

SERVICES AGREEMENT FOR THE DOWNTOWN SAN DIEGO PARTNERSHIP

THIS AGREEMENT (“Agreement”) by and between the DOWNTOWN SAN DIEGO PARTNERSHIP (“DSDP”) and Rick Engineering Company (“Contractor”), is made and entered into effective **July 9, 2021** with reference to the facts set forth below.

RECITALS

A. Whereas DSDP requires a service firm to provide 3D laser Scanning for the Historical Walking Signage in Downtown San Diego. The Contractor has a background and experience in providing these services and is willing to provide such services to DSDP based on this background.

AGREEMENT

NOW THEREFORE, in consideration of the terms and conditions herein contained and other good and valuable consideration, receipt of which is acknowledged, the parties hereto agree as set forth below:

1. **AGREEMENT PERIOD.** This Agreement shall commence on **July 9, 2021** (“Commencement Date”) and continue through **July 31, 2021** (“Completion Date”) to include the material warranty, and labor warranty. Unless terminated sooner pursuant to the termination provision provided in this Agreement.
2. **SCOPE OF SERVICES.** Contractor shall provide services related to the 3D laser Scanning for the Historical Walking Signage. Scope of work is described on **Exhibit A** pages 17 and 18.
3. **DUTIES OF CONTRACTOR.** DSDP hereby retains Contractor as an independent contractor to maintain and perform the services set forth in this Agreement beginning on the Commencement Date.
 - Contractor shall perform the following duties as described on **Exhibit A** pages 19 and 23.

3a. **Requirements Relating to Employees.** Contractor shall hire, employ, discharge control, and supervise all personnel and labor necessary for performance of the duties described in this Agreement. Contractor shall use its best efforts to exercise reasonable care to select qualified, competent, and trustworthy employees. All employees shall be employees of Contractor and not DSDP. Contractor shall comply with all laws, ordinances, statutes, codes, and regulations including, without

limitation, governmental anti-discrimination laws and the requirements of the American with Disabilities Act relating to employees and all requirements relating to employee tax, employee benefits, and other federal and state requirements. Contractor shall make whatever reports may be required by the state and federal governments relative to such taxes or deductions. All employees shall be covered under Contractor's Worker's Compensation insurance policy at Contractor's expense.

3b. **Living Wage:** The Contractor must comply with the City of San Diego Living Wage ordinance. If it is determined that the Contractor is not comply with living wage, any fees, costs or penalties associated with noncompliance will be paid for by Contractor. Contractor shall provide payroll reports for all employees working on under this Agreement showing compliance with Living Wage requirements. Confidential employee information may be redacted. The Contractor may visit the following links for specific requirements.

<http://www.sandiego.gov/purchasing/programs/livingwage/>.

3c. **Prevailing Wage:** Prevailing Wages. Pursuant to SDMC section 22.3019, construction, alteration, demolition, repair, and maintenance work performed under this Agreement is subject to State prevailing wage laws. For construction work performed under this Agreement cumulatively exceeding \$25,000 and for alteration, demolition, repair and maintenance work performed under this Agreement cumulatively exceeding \$15,000, the Contractor and its subcontractors shall comply with State prevailing wage laws including, but not limited to, the requirements listed below. This requirement is in addition to the requirement to pay Living Wage pursuant to SDMC sections 22.4201 through 22.4245. Contractor must determine which per diem rate is highest for each classification of work (i.e. Prevailing Wage Rate or Living Wage Rate), and pay the highest of the two rates to their employees. Living Wage applies to workers who are not subject to Prevailing Wage Rates.

1. Compliance with Prevailing Wage Requirements. Pursuant to California Labor Code (Labor Code) sections 1720 through 1861, Contractor and its subcontractors shall ensure that all workers who perform work under this Agreement are paid not less than the prevailing rate of per diem wages as determined by the Director of the California Department of Industrial Relations (DIR). This includes work performed during the design and preconstruction phases of construction including, but not limited to, inspection and land surveying work.

- (a) Copies of such prevailing rate of per diem wages are on file at the City and are available for inspection to any interested party on request. Copies of the prevailing rate of per diem wages also may be found at <http://www.dir.ca.gov/OPRL/DPreWageDetermination.htm>. Contractor and its subcontractors shall post a copy of the prevailing rate of per diem wages determination at each job site and shall make them available to any interested party upon request.

(b) The wage rates determined by the DIR refer to expiration dates. If the published wage rate does not refer to a predetermined wage rate to be paid after the expiration date, then the published rate of wage shall be in effect for the life of this Agreement. If the published wage rate refers to a predetermined wage rate to become effective upon expiration of the published wage rate and the predetermined wage rate is on file with the DIR, such predetermined wage rate shall become effective on the date following the expiration date and shall apply to this Agreement in the same manner as if it had been published in said publication. If the predetermined wage rate refers to one or more additional expiration dates with additional predetermined wage rates, which expiration dates occur during the life of this Agreement, each successive predetermined wage rate shall apply to this Agreement on the date following the expiration date of the previous wage rate. If the last of such predetermined wage rates expires during the life of this Agreement, such wage rate shall apply to the balance of the Agreement.

2. Penalties for Violations. Contractor and its subcontractors shall comply with Labor Code section 1775 in the event a worker is paid less than the prevailing wage rate for the work or craft in which the worker is employed.

3. Payroll Records. Contractor and its subcontractors shall comply with Labor Code section 1776, which generally requires keeping accurate payroll records, verifying and certifying payroll records, and making them available for inspection. Contractor shall require its subcontractors to also comply with section 1776. Contractor and its subcontractors shall submit weekly certified payroll records online via the City's web-based Labor Compliance Program. Contractor is responsible for ensuring its subcontractors submit certified payroll records to the City.

4. Apprentices. Contractor and its subcontractors shall comply with Labor Code sections 1777.5, 1777.6, and 1777.7 concerning the employment and wages of apprentices. Contractor shall be held responsible for the compliance of their subcontractors with sections 1777.5, 1777.6 and 1777.7.

5. Working Hours. Contractor and subcontractors shall comply with Labor Code sections 1810 through 1815 including but not limited to: (i) restrict working hours on public works contracts to eight hours a day and forty hours a week, unless all hours worked in excess of 8 hours per day are compensated at not less than 1½ times the basic rate of pay; and (ii) specify penalties to be imposed on design professionals and subcontractors of \$25 per worker per day for each day the worker works more than 8 hours per day and 40 hours per week in violation of Labor Code sections 1810 through 1815.

6. Required Provisions for Subcontracts. Contractor shall include at a minimum a copy of the following provisions in any contract they enter into with a subcontractor: Labor Code sections 1771, 1775, 1776, 1777.5, 1810, 1813, 1815, 1860 and 1861.

7. Labor Code Section 1861 Certification. Contractor, in accordance with Labor Code section 3700, is required to secure the payment of compensation of its employees and by signing this Agreement, Contractor certifies that "I am aware of the provisions of Section 3700 of the California Labor Code which require every employer to be insured against liability for workers' compensation or to undertake self-insurance in accordance with the provisions of that code, and I will comply with such provisions before commencing the performance of the work of this agreement."

8. Labor Compliance Program. The City has its own Labor Compliance Program authorized in August 2011 by the DIR. DSDP will withhold payments when payroll records are delinquent or deemed inadequate by the City or other governmental entity, or it has been established after investigation by the City or other governmental entity that underpayment(s) have occurred. For questions or assistance, please contact the Equal Opportunity Contracting Department at 619-236-6000.

- (c) Higher Wage Rate Applies. Contractor is required to pay the highest applicable wage rate where more than one wage rate applies.

3d. **Monitoring.** DSDP shall have the right to monitor the performance by Contractor of all its obligations under this Agreement. Contractor shall cooperate with DSDP in connection with such monitoring. All work performed and services provided may be monitored for compliance with the requirements of this Agreement on a daily or other basis by DSDP staff. Prior to daily commencement of work under this Agreement, Contractor shall contact the DSDP, representative and notify him/her of the work to be performed, location of work and the expected commencement and completion time. DSDP agrees to notify contractor within five (5) business days when the work completed does not comply with the standards as set forth in the scope of services. Contractor agrees to correct all deficiencies identified as part of the DSDP monitoring program with 48 hours of notification. Contractor agrees that failure to correct identified deficiencies within 48 hours will result in non-payment for the deficient portion of the work.

3e. **Delivery of Services.** The Contractor agrees to perform the services described herein and provide specified equipment in a professional, effective manner. The type and nature of the services described herein may not be varied without prior written amendment to this Agreement, executed by both parties, and subject to negotiation. The services provided by the Contractor determined by the scope of work set forth in this Agreement and any additional services shall not be provided unless authorized in

writing by DSDP. In such situations, the Contractor shall respond to the request in a timely manner.

3f. **Records Review and Retention.** Contractor shall permit DSDP or the City, at any time during normal business hours, to audit all invoices, materials, payrolls, records of personnel, and other data and media relating to all matters covered in this Agreement. Contractor shall maintain, at its regular place of business or at such other place as may be approved by DSDP, all such data and records for a period of three (3) years following the termination of this Agreement.

4. **PAYMENT FOR SERVICES.** During the term of this Agreement, the DSDP shall pay to Contractor the balance shown below.

4a. **Invoicing/Payment due Dates.** The Contractor shall invoice DSDP the following amount: (See Exhibit A page 24 for details)

Services	Payment
Field Scanning	\$ 1,250
Post Processing and Modeling	\$ 3,250
Reality Portal Hosting	\$ 1,500
Training	Included
Project Total	\$ 6,000

Invoices shall be sent via email to swarner@downtownsandiego.org and/or first-class mail to DOWNTOWN SAN DIEGO PARTNERSHIP, 401 B Street., Suite 100 San Diego, CA 92101.

Each invoice shall specify the date of service, neighborhood, and street address/ cross streets in which work was performed. The Contractor's invoice shall be due and payable 30 days from the date of DSDP receipt of the invoice and satisfactory completion of the portion of work invoiced. Upon termination of this Agreement, payments under this paragraph shall cease, provided, however, that the Contractor shall be entitled to payments for periods or partial periods that occurred prior to the date of termination and for which Contractor has not yet been paid and work has been completed to the reasonable satisfaction of DSDP.

4b. **Time Periods for Providing Service.** Contractor shall provide the services except for the following holidays:

Memorial Day	Thanksgiving Day
Independence Day	Christmas Day
Labor Day	New Year's Day

5. **SUPERVISORS.**

5a. **DSDP Supervisor.** The DSDP shall appointed the overall project manager. he/she shall be the point of contact between DSDP and Contractor. The Contractor shall be liable if any work performed does not meet all specifications and requirements contained in this Agreement and is not completed to the reasonable satisfaction of DSDP.

DSDP Project Manager: Sean Warner, Director of Community Enhancement
Contact: swarner@downtownsandiego.org

5b. **Project Supervisor Appointed by Contractor.** Contractor shall appoint a supervisor who shall have primary responsibility for administering and ensuring compliance by Contractor of the obligations under this Agreement. The Project Supervisor is responsible for ensuring compliance with all the terms of this Agreement and keeping an open flow of information and communication between DSDP and the Contractor.

6. **EQUIPMENT SPECIFICATIONS.**

6a. **Obligation to Provide Equipment.** The Contractors shall supply all necessary equipment, supplies and vehicles to be used in performing the services specified in this Agreement. The Contractor shall maintain its vehicles and tools and store its equipment at its own location.

7. **ATTRIBUTES AND CONDUCT OF PERSONNEL.** Contractor's personnel shall conduct themselves in a professional and courteous manner at all times. They shall not use offensive language, perform their services under the influence of alcohol or illegal drugs, or engage in any form of illegal or other activities that would bring discredit to the DSDP. All employees shall be clean, courteous, and neat in appearance. Employees must demonstrate the capability and willingness to communicate effectively with members of the public. At the sole discretion and request of the DSDP, Contractor agrees to reassign any of its employees if their conduct is determined by the DSDP to be detrimental to the best interests of the DSDP.

7a. **Appearance:** A professional, well-groomed appearance is consistent with the DSDP image and ensures that DSDP clients have a positive overall impression of the organization and Downtown San Diego.

8. **STANDARD OF PERFORMANCE/RIGHT TO INSPECTION.** The Contractor's performance shall at all times meet with the satisfaction of DSDP staff. Services proposed shall be exactly as specified herein and shall be subject to inspection, review and testing by DSDP. If services furnished are found to be incomplete, not completed as specified, or do not meet with the satisfaction of DSDP staff, staff may, at its option, reject them and require the Contractor to complete the service to their satisfaction.

9. **SAFETY, HEALTH & FIRE PROTECTION.** All services provided pursuant to this Agreement shall comply with OSHA standards and regulations and all applicable government laws and orders as outlined by any applicable governing agency. The safety of all persons employed by the Contractor in DSDP 's service area shall be the sole responsibility of the Contractor. The Contractor shall take all reasonable measures and precautions at all times to prevent injuries, to, or the death of any of its personnel assigned to DSDP service areas. Such measures and precautions shall include, but not be limited to, all safeguards and warnings necessary concerning DSDP 's service area, which could be dangerous, and to prevent accidents of any kind. The Contractor shall comply with all DSDP 's safety rules and regulations when on DSDP 's premises.
10. **TERMINATION.** If not terminated sooner, this Agreement shall terminate automatically on **June 30, 2021**. DSDP may, at any time, terminate this Agreement without cause upon thirty-day (30) notice to Contractor. Upon termination of this Agreement, Contractor's right to compensation shall immediately cease except for amounts payable hereunder prior to the date of termination. Upon termination or expiration of this Agreement, Contractor shall (a) forward to DSDP any payments received following expiration of this Agreement (b) promptly deliver any documents and records relative to this provision of services provided hereunder to DSDP (c) immediately surrender to DSDP or its designee any other funds or property belonging to DSDP. Upon termination of this Agreement, the independent contractor relationship created hereby shall immediately cease. Notwithstanding the foregoing, DSDP may terminate this Agreement upon three-day (3) notice for Contractor's failure to comply with all of its obligations under this Agreement.
11. **INSURANCE REQUIREMENTS.** Prior to the Commencement Date, Contractor shall furnish DSDP with a certificate(s) of insurance and the endorsements specified below, executed by a duly authorized representative of each insurer, showing compliance with the insurance requirements set forth below. Contractor agrees to provide to The City of San Diego and their respective elected officials, officers, employees, agents and representatives the same protection as afforded to DSDP.

(1) **Commercial General Liability.** Commercial General Liability (CGL) insurance written on a current version of the ISO Occurrence form CG 00 01 or an equivalent form providing coverage at least as broad which shall cover liability arising from any and all bodily injury, personal injury, advertising injury or property damage in the amount of \$1 million per occurrence and subject to an annual aggregate of \$2 million. There shall be no endorsement or modification of the CGL limiting the scope of coverage for either insured claims or contractual liability. All defense costs shall be outside the limits of the policy.

(2) **Commercial Automobile Liability.** For all of Contractor's automobiles including owned, hired and non-owned automobiles, Contractor shall keep in full force and effect, automobile insurance written on a current version of the ISO

form CA 00 01 or an equivalent form providing coverage at least as broad for bodily injury and property damage for a combined single limit of \$1 million per occurrence. The insurance certificate shall reflect coverage for any automobile (any auto).

(3) Workers' Compensation. For all of Contractor's employees who are subject to this Agreement and to the extent required by the applicable state or federal law, Contractor shall keep in full force and effect, a Workers' Compensation policy. That policy shall provide a minimum of \$1 million of employer's liability coverage, and Contractor shall provide an endorsement that the insurer waives the right of subrogation against DSDP and the City of San Diego and their respective elected officials, officers, employees, agents, and representatives.

(A) Deductibles. All deductibles or retentions on any policy shall be the sole responsibility of Contractor and shall be disclosed to DSDP at the time the evidence of insurance is provided.

(B) Acceptability of Insurers. Except for the State Compensation Insurance Fund, all insurance required by this Agreement, shall only be carried by insurance companies with a current rating of at least "A-, VI" by A.M. Best Company that are authorized by the California Insurance Commissioner to do business in the State of California, and that have been approved by DSDP. DSDP will accept insurance provided by non-admitted, "surplus lines" carriers only if the carrier is authorized to do business in the State of California and is included on the List of Approved Surplus Lines Insurers (LASLI list). All policies of insurance carried by non-admitted carriers are subject to all of the requirements for policies of insurance provided by admitted carriers described herein.

(C) Required Endorsements. The following endorsements to the policies of insurance are required to be provided to DSDP before any performance is initiated under this Agreement.

(1) Commercial General Liability Insurance Endorsements.

Additional Insured. To the fullest extent allowed by law, including but not limited to California Insurance Code section 11580.04, the policy or policies must be endorsed to include as an additional insured using current versions of ISO additional insured endorsements CG 20 10 and CG 20 37 (completed operations) or their equivalents, the DSDP and the City of San Diego and its respective elected officials, officers, employees, agents and representatives with respect to liability arising out of (a) ongoing operations performed by Contractor or on Contractor's behalf, (b) Contractor's products, (c) Contractor's work, including but not limited to completed operations performed by Contractor or on Contractor's behalf, or (d) premises owned, leased, controlled or used by Contractor.

Primary and Non-contributory Coverage. The policy or policies must be endorsed to provide that the insurance afforded by the Commercial General Liability policy

or policies is primary to any insurance or self-insurance of DSDP and the City of San Diego, their elected officials, officers, employees, agents and representatives as respects operations of the Named Insured.

Severability of Interest. The policy or policies must be endorsed to provide that Contractor's insurance shall apply separately to each insured against whom claim is made or suit is brought, except with respect to the limits of the insurer's liability and shall provide cross-liability coverage.

(2) Automobile Liability Insurance Endorsements

Additional Insured. To the fullest extent allowed by law, including but not limited to California Insurance Code section 11580.04, the policy or policies must be endorsed to include as an Insured DSDP the City of San Diego and their respective elected officials, officers, employees, agents and representatives with respect to liability arising out of automobiles owned, leased, hired or borrowed by or on behalf of Contractor. DSDP, and the City of San Diego are an additional named insured and insurer waives the right of subrogation against the DSDP, and the City of San Diego and their respective elected officials, officers, employees, agents and representatives.

Primary and Non-contributory Coverage. The policy or policies must be endorsed to provide that the insurance afforded by the Automobile Liability policy or policies is primary to any insurance or self-insurance of DSDP and the City of San Diego, their elected officials, officers, employees, agents and representatives as respects operations of the Named Insured.

Severability of Interest. The policy or policies must be endorsed to provide that Contractor's insurance shall apply separately to each insured against whom claim is made or suit is brought, except with respect to the limits of the insurer's liability and shall provide cross-liability coverage.

(3) Worker's Compensation Insurance Endorsements.

Waiver of Subrogation. The Worker's Compensation policy or policies must be endorsed to provide that the insurer will waive all rights of subrogation against DSDP and the City, its elected officials, officers, employees, agents and representatives for losses paid under the terms of this policy or these policies which arise from work performed by the Named Insured for DSDP and the City of San Diego.

(D) Reservation of Rights. DSDP and the City of San Diego reserve the right, from time to time, to review Contractor's insurance coverage, limits, deductible, and self-insured retentions to determine if they are acceptable to DSDP and the City of San Diego.

(E) Additional Insurance. Contractor may obtain additional insurance not required by this Agreement.

(F) Excess Insurance. All policies providing excess coverage to City of San Diego shall follow the form of the primary policy or policies including but not limited to all endorsements.

12. **RELATIONSHIP OF PARTIES.** It is understood by the parties that the Contractor, and its personnel and agents, are independent Contractors with respect to DSDP, and not employees of DSDP. The individuals used to perform such service, as DSDP shall request, shall be personnel of the Contractor, an independent Contractor. The Contractor shall provide the tools of the trade for and shall have the sole management control over its personnel and agents.

13. **INDEMNITY AND HOLD HARMLESS.** All services in connection with this Agreement shall be at the risk of Contractor, exclusively. To the fullest extent allowed by law, Contractor shall indemnify, defend (with legal counsel reasonably satisfactory to DSDP) and hold harmless the Indemnitees (defined below) from and against any and all Claims (as defined below). Contractor's obligation to defend and indemnify shall be triggered by the assertion of a Claim against any Indemnitee and shall apply whether or not the Contractor or any of the Contractor parties was negligent or otherwise at fault and whether or not the Claim has any merit. However, Contractor shall not be obligated under this Agreement to indemnify any Indemnitee for any Claims arising from the sole negligence or willful misconduct of that Indemnitee. Contractor's obligation shall also include Claims based on duties, obligations, or liabilities imposed on the Indemnitees by statute, ordinance, regulation, or other law. The indemnification obligation hereunder shall not be limited in any way by any limitation on the amount or type of damages, compensation, or benefits payable by or for Contractor or any Contractor Parties under works' or workman's compensation acts, disability benefit acts or other employee benefit acts. For purposes of this Section, (a) a "Claim" is any claim, demand, obligation, cause of action, damage, loss, liability, mechanic's lien, cost or expense (including, without limitation, attorney's fees and costs and other litigation, mediation, or judicial reference expenses) whether based on tort, contract, or equitable principles, in any way rising from or in any way connected with the performance or nonperformance of this Agreement by Contractor's or its employees, agents, independent contractors, suppliers, subcontractors, officers, directors, shareholders, representatives, affiliates, successors or assigns (collectively, "Contractor Parties"), and (b) the "Indemnitees" are DSDP and the City of San Diego, their members, managers, shareholder, and affiliates, and the officers, directors, insurers, representatives, agents, employees, successors and assigns of all such parties. [This Agreement is with an engineering firm as defined in CA Civil Code Sec. 2782.8, and that statute governs any indemnity and/or defense obligations.](#)

14. **WAIVER OF DEFAULT.** Any failure of the DSDP at any time to enforce or require the strict keeping and performance by the Contractor of any of the terms and conditions of this Agreement shall not constitute a waiver by DSDP of a breach of

any such terms or conditions in any way of the right of DSDP at any time to avail itself of such remedies as it may have for any such breach of terms and conditions.

15. **CONFIDENTIALITY AND OWNERSHIP OF WORK PRODUCT.** The Contractor recognizes that DSDP has and shall have confidential information and proprietary information (collectively "Information"), which are valuable, special and unique assets of DSDP. The Contractor shall not at any time or in any manner, either directly or indirectly, use any information for the Contractor's own benefit, or divulge, disclose, or communicate in any manner any information to any third party without the prior written consent of DSDP. The Contractor shall protect the information and treat it as strictly confidential. A violation of this paragraph shall be a material violation of this Agreement. The confidentiality provision of this Agreement shall remain in full force and effect after the termination of this Agreement.
16. **PUBLIC RELATIONS/COMMUNICATIONS.** DSDP retains the right to review and approve any and all communication materials produced by the Contractor or its agent that incorporate or mention DSDP and/or infer a relationship with the DSDP. The Contractor must provide copies of all materials, including but not limited to, press information, websites, newsletters, etc., for approval **prior** to distribution and/or printing. In addition, a complete copy of a press distribution list must be provided by Contractor. The Contractor grants permission to appear in person or in voice, video or photographic presentation for radio, television, web or print media reports and/or media campaign resulting from participation with DSDP. Contractor releases DSDP from any and all claims arising out of such photographing, videotaping, recording, reproducing, publishing or exhibiting.
17. **EQUAL OPPORTUNITY EMPLOYMENT ENDORSEMENT.** The Contractor certifies that in the performance of its duties under this Agreement, there shall be no discrimination on account of race, religion, sex, age, national origin, or sexual orientation. The Contractor shall at all times comply with applicable federal, state, and local laws and regulation pertaining to fair employment practices, including, but not limited to, sexual harassment. Contractor acknowledges it has reviewed, received and will comply with all of the equal opportunity requirements in Section 12(c)(1) of the City of San Diego.
18. **LIST OF SUBCONTRACTORS OR SUPPLIERS.** If the Contractor intends to use subcontractors, the Contractor shall submit a list of subcontractors for approval by DSDP. Any such lists shall show the names of each subcontractor or supplier, describe the portions of the work or product that each provides and provide a detailed description of qualifications. Contractor may not subcontract 50% or more of the awarded Agreement work. Without the approval of DSDP, the Contractor shall not substitute any subcontractor or supplier in place of the subcontractors designated in the list.
19. **COMPLIANCE AND ENFORCEMENT.** The Contractor is responsible for informing its subcontractor(s) and supplier(s) as to their respective obligations

hereunder. It is further understood that for the purposes of indemnification to DSDP for this Agreement, the Contractor shall assume all responsibility of any and all of its subcontractors and suppliers as if they were employees of the Contractor's organization.

20. **DOCUMENTS TO BE SUBMITTED.** The Contractor shall submit to DSDP Certificate(s) of Insurance, and a copy of all current and relevant business licenses, permit and other appropriate licensing certificates. The Contractor shall submit to DSDP new and current documentation as each expires.
21. **NOTICES.** All notices required or permitted under this Agreement shall be in writing and shall be deemed delivered when delivered in person or deposited in the U.S. mail certified receipt addressed as follows:
If for DSDP:

DOWNTOWN SAN DIEGO PARTNERSHIP
401 B Street., Suite 100
San Diego, CA 92101
Telephone (619) 234- 8900
Fax (619) 234-2303

ATTN: Sean Warner
Director of Community Enhancement
swarner@downtownsandiego.org

If for Contractor:
Rick Engineering Company
ATTN: Brian Laird
Manager
bplaird@rickengineering.com

Either party may change such address from time to time by providing written notice to the other in the manner set forth above.
22. **ASSIGNMENT.** The Contractor's obligation under this Agreement may not be assigned or transferred to any other person, firm, or corporation without prior written consent of DSDP, which consent may be withheld in DSDP's sole, absolute and arbitrary discretion.
23. **EMPLOYEES AND SUBCONTRACTORS.** The provisions of this Agreement shall also bind the Contractor's personnel and subcontractors that perform services for DSDP under this Agreement.
24. **ENTIRE AGREEMENT.** This Agreement contains the entire agreement of the parties and there are no other promises or conditions in any other agreement whether

oral or written. This Agreement supersedes any prior written or oral agreement between the parties.

25. **ATTORNEY FEES.** If the services of any attorney are required by either party to secure performance of this Agreement, or otherwise upon the breach or the default of either party, or if any judicial remedy is necessary to enforce or interpret any provision of this Agreement, including arbitration, the prevailing party shall be entitled to reasonable attorney's fees, costs, and other expenses, in addition to any other relief to which such party may be entitled.
26. **AMENDMENT.** This Agreement may be modified or amended if the amendment is made in writing and signed by both parties.
27. **SEVERABILITY.** If a court finds that any provision of this Agreement is invalid or unenforceable, but that by limiting such provision the Agreement would become valid and enforceable, then such provision shall be deemed to be written, construed, and enforced as so limited. The invalidity of such clause shall not otherwise affect the remaining provisions of the Agreement, which shall continue to be enforceable.
28. **ARBITRATION.** Any controversy or claim arising out of or relating to this Agreement, or the actual or alleged breach hereof, shall be settled by binding arbitration conducted in the County of San Diego in accordance with, and by an arbitrator appointed pursuant to, the Rules of the American Arbitration Association in effect at that time. Judgment upon an award rendered pursuant thereto may be entered in any court having jurisdiction.
29. **APPLICABLE LAW.** This Agreement shall be governed by the laws of the State of California.
30. **NO THIRD-PARTY BENEFICIARY.** The services provided under this Agreement are solely for the benefit of DSDP and neither this Agreement nor any services rendered hereunder shall be deemed to confer any rights on any other party as a third-party beneficiary.
31. **AGREEMENT EXTENSION.** At the sole discretion of DSDP, this Agreement may be extended on a year-to-year basis; however, in no case shall the renewal extend beyond five years from the date of award of the original Agreement.

Service agreement Signature Page

DSDP:

DOWNTOWN SAN DIEGO PARTNERSHIP

By: 

Date: 7/13/21

Name: **Alonso Vivas**

Title: **Executive Director**

Please also Sign Page 26

CONTRACTOR:

Rick Engineer Company

By:  Digitally signed by
Brian Laird
Date: 2021.07.02
10:08:49-07'00'

Date: 7/2/2021

Name: **Brian Laird**

Title: **Manager**

Please also Sign Page 26

IN WITNESS WHEREOF, this Agreement has been made and entered into as of the date first set forth above.

Exhibit A



February 24, 2021

Mr. Alonso Vivas
Downtown San Diego Partnership Clean and Safe
401 B Street, Suite 101
San Diego, CA 92101

SUBJECT: 3D LASER SCANNING FOR CULTURAL WALK DOWNTOWN SAN
DIEGO,
SAN DIEGO, CALIFORNIA
(RICK ENGINEERING COMPANY PROPOSAL)

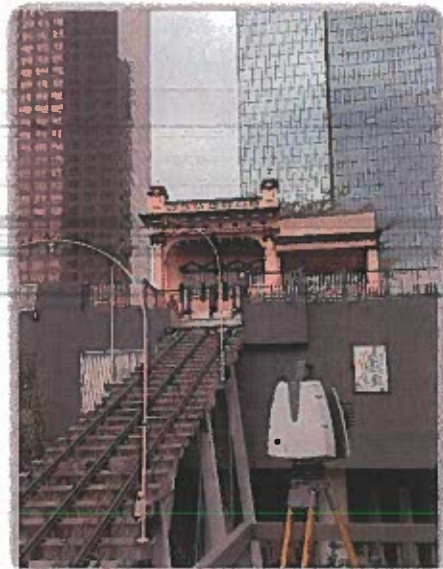
Dear Mr. Vivas:

Rick Engineering Company ("Consultant") is pleased to present this proposal to Downtown San Diego Partnership Clean and Safe ("Client") to provide precision as-built scanning services for the subject project.

OVERVIEW OF 3-D LASER SCANNING

3-D laser scanning data is one of the foundational building blocks to the Building Information Modeling (BIM) process for existing facilities; before design and construction can begin with any modernization or rehabilitation project, the existing facility must be accurately measured.

3-D laser scanning collects up to 1,000,000 points per second to produce a very dense and accurate collection of individual measurements known as a *point cloud* with a positional accuracy of 6 mm (.02'). Scanners, using *line of sight*, measure existing building interiors and exteriors, pipe networks, construction sites, bridges, historical sites, topography and more and are able to produce a 2-D or 3-D CAD model, a dependable starting point to test and verify design concepts that account for the location, position and orientation of existing conditions. A single laser scan session builds a foundation and enhances coordination among owners, architects, engineers, planners, developers and contractors working from the same database, while simultaneously maintaining the utmost in workplace safety because you don't have to touch the objects to scan them.



Mr. Alonso Vivas
February 24, 2021
Page 2 of 22

SCOPE OF WORK

The Consultant agrees to perform the following services for the compensation stated in the Fee section.

Rick Engineering Company, using 3D laser scanning, will capture 10 locations of proposed sign installations, at each proposed location and approx. 30' radially outward as the area of work. The results of scanning, a point cloud and web viewers, will be used to compile a 2D schematic line work of existing fixed features within each area of work identified above.

Area of work sketch:

LOCATION PLANS | SITE LOCATIONS



LOCATION PLANS | SITE LOCATIONS



LOCATION PLANS | SITE LOCATIONS



1. Field Scanning

a. Field Procedures

It is understood that a member of the building's facility staff will be on site at all times and accompany the project team to aid in building access, security, safety and maintenance logistics, unless otherwise agreed upon.

It is anticipated that work will be performed during daytime business hours.

The project coordinate system requirement for this project will be assumed coordinates at each sign location.

b. Perform Terrestrial 3-D Scans of Facilities

Approximately 20 scans are anticipated to capture the area of work: 2 scans at each proposed sign location.

1 – 1 person scan crew will be mobilized to the site.

Multiple scan positions will be used to minimize any occluded or shadowed areas and maximize visibility of the building systems to be measured.

This task includes use of high resolution camera to take 360° color photographs at each scan observation setup to be incorporated into the TruView development process. This additional process enhances the TruView deliverables to provide a more true color representation of existing site conditions and provides for color rich point cloud deliverables.

2. Post Processing and Modeling

a. Registration

Each individual scan will be registered together resulting in a complete scalable, continuous 3-D point cloud of the facility in the above-described coordinate system. A survey report detailing the results of the registration will be available upon project delivery.

b. Point Cloud Cleaning & Translation

Point clouds will be cleaned of any significant noise points and translated into RCS & RCP for use within Autodesk 2014 and newer products (Revit, AutoCad, Navisworks, Recap).

The translated point cloud files are *tuned* for use by your CAD package, where the size of each file and total number of files is managed to maximize computer performance, while minimizing total number of files.

The composite point cloud will be archived and available to revisit without the need to return to the field to model additional objects actually captured by the scan (but not modeled), or to obtain a greater level of detail than included within this scope of work.

Graphic of example point cloud:



c. Reality Portal Web Viewers

RICK will publish and host the portal; used by all project team members from the owner, design and construction teams and into facility managers for aid in design and construction coordination efforts by performing virtual site walks from any geographic location and no required CAD software to walk through the site with 360 photography, 3D navigation, interactive maps and file sharing tools; architected, built and managed in AWS (Amazon Web Services) by RICK.

Project Web tools:

TruView: 360° Panoramic Photo Viewer:

TruView is an interactive 360° panoramic photo viewer, allowing planning level measurements from the perspective of each scan location. Think of it as your feet on the ground, not moving, and you are looking all around you.

Point Cloud Navigator

Point Cloud Navigator is a 3D viewer enabling any user with a web browser to fly through, clip and measure portions of the point cloud with its high level of detail allowing you to visualize and study the project. This includes direct access to the 360° photos (similar to a bubble view).

The Reality Portal web viewer deliverable is made a part of the existing conditions model by this reference.

Example TruView page with dimensioning markups:



To learn more about the Reality Portal please [Click Here](#).

d. Modeling

Within the limits of work described above, Rick Engineering will provide modeling services more particularly described below:

Model Purpose Statement: Compile 2D schematic line work of existing features with a relative accuracy of approx. 0.50’.

Model Intended Usage Statement: Delivered existing condition models are for conflict checks, spatial coordination. The primary purpose of this modeling exercise is to establish the true geometric alignment, size and the extent of visible objects from results of 3D laser scanning. Models are not intended to be a complete engineered system for architectural, structural or MEP analysis. The result of this process does not attempt to assess the condition, state, age or other operational parameters of the existing facilities.

Model Completeness Statement: Only those portions of the existing conditions captured by the laser scanning process will be depicted in the delivered model. TruViews deliverables, uninterpreted results of data captured by the scan process and the delivered point clouds, are incorporated as a part of the model(s) delivered within this scope. Subsequent to this effort, modeling may be (may need to be) enhanced by others with supplemental information such as photography, field notes and sketches, and existing records, as well as other assumptions that may need to be made by the design or contracting team to create a visually and informationally complete model of the existing systems.

Site Mapping

The following features of the site will be modeled to prepare a 2D schematic line work:

- Surface improvements, edge of traveled way of access roads and parking lots;
- Signage;
- Edge of concrete sidewalks;
- Concrete curbs and mow strips;
- Major building corners and overhangs;
- Door locations;
- Bottom and top of stairs;
- Bottom of retaining walls (typically existing ground elevation at bottom of walls);
- Light poles;
- Utility surface appurtenances;
- Corners of vaults and structures, fire hydrants and valves;

- Pedestals, valve boxes, meter boxes, pull boxes;
- Sewer and storm drain manhole rims, pipe size and invert elevations, catch basins, roof drains;
- Grades with spot elevations to define the existing ground; and
- Location(s) and diameter(s) of tree trunks.

Exclusions

The following items are excluded from this task:

- Elevations;
- Contours;
- Irrigation heads; and
- Underground utilities.

3. Reality Portal Subscription

Rick Engineering Company will host, provide access to and provide customer support of, the Reality Portal, as Software as a Service (SaaS), for up to 50 named Authorized Users as approved by Client and for a period of 12 months to the Client. The subscription commences at the date of launch of the Portal (“Commencement Date”).

Rick Engineering Company shall provide the SaaS to Client, on a subscription fee basis in accordance the “Term, Service Levels and Support Services” described in Exhibit A, contained herein.

4. Training

The process of utilizing the results of 3-D laser scanning is new and growing in many industries; as such, our approach for project delivery includes the introduction of the deliverables to the project teams and suggested best practices to leverage the investment in use of 3-D laser scanning technology. These best practice sessions can be conducted both on-site and online through web sharing tools and include demonstration of the web viewing tools and usage of point clouds in various products. We currently support Leica Cyclone, Leica CloudWorx for AutoCAD & Microstation, and native point cloud usage in AutoCAD, Microstation, Revit and Sketchup.

This project includes one live web-based 1-hour training class.

Additional training packages are available for an additional fee upon request.

DELIVERABLES

The following items will be delivered to the Client upon completion of the project:

- CAD linework in DWG format.
- Reality Portal Website (12 months hosted).

SCHEDULE

Overall field time and number of shifts may be managed by a number of field personnel deployed to meet project schedule goals. This may be determined as the project moves forward.

We anticipate being on-site for approximately 1 business day; the remainder of services will be performed at Rick Engineering Company offices.

The post processing: registration, processing of the point cloud data and Reality Portal publication is estimated at approximately 4 business days from completion of field work.

The processing of the data into a 2D DWG is estimated at approximately 2 business days from completion of the post processing.

FEE

We will perform the services listed above for the amounts listed below on a fixed fee basis. The Client will be billed on a monthly basis for each item as the work progresses. For progress billing purposes, the fee shall be divided as follows:

Overtime work authorized to expedite this project will result in additional fees and shall be billed and payable based on the additional overtime work at 1.3 times normal billing rates, 2.0 on Sundays and Holidays.

1.	Field Scanning	\$	1,250
2.	Post Processing and Modeling	\$	3,250
3.	Reality Portal Hosting	\$	1,500
4.	Training	\$	<u>INCLUDED</u>
		Total:	\$ 6,000

EXCLUSIONS

The following are items which may be required, but are not included in the Scope of Work or Fee sections above. Additional authorization and fees will be required for these services.

- A. Work of a general or promotional nature not connected with the actual design, approval or construction of the project.
- B. Administration, processing or negotiations to obtain approvals and/or signatures from third parties for such items as Letter of Permission, easements, access roads, driveways, etc.
- C. Infection Control and cleanup.
- D. Removing and replacing any equipment necessary to access areas to be scanned.
- E. Boundary survey.
- F. 3D Topographic survey.
- G. Easement plotting, legal description and plat preparation, except as specified.
- H. Potholing of existing underground utility lines.
- I. X-Raying of walls or concrete for utility lines or steel.
- J. Destructive testing.
- K. Any other services performed at the direction of the Client, which are not defined in the above-listed services, shall be in addition to those set forth in this agreement.

CLIENT-FURNISHED SERVICES

The Client shall be responsible for and pay the following:

- A. Access to facility.
- B. All bonds, utility charges, public agency fees, and title company fees.
- C. Removal of objects that obscure areas to be captured.

MISCELLANEOUS PROVISIONS

- A. If mobilization is authorized and initiated; then the start of work is delayed or canceled for any reason within 72 hours of agreed upon date and time of start of work, consultant reserves the right to bill, as a separate direct expense additional to the contracted amount, costs incurred for the mobilization delay or cancellation.
- B. If notice to proceed and/or start of work is delayed for any reason beyond 60 days, it is understood by the parties that terms and conditions contained in herein are subject to change.
- C. Fees for work not performed more than one year after the date of this agreement shall be increased by 5%, and 5% per year for each year thereafter.
- D. The Client agrees that the Consultant shall not be held responsible for any work not performed or constructed in accordance with the Client's plans and specifications. The Client understands and agrees that the Consultant will not be observing actual

Mr. Alonso Vivas
February 24, 2021
Page 11 of 22

construction work and will not perform any inspection of improvements made to the property under this agreement.

Any printing, title company fees, deliveries and miscellaneous processing fees are extra and not a part of this agreement. Also not included are any items not specifically referred to above.

Fees and expenses will be billed monthly as the work progresses and the net amount shall be due within 30 days from the date of receipt of the invoice in the Client's office.

The enclosed Hourly Rates and Standard Provisions of Agreement are incorporated herein and made a part of this agreement.

If you would like us to proceed on this work as outlined above, we ask that you please sign and return the agreement as our written authorization.

If you have any questions regarding this agreement, please contact me or Brian Laird at (619) 291-0707. Thank you for requesting Rick Engineering Company to provide these services.

Sincerely,

Rick Engineering Company

 Digitally signed by
Brian Laird
Date: 2021.07.02
10:20:25-07'00'

Brian Laird
Manager

Enclosures

BPL
\\cp.rickeng.com\Departments\3DScanning\SD_Pursuits\2021_02_03_DowntownSanDiego_Signs\3DLaserScanningProposal_CulturalWalkD
TSD_Partnership.docx

APPROVED BY:

Downtown San Diego Partnership Clean and Safe

Signature  Date 7/13/21

Printed Name Alonso Vivas



EXHIBIT 'A'

Definitions

"Authorized Users" means the Client personnel who are authorized to access the SaaS Services.

"Reality Portal" means the portal deployed by Rick Engineering Company pursuant to the Deployment Services which will meet the SaaS Service functional requirements set forth under "Reality Portal Web Viewers" section.

"Client Data" means the digital data prepared by Rick Engineering Company pursuant to the Data Services or if applicable Data loaded directly by Client or assigns.

"Intellectual Property Rights" means intellectual property rights, including without limitation, all copyrights, trademarks and service marks (together with any registrations or applications thereof), patents (together with any extensions, reexaminations and reissues of such patents, patents of addition, patent applications, divisions, continuations, continuations-in-part, and all subsequent filings in any country or jurisdiction claiming priority therefrom), and trade secrets.

"Normal Business Hours" means Monday through Friday, 8am – 6pm (Pacific Time).

"Originating Contract" means the proposal, contract, addendum or similar contracting vehicle this Exhibit is referenced.

"SaaS Services" means the tasks set forth in "Reality Portal Web Viewers" section, provided in accordance with the Service Levels and Support Services described below.

"SaaS Services Commencement Date" means the date that Rick Engineering Company delivers to Client the Portal web site link.

Term, Service Levels and Support Services

TERM

The initial term of this Agreement will commence on the Effective Date and shall remain in force until the defined time period set forth in the Originating Contract anniversary of the SaaS Services Commencement Date (the "Initial Term"), unless terminated in accordance with the terms of this Agreement. Thereafter, this Agreement shall be renewable for successive terms of one (1) year each (each a "Renewal Term") if the Client agrees to renew in writing and pays the corresponding Service Fee for the Reality Portal subscription set forth in the Fee Section of the Originating Contract. Rick Engineering Company (RICK) shall provide Client no less than thirty (30) days prior to the lapse of the Initial Term or Renewal Term, as applicable, with written notice to of lapse of the Term and opportunity to renew. Any renewal shall be upon the same terms and conditions then in effect subject to item 2 in the Payments Section. The Initial Term and all Renewal Terms are collectively, the "Term."

SERVICE LEVELS

1. Service Availability. RICK will use commercially reasonable efforts to have the SaaS Service available 98.0% of the time during Normal Business Hours, excluding any Scheduled Downtime, as defined below. This SaaS Service availability is defined as the "Scheduled Uptime".

2. Scheduled Downtime. There will be scheduled downtime periods to perform system maintenance, backup and upgrade functions for the Services (the "Scheduled Downtime"). Scheduled Downtime will be conducted outside of the Scheduled Uptime, unless otherwise announced by RICK and agreed upon by Client.

3. Unscheduled Downtime. "Unscheduled Downtime" is defined as any time outside of the Scheduled Downtime when SaaS Services are not available to perform operations, excluding any outages caused by the Internet in general, or the actions of Client. Client acknowledges that the SaaS Services may be temporarily unavailable for unscheduled emergency

maintenance or because of other causes beyond RICK's reasonable control. This includes unavailability of the underlying cloud platform (AWS). Any Unscheduled Downtime will be announced by RICK, within 15 minutes of detection and with an estimated time to resolve.

4. Data backups. Data backups will be performed on a nightly basis and kept for 90 days.

SUPPORT SERVICES

1. Support Services offered by RICK are available during Normal Business Hours and are limited to fixing defects and answering specific questions about Reality Portal functionality.

2. Additional Support Services are available at the standard rates included in the Hourly Rate Schedule attached hereto and incorporated herein.

PAYMENTS

1. During the Initial Term and each Renewal Term, and subject to the terms and conditions of this Agreement, Client shall make payments in the amounts indicated under Fee Section.

2. The Service Fees at which the SaaS Services are provided hereunder will not increase during the Initial Term. Thereafter, Service Fees may increase for each Renewal Term by RICK delivering written notice to Client at least ninety (30) days prior to the end of the then current Term.

LICENSES

1. Upon the SaaS Services Commencement Date, and throughout the remaining Term, RICK hereby grants to Client a non-exclusive, non-transferable, non-sublicenseable, right to access the Site via the Internet solely for the purpose of using the SaaS Services for Client's internal purposes, and solely by the number of Authorized Users listed in the Originating Contract..

2. Client shall not, directly or indirectly, (i) reverse engineer, decompile, disassemble or otherwise attempt to discover the source code or underlying ideas or algorithms of the SaaS Services; (ii) modify, translate, or create derivative works of the SaaS Services; (iii) rent, lease, distribute, sell, resell, assign or otherwise transfer the rights to use the SaaS Services; (iv) use the SaaS Services for timesharing or service bureau purposes or otherwise for the benefit of a third party

(not including its Affiliates); (v) remove any proprietary notices from the SaaS Services; (vi) publish or disclose to third parties any evaluation of the SaaS Services without RICK's prior written consent; or (vii) create any link to the SaaS Services or frame or mirror the content contained on, or accessible from, the SaaS Services. Notwithstanding the foregoing, Client's third party contractors may access and use the SaaS Services and the Site solely for Client's business purposes (and subject to the limitation on Authorized Users listed in the Originating Contract.).

3. Upon the SaaS Services Commencement Date, and throughout the remaining Term, Client grants to RICK a non-exclusive, non-transferable, non-sublicenseable, license to use Client Data solely to the extent necessary to provide the SaaS Services to Client and to host Client Data under this Agreement or as otherwise allowable under applicable law. As between RICK and Client, Client shall own all Client Data. Client is responsible for the accuracy, quality, integrity, and legality of all Client Data, and RICK assumes no responsibility for the deletion, correction, destruction, loss, infringement or failure of the SaaS Services to store any Client Data that is caused other than by the negligence of RICK or the breach of its obligations under this Agreement.

SECURITY OBLIGATIONS

1. RICK shall issue to Client, or shall authorize a Client administrator to issue, login credentials for Authorized Users to use the SaaS Services. Client is responsible for maintaining the confidentiality of all user names and passwords and for ensuring that each user name and password is used only by the Authorized User and/or Client administrators. Client is solely responsible for any and all usage of the SaaS Services through the use of Client's user names and passwords. Client agrees to promptly notify RICK of any unauthorized use of the Client's account or any other breach of security known to Client. RICK shall maintain Client passwords as confidential, encrypted and not disclose them to third parties.

2. RICK will maintain the SaaS Services at a third party Internet service provider and hosting facility where the SaaS Services are subject to commercially reasonable security precautions to prevent unauthorized access to the SaaS Service. In no event shall RICK implement less than a reasonable level of information security for the confidentiality, integrity, and availability of Client Data stored on the Reality

Portal. RICK shall promptly report to Client in writing any actual or suspected compromise of the Client Data.
CONFIDENTIALITY AND INTELLECTUAL PROPERTY RIGHTS

1. By virtue of this Agreement, each Party may obtain, learn, develop or have access to information that is confidential to the other ("Confidential Information"). "Confidential Information" shall include any information that the disclosing Party identifies or marks as confidential or proprietary at the time of disclosure, or that reasonably appears to be proprietary or confidential in nature because of legends or other markings, the circumstances of disclosure or the nature of the information itself. The terms of this Agreement shall be the Confidential Information of both Parties. The receiving Party shall protect the disclosing Party's Confidential Information by using the same degree of care, but no less than a reasonable degree of care, as the receiving Party uses to protect its own Confidential Information of a like nature against unauthorized use, disclosure or publication. The confidentiality obligations set forth in this Section do not apply to information that can be shown by the receiving Party's written records (i) is or becomes a part of the public domain through no act or omission of the receiving Party; (ii) was in the receiving Party's lawful possession prior to the disclosure and had not been obtained either directly or indirectly from the disclosing Party; (iii) is lawfully disclosed to the receiving Party by a third party without restriction on disclosure; or (iv) is independently developed by the receiving Party without the use of or reference to the Confidential Information of the disclosing Party or other breach of this Agreement. The receiving Party may disclose Confidential Information of the disclosing Party if it is required by law to do so, following notice of such required disclosure (to the extent legally permitted) to the disclosing Party; at the disclosing Party's request and expense, receiving Party will provide reasonable assistance if the disclosing Party wishes to contest the disclosure. The Parties agree that a breach of this Section may result in irreparable and continuing damage to the non-breaching Party for which there may be no adequate remedy at law, and such Party is therefore entitled to seek injunctive relief as well as such other relief as may be appropriate, without the requirement of posting a bond. The Parties hereby acknowledge and agree that the provisions of this Section shall survive the expiration or termination of this Agreement for any reason whatsoever.

2. Client acknowledges that, as between RICK and Client, RICK owns all right, title and interest in and to the Reality Portal, the SaaS Services and all Intellectual Property used by RICK to provide the Services to Client and to all Intellectual Property Rights related thereto. Client shall have no license under the Intellectual Property Rights related thereto, except as expressly provided under "CONFIDENTIALITY AND INTELLECTUAL PROPERTY RIGHTS."

INDEMNIFICATION

1. RICK agrees to defend, indemnify and hold Client, its subsidiaries, Affiliates, officers, directors and employees harmless from any claim, demand, damages, costs and expenses (including reasonable attorneys' fees), arising from any third party claim against Client or any of its subsidiaries, Affiliates, officers, directors and employees due to or arising out of (i) breach by RICK of its confidentiality obligations; or (ii) RICK's gross negligence, fraud or willful misconduct.

2. Client agrees to defend, indemnify and hold RICK, its subsidiaries, Affiliates, officers, directors and employees harmless from any claim, demand, damages, costs and expenses (including reasonable attorneys' fees), arising from any third party claim against RICK or its subsidiaries, Affiliates, officers, directors and employees due to or arising out of: (i) any use of the SaaS Services by Client other than in accordance with this Agreement; (ii) any breach by Client of its confidentiality obligations; and (iii) Client's gross negligence, fraud or willful misconduct.

WARRANTY DISCLAIMER

1. RICK MAKES NO WARRANTY OR REPRESENTATION REGARDING ANY SERVICES PROVIDED UNDER THIS AGREEMENT. RICK EXPRESSLY DISCLAIMS ALL EXPRESS AND IMPLIED WARRANTIES, INCLUDING, WITHOUT LIMITATION, THE IMPLIED WARRANTIES OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE. RICK DOES NOT WARRANT THAT ANY SERVICE PROVIDED WILL SATISFY CLIENT'S REQUIREMENTS. EXCEPT AS PROVIDED FOR HEREIN, RICK DOES NOT ASSUME ANY LIABILITY WHATSOEVER WITH RESPECT TO ANY THIRD PARTY HARDWARE, FIRMWARE, SOFTWARE OR SERVICES, IF ANY, PROVIDED HEREIN.

2. RICK does not warrant that use of the SaaS Service will be uninterrupted or error free. Client accepts that the SaaS Services in general is prone to bugs and flaws. The SaaS Service is not designed or intended for use in any situation where failure or fault of any kind could lead to death or serious bodily injury to any person, or to severe physical or environmental damage ("High Risk Use"). Client agrees not to use the SaaS Services in, or in connection with, any High Risk Use.

LIMITATION OF DAMAGES. RICK SHALL HAVE NO LIABILITY WITH RESPECT TO ITS OBLIGATIONS HEREUNDER OR OTHERWISE FOR CONSEQUENTIAL DAMAGES, INCLUDING, WITHOUT LIMITATION, LOST PROFITS, EXEMPLARY, SPECIAL, INDIRECT, INCIDENTAL OR PUNITIVE DAMAGES EVEN IF IT HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES OR SUCH DAMAGES COULD HAVE BEEN REASONABLY FORESEEABLE BY RICK. RICK'S AGGREGATE LIABILITY UNDER THIS AGREEMENT SHALL BE LIMITED TO DIRECT DAMAGES AND SHALL NOT EXCEED THE SUBSCRIPTION FEE PAID TO RICK BY CLIENT FOR THE SPECIFIC SERVICE IN QUESTION AND, IF APPLICABLE FOR THE THEN CURRENT INITIAL TERM OR RENEWAL TERM.

TERMINATION

1. Either Party may terminate this Agreement by written notice to the other Party in the event that such other Party materially breaches this Agreement, including payment breaches, and does not materially cure such breach within thirty (30) days of such notice. Further, either Party may terminate this Agreement immediately if (i) a receiver is appointed for the other Party or its property, (ii) the other Party makes a general assignment for the benefit of its creditors, (iii) the other Party commences, or has commenced against it, proceedings under any bankruptcy, insolvency or debtor's relief law which proceedings are not dismissed within sixty (60) days, (iv) the other Party is liquidated or dissolved, or (v) the other Party ceases to do business or otherwise terminates its business operations. For termination by Client pursuant to this Section, RICK shall refund to Client any pre-paid

unused subscription fees for the SaaS Services for the corresponding remaining portion of the Term within thirty (30) days from the effective date of such termination.

2. Upon termination of this Agreement, except as authorized in clause (c) below: (i) all licenses, rights, and services provided by RICK to Client shall immediately terminate; (ii) Client shall immediately discontinue use of the SaaS Services; (iii) Client shall purge, destroy, and delete all copies of the SaaS Services (unless otherwise provided for by RICK) from its computer systems, storage media, and other files and facilities; and (iv) Client shall return to RICK such information not otherwise destroyed.

3. Except if termination was due to Client's breach, RICK shall, for the period requested by Client, not to exceed one hundred eighty (180) days after the effective date of termination or expiration of this Agreement ("Transition Period"), continue to allow Client to use and utilize the SaaS Services and such other services (i.e., services related to transitioning Client Data, etc.) as the Parties shall mutually agree upon. During any Transition Period, Client shall pay to RICK the applicable Service Fees for continued use or utilization of the SaaS Services and such other amounts as may be mutually agreed to for the additional services. RICK shall not be obligated to provide said termination assistance to Client in the event the Agreement was terminated by RICK for Client's breach above or should Client fail to pay to RICK the applicable Service Fees for continued use or utilization of the SaaS Services and such other amounts as may be mutually agreed to for the additional services.

MISCELLANEOUS

1. RICK may utilize the services of any independent service providers/contractors to provide the Services to Client on RICK's behalf provided that RICK remains directly responsible to Client for all Services performed by any of its subcontractors to the same extent as if such Services were being performed by RICK itself. Notwithstanding the foregoing, no subcontracting shall relieve RICK of its obligations and liability hereunder for the provision of Services described herein.

RICK ENGINEERING COMPANY

Standard Provisions of Agreement: California

Page 16 of 22

The Client and Consultant agree that the following provisions shall be a part of their Agreement:

1. This Agreement shall be binding upon the heirs, partners, successors, executors, administrators and assigns of the Client and Consultant.
2. In the event of any increase of costs due to the granting of wage increases and/or other employee benefits to field or office employees due to the terms of any labor agreement, rise in the cost of living, or increase in any applicable prevailing wage during the lifetime of this Agreement, such increase shall be applied to all remaining compensation. For services provided on a time and materials or hourly rate basis, increases in the applicable rates will be reflected in the billing statement or invoice for the month following the increase.
3. Should litigation at law or equity arising out of this Agreement, including but not limited to an action for declaratory relief, be brought to enforce or interpret any term or provision of this Agreement, or to collect any portion of the amount payable under this Agreement or litigation commenced either directly or by way of a cross-complaint whether arising out of contract or tort, including a cross-complaint for indemnity, for failure or alleged failure to perform or for errors, omissions, or negligence, the prevailing party shall be entitled, in addition to any other award, to all litigation and collection expenses, any and all costs of defense, including attorney's fees, expert witness fees, witness fees and court costs and any and all other expenses incurred.
4. Neither the Client nor Consultant shall assign his interest in this Agreement without the written consent of the other.
5. This Agreement shall be governed by and construed in accordance with the laws of the State of California. This Agreement contains the entire agreement between Client and Consultant relating to the project and the provision of services by Consultant to the project. Any agreements, promises, negotiations or representations not expressly set forth herein, are of no force or effect. Subsequent modifications to this Agreement shall be in writing and signed by both Client and Consultant.
6. Conditions or representations, alterations, detractions from or to the terms hereof, including delineations hereon, shall not be valid unless they are in writing and signed by both Client and Consultant.
7. Client agrees that the Consultant is not responsible for damages arising directly or indirectly from any delays for causes beyond the Consultant's control. For purposes of this Agreement, such causes include, but are not limited to, strikes or other labor disputes; severe weather disruptions or other natural disasters; fires, riots, war or other emergencies or acts of God; failure of any government agency to act in timely manner; failure of performance by the Client or the Client's contractors or consultants; issuance of regulations, orders or other governmental actions that limit, restrict or delay the ability of Consultant or Consultant's workforce to perform; or discovery of any hazardous substances or differing site conditions. In addition, if the delays resulting from any such causes increase the cost or time required by the Consultant to perform its services in an orderly and efficient manner, the Consultant shall be entitled to an equitable adjustment in schedule and/or compensation.
8. In the event litigation, arbitration or some other form of dispute resolution is instituted under the terms and conditions of this Agreement, it shall be brought and tried or heard in the appropriate court, or the arbitration or other dispute resolution proceeding shall take place, in the state and county in which the project is located and the parties waive the right to have brought, tried in, or removed to any other county or judicial jurisdiction. Any such proceeding shall be commenced within two (2) years of discovery or the time when the claimant knew or should have known of the of it s right to make a claim, but in no event later than four (4) years from substantial completion of services under this Agreement.
9. Client acknowledges that Consultant is not responsible for the performance of work by third parties, including, but not limited to, the construction contractor(s), subcontractors, governmental agencies, construction managers, architects or other consultants.
10. Consultant shall only act as an advisor in all governmental relations. Consultant shall not be liable for damages resulting from the actions or inactions of governmental agencies including, but not limited to, permit processing, environmental impact reports, dedications, general plans and amendments thereto, zoning matters, annexations or consolidations, use or conditional use permits, project or plan approvals and building permits.
11. Consultant makes no warranty, either express or implied, as to the findings, recommendations, plans, specifications, or professional advice. Consultant shall

RICK ENGINEERING COMPANY

Standard Provisions of Agreement: California

Page 17 of 22

perform in accordance with generally accepted engineering and/or surveying practices or standards in effect at the time of performance in the locale where the services are rendered.

12. Consultant makes no representation, guarantee, warranty, express or implied concerning estimated cost figures made in connection with maps, plans, specifications or drawings, other than that all such figures are estimates only. Consultant shall not be responsible for fluctuations in cost factors.

13. Consultant makes no representations concerning estimates of areas. Estimates of areas are estimates only and are not to be considered precise unless Consultant specifically agrees to provide the precise determination of such areas.

14. Client and Consultant agree to cooperate in any and every way or manner on project.

15. Consultant makes no representation, either express or implied, concerning soils or geological surveys or subsurface soil tests or general soils testing and reporting.

16. Upon written request, each of the parties hereto shall execute and deliver, or cause to be executed and delivered, such additional instruments and documents which may be necessary and proper to carry out the terms of this Agreement.

17. The terms and provisions of this Agreement shall not be construed to alter, waive, or affect any lien or stop notice rights which the Consultant may have for the performance of services under this Agreement.

18. One or more waivers of any term, condition or covenant by a party shall not be construed as a waiver of subsequent breach of the same or any other term, condition or covenant.

19. In the event Client fails to pay Consultant promptly or within sixty (60) days after invoices are rendered, then Client agrees that Consultant shall have the right to consider said default a total breach of this Agreement and, upon written notice, the duties, obligations and responsibilities of the Consultant under this Agreement are terminated. In such event, Client shall then promptly pay the Consultant for all the fees, charges, and services performed to date by Consultant.

20. In the event any term, condition, covenant or provision of this Agreement shall be held to be invalid, void or unenforceable, the remaining terms, conditions, covenants and provisions of this Agreement shall be valid and binding on the parties hereto.

21. The Client agrees it will require that the Contractor hold harmless, indemnify and defend the Client, the Architect, the Consultant and its sub-consultants, and each of their officers, directors, principals, employees and agents, from any and all liability claims, losses or damages arising or alleged to arise from the performance of the work described herein, but not including the negligence or willful misconduct of the Client, the Architect or the Consultant or their respective sub-consultants, officers directors, principals, employees and agents.

22. The Client shall indemnify and hold Consultant harmless with regard to all liability or claims of any kind, including all investigation and defense costs, connected directly or indirectly with this project, which liabilities or claims do not result from the negligence or willful misconduct of the Consultant.

23. Consultant has a right to complete all services agreed to be rendered pursuant to this Agreement. In the event this Agreement is terminated before the completion of all services, unless Consultant is responsible for such early termination, Client agrees to release Consultant from all liability for services performed.

24. In the event work prepared or partially prepared by the Consultant be suspended, abandoned, or terminated, the Client shall pay the Consultant for all work, fees, deposits, charges and services provided, not to exceed any maximum amount specified herein. Client acknowledges if project work is suspended and restarts, there may be additional charges due to suspension which shall be paid by Client as extra work.

25. Client agrees that if Client requests services not specified pursuant to the scope of services described within this Agreement, Client agrees to pay all such additional services as extra work if authorized in writing.

26. Consultant shall be entitled to immediately, and without notice, suspend the performance of any and all of its obligations pursuant to this Agreement if Client files a voluntary petition seeking relief under the United States Bankruptcy Code or if there is an involuntary bankruptcy

RICK ENGINEERING COMPANY

Standard Provisions of Agreement: California

Page 18 of 22

petition filed against Client in the United States Bankruptcy Court, and that petition is not dismissed fifteen (15) days after its filing. Any suspension of services made pursuant to the provisions of this Paragraph shall continue until such time as this Agreement has been fully and properly assumed or adequate assurance provided in accordance with the applicable provisions of the United States Bankruptcy Court and in compliance with the final order or judgments issued by the Bankruptcy Court.

27. If payment for Consultant's services is to be made on behalf of Client by a third party, Client agrees that Consultant shall not be required to indemnify the third party, in the form of an endorsement or otherwise, as a condition of receiving payment for services.

28. Client agrees to purchase and maintain, during the course of construction, builder's liability special peril or other similar insurance which will name Consultant as an additional insured. Client also agrees to require the contractor or contractors to purchase and maintain liability insurance, including broad form general liability coverage, comprehensive bodily injury, broad form property damage, independent contractors insurance, completed operations and contractual liability coverage, and the exclusions for explosion, collapse or underground coverage shall be deleted; automobile including bodily injury, property damage, owned, non-owned and hired vehicles; and worker's compensation insurance including employers liability coverage, all of which shall name the Client and Consultant as additional insureds. Certificates of such insurance shall be provided to Consultant and the certificate(s) shall include provisions that the above policies are primary and non-contributory with Consultant's insurance and that coverage will not be canceled unless at least thirty days prior written notice has been given to Consultant.

29. In the event that the plans, specifications, and/or field work covered by this Agreement are those required by various governmental agencies and one or more such governmental agency changes its policies, ordinances, procedures or requirements after the date of this Agreement, any additional office or field work required, shall be paid by Client as extra work.

30. Services provided within the Agreement are for the exclusive use of the Client. Nothing contained in this Agreement shall be construed to be for the benefit of any person not a party to this Agreement and no third party beneficiary rights are created.

31. All original papers, drawings, notes, documents and other work product of Consultant, and copies thereof, produced as a result of the Agreement represent professional services, shall remain the property of the Consultant, and Consultant shall retain all copyright and other ownership interests. Client shall have a nonexclusive license to use Consultant's work product and any items in which Consultant maintains ownership and/or copyright interest so long as all fees to be paid under this Agreement have been paid. Any nonexclusive license Client obtains under this Agreement terminates upon the termination of this Agreement. Consultant's work product may be used by Consultant without consent of the Client.

32. In the event that any changes are made in the plans and/or specifications by the Client or persons other than the Consultant, and such changes are not consented to in writing by Consultant, Client acknowledges that the changes and their effects are not the responsibility of Consultant and Client agrees to release Consultant from all liability arising from the use of such changes and agrees to defend, indemnify and hold Consultant, its officers, directors, principals, agents and employees harmless from and against all claims, demands, damages or costs arising from the changes.

33. Client agrees not to use or permit any other person to use plans, drawings or other work product prepared by Consultant, which plans, drawings or other work product are not signed and stamped or sealed by Consultant and/or are not final. Client agrees to be liable and responsible for any use of non-final plans, drawings or work product or plans, drawings or work product not signed, and stamped or sealed by Consultant and waives liability against Consultant for their use. Client further agrees that final plans, drawings and other work products are for the exclusive use of Client and may be used by Client only for the project described in this Agreement.

34. In the event that any staking is destroyed, damaged or disturbed by an act of God or parties other than Consultant, the cost of re-staking shall be paid for by the Client as extra work. If the scope of services provided for pursuant to this Agreement does not include construction staking by Consultant, Client acknowledges that changes, clarifications, adjustments and modifications may be necessary because of changed field or other conditions. Client will indemnify and defend Consultant for construction staking by others and from claims arising from changes, clarifications, adjustments and modifications

RICK ENGINEERING COMPANY

Standard Provisions of Agreement: California

Page 19 of 22

which may be necessary to reflect changed field or other conditions, except claims caused by the negligence or willful misconduct of Consultant.

35. Questions concerning location or changes in construction stakes or questions concerning information on plans and specifications must be called to the attention of the Consultant upon discovery and before corrective remedy.

36. The Consultant shall be notified 24 hours in advance, so that he may check forms, for grade and alignment only, prior to the pouring of concrete for cast-in-place concrete structures, thrust blocks, electrical boxes, bridge abutments or piers, or any similar structures staked by Consultant. Consultant can assure compliance to proper grade and alignment only when it has been advised to check in advance.

37.(a) If the scope of services to be provided by Consultant pursuant to the terms of this Agreement include the preparation of engineering drawings but exclude construction staking services, Client acknowledges that such services normally include coordinating civil engineering services and the preparation of as-built drawings pursuant to Uniform Building Code Chapter 70 and/or other statutes, ordinances or laws, and Client will be required to retain such services from another consultant or pay Consultant pursuant to this Agreement for such services as extra work.

(b) If the scope of services to be provided by Consultant pursuant to the terms of the Agreement, include construction staking services, but exclude the preparation of the engineering drawings to be used for construction and construction staking, Client acknowledges the coordination of civil engineering services and the preparation of as-built drawings as required by statute, ordinance or law may require the retention by Client of another consultant or the original consultant responsible for the design, or pay Consultant pursuant to this Agreement for such services as extra work. Client acknowledges that if Consultant is retained to prepare as-built drawings of plans prepared by others, Client will indemnify, defend and hold Consultant harmless from any and all liability in connection with the plans and specifications prepared by others, and the performance of work by Consultant on this project as set forth in Paragraph 44.

38. In the event Client discovers or becomes aware of apparent errors or omissions, field conditions or dis-

crepancies during the construction phase of the project, which apparent errors or omissions, field conditions or discrepancies are resolvable by Consultant, Client agrees to notify Consultant and engage Consultant to resolve the problem before construction activities commence or further construction activity proceeds. Further, Client agrees to have a provision in its construction contracts for the project which require the contractor to notify Client of any such apparent errors or omissions, field conditions or discrepancies so that Client may, in turn, notify Consultant pursuant to the provisions of this Paragraph.

39. Client shall pay the costs of checking and inspection fees, zoning and annexation application fees, assessment fees, soils engineering fees, soil testing fees, aerial topography fees, and other fees and deposits, permits, bond premiums, title company charges, blueprints and reproductions, and all other charges not specifically covered by the terms of this Agreement.

40. All fees and other charges will be billed monthly as the work progresses and the net amount shall be due at the time of billing.

41. A late payment CHARGE will be computed by the Consultant at the periodic rate of 1.5% per month, not to exceed the maximum legal rate, which will be applied to any unpaid balance commencing thirty (30) days after the date of the original billing.

42. Client agrees that the balance as stated on the billings from Consultant to Client are correct, conclusive and binding on the Client unless Client within forty-five (45) days from the date of receipt of such billing, notifies Consultant in writing of the particular items that are alleged to be incorrect.

43. In consideration of the Consultant's fee for services, the Client agrees that the Consultant will perform no onsite construction review, construction management, supervision of construction of engineering structures or other construction supervision for this project unless specifically contracted for; that such services will be provided by others; and that the Client shall defend, indemnify and hold the Consultant, its officers, directors, principals, agents and employees harmless from any and all liability, real or alleged, arising or resulting from the performance of construction review, construction management, supervision of construction of engineering structures or supervision by others. Further, Client acknowledges that Consultant will be unable to correct errors or omissions in the plans which

RICK ENGINEERING COMPANY

Standard Provisions of Agreement: California

Page 20 of 22

customarily become apparent and resolvable during the course of construction review.

44. Client agrees that, in accordance with generally accepted construction practices, the construction contractor will be required to assume sole and complete responsibility for job site conditions during the course of construction of the project, including safety of all persons and property; that this requirement shall be made to apply continuously and not be limited to normal working hours. The Client further agrees to defend, indemnify and hold the Consultant harmless from any and all liability in connection with the performance of work on this project, excepting liability arising from the negligence or willful misconduct of the Consultant.

45. Client agrees to limit the liability of Consultant, its principals and employees to the Client, all contractors and subcontractors on the project, due to professional negligent acts, errors or omissions of the Consultant, breach of contract or any other cause of action however pled to the sum of \$50,000 or the Consultant's fee, whichever is greater; except that if the contract amount, including any addenda or other contracts pertaining to or covering services related to the project, exceeds \$150,000, the liability of Consultant shall not exceed \$150,000. Client further agrees to notify any contractor and subcontractor who may perform work in connection with any design, report or study prepared by Consultant of such limitation of liability, and to require as a condition precedent to their performing their work, a like indemnity of liability on their part as against the Consultant.

46. The Client hereby agrees to bring no claim for negligence, breach of contract, indemnity or otherwise against the Consultant, its principals, employees and agents if such claim, in any way, would involve the Consultant's services for the investigation, detection, abatement, replacement, use or specification, or removal of products, materials or processes containing asbestos, asbestos cement pipe, and/or hazardous materials (as defined by state, federal and/or local laws or ordinances). Client further agrees to defend, indemnify and hold harmless Consultant, its officers, directors, principals, employees and agents from any asbestos, asbestos cement pipe, and/or hazardous waste material related claims that may be brought by third parties as a result of the services provided by the Consultant pursuant to this Agreement except claims caused by the negligence or willful misconduct of the Consultant.

47. Client acknowledges that Consultant's scope of services

for this project do not include any services related, in any way, to asbestos and/or hazardous waste. Should Consultant or any other party encounter such materials on the job site, or should it in any way become known that such materials are present or may be present on the job site or any adjacent or nearby areas which may affect Consultant's services, Consultant may, at its option, terminate work on the project until such time as Client retains a specialist contractor to abate and/or remove the asbestos and/or hazardous waste materials and warrant that the job site is free from any hazard which may result from the existence of such materials.

48. Digital data files shall be provided to Client only if such delivery has been specified in the scope of services set forth in this Agreement. If the scope of services does not specify that digital data files shall be delivered, all costs associated with delivery of digital data files shall be paid by Client. Client agrees that all digital data files delivered by Consultant are to be used exclusively to fulfill the scope of this Agreement. Client agrees to hold Consultant harmless for any use by client of this data outside or beyond the scope of this Agreement.

49. Consultant makes the following representations as to the compatibility of digital data files:

(a) All data files are to be used with compatible hardware and software versions as used by Consultant at the time file copies were created.

(b) Consultant makes no representation as to the compatibility of any data files other than for the hardware and software versions used by Consultant to create the data files.

(c) Client agrees to hold Consultant harmless for any use of data files on any hardware or software versions other than those which were used by Consultant to create them.

(d) If Client requires or requests any special or specific file structure, format or software that is different from those used by Consultant at the time Consultant is performing the services set forth in this Agreement, unless otherwise specified in this Agreement, all costs associated with creating the file structure or format, and/or acquiring necessary software and/or hardware, shall be the responsibility of Client.

50. After the time final data files have been delivered per terms of this Agreement, Consultant will not be held responsible for maintaining copies of any digital data

RICK ENGINEERING COMPANY

Standard Provisions of Agreement: California

Page 21 of 22

related to this Agreement.

51. Client agrees that if formats for deliverables of digital files are not specified in this Agreement, they will be delivered using the standards and versions of Consultant at the time of creation.

52. Client agrees not to use any digital files (drawing or data file), in whole or in part, for any purpose or project other than the project which is the subject of this Agreement. Client waives any and all claims against Consultant resulting in any way from any changes not authorized and/or authored by Consultant and/or reuse of the drawings or data for any other project without the express written consent by Consultant. The transfer of drawings or data in electronic media or format shall not be deemed a sale, and Consultant makes no warranties, either express or implied, of merchantability or fitness for a particular purpose.

53. Because data stored on electronic media can deteriorate undetected or be modified without the Consultant's knowledge, the Client agrees that it will accept responsibility for the completeness, correctness, or readability of the electronic media after an acceptance period of 30 days after delivery of the electronic files, and that upon the expiration of this acceptance period, client will indemnify and save harmless the Consultant for any and all claims, losses, costs, damages, awards or judgments arising from use of the electronic media files or output generated from them. The Consultant agrees that it is responsible for the accuracy of the sealed drawings that accompany the submittal, and that such accuracy is defined as the care and skill ordinarily used by members of the Consultant's profession practicing under similar conditions at the same time and in the same locality. Consultant makes no warranties, express or implied, under this Agreement or otherwise, in connection with the Consultant's services.

54. Prior to the commencement of any legal action, in an effort to resolve any conflicts that arise during the design or construction of the project which is the subject of this Agreement, or following completion of the project, Client and Consultant agree that all disputes between them arising out of or relating to this Agreement, the services performed pursuant to this Agreement, or relating in any way to the project, shall be submitted to nonbinding mediation unless the parties mutually agree otherwise. Each party shall be represented at the mediation by a person or persons with the authority to bind the party to any agreement, obligation or

resolution resulting from the mediation. Each of the parties agrees to include a similar mediation provision in all agreements with any other contractors and consultants retained for the project and to require such contractors and consultants to include a similar provision in all agreements with subcontractors, subconsultants, suppliers or fabricators, thereby providing mediation as the primary method for dispute resolution between the parties to those agreements.

55. All representations and indemnities made in, required by or given in accordance with this Agreement, as well as all continuing obligations indicated in the Agreement, shall survive completion, acceptance and/or termination of this Agreement.

56. The paragraph numbers and headings are not part of the contract documents and may not be used for any interpretation or meaning of the contract documents. These headings are supplied solely for convenience in locating provisions within the contract documents.

57. Neither party shall assign its rights under this Agreement or any Project Task Order without the written consent of the other party. Any attempt at assignment without the authorization of the other party shall not relieve the other party of any obligations under this Agreement or the Project Task Orders.

58. No provision contained within this Agreement or any of the Project Task Orders creates or gives to third parties any claim or right of action against either of the parties.

59. This Agreement and the Project Task Orders will be construed as a whole in accordance with the fair meaning of the words and documents without regard to California Civil Code 1654 or any other similar statutes.



Hourly Rates – California Offices

August 29, 2020 – February 26, 2021

Page 22 of 22

<p>Principal Consultant (Special Projects)\$280.00 Principal250.00 Associate Principal.....235.00 Associate/Manager.....220.00 Expert Witness400.00 Court Appearance per half day or part1,600.00</p> <p>Director of Land Development\$215.00 Principal Project Engineer/Manager195.00 Associate Project Engineer/Manager180.00 Assistant Project Engineer/Manager.....165.00 Principal Engineering Designer145.00 Associate Engineering Designer135.00 Assistant Engineering Designer120.00 Principal Engineering Drafter115.00 Associate Engineering Drafter105.00 Assistant Engineering Drafter95.00</p> <p>Principal Construction Engineer/Manager\$195.00 Associate Construction Engineer/Manager180.00 Assistant Construction Engineer/Manager165.00 Principal Construction Technician.....145.00 Associate Construction Technician135.00 Assistant Construction Technician120.00</p> <p>Senior Transportation/Traffic Engineer\$205.00 Principal Transportation/Traffic Engineer195.00 Associate Transportation/Traffic Engineer180.00 Assistant Transportation/Traffic Engineer165.00 Principal Transportation/Traffic Designer145.00 Associate Transportation/Traffic Designer135.00 Assistant Transportation/Traffic Designer120.00</p> <p>Principal Community Planner\$215.00 Principal Project Planner/Manager195.00 Associate Project Planner/Manager180.00 Senior Planner170.00 Associate Planner135.00 Assistant Planner115.00 Planning Technician.....90.00</p> <p>Principal Landscape Architect\$215.00 Principal Project Landscape Architect/Manager185.00 Associate Project Landscape Architect/Manager160.00 Assistant Project Landscape Architect/Manager125.00 Principal Landscape/Urban Designer115.00 Associate Landscape/Urban Designer110.00 Assistant Landscape/Urban Designer100.00</p> <p>Principal Environmental Project Manager\$180.00 Associate Environmental Project Manager.....160.00 Assistant Environmental Project Manager140.00 Principal Environmental Specialist125.00 Associate Environmental Specialist120.00 Assistant Environmental Specialist115.00 Environmental Technician95.00</p>	<p>Senior Water Quality Manager\$235.00 Principal Water Resources Designer145.00 Associate Water Resources Designer135.00 Assistant Water Resources Designer120.00</p> <p>GIS Manager\$190.00 Principal GIS Project Manager175.00 Associate GIS Project Manager160.00 Assistant GIS Project Manager140.00 Principal GIS Analyst130.00 Associate GIS Analyst120.00 Assistant GIS Analyst110.00 Principal Graphics Designer120.00 Associate Graphics Designer115.00 Assistant Graphics Designer100.00 CAD Manager180.00</p> <p>Field Supervisor\$195.00 One-person Survey Party145.00 One-person Survey Party with Robotics195.00 Two-person Survey Party230.00 Three-person Survey Party300.00</p> <p>3D Laser Scanning Crew (One-Person).....\$225.00 3D Laser Scanning Crew (Two Person)270.00</p> <p>Principal 3D Laser Scanning Project Manager\$185.00 Associate 3D Laser Scanning Project Manager170.00 Assistant 3D Laser Scanning Project Manager155.00 Principal 3D Laser Scanning Specialist135.00 Associate 3D Laser Scanning Specialist125.00 Assistant 3D Laser Scanning Specialist115.00 Principal 3D Laser Scanning Technician115.00 Associate 3D Laser Scanning Technician100.00 Assistant 3D Laser Scanning Technician90.00</p> <p>Photogrammetry Supervisor\$185.00 Principal Photogrammetrist130.00 Associate Photogrammetrist115.00 Assistant Photogrammetrist105.00</p> <p>Computing & Mapping Director\$195.00 Principal Survey Analyst180.00 Associate Survey Analyst140.00 Assistant Survey Analyst120.00</p> <p>Associate Project Administrator\$80.00 Assistant Project Administrator70.00 Administrative Assistant75.00</p>
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Rates subject to change for prevailing wage contracts

When authorized, overtime shall be charged at the listed rates times 1.3.

Unless otherwise agreed upon, we shall charge for printing, reproduction, deliveries, transportation, and other expenses.

A ten (10) percent fee for administration, coordination and handling will be added to all subcontracted services.