).

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

3.3.1 **Payment.** Consultant 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 Consultant 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 Consultant that a dispute as to the invoice exists. In no event shall the amount of this Agreement exceed **Five Million Seven Hundred Fifty Thousand Dollars and no cents (\$5,750,000.00)**. 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 set forth in Administrative Code Section 6.22(j).

2.4 Assignment. Section 4.5 of the agreement currently reads as follows:

4.5 Assignment. Consultant's Services under this Agreement are personal in character. Consultant shall not assign or delegate this Agreement nor any duties or obligations hereunder 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.

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

4.5 Assignment. The Services to be performed by Contractor are personal in character. Neither this Agreement, nor any duties or obligations hereunder, may be directly or indirectly assigned, novated, hypothecated, transferred, or delegated by Contractor, or, where the Contractor is a joint venture, a joint venture partner, (collectively referred to as an Assignment") unless first approved by City by written instrument executed and approved in the same manner as this Agreement in accordance with the Administrative Code. The City's approval of any such Assignment is subject to the Contractor demonstrating to City's reasonable satisfaction that the proposed transferee is: (i) reputable and capable, financially and otherwise, of performing each of Contractor's obligations under this Agreement and any other documents to be assigned, (ii) not forbidden by applicable law from transacting business or entering into contracts with City; and (iii) subject to the jurisdiction of the courts of the State of California. A change of ownership or control of Contractor or a sale or transfer of substantially all of the assets of Contractor shall be deemed an Assignment for purposes of this Agreement. Contractor shall immediately notify City about any Assignment. Any purported Assignment made in violation of this provision shall be null and void.

2.5 Withholding. *The Parties agree to add the following Section 7.3 to Article 7 of the Agreement:*

7.3 Withholding. Contractor agrees that it is obligated to pay all amounts due to the City under the San Francisco Business and Tax Regulations Code during the term of this Agreement. Pursuant to Section 6.10-2 of the San Francisco Business and Tax Regulations Code, Contractor further acknowledges and agrees that City may withhold any payments due to Contractor under this Agreement if Contractor is delinquent in the payment of any amount required to be paid to the City under the San Francisco Business and Tax Regulations Code. Any payments withheld under this paragraph shall be made to Contractor, without interest, upon Contractor coming back into compliance with its obligations.

2.6 Consideration of Salary History. *The Parties agree to add the following Section 10.4 to Article 10 of the Agreement, replacing the previous Section 10.4 in its entirety:*

10.4 Consideration of Salary History. Contractor shall comply with San Francisco Administrative Code Chapter 12K, the Consideration of Salary History Ordinance or “Pay Parity Act.” Contractor is prohibited from considering current or past salary of an applicant in determining whether to hire the applicant or what salary to offer the applicant to the extent that such applicant is applying for employment to be performed on this Agreement or in furtherance of this Agreement, and whose application, in whole or part, will be solicited, received, processed or considered, whether or not through an interview, in the City or on City property. The ordinance also prohibits employers from (1) asking such applicants about their current or past salary or (2) disclosing a current or former employee’s salary history without that employee’s authorization unless the salary history is publicly available. Contractor is subject to the enforcement and penalty provisions in Chapter 12K. Information about and the text of Chapter 12K is available on the web at <https://sfgov.org/olse/consideration-salary-history>. Contractor is required to comply with all of the applicable provisions of 12K, irrespective of the listing of obligations in this Section.

2.7 Limitations on Contributions. Article 10 of the Agreement currently reads as follows:

10.11 Limitations on Contributions. By executing this Agreement, Consultant acknowledges that it is familiar with section 1.126 of the City’s Campaign and Governmental Conduct Code, which prohibits any person who contracts with the City for the rendition of personal services, for the furnishing of any material, supplies or equipment, for the sale or lease of any land or building, or for a grant, loan or loan guarantee, from making any campaign contribution to (1) an individual holding a City elective office if the contract must be approved by the individual, a board on which that individual serves, or the board of a state agency on which an appointee of that individual serves, (2) a candidate for the office held by such individual, or (3) a committee controlled by such individual, at any time from the commencement of negotiations for the contract until the later of either the termination of negotiations for such contract or six months after the date the contract is approved. The prohibition on contributions applies to each prospective party to the contract; each member of Consultant’s board of directors; Consultant’s chairperson, chief executive officer, chief financial officer and chief operating officer; any person with an ownership interest of more than 20 percent in Consultant; any subconsultant listed in the bid or contract; and any committee that is sponsored or controlled by Consultant. Consultant must inform each such person of the limitation on contributions imposed by Section 1.126 and provide the names of the persons required to be informed to City.

The Parties agree to amend Section 10.11 in its entirety to read as follows:

10.11 Limitations on Contributions. By executing this Agreement, Contractor acknowledges its obligations under Section 1.126 of the City's Campaign and Governmental Conduct Code, which prohibits any person who contracts with, or is seeking a contract with, any department of the City for the rendition of personal services, for the furnishing of any material, supplies or equipment, for the sale or lease of any land or building, for a grant, loan or loan guarantee, or for a development agreement, from making any campaign contribution to (i) a City elected official if the contract must be approved by that official, a board on which that official serves, or the board of a state agency on which an appointee of that official serves, (ii) a candidate for that City elective office, or (iii) a committee controlled by such elected official or a candidate for that office, at any time from the submission of a proposal for the contract until the later of either the termination of negotiations for such contract or twelve months after the date the City approves the contract. The prohibition on contributions applies to each prospective party to the contract; each member of Contractor's board of directors; Contractor's chairperson, chief executive officer, chief financial officer and chief operating officer; any person with an ownership interest of more than 10% in Contractor; any subcontractor listed in the bid or contract; and any committee that is sponsored or controlled by Contractor. Contractor certifies that it has informed each such person of the limitation on contributions imposed by Section 1.126 by the time it submitted a proposal for the contract, and has provided the names of the persons required to be informed to the City department with whom it is contracting.

2.8 Reserved. (Distribution of Beverages and Water.)

2.9 Notification of Legal Requests. *The Parties agree to add the following Section 11.14 to Article 11 of the Agreement:*

11.14 Notification of Legal Requests. Contractor shall immediately notify City upon receipt of any subpoenas, service of process, litigation holds, discovery requests and other legal requests ("Legal Requests") related to all data given to Contractor by City in the performance of this Agreement ("City Data" or "Data"), or which in any way might reasonably require access to City's Data, and in no event later than 24 hours after it receives the request. Contractor shall not respond to Legal Requests related to City without first notifying City other than to notify the requestor that the information sought is potentially covered under a non-disclosure agreement. Contractor shall retain and preserve City Data in accordance with the City's instruction and requests, including, without limitation, any retention schedules and/or litigation hold orders provided by the City to Contractor, independent of where the City Data is stored.

2.10 Management of City Data and Confidential Information. *The Parties agree to add the following sections to Article 13 of the Agreement:*

13. 4 Management of City Data and Confidential Information.

13.4.1 Use of City Data and Confidential Information. Contractor agrees to hold City's Confidential Information received from or created on behalf of the City in strictest confidence. Contractor shall not use or disclose City's Data or Confidential Information except as permitted or required by the Agreement or as otherwise authorized in writing by the City. Any work using, or sharing or storage of, City's Confidential Information outside the United States is subject to prior written authorization by the City. Access to City's Confidential Information must be strictly controlled and limited to Contractor's staff assigned to this project on a need-to-know

basis only. Contractor is provided a limited non-exclusive license to use the City Data or Confidential Information 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 the City Data or Confidential Information, by implication, estoppel or otherwise, under copyright or other intellectual property rights, to any third party. Unauthorized use of City Data or Confidential Information 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 Confidential Information. Upon termination of Agreement or request of City, Contractor shall within forty-eight (48) hours return all Confidential Information which includes all original media. Once Contractor has received written confirmation from City that Confidential Information has been successfully transferred to City, Contractor shall within ten (10) business days purge all Confidential Information from its servers, any hosted environment Contractor has used in performance of this Agreement, 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.

Article 3 Effective Date

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

Article 4 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:
Michael Carlin
360EAE264D6E47C...
Michael Carlin
Acting General Manager
San Francisco Public Utilities Commission

CONTRACTOR

Moffatt and Nichol-AGS, JV

DocuSigned by:
Dilip Trivedi
14A74B83CEB04C1...
Dilip Trivedi
Vice President

City Supplier number: 12725

Approved as to Form:

Dennis J. Herrera
City Attorney

By: DocuSigned by:
Randy Parent
08C11E915778410...
Randy Parent
Deputy City Attorney

PUBLIC UTILITIES COMMISSION

City and County of San Francisco

RESOLUTION NO. 18-0128

WHEREAS, The San Francisco Public Utilities Commission advertised Agreement No. PRO.0092, Engineering Services for South Ocean Beach Coastal Erosion and Wastewater Infrastructure Protection on April 25, 2018; and

WHEREAS, The purpose of PRO.0092 is to procure the services of qualified engineering design firm to provide specialized engineering design services to supplement SFPUC staff to address climate induced chronic erosion at the south end of Ocean Beach that has the potential to threaten the Lake Merced Tunnel; and

WHEREAS, The estimated cost of services is \$3,750,000; and

WHEREAS, Services are anticipated to begin in September 2018 and end in September 2023 and the duration of this agreement is five years; and

WHEREAS, The SFPUC received a sole proposal from Moffatt and Nichol-AGS Joint Venture (JV) in response to the Request for Proposals (RFP); and

WHEREAS, SFPUC and Contract Monitoring Division (CMD) staff has confirmed that Moffatt and Nichol-AGS JV met the minimum qualifications and other pre-award requirements; and

WHEREAS, SFPUC staff has determined that Moffatt and Nichol-AGS JV is highly qualified to perform the services identified in the RFP and that further outreach, re-advertisement, or modification of the RFP is unlikely to result in the receipt of additional proposals; and

WHEREAS, The CMD established a subconsulting requirement of 10% Local Business Enterprise (LBE) participation (of the total value of services to be provided) for this agreement and Moffatt and Nichol-AGS JV has committed to 10% LBE participation; and

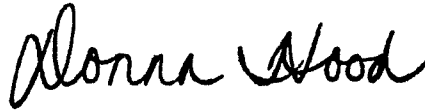
WHEREAS, Failure to reach successful agreement on contract terms and conditions within 30 days of the date of the Commission award may result in re-advertising and re-selecting consultants at the discretion of the City; and

WHEREAS, The firms being awarded a contract by the SFPUC must be in compliance with the Equal Benefits Provisions of Chapter 12B of the City's Administrative Code either at the time of the award, or within 2 weeks of the date of the Commission award; failure of the bidder to obtain compliance certification from CMD may, in the General Manager's sole discretion, result in re-advertising and re-selecting consultants at the discretion of the City; and

WHEREAS, Funds for this agreement will be available at the time of award of the agreement from CWWFAC01- Coastal Erosion and Wastewater Protection Wastewater Facilities & Infrastructure Program Designation, \$3,750,000; now, therefore, be it

RESOLVED, That this Commission hereby approves the selection of Moffatt and Nichol-AGS JV; awards Wastewater Enterprise 10-Year CIP-funded Agreement No. PRO.0092, Engineering Services for South Ocean Beach Coastal Erosion and Wastewater Infrastructure Protection, to Moffatt and Nichol-AGS JV; and authorizes the General Manager of the San Francisco Public Utilities Commission to negotiate and execute a professional services agreement with Moffatt and Nichol-AGS JV for an amount not-to-exceed \$3,750,000, and with a duration of five years.

I hereby certify that the foregoing resolution was adopted by the Public Utilities Commission at its meeting of July 24, 2018.

A handwritten signature in black ink, appearing to read "Donna Wood". The signature is fluid and cursive, with the first name "Donna" being larger and more prominent than the last name "Wood".

Secretary, Public Utilities Commission

PUBLIC UTILITIES COMMISSION

City and County of San Francisco

RESOLUTION NO. 21-0056

WHEREAS, On July 24, 2018, by Resolution No. 18-0128, this Commission awarded Agreement No. PRO.0092, Engineering Services for South Ocean Beach Coastal Erosion and Wastewater Infrastructure Protection, and authorized the General Manager of the San Francisco Utilities Commission (SFPUC) to negotiate and execute a professional services agreement with an amount not-to-exceed \$3,750,000 and with a duration of five years, with Moffatt and Nichol-AGS Joint Venture (JV); and

WHEREAS, On December 17, 2018, pursuant to the authority delegated to the General Manager by Resolution No. 09-0017, the General Manager issued Amendment No. 1 to address an insurance requirement; and

WHEREAS, Amendment No. 2 is being requested to increase the agreement amount by \$2,000,000 and extend the agreement duration by four years, to address increased complexity and scope of design elements, increased environmental analysis, and increased duration of construction, and increasing the total not-to-exceed agreement amount to \$5,750,000 and extending the agreement duration to nine years; and

WHEREAS, A Contract Monitoring Division (CMD) established a subconsulting requirement of 10% Local Business Enterprise (LBE) participation of the total value of services to be provided for this agreement and Moffatt and Nichol-AGS JV committed to a LBE subconsulting participation of 10.5% with their proposal, and this remains unchanged; and

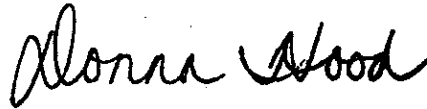
WHEREAS, No Engineering Support During Bid and Award, Construction, Start-up, and Closeout services will be initiated under this contract until California Environmental Quality Act (CEQA) review of the proposed project is complete and the CEQA document is certified, and until this Commission has reviewed the CEQA document and considered the CEQA determination and has adopted the CEQA findings and a Mitigation and Monitoring Reporting Program for the Project and approved the project in its sole discretion; and

WHEREAS, Funds for this agreement will be available from CWWFAC01 - Wastewater Facilities & Infrastructure Program, Ocean Beach Climate Change Adaptation Project; now, therefore, be it

RESOLVED, That this Commission hereby approves Amendment No. 2 to Wastewater Enterprise, 10-Year Capital Improvement, Facilities & Infrastructure Program -funded Agreement No. PRO.0092, Engineering Services for South Ocean Beach Coastal Erosion and Wastewater Infrastructure Protection, with Moffatt and Nichol-AGS JV, to address the increased complexity and scope of design, increased environmental analysis, and increased duration of construction subject to completion of environmental review and Commission authorization of construction through separate, subsequent action in its sole discretion; and be it

FURTHER RESOLVED, That this Commission authorizes the General Manager to execute Amendment No. 2, increasing the agreement amount by \$2,000,000, and extending the agreement duration by four years, for a total not-to-exceed agreement amount of \$5,750,000, and a total agreement duration of nine years.

I hereby certify that the foregoing resolution was adopted by the Public Utilities Commission at its meeting of April 13, 2021.

A handwritten signature in black ink, appearing to read "Monna Wood". The signature is fluid and cursive, with the first name "Monna" and the last name "Wood" clearly distinguishable.

Secretary, Public Utilities Commission

PUBLIC UTILITIES COMMISSION

City and County of San Francisco

RESOLUTION NO. 23-0190

WHEREAS, The San Francisco Public Utilities Commission (SFPUC), on behalf of the City and County of San Francisco (City), is leading efforts to implement one of the City's first climate change adaptation initiatives, the Ocean Beach Climate Change Adaptation Project (Project) located at Ocean Beach, south of Sloat Boulevard to address the long-term physical changes needed to combat climate induced sea level rise in the City, specifically at Ocean Beach; and

WHEREAS, The SFPUC, in collaboration with San Francisco Recreation and Park Department, San Francisco Municipal Transportation Authority, and San Francisco Public Works has developed the cross-agency Project, otherwise known as Project No. CWWFAC01; and

WHEREAS, The Project focuses on implementing two of six key moves of the 2012 Ocean Beach Master Plan at South Ocean Beach and includes (1) closure of the Great Highway Extension to most vehicular traffic and (2) the introduction of a multipurpose coastal protection/restoration/access system; and

WHEREAS, The Project was developed in order to meet the terms of a 2014 legal settlement agreement and a 2015 California Coastal Commission permit, which has received subsequent time extensions of a total of 2.5 years with a current expiration date of June 30, 2024, both of which establish timelines for developing and implementing a long-term strategy for shoreline management at South Ocean Beach; and

WHEREAS, In 2018, the City amended its Local Coastal Plan, the Western Shoreline Area Plan, to adopt policies that advance the Plan's general vision for South Ocean Beach, including the closure of the Great Highway between Sloat and Skyline Boulevards; and

WHEREAS, The Project is necessary to protect the integrity of the SFPUC's wastewater assets built to protect public health and the environment, including the Lake Merced Tunnel, the Westside Pump Station, and the Oceanside Treatment Plant; and

WHEREAS, This project will implement a comprehensive shoreline management and protection plan in partnership with relevant stakeholders and regulatory agencies to provide a long-term solution to the erosion issue along South Ocean Beach, and to mitigate potential impacts to the Lake Merced Tunnel and other critical wastewater assets at this location; and

WHEREAS, The objectives of the Project are to (1) implement the city's local coastal program policies for the long-term management of South Ocean Beach, including managed retreat, beach nourishment, and sea level rise adaptation in compliance with Coastal Commission permit requirements, (2) preserve and enhance coastal public access and recreation, habitat, and scenic quality at South Ocean Beach, (3) protect the Lake Merced Tunnel and related wastewater system infrastructure from damage due to shoreline erosion, storm and wave hazards, and sea level rise in order to maintain current operational capacity and meet regulatory permit requirements, and (4) maintain vehicle access for: SFPUC wastewater facility operations, San Francisco Zoo visitor parking lot via Sloat, Emergency response personnel, maintenance of public access trail, and long-term beach nourishment, and the SFPUC's wastewater assets built to protect public health and the environment;; and

WHEREAS, SFPUC and San Francisco Recreation and Parks Department staff negotiated a letter of agreement containing the basic terms of an anticipated Memorandum of Understanding to (1) memorialize ownership and maintenance obligations for Project improvements, (2) set forth the terms and conditions under which the SFPUC will construct and install the Project improvements, (3) memorialize the process and respective responsibilities for obtaining permanent easement rights from the National Park Service for certain Project improvements, (4) provide the terms and conditions for SFPUC's use of San Francisco Recreation and Parks Department property for installation or construction of Project improvements, and (5) provide the terms and conditions for each department to use the lands of the other department for ongoing operation, maintenance, and repair of its respective Project improvements; and

WHEREAS, On September 28, 2023, the Planning Commission certified the Final Environmental Impact Report for the Ocean Beach Climate Change Adaptation Project (Case No. 2019-020115ENV) prepared pursuant to the CEQA by Motion No. 21398; and

WHEREAS, The San Francisco Zoological Society and the San Francisco Recreation and Park Department, have raised concerns about the sufficiency of vehicle access to the Zoo's patron parking lot under the Project, which would remove the southern entrance and exit to the Zoo lot and require vehicles entering the Zoo lot to perform a U-turn at the end of Sloat Boulevard; and

WHEREAS, The Environmental Impact Report considered access to the San Francisco Zoo under the Project, and concluded that such access would not result in significant impacts related to hazardous conditions or inadequate emergency access; and

WHEREAS, The Planning Department is the custodian of records, located in File No. 2019-020115ENV at 49 South Van Ness Avenue, Suite 1400, San Francisco, California; and

WHEREAS, The Project files, including the Final Environmental Impact Report, CEQA Findings and the Mitigation Monitoring and Reporting Program have been made available for review by this Commission and the public, and those files are part of the record before this Commission; and

WHEREAS, This Commission has reviewed and considered the information contained in the Final Environmental Impact Report, the CEQA Findings, and all written and oral information provided by the Planning Department, the public, relevant public agencies, SFPUC staff and other experts and the administrative files for the Ocean Beach Climate Change Adaptation Project; now, therefore, be it

RESOLVED, That this Commission, having reviewed and considered the Final Environmental Impact Report and the record as a whole for the Ocean Beach Climate Change Adaptation Project, finds that the Final Environmental Impact Report is adequate for its use as the decision-making body to approve the Project, and hereby adopt the CEQA Findings and Mitigation Monitoring and Reporting Program; and be it

FURTHER RESOLVED, That this Commission hereby approves the Ocean Beach Climate Change Adaptation Project and authorizes staff to proceed with actions necessary to implement the Project, including obtaining a Coastal Development Permit from the California Coastal Commission and any other required permits, provided that subsequent Commission action will be required to award the contracts for construction of the Project; and be it

FURTHER RESOLVED, That this Commission hereby approves the letter of agreement describing the anticipated Memorandum of Understanding between the SFPUC and the San Francisco Recreation and Park Department regarding construction and operation of the Project; and authorizes the General Manager of the SFPUC to negotiate and execute said Memorandum of Understanding with San Francisco Recreation and Park Department; and be it

FURTHER RESOLVED, The SFPUC, in coordination with the San Francisco Municipal Transportation Agency, San Francisco Recreation and Park Department, Planning Department, and Public Works, will evaluate vehicle access to the Zoo parking lot, and will consider whether any subsequent project is necessary to provide enhanced vehicle access, subject to any environmental review necessary at that time; and be it

FURTHER RESOLVED, That this Commission urges the San Francisco Recreation and Park Commission and the Board of Supervisors to restrict vehicular traffic on the Great Highway Extension and take any other actions necessary to facilitate the Project.

I hereby certify that the foregoing resolution was adopted by the Public Utilities Commission at its meeting of October 10, 2023.


Secretary, Public Utilities Commission



PLANNING COMMISSION MOTION NO. 21398

HEARING DATE: SEPTEMBER 28, 2023

Record No.: 2019-020115ENV
Project Title: Ocean Beach Climate Change Adaptation Project
Zoning: P (Public) and RH-1D (Residential House, One Family Detached) Zoning Districts
OS (Open Space) Height and Bulk District
Western Shoreline Area Plan
Block/Lot: 7281/006, 007, 009, 010
7282/008, 009
Project Sponsors: San Francisco Public Utilities Commission
Karen Frye – (415) 554-1652
KFrye@sfgov.org
San Francisco Recreation and Parks Department
Brian Stokle – (415) 575-5606
Brian.Stokle@sfgov.org
Staff Contact: Julie Moore – (628) 652-7566
Julie.Moore@sfgov.org

ADOPTING FINDINGS UNDER THE CALIFORNIA ENVIRONMENTAL QUALITY ACT RELATED TO THE CERTIFICATION OF A FINAL ENVIRONMENTAL IMPACT REPORT FOR THE OCEAN BEACH CLIMATE CHANGE ADAPTATION PROJECT AT OCEAN BEACH AND THE GREAT HIGHWAY, BETWEEN SLOAT AND SKYLINE BOULEVARDS, AND OCEAN BEACH NORTH OF LINCOLN BOULEVARD IN SAN FRANCISCO.

MOVED, that the San Francisco Planning Commission (hereinafter “Commission”) hereby CERTIFIES the Final Environmental Impact Report identified as Case No. 2019-020115ENV, for the Ocean Beach Climate Change Adaptation Project (hereinafter “Project”), based on the following findings:

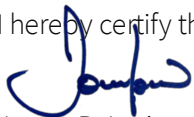
1. The City and County of San Francisco, acting through the Planning Department (hereinafter “Department”) fulfilled all procedural requirements of the California Environmental Quality Act (Cal. Pub. Res. Code Section 21000 et seq., hereinafter “CEQA”), the State CEQA Guidelines (Cal. Admin. Code Title 14, Section 15000 et seq., hereinafter “CEQA Guidelines”) and Chapter 31 of the San Francisco Administrative Code (hereinafter “Chapter 31”).
 - A. The Department determined that an Environmental Impact Report (hereinafter “EIR”) was required and provided public notice of that determination by publication in a newspaper of general circulation on September 9, 2020. This notice was mailed to the Department’s list of organizations and individuals requesting such notice, posted at the San Francisco County Clerk’s office, posted in the offices of the Department and on the Department website, mailed to the applicant(s), board(s), commission(s) and

department(s) that will carry out or approve the project, and mailed to property owners and occupants within 300-foot of the project site. Copies of the NOP were mailed or otherwise delivered to government agencies through the State Clearinghouse.

- B. On September 30, 2020, the Department held a virtual public scoping meeting to describe the project and receive oral comments on the scope of the EIR. The scoping meeting presentation was also posted on the Department website.
 - C. On December 8, 2021, the Department published the Draft Environmental Impact Report (hereinafter “DEIR”) and provided public notice in a newspaper of general circulation of the availability of the DEIR for public review and comment and of the date and time of the Planning Commission public hearing on the DEIR. The notice of availability of the DEIR and notice of public hearing was posted in the offices of the Planning Department and on the Planning Department website; filed with the San Francisco County Clerk; mailed to the Department’s list of organizations and individuals requesting such notice; mailed to interested parties; mailed to the applicant(s), board(s), commission(s) and department(s) that will carry out or approve the project; and mailed to property owners and occupants within 300-foot of the project site.
 - D. The notice of availability of the DEIR and of the date and time of the public hearing were posted at the site on December 8, 2021.
 - E. On December 8, 2021, copies of the DEIR were mailed or otherwise delivered to government agencies through the State Clearinghouse.
 - F. A notice of completion was filed with the State Secretary of Resources via the State Clearinghouse on December 8, 2021.
- 2. The Commission held a duly advertised public hearing on said DEIR on January 6, 2022, at which opportunity for public comment was given and public comment was received on the DEIR. The period for acceptance of written comments ended on January 24, 2022.
 - 3. The Department prepared responses to comments on environmental issues received at the public hearing and in writing during the 45-day public review period for the DEIR, prepared revisions to the text of the DEIR in response to comments received or based on additional information that became available during the public review period, and corrected errors in the DEIR. This material was presented in a Responses to Comments document, published on September 14, 2023, distributed to the Commission and all parties who commented on the DEIR, and made available to others upon request at the Department.
 - 4. A Final Environmental Impact Report (hereinafter “FEIR”) has been prepared by the Department, consisting of the DEIR, any consultations and comments received during the review process, any additional information that became available, and the Responses to Comments document, all as required by law.
 - 5. Project EIR files have been made available for review by the Commission and the public. These files are available for public review at the Department at 49 South Van Ness Avenue, Suite 1400, and are part of the record before the Commission. The Project EIR files have also been made available for public review online at <https://tinyurl.com/OceanBeachEIR>.

6. The Commission, in certifying the completion of said FEIR, hereby does find that that none of the factors that would necessitate recirculation of the FEIR under CEQA Guidelines Section 15088.5 are present. The FEIR contains no information revealing (1) any new significant environmental impact that would result from the Project or from a new mitigation measure proposed to be implemented, (2) any substantial increase in the severity of a previously identified environmental impact, (3) any feasible Project alternative or mitigation measure considerably different from others previously analyzed that would clearly lessen the environmental impacts of the Project, but that was rejected by the Project's proponents, or (4) that the DEIR was so fundamentally and basically inadequate and conclusory in nature that meaningful public review and comment were precluded.
7. On September 28, 2023, the Commission reviewed and considered the information contained in the FEIR and hereby does find that the contents of said report and the procedures through which the FEIR was prepared, publicized, and reviewed comply with the provisions of CEQA, the CEQA Guidelines, and Chapter 31 of the San Francisco Administrative Code.
8. The Commission hereby does find that the FEIR concerning File No. 2019-020115ENV reflects the independent judgment and analysis of the City and County of San Francisco, is adequate, accurate and objective, and that the Responses to Comments document contains no significant revisions to the DEIR, and hereby does CERTIFY THE COMPLETION of said FEIR in compliance with CEQA, the CEQA Guidelines, and Chapter 31 of the San Francisco Administrative Code.
9. The Commission, in certifying the completion of said FEIR, hereby does find that the Project described in the EIR:
 - A. Would have a significant unavoidable project-specific impact on biological resources.
 - B. Would have a significant unavoidable project-specific impact and a considerable contribution to a significant cumulative impact on transportation and circulation.
 - C. Would have a significant and unavoidable project-specific impact on noise and a considerable contribution to a significant cumulative impact on noise.

I hereby certify that the Planning Commission ADOPTED the foregoing Motion on September 28, 2023.



Jonas P. Ionin
Commission Secretary

AYES: Braun, Ruiz, Diamond, Imperial, Koppel, Moore, Tanner
NAYS: None
ABSENT: None
ADOPTED: September 28, 2023

MITIGATION MONITORING AND REPORTING PROGRAM

Case No.: 2019-020115ENV
Project Title: Ocean Beach Climate Change Adaptation Project
BPA Nos: Not Applicable
Zoning: P (Public) and RH-1D (Residential House, One Family Detached)
 Zoning Districts, OS (Open Space) Height and Bulk District
 Western Shoreline Area Plan

Block/Lot: 7281/006, 007, 009, 010
 7282/008, 009
Lot Size: Various
Project Sponsor: San Francisco Public Utilities Commission and
 San Francisco Recreation and Parks Department
Lead Agency: San Francisco Planning Department
Staff Contact: Julie Moore – (628) 652-7566

The table below indicates when compliance with each mitigation measure must occur. Some mitigation measures span multiple phases. Substantive descriptions of each mitigation measure's requirements are provided on the following pages in the Mitigation Monitoring and Reporting Program.

Adopted Mitigation Measure	Period of Compliance			Compliance with MM completed?
	Prior to the start of Construction*	During Construction**	Post-Construction or Operational***	
Mitigation Measure M-NO-3: Noise Monitoring and Traffic Re-Distribution Noise Reduction Plan	X	X	X	
Mitigation Measure M-C-NO-1: Cumulative Construction Noise Control Measures	X	X		
Mitigation Measure M-BI-2a: Nesting Bank Swallow Protection Measures	X	X	X	
Mitigation Measure M-BI-2b: Worker Environmental Awareness Program Training	X	X	X	
Mitigation Measure M-BI-2c: Bank Swallow Signage and Protective Fencing	X	X		
Mitigation Measure M-BI-2d: Public Engagement Specialist	X	X	X	
Mitigation Measure M-BI-2e: Bank Swallow Movement, Population Dynamics, and Coastal Habitat Use Research	X	X	X	
Mitigation Measure M-BI-2f: Blufftop Foraging Habitat Restoration	X	X	X	
Mitigation Measure M-BI-2g: Bank Swallow Habitat Enhancement	X	X		
Mitigation Measure M-BI-2h: Bank Swallow Artificial Habitat Creation	X	X	X	
Mitigation Measure M-BI-9: Avoidance and Minimization Measures for Special-Status Bats and Maternity Roosts	X	X		

Adopted Mitigation Measure	Period of Compliance			Compliance with MM completed?
	Prior to the start of Construction*	During Construction**	Post-Construction or Operational***	
Mitigation Measure M-AQ-2: Construction Emissions Minimization	X	X		
Mitigation Measure M-GE-5: Paleontological Resources Monitoring and Mitigation Program	X	X		

NOTES:

* Prior to any ground-disturbing activities at the project site, including during the design phase.

** Construction is broadly defined to include any physical activities associated with construction of a development project including, but not limited to: site preparation, clearing, demolition, excavation, shoring, foundation installation, and building construction.

*** Post-construction is used for a reporting action that has a discrete end after construction (i.e., five years of surveys). Operational refers to ongoing beach nourishment and dune restoration activities over the life of the project.

In addition to the mitigation measures in this Mitigation Monitoring and Reporting Program, the SFPUC's standard construction measures are required to be implemented for work undertaken by the SFPUC. The standard construction measures would also be required to apply as part of any funding agreement.

MITIGATION MONITORING AND REPORTING PROGRAM

Adopted Mitigation Measure	MONITORING AND REPORTING PROGRAM ¹			
	Implementation Responsibility	Mitigation Schedule	Monitoring / Reporting Responsibility	Monitoring Actions / Completion Criteria
NOISE AND VIBRATION				
Mitigation Measure M-NO-3: Noise Monitoring and Traffic Re-Distribution Noise Reduction Plan To reduce roadside noise increases attributable to rerouted traffic resulting from the project, prior to the project's closure of the Great Highway, the SFPUC shall prepare, and the city shall implement, a Noise Monitoring and Traffic Re-Distribution Noise Reduction Plan for Sloat and Skyline boulevards, as described further below. The goal of the Noise Monitoring and Traffic Re-Distribution Noise Reduction Plan is to reduce roadway noise level increases sufficient to achieve a performance standard of a less than 3 dBA increase over existing ambient traffic noise levels along: a) Sloat Boulevard between Great Highway and 47th Avenue; b) Sloat Boulevard between 47th Avenue and Skyline Boulevard; and c) Skyline Boulevard between Sloat Boulevard and Harding Road. The Noise Monitoring and Traffic Re-Distribution Noise Reduction Plan shall include the following elements: Part I – Noise Monitoring Noise monitoring shall be conducted along the three segments of Sloat Boulevard and Skyline Boulevard listed above prior to and after intersection closure to empirically verify the amount of noise reduction required to meet the performance standard of less than 3dBA increase over existing ambient traffic noise. Noise monitoring shall consist of one-week-long 24-hour measurements collected prior to closure of the Great Highway between Sloat and Skyline boulevards, and three, six, and nine months after the roadway	- SFPUC EMG (qualified noise consultant) - SFPUC EMG (qualified noise consultant) - SFPUC EMG (qualified noise consultant), Public Works, SFMTA, Caltrans - SFPUC PMB, SFPUC EMG (qualified noise consultant), SFMTA, Public Works - SFPUC EMG (qualified noise consultant)	- Pre-construction - Pre-construction, Construction - Construction - Construction - Post Construction	- SFPUC EMG, ERO - SFPUC EMG, ERO - SFPUC EMG, ERO - SFPUC EMG - SFPUC EMG, ERO	- Prepare noise monitoring plan and submit for ERO review and approval to conduct monitoring prior to any nearby transportation improvements. - Conduct noise monitoring prior to and 3, 6, and 9 months after Great Highway closure. Submit monitoring results to ERO. - If post-closure noise levels increase by 3 dBA or greater, prepare a traffic redistribution noise reduction plan in coordination with SFMTA, Public Works, and Caltrans, as appropriate. Submit plan to ERO for review and approval within 12 months following completion of noise monitoring. - Coordinate with Caltrans, SFMTA, and Public Works, as appropriate, on the design of the noise reduction measures. Implement measures within 24 months of ERO's plan approval. - Demonstrate noise level reduction achieved (via modelling or measurements) within 6 months of noise reduction measure implementation.

Adopted Mitigation Measure	MONITORING AND REPORTING PROGRAM ¹			
	Implementation Responsibility	Mitigation Schedule	Monitoring / Reporting Responsibility	Monitoring Actions / Completion Criteria
NOISE AND VIBRATION (CONT.)				
closure. A noise monitoring plan shall be approved by the Environmental Review Officer (ERO), or its designee, prior to noise monitoring. Part II - Noise Reduction • If noise monitoring indicates that the project has resulted in a persistent increase of traffic noise levels of 3 dBA or greater relative to pre-closure conditions, within the three, six, or nine months after post-closure noise monitoring completion, the city, in consultation with a qualified noise consultant, shall identify measures that would achieve the required performance standard (a noise level increase less than 3 dBA) on the affected roadway segments. The proposed traffic noise reduction measures must be described in a Traffic Re-Distribution Noise Reduction Plan that shall be submitted to the ERO for review and approval within 12 months from the completion of noise monitoring. The noise reduction measures may include, but are not limited to: speed limit reductions, installation of new traffic signals, and street redesign (e.g., lane reduction, speed tables, or other traffic calming features). • The city shall confer with Caltrans with respect to elements of the Traffic Re-Distribution Noise Reduction Plan that may require implementation on Skyline Boulevard, which is outside the jurisdiction of the city. • With the exception of measures within Caltrans' jurisdiction whose implementation is beyond the city's control, the city shall implement noise reduction measures identified in the Traffic Re-Distribution Noise Reduction Plan within 24 months of ERO approval of the Plan. This timeline may be extended, with ERO approval, if the city identifies separate projects or other circumstances that may reduce traffic noise levels on the affected roadway segments (such as other changes to the transportation network or implementation of other traffic calming measures in the vicinity).				

	MONITORING AND REPORTING PROGRAM ¹			
Adopted Mitigation Measure	Implementation Responsibility	Mitigation Schedule	Monitoring / Reporting Responsibility	Monitoring Actions / Completion Criteria
NOISE AND VIBRATION (CONT.)				
Within 6 months of noise reduction measure implementation, the SFPUC shall: (1) demonstrate to the ERO that implementation of the noise reduction measures has achieved the required performance standard; or (2) in consultation with Caltrans and city departments with jurisdiction over the streets, identify adjustments or alternative measures proposed to achieve the standard, along with an implementation and monitoring schedule.				
Mitigation Measure M-C-NO-1: Cumulative Construction Noise Control Measures If exterior construction of the northern end of the buried wall for the proposed project is determined to overlap with that of nearby adjacent project(s) (2700 Sloat Boulevard Project, the Westside Pump Station Reliability Improvements Project, or the Westside Force Main Reliability Project), the SFPUC or contractor shall submit a project-specific construction noise control plan to the ERO or the ERO's designee for approval. Exterior construction for purposes of the proposed project and the nearby cumulative projects includes construction including the following activities; heavy-duty construction equipment for excavation, grading, foundation and shoring, and construction of building shells. The construction noise control plan shall be prepared by a qualified acoustical engineer, with input from the construction contractor, and include all feasible measures to reduce construction noise. The construction noise control plan shall identify noise control measures to meet a performance target of construction activities not resulting in a noise level greater than 10 dBA above the ambient noise level at noise sensitive receptors (daytime ambient noise levels at the time construction begins + 10 dBA performance target). The SFPUC shall ensure that requirements of the construction noise control plan are included in contract specifications. If nighttime construction is required, the plan shall include specific measures to reduce nighttime construction noise. The plan shall also include measures for notifying the public of construction activities, complaint procedures, and a plan	1. SFPUC EMB 2. SFPUC CM Team (qualified acoustical engineer) 3. SFPUC CM Team 4. SFPUC CM Team 5. SFPUC CM Team 6. SFPUC CM Team 7. SFPUC CM Team 8. SFPUC CM Team	1. Design 2. Pre-construction, Construction 3. Construction 4. Pre-construction, Construction 5. Construction 6. Construction 7. Construction 8. Construction	1. SFPUC EMG 2. SFPUC EMG, ERO 3. SFPUC EMG 4. SFPUC EMG 5. SFPUC EMG 6. SFPUC EMG 7. SFPUC EMG 8. SFPUC EMG	1. Ensure contract documents include preparation and implementation of Construction Noise Control Plan, if project construction of the northern end of the buried wall overlaps with identified cumulative projects. 2. Prepare Construction Noise Control Plan, submit for ERO review and approval. 3. Monitor to ensure that the contractor implements the Construction Noise Control Plan. Report noncompliance and ensure corrective action. 4. Designate on-site construction noise manager. 5. Notify neighboring noise sensitive receptors at least 30 days in advance of high-intensity noise activities (10 dBA above ambient). 6. Post sign specifying construction timing and noise complaint procedures. 7. Ensure appropriate staffing of noise complaint hotline number. 8. Develop measures to respond and track construction noise complaints.

Adopted Mitigation Measure	MONITORING AND REPORTING PROGRAM ¹			
	Implementation Responsibility	Mitigation Schedule	Monitoring / Reporting Responsibility	Monitoring Actions / Completion Criteria
NOISE AND VIBRATION (CONT.)				
for monitoring construction noise levels in the event complaints are received. The construction noise control plan shall include the following measures to the degree feasible, or other effective measures, to reduce construction noise levels: • Use construction equipment that is in good working order, and inspect mufflers for proper functionality • Select “quiet” construction methods and equipment (e.g., improved mufflers, use of intake silencers, engine enclosures) • Use construction equipment with lower noise emission ratings whenever possible, particularly for air compressors • Prohibit the idling of inactive construction equipment to no more than five minutes • Locate stationary noise sources (such as compressors) as far from nearby noise sensitive receptors as possible, muffle such noise sources, and/or construct barriers around such sources and/or the construction site • Avoid placing stationary noise-generating equipment (e.g., generators, compressors) within noise-sensitive buffer areas (as determined by the acoustical engineer) immediately adjacent to neighbors or other noise-sensitive properties • Enclose or shield stationary noise sources from neighboring noise-sensitive properties with noise barriers to the extent feasible. To further reduce noise, locate stationary equipment in pit areas or excavated areas, if feasible • Install temporary barriers, barrier-backed sound curtains and/or acoustical panels around working powered impact equipment and, if necessary, around the project site perimeter. When temporary barrier units are joined together, the mating surfaces shall be flush with each other. Gaps between barrier units, and between the bottom edge of the barrier panels and the ground, shall be closed with material that completely closes the gaps, and dense enough to attenuate noise	9. SFPUC CM Team (qualified noise consultant)	9. Construction	9. SFPUC EMG	9. Monitor noise prior to and at beginning of major construction phases and during high-intensity activities. If necessary, implement additional noise control measures.
	10. SFPUC CM Team	10. Construction	10. SFPUC EMG	10. Maintain documentation of complaints received and construction noise levels monitored during construction.

Adopted Mitigation Measure	MONITORING AND REPORTING PROGRAM ¹			
	Implementation Responsibility	Mitigation Schedule	Monitoring / Reporting Responsibility	Monitoring Actions / Completion Criteria
NOISE AND VIBRATION (CONT.)				
The construction noise control plan shall include the following measures for notifying the public of construction activities, complaint procedures and monitoring of construction noise levels: • Designation of an on-site construction noise manager for the project • Notification to neighboring noise sensitive receptors within 300 feet of the project construction area at least 30 days in advance of high-intensity noise-generating activities (e.g., pier drilling, pile driving, and other activities that may generate noise levels greater than 10 dBA above the ambient noise level at noise sensitive receptors) about the estimated duration of the activity • A sign posted on-site describing noise complaint procedures and a complaint hotline number that shall always be answered during construction • A procedure for notifying the planning department of any noise complaints within one week of receiving a complaint • A list of measures for responding to and tracking complaints pertaining to construction noise. Such measures may include the evaluation and implementation of additional noise controls at sensitive receptors (residences, hospitals, convalescent homes, schools, churches, hotels and motels, and sensitive wildlife habitat) • Conduct noise monitoring (measurements) at the beginning of major construction phases (e.g., demolition, grading, excavation) and during high-intensity construction activities to determine the effectiveness of noise attenuation measures and, if necessary, implement additional noise control measures				

Adopted Mitigation Measure	MONITORING AND REPORTING PROGRAM¹			
	Implementation Responsibility	Mitigation Schedule	Monitoring / Reporting Responsibility	Monitoring Actions / Completion Criteria
BIOLOGICAL RESOURCES				
Mitigation Measure M-BI-2a: Nesting Bank Swallow Protection Measures This measure applies to construction activities and small sand placements. Nesting bank swallows, their eggs and their nests, and their young shall be protected during construction and during sand placement events through the implementation of the following measures: a. If construction or beach nourishment activities within 650 feet of the bluffs used by the Fort Funston bank swallow colony are conducted during bank swallow nesting season (nesting is from April 1 to August 1), a qualified wildlife biologist shall conduct preconstruction surveys for nesting bank swallow within seven days prior to the start of construction, beach nourishment activities, and prior to reinitiating construction at this location after any construction breaks of 14 days or more. b. If active bank swallow nest sites are located during the preconstruction nesting surveys, a 650-foot no-disturbance buffer shall be established around the burrow nest site and all project work shall halt within the buffer until a qualified biologist determines the nest is no longer in use.	1. SFPUC EMB	1. Design, Operation	1. SFPUC EMG	1. Ensure contract documents include protection measures for nesting bank swallow, including providing advance notification to SFPUC EMG of construction activities to allow SFPUC EMG to perform surveys if construction or sand placement activities are planned to occur during bank swallow nesting season.
	2. SFPUC CM Team (qualified biologist)	2. Construction, Operation	2. SFPUC EMG	2. Conduct surveys within seven days prior to project activities and after any work break of 14 days or more if activities occur within 650 feet of habitat and during bank swallow nesting season.
	3. SFPUC CM Team (qualified biologist)	3. Construction, Operation	3. SFPUC EMG	3. If active nests found, establish 650-foot no-disturbance buffer. Halt project work until qualified biologist indicates the nest is inactive and work may resume. Monitor to ensure compliance. Report noncompliance and ensure corrective action.
Mitigation Measure M-BI-2b: Worker Environmental Awareness Program Training This measure applies to construction activities and small sand placements. A project-specific Worker Environmental Awareness Program training shall be developed by a qualified biologist for the project and attended by all construction personnel prior to beginning on-site work. As part of the training, brochures may be given to provide reference material to contractors. The training may be provided by the qualified biologist or by designated SFPUC staff trained by the biologist to provide this training, using the materials developed by the qualified biologist, and may be administered via a video-recorded	1. SFPUC EMB	1. Pre-construction	1. SFPUC EMG	1. Ensure contract documents include requirements for all construction personnel to attend Worker Environmental Awareness Program training.
	2. SFPUC CM Team (qualified biologist)	2. Pre-construction	2. SFPUC EMG	2. Prepare a project-specific biological-resources awareness training program. Include documentation of qualifications of the biologist developing the training program (e.g., resume). Refer to mitigation measure for specific worker environmental training requirements.

Adopted Mitigation Measure	MONITORING AND REPORTING PROGRAM ¹			
	Implementation Responsibility	Mitigation Schedule	Monitoring / Reporting Responsibility	Monitoring Actions / Completion Criteria
BIOLOGICAL RESOURCES (CONT.)				
training produced specifically for the project by a qualified biologist. A more in-depth environmental training may be developed and provided for contractor supervisors in leadership roles. The environmental training shall generally include but not be limited to education about the following: a. Applicable state and federal laws, environmental regulations, project permit conditions, and penalties for non-compliance; b. Special-status species with potential to occur on or in the vicinity of the project sites, avoidance measures, and a protocol for encountering such species including a communication chain; c. Preconstruction surveys and biological monitoring requirements associated with each phase of work and at each project site as biological resources and protection measures will vary depending on project component location and the corresponding land managers (see f, below); d. Known sensitive resource areas in the project vicinity that are to be avoided and/or protected, as well as approved project work areas, access roads, and staging areas; e. Best management practices and their location at various project sites for erosion control and species exclusion, in addition to general housekeeping requirements; and f. Specific requirements sanctioned by the National Park Service (NPS) that the project must comply with while working on NPS-managed lands.	3. SFPUC CM Team (qualified biologist)	3. Construction	3. SFPUC EMG	3. Monitor to ensure that all personnel attend training prior to beginning work, and sign training sign-in sheet. Maintain file of sign-in sheets in project record. Report noncompliance and ensure corrective action.

Adopted Mitigation Measure	MONITORING AND REPORTING PROGRAM ¹			
	Implementation Responsibility	Mitigation Schedule	Monitoring / Reporting Responsibility	Monitoring Actions / Completion Criteria
BIOLOGICAL RESOURCES (CONT.)				
Mitigation Measure M-BI-2c: Bank Swallow Signage and Protective Fencing During the construction period and prior to project completion, the SFPUC, with the oversight of the planning department, shall implement the following: a. Educational Kiosk or Signs. Develop and produce one, permanent educational kiosk or signage to be installed in the Skyline coastal parking lot or along the multi-use trail. Educational content, sign design and structure shall be coordinated with the San Francisco Recreation and Parks Department and the National Park Service (NPS). b. Sensitive Habitat Signs. Develop and produce removable sensitive habitat signs that shall be installed on NPS property along bluff top access points at Fort Funston and within the conservation easement with the Olympic Club above Phillip Burton Memorial beach near the bank swallow nesting locations to alert the public of the sensitive nesting areas. The SFPUC and NPS shall enter into an agreement for the one-time development and production of the removable signs that the NPS shall install at its discretion as long as the bank swallow are listed as special-status and nesting within NPS-managed lands or within the boundaries of its conservation easement. c. Sensitive Habitat Fencing. Install removable fencing at a setback from the bluff edge above suitable nesting habitat to restrict public access above sensitive nesting areas. The SFPUC and NPS shall enter into an agreement for the one-time development and production of the removable fencing that the NPS shall design and install at its discretion as long as the bank swallow are listed as special-status and nesting within NPS-managed lands or within the boundaries of its conservation easement with the Olympic Club.	1. SFPUC EMB, RPD/SFMTA, NPS	1. Design	1. SFPUC EMG, ERO	1. Ensure contract documents include development and installation of the permanent educational kiosk or signage at Skyline parking lot or along multi-use trail.
	2. SFPUC PMB, NPS and RPD/SFMTA	2. Construction	2. SFPUC EMG, ERO	2. Establish an agreement with NPS and RPD/SFMTA for the one-time development and installation of educational kiosk or signage at Skyline parking lot or along multi-use trail.
	3. SFPUC EMB, SFPUC EMG, RPD/SFMTA and NPS	3. Construction	3. SFPUC EMG, ERO	3. Develop and produce educational kiosk or signage (Skyline coastal parking lot or multi-use trail) in coordination with RPD/SFMTA and NPS.
	4. SFPUC CM Team, RPD/SFMTA and NPS	4. Construction	4. SFPUC EMG	4. Install educational kiosk or signage (Skyline coastal parking lot or multi-use trail) in coordination with RPD/SFMTA and NPS.
	5. SFPUC PMB, SFPUC EMG, and NPS	5. Pre-construction	5. SFPUC PMB, SFPUC EMG, ERO	5. Enter into an agreement for the one-time development and production of the removable sensitive habitat signs and fencing (bluff top access points near nesting locations) that NPS shall install on an annual basis at their discretion.
	6. SFPUC EMG, SFPUC EMB, and NPS	6. Construction	6. SFPUC EMG, ERO	6. Develop and produce removable sensitive habitat signs and fencing (bluff top access points near nesting locations) that NPS shall install at their discretion.
	7. NPS	7. Construction	7. SFPUC EMG	7. Install removable sensitive habitat signs and fencing (bluff top access points near nesting locations)

Adopted Mitigation Measure	MONITORING AND REPORTING PROGRAM ¹			
	Implementation Responsibility	Mitigation Schedule	Monitoring / Reporting Responsibility	Monitoring Actions / Completion Criteria
BIOLOGICAL RESOURCES (CONT.)				
Mitigation Measure M-BI-2d: Public Engagement Specialist The SFPUC shall enter an agreement with NPS requiring SFPUC to fund bank swallow public engagement work by a seasonal, part-time, public engagement specialist for five bank swallow nesting seasons (April 1 to August 1). The role of the public engagement specialist shall be determined by NPS, and may include visual monitoring of the public's compliance with physical deterrents, supporting ongoing NPS bank swallow monitoring, development of educational materials, and public engagement and education related to bank swallow and their nesting habitat. The public engagement specialist shall prepare a final report for submission to NPS and the ERO at the end of the five nesting seasons documenting lessons learned and recommendations for future habitat protection and management actions.	1. SFPUC PMB, NPS 2. SFPUC CM Team and NPS/ERO (Public engagement specialist)	1. Pre-construction 2. Post Construction	1. SFPUC EMG, NPS 2. SFPUC EMG, NPS	1. Enter into funding agreement with NPS. 2. Prepare final report at the end of five nesting seasons.
Mitigation Measure M-BI-2e: Bank Swallow Movement, Population Dynamics, and Coastal Habitat Use Research The SFPUC shall fund up to five years of research related to bank swallow movement, population dynamics, and coastal habitat selection. The research scope shall be developed in coordination with NPS and approved by the ERO, and research shall be conducted by a qualified biologist with relevant expertise. Research supported by this measure would augment existing NPS monitoring data to quantify survivorship and movement patterns of bank swallows in coastal California, specifically the Fort Funston population, to better understand the populations' habitat selection, and identify its key threats. The funding agreement shall stipulate that the findings of the research funded under this measure shall be documented in a final report and made publicly available, to increase the body of knowledge around the species' habitat conservation and management.	1. SFPUC PMB, NPS 2. SFPUC EMG, NPS, qualified research team	1. Pre-construction 2. Post Construction	1. SFPUC EMG, NPS 2. SFPUC EMG, NPS	1. Identify research team, enter into funding agreement. 2. Prepare and publish final report and make publicly available.

Adopted Mitigation Measure	MONITORING AND REPORTING PROGRAM ¹			
	Implementation Responsibility	Mitigation Schedule	Monitoring / Reporting Responsibility	Monitoring Actions / Completion Criteria
BIOLOGICAL RESOURCES (CONT.)				
Mitigation Measure M-BI-2f: Blufftop Foraging Habitat Restoration Prior to construction, the SFPUC shall submit to the NPS and the Environmental Review Officer (ERO), a detailed restoration plan and schedule for implementing this measure. The schedule shall provide for completion of the restoration prior to completion of project construction. If any element of the restoration plan cannot be completed prior to completion of project construction, the SFPUC shall provide an explanation and an alternative completion date. The plan shall also include a proposed monitoring and reporting schedule. Upon completion of the work described in this measure, the SFPUC shall prepare and submit to NPS and the ERO a final report describing the types, dates, and locations of work performed. The SFPUC, with oversight from the planning department and in coordination with the NPS, shall implement or fund restoration of: 1) approximately 2 acres of bluff-top foraging habitat within the approximately 8-acre portion of Fort Funston identified for habitat restoration in Figure 4.6-3a; and 2) an additional approximately 200 linear feet of blufftop dune habitat at locations above active nesting habitat identified and mapped in the bank swallow habitat assessment memorandum where safe and effective at limiting human disturbance (ESA, 2023. Memorandum: Fort Funston Bank Swallow Habitat Assessment, Revised January 11, 2023). Restoration activities may include removing non-native and/or invasive vegetation and planting native dune plants using hand tools, an NPS-approved herbicide, and mechanical equipment (e.g., small backhoe or excavator), or combination thereof, and in combination with installation of sensitive habitat signage and removable fencing provided in M-BI-2c. All work shall be performed in accordance with the requirements of SFPUC's Standard Construction Measures, as applicable.	1. SFPUC EMB (qualified biologist)	1. Pre-construction	1. SFPUC EMG, NPS, ERO	1. Prepare Blufftop Foraging Habitat Restoration Plan and implementation schedule
	2. SFPUC PMB, NPS	2. Pre-construction, Construction	2. SFPUC EMG, NPS, ERO	2. Fund NPS restoration or implement restoration.
	3. SFPUC EMB (qualified biologist), SFPUC CM Team (qualified biologist)	3. Construction, Post Construction	3. SFPUC EMG, NPS, ERO	3. Implement restoration and prepare final "as-built" report.
	4. SFPUC EMG or NPS	4. Post Construction	4. SFPUC EMG or NPS, ERO	4. Monitor restoration for five years or until the sites meet the success criteria determined in the plan and prepare final monitoring report.

Adopted Mitigation Measure	MONITORING AND REPORTING PROGRAM ¹			
	Implementation Responsibility	Mitigation Schedule	Monitoring / Reporting Responsibility	Monitoring Actions / Completion Criteria
BIOLOGICAL RESOURCES (CONT.)				
The SFPUC shall prepare and implement or fund a bank swallow foraging habitat revegetation and restoration plan which sets forth the basis of restoration design, planting plan, and monitoring and reporting requirements for the restoration areas. The plan shall be coordinated with and approved by NPS and shall inform restoration design plans developed by the SFPUC in coordination with NPS. The restoration monitoring plan shall be prepared by a qualified restoration ecologist and shall include or provide for the following: • Restoration methods for selected areas, including site preparation, such as removal of existing vegetation and soil preparation, seed material and application, vegetative plant material harvest (if any), and plant specimen sourcing and planting methods; • Schedule to guide seed and/or vegetative material collection/harvest or procurement, and seeding and/or planting within the restoration areas; • Quantitative monitoring methods to evaluate performance of restored areas, including characterizing species richness, vegetative composition and cover; • Identification of appropriate reference sites to implement monitoring methods and compare results with restoration areas regarding species richness, vegetative composition and cover; • Photo points located at each restoration site and reference area(s) to document conditions during the monitoring period; • Performance criteria and measures to control/remove target invasive plants according to NPS policies. Control species shall include those ranked by Cal-IPC as high or moderately invasive. The performance standard for target invasive weeds shall be no more than 10 percent absolute cover during the five-year performance period;				

Adopted Mitigation Measure	MONITORING AND REPORTING PROGRAM ¹			
	Implementation Responsibility	Mitigation Schedule	Monitoring / Reporting Responsibility	Monitoring Actions / Completion Criteria
BIOLOGICAL RESOURCES (CONT.)				
- Performance criteria for native plantings, appropriate for species and quantities planted at the 2-acre restoration site and the blufftop restoration sites (criteria may differ depending on site design); - Adaptive management schedule and actions (maintenance weeding or replanting) to address underperformance throughout the monitoring period; - Restoration areas shall be monitored to assess plant establishment for five years or until the sites meet the success criteria determined in the plan. At a minimum, total native vegetation cover, composition, and species richness in the restored areas shall be monitored and maintained until comparable with suitable reference sites.				
Mitigation Measure M-BI-2g: Bank Swallow Habitat Enhancement The SFPUC shall implement or fund ice plant removal from the bluff face within suitable nesting habitat areas (i.e., active and historic nest sites), as identified in the bank swallow habitat assessment memorandum (ESA, 2023. Memorandum: Fort Funston Bank Swallow Habitat Assessment, Revised January 11, 2023). The ice plant removal shall be completed prior to completion of project construction. If the removal work cannot be completed prior to project completion, the SFPUC shall provide the NPS and the ERO an explanation and an alternative completion date. Upon completion of the work described in this measure, the SFPUC shall prepare and submit to the NPS and the ERO a report describing the types, dates, and locations of work performed.	1. SFPUC PMB, NPS 2. SFPUC CM Team (qualified biologist or NPS) 3. SFPUC CM Team (qualified biologist) or NPS	1. Pre-construction 2. Construction 3. Construction	1. SFPUC EMG, NPS 2. SFPUC EMG or NPS 3. SFPUC EMG, or NPS, ERO	1. Fund the implementation of the Bank Swallow Habitat Enhancement (ice plant removal). 2. Remove ice plant. 3. Prepare and submit report describing types, dates, and locations of habitat enhancement.

Adopted Mitigation Measure	MONITORING AND REPORTING PROGRAM ¹			
	Implementation Responsibility	Mitigation Schedule	Monitoring / Reporting Responsibility	Monitoring Actions / Completion Criteria
BIOLOGICAL RESOURCES (CONT.)				
Mitigation Measure M-BI-2h: Bank Swallow Artificial Habitat Creation Prior to construction, the SFPUC shall submit to the NPS and the ERO a detailed plan and schedule for implementing this measure. The schedule shall provide for completion of the feasibility study described in paragraph 1, below, prior to completion of project construction and installation of the pilot project described in paragraph 2, below, prior to the first nesting season that follows project removal of bank swallow habitat. If any element of the plan cannot be completed on schedule, the SFPUC shall provide an explanation and an alternative completion date. Upon completion of the work described in this measure, the SFPUC shall prepare and submit to the ERO a final report as described in paragraph 2(c) of this mitigation measure. 1. Feasibility Study. The SFPUC shall fund development and implementation of a study to explore the feasibility, efficacy, and logistics of installing artificial habitat creation concepts within the project vicinity to support the local nesting bank swallow population. These concepts may include drilling artificial burrows into the bluff face, or installing wooden nest box “bank” habitats along the bluff top, among other concepts that have documented success supporting other nesting bank swallow populations and would not conflict with Coastal Act or other applicable laws or policies. The feasibility study shall be developed in coordination with NPS and analyze how each concept would be implemented along the Fort Funston blufftop or other nearby locations, including design, siting and other locational considerations, and geotechnical considerations. Feasible artificial habitat creation shall avoid disrupting scenic resources, cultural resources, or sensitive habitat. The feasibility study shall be completed in time to ensure the pilot project would be installed prior to the first nesting season after	1. SFPUC EMG, NPS	1. Pre-construction	1. SFPUC EMG, NPS, ERO	1. Prepare plan and schedule for implementing this measure.
	2. SFPUC EMG, NPS	2. Pre-construction	2. SFPUC EMG, NPS, ERO	2. Prepare feasibility study.
	3. SFPUC PMB, NPS	3. Pre-construction	3. SFPUC EMG, NPS, ERO	3. Fund implementation, monitoring, and reporting for pilot study
	4. SFPUC CM Team (qualified biologist), NPS	4. Construction	4. SFPUC EMG, NPS, ERO	4. Install artificial habitat.
	5. SFPUC EMG, NPS	5. Post Construction	5. SFPUC EMG, NPS, ERO	5. Prepare annual monitoring reports for pilot project for five years.
	6. SFPUC EMG, NPS	6. Post Construction	6. SFPUC EMG, NPS, ERO	6. Prepare final report upon completion of the five-year monitoring period.

Adopted Mitigation Measure	MONITORING AND REPORTING PROGRAM ¹			
	Implementation Responsibility	Mitigation Schedule	Monitoring / Reporting Responsibility	Monitoring Actions / Completion Criteria
BIOLOGICAL RESOURCES (CONT.)				
habitat removal by the project and identify at least one concept for implementation as an artificial habitat pilot project, though multiple concepts may be determined feasible and incorporated into the pilot project. 2. Pilot Project. The SFPUC shall fund development and implementation of an artificial habitat pilot project. The pilot project shall include implementing and monitoring the effectiveness of the selected experimental concept(s) identified in the feasibility study (e.g., drilling artificial burrows into the bluff face or installing several wooden nest box banks along the Fort Funston blufftop or other nearby locations). The artificial habitat should be constructed on a schedule that allows for bank swallow use ahead of the first nesting season following project removal of existing bluff habitat. a) Once installed, the artificial habitat(s) shall be surveyed for nesting activity monthly by a qualified biologist in April, and August, and twice a month in May, June, and July, for five consecutive years to document bank swallow use. b) An annual monitoring report shall be prepared that summarizes seasonal use observations at the artificial habitat(s). This report shall be provided to the NPS and the ERO within 90 days of the end of the annual monitoring period. The artificial habitat shall be considered successful if bank swallow nest or attempt to nest (repeatedly visit the habitat[s]) during the nesting season within the five-year monitoring period. c) Upon completion of the five-year monitoring period, a final report shall be prepared which compiles results of the artificial habitat pilot project. If the artificial habitat(s) was successful, the report shall include recommendations for potential funding mechanisms and partnerships for continued maintenance. This report shall be made publicly available.				

Adopted Mitigation Measure	MONITORING AND REPORTING PROGRAM ¹			
	Implementation Responsibility	Mitigation Schedule	Monitoring / Reporting Responsibility	Monitoring Actions / Completion Criteria
BIOLOGICAL RESOURCES (CONT.)				
All work shall be performed in accordance with the requirements of SFPUC's Standard Construction Measures, as applicable.				
Mitigation Measure M-BI-9: Avoidance and Minimization Measures for Special-Status Bats and Maternity Roosts A qualified biologist experienced in the identification of special-status bats shall conduct a preconstruction survey for special-status bat species habitat in advance of any tree trimming or removal to identify signs of potential bat habitat, including maternity colonies and any active roost sites. Identified bat maternity colonies shall be avoided, if possible. Should potential maternity colonies or active bat roosts be found in trees but cannot be avoided, SFPUC shall ensure the following measures are implemented: a. Trim trees or install bat exclusion devices when bats are active, approximately between the periods of March 1 to April 15 and August 15 to October 15; outside of the bat maternity roosting season (approximately April 15 to August 15) if a maternity roost is present, and outside the months of winter torpor (approximately October 15 to February 28, or as determined by a qualified biologist experienced in the identification of special-status bats). b. If tree trimming is not feasible during the periods when bats are active, and bat roosts being used for maternity or hibernation purposes are found on or in the immediate vicinity of the tree trimming, a qualified biologist shall delineate a no-disturbance buffer around these roost sites until they are no longer in use as maternity or hibernation roosts or the young are capable of flight. c. Based on the professional opinion of a qualified biologist, buffer distances may be adjusted around roosts depending on the level of surrounding ambient activity (e.g., if the subject tree is adjacent to a busy road) or if an obstruction, such as a large sand dune, is within the line-of-sight between the roost and construction.	1. SFPUC EMB 2. SFPUC CM Team (qualified biologist) 3. SFPUC CM Team (qualified biologist)	1. Design 2. Pre-construction (prior to tree trimming or removal) 3. Construction	1. SFPUC EMG 2. SFPUC EMG 3. SFPUC EMG	1. Ensure contract documents include avoidance and minimization measures for special-status bats and maternity roosts, and requirement for contractor to provide advance notification to SFPUC CM Team of construction activities to allow SFPUC CM Team to perform pre-construction surveys. 2. Conduct pre-construction special-status bat survey before tree trimming/removal. 3. If potential maternity colonies, roosting habitat, or active bat roosts are found in trees but cannot be avoided, implement measures specified in mitigation measure. Monitor to ensure that the contractor implements avoidance and minimization measures in contract documents. Report noncompliance and ensure corrective action.

Adopted Mitigation Measure	MONITORING AND REPORTING PROGRAM ¹			
	Implementation Responsibility	Mitigation Schedule	Monitoring / Reporting Responsibility	Monitoring Actions / Completion Criteria
BIOLOGICAL RESOURCES (CONT.)				
d. A biologist experienced in the identification of special-status bats shall be present during tree trimming and removal if bat roosts are present. Project activities shall disturb trees with roosts only when no rain is occurring or is not forecast to occur for three days and when daytime temperatures are at least 50 degrees Fahrenheit. e. Under the supervision of the qualified biologist, trim trees containing or suspected to contain roost sites over two days. On the first day, branches and limbs not containing cavities or fissures in which bats could roost shall be cut using chainsaws. The following day, branches or limbs containing roost sites shall be trimmed with chainsaws, under the supervision of the biologist.				
AIR QUALITY				
Mitigation Measure M-AQ-2: Construction Emissions Minimization A. Engine Requirements. All off-road equipment greater than 125 horsepower and operating for more than 20 total hours over the entire duration of construction activities shall have engines that meet the USEPA or California Air Resources Board Tier 4 Final off-road emission standards in construction years 2 and 4 (2025 and 2027). B. Waivers. The Environmental Review Officer (ERO) may waive the equipment requirements of section A if: (1) engines that comply with Tier 4 Final off-road emission standards are not available; (2) use of a particular piece of off-road equipment is technically not feasible; (3) the equipment would not produce desired emissions reduction due to expected operating modes; or (4) there is a compelling emergency need to use other off-road equipment. If the SFPUC seeks a waiver from the requirements of section A, it shall submit documentation to the ERO of the following: 1) evidence that a waiver from the section A requirements meets the criteria set forth in	1. SFPUC EMB 2. SFPUC CM Team 3. SFPUC CM Team	1. Design 2. Construction 3. Construction	1. SFPUC EMG 2. SFPUC EMG 3. SFPUC EMG, ERO	1. Ensure contract documents include construction emissions minimization requirements. 2. Monitor to ensure the contractor complies with Tier 4 Final engine requirements or next cleanest off-road equipment, as required. Report noncompliance and ensure corrective action. 3. Obtain off-road equipment waiver as per mitigation measure, if needed. Maintain records in project file documenting compliance with equipment waiver requirements, including demonstrating non-exceedance of NOx significance threshold (54 pounds/day).

Adopted Mitigation Measure	MONITORING AND REPORTING PROGRAM ¹											
	Implementation Responsibility	Mitigation Schedule	Monitoring / Reporting Responsibility	Monitoring Actions / Completion Criteria								
AIR QUALITY (CONT.)												
section B; 2) identification of the compliance alternative in Table M-AQ-2-1 to be implemented (or other compliance alternative that yield sufficient emissions reductions); and 3) analysis demonstrating that with the compliance alternative the project would not exceed the significance threshold for NOx of an average of 54 pounds/day. The SFPUC shall maintain records concerning its efforts to comply with this requirement. TABLE M-AQ-2-1 OFF-ROAD EQUIPMENT COMPLIANCE STEP-DOWN SCHEDULE <table><tr><th>Compliance Alternative</th><th>Engine Emission Standard</th></tr><tr><td>1</td><td>Tier 4 interim</td></tr><tr><td>2</td><td>Tier 3</td></tr><tr><td>3</td><td>Tier 2</td></tr></table> How to use the table: If the Tier 4 Final emissions standards cannot be met for a specific piece of off-road equipment, then the SFPUC would need to meet Compliance Alternative 1. Should the SFPUC not be able to supply off-road equipment meeting Compliance Alternative 1, then Compliance Alternative 2 would need to be met. Should the SFPUC not be able to supply off-road equipment meeting Compliance Alternative 2, then Compliance Alternative 3 would need to be met.	Compliance Alternative	Engine Emission Standard	1	Tier 4 interim	2	Tier 3	3	Tier 2				
Compliance Alternative	Engine Emission Standard											
1	Tier 4 interim											
2	Tier 3											
3	Tier 2											
GEOLOGY AND SOILS												
Mitigation Measure M-GE-5: Paleontological Resources Monitoring and Mitigation Program The SFPUC shall engage a qualified paleontologist meeting standards recommended by the Society for Vertebrate Paleontology (SVP) to develop a site-specific monitoring plan prior to commencing soil-disturbing activities at the project site. The Paleontological Monitoring Plan would determine project construction activities requiring paleontological monitoring based on those activities that may affect sediments with moderate or greater sensitivity for paleontological resources. Prior to any ground-disturbing activities, the SFPUC shall submit the Paleontological Monitoring Plan to the Environmental Review Officer (ERO) for approval.	1. SFPUC EMB	1. Design	1. SFPUC EMG	1. Ensure contract documents include requirements for paleontological resources monitoring and mitigation program, and requirement for contractor to provide advance notification to SFPUC CM Team of construction activities to allow SFPUC CM Team to monitor work.								

Adopted Mitigation Measure	MONITORING AND REPORTING PROGRAM ¹			
	Implementation Responsibility	Mitigation Schedule	Monitoring / Reporting Responsibility	Monitoring Actions / Completion Criteria
GEOLOGY AND SOILS (CONT.)				
At a minimum, the plan shall include: - Project Description - Regulatory Environment – outline applicable federal, state, and local regulations - Summary of Sensitivity Classification(s) - Research Methods, including but not limited to: - Field studies conducted by the qualified paleontologist to check for fossils at the surface and assess the exposed sediments. - Literature Review to include an examination of geologic maps and a review of relevant geological and paleontological literature to determine the nature of geologic units in the project area. Locality Search to include outreach to the University of California Museum of Paleontology in Berkeley. - Results: to include a summary of literature review and finding of potential site sensitivity for paleontological resources; and depth of potential resources if known. - Recommendations for any additional measures that could be necessary to avoid or reduce any adverse impacts to recorded and/or inadvertently discovered paleontological resources of scientific importance. Such measures could include: - Avoidance: If a known fossil locality appears to contain critical scientific information that should be left undisturbed for subsequent scientific evaluation. - Fossil Recovery: If isolated small, medium- or large-sized fossils are discovered during field surveys or construction monitoring, and they are determined to be scientifically significant, they should be recovered. Fossil recovery may involve collecting a fully exposed fossil from the ground surface, or may involve a systematic excavation, depending upon the size and complexity of the fossil discovery.	2. SFPUC CM Team (qualified paleontologist)	2. Pre-construction	2. SFPUC EMG, ERO	2. Develop site-specific Paleontological Monitoring Plan as specified in the mitigation measure and submit plan to ERO for approval prior to any soil-disturbing activities.
	3. SFPUC CM Team (qualified paleontologist)	3. Construction	3. SFPUC EMG, ERO	3. Implement Paleontological Monitoring Plan recommendations (if any) for additional measures to avoid/reduce impacts to paleontological resources of scientific importance.
	4. SFPUC CM Team (qualified paleontologist)	4. Construction	4. SFPUC EMG	4. Monitor to ensure that the contractor implements measures in contract documents, report noncompliance, and ensure corrective action. Document monitoring inspections, and data recovery for significant paleontological resource finds (if any). Maintain reports in project file documenting compliance with the Paleontological Monitoring Plan.
	5. SFPUC EMG (qualified paleontologist)	5. Construction	5. SFPUC EMG, CM Team	5. If data recovery is anticipated, submit Paleontological Data Recovery Plan to ERO
	6. SFPUC EMG (qualified paleontologist)	6. Construction	6. SFPUC EMG, CM Team	6. Implement Paleontological Data Recovery Plan
	7. SFPUC CM Team (qualified paleontologist)	7. Construction	7. SFPUC EMG, ERO	7. Prepare and submit final monitoring and data recovery reports to ERO for review and approval. Provide approved report(s) to RPD if paleontological resources are found on property managed by RPD.

Adopted Mitigation Measure	MONITORING AND REPORTING PROGRAM ¹			
	Implementation Responsibility	Mitigation Schedule	Monitoring / Reporting Responsibility	Monitoring Actions / Completion Criteria
GEOLOGY AND SOILS (CONT.)				
- Monitoring: Monitoring involves systematic inspections of graded cut slopes, trench sidewalls, spoils piles, and other types of construction excavations for the presence of fossils, and the fossil recovery and documentation of these fossils before they are destroyed by further ground disturbing actions. Monitoring could identify the need for test sampling. - Data recovery and reporting: Fossil and associated data discovered during ground disturbing activities should be treated according to professional paleontological standards and documented in a data recovery report. The plan should define the scope of the data recovery report. c. The paleontologist shall document the monitoring conducted according to the monitoring plan and any data recovery completed for significant paleontological resource finds discovered, if any. Plans and reports prepared by the paleontologist shall be considered draft reports subject to revision until final approval by the ERO.				

¹ Definitions of MMRP Column Headings:

- *Adopted Mitigation Measures:* Full text of the mitigation measure(s) copied verbatim from the final CEQA document.
- *Implementation Responsibility:* Entity who is responsible for implementing the mitigation measure. In most cases this is the project sponsor and/or project's sponsor's contractor/consultant and at times under the direction of the planning department.
- *Mitigation Schedule:* Identifies milestones for when the actions in the mitigation measure need to be implemented.
- *Monitoring/Reporting Responsibility:* Identifies who is responsible for monitoring compliance with the mitigation measure and any reporting responsibilities.
- *Monitoring Actions/Completion Criteria:* Identifies the milestone at which the mitigation measure is considered complete. This may also identify requirements for verifying compliance.

Agency Acronyms Used in Table:

Caltrans = California Department of Transportation

ERO = (SF Planning Department) Environmental Review Officer or Planning Department designee

NPS = National Park Service

Public Works = San Francisco Public Works

SFPUC = San Francisco Public Utilities Commission

SFPUC EMG = Environmental Management Group

SFPUC CM Team = Construction Management Team

SFPUC EMB = Engineering Management Bureau

SFPUC PMB = Project Management Bureau

RPD = San Francisco Recreation and Parks Department

SFMTA = San Francisco Municipal Transportation Agency

USEPA = U.S. Environmental Protection Agency

Per CEQA guidelines 15097(a): A public agency may delegate reporting or monitoring responsibilities to another public agency or to a private entity which accepts the delegation. Where applicable, implementation responsibility to another agency is subject to acceptance.



FROM: Jeremy Spitz, Policy and Government Affairs

DATE: March 14, 2025

**SUBJECT: [Agreement Amendment - Moffatt & Nichol-AGS JV -
PRO.0092, Engineering Services for South Ocean Beach
Coastal Erosion and Wastewater Infrastructure Protection –
Not to Exceed \$12,750,000]**

Please see attached a proposed Resolution approving and authorizing the General Manager of the San Francisco Public Utilities Commission to execute Amendment No. 3 to Contract No. PRO.0092, Engineering Services for South Ocean Beach Coastal Erosion and Wastewater Infrastructure Protection, with Moffatt & Nichol-AGS Joint Venture, increasing the contract amount by \$7,000,000 for a new total contract amount of \$12,750,000 and increasing the contract duration by six years, starting September 26, 2018 through September 25, 2033, for a new total contract duration of up to 15 years, to continue providing engineering design and support services for the Ocean Beach Climate Change Adaptation Project, pursuant to Section 9.118 of the San Francisco Charter.

The following is a list of accompanying documents:

- Proposed Resolution (Word Doc Version)
- SFPUC Resolution No. 25-0047 (PDF Version)
- PRO.0092 Draft Amendment No. 3 (Word Doc Version)
- SFPUC Resolution No. 18-0128 (PDF Version)
- SFPUC Resolution No. 21-0056 (PDF Version)
- SFPUC Resolution No. 23-0190 (PDF Version)
- PRO.0092 Executed Agreement (PDF Version)
- PRO.0092 Executed Amendment No. 1 (PDF Version)
- PRO.0092 Executed Amendment No. 2 (PDF Version)
- Form 126 (PDF Version)
- Ocean Beach Mitigation Monitoring and Reporting Program (PDF Version)
- Planning Commission Motion No. 21398 (PDF Version)

Please contact Jeremy Spitz at jspitz@sfgwater.org if you need any additional information on these items.

Daniel L. Lurie
Mayor

Kate H. Stacy
President

Joshua Arce
Vice President

Avni Jamdar
Commissioner

Steve Leveroni
Commissioner

Dennis J. Herrera
General Manager



PUBLIC UTILITIES COMMISSION

City and County of San Francisco

RESOLUTION NO. 09-0017

WHEREAS, the San Francisco Public Utilities Commission (SFPUC), established pursuant to San Francisco Charter Section 4.112, has the "exclusive charge of the construction, management, supervision, maintenance, extension, expansion, operation, use and control of all water, clean water and energy supplies and utilities of the city as well as the real, personal and financial assets, that are under the Commission's jurisdiction or assigned to the Commission under Section 4.132," as provided in San Francisco Charter section 8B121; and

WHEREAS, the SFPUC has a duly appointed General Manager and pursuant to Charter Section 4.126 the General Manager is responsible for the administration and management of the department; and

WHEREAS, this Commission has from time to time identified protocols with respect to Commission review and action on matters within its jurisdiction, and also granted authority to the General Manager to award and execute contracts or leases, or settle or compromise claims, subject to certain terms and limitations; and

WHEREAS, this Commission intends to prioritize the matters presented to the Commission by focusing on items involving critical policy objectives for the SFPUC, and those that are significant, controversial or assigned to the Commission through the City's Administrative Code provisions, and wishes to accomplish this by moving less significant, less controversial items to either a consent calendar or delegating them to the General manager as shown on Attachment A to this Resolution; now, therefore, be it

RESOLVED, That this Commission adopts the criteria set forth in Attachment A with respect to the Commission agenda for actions on contracts, leases and settlement agreements, and hereby delegates to the General Manager of the San Francisco Public Utilities Commission the authority to directly undertake those actions identified in Attachment A, subject to the terms and limitations expressed therein, all as set forth in Attachment A, incorporated in this Resolution by this reference; and be it,

FURTHER RESOLVED, That this Commission directs the General Manager to provide the Commission with a quarterly report identifying the actions taken by the General Manager, pursuant to this grant of authority.

I hereby certify that the foregoing resolution was adopted by the Public Utilities Commission at its meeting of.

January 27, 2009



Secretary, Public Utilities Commission



San Francisco Ethics Commission

25 Van Ness Avenue, Suite 220, San Francisco, CA 94102

Phone: 415.252.3100 . Fax: 415.252.3112

ethics.commission@sfgov.org . www.sfethics.org

Received On:

File #: 250247

Bid/RFP #:

Notification of Contract Approval

SFEC Form 126(f)4

(S.F. Campaign and Governmental Conduct Code § 1.126(f)4)

A Public Document

Each City elective officer who approves a contract that has a total anticipated or actual value of \$100,000 or more must file this form with the Ethics Commission within five business days of approval by: (a) the City elective officer, (b) any board on which the City elective officer serves, or (c) the board of any state agency on which an appointee of the City elective officer serves. For more information, see: <https://sfethics.org/compliance/city-officers/contract-approval-city-officers>

1. FILING INFORMATION

TYPE OF FILING	DATE OF ORIGINAL FILING (for amendment only)
Original	
AMENDMENT DESCRIPTION – Explain reason for amendment	

2. CITY ELECTIVE OFFICE OR BOARD

OFFICE OR BOARD	NAME OF CITY ELECTIVE OFFICER
Board of Supervisors	Members

3. FILER'S CONTACT

NAME OF FILER'S CONTACT	TELEPHONE NUMBER
Angela Calvillo	415-554-5184
FULL DEPARTMENT NAME	EMAIL
Office of the Clerk of the Board	Board.of.Supervisors@sfgov.org

4. CONTRACTING DEPARTMENT CONTACT

NAME OF DEPARTMENTAL CONTACT	DEPARTMENT CONTACT TELEPHONE NUMBER
Anna M Roche	(415) 438-9618
FULL DEPARTMENT NAME	DEPARTMENT CONTACT EMAIL
PUC Project Management Bureau	aroche@sfgwater.org

5. CONTRACTOR	
NAME OF CONTRACTOR Moffatt & Nichol-AGS JV	TELEPHONE NUMBER (925) 997-8808
STREET ADDRESS (including City, State and Zip Code) 2185 N. California Bl, Ste 500, Walnut Creek, CA 94596	EMAIL

6. CONTRACT		
DATE CONTRACT WAS APPROVED BY THE CITY ELECTIVE OFFICER(S)	ORIGINAL BID/RFP NUMBER	FILE NUMBER (If applicable) 250247
DESCRIPTION OF AMOUNT OF CONTRACT \$12,750,000		
NATURE OF THE CONTRACT (Please describe) The professional services for this contract include alternatives analysis and conceptual engineering, detailed design, and engineering support for the environmental review, federal and state grant opportunities, bid and award and environmental services during construction.		

7. COMMENTS

8. CONTRACT APPROVAL	
This contract was approved by:	
☐	THE CITY ELECTIVE OFFICER(S) IDENTIFIED ON THIS FORM
☒	A BOARD ON WHICH THE CITY ELECTIVE OFFICER(S) SERVES Board of Supervisors
☐	THE BOARD OF A STATE AGENCY ON WHICH AN APPOINTEE OF THE CITY ELECTIVE OFFICER(S) IDENTIFIED ON THIS FORM SITS

9. AFFILIATES AND SUBCONTRACTORS

List the names of (A) members of the contractor's board of directors; (B) the contractor's principal officers, including chief executive officer, chief financial officer, chief operating officer, or other persons with similar titles; (C) any individual or entity who has an ownership interest of 10 percent or more in the contractor; and (D) any subcontractor listed in the bid or contract.

#	LAST NAME/ENTITY/SUBCONTRACTOR	FIRST NAME	TYPE
1	Thomas/Moffat & Nichol	Johnathan	Other Principal Officer
2	Corbett/Moffat & Nichol	Felicia	Other Principal Officer
3	Huchel/Moffat & Nichol	David	Other Principal Officer
4	Khamenehpour/AGS	Bahram	CEO
5	Wong/AGS	Tina	Other Principal Officer
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9. AFFILIATES AND SUBCONTRACTORS

List the names of (A) members of the contractor's board of directors; (B) the contractor's principal officers, including chief executive officer, chief financial officer, chief operating officer, or other persons with similar titles; (C) any individual or entity who has an ownership interest of 10 percent or more in the contractor; and (D) any subcontractor listed in the bid or contract.

#	LAST NAME/ENTITY/SUBCONTRACTOR	FIRST NAME	TYPE
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9. AFFILIATES AND SUBCONTRACTORS

List the names of (A) members of the contractor's board of directors; (B) the contractor's principal officers, including chief executive officer, chief financial officer, chief operating officer, or other persons with similar titles; (C) any individual or entity who has an ownership interest of 10 percent or more in the contractor; and (D) any subcontractor listed in the bid or contract.

#	LAST NAME/ENTITY/SUBCONTRACTOR	FIRST NAME	TYPE
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☐ Check this box if you need to include additional names. Please submit a separate form with complete information. Select "Supplemental" for filing type.

10. VERIFICATION

I have used all reasonable diligence in preparing this statement. I have reviewed this statement and to the best of my knowledge the information I have provided here is true and complete.

I certify under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

SIGNATURE OF CITY ELECTIVE OFFICER OR BOARD SECRETARY OR CLERK

DATE SIGNED

BOS Clerk of the Board

From: [Gonzalez Valle, Adolfo R](#)
To: [BOS Legislation, \(BOS\)](#)
Cc: [Spitz, Jeremy \(PUC\)](#); [Oliveros Reyes, Jennifer \(PUC\)](#); [SFPUC Government Affairs](#)
Subject: Agreement Amendment - Moffatt & Nichol-AGS JV - PRO.0092, Engineering Services for South Ocean Beach Coastal Erosion and Wastewater Infrastructure Protection – Not to Exceed \$12,750,000
Date: Friday, March 14, 2025 8:55:06 AM
Attachments: [7A2BE2BB560B46DC9727D36E8672E58A.png](#)

Hello BOS team,

Please see the [sharefile link](#) for a proposed Resolution approving and authorizing the General Manager of the San Francisco Public Utilities Commission to execute Amendment No. 3 to Contract No. PRO.0092, Engineering Services for South Ocean Beach Coastal Erosion and Wastewater Infrastructure Protection, with Moffatt & Nichol-AGS Joint Venture, increasing the contract amount by \$7,000,000 for a new total contract amount of \$12,750,000 and increasing the contract duration by six years, starting September 26, 2018 through September 25, 2033, for a new total contract duration of up to 15 years, to continue providing engineering design and support services for the Ocean Beach Climate Change Adaptation Project, pursuant to Section 9.118 of the San Francisco Charter.

The following is a list of accompanying documents:

- Proposed Resolution (Word Doc Version)
- SFPUC Cover Letter (Word Doc Version)
- SFPUC Resolution No. 25-0047 (PDF Version)
- PRO.0092 Draft Amendment No. 3 (Word Doc Version)
- SFPUC Resolution No. 18-0128 (PDF Version)
- SFPUC Resolution No. 21-0056 (PDF Version)
- SFPUC Resolution No. 23-0190 (PDF Version)
- PRO.0092 Executed Agreement (PDF Version)
- PRO.0092 Executed Amendment No. 1 (PDF Version)
- PRO.0092 Executed Amendment No. 2 (PDF Version)
- Form 126 (PDF Version)
- Ocean Beach Mitigation Monitoring and Reporting Program (PDF Version)
- Planning Commission Motion No. 21398 (PDF Version)

Adolfo Gonzalez Valle (he/him/his/él)
Policy & Government Affairs
San Francisco Public Utilities Commission
agonzalezvalle@sfgwater.org

