



City of Foster City / Estero Municipal Improvement District
Public Works Department
100 Lincoln Centre Drive
Foster City, CA 94404

REQUEST FOR PROPOSAL
ON-CALL PUBLIC WORKS MAINTENANCE AND URGENT/EMERGENCY RESPONSE SERVICES

RFP ISSUED: October 23, 2024
QUESTIONS DUE: November 13, 2024
PROPOSALS DUE: November 21, 2024, by 4 PM
City Hall, 610 Foster City Boulevard, Foster City, CA

Dear Contractor,

You are invited to submit a proposal to provide **On-Call Public Works Maintenance and Urgent/Emergency Response Services** for the City of Foster City and Estero Municipal Improvement District. The City/District will select qualified contractors to create a list of contractors for on-call public works maintenance and urgent/emergency response services. When required by the City/District, the services will include furnishing all materials, labor, and equipment required for completion of facility or infrastructure repairs, including but not limited to CITY/DISTRICT Water, Wastewater, Buildings, Streets and/or Stormwater systems, and other facilities on an on-call basis as outlined in specific Task Orders.

Interested contractors are encouraged to submit a proposal covering all or specific components of the services detailed in the Scope of Work included as Exhibit B to the attached Master Services Agreement for On-Call Public Works Maintenance and Urgent/Emergency Response Services ("Master Agreement").

CONTRACT

The initial contract period shall be from January 1, 2025, to December 31, 2027. The contract may be renewed in one-year (12 month) increments up to two (2) additional years, by mutual consent of contractor and City/District.

The successful proposer(s) will be required to enter into and abide by the terms of the attached Master Agreement, including its insurance requirements. Under the Master Agreement, the City/District will issue Task Orders to City/District selected on-call contractors to provide services

on a "Time and Materials" basis, where the services are expected to not exceed the City/District Manager's signing authority which is currently \$60,000 for regular maintenance and urgent services, but which may be increased to \$75,000 after January 1, 2025 and additionally over the term of the agreements, as allowed under the Public Contracts Code and authorized by City Council. For emergency services, the task order may exceed the above limits if deemed an emergency per Foster City Municipal Code section 3.04.280. If contract sum under any Task Order exceeds (or is expected to exceed) \$25,000, Contractor shall provide a construction labor and material payment bond, in accordance with Civil Code Section 9550 and may be required to provide a construction performance bond. Proposals must include all contract requirements within the proposed price.

PROPOSALS

Each proposer must submit five (5) fully completed copies of the **BID PROPOSAL FORM** in a sealed envelope. Proposers may, at their option, include five (5) copies of up to one (1) additional page with supplemental information.

Proposals will be evaluated based on cost and other information outlined in the Request for Proposal. The proposers' qualifications and references may be verified through interviews with the proposers and/or reference checks. From these processes, the City/District may select one or more contractors with whom to negotiate final contract terms. The contractor must be ready to execute the attached Master Agreement within ten (10) days of award of the contract.

REQUESTS FOR ADDITIONAL INFORMATION

The City/District reserves the right to seek clarification or additional information from any contractor throughout the solicitation process. Failure of a proposer to demonstrate that the claims made in a proposal are accurate may be sufficient cause for deeming a proposal non-responsive.

Questions regarding this RFP are due no later than November 13, 2024, and may be directed to Zaheed Danish, Public Works Maintenance Manager, at 650-286-8140 or zdanish@fostercity.org.

Sincerely,

Zaheed Danish
Public Works Maintenance Manager

**CITY OF FOSTER CITY / ESTERO MUNICIPAL IMPROVEMENT DISTRICT
PROPOSER RESPONSE FORM
ON-CALL PUBLIC WORKS MAINTENANCE AND URGENT/EMERGENCY RESPONSE SERVICES**

The Proposal Form consists of 6 parts:

- CITY OF FOSTER CITY / ESTERO MUNICIPAL IMPROVEMENT DISTRICT PROPOSAL FORM
- AUTHORIZATION FOR RELEASE OF PERFORMANCE INFORMATION AND WAIVER
- CERTIFICATE OF INSURABILITY
- CONTRACT REVIEW STATEMENT
- NON-COLLUSION DECLARATION

PROJECT:	CONTRACT PERIOD:
CITY OF FOSTER CITY / ESTERO MUNICIPAL IMPROVEMENT DISTRICT ON-CALL PUBLIC WORKS MAINTENANCE AND URGENT/EMERGENCY SERVICES	January 1, 2025, through December 31, 2027, with City/District option to extend through December 31, 2029

SECTION 1: Contact Information

1. COMPANY NAME		
2. CONTRACTOR LICENSE NUMBER	3. FEDERAL TAX ID NUMBER	4. YEARS IN BUSINESS
5. BILLING ADDRESS	6. CITY	7. STATE/ZIP
8. TELEPHONE	9. FAX	10. EMAIL
11. CONTACT PERSON		12. TITLE

SECTION 2: Addenda

I acknowledge receipt of the following addenda:

Addenda Number	Date

SECTION 3: Qualifications

List all Contractor Licenses, Certifications, Experience, Qualifications, Reputation, Service Capabilities and Quality Related to the Contract Scope of Work.

SECTION 4: Conflict of Interest

- ☐ By checking this box, the proposer confirms that this engagement will not result in a conflict of interest for the organization or any of its team members.

SECTION 5: References

Include at least three (3) organizations which can be used as references for performance of similar services. Where possible, include references from public sector agencies.

Reference 1:

AGENCY/COMPANY NAME	
CONTACT NAME	CONTACT PHONE
DESCRIPTION OF SERVICES	

Reference 2:

AGENCY/COMPANY NAME	
CONTACT NAME	CONTACT PHONE
DESCRIPTION OF SERVICES	

Reference 3:

AGENCY/COMPANY NAME	
CONTACT NAME	CONTACT PHONE
DESCRIPTION OF SERVICES	

SECTION 6: Proposal Cost

Proposed Hourly Rates for On-Call Services

Under the Master Agreement, the City/District will issue Task Orders to City/District selected on-call contractors to provide services for urgent or emergency events on a "Time and Materials" basis, where the services are expected to not exceed the City/District Manager's signing authority which is currently \$60,000 for regular maintenance and urgent services, but which may be increased to \$75,000 after January 1, 2025 and additionally over the term of the agreements as allowed under the Public Contracts Code and authorized by City Council. For emergency services, the task order may exceed the above limits if deemed an emergency per Foster City Municipal Code section 3.04.280. If contract sum under any Task Order exceeds (or is expected to exceed) \$25,000, Contractor shall provide a construction labor and material payment bond, in accordance with Civil Code Section 9550 and may be required to provide a construction performance bond.

No work shall be performed under the Master Agreement except to the extent the Contractor receives a Task Order from the City/District Authorized Representative. If services are needed by the City/District, the City/District will request proposals from on-call contractors for each Task Order when services are needed. Contractor would then respond with a scope and cost proposal in a reasonably prompt manner, no later than fifteen (15) calendar days after City/District's request. Such proposal shall include a description of the services to be performed thereunder, the maximum compensation and reimbursement of costs and expenses payable therefor, the time of performance thereof, and such other matters as the parties deem appropriate for the accomplishment of such services.

Trades for which your company is licensed and proposing to provide service under this Master Agreement:

Enter personnel type and labor rates for any personnel who may be deployed to complete the tasks listed in the Scope of Work. Additional sheets may be added as needed to complete this section.

	Enter Personnel Type	Enter Personnel Type	Enter Personnel Type	Enter Personnel Type
Standard Rate	\$	\$	\$	\$
Weekday Overtime Rate	\$	\$	\$	\$
Weekend Overtime Rate	\$	\$	\$	\$
Holiday Rate	\$	\$	\$	\$
Other (Specify)	\$	\$	\$	\$
Other (Specify)	\$	\$	\$	\$

Contractor shall provide documentation of all materials costs. Mark-up on the cost of materials utilized under this agreement shall not exceed: _____% (to be filled by proposer)

SECTION 7: Submittal guidelines

Submit five (5) hard copies of this proposal form and optional additional one-page supplemental information sheet in a sealed envelope no later than by **4 PM on Thursday, November 21, 2024**, to:

Zaheed Danish, Public Works Maintenance Manager
City of Foster City/Estero Municipal Improvement District
610 Foster City Boulevard
Foster City, CA 94404

Late proposals will not be considered.

In accordance with the Request for Proposals, the undersigned declares that the services offered are in accordance with all requirements of the CITY/DISTRICT detailed therein. Further, the undersigned declares that he/she is authorized to enter into agreement on behalf of the above named business and it is hereby understood that the above proposal reflects the cost of all services outlined in the Scope of Services.

SIGNATURE	PRINTED NAME	DATE
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AUTHORIZATION FOR RELEASE OF PERFORMANCE INFORMATION AND WAIVER

I, _____, the undersigned, on behalf of _____ (the company), do hereby consent and authorize all those companies and government entities listed in my Proposer Response Form and any other government entity for whom this company has performed professional services, to disclose and release to the City of Foster City/Estero Municipal Improvement District, or their representatives, information, records and opinions concerning this company's performance. The purpose of this disclosure is to provide references to the City of Foster City/Estero Municipal Improvement District. _____ hereby waives any claim it may have against the City of Foster City/Estero Municipal Improvement District or any company or entity providing information to the City of Foster City/Estero Municipal Improvement District by reason of any information being disclosed or opinions provided regarding the actions or performance of this company.

This authorization for disclosure of information is effective for one year.

This consent or copy of this authorization shall be as valid and effective as the original.

Dated: _____

By: _____

CERTIFICATE OF INSURABILITY

I hereby certify that as a Proposer to City of Foster City/Estero Municipal Improvement District for a contractor services contract, I am fully aware of Insurance Requirements contained in the Contract and by the submission of this Proposal, I hereby assure the City of Foster City/Estero Municipal Improvement District that I am able to produce the insurance coverage required should I be selected to be awarded the contract.

Should I be awarded the Master Services Agreement for On-Call Public Works Maintenance and Urgent/Emergency Response Services by the City of Foster City/Estero Municipal Improvement District, and then become unable to produce the insurance coverage specified within ten (10) working days, I am fully aware and understand that I may not be considered for further projects by the City of Foster City/Estero Municipal Improvement District.

Signature of Applicant

Date

CONTRACT REVIEW STATEMENT

As a Proposer to City of Foster City/Estero Municipal Improvement District for On-Call Public Works Maintenance and Urgent/Emergency Response Services , I hereby certify that I have reviewed the Master Services Agreement for On-Call Public Works Maintenance and Urgent/Emergency Response Services (“Master Agreement”) and have listed any objections to the Master Agreement terms below. The response shall clearly identify if the attached contract is acceptable in all respects including warranty, insurance, and document ownership and retention requirements. If the contract is not acceptable, the response shall identify the unacceptable clauses and shall provide suggested alternate language. General or vague statements or invitations to discuss further are not adequate answers.

I am aware that any objections to the Master Agreement will be considered and included in the City/District's evaluation of my firm's qualifications. I am also aware, if I fail to list any objections to the City/District's Master Agreement, I will not be allowed to raise any objections later if selected as one of the on-call contractors.

Signature of Proposer

Date

Specific Objections:

[illegible]

NON-COLLUSION DECLARATION
(PUBLIC CONTRACT CODE SECTION 7106)

I, _____ declare under penalty of perjury that I am _____ (sole owner, partner, president, etc.) of _____ (company name), the party making the foregoing proposal; that the proposal is not made in the interest of, or on behalf of, any undisclosed person, partnership, company, association, organization, or corporation; that the bid is genuine and not collusive or sham; that the proposer has not directly or indirectly induced or solicited any other proposer to put in a false or sham proposal, and has not directly or indirectly colluded, conspired, connived, or agreed with any proposer or anyone else to put in a sham proposal, or that anyone shall refrain from submitting a proposal; that the proposer has not in any manner, directly or indirectly, sought by agreement, communication, or conference with anyone to fix the proposed prices of the proposer or any other proposer, or to fix any overhead, profit, or cost element of the proposal prices, or of that of any other proposer, or to secure any advantage against the public body awarding the contract or anyone interested in the proposed contract; that all statements contained in the proposal are true; and, further, that the proposer has not, directly or indirectly, submitted his or her proposal or paid, and will not pay, any fee to any corporation, partnership, company, association, organization, bid depository, or to any member or agent thereof to effectuate a collusive or sham proposal.

I declare under penalty of perjury that the foregoing is true and correct and this was executed on the date show below at _____, (City, State)

Dated: _____

NAME OF PROPOSER: _____

Signature: _____

MASTER SERVICES AGREEMENT
FOR
**ON-CALL PUBLIC WORKS MAINTENANCE AND URGENT/EMERGENCY
RESPONSE SERVICES**

This Agreement is made and entered into as of the 1st day of January, 2025 by and between the City of Foster City/Estero Municipal Improvement District hereinafter called "CITY/DISTRICT" and [REDACTED] hereinafter called "CONTRACTOR."

RECITALS

This Agreement is entered into with reference to the following facts and circumstances:

WHEREAS, CITY/DISTRICT desires to retain CONTRACTOR to provide on-call repair and maintenance and urgent/emergency response services for CITY/DISTRICT infrastructure;

WHEREAS, it is anticipated that, as a need arises for CONTRACTOR to provide services, CITY/DISTRICT will issue Task Orders to CONTRACTOR (in a form substantially similar to that set forth in Exhibit "A," attached hereto and incorporated by reference which more particularly describes the scope of services to be performed);

WHEREAS, in reliance upon CONTRACTOR's documentation of its qualifications, the CITY/DISTRICT finds that CONTRACTOR has demonstrated the requisite qualifications, experience, training, and expertise to perform the requested services.

WHEREAS, that CONTRACTOR is specially trained, experienced and competent to perform and has agreed to provide such services;

NOW, THEREFORE, in consideration of the mutual promises, covenants, terms and conditions hereinafter contained, the parties hereby agree as follows:

TERMS AND CONDITIONS

1. Services. The services to be performed by CONTRACTOR under this Agreement shall include those services set forth in each Task Order and Exhibit "B," Scope of Services, which is, by this reference, incorporated herein and made a part hereof as though it were fully set forth herein.

Performance of the work specified in said Exhibit B and each Task Order is hereby made an obligation of CONTRACTOR under this Agreement, subject to any changes that may be made subsequently hereto upon the mutual written agreement of the said parties.

Where in conflict, the terms of this Agreement supersede and prevail over any terms set forth in Exhibit B and in each Task Order.

1. Term; Termination.

(a) The term of this Agreement shall commence upon the date hereinabove written and shall expire upon completion of performance of services hereunder by CONTRACTOR. Initial contract period shall be from January 1, 2025, through December 31, 2027. The contract may be renewed subsequently in one-year increments as follows: The second contract period will be from January 1, 2028, through December 31, 2028. The third contract period will be from January 1, 2029, through December 31, 2029. Renewal shall be by mutual consent of CONTRACTOR AND CITY/DISTRICT as approved by the City Council/District Board. CONTRACTOR shall not commence Services or work until a Notice to Proceed is issued by CITY/DISTRICT.

(b) Notwithstanding the provisions of (a) above, CITY/DISTRICT may with or without cause, direct CONTRACTOR to suspend, delay or interrupt Services, in whole or in part, for such periods of time as CITY/DISTRICT may determine in its sole discretion.

(c) CITY/DISTRICT may terminate performance of the Services under this Agreement in whole, or from time to time in part, for default, should CONTRACTOR commit a material breach of this Agreement, or part thereof, and not cure such breach within ten (10) calendar days of the date of CITY/DISTRICT's written notice to CONTRACTOR demanding such cure, in which case CONTRACTOR shall be liable to CITY/DISTRICT for all loss, cost, expense, damage and liability resulting from such breach and termination.

(d) CITY/DISTRICT may terminate performance of the Services under this Agreement in whole, or from time to time in part, for convenience, whenever CITY/DISTRICT determines that such termination is in CITY/DISTRICT's best interests, in which case CONTRACTOR shall be entitled to recover its costs expended up to the termination date plus reasonable profit thereon to the termination date as this Agreement would otherwise provide, but may recover no other cost, damage or expense. CONTRACTOR shall continue its work throughout the course of any dispute, and CONTRACTOR's failure to continue work during a dispute shall be a material breach of this Agreement.

2. Compensation; Expenses; Payment. CITY/DISTRICT shall compensate CONTRACTOR for all services performed by CONTRACTOR hereunder in an amount based upon CONTRACTOR's hourly rates during the time of the performance of said services. A copy of CONTRACTOR's hourly rates for which services hereunder shall be performed are set forth in CONTRACTOR's fee schedule marked Exhibit "C" hereof, attached hereto and by this reference incorporated herein.

Notwithstanding the foregoing, the combined total of compensation and reimbursement of costs payable hereunder shall not exceed the total amount identified in the Task Order issued to CONTRACTOR by the City/District under this Agreement. The Contractor shall only be paid for services performed under this Agreement to the extent authorized by written Task Order. No overhead or other expenses can be recovered for interim periods when the Contractor's services are not utilized by the City/District. Invoices for amounts in excess of each Task Order shall not be paid unless the performance of services and/or reimbursement of costs and expenses in excess of said amounts have been approved in advance of performing such services or incurring such costs and expenses by CITY/DISTRICT's Manager (for contracts less than \$60,000 or the signatory approval levels in the adopted Purchasing Policy at the time the task order is signed) or CITY/DISTRICT Board (for contracts higher than the signatory approval levels in the adopted Purchasing Policy at the time the task order is signed) evidenced by motion duly made and carried and a written contract amendment having been executed.

Compensation and reimbursement of costs and expenses hereunder shall be payable upon completion of the work under each Task Order by CONTRACTOR to CITY/DISTRICT, which billing shall include an itemized statement, briefly describing by task and labor category or cost/expense items billed. Final payment will be made when all Services required under this Agreement have been completed to the reasonable satisfaction of CITY/DISTRICT including, without limitation, CONTRACTOR's transmittal of all deliverables to CITY/DISTRICT required by EXHIBIT B and each Task Order.

CITY/DISTRICT shall not incur any charges under this Agreement, nor shall any payments become due to CONTRACTOR for any payment period on the Project, until CITY/DISTRICT receives all deliverables required under Exhibit B and each Task Order, SCOPE OF WORK AND SCHEDULE, for the payment period (if any) and reasonably accepts such deliverables as meeting the requirements of this Agreement. In cases where CONTRACTOR has partially completed one or more deliverables due during a payment period, and if CONTRACTOR demonstrates diligent progress thereon, then CITY/DISTRICT may make a partial progress payment based upon percentage completion of the partially completed deliverables and diligent progress but taking into account any adverse impacts upon CITY/DISTRICT. CITY/DISTRICT shall not be liable for, and CONTRACTOR shall not be entitled to, any payment for Services performed before this Agreement's execution.

CITY/DISTRICT will not withhold any Federal or State income taxes or Social Security tax from any payments made by CITY/DISTRICT to

CONTRACTOR under the terms and conditions of this Agreement. Payment of all taxes and other assessments on such sums is the sole responsibility of CONTRACTOR. CITY/DISTRICT has no responsibility or liability for payment of CONTRACTOR's taxes or assessments.

CONTRACTOR shall pay prevailing wages to its employees on any agreement in excess of \$1,000.00. Copies of the general prevailing rates of per diem wages for each craft, classification, or type of worker needed to execute the Agreement, as determined by the Director of the State of California Department of Industrial Relations, are on file at the County's Capital Projects Office and may be obtained from the California Department of Industrial Relations website [<http://www.dir.ca.gov/OPRL/DPreWageDetermination.htm>].

CONTRACTOR shall comply with the 8-hours per day/40 hours per week/overtime/working hours restrictions for all employees, pursuant to the California Labor Code. CONTRACTOR and all subconsultants shall keep and maintain accurate employee payroll records for Work performed under the Agreement. The payroll records shall be certified and submitted as required by law, including Labor Code Sections 1771.4 (if applicable) and 1776, including to the Labor Commissioner no less frequently than monthly. CONTRACTOR shall comply fully with Labor Code Section 1777.5 in the hiring of apprentices for work relating to the Agreement. If the Agreement exceeds \$2,000 and is funded with federal funds, then CONTRACTOR shall pay federal Davis Bacon wages and comply with applicable federal requirements.

4. Performance Bond. If contract sum under any Task Order exceeds (or is expected to exceed) \$25,000, Contractor shall provide a construction labor and material payment bond, in accordance with Civil Code Section 9550 and in form attached hereto as Exhibit F – Construction Labor and Materials Payment Bond, and may be required, in City's sole discretion to provide a construction performance bond in form attached hereto as Exhibit G – Construction Performance Bond. Contractor may not substitute cash in lieu of the required bond(s).
5. Performance of Services. No work shall be performed under this Agreement except to the extent the CONTRACTOR receives a Task Order from the CITY/DISTRICT's Authorized Representative. The CITY/DISTRICT will request proposals from the CONTRACTOR for each Task Order when services are needed. CONTRACTOR shall respond with a scope and cost proposal in a reasonably prompt manner, no later than fifteen (15) calendar days after CITY/DISTRICT's request. Such proposal shall include a description of the services to be performed thereunder, the maximum compensation and reimbursement of costs and expenses payable therefor, the time of performance thereof, and such other matters as the parties deem appropriate for the accomplishment of such services. Upon the approval of

the terms of the proposal by CITY/DISTRICT's Manager (for contracts less than \$60,000 or the signatory approval levels in the adopted Purchasing Policy at the time the task order is signed) or CITY/DISTRICT Board (for contracts higher than the signatory approval levels in the adopted Purchasing Policy at the time the task order is signed) by motion duly made and carried, the CITY/DISTRICT's Authorized Representative shall issue a Task Order against this agreement. CONTRACTOR shall commence performance and shall complete all required services no later than the dates set forth in accordance with the approved Task Order. Except to the extent modified by written amendment, all other terms and conditions of this Agreement shall be deemed incorporated in each such Task Order.

6. Records and Audit. CONTRACTOR shall keep and maintain accurate records of all time expended and costs and expenses incurred relating to services to be performed by CONTRACTOR hereunder. Said records shall be available to CITY/DISTRICT for review and copying during regular business hours at CONTRACTOR's place of business or as otherwise agreed upon by the parties.

CONTRACTOR shall prepare and maintain all writings, documents and records prepared or compiled in connection with the performance of this Agreement for a minimum of four (4) years from the termination or completion of this Agreement. This includes any handwriting, typewriting, printing, photo static, photographing and every other means of recording upon any tangible thing, any form of communication or representation including letters, words, pictures, sounds or symbols or any combination thereof.

Any authorized representative of CITY/DISTRICT shall have access to any writings as defined above for the purposes of making audit, evaluation, examination, excerpts and transcripts during the period such records are to be maintained by CONTRACTOR. Further, CITY/DISTRICT has the right at all reasonable times to audit, inspect or otherwise evaluate the services and work performed or being performed under this Agreement.

7. Authorization. This Agreement becomes effective when endorsed by both parties in the space provided below.
8. Reliance on Professional Skill of CONTRACTOR. CONTRACTOR represents that it has the necessary professional skills to perform the services required and the CITY/DISTRICT shall rely on such skills of the CONTRACTOR to do and perform the work. In performing services hereunder CONTRACTOR shall adhere to the standards generally prevailing for the performance of expert consulting services similar to those to be performed by CONTRACTOR hereunder.

CONTRACTOR represents that it has reviewed Exhibit B and that in its professional judgment the Services to be performed under this Agreement can be performed for a fee within the maximum amount set forth in the Compensation Schedule established in Exhibit B.

CONTRACTOR represents that it possesses all necessary training, licenses, certificates, and permits required by the federal, state, CITY/DISTRICT or municipal governments to perform the Services. Such licenses, certificates and permits must be valid at the time CONTRACTOR enters into this Agreement and must be maintained during the term of this Agreement in full force and effect. Licenses, certificates and permits may include but are not limited to driver's licenses, professional licenses or certificates and business licenses. Such licenses, certificates and permits will be procured and maintained in force by CONTRACTOR at no expense to CITY/DISTRICT.

CONTRACTOR represents that its performance of the Services will conform to the standards of practice of a professional having experience and expertise in performing professional services of like nature and complexity of the Services working on similar, successfully completed projects.

The granting of any progress payment by CITY/DISTRICT, or the receipt thereof by CONTRACTOR, or any inspection, review, approval or oral statement by any representative of CITY/DISTRICT or any other governmental entity, shall in no way waive or limit the obligations in this Paragraph 7 or lessen the liability of CONTRACTOR for unsatisfactory Services, including but not limited to cases where the defective or below standard Services may not have been apparent or detected at the time of such payment, inspection, review or approval.

9. Documents. All documents, plans, drawings, renderings, and other papers, or copies thereof, as finally rendered, prepared by CONTRACTOR pursuant to the terms of this Agreement, shall, upon preparation and delivery to CITY/DISTRICT, become the property of CITY/DISTRICT.
10. Relationship of Parties. It is understood that the relationship of CONTRACTOR to the CITY/DISTRICT is that of an independent contractor and all persons working for or under the direction of CONTRACTOR are its agents or employees and not agents or employees of the CITY/DISTRICT.
11. Schedule. CONTRACTOR shall adhere to the schedule set forth in Exhibit B; provided, that CITY/DISTRICT shall grant reasonable extensions of time for the performance of such services occasioned by governmental reviews of CONTRACTOR's work product or other unavoidable delays; provided, further, that such unavoidable delay shall not include strikes, lockouts, work

stoppages, or other labor disturbances conducted by, or on behalf of, CONTRACTOR's officers or employees.

CONTRACTOR acknowledges the importance to CITY/DISTRICT of CITY/DISTRICT's Project schedule and agrees to put forth its best professional efforts to perform its services under this Agreement in a manner consistent with that schedule.

12. Indemnity.

(a) To the fullest extent allowed by law (including without limitation California Civil Code Sections 2782 and 2782.8), CONTRACTOR shall defend, indemnify, and hold harmless City of Foster City and Estero Municipal Improvement District, its officers, directors, officials, agents, employees, and volunteers (collectively, "**Indemnitees**") from and against any and all claims, suits, expenses, liability, cause of action, loss, cost, damage, injury (including, without limitation, economic harm, injury to or death of any person, including an employee of CONTRACTOR or its Subconsultants), of every kind, nature, and description, at law or equity, (including without limitation, incidental and consequential damages, court costs, attorneys' fees, litigation expenses and fees of expert consultants or expert witnesses incurred in connection therewith and costs of investigation) (collectively "**Liabilities**"), that arise out of, pertain to, or relate to any negligence, recklessness, or willful misconduct of CONTRACTOR, any Subconsultant, anyone directly or indirectly employed or retained by them, or anyone that they control. CONTRACTOR's obligations to indemnify, defend, hold harmless the Indemnitees shall not apply to the extent that such Liabilities are caused in whole or in part by the sole negligence, active negligence, or willful misconduct of such Indemnitee but shall apply to all other Liabilities.

If CONTRACTOR is a "design professional," as defined in California Civil Code Section 2782.8(c), CONTRACTOR shall indemnify, defend, and hold the Indemnitees harmless against Liability only to the extent such Liability arises out of, pertains to, or relates to CONTRACTOR's negligence, recklessness, or willful misconduct. In such an event, the cost to defend charged to CONTRACTOR shall not exceed CONTRACTOR's proportionate percentage of fault.

(b) Intellectual Property Indemnification. CONTRACTOR represents that professional services provided by CONTRACTOR pursuant to this Agreement does not infringe on any other copyrighted work or intellectual property owned by others. CONTRACTOR shall defend, indemnify and hold harmless CITY/DISTRICT from all Liabilities, that may at any time arise for any infringement of the patent rights, copyright, trade secret, trade name, trademark, service mark or any other proprietary right of any person or

persons in arising from or relating to CONTRACTOR's services provided to CITY/DISTRICT under this Agreement.

(c) CITY/DISTRICT shall include a provision in the construction contract with the general contractor on the Project requiring the general contractor to indemnify CONTRACTOR for damages resulting from the negligence of the general contractor and its subcontractors. CITY/DISTRICT shall also include a provision in the construction contract with the general contractor on the Project requiring the general contractor to name CONTRACTOR as an additional insured on its Comprehensive General Liability insurance coverage. If CONTRACTOR has the opportunity to review the construction contract prior to bidding, CITY/DISTRICT shall have no responsibility for the inadvertent omission of such provisions.

(d) CONTRACTOR shall place in its agreements with Subconsultants and cause its Subconsultants to agree to the indemnification and insurance provisions in this Agreement in favor of CITY/DISTRICT and the Indemnitees in the exact form and substance as those contained in this Agreement.

(e) CITY/DISTRICT acknowledges that the discovery, presence, handling or removal of asbestos products, polychlorinated biphenyl (PCB) or other hazardous substances which may presently exist at the any Project site is outside of CONTRACTOR's responsibilities and is not included in the scope of Services CONTRACTOR is to perform nor included in CONTRACTOR's insurance. CITY/DISTRICT shall hire hazardous materials consultant if the Project requires the testing or remediation of hazardous substances. CONTRACTOR shall not be responsible or be involved in any way with the discovery, presence, handling or removal of such materials. CONTRACTOR shall, however, be responsible for the coordination of CONTRACTOR's services and work with the work of CITY/DISTRICT's hazardous materials consultants.

(f) Duty to Cooperate. CONTRACTOR shall notify CITY/DISTRICT immediately in writing of any claim or damage related to activities or services performed under this Agreement. CONTRACTOR shall cooperate with CITY/DISTRICT in the investigation and disposition of all Liabilities arising out of the activities or services under this Agreement. Without limiting the foregoing, CONTRACTOR shall take all steps necessary to assist CITY/DISTRICT in the defense of any and all Liabilities brought by a contractor hired to construct the Project regarding any errors, flaws, and/or omissions in the plans or specifications of the Project. Any additional services or work under this paragraph shall be compensated as Additional Services.

13. Insurance. Prior to execution of this Agreement, CONTRACTOR shall furnish to CITY/DISTRICT Certificates of Insurance showing satisfactory proof that it maintains the insurance required by this Contract as set forth in EXHIBIT D, Insurance, which are attached and made a part of this Agreement. CONTRACTOR shall maintain all required insurance throughout the term of this Agreement and as otherwise provided in EXHIBIT D. In the event CONTRACTOR fails to maintain any required insurance, and notwithstanding Paragraph 3 above, CITY/DISTRICT may (but is not obligated to) purchase such insurance and deduct or retain premium amounts from any sums due CONTRACTOR under this Agreement (or CONTRACTOR shall promptly reimburse CITY/DISTRICT for such expense).

CONTRACTOR shall maintain insurance as required by this Agreement to the fullest amount allowed by law and shall maintain insurance for a minimum of five (5) years following completion of this project or service. In the event CONTRACTOR fails to obtain or maintain completed operations coverage as required by this Agreement, the CITY/DISTRICT at its sole discretion may purchase the coverage required and the cost will be paid by CONTRACTOR.

14. WORKERS' COMPENSATION. CONTRACTOR certifies that he is aware of the provisions of the Labor Code of the State of California 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 CONTRACTOR certifies that he will comply with such provisions before commencing the performance of the work of this agreement.
15. NON-DISCRIMINATION. The CONTRACTOR will not discriminate against any employee or applicant for employment because of race, color, religion, sex or national origin. The CONTRACTOR will take affirmative action to ensure that applicants are employed, and the employees are treated during employment without regard to their race, color, religion, sex or national origin. Such action shall include, but not be limited to the following: employment, advancement, demotion, transfer, recruitment, or recruitment advertising, layoff or termination, rates of pay or other forms of compensation, and selection for training, including apprenticeship. The CONTRACTOR shall at all times be in compliance with the requirements of the Federal Americans With Disabilities Act (Public Law 101-336) which prohibits discrimination on the basis of disability by public entities. The CONTRACTOR agrees to post in conspicuous places available to employees and applicants for employment any notices provided by the CITY/DISTRICT setting forth the provisions of this non-discrimination clause.

16. Notice. All notices required by this Agreement shall be given to the CITY/DISTRICT and CONTRACTOR in writing, by first class mail, postage prepaid, addressed as follows:

CITY: City of Foster City
100 Lincoln Centre Drive
Foster City, CA 94404-2299
Attention: Zaheed Danish

CONTRACTOR: [REDACTED]
[REDACTED]
[REDACTED]

17. Assignment. This is an agreement for the personal services of CONTRACTOR. CITY/DISTRICT has relied upon the skills, knowledge, experience and training of CONTRACTOR and the CONTRACTOR's firm, associates and employees as an inducement to enter into this Agreement. CONTRACTOR shall not assign or subcontract this Agreement without CITY/DISTRICT's express written consent. Further, CONTRACTOR shall not assign any monies due or to become due under this Agreement without CITY/DISTRICT's prior written consent.
18. Amendments. This Agreement may be amended or modified only by written agreement signed by both parties.
19. Validity. The invalidity in whole or in part of any provision of this Agreement shall not void or affect the validity of any other provision of this Agreement.
20. Governing Law. This Agreement shall be deemed to have been executed in the County of San Mateo, California. The formation, interpretation and performance of this Agreement shall be governed by the laws of the State of California, excluding its conflict of laws rules. Any suit or action initiated by either party shall be brought in the County of San Mateo, California unless the parties agree otherwise in a written amendment to this Agreement. In the event of litigation between the parties hereto to enforce any provision of the Agreement, the unsuccessful party will pay the reasonable attorney's fees and expenses of litigation of the successful party.
21. Mediation. Should any dispute arise out of this Agreement, the parties shall meet in mediation and attempt to reach a resolution with the assistance of a mutually acceptable mediator. Neither party shall be permitted to file legal action without first meeting in mediation and making a good faith attempt to reach a mediated resolution. The costs of the mediator, if any, shall be paid equally by the parties. If a mediated settlement is reached neither party

shall be deemed the prevailing party for purposes of the settlement and each party shall bear its own legal costs.

22. Conflict of Interest. CONTRACTOR may serve other clients, but none who are active within the City of Foster City/Estero Municipal Improvement District or who conduct business that would place CONTRACTOR in a "conflict of interest" as that term is defined in State law.
23. Liability of CITY/DISTRICT. Except as provided in Exhibit B, Services to be Provided by CONTRACTOR and Exhibit D, Insurance, CITY/DISTRICT's obligations under this Agreement shall be limited to the payment of the compensation provided for in Paragraphs 1, 3, and 4 of this Agreement,

Notwithstanding any other provision of this Agreement, in no event shall CITY/DISTRICT be liable, regardless of whether any claim is based on contract, tort or otherwise, for any special, consequential, indirect or incidental damages, lost profits or revenue, arising out of or in connection with this Agreement, the Services, or the Project.

CITY/DISTRICT shall not be responsible for any damage to persons or property as a result of the use, misuse or failure of any equipment used by CONTRACTOR, or by any of its employees, even though such equipment be furnished, rented or loaned to CONTRACTOR by CITY/DISTRICT. The acceptance or use of such equipment by CONTRACTOR or any of its employees shall be construed to mean that CONTRACTOR accepts full responsibility for and shall exonerate, indemnify, defend and save harmless CITY/DISTRICT from and against any and all claims for any damage or injury of any type, including attorneys' fees, arising from the use, misuse or failure of such equipment, whether such damage be to the CONTRACTOR, its employees, CITY/DISTRICT employees or third parties, or to property belonging to any of the above.

Nothing in this Agreement shall constitute a waiver or limitation of any right or remedy, whether in equity or at law, which CITY/DISTRICT or CONTRACTOR may have under this Agreement or any applicable law. All rights and remedies of CITY/DISTRICT or CONTRACTOR, whether under this Agreement or other applicable law, shall be cumulative.

24. Confidentiality. Any information, whether proprietary or not, made known to or discovered by CONTRACTOR during the performance of or in connection with this Agreement for CITY/DISTRICT, will be kept confidential and not be disclosed to any other person. CONTRACTOR will immediately notify CITY/DISTRICT in writing if it is requested to disclose any information made known to or discovered by during the performance of or in connection with this Agreement.

These conflict of interest, confidentiality and future service provisions and limitations shall remain fully effective indefinitely after termination of services and work to CITY/DISTRICT hereunder.

- 25. Waiver of Default. Waiver of any default by either party to this Agreement shall not be deemed to be waiver of any subsequent default. Waiver or breach of any provision of this Agreement shall not be deemed to be a waiver of any other or subsequent breach and shall not be construed to be a modification of the terms of this Agreement unless this Agreement is modified as provided below.

- 26. Entire Agreement. This Agreement, including Exhibits A, B, C, D and E, F and G comprises the entire Agreement.

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be executed on the date first above written by their respective officers duly authorized in that behalf.

CITY OF FOSTER CITY/ESTERO MUNICIPAL
IMPROVEMENT DISTRICT

Dated: _____
Stefan Chatwin, City Manager

ATTEST:

Dated: _____
Priscilla Schaus, City Clerk/District Secretary

APPROVED AS TO FORM

Dated: _____
Benjamin Stock,
City Attorney/District Legal Counsel

CONTRACTOR

Dated: _____
[redacted]

EXHIBIT A

SAMPLE TASK ORDER

TASK ORDER NO. [INSERT TASK No.]
TO ON-CALL PUBLIC WORKS MAINTENANCE AND URGENT/EMERGENCY
RESPONSE SERVICES MASTER AGREEMENT

This Task Order No. _____ ("Task Order") is made and entered into by and between the City of Foster City/Estero Municipal Improvement District ("City/District") and _____ ("Contractor") as of _____, 202_.

RECITAL

A. City and Contractor entered into an agreement entitled **Master Services Agreement For On-Call Public Works Maintenance and Urgent/Emergency Services** ("Agreement"), by which the Contractor agreed to perform services in accordance with Task Orders issued by the City.

NOW, THEREFORE, THE PARTIES HEREBY AGREE AS FOLLOWS:

1. INCORPORATION BY REFERENCE. This Task Order hereby incorporates by reference all items and conditions set forth in the Agreement.
2. SCOPE OF TASK ORDER. Contractor shall perform the services described in Exhibit "B," attached hereto and incorporated herein by reference, in accordance with the terms and conditions of the Agreement.
3. PAYMENT. For services performed by Contractor in accordance with this Task Order, City will compensate Contractor in accordance with the terms and conditions of the Agreement, in an amount not to exceed \$ _____ (including all hourly billings as well as reimbursable costs).
4. BOND REQUIREMENTS. [ADD IF PAYMENT AMOUNT OVER \$25,000]
5. SIGNATURES. The individuals executing this Task Order represent and warrant that they have the right, power, legal capacity, and authority to enter into and to execute this Task Order on behalf of the respective legal entities of the Contractor and the City.

IN WITNESS WHEREOF, the City and Contractor do hereby agree to the full performance of the terms set forth herein.

City of Foster City

Contractor

By: _____

By: _____

Title: City Manager

Title: _____

Date: _____

Date: _____

Tax ID No.: _____

EXHIBIT B

SERVICES TO BE PROVIDED, PAYMENTS, PROJECTS, AND SCHEDULE, ON-CALL PUBLIC WORKS MAINTENANCE AND URGENT/EMERGENCY RESPONSE SERVICES

SERVICES TO BE PROVIDED

This is an Exhibit attached to and made a part of and incorporated by reference to the Agreement dated January 1, 2025, by and between [REDACTED], hereinafter referred to as "**CONTRACTOR**" and the City of Foster City/Estero Municipal Improvement District, hereinafter referred to as "**CITY/DISTRICT**" providing for professional services.

1. Description of the Project:

- 1.1 Furnish all tools, labor, equipment and materials necessary to perform repairs and maintenance on the CITY/DISTRICT Water, Wastewater, Building, Streets and/or Stormwater systems, and other facilities on an on-call basis as outlined in specific Task Orders.

2. Services:

- 2.1 Scope of work shall include mobilization of labor, equipment and materials to perform maintenance and emergency and/or on-call urgent repair work as directed by City/District staff on water lines, wastewater lines, pumps, engines, valves, lift stations or other infrastructure elements, debris removal and disposal of soils, clearing, grading and earthwork, disaster mitigation and recovery, or other tasks as agreed upon by CITY/DISTRICT and CONTRACTOR.
- 2.2 Scope of work may include dewatering plan, SWPPP plan, traffic control plan, permits, fees and third-party testing, FEMA reimbursement expertise and administrative support as mutually agreed by CITY/DISTRICT and CONTRACTOR.

3. PAYMENTS

- 3.1 Unless issued under an emergency declaration, the maximum payment to CONTRACTOR under this Agreement for any single task order shall be limited to amounts not to exceed the City/District Manager, or their designee's signing authority, which is currently \$60,000, but may be increased per the Public Contracts Code over the term of the agreement. The dollar limit of Task Orders issued under an emergency declaration shall be at the discretion of the City Manager, under his procurement authority as outlined in Municipal Code Section 2.40.070.
- 3.2 CITY/DISTRICT shall pay monthly, based on the value of the work performed in each month upon presentation of an invoice by CONTRACTOR.

END OF EXHIBIT B

EXHIBIT C
FEE SCHEDULE

EXHIBIT D INSURANCE FORMS

CONTRACTOR shall provide, in addition to the Certificates of Insurance, original Endorsement affecting the coverages specified herein on the attached form. No substitute form will be accepted.

This is an Exhibit to, and made a part of and incorporated by reference to the Agreement dated January 1, 2025, by and between [REDACTED], hereinafter referred to as "**Contractor**", and City of Foster City/Estero Municipal Improvement District, hereinafter referred to as "**City/District**", providing for professional services.

1. **Contractor's Duty to Show Proof of Insurance.** Contractor, in order to protect City/District and its Council members, officials, agents, officers, and employees against all claims and liability for death, injury, loss and damage as a result of Contractor's acts, errors, or omissions in connection with the performance of Contractor's obligations, as required in this Agreement, shall secure and maintain insurance as described below. Contractor shall not perform any work under this Agreement until Contractor has obtained all insurance required under this section and the required certificates of insurance and all required endorsements have been filed with the City/District's authorized insurance representative, insurance Tracking Services Inc. (ITS). Receipt of evidence of insurance that does not comply with all applicable insurance requirements shall not constitute a waiver of the insurance requirements set forth herein. The required documents must be signed by the authorized representative of the insurance company shown on the certificate. Upon request, Contractor shall supply proof that such person is an authorized representative thereof and is authorized to bind the named underwriter(s) and their company to the coverage, limits and termination provisions shown thereon, Contractor shall promptly deliver to ITS a certificate of insurance, and all required endorsements, with respect to each renewal policy, as necessary to demonstrate the maintenance of the required insurance coverage for the term specified herein. Such certificates and endorsements shall be delivered to ITS prior to the expiration date of any policy and bear a notation evidencing payment of the premium thereof if so requested. Contractor shall immediately pay any deductibles and self-insured retentions under all required insurance policies upon the submission of any claim by Contractor or City/District as an additional insured.

1.1 Insurance Requirements

☒ Commercial General Liability Insurance

Commercial General Liability Insurance including, but not limited to, Contractual Liability Insurance (specifically concerning the indemnity provisions of this Agreement with the City/District), Products-Completed Operations Hazard, liability for slander, false arrest and invasion of privacy arising out of professional services rendered hereunder, Personal Injury (including bodily injury and death), and Property Damage for liability arising out of Contractor's performance of services under this Agreement. The Commercial General Liability insurance shall contain no exclusions or limitation for independent contractors working on the behalf of the named insured. Contractor shall maintain the Products-Completed Operations Hazard coverage for the longest period allowed by law following termination of this Agreement. The amount of said insurance coverage required by this Agreement shall be the policy limits, which shall

be at least five million dollars (\$5,000,000) each occurrence and five million dollars (\$5,000,000) aggregate.

*Please note, the City/District will require a separate additional insured endorsement for the Commercial General Liability policy, listing the "City of Foster City/Estero Municipal Improvement District, its Council/Board members, officials, agents, officers, volunteers and employees".

☒ Business Automobile Liability Insurance

Automobile Liability Insurance against claims of Personal Injury (including bodily injury and death) and Property Damage covering any vehicle and/or all owned, leased, hired and non-owned vehicles used in the performance of Services pursuant to this Agreement with coverage equal to the policy limits, which shall be at least two million dollars (\$2,000,000) each occurrence.

☒ Workers' Compensation Insurance

Contractor shall submit written proof that Contractor is insured against liability for workers' compensation in accordance with the provisions of section 3700 of the California Labor Code. Contractor shall require any Subconsultants to provide workers' compensation for all of the Subconsultants' employees, unless the Subconsultants' employees are covered by the insurance afforded by Contractor. If any class of employees engaged in work or services performed under this Agreement is not covered by California Labor Code section 3700, Contractor shall provide and/or require each Subconsultant to provide adequate insurance for the coverage of employees not otherwise covered. Contractor shall also maintain employer's liability insurance with limits of one million dollars (\$1,000,000) for bodily injury or disease.

☐ Professional Liability Insurance

Professional Liability (Errors and Omissions) Insurance, for liability arising out of, or in connection with, all negligent acts, errors or omissions in connection with services to be provided under this Agreement, with no exclusion for claims of one insured against another insured, with coverage equal to the policy limits, which shall not be less than two million dollars (\$2,000,000) per occurrence and four million dollars (\$4,000,000) aggregate.

1.2 Self-Insured Retention

Any self-insured retentions in excess of \$100,000 must be declared on the Certificate of insurance or other documentation provided to City/District and must be approved by the City/District Risk Manager.

1.3 Claims-Made Basis Coverage

If any of the insurance coverages required under this Agreement is written on a claims-made basis, Contractor, at Contractor's option, shall either (i) maintain said coverage for at least five (5) years following the termination of this Agreement with coverage extending back to the effective date of this Agreement; (ii) purchase an extended reporting period of

not less than five (5) years following the termination of this Agreement; or (iii) acquire a full prior acts provision on any renewal or replacement policy.

2. City/District as Additional Insured

On Contractor's Commercial General Liability and Automobile policies, the City of Foster City/Estero Municipal Improvement District, its Council members, officers, directors, agents, employees, and volunteers, shall be named as additional insured's, but only with respect to liability arising out of the activities of the named insured. Any endorsement shall be provided using one of the following three options: (i) on ISO form CG 20 10 1 1 85; or (ii) on ISO form CG 20 37 10 01 plus either ISO form CG 20 10 10 01 or CG 20 33 10 01; or (iii) on such other forms which provide coverage at least equal to or better than form CG 20 10 1 1 85.

3. Insurance terms and conditions:

3.1 Cancellation of Insurance

The above stated insurance coverages required to be maintained by consultant shall be maintained until the completion of all of Contractor's obligations under this Agreement except as otherwise indicated herein. Each insurance policy supplied by consultant shall not be suspended, voided, cancelled or reduced in coverage or in limits except after ten (10) days written notice by Contractor in the case of non-payment of premiums, or thirty (30) days written notice in all other cases. This notice requirement does not waive the insurance requirements stated herein. Contractor shall immediately obtain replacement coverage for any insurance policy that is terminated, canceled, non-renewed, or whose policy limits have been exhausted or upon insolvency of the insurer that issued the policy.

3.2 All insurance shall be issued by a company or companies admitted to do business in California and listed in the current "Best's Key Rating Guide" publication with a minimum rating of A-; VII Any exception to these requirements must be approved by the City/District Risk Manager.

3.3 If Contractor is, or becomes during the term of this Agreement, self-insured or a member of a self-insurance pool, Contractor shall provide coverage equivalent to the insurance coverages and endorsements required above. The City/District will not accept such coverage unless the City/District determines, in its sole discretion and by written acceptance, that the coverage proposed to be provided by Contractor is equivalent to the above-required coverages.

3.4 For any claims related to the Agreement, the Contractor's insurance coverage shall be primary insurance coverage at least as broad as ISO CG 20 01 04 13 as respects the City/District, its officers, officials, employees, and volunteers. Any insurance or self-insurance maintained by the City/District, its officers, officials, employees, or volunteers shall be excess of the Contractor's insurance and shall not contribute with it.

3.5 Insurance coverages in the minimum amounts set forth herein shall not be construed to relieve Contractor for any liability, whether within, outside, or in excess of such coverage, and regardless of solvency or insolvency of the insurer that issues the

coverage; nor shall it preclude the City/District from taking such other actions as are available to it under any other provision of this Agreement or otherwise in law.

3.6 Failure by Contractor to maintain all such insurance in effect at all times required by this Agreement shall be a material breach of this Agreement by Contractor. City/District, at its sole option, may terminate this Agreement and obtain damages from Contractor resulting from said breach. Alternatively, City/District may purchase such required insurance coverage, and without further notice to Contractor, City/District shall deduct from sums due to Contractor any premiums and associated costs advanced or paid by City/District for such insurance. If the balance of monies obligated to Contractor pursuant to this Agreement are insufficient to reimburse City/District for the premiums and any associated costs, Contractor agrees to reimburse City/District for the premiums and pay for all costs associated with the purchase of said insurance. Any failure by City/District to take this alternative action shall not relieve Contractor of its obligation to obtain and maintain the insurance coverages required by this Agreement.

3.7 Should any of the required insurance (other than errors and omissions insurance) be provided under a form of coverage that includes a general annual aggregate limit or provides that claims investigation or legal defenses costs be included in such general aggregate limit, such general annual aggregate limit shall be double the occurrence or claims limit specified above.

3.8 City/District may (but is under no obligation to) secure project-specific insurance, wrap-up insurance, or administer an owner-controlled insurance program ("OCIP"), in which case Contractor and its subconsultants shall communicate this fact to their insurance carriers and request that the risk of this project be excluded from their practice policies. Contractor's fees under this Agreement (and the fee of its subconsultants under subconsultant agreements) shall be reduced by the amount of insurance premiums that may be avoided by consultant and its subconsultants by virtue of the City/District's obtaining the project-specific insurance, wrap-up insurance or administering an OCIP, and the exclusion of this project from coverage of Contractor's and subconsultants policies. Construction Manager and its subconsultants shall afford City/District access to their books and records and cooperate with City/District in verifying the amount of savings realized.

ATTACHED

1. Insurance Coverage Form

EXHIBIT D

This **INSURANCE COVERAGE FORM** modifies, or documents insurance provided under the following:

Named Insured: _____

Effective Work Date(s): _____

Description of Work/Locations/Vehicles: _____

ADDITIONAL INSURED:**City of Foster City/Estero Municipal Improvement District (CITY)****610 Foster City Boulevard, Foster City, CA 94404****Attention:** _____**Contract Administrator**

Endorsement and Certificates of Insurance Required The Additional Insured, its elected or appointed officers, officials, employees and volunteers are included as insureds with regard to damages and defense of claims arising from: (Check all that apply)		Insurer	Policy No.
<input type="checkbox"/>	General Liability: (a) activities performed by or on behalf of the Named Insured, (b) products and completed operations of the Named Insured, (c) premises owned, leased occupied or used by the Named Insured, and/or (d) permits issued for operations performed by the Named Insured. {Note: MEETS OR EXCEEDS ISO Form # CG 20 10 11 85}		
<input type="checkbox"/>	Auto Liability: the ownership, operation, maintenance, use, loading or unloading of any auto owned, leased, hired or borrowed by the Named Insured, regardless of whether liability is attributable to the Named Insured or a combination of the Named Insured and the Additional Insured, its elected or appointed officers, officials, employees or volunteers.		
<input type="checkbox"/>	Other:		
Certificates of Insurance Required (no endorsement needed) (Check all that apply)		Insurer	Policy No.
<input type="checkbox"/>	Workers Compensation: work performed by employees of the Named Insured while those employees are engaged in work under the simultaneous directions and control of the Named Insured and the Additional Insured.		
<input type="checkbox"/>	Professional Liability:		

PRIMARY/NON-CONTRIBUTORY: This insurance is primary and is not additional to or contributing with any other insurance carried by or for the benefit of Additional Insureds.

SEVERABILITY OF INTEREST: The insurance afforded by this policy applies separately to each insured who is seeking coverage or against whom a claim is made or a suit is brought, except with respect to the insurer's limit of liability.

PROVISIONS REGARDING THE INSURED'S DUTIES AFTER ACCIDENT OR LOSS: Any failure to comply with reporting provisions of the policy shall not affect coverage provided to the Additional Insured, its elected or appointed officers, officials, employees, or volunteers.

CANCELLATION NOTICE: The insurance afforded by this policy shall not be suspended, voided, canceled, reduced in coverage or in limits except after thirty (30) days' prior written notice (ten (10) days if canceled due to non-payment) by regular mail return receipt requested has been given to the Additional Insured. Such notice shall be addressed as shown above.

WAIVER OF SUBROGATION: The insurer(s) named above agree to waive all rights of subrogation against the CITY, its elected or appointed officers, officials, agents, volunteers, and employees for losses paid under the terms of this policy which arise from work performed by the Named Insured for the CITY.

Nothing herein contained shall vary, alter or extend any provision or condition of the Policy other than as above stated.

SIGNATURE OF INSURER OR AUTHORIZED REPRESENTATIVE OF THE INSURER

I, _____ (print/type name), warrant that I have authority to bind the above-named insurance company and by my signature hereon do so bind this company.

SIGNATURE OF AUTHORIZED REPRESENTATIVE (original signature required)

ORGANIZATION: _____

TITLE: _____

ADDRESS: _____

TELEPHONE: () _____ DATE ISSUED: _____

END OF EXHIBIT D

EXHIBIT E

COVID-19 AMENDMENT/ATTACHMENT

This COVID-19 Amendment/Attachment amends the Agreement between the City of Foster City/Estero Municipal Improvement District hereinafter called "CITY/DISTRICT" and [REDACTED] ("Contractor") dated January 1, 2025.

1. Definitions

A. The 2019 novel coronavirus and the disease it causes are collectively referred to herein as "**COVID-19**".

B. A "**COVID-19 Condition**" is something attributable to COVID-19 not caused by the Contractor (which for purposes herein includes all subconsultants) and beyond its reasonable control including but not limited to COVID-19 Proclamations and supply chain disruptions due to COVID-19, and other circumstances concerning COVID-19 not caused by the Contractor and which are beyond its reasonable control.

C. A "**COVID-19 Proclamation**" includes but is not limited to orders, directives and guidance concerning COVID-19 that have been issued, and which may be issued from time to time, by public agencies or regulatory bodies, the CDC or OSHA or Cal/OSHA, including without limitation the Cal/OSHA COVID-19 Prevention Emergency Temporary Standards. Contractor acknowledges that those orders, directives and guidance may require the Project to shut down or otherwise increase the Contractor's cost or time of performance by calling for things such as social distancing and the use of personal protective equipment. In the event of conflicting COVID-19 Proclamations, the Contractor shall follow the most applicable, restrictive and newest COVID-19 Proclamations.

D. An "**Unknown COVID-19 Condition**" is a COVID-19 Condition the Contractor did not know about, and reasonably should not have known about, as of the date the Contractor submitted its proposal. The requirements contained in COVID-19 Proclamations issued before submission of a proposal are not Unknown COVID-19 Conditions, and the Contractor will be deemed to have knowledge of those requirements.

E. An "**Unknown COVID-19 Cost**" is a cost that: (i) is solely attributable to an Unknown COVID-19 Condition; (ii) is reasonable under the circumstances; (iii) is not the result of the Contractor's failure to comply with the contract documents or a COVID-19 Proclamation; and (iv) is not the result of a subconsultants failure to comply with a COVID-19 Proclamation in connection with the performance of the Services.

2. COVID-19 Conditions and Proposal. Contractor is expected to know and is deemed to have known about COVID-19 Conditions when it submits its proposal, and COVID-19 Conditions must be accounted for in the Contractor's price and schedule. In order to be entitled to any relief from a COVID-19 Condition, the Contractor must demonstrate that the issue, cost or delay is due to an Unknown COVID-19 Condition.

3. Compliance with COVID-19 Proclamations.

A. Contractor shall comply with COVID-19 Proclamations in the performance of the Services, irrespective of when the COVID-19 Proclamations are issued, and as they pertain to performance of the Services. The cost of such compliance is non-compensable, except as otherwise expressly stated herein.

B. Contractor is responsible to ensure that its subconsultants and suppliers comply with COVID-19 Proclamations at all times in connection with the performance of their Services.

4. Delay. The Contractor is entitled to a reasonable time extension for an Unknown COVID-19 Condition. Such time extension is non-compensable.

5. City/District Directed Suspension. The City/District may suspend Services due to COVID-19 health concerns, even though the Contractor may be allowed to proceed with the Services based on COVID-19 Proclamations. The City/District may suspend the Services for its convenience. The Contractor is entitled to a time extension for a City/District Directed Suspension, and the contract amount will be equitably adjusted if and to the extent Contractor incurs increased costs that are Unknown COVID-19 Costs.

6. Compensation for COVID-19 Costs. City/District will reimburse the Contractor for costs attributable to COVID-19, and which are not included in the schedule of values, only if the cost is an Unknown COVID-19 Cost.

7. Safe Work Practices. Contractor shall implement safe work practices recommended by CDC or OSHA or Cal/OSHA, which may include, inter alia, screening all employees, subconsultants, or others ("worker(s)") at all locations where Services are performed for signs and symptoms of COVID-19; adopting staggered work schedules, e.g., providing alternating workdays or extra shifts, to reduce the total number of employees on a site at any given time and to ensure physical distancing; identifying choke points where workers are forced to stand together, such as hallways and elevators, ingress and egress points, break areas, and buses, and implement policies to maintain social distancing; coordinating deliveries in line with the employer's minimal contact and cleaning protocols; and instituting a rigorous housekeeping program to reduce dust levels at all exterior locations. Contractor remains fully responsible for following and complying with changes to recommended safe work practices from time to time.

8. Monitoring and Reporting. City/District may require the Contractor to actively monitor the health of its workers through temperature checks and questionnaires of major COVID-19 symptoms, including but not limited to cough, fever above 100.4 degrees Fahrenheit and shortness of breath. Contractor shall immediately report to City/District any outbreaks of COVID-19 among its workers. The Contractor shall not knowingly allow any worker who has tested positive with COVID-19 to enter a City/District building. In the event of an outbreak or an exposure to COVID-19, the City/District may impose appropriate mitigation strategies which may be in consultation with the public health officer.

9. Conflicts. In the event of an inconsistency between this COVID-19 Amendment and the Agreement, this Addendum shall control.

IN WITNESS WHEREOF, the City/District and Contractor have executed this Covid-19 Amendment as of the date set forth above.

CONTRACTOR:

CITY/DISTRICT:

Signature

Signature

, President

Stefan Chatwin, City Manager

END OF EXHIBIT E

EXHIBIT F
CONSTRUCTION LABOR AND MATERIAL PAYMENT BOND

KNOW ALL PERSONS BY THESE PRESENTS:

1. THAT WHEREAS, the **City of Foster City**, a general law city and municipal corporation of the State of California/Estero Municipal Improvement District (**Owner**) has awarded to **(Name of Contractor)** _____ as Principal a Construction Services Agreement, dated the _____ day of _____, 20 ____ (**Agreement**), titled THE _____ PROJECT located at _____ in the amount of \$ _____ (Contract Sum), which Agreement is by this reference made a part hereof, for the work described as follows:

(Describe Agreement Work) _____

2. AND WHEREAS, Principal is required to furnish a bond in connection with the Agreement to secure the payment of claims of laborers, mechanics, material suppliers, and other persons as provided by law;
3. NOW, THEREFORE, we, the undersigned Principal and _____ as Surety, are held and firmly bound unto Owner in the sum of 100% OF THE CONTRACT SUM (\$ _____), for which payment well and truly to be made we bind ourselves, our heirs, executors, administrators, successors, and assigns, jointly and severally, firmly by these presents.
4. THE CONDITION OF THIS OBLIGATION IS SUCH, that if Principal, or its heirs, executors, administrators, successors, or assigns approved by Owner, or its subcontractors shall fail to pay any of the persons named in California Civil Code Section 9100, or amounts due under the State of California Unemployment Insurance Code with respect to work or labor performed under the Agreement, or for any amounts required to be deducted, withheld, and paid over to the State of California Employment Development Department from the wages of employees of Principal and subcontractors pursuant to California Unemployment Insurance Code Section 13020 with respect to such work and labor, that Surety will pay for the same in an amount not exceeding the sum specified in this bond, plus reasonable attorneys' fees, otherwise the above obligation shall become and be null and void.
5. This bond shall inure to the benefit of any of the persons named in California Civil Code Section 9100, as to give a right of action to such persons or their assigns in any suit brought upon this bond. The intent of this bond is to comply with the California Mechanic's Lien Law.
6. Surety, for value received, hereby expressly agrees that no extension of time, change, modification, alteration, or addition to the undertakings, covenants, terms, conditions, and agreements of the Agreement, or to the work to be performed thereunder, shall in any way affect the obligation of this bond; and it does hereby waive notice of any such extension of time, change, modification, alteration, or addition to the undertakings, covenants, terms, conditions, and agreements of the Agreement, or to the work to be performed thereunder.
7. Surety's obligations hereunder are independent of the obligations of any other surety for the payment of claims of laborers, mechanics, material suppliers, and other persons in connection with Agreement; and suit may be brought against Surety and such other sureties, jointly and severally, or against any one or more of them, or against less than all of them without impairing Owner's rights against the other.

8. Correspondence or claims relating to this bond shall be sent to Surety at the address set forth below.

IN WITNESS WHEREOF, we have hereunto set our hands this _____ day of _____, 20____.

CONTRACTOR AS PRINCIPAL

SURETY

Company: _____ (Corp. Seal)

Company: _____ (Corp. Seal)

Signature

Signature

Name

Name

Title

Title

Street Address

Street Address

City, State, Zip Code

City, State, Zip Code

END OF EXHIBIT F

EXHIBIT G

CONSTRUCTION PERFORMANCE BOND

KNOW ALL PERSONS BY THESE PRESENTS:

1. THAT WHEREAS, **City of Foster City**, a general law city and municipal corporation of the State of California/Estero Municipal Improvement District
2. **(Owner)** has awarded to **(Name of Contractor)** _____ as Principal a Construction Services Agreement, dated the _____ day of _____, 20____ **(Agreement)**, titled THE _____ PROJECT in the amount of \$_____ (Contract Sum), which Agreement is by this reference made a part hereof, for the work described as follows:
(Describe Agreement Work) _____
3. AND WHEREAS, Principal is required to furnish a bond in connection with the Agreement, guaranteeing the faithful performance thereof;
4. NOW, THEREFORE, we, the undersigned Principal and _____ as Surety are held and firmly bound unto Owner in the sum of 100% OF THE CONTRACT SUM to be paid to Owner or its successors and assigns; for which payment, well and truly to be made, we bind ourselves, our heirs, executors, administrators, successors, and assigns, jointly and severally, firmly by these presents.
5. THE CONDITION OF THIS OBLIGATION IS SUCH, that if Principal, or its heirs, executors, administrators, successors, or assigns approved by Owner, shall promptly and faithfully perform the covenants, conditions, and agreements of the Agreement during the original term and any extensions thereof as may be granted by Owner, with or without notice to Surety, and during the period of any guarantees or warranties required under the Agreement, and shall also promptly and faithfully perform all the covenants, conditions, and agreements of any alteration of the Agreement made as therein provided, notice of which alterations to Surety being hereby waived, on Principal's part to be kept and performed at the time and in the manner therein specified, and in all respects according to their true intent and meaning, and shall indemnify, defend, protect, and hold harmless Owner as stipulated in the Agreement, then this obligation shall become and be null and void; otherwise it shall be and remain in full force and effect.
6. No extension of time, change, alteration, modification, or addition to the Agreement, or of the work required thereunder, shall release or exonerate Surety on this bond or in any way affect the obligation of this bond; and Surety does hereby waive notice of any such extension of time, change, alteration, modification, or addition.
7. Whenever Principal shall be and declared by Owner in default under the Agreement, Surety shall promptly remedy the default, or shall promptly:
 - 7.01 Undertake through its agents or independent contractors, reasonably acceptable to Owner, to complete the Agreement in accordance with its terms and conditions and to pay and perform all obligations of Principal under the Agreement including, without limitation, all obligations with respect to warranties, guarantees, indemnities, and the payment of liquidated damages; or
 - 7.02 Obtain a bid or bids for completing the Agreement in accordance with its terms and conditions, and, upon determination by Owner of the lowest responsible bidder, reasonably acceptable to Owner, arrange for a contract between such bidder and Owner and make available as work progresses (even though there should be a default or a succession of defaults under the contract or contracts of completion arranged under this paragraph) sufficient funds to pay the cost of completion less the balance of the Contract Sum, and to pay and perform all obligations of Principal under the Agreement including, without limitation, all obligations with respect to warranties, guarantees, and the payment of liquidated

damages; but, in any event, Surety's total obligations hereunder shall not exceed the amount set forth in the third paragraph hereof. The term "balance of the Contract Sum," as used in this paragraph, shall mean the total amount payable by Owner to the Principal under the Agreement and any amendments thereto, less the amount Owner paid to Principal.

8. Surety's obligations hereunder are independent of the obligations of any other surety for the performance of the Agreement, and suit may be brought against Surety and such other sureties, jointly and severally, or against any one or more of them, or against less than all of them without impairing Owner's rights against the others. Surety may not use Contractor to complete the Agreement absent Owner's written consent.
9. No right of action shall accrue on this bond to or for the use of any person or corporation other than Owner or its successors or assigns.
10. Surety may join in any proceedings brought under the Agreement and shall be bound by any judgment.
11. Correspondence or claims relating to this bond shall be sent to Surety at the address set forth below.

IN WITNESS WHEREOF, we have hereunto set our hands this _____ day of _____, 20____.

CONTRACTOR AS PRINCIPAL

SURETY

Company: _____ (Corp. Seal)

Company: _____ (Corp. Seal)

Signature

Signature

Name

Name

Title

Title

Street Address

Street Address

City, State, Zip Code

City, State, Zip Code

END OF EXHIBIT G