

**AGREEMENT FOR PROFESSIONAL SERVICES
BETWEEN
THE CITY OF MERCED
AND
CUPPLES KELLER DESIGNS**

THIS AGREEMENT ("Contract") is made and entered into this ____ day of _____, 20__, by and between the City of Merced, a California Charter Municipal Corporation, whose address of record is 678 West 18th Street, Merced, California 95340, (hereinafter referred to as "City") and Cupples Keller Designs a Stock Corporation whose address of record is 1970 Broadway, #800, Oakland, California 94612 (hereinafter referred to as "Consultant").

RECITALS

WHEREAS, City requires on-call services for landscape design services; and,

WHEREAS, Consultant represents that it possesses the professional skills to provide such services in connection with said on-call service needs.

AGREEMENT

NOW, THEREFORE, the parties hereto, in consideration of the mutual covenants hereinafter recited, hereby agree as follows:

1. **SCOPE OF SERVICES.** The Consultant shall furnish the following services: Consultant shall provide the landscape design services described in Exhibit "A" attached hereto.
2. **ADDITIONAL SERVICES.** No additional services shall be performed by Consultant unless approved in advance in writing by the City, stating the dollar value of the services, the method of payment, and any adjustment in contract time. All such services are to be coordinated with City and the results of the work shall be monitored by the City Engineer or designee. However, the means by which the work is accomplished shall be the sole responsibility of the Consultant.

The City may desire services to be performed which are relevant to this Contract or the services to be performed hereunder but have not been included in the scope of the services listed in Paragraph 1 above, and Consultant agrees to perform said services upon the written request of City. There additional

services could include, but are not limited to, any of the following:

- A. Serving as an expert witness for the City in any litigation or other proceedings involving the project or services.
- B. Service of the same nature as provided herein which are required as a result of events unforeseen on the date of this contract.

3. CITY FURNISHED SERVICES. The City agrees to:

- A. Facilitate access to and make provisions for the Consultant to enter upon public and private lands as required to perform their work.
- B. Make available to Consultant those services, supplies, equipment and staff that are normally provided for the services required by the type of services to be rendered by Consultant hereunder and as set forth in Exhibit A.
- C. Make available all pertinent data and records for review.

4. CONTRACT PERFORMANCE PERIOD. All of the work outlined in the Scope of Services shall be completed in accordance with the Schedule outlined in Exhibit "B" attached hereto and incorporated herein by reference.

- A. This Contract for on-call services shall commence on the first day written above, contingent upon approval by City, and Consultant shall commence work after notification to proceed by City's Contract Administrator. The Contract shall end on November 7, 2027, unless extended by an agreement between the parties in writing. This agreement may be extended for two (2) one (1) year terms upon written approval by the City.
- B. Consultant is advised that any recommendation for Contract award is not binding on City until the Contract is fully executed and approved by City.
- C. The period of performance for each specific project shall be in accordance with the Task Order for that project. If work on a Task Order is in progress on the expiration date of this Contract, the terms of the Contract shall be extended by Contract amendment prior to the expiration of the Contract to cover the time needed to complete the task order in progress only. The maximum terms shall not exceed five (5) years.

5. PAYMENT. Payment by the City to the Consultant for actual services rendered under this Agreement shall be made upon presentation of an invoice detailing services performed under the Scope of Services, in accordance with the fee

schedule set forth in Exhibit "B" attached hereto and incorporated herein by reference. The Consultant agrees to provide all services required under the Scope of Services in Exhibit "A" within the compensation amount set forth in Exhibit "B".

- A. Consultant will be reimbursed for hours worked at the hourly rates specified in the Consultant's approved Cost Proposal. The specified hourly rates shall include direct salary costs, employee benefits, prevailing wages, employer payments, overhead, and fee. These rates are not adjustable for the performance period set forth in this Contract. Consultant will be reimbursed within thirty (30) days upon receipt by City's Contract Administrator or itemized invoices in duplicate.
- B. In addition, Consultant will be reimbursed for incurred (actual) direct costs other than salary costs that are specified in the approved Cost Proposal and identified in the approved Cost Proposal and in the executed Task Order. Consultant will not be reimbursed for actual costs that exceed the costs identified in the approved Cost Proposal unless additional reimbursement is provided for by an amendment to the Agreement.
- C. Specific projects will be assigned to Consultant through issuance of Task Orders, as set forth in Exhibit "C".
- D. After a project to be performed under this Contract is identified by City, City will prepare a draft Task Order; less the cost estimate. A DRAFT Task Order will identify the scope of services, expected results, project deliverables, period of performance, project schedule and will designate a City Project Coordinator. The draft Task Order will be delivered to Consultant for review. Consultant shall return the draft Task Order within ten (10) calendar days along with a Cost Estimate, including a written estimate of the number of hours and hourly rates per staff person, any anticipated reimbursable expenses, overhead, fee if any, and total dollar amount. After agreement has been reached on the negotiable items and total cost; the finalized Task Order shall be signed by both City and Consultant.
- E. Task Orders may be negotiated for a lump sum (Firm Fixed Price) or for specific rates of compensation, both of which must be based on the labor and other rates set forth in Consultant's approved Cost Proposal. Consultant shall be responsible for any future adjustments to prevailing wage rates including, but not limited to, base hourly rates and employer

payments as determined by the Department of Industrial Relations. Consultant is responsible for paying the appropriate rate, including escalations that take place during the term of the Contract.

- F. Reimbursement for transportation and subsistence costs shall not exceed State rates.
- G. When milestone costs estimates are included in the approved Cost Proposal, Consultant shall obtain prior written approval in the form of a Contract amendment for a revised milestone cost estimate from the Contract Administrator before exceeding such estimate.
- H. Progress payments for each Task Order will be made monthly in arrears based on services provided and actual costs incurred.
- I. Consultant shall not commence performance of work or services until this Contract has been approved by City and notification to proceed has been issued by City's Contract Administrator. No payment will be made prior to approval for any work performed prior to approval of this Contract.
- J. A Task Order is of no force or effect until returned to City and signed by an authorized representative of City. No expenditures are authorized on a project and work shall not commence until a Task Order for that project has been executed by City.
- K. Consultant will be reimbursed within thirty days upon receipt by City's Contract Administrator of itemized invoices in duplicate. Separate invoices itemizing all costs are required for all work performed under each Task Order. Invoices shall be submitted no later than thirty (30) calendar days after the performance of work for which Consultant is billing, or upon completion of the Task Order. Invoices shall detail the work performed on each milestone, on each project as applicable. Invoices shall follow the format stipulated for the approved Cost Proposal and shall reference this contract number, project title and Task Order number. Invoices shall be mailed to City's Contract Administrator at the following address:
- L. The period of performance for Task Orders shall be in accordance with dates specified in the Task Order. No Task Order will be written which extends beyond the expirations date of this Contract.
- M. The total amount payable by City for an individual Task Order shall not

exceed the amount agreed to in the Task Order, unless authorized by amendment.

- N. If Consultant fails to satisfactorily complete a deliverable according to the schedule set forth in a Task Order, no payment will be made until the deliverable has been satisfactorily completed.
- O. Task Orders may not be used to amend the language (or the terms) of this Contract nor to exceed the scope of work under this Contract.
- P. The total amount payable by City for all Task Orders resulting from this Contract shall not exceed Five Hundred Thousand Dollars (\$500,000.00). It is understood and agreed that there is no guarantee, either expressed or implied that this dollar amount will be authorized under this Contract through Task Orders.

6. **BOOKS OF RECORD AND AUDIT PROVISION.** For the purpose of complying with Gov. Code § 8546.7, the Consultant, Subconsultants and City shall maintain all books, documents, papers, accounting records, Independent CPA Audited Indirect Cost Rate workpapers, and other evidence pertaining to the performance of the Agreement including, but not limited to, the costs of administering the Agreement. It is understood and agreed that all plans, studies, specifications, data magnetically or otherwise recorded on computer or computer diskettes, records, files, reports, etc., in possession of the Consultant relating to the matters covered by this Agreement shall be the property of the City, and Consultant hereby agrees to deliver the same to the City upon termination of the Agreement. It is understood and agreed that the documents and other materials including but not limited to those set forth hereinabove, prepared pursuant to this Agreement are prepared specifically for the City and are not necessarily suitable for any future or other use.

Consultant shall maintain any and all ledgers, books of account, invoices, vouchers, canceled checks, and other records or documents evidencing or relating to charges for services or expenditures and disbursements charged to the City for a minimum of three (3) years, or for any longer period required by law, from the date of final payment to the Consultant to this Agreement. Any records or documents required to be maintained shall be made available for inspection, audit and/or copying at any time during regular business hours, upon oral or written request of the City.

7. COST PRINCIPLES AND ADMINISTRATIVE REQUIREMENTS.

- A. The Consultant agrees that 48 CFR 31, Contract Cost Principles and Procedures shall be used to determine the allowability of individual terms of cost.
- B. The Consultant also agrees to comply with Federal procedures in accordance with 2 CFR 200, Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards.
- C. Any costs for which payment has been made to the Consultant that are determined by subsequent audit to be unallowable under 48 CFR 31 or 2 CFR 200 are subject to repayment by the Consultant to City.
- D. When a Consultant is a Non-Profit Organization or an Institution of Higher Education, the Cost Principles for Title 2 CFR 200, Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards shall apply.

8. DISADVANTAGED BUSINESS ENTERPRISES. The provisions of 49 CFR, Part 26 ("Participation by Disadvantaged Business Enterprises in Department of Transportation Financial Assistance Programs") require that a local agency receiving federal-aid funds comply with the Disadvantaged Business Enterprise (DBE) program, and that DBE firms, have an opportunity to participate in the projects. The City has not established a DBE goal for this Agreement. DBE goals will be established on a project-by-project basis. Therefore, non-DBE proposers are encouraged to retain DBE sub-consultants. It is the Consultant's responsibility to be fully informed regarding the requirements of 49 CFR, Part 26 and the State of California Department of Transportation's Race Conscious DBE program developed pursuant to the regulations.

Consultants should be aware that the provisions of 49 CFR, Part 26 and the City's DBE Program may apply during the course of the consulting Agreement and would require reporting on the part of the consultant in the event a work activity requires the participation of a sub-consultant other than one originally listed by the consultant and which is approved by the City. Additionally, projects funded by a federal grant or loan would require compliance with the particular disadvantaged business enterprise program established by the funding federal agency.

- A. If the contract has a DBE goal, the Consultant must meet the goal by committing DBE participation or document a good faith effort to meet the goal. If a DBE subconsultant is unable to perform, the Consultant must make a good faith effort to replace him/her with another DBE subconsultant, if the goal is not otherwise met. A DBE is a firm meeting the definition of a DBE as specified in 49 CFR.
- B. DBE's and other small businesses, as defined in 49 CFR, Part 26 are encouraged to participate in the performance of contracts financed in whole or in part with federal funds. The Consultant or subconsultant shall not discriminate on the basis of race, color, national origin, or sex in the performance of this Contract. The Consultant shall carry out applicable requirements of 49 CFR, Part 26 in the award and administration of federally assisted agreements. Failure by the Consultant to carry out these requirements is a material breach of this Contract, which may result in the termination of this Contract or such other remedy as the local agency deems appropriate.
- C. Any subcontract entered into as a result of this Contract shall contain all of the provisions of this section.
- D. A DBE may be terminated only with prior written approval from the local agency and only for the reasons specified in 49 CFR 26.53(f). Prior to requesting local agency consent for the termination, the prime consultant must meet the procedural requirements specified in 49 CFR 26.53(f).
- E. Performance of DBE Consultant and other DBE Subconsultants/Suppliers:
 - i. A DBE performs a commercially useful function when it is responsible for execution of the work of the Contract and is carrying out its responsibilities by actually performing, managing, and supervising the work involved. To perform a commercially useful function, the DBE must also be responsible with respect to materials and supplies used on the Contract, for negotiating price, determining quality and quantity, ordering the material, and installing (where applicable) and paying for the material itself. To determine whether a DBE is performing a commercially useful function, evaluate the amount of work subcontracted, industry practices; whether the amount the firm is to be paid under the Contract is commensurate with the work it is actually performing; and other relevant factors.

- ii. A DBE does not perform a commercially useful function if its role is limited to that of an extra participant in a transaction, Contract, or project through which funds are passed in order to obtain the appearance of DBE participation. In determining whether a DBE is such an extra participant, examine similar transactions, particularly those in which DBE's do not participate.
- iii. If a DBE does not perform or exercise responsibility for at least 30 percent of the total cost of its Contract with its own work force, or the DBE subcontracts a greater portion of the work of the Contract than would be expected on the basis of normal industry practice for the type of work involved, it will be presumed that it is not performing a commercially useful function.

F. Prompt Payment of Funds Withheld to Subconsultants:

- i. Any subcontract entered into as a result of this Contract shall contain all of the provisions of this section.
- ii. No retainage will be held by the Agency from progress payments due the prime Consultant. Any retainage held by the prime Consultant or subconsultants from progress payments due subconsultants shall be promptly paid in full to subconsultants within 30 days after the subconsultant's work is satisfactorily completed. Federal law (49 CFR26.29) requires that any delay or postponement of payment over the 30 days may take place only for good cause and with the Agency's prior written approval. Any violation of this provision shall subject the violating prime Consultant or subconsultant to the penalties, sanctions and other remedies specified in Section 7108.5 of the Business and Professions Code. These requirements shall not be construed to limit or impair any contractual, administrative, or judicial remedies, otherwise available to the prime Consultant or subconsultant in the event of a dispute involving late payment or nonpayment by the prime consultant, deficient subconsultant performance, or noncompliance by a subconsultant. This provision applies to both DBE and non-DBE prime consultant and subconsultants.

G. DBE Records

- i. The Consultant shall maintain records of materials purchased or supplied from all subcontracts entered into with certified DBEs. The records shall show the name and business address of each DBE or vendor and the total dollar amount actually paid each DBE or vendor, regardless of tier. The records shall show the date of payment, and the total dollar figure paid to all firms. DBE prime consultants shall also show the date of work performed by their own forces along with the corresponding dollar value of the work.
- ii. Upon completion of the Contract, a summary of these records shall be prepared and submitted, certified correct by the Consultant or the Consultant's authorized representative and shall be furnished to the Contract Administrator with the final invoice.
- iii. DBE Certification and Decertification Status: If a DBE subconsultant is decertified during the life of the Contract, the decertified subconsultant shall notify the Consultant in writing with the date of decertification. If a subconsultant becomes a certified DBE during the life of the Contract, the subconsultant shall notify the Consultant in writing with the date of certification. Any changes should be reported to the Agency's Contract Administrator within 30 days.

9. CONSULTANT'S PROGRESS MEETINGS. Consultant shall submit progress reports on each specific project in accordance with the Task Order. There reports shall be submitted at least once a month. The report should be sufficiently detailed for City Contract Administrator or Project Coordinator to determine, if Consultant is performing to expectations, or is on schedule; to provide communication of interim findings, and to sufficiently address any difficulties or special problems encountered, so remedies can be developed.

Consultant's Project Manager shall meet with City's Contract Administrator or Project Coordinator, as needed, to discuss progress on the project(s).

10. CONFLICT OF INTEREST.

- A. During the term of this Contract, the Consultant shall disclose any financial, business, or other relationship with City that may have an impact upon the outcome of this Contract or any ensuing City construction project.

The Consultant shall also list current clients who may have a financial interest in the outcome of this Contract or any ensuing City construction project which will follow.

- B. Consultant certifies that it has disclosed to City any actual, apparent, or potential conflicts of interest that may exist relative to the services to be provided pursuant to this Contract. Consultant agrees to advise City of any actual, apparent or potential conflicts of interest that may develop subsequent to the date of execution of this Contract. Consultant further agrees to complete any statements of economic interest if required by either City ordinance or State law.
- C. The Consultant hereby certifies that it does not now have, nor shall it acquire any financial or business interest that would conflict with the performance of services under this Contract.
- D. The Consultant hereby certifies that the Consultant or subconsultant and any firm affiliated with the Consultant or subconsultant that bids on any construction contract or on any Contract to provide construction inspection for any construction project resulting from this Contract, has established necessary controls to ensure a conflict of interest does not exist. An affiliated firm is one, which is subject to the control of the same persons, through joint ownership or otherwise.

11. **REBATES, KICKBACKS OR OTHER UNLAWFUL CONSIDERATION.**

The Consultant warrants that this Contract was not obtained or secured through rebates, kickbacks or other unlawful consideration wither promised or paid to any City employee. For breach or violation of this warranty, City shall have the right, in its discretion, to terminate this Contract without liability, to pay only for the value of the work actually performed, or to deduct from this Contract price or otherwise recover the full amount of such rebate, kickback or other unlawful consideration.

12. **INDEPENDENT CONTRACTOR.** It is expressly understood that Consultant is an independent contractor and that its employees shall not be employees of or have any contractual relationship with the City. Consultant shall be responsible for the payment of all taxes, workers' compensation insurance and unemployment insurance. Should Consultant desire any insurance protection, the Consultant is to acquire same at its expense.

In the event Consultant or any employee, agent, or subcontractor of Consultant providing services under this Agreement is determined by a court of competent jurisdiction or the California Public Employees Retirement System (PERS) to be eligible for enrollment in PERS as an employee of the City, Consultant shall indemnify, protect, defend, and hold harmless the City for the payment of any employee and/or employer contributions for PERS benefits on behalf of Consultant or its employees, agents, or subcontractors, as well as for the payment of any penalties and interest on such contributions, which would otherwise be the responsibility of City.

13. INDEMNITY.

- A. Indemnity for Professional Liability. When the law establishes a professional standard of care for Consultant's Services, to the fullest extent permitted by law, Consultant shall indemnify, protect, defend, and hold harmless City and any and all of its officials, employees and agents from and against any and all losses, liabilities, damages, costs, and expenses, including legal counsel's fees and costs but only to the extent the Consultant (and its Subconsultants), are responsible for such damages, liabilities and costs on a comparative basis of fault between the Consultant (and its Subconsultants) and the City in the performance of professional services under this agreement.
- B. Indemnity for Other Than Professional Liability. Other than in the performance of professional services and to the full extent permitted by law, Consultant shall indemnify, defend, and hold harmless City, and any and all of its employees, officials and agents from and against any liability (including liability for claims, suits, actions, arbitration proceedings, administrative proceedings, regulatory proceedings, losses, expenses or costs of any kind, whether actual, alleged or threatened, including legal counsel's fees and costs, court costs, defense costs, and expert witness fees), where the same arise out of, are a consequence of, or are in any way attributable to, in whole or in part, the performance of this Agreement by Consultant or by any individual or City for which Consultant is legally liable, including, but not limited to officers, agents, employees, or subcontractors of Consultant.

- 14. INSURANCE. During the term of this Agreement, Consultant shall maintain in full force and effect at its own cost and expense, the following insurance coverage:

A. Workers' Compensation Insurance. Full workers' compensation insurance shall be provided with a limit of at least One Hundred Thousand Dollars (\$100,000) for any one person and as required by law, including Employer's Liability limits of \$1,000,000.00 per accident. The policy shall be endorsed to waive the insurer's subrogation rights against the City.

B. General Liability.

- i. Consultant shall obtain and keep in full force and effect general liability coverage at least as broad as ISO commercial general liability coverage occurrence Form CG 0001.
- ii. Consultant shall maintain limits of no less than One Million Dollars (\$1,000,000) per occurrence for bodily injury, personal injury and property damage.
- iii. The City, its officers, employees, volunteers and agents are to be named as additional insureds under the policy, as respects liability arising out of work or operations performed by or on behalf of the Consultant.
- iv. The policy shall stipulate that this insurance will operate as primary insurance for work performed by Consultant and its sub-contractors, and that any other insurance or self-insurance maintained by City or other named insureds shall be excess and non-contributory.
- v. Consultant shall maintain its commercial general liability coverage for three (3) years after completion of the work and shall add an additional insured endorsement form acceptable to the City naming the City of Merced, its officers, employees, agents and volunteers for each year thereafter for at least three
- vi. (3) years after completion of the work. Copies of the annual renewal and additional insured endorsement form shall be sent to the City within thirty (30) days of the annual renewal.

C. Automobile Insurance.

- i. Consultant shall obtain and keep in full force and effect an automobile policy of at least One Million Dollars (\$1,000,000) per accident for bodily injury and property damage.

- ii. The City, its officers, employees, volunteers and agents are to be named as additional insureds under the policy, as respects automobiles owned, leased, hired or borrowed by the Consultant.
 - iii. The policy shall stipulate that this insurance will operate as primary insurance for work performed by Consultant and its sub-contractors, and that any other insurance or self-insurance maintained by City or other named insureds shall be excess and non-contributory.
- D. Professional Liability Insurance. Consultant shall carry professional liability insurance appropriate to Consultant's profession in the minimum amount of One Million Dollars (\$1,000,000). Architects and engineers' coverage is to be endorsed to include contractual liability.
- E. Qualifications of Insurer. The insurance shall be provided by an acceptable insurance provider, as determined by City, which satisfies all of the following minimum requirements:
 - i. An insurance carrier admitted to do business in California and maintaining an agent for service of process within this State; and,
 - ii. An insurance carrier with a current A.M. Best Rating of A:VII or better (except for workers' compensation provided through the California State Compensation Fund).
- F. Certificate of Insurance. Consultant shall complete and file with the City prior to engaging in any operation or activity set forth in this Agreement, certificates of insurance evidencing coverage as set forth above and which shall provide that no cancellation or expiration by the insurance company will be made during the term of this Agreement, without thirty (30) days written notice to City prior to the effective date of such cancellation—including cancellation for nonpayment of premium. In addition to any other remedies City may have, City reserves the right to withhold payment if Consultant's insurance policies are not current.

15. NON-DISCRIMINATION CLAUSE AND STATEMENT OF COMPLIANCE.

- A. The Consultant's signature affixed herein and dated shall constitute a certification under penalty of perjury under the laws of the State of California that the Consultant has, unless exempt, complied with the nondiscrimination program requirements of Gov. Code § 8103.

- B. During the performance of this Contract, Consultant and its subconsultants shall not deny the Contract's benefits to any person on the basis of race, religious creed, color, national origin, ancestry, physical disability, mental disability, medical condition, genetic information, marital status, sex, gender identity, gender expression, age, sexual orientation, or military and veteran status, nor shall they unlawfully discriminate, harass, or allow harassment against any ancestry, physical disability, mental disability, medical condition, genetic information, marital status, sex, gender, gender identity, gender expression, age, sexual orientation, or military and veteran status. Consultant and subconsultants shall insure that the evaluation and treatment of their employees and applicants for employment are free from such discrimination and harassment.
- C. Consultant and subconsultants shall comply with the provisions of the Fair Employment and Housing Act (Gov. Code § 12990 et seq.), the applicable regulations promulgated there under (2 CCR §§ 11000 et seq.), the provisions of Gov. Code §§ 11135-11139.5, and the regulations or standards adopted by City to implement such article. The applicable regulations of the Fair Employment and Housing Commission implementing Gov. Code § 12990 (a-f), set forth in 2 CCR §§ 8100-8504, are incorporated into this Contract by reference and made a part hereof as if set forth in full.
- D. Consultant shall permit access by representatives of the Department of Fair Employment and Housing and the City upon reasonable notice at any time during the normal business hours, but in no case less than twenty-four (24) hours' notice, to such of its books, records, accounts, and all other sources of information and its facilities as said Department of City shall require to ascertain compliance with this clause.
- E. Consultant and its subconsultants shall give written notice of their obligations under this clause to labor organizations with which they have a collective bargaining or other Agreement.
- F. Consultant shall include the nondiscrimination and compliance provisions of this clause in all subcontracts to perform work under the Contract.
- G. The Consultant, with regard to the work performed under this Contract, shall act in accordance with Title VI of the Civil Rights Act of 1964 (42

U.S.C. § 2000d et seq.). Title VI provides that the recipients of federal assistance will implement and maintain a policy of nondiscrimination in which no person in the United States shall, on the basis of race, color, national origin, religion, sex, age, disability, be excluded from participation in, denied the benefits of or subject to discrimination under any program or activity by the recipients of federal assistance to their assignees and successors in interest.

H. The Consultant shall comply with regulations relative to non-discrimination in federally-assisted programs of the U.S. Department of Transportation (49 CFR 21- Effectuation of Title VI of the Civil Rights Act of 1964). Specifically, the Consultant shall not participate either directly or indirectly in the discrimination prohibited by 49 CFR § 21.5, including employment practices and the selection and retention of Subconsultants.

I. Consultant, subrecipient or subconsultant will never exclude any person from participation in, deny any person the benefits of, or otherwise discriminate against anyone in connection with the award and performance of any contract covered by 49 CFR 26 on the basis of race, color, sex, or national origin. In administering the City components of the DBE Program Plan, Consultant, subrecipient or subconsultant will not, directly, or through contractual or other arrangements, use criteria or methods of administration that have the effect of defeating or substantially impairing accomplishment of the objectives of the DBE Program Plan with respect to individuals of a particular race, color, sex, or national origin.

16. **TITLE VI ASSURANCES.** For all contracts involving the receipt of federal funds, the Agreement between City and Consultant must contain Appendices A and E of the Title VI Assurances. The Consultant must include the Title VI Assurances Appendices A and E in all subcontracts to perform work under the contract.

APPENDIX A of Title VI ASSURANCES

During the performance of this Agreement, the contractor, for itself, and its assignees and successors in interest (hereinafter collectively referred to as Consultant) agrees as follows:

A. **Compliance with Regulations:** Consultant shall comply with the regulations relative to nondiscrimination in federally assisted programs

of the Department of Transportation, Title 49, Code of Federal Regulations, Part 21, as they may be amended from time to time (hereinafter referred to as the Regulations), which are herein incorporated by reference and made a part of this agreement.

- B. Nondiscrimination: Consultant, with regard to the work performed by it during the Agreement, shall not discriminate on the grounds of race, color, sex, national origin, religion, age, or disability in the selection and retention of sub-applicants, including procurements of materials and leases of equipment. Consultant shall not participate either directly or indirectly in the discrimination prohibited by Section 21.5 of the Regulations, including employment practices when the agreement covers a program set forth in Appendix B of the Regulations.
- C. Solicitation for Subcontracts, Including Procurements of Materials and Equipment: In all solicitations, either by competitive bidding, or negotiation made by the contractor for work to be performed under a subcontract, including procurements of materials, or leases of equipment, each potential subcontractor or supplier will be notified by the contractor of the contractor's obligations under this contract and the Acts and the Regulations relative to Non-discrimination on the grounds of race, color, national origin, age, sex, or disability.
- D. Information and Reports: The contractor will provide all information and reports required by the Acts, the Regulations, and directives issued pursuant thereto and will permit access to its books, records, accounts, other sources of information, and its facilities as may be determined by the Recipient or the FHWA to be pertinent to ascertain compliance with such Acts, Regulations, and instructions. Where any information required of a contractor is in the exclusive possession of another who fails or refuses to furnish the information, the contractor will so certify to the Recipient or the FHWA, as appropriate, and will set forth what efforts it has made to obtain the information.
- E. Sanctions for Noncompliance: In the event of a contractor's noncompliance with the Non-discrimination provisions of this contract, the Recipient will impose such contract sanctions as it or the FHWA may determine to be appropriate, including, but not limited to: 1. withholding payments to the contractor under the contract until the contractor complies; and/or 2. cancelling, terminating, or suspending a contract, in whole or in part.

- F. Incorporation of Provisions: The contractor will include the provisions of paragraphs one through six in every subcontract, including procurements of materials and leases of equipment, unless exempt by the Acts, the Regulations and directives issued pursuant thereto. The contractor will take action with respect to any subcontract or procurement as the Recipient or the FHWA may direct as a means of enforcing such provisions including sanctions for noncompliance. Provided, that if the contractor becomes involved in, or threatened with litigation by a subcontractor, or supplier because of such direction, the contractor may request the Recipient to enter into any litigation to protect the interests of the Recipient. In addition, the contractor may request the United States to enter into the litigation to protect the interests of the United States.

APPENDIX E OF TITLE VI ASSURANCES

During the performance of this contract, the Consultant, for itself, its assignees, and successors in interest (hereinafter referred to as the "Consultant") agrees to comply with the following non-discrimination statutes and authorities, including, but not limited to:

- A. Title VI of the Civil Rights Act of 1964 (42 U.S.C. § 2000d et seq., 78 stat. 252), prohibits discrimination on the basis of race, color, national origin); and 49 CFR Part 21.
- B. The Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, (42 U.S.C. § 4601), (prohibits unfair treatment of persons displaced or whose property has been acquired because of Federal or Federal-aid programs and projects);
- C. Federal-Aid Highway Act of 1973, (23 U.S.C. § 324 et seq.), prohibits discrimination on the basis of sex; • Section 504 of the Rehabilitation Act of 1973, (29 U.S.C. § 794 et seq.), as amended, (prohibits discrimination on the basis of disability); and 49 CR Part 27;
- D. The Age Discrimination Act of 1975, as amended, (42 U.S.C. § 6101 et seq.), prohibits discrimination on the basis of age); • Airport and Airway Improvement Act of 1982, (49 U.S.C. § 471, Section 47123), as amended, (prohibits discrimination based on race, creed, color, national origin, or sex);
- E. The Civil Rights Restoration Act of 1987, (PL 100-209), (Broadened the

scope, coverage and applicability of Title VI of the Civil Rights Act of 1964, The Age Discrimination Act of 1975 and Section 504 of the Rehabilitation Act of 1973, by expanding the definition of the terms “programs or activities” to include all of the programs or activities of the Federal-aid recipients, sub-recipients and contractors, whether such programs or activities are Federally funded or not);

- F. Titles II and III of the Americans with Disabilities Act, which prohibit discrimination on the basis of disability in the operation of public entities, public and private transportation systems, places of public accommodation, and certain testing entities (42 U.S.C. §§ 12131 – 12189) as implemented by Department of Transportation regulations 49 C.F.R. parts 37 and 38;
- G. The Federal Aviation Administration’s Non-discrimination statute (49 U.S.C. § 47123) (prohibits discrimination on the basis of race, color, national origin, and sex);
- H. Executive Order 12898, Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations, which ensures discrimination against minority populations by discouraging programs, policies, and activities with disproportionately high and adverse human health or environmental effects on minority and low-income populations;
- I. Executive Order 13166, Improving Access to Services for Persons with Limited English Proficiency, and resulting agency guidance, national origin discrimination includes discrimination because of limited English proficiency (LEP). To ensure compliance with Title VI, you must take reasonable steps to ensure that LEP persons have meaningful access to your programs (70 Fed. Reg. at 74087 to 74100);
- J. Title IX of the Education Amendments of 1972, as amended, which prohibits you from discriminating because of sex in education programs or activities (20 U.S.C. 1681 et seq).

17. DEBARMENT AND SUSPENSION CERTIFICATION.

- A. A consultant’s signature affixed herein shall constitute a certification under penalty of perjury under the laws of the State of California, that the Consultant or any person associated therewith in the capacity of owner, partner, director, officer or manager:

- i. Is not currently under suspension, debarment, voluntary exclusion, or determination of ineligibility by any federal agency;
- ii. Has not been suspended, debarred, voluntarily excluded, or determined ineligible by any federal agency within the past three (3) years;
- iii. Does not have a proposed debarment pending; and
- iv. Has not been indicted, convicted, or had a civil judgement rendered against it by a court of competent jurisdiction in any matter involving fraud or official misconduct within the past three (3) years.
- v. Any exceptions to this certification must be disclosed to City. Exceptions will not necessarily result in denial of recommendation for award but will be considered in determining responsibility. Disclosure must indicate the party to whom the exceptions apply, the initiating agency, and the dates of agency action.

18. **ASSIGNABILITY OF AGREEMENT.** It is understood and agreed that this Agreement contemplates personal performance by the Consultant and is based upon a determination of its unique personal competence and experience and upon its specialized personal knowledge. Assignments of any or all rights, duties or obligations of the Consultant under this Agreement will be permitted only with the express written consent of the City.

19. **TERMINATION FOR CONVENIENCE OF CITY.** The City may terminate this Agreement any time by mailing a notice in writing to Consultant that the Agreement is terminated. Said Agreement shall then be deemed terminated, and no further work shall be performed by Consultant. If the Agreement is so terminated, the Consultant shall be paid for that percentage of the phase of work actually completed, based on a pro rata portion of the compensation for said phase satisfactorily completed at the time the notice of termination is received.

20. **CONFORMANCE TO APPLICABLE LAWS.** Consultant shall comply with its standard of care regarding all applicable Federal, State, and municipal laws, rules and ordinances. No discrimination shall be made by Consultant in the employment of persons to work under this contract because of race, color, national origin, ancestry, disability, sex or religion of such person.

Consultant hereby promises and agrees to comply with all of the provisions of the Federal Immigration and Nationality Act (8 U.S.C.A. 1101 *et seq.*), as amended; and in connection therewith, shall not employ unauthorized aliens as

defined therein. Should Consultant so employ such unauthorized aliens for the performance of work and/or services covered by this Agreement, and should any agency or instrumentality of the federal or state government, including the courts, impose sanctions against the City for such use of unauthorized aliens, Consultant hereby agrees to, and shall, reimburse City for the cost of all such sanctions imposed, together with any and all costs, including attorneys' fees, incurred by the City in connection therewith.

21. **WAIVER.** In the event that either City or Consultant shall at any time or times waive any breach of this Agreement by the other, such waiver shall not constitute a waiver of any other or succeeding breach of this Agreement, whether of the same or any other covenant, condition or obligation. Waiver shall not be deemed effective until and unless signed by the waiving party.
22. **INCONSISTENT OR CONFLICTING TERMS IN AGREEMENT AND EXHIBITS.** In the event of any contradiction or inconsistency between any attached document(s) or exhibit(s) incorporated by reference herein and the provisions of the Agreement itself, the terms of the Agreement shall control.

Any exhibit that is attached and incorporated by reference shall be limited to the purposes for which it is attached, as specified in this Agreement. Any contractual terms or conditions contained in such exhibit imposing additional obligations on the City are not binding upon the City unless specifically agreed to in writing, and initialed by the authorized City representative, as to each additional contractual term or condition.

23. **AMBIGUITIES.** This Agreement has been negotiated at arms' length between persons knowledgeable in the matters dealt with herein. Accordingly, any rule of law, including, but not limited to, Section 1654 of the Civil Code of California, or any other statutes, legal decisions, or common-law principles of similar effect, that would require interpretation of any ambiguities in this Agreement against the party that drafted this Agreement is of no application and is hereby expressly waived.
24. **VENUE.** This Agreement and all matters relating to it shall be governed by the laws of the State of California and any action brought relating to this agreement shall be held exclusively in a state court in the County of Merced.
25. **AMENDMENT.** This Agreement shall not be amended, modified, or otherwise changed unless in writing and signed by both parties hereto.
26. **INTEGRATION.** This Agreement constitutes the entire understanding and

agreement of the parties and supersedes all previous and/or contemporaneous understanding or agreement between the parties with respect to all or any part of the subject matter hereof.

27. **AUTHORITY TO EXECUTE.** The person or persons executing this Agreement on behalf of the parties hereto warrants and represents that he/she/they has/have the authority to execute this Agreement on behalf of their entity and has/have the authority to bind their party to the performance of its obligations hereunder.
28. **COUNTERPARTS.** This Agreement may be executed in one or more counterparts with each counterpart being deemed an original. No counterpart shall be deemed to be an original or presumed delivered unless and until the counterparts executed by the other parties hereto are in the physical possession of the party or parties seeking enforcement thereof.

IN WITNESS WHEREOF, the parties have caused this Agreement to be executed on the date first above written.

CITY OF MERCED
A California Charter Municipal
Corporation

BY: _____
City Manager

ATTEST:
D. SCOTT MCBRIDE, CITY CLERK

BY: _____
Assistant/Deputy City Clerk

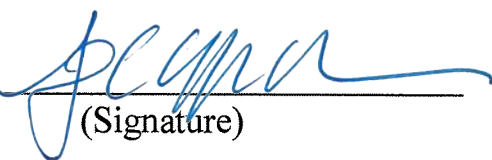
APPROVED AS TO FORM:
CRAIG CORNWELL, CITY ATTORNEY

BY: Craig Cornwell 9/19/2025
City Attorney Date

ACCOUNT DATA:
M. VENUS RODRIGUEZ

BY: _____
Verified by Finance Officer

CONSULTANT

BY: 
(Signature)

Amy Cupples

(Typed Name)

Its: Principal/CEO
(Title)

BY: _____
(Signature)

(Typed Name)

Its: _____
(Title)

Taxpayer I.D. No. 95-4150713

ADDRESS: 1970 Broadway, Ste 800
Oakland, CA 94612

TELEPHONE: 510-451-9987

FAX: n/a

E-MAIL: amy@studiockd.com

EXHIBIT A

PART A – SCOPE OF WORK

The consultant service in each category may include, but is not necessarily limited to, the scope outlined below. The City will select up to three (3) consultants from each category. The scope may expand based on the needs of the City.

General Civil Engineering

1. Provide construction plans and specifications of various road projects.
2. Provide construction plans and specifications for various utility projects (i.e. water, sewer, storm, etc.).
3. Provide construction support/inspection on various projects.
4. Provide alignment studies and cost estimates.
5. Prepare application for various grants.
6. Prepare various studies that is related to roads, water, sewer, and storm drains.
7. Assist with regulatory compliance and negotiation with Federal, State, and other agencies as necessary.
8. Other tasks that may be requested by the City (i.e. Structural).
9. Manage sub-consultant to complete the projects (geotechnical, traffic, environmental, etc.)

Architectural Services

1. Provide architectural services including but not limited to:
 - a. Facility condition assessment
 - b. Site selection consulting
 - c. Accessibility/ADA Assessment
 - d. Feasibility studies
 - e. Master planning
 - f. Architectural design
 - g. Interior Design
 - h. Acoustical evaluation and design
 - i. Produce new plans of existing facilities
 - j. Energy audits
 - k. Life safety system design
 - l. Technology infrastructure design
 - m. LEED, CHPS, Sustainable design
 - n. Prepare plans & specifications for various City projects
 - o. Review plans & specifications as needed

Landscaping Design Services

1. Provide landscaping design services for City facilities, parks and right of ways including but not limited to:
 - a. Streetscapes
 - b. Planters
 - c. Parking lots
 - d. Trails
 - e. New Parks
 - f. Existing Parks
 - g. Streets and Gutters
 - h. Sidewalks
 - i. Turf and Shrubs

- j. Groundcover
- k. Irrigation and Drainage
- l. Prepare plans & specifications

Geotechnical Engineering and Construction Observation and Materials Testing Services

1. Provide geotechnical analysis services, including conducting soil sampling, classification, and soil permeability analysis.
2. Provide construction observation and material testing services in accordance with City of Merced Standards and Caltrans Test Methods.
3. Provide road treatment recommendations based on samples from the field including, but not limited to, Cement, Quicklime, and Quicklime+ applications.
4. Provide evidence of the possession of current Caltrans Certifications (Inspector, Tester, and Laboratory) for soil, concrete, and asphalt methods for Construction Observation and Materials Testing Services.

Survey

1. Prepare topographic and planimetric survey of proposed City projects, including all underground utility location(s) based on USA markings, digital terrain modeling for contour interpolation, profile, cross-section, and earthwork volume calculations.
2. Prepare drawings of the survey based on the latest AutoCAD version (2018 or newer).
3. Provide land records research for boundary determination of existing and proposed City properties and right-of-way.
4. Recover existing monuments, including monuments (section corners, etc.) property corners, right-of-way monuments, and benchmark.
5. Provide retracement surveys.
6. Re-establish lost or obliterated corners.
7. Re-establish control points.
8. Provide construction staking as needed.
9. Provide record filing including, but not limited to, corner records, record of survey, etc.

Traffic Engineer

1. Provide construction plans and specifications for traffic signals and phasing.
2. Prepare railroad pre-emption studies as necessary.
3. Provide transportation planning.
4. Prepare traffic safety and traffic studies.
5. Analyze traffic safety and traffic studies prepared by other consultants for development projects.
6. Conduct traffic counts and speed studies.
7. Coordinate with the California Public Utilities Commission (CPUC) and other agencies as necessary to obtain approval(s) for various projects.
8. Prepare pre-emption timing.
9. Traffic cards.
10. Signal coordination.
11. Review Traffic studies for other developments.

PART – B CONSULTANT REQUIREMENTS

All engineering plans (including structural and geotechnical), calculations, specifications, and reports (hereinafter referred to as "documents") shall be prepared by, or under the responsible

charge of, a licensed engineer in the State of California and shall include his or her name and license number. Interim documents shall include a notation as to the intended purpose of the document, such as "Preliminary", "Not for Construction", "For Plan Check Only", or "For Review Only". All engineering plans and specifications that are permitted or that are to be released for construction shall bear the signature and seal or stamp of the licensee and the date of signing and sealing or stamping. All final engineering calculations and reports shall bear the signature and seal or stamp of the licensee, and the date of signing and sealing or stamping. If engineering plans are required to be signed and sealed or stamped, and have multiple sheets, the signature, seal or stamp, and date of signing and sealing or stamping, shall appear on each sheet of the plans. If engineering specifications, calculations, and reports are required to be signed and sealed or stamped and have multiple pages, the signature, seal or stamp, and date of signing and sealing or stamping shall appear at a minimum on the title sheet, cover sheet, or signature sheet.

All survey work, including but not limited to topographic, planimetric, field survey, boundary survey, retrace, or installation of new monuments shall be conducted under the supervision of a licensed surveyor in the State of California. Interim documents shall include a notation as to the intended purpose of the document, such as "Preliminary," "Not for Construction," "For Plan Check Only," or "For Review Only." If any document requires signature, per Professional Engineer and Survey Act, the documents shall be signed and stamped by the supervising surveyor.

The Consultant's personnel shall be capable, competent, and experienced in performing the types of work in this Agreement with minimal instruction. Personnel skill level should match the specific job classifications, as set forth herein or in the Consultant's Cost Proposal and task complexity. The Consultant's personnel shall be knowledgeable about, and comply with, all applicable Federal, State, and local laws and regulations.

The Consultant is required to submit a written request and obtain the City's prior written approval for any substitutions, additions, alterations, or modifications to the Consultant's originally proposed personnel and project organization, as depicted on the proposed Consultant's Organization Chart or the Consultant's cost proposals. The substitute personnel shall have the same job classification, as set forth herein or in the Consultant's Cost Proposal not to exceed the billing rate and meet or exceed the qualifications and experience level of the previously assigned personnel, at no additional cost to the City.

The Consultant's personnel shall typically be assigned to and remain on specific City projects/deliverables until completion and acceptance of the project/deliverables by the City. Personnel assigned by the Consultant shall be available at the start of a Task Order and after acceptance of the project/deliverable by the City.

After City approval of the Consultant's personnel proposal and finalization of a Task Order, the Consultant may not add or substitute personnel without the City's prior written approval.

Resumes or certifications containing the qualifications and experience of the Consultant's and Sub-consultant's personnel, which include existing, additional, and substitute personnel, and copies of their minimum required certifications, shall be submitted to the City for review before assignment on a project. The resume and copies of current license or certification for each candidate must be submitted to the City within one (1) week of receiving the request.

The City reserves the right and may interview the Consultant's personnel for qualifications and experience. If it is deemed necessary to conduct an interview, the Consultant shall provide adequate

qualified personnel to be interviewed by the City within one (1) week of receiving the request. If the City consents with the proposed, the Consultant's personnel shall be binding to the Consultant and its Sub-consultants.

The City shall evaluate the adequacy (quality and quantity) of the work performed by the Consultant's personnel and determine whether the deliverables are satisfactory. The City may reject any Consultant's personnel if they do not meet the minimum qualifications. If at any time the level of performance is below expectations, the City may direct the Consultant to immediately remove their personnel from the project specified and request another qualified person be assigned as needed. The substitute personnel shall meet the minimum qualifications required by this Agreement for performance of the work as demonstrated by a resume and copies of current license or certifications submitted by the Consultant. Substitute personnel shall receive prior written approval from City. Invoices with charges for personnel not pre-approved by the City for work on the Agreement and for each task shall not be reimbursable.

The Consultant shall not remove or replace any existing personnel assigned to the project without the prior written consent of the City. The removal or replacement of personnel without the written approval from the City shall be violation of the Agreement and may result in termination of the Agreement.

When assigned consultant personnel are on approved leave and when required by the City, the Consultant Contract Manager shall provide a substitute employee until the assigned employee returns to work from the approved leave. The substitute personnel shall have the same job classification, as set forth herein or in the Consultant's Cost Proposal, not to exceed the billing rate and meet or exceed the qualifications and experience level of the previously assigned personnel, at no additional cost to the City. Substitute personnel shall receive prior written approval from the City to work on this Agreement.

Other project personnel not identified on the Consultant's cost proposal, including, but not limited to, field and laboratory technicians, shall also satisfy appropriate minimum qualifications for assigned Task Orders. The City's prior written approval is required for all personnel not identified on the Consultant's organization chart or the Consultant's cost proposals before providing services under this Agreement.

For all civil related work, the Consultant contract manager and/or project manager shall be a Registered Professional Engineer licensed in the State of California, be in good standing with the California State Board for Professional Engineers, Land Surveyors, and Geologists at all times during the Agreement period for each project.

For all survey related work, the Consultant contract manager and/or project manager shall be a Licensed Registered Land Surveyor in the State of California, be in good standing with the California State Board for Professional Engineers and Land Surveyors at all times during the duration of this Agreement period for each project.

In addition to other specified responsibilities, the Consultant contract manager shall be responsible for all matters related to the Consultant's personnel, Sub-consultants, Construction Materials Sampling and Testing Services work, and Consultant's and Sub-consultant's operations including, but not limited to, the following:

1. Ensuring that deliverables are clearly defined, acceptance tested, and that criteria are

- specific, measurable, attainable, realistic and time-bound; and that the deliverables satisfy the acceptance tests and criteria.
2. Supervising, reviewing, monitoring, training, and directing the Consultant's and Sub-Consultants' personnel.
 3. Assigning qualified personnel to complete the required Task Order work as specified on an "as-needed" basis in coordination with the City.
 4. Administering personnel actions for Consultant personnel and ensuring appropriate actions taken for Sub-consultant personnel.
 5. Maintaining and submitting organized project files for record tracking and auditing.
 6. Developing, organizing, facilitating, and attending scheduled coordination meetings, and preparation and distribution of meeting minutes.
 7. Implementing and maintaining quality control procedures to manage conflicts, ensure product accuracy, and identify critical reviews and milestones.
 8. Assuring that all applicable safety measures are in place.
 9. Providing invoices in a timely manner and providing monthly Agreement expenditures.
 10. Reviewing invoices for accuracy and completion before billing to the City.
 11. Managing Sub-consultants.
 12. Managing overall budget for Agreement and provide report to the City.
 13. Monitoring and maintaining required DBE/LBE involvement.
 14. Ensuring compliance with the provisions in this Agreement and all specific Task Order requirements.
 15. Monitor the health and safety of personnel working in a hazardous environment in accordance with all applicable Federal, State, and local regulations.
 16. Knowledge, experience, and familiarity with prevailing wage issues and requirements in State of California.
 17. Provide knowledge, experience, certifications for testers and laboratory, and familiarity Quality Control and Quality Assurance (QC/QA) for California Test Methods and laboratory.
 18. Experience and capable in the review of the test reports within a reasonable timeframe of the completion of the tests to avoid delay of the field construction operation.

PART C – PROPOSAL CONTENT

The proposal should include the following:

Consultant, please carefully read and submit what has been outlined below only. Failure to submit any of the information may be grounds for rejection of the SOQ. The maximum number of pages in the SOQ shall not exceed 20 pages and must be single-sided.

1. To assist the City with appraising the general competence and qualifications of the consultant, please provide the listed information in the following sequence:
 - a. Cover letter (include at least one main contact person's name, phone number, and email address through which to send correspondence relating to this RFQ);
 - b. Firm name, address, and phone number;
 - c. Type of organization (sole-proprietorship, partnership, or corporation);
 - d. Firm principal(s) who will be responsible for overall coordination and management of the Agreement, and their educational background, license, credentials, and experience;

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Cupples Keller Designs
1970 Broadway, Suite 800
Oakland, CA 94612
www.studioCKD.com

A California Corporation
Federal Tax ID: 95-4150713

Primary Contact for the submittal:
Amy Cupples, Principal and CEO
1970 Broadway, Suite 800
Oakland, CA 94612
510.451.9987
amy@studioCKD.com

*Highland Hospital Courtyard
Oakland*

29 May 2025

City of Merced
Engineering Division
Attn: Daryl Jordan
678 West 18th Street, Second Floor
Merced, CA 95340



RE: City of Merced Request for Qualifications for Landscaping Design Services

Dear Daryl Jordan and Members of the Selection Committee,

With over 35 years in business, we have completed numerous public projects including many community facilities such as civic buildings, community centers, libraries, childcare centers, parks, and recreational facilities. We have worked with our selected team on many projects from concept and community engagement through design and construction administration. We always work closely with our clients and the consultant team to ensure that the landscape design for a particular project reflects and reinforces the objectives of our client, the facility users, and the surrounding community. We excel in responding to the requirements of regulatory agencies while preserving and enhancing the existing natural environment and exploring the site's potential for creating safe and quiet environments yet staying within the budget and desired parameters.

We understand that the outdoor environment strongly impacts our sense and memory of any given place, and this is particularly relevant when it comes to designing public spaces. Our approach to the landscape design of public spaces begins with the belief that outdoor areas for such things as community gathering, play, or passive recreation are an important asset. Spaces such as open fields, parks, and sports courts can help create a true sense of community and serve as a source of pride for all residents. To be successful, however, designing public spaces must be tangible, long-lasting, affordable, and easily maintainable. Equally important, they should be visually appealing, distinctive, and rooted in the unique culture and history of the City of Merced.

We consider the City to be a priority client and we will assign dedicated staff to ensure continuity and responsiveness throughout each project's duration. We have extensive experience working with city staff and maintenance professionals and are experts on achieving successful implementation of projects that are delivered on-budget, on time, and easy to maintain over the long term. Our design process involves close coordination with staff and users to develop visions of equitable public environments that spark imagination and curiosity, encourage ecological stewardship, and expand access to nature. We are strong project managers as well as designers - we understand the business side of landscape architecture. We are drivers of schedule and work to ensure that the project is on track and on budget - all the while, we keep you informed throughout the process.

Working with the design team within the scope of needs and concerns presented, we attempt to creatively challenge site users, whenever possible, by incorporating cultural, historical, and educational design components - exploring how a site's full potential may be realized in its landscape design. Our process includes engaging the community, residents, and business owners to help ensure a sense of ownership over the outcome. We strive to provide a range of outdoor spaces and experiences while maintaining a sensitivity to the aesthetic issues that distinguish a common project from an outstanding one.

With family in Merced County, I am thrilled to present this Statement of Qualifications to you. We appreciate this opportunity and look forward to the potential to work with the City of Merced.

Sincerely,


Amy Cupples, CEO and Principal-in-Charge

Firm Qualifications

Years in business: 37
Number of Employees: 6
Licensed staff: 2
Technical support: 3
Administrative: 1

Services

- Site planning and design
- Landscape design and master planning
- Childcare center and playground design
- Athletic fields and track design, grading, and drainage
- Landscape, creek, and waterway restoration
- Community engagement, participation, and facilitation
- Accessibility upgrades
- Site lighting design
- Grading design
- Signage design
- Drought-tolerant planting design
- Low-water use irrigation systems and WELO calculations
- LEED certifiable design
- Collaborative for High Performance Schools (CHPS) certifiable design
- ReScape design and rating
- Comprehensive construction documentation
- Construction observation and management

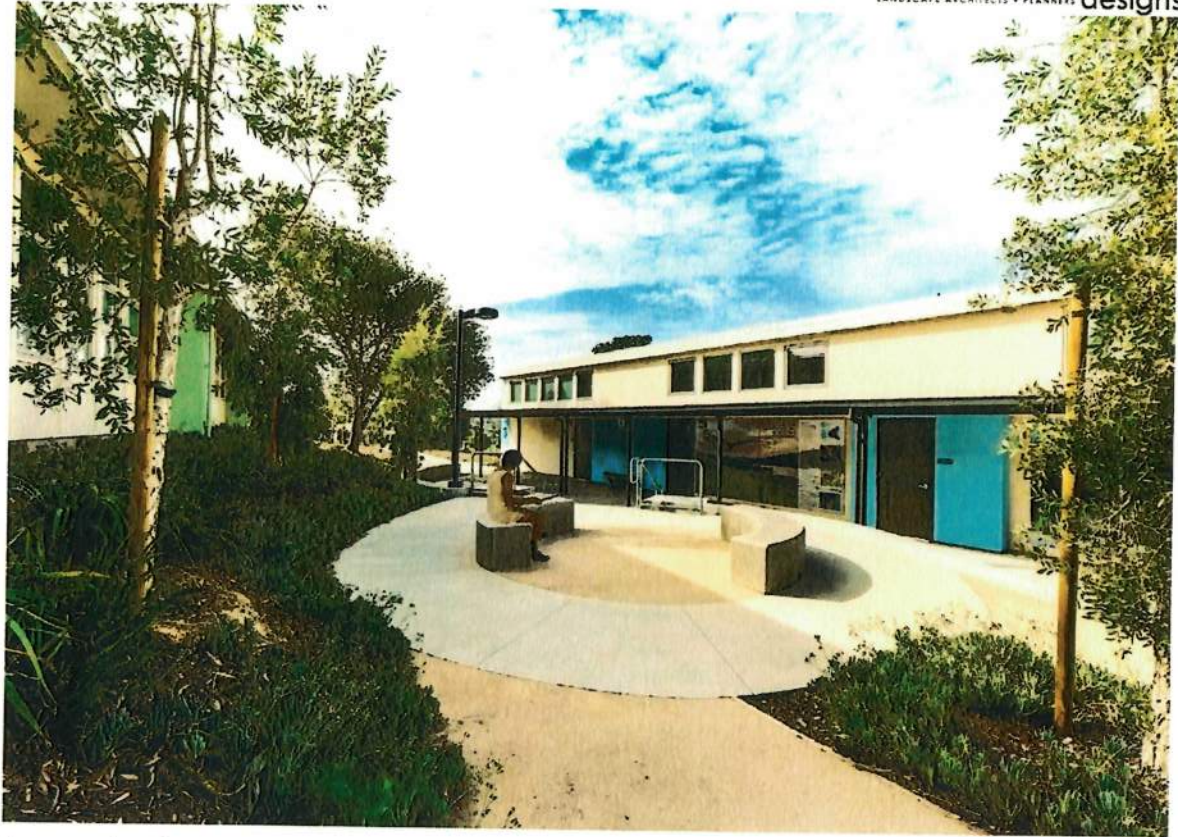


Cupples Keller Designs is a full-service landscape architecture firm based in Oakland. We are a small, woman owned firm that prides ourselves on Principal involvement in every project we undertake. Founded in 1988 as Keller Mitchell & Company, Amy Cupples joined the team in 2009 bringing fresh energy and a unifying spirit. She took over management in 2020 as Jacque and Jerry began their move toward retirement. On January 1, 2023, to reflect the new chapter, we renamed the company to Cupples Keller Designs. From the beginning of the company, Jacque Keller and Jerry Mitchell envisioned a design firm that would enrich the public realm serving the needs of the public by creating welcoming, accessible spaces that serve the everyday needs of communities. And we have successfully and exuberantly done that.

Over our 35+ years, Cupples Keller Designs has completed a wide variety of projects demonstrating specialized expertise in master planning and design of urban spaces, public facilities, parks, plaza, and streetscapes. As a team, we work with our subconsultants highlighting both their expertise and our own to achieve projects in a minimum amount of time while also having Client oversight and adequate time to review at every stage. We have the staff and subconsultant team to be able to provide full services for landscape architectural projects to the City of Merced, including experience with the following service areas:

1. Community engagement
2. Written assessment reports evaluating deficiencies and necessary corrections or existing facilities
3. Developing landscape standards and guidelines.
4. Developing master plans
5. streetscape design including streets, gutters, and sidewalk alignment and design
6. Parking lot design
7. Trail plans and design
8. New park design and existing park refurbishment
9. Design of play areas and structures
10. Planters and beautification projects
11. Median refurbishment projects
12. Lawn conversion projects
13. Planting design and shade calculations
14. Irrigation design and water use calculations to meet WELO
15. Grading and drainage design
16. Preparation of technical plans & specifications

Our approach to design is bottom-up so that revisions are driven in the right direction from the start, while maintaining identified priorities and costs in mind. We allocate resources as needed; establish a pragmatic project schedule; reach key decisions by consensus; develop realistic analysis and defensible recommendations; and deliver quality technical submittals. Cupples Keller Designs implements a proactive management system which is comprised of tools available to us that match staff billing rates and project percent-completeness. Milestone cost estimates are analyzed against the accepted budgets throughout to ensure we are on track toward success. Throughout the process, we coordinate, manage, and monitor the work of our subconsultants, as appropriate. We understand the importance of transparent communication, setting reasonable expectations, and following through to make certain that project goals and expectations are met. Cupples Keller Designs brings to the design process both innovative concepts for solving design challenges and the technical knowledge to implement our plans. We continuously pursue



the expansion of our knowledge and creativity to arrive at solutions strong in concept, specific to the community, and memorable to the user. The team can conduct the production of drawings, documents, and deliverables in a timely manner. Our unique attention to detail and extensive knowledge of graphic and drafting technology will ensure a high-quality product throughout all phases. And our aggressive Quality Control/Quality Assurance approach is executed in-house design, a review exercise administered by senior staff. We assign staff that has not worked on the project to put a "set of fresh eyes" on the project and probe deeply.

Cupples Keller Designs has systems in place to oversee and manage the projects and our subconsultants for a seamless team environment. City of Merced staff will work directly with our Project Managers as the main point of contact, yet, have access to all team members for ease of communication if desired. We have assembled a stellar team of subconsultants to support Cupples Keller Designs as we work on City projects. We have a long history of working with each of these consultants as well as the specific team members from each company. We know how to work seamlessly with each other and communicate to the City with one voice. Cupples Keller Designs and our consultants will have a team for each project such that the projects can proceed concurrently if needed.

We have worked with several municipalities on similar on-call contracts, such as the City of Oakland, Contra Costa County, West Contra Costa Unified School District, the Oakland Unified School District, and PG&E. On any civic project, we work hard to provide a range of outdoor spaces and experiences while maintaining a sensitivity to the safety, access, and aesthetic issues that distinguish a common project from an outstanding one.

Certifications:

- *State of California, Disadvantaged Business Enterprise (DBE)*
- *Alameda County, Small Local Emerging Business (SLEB)*
- *Alameda County Transportation Commission, Very Small Local Business Enterprise (VSLBE)*
- *City of Oakland, Small Local Business Enterprise (SLBE)*
- *Port of Oakland, Very Small Local Business Enterprise (VSLBE)*

EXHIBIT B

EXHIBIT 10-H2 COST PROPOSAL Page 1 of 3

SPECIFIC RATE OF COMPENSATION (USE FOR ON-CALL OR AS-NEEDED CONTRACTS)

(CONSTRUCTION ENGINEERING AND INSPECTION CONTRACTS)

Note: Mark-ups are Not Allowed

Consultant Cupples Keller Designs ☒ Prime Consultant ☐ D Subconsultant ☐ D 2nd Tier SubconsultantProject No. _____ Contract No. - - - - - Participation Amount \$ \$500,000 (max) Date 10/1/2025

For Combined Rate	Fringe Benefit%	+	General & Administrative%	=	Combined ICR%
OR					
For Home Office Rate	Fringe Benefit%	+	General & Administrative%	=	Home Office ICR%
For Field Office Rate	Fringe Benefit%	+	General & Administrative%	=	Field Office ICR%
Fee				=	%

BILLING INFORMATION

CALCULATION INFORMATION

Name/Job Title/Classification ¹	Hourly Billing Rates ²			Effective Date of Hourly Rate		Actual or Avg. Hourly Rate ⁴	% or \$ Increase	Hourly Range- for Classifications Only
	Straight ³	OT(1.5x)	OT(2x)	From	To			
John Doe- Project Manager*	\$0.00	\$0.00	\$0.00	01/01/2016	12/31/2016	\$0.00		Not Applicable
Civil Engineer II	\$0.00	\$0.00	\$0.00	01/01/2017	12/31/2017	\$0.00	0.0%	
	\$0.00	\$0.00	\$0.00	01/01/2018	12/31/2018	\$0.00	0.0%	
Sue Jones- Construction Engineer/Inspector Engineer I				see attached page				Not Applicable
Buddy Black - Claims Engineer Engineer III								Not Applicable
Land Surveyor **								\$00-\$00
								\$00-\$00
Technician	\$0.00	\$0.00	\$0.00	01/01/2016	12/31/2016	\$0.00		\$00-\$00
	\$0.00	\$0.00	\$0.00	01/01/2017	12/31/2017	\$0.00	0.0%	\$00-\$00
	\$0.00	\$0.00	\$0.00	01/01/2018	12/31/2018	\$0.00	0.0%	\$00-\$00

(Add pages as necessary)

BILLING INFORMATION
CALCULATION INFORMATION

Name/Job Title/Classification		Hourly Billing Rates			Effective Date of Hourly Rate		Actual <i>or</i> Avg	% or \$	Hourly Range -
		Straight	OT (1.5x)	OT (2x)	From	To	Hourly Rate	Increase	for Classifications Only
Amy Cupples	Principal Exempt/Full Time	\$230.00			10/01/2025	12/31/2025	\$75.00	3%	not applicable
		\$237.00			01/01/2026	12/31/2026	\$77.25	3%	
		\$244.00			01/01/2027	12/31/2027	\$79.57	3%	
		\$251.00			01/01/2028	12/31/2028	\$81.95	3%	
		\$259.00			01/01/2029	12/31/2029	\$84.41	3%	
Manuel Quintero	Sr. Project Mngr. Exempt/Full Time	\$185.00			10/01/2025	12/31/2025	\$75.00	3%	not applicable
		\$191.00			01/01/2026	12/31/2026	\$77.25	3%	
		\$196.00			01/01/2027	12/31/2027	\$79.57	3%	
		\$202.00			01/01/2028	12/31/2028	\$81.95	3%	
		\$208.00			01/01/2029	12/31/2029	\$84.41	3%	
Sarah Denig	Sr. Landscape Designer Non-Exempt/Full Time	\$170.00	\$255.00	\$340.00	10/01/2025	12/31/2025	\$54.50	3%	not applicable
		\$175.00	\$262.50	\$350.00	01/01/2026	12/31/2026	\$56.14	3%	
		\$180.00	\$270.00	\$360.00	01/01/2027	12/31/2027	\$57.82	3%	
		\$185.00	\$277.50	\$370.00	01/01/2028	12/31/2028	\$59.55	3%	
		\$191.00	\$286.50	\$382.00	01/01/2029	12/31/2029	\$61.34	3%	
	Job Captain Non-Exempt/Full Time	\$130.00	\$195.00	\$260.00	10/01/2025	12/31/2025	\$42.50	3%	\$120-\$130
		\$134.00	\$201.00	\$268.00	01/01/2026	12/31/2026	\$43.78	3%	\$124-\$134
		\$138.00	\$207.00	\$276.00	01/01/2027	12/31/2027	\$45.09	3%	\$128-\$138
		\$142.00	\$213.00	\$284.00	01/01/2028	12/31/2028	\$46.44	3%	\$132-\$142
		\$146.00	\$219.00	\$292.00	01/01/2029	12/31/2029	\$47.83	3%	\$136-\$146
	Landscape Designer II Non-Exempt/Full Time	\$115.00	\$172.50	\$230.00	10/01/2025	12/31/2025	\$37.00	3%	\$110-\$120
		\$118.00	\$177.00	\$236.00	01/01/2026	12/31/2026	\$38.11	3%	\$113-\$123
		\$122.00	\$183.00	\$244.00	01/01/2027	12/31/2027	\$39.25	3%	\$117-\$127
		\$126.00	\$189.00	\$252.00	01/01/2028	12/31/2028	\$40.43	3%	\$121-\$131
		\$130.00	\$195.00	\$260.00	01/01/2029	12/31/2029	\$41.64	3%	\$124-\$134
	Landscape Designer I Non-Exempt/Full Time	\$100.00	\$150.00	\$200.00	10/01/2025	12/31/2025	\$31.50	3%	\$100-\$110
		\$103.00	\$154.50	\$206.00	01/01/2026	12/31/2026	\$32.45	3%	\$103-\$113
		\$106.00	\$159.00	\$212.00	01/01/2027	12/31/2027	\$33.42	3%	\$106-\$116
		\$110.00	\$165.00	\$220.00	01/01/2028	12/31/2028	\$34.42	3%	\$110-\$120
		\$113.00	\$169.50	\$226.00	01/01/2029	12/31/2029	\$35.45	3%	\$113-\$123

NOTES:

1. Key personnel **must** be marked with an asterisk (*) and employees that are subject to prevailing wage requirements must be marked with two asterisks (**). All costs must comply with the Federal cost principles. Subconsultants will provide their own cost proposals.
2. The cost proposal format shall not be amended.
3. Billing rate = actual hourly rate * (1+ ICR) * (1+ Fee). Indirect cost rates shall be updated on an annual basis in accordance with the consultants annual accounting period and established by a cognizant agency or accepted by Caltrans. All costs must comply with the Federal cost principles for reimbursement.
4. For named employees and key personnel enter the actual hourly rate. For classifications only, enter the Average Hourly Rate for that classification.

EXHIBIT 10-H2 COST PROPOSAL Page 2 of 3

SPECIFIC RATE OF COMPENSATION (USE FOR ON-CALL OR AS-NEEDED CONTRACTS)

(CONSTRUCTION ENGINEERING AND INSPECTION CONTRACTS)

Consultant Cupples Keller Designs☒ Prime Consultant ☐ SubconsultantProject No. _____ Contract No. _____ Date 10/1/2025

SCHEDULE OF OTHER DIRECT COST ITEMS (Add additional pages as necessary)				
Description of Item	Quantity	Unit	Unit Cost	Total
Mileage Costs		mile	\$0.70/mile	(based on current IRS rate) \$ 0.00
Equipment Rental and Supplies				\$ 0.00
Permit Fees				\$ 0.00
Plan Sheets				\$ 0.00
Test				\$ 0.00
Vehicle				\$ 0.00
Subconsultant 1:				
Subconsultant 2:				
Subconsultant 3:				
Subconsultant 4:				
Subconsultant 5:				

Note: Add additional pages if necessary.

NOTES:

1. List other direct cost items with estimated costs. These costs should be competitive in their respective industries and supported with appropriate documentation.
2. Proposed ODC items should be consistently billed regardless of client and contract type.
3. Items when incurred for the same purpose, in like circumstance, should not be included in any indirect cost pool or in the overhead rate.
4. Items such as special tooling, will be reimbursed at actual cost with supporting documentation (invoice).
5. Items listed above that would be considered "tools of the trade" are not reimbursable as other direct cost.
6. Travel related costs should be pre-approved by the contracting agency and shall not exceed current State Department of Personnel Administration rules.

7. If mileage is claimed, the rate should be properly supported by the consultant's calculation of their actual costs for company vehicles. In addition, the miles claimed should be supported by mileage logs.
8. If a consultant proposes rental costs for a vehicle, the company must demonstrate that this is its standard procedure for all of their contracts and that they do not own any vehicles that could be used for the same purpose.
9. The cost proposal format shall not be amended. All costs must comply with the Federal cost principles.
10. Add additional pages if necessary.
11. Subconsultants must provide their own cost proposals.

EXHIBIT 10-H2 COST PROPOSAL Page 3 of 3

Certification of Direct Costs:

I, the undersigned, certify to the best of my knowledge and belief that all direct costs identified on the cost proposal(s) in this contract are actual, reasonable, allowable, and allocable to the contract in accordance with the contract terms and the following requirements:

7. Generally Accepted Accounting Principles (GAAP)
8. Terms and conditions of the contract
9. [Title 23 United States Code Section 112](#) - Letting of Contracts
10. [48 Code of Federal Regulations Part 31](#) - Contract Cost Principles and Procedures
11. [23 Code of Federal Regulations Part 172](#) - Procurement, Management, and Administration of Engineering and Design Related Service
12. [48 Code of Federal Regulations Part 9904 - Cost Accounting Standards Board](#) (when applicable)

All costs must be applied consistently and fairly to all contracts. All documentation of compliance must be retained in the project files and be in compliance with applicable federal and state requirements. Costs that are noncompliant with the federal and state requirements are not eligible for reimbursement.

Prime Consultant or Subconsultant Certifying:

Name: Amy Cupples Title*: Principal \$ 000

Signature:  Date of Certification (mm/dd/yyyy): 10/01/2025
925-890-5924 (m)

Email: amy@studiockd.com Phone Number: 510-451-9987 x 7001 (o)

Address: 1970 Broadway, Suite 800, Oakland, CA 94612-2220

* An individual executive or financial officer of the consultant's or subconsultant's organization at a level no lower than a Vice President or a Chief Financial Officer, or equivalent, who has authority to represent the financial information utilized to establish the cost proposal for the contract.

List services the consultant is providing under the proposed contract:

EXHIBIT C

EXHIBIT C

City of Merced

Authorization of Services Agreement

Dept. Head Sig.: _____
 Due Date: _____
 Return to: _____

 Name of City Contact

 Phone Ext.

Description of Services to be Provided:

Official Use Only

Check Box If Applicable To Project:

☐ License (1)* Type _____ ☐ Business License (2)* ☐ Bonds (6)*
☐ Insurance (13)* ☐ Workers' Compensation (14)* ☐ Prevailing Wages (15)*

** Numbers correspond to paragraph numbers on the Terms and Conditions attached hereto.*

Consultant:

Proposal/Quote

1. _____
2. _____
3. _____

Total Amount \$ _____

By completing and executing this document, Consultant agrees to be bound to the Terms and Conditions attached hereto and incorporated by reference, any additional terms and conditions found on the Purchase Order, and any other terms and conditions imposed by the City and attached hereto or in the Merced Municipal Code, and makes the City an offer for the above-mentioned services at the above-mentioned price. This agreement is not binding on the City until executed by the City Manager, or his/her designee, and a Purchase Order is issued to Consultant. Any terms and conditions proposed by Consultant shall not be binding upon the City unless expressly agreed to in writing by the designated representative of the City.

The individuals executing this contract represent and warrant that they have the legal capacity and authority to do so on behalf of their respective legal entities.

Consultants

 Print Name

 Name of Business Entity

 Signature

 Date

 Phone No.

 Position/Title

 License No.:

(If Applicable)

Accepted by City of Merced
Only

Official Use

 Date

City Manager or Designee

EXHIBIT C
City of Merced
Authorization of Services Agreement

TERMS AND CONDITIONS FOR
SERVICES CONTRACTS

THESE TERMS AND CONDITIONS, ("Terms and Conditions") are made and entered into on the date shown on the attached Statement of Services, by and between the City of Merced, a California Charter Municipal Corporation, ("City") and the Consultant, Vendor, Contractor, or Person, ("Contractor") shown on the Authorization for Service Agreement. These Terms and Conditions, Authorization for Service Agreement, and the Consulting and Professional Services Contract shall herein be collectively referred to as the "Agreement." Any words that Consultant adds to the Agreement or any form that Consultant uses in the course of business will not change or supersede these Terms and Conditions. The City must agree, in writing, to any change in terms and conditions. The City's acceptance of any work or services is not an acceptance of Consultant's conflicting terms and conditions should such exist.

1. **CONTRACTOR'S SERVICES.** Contractor shall, at its own cost and expense and as authorized and directed by the City, provide the personnel, supervision, equipment, supplies, services, administration, transportation, and other needs to complete the work described in the Authorization for Service Agreement and the City's Purchase Order, which is hereby incorporated and made a part of these Terms and Conditions, within the agreed upon time schedule and budget. The Contractor is responsible for obtaining and administering the employment of personnel having the training, experience, licenses, and other qualifications necessary for the work assigned. All project-related costs shall be assumed and paid by the Contractor. These Terms and Conditions and Purchase Order provide the exclusive means of payment and reimbursement of costs to the Contractor by the City.

Such work shall include the following:

- a. The Contractor shall perform the services as described in the Statement of Services and Purchase Order in full compliance with these Terms and Conditions and adopted City policies and guidelines as provided to the Contractor, and in compliance with all other applicable laws and regulations.
- b. The Contractor shall perform all services and prepare all documents in professional form, exercising the special experience, skill, and education required for such service.
- c. The Contractor shall provide finished documents of presentation quality that evidence the highest standards of investigation, professional review, public participation, and presentation.

2. **SCHEDULE OF PERFORMANCE AND BUDGET.** The Contractor shall satisfactorily perform the services described in the Statement of Services and Purchase Order within the Time Schedule stated or agreed to between the Contractor and the City. The Contractor shall review the remaining work and remaining budget at least monthly (or at such other interval as directed by City staff) and shall confirm that completion may be expected within the budget approved or, in the

EXHIBIT C
City of Merced
Authorization of Services Agreement

alternative, give immediate notice when it shall first appear that the approved budget will not be sufficient, together with an explanation for any projected insufficiency.

The Contractor shall immediately inform the City of any problems, obstructions, or deviations of which the Contractor becomes aware affecting Contractor's ability to complete the project in a timely, efficient, and competent manner.

3. RISK OF LOSS PRIOR TO FINAL ACCEPTANCE. Risk of loss from total or partial destruction of the work, prior to final acceptance, shall be borne by Contractor regardless of the cause. Contractor shall repair or replace such damages or destroyed work to its prior undamaged condition before being entitled to additional progress payments or final payment. Total or partial destruction or damage shall not excuse Contractor from completion of work.

4. COMPENSATION. Payment by the City to the Consultant for actual services rendered shall be made upon presentation of an invoice detailing services performed and authorized.

5. PERMITS AND LICENSES.

- a. Contractor shall apply for and procure permits and licenses necessary for the work.
- b. Contractor shall give notices necessary and incidental to the due and lawful prosecution of the work and shall comply duly with the terms and conditions of permits and licenses.
- c. Contractor shall pay charges and fees in connection with permits and licenses.