

AGENDA ITEM 8
Treasure Island Development Authority
City and County of San Francisco
Meeting of March 8, 2023

Subject: Resolution Approving and Authorizing the Execution of a Professional Services Agreement between the Treasure Island Development Authority and Associated Right of Way Services, Inc., to Provide Advisory and Consulting Services for Implementation of the Transition Housing Rules and Regulations for The Villages at Treasure Island (*Action Item*)

Contact: Robert Beck, Treasure Island Director

SUMMARY

On September 14, 2022, the Authority Board of Directors, by Resolution 22-19-0914, authorized the issuance of a Request for Proposals (“RFP”) to provide advisory services related to the transition of existing residents of The Villages at Treasure Island to newly constructed Transition Units on Treasure Island and other benefits prescribed in the Transition Housing Rules and Regulations (“THRR”) for The Villages at Treasure Island.

On November 4, 2022, the Office of Contract Administration (“OCA”) on behalf of the Authority issued a RFP for qualified consultants or consulting teams to provide advisory services including outreach, one-on-one advisory services, facilitating transition unit offers, and tracking the transition housing plan progress. OCA reached out to registered LBEs providing relevant services, prior firms submitting proposals to the Authority, and firms suggested by the Mayor’s Office of Housing and Community Development (“MOHCD”), the Office of Community Investment and Infrastructure (“OCII”), and others.

On November 7, 2022, this proposed contract was heard at the Civil Service Commission hearing and approved by CSC resolution 47321-22/23.

On December 15, 2022, the Authority received only a single proposal from a team lead by Associated Right of Way Services, Inc. (“ARWS”) who has provided these services to the Authority since 2017. OCA and Contract Monitoring Division (CMD) staff reviewed the submittal for responsiveness to the RFP requirements, including the minimum qualifications, sample projects required, verification of references, and responsiveness to the LBE requirements.

Although only a single response was submitted, the RFP as issued required both an evaluation of the submitted proposal and an oral interview. On January 19, 2023, an evaluation panel, comprised of representatives from MOHCD, OCII, and the Authority, completed evaluated and scored the written proposal in accordance with the structure outlined in the RFP. On February 2, 2023, the same panel conducted an oral interview of the proposing consultant team. OCA and CMD found that the proposal submitted by ARWS met the requirements of the RFP and authorized the Authority to negotiate an agreement with ARWS.

THE THRR

The THRR was created to provide Transitioning Households (as defined in the THRR) certain housing opportunities and transition benefits as part of the Project to those households who were living in The Villages at Treasure Island (“The Villages”) at the time of the approval of the DDA on June 2011. These residents are identified as Pre-Development and Disposition Agreement (“Pre-DDA”) households.

A separate Treasure Island Homeless Development Initiative Transition Housing Plan provided for the transition of affordable housing residents on Treasure Island into new affordable units to be developed in partnership with One Treasure Island member agencies – Swords to Plowshares, Catholic Charities, Community Housing Partnership, and HealthRIGHT 360.

Under the THRR, Pre-DDA Households were to receive the opportunity for a replacement unit in a building to be constructed by the Authority (a “Transition Unit”), an affordable unit (if they met income eligibility requirements), premarketing opportunities and down payment assistance if they wish to purchase a new unit on Treasure Island, an In-Lieu payment if they elect to move off of the island without taking a Transition Unit, and advisory services to help them navigate these options. Commercial leaseholders and residents moving in after the effective date of the DDA were to receive advisory services only.

In addition to assisting the Authority in developing policies and procedures for implementing the THRR, a central responsibility of the Contractor is to be an objective advisor to eligible households to ensure that they understand all of their benefits options so that they can make the best choice for their household.

On December 11, 2019 meeting of the Authority Board of Directors, Authority Board approved Resolution 07-19 authorizing a Second Amendment to the THRR expanding housing opportunities to “Post-Development and Disposition Agreement” (“Post-DDA”) residents. Post-DDA residents are defined as those who became leaseholders at The Villages between June 29, 2011 and December 11, 2019. Specifically, the Second Amendment to the THRR allowed Post-DDA eligible residents to:

1. Receive pre-marketing opportunities for market-rate housing; and
2. Receive priority in newly constructed affordable housing opportunities (affordable for-rent or BMR for-sale) when income-qualified.

In implementing the Second Amendment to the THRR, Post-DDA residents’ housing opportunities are subordinate to Pre-DDA households’ housing opportunities.

TRANSITION TIMELINE

The first Authority Building to include Transition Units, Star View Courts, began construction in 2022 and is scheduled to complete construction in 2024. In order to identify which current Villages Households will occupy those Transition Units and MOHCD to conduct its DAHLIA lottery for other affordable units within the building, the Authority will need to begin the process of making Transition Unit Offers to current households no later than the fall of 2023.

In addition to Star View Court, three market rate developments – Tidal House, Hawkins, and Portico – are in construction and two additional sites are expected to break ground in the next six months. These five sites include three rental properties and two condominium developments, each with inclusionary affordable units. Inclusionary for-sale units will be priced to be affordable to households earning between 80-120% of Area Median Income (“AMI”) although individual units within a particular building will be priced for a specific income level – for instance, a individual property might include four 2–bedroom units with one prices at 80% AMI, two priced at 100% AMI, and a fourth priced at 120% AMI. Inclusionary for-rent units are to be priced at 60% of AMI per the Housing Plan, while the affordable units in Authority buildings may vary in accordance with funding and program requirements their rents are expected to be affordable, on average, to households with incomes at 50% of AMI.

Based upon the information gathered in prior interviews with Pre-DDA Households, one-third or more of those households may qualify for some form of affordable housing. For each household, the number of bedrooms for which they will be eligible, the household members eligible to relocate to the replacement unit, and the rent or housing payment they will be required to make will differ. As a result, an affordable unit may not be attractive to an individual household even if they meet the income eligibility requirements. For those households that may qualify, we will need to provide advisory services to help them understand the trade-offs between an affordable unit and a THRR Transition Unit. We will also want to advise Post-DDA residents of these opportunities to ensure that as many current island residents as possible are able to occupy these inclusionary units.

Our third planned Authority Buildings will be developed in partnership with HealthRIGHT 360, the Department of Public Health, and Mercy Housing. We hope to break ground in 2024 and complete construction in 2026. In addition to providing replacement space for HealthRight 360’s treatment and transitional housing programs, the site will include an estimated 100 permanent supportive housing units of which 10-20% will be set aside as Transition Units for eligible Villages households.

DOWN PAYMENT ASSISTANCE

The THRR provide that Pre-DDA households are offered a Down Payment Assistance when choosing to purchase a new for-sale unit on Treasure Island. The THRR describes how the amount of this payment is calculated.

In advance of the completion of the Tidal House, Portico, and Hawkins developments, ARWS will assist the developer in distributing Pre-Marketing Notices to Villages households, provide MOHCD with tenant information for priority ranking in the administration of the DAHLIA assignment lottery, and guide residents in completion of first-time homeownership workshops.

SERVICES TO BE PROVIDED

The primary focus of the services anticipated in this contract is to assist the Authority with the implementation of the THRR over the next several years of development. The services the Contractor will provide to the Authority and residents include:

- Assisting the Authority in strategic planning for transition plans and timing
- Public outreach - preparing and conducting community outreach
 - Creating collateral materials to describe eligibility requirements, available benefits, and provide guidance for the implementation of the rules and guidelines
 - Preparing and distributing mailers, door hangers, and hosting public Open House/Town Hall type meetings to share information with residents
- Individual Advisory Services - providing individual consultation and advisory services one-on-one to households and individual residents who are considering available options
 - Household needs assessment
 - Housing inventory and selection review
 - Affordable housing income-eligibility requirements and options
 - Down payment assistance
 - Early in-lieu payments
 - Translation services for non-English speaking residents
- Facilitating Transition Unit Offers
 - Notifying households of Transition Unit availability, advising them of their benefit options, and coordinating moves into Transition Units
- Tracking Transition Housing Plan Progress
 - Tracking long-term moves
 - Housing inventory and timeline planning support
 - Coordination with MOHCD
- Resident outreach
 - Creating collateral materials to describe eligibility requirements, available benefits, and provide guidance for the implementation of the rules and guidelines.
 - Preparing and distributing mailers, door hangers, and hosting public Open House/Town Hall type meetings to share information with residents.
- Record Keeping
 - Maintain a library of all materials prepared to communicate with residents including e-mails, mailers, door hangers, flyers, poster boards, slideshows, and other presentation materials.
 - Maintain a record of all communications with individual households and residents.
 - Maintain a “portal” allowing residents to electronically access a record of the letters and written communications addressed specifically to that household from either TIDA or the Contractor.
 - Assist TIDA in drafting Interpretation and Implementation Procedures to document important decisions in implementing the THRR.
- Interim Moves
 - If Interim Moves are required of Villages households, support the process through developing and distributing informational materials, hosting Open Houses, supporting unit selection processes, and facilitating moves.
- Moving Assistance
 - If/when requested, provide Moving Assistance to Transitioning Households that make Interim Moves and that select the Transition Unit Option for Long-Term

Move, including transportation of personal property, packing, unpacking and insurance coverage while in transit.

- As-Needed Consulting Services
 - Provide additional relocation-related consulting services, as needed, on an on-going basis to implement the THRR, to include utilization of outside counsel as pre-approved by the Office of the City Attorney.

BUDGET AND TERM

The proposed initial term for the contract is for five years with two options each for a two-year extension for a total maximum term of nine years. The total maximum fee is based on \$500,000 annually for a total of \$4.5 million for the full nine-year contract term.

In order to continue providing uninterrupted service to Villages' residents, Staff requests that the Authority Board authorize the Director to execute the Agreement between the Authority and ARWS for Advisory Services with the initial term of the Agreement as five years and an initial contract authority of \$2,500,000.

Staff has included sufficient funds in the current fiscal year budget and proposed Authority's FY 23/24 budget to support the anticipated services under the Agreement and will make similar recommendations to include sufficient funds in subsequent years for which the contract term may be extended.

RECOMMENDATION

Authority Staff recommends the Authority Board approve the Professional Services Agreement between the Treasure Island Development Authority and Associated Right of Way Services, Inc., for a term of five years and an amount not to exceed \$2,500,000 and authorize the Treasure Island Director or his designee to execute said Agreement subject to the terms and conditions set forth above in the attached Exhibit A.

EXHIBITS

Exhibit A: Professional Services Agreement between the Treasure Island Development Authority and Associated Right of Way Services, Inc.

Prepared by: Robert P. Beck, Treasure Island Director

**Treasure Island Development Authority
One Avenue of the Palms
Treasure Island
San Francisco, California, 94130**

**Agreement between the City and County of San Francisco and
Associated Right of Way Services, Inc.**

TC10404 2022-002

This Agreement is made this 15th day of March, 2023, in the City and County of San Francisco, State of California, by and between Associated Right of Way Services, Inc., a California corporation, hereinafter referred to as “Contractor,” and the Treasure Island Development Authority, a nonprofit public benefit corporation hereinafter referred to as the “Authority” or “City”, acting by and through its Treasure Island Director, hereinafter referred to as the “Director.”

Recitals

WHEREAS, the Treasure Island Development Authority, a California nonprofit public benefit corporation (“Department” or “TIDA”) wishes to procure advisory services related to transition housing on Treasure Island from Contractor; and

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

WHEREAS, Contractor was competitively selected pursuant to Sourcing Event ID 0000007459; and

WHEREAS, this is a contract for Services and there is a Local Business Entity (“LBE”) subcontracting participation requirement with respect to the Services, as defined further herein; and

WHEREAS, approval for the Agreement was obtained on November 7, 2022 from the Civil Service Commission under PSC number 47321 22/23 in the amount not to exceed \$4,500,000 for the period of five (5) years including two (2) options each for two (2) year extensions for a total maximum term of nine (9) years. The total maximum fee is based on \$500,000 annually for a total of \$4.5 million for the full contract term.

WHEREAS, approval for the Agreement was obtained on March 8, 2023 from the TIDA Board of Directors under Resolution number [insert Resolution number] for the period of March 15, 2023 through March 31, 2028; and

Now, THEREFORE, the parties agree as follows:

Article 1 Definitions

The following definitions apply to this Agreement:

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

1.2 "City" or "the City" means the City and County of San Francisco, a municipal corporation, acting by and through its Director of the Office of Contract Administration or the Director's designated agent, hereinafter referred to as "Purchasing" or through the Treasure Island Director.

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

1.4 "Confidential Information" means confidential City information including, but not limited to, personally-identifiable information ("PII"), protected health information ("PHI"), or individual financial information (collectively, "Proprietary or Confidential Information") that is subject to local, state or federal laws restricting the use and disclosure of such information, including, but not limited to, Article 1, Section 1 of the California Constitution; the California Information Practices Act (Civil Code § 1798 et seq.); the California Confidentiality of Medical Information Act (Civil Code § 56 et seq.); the federal Gramm-Leach-Bliley Act (15 U.S.C. §§ 6801(b) and 6805(b)(2)); the privacy and information security aspects of the Administrative Simplification provisions of the federal Health Insurance Portability and Accountability Act (45 CFR Part 160 and Subparts A, C, and E of part 164); and San Francisco Administrative Code Chapter 12M (Chapter 12M).

1.5 "Contractor" or "Consultant" means Associated Right of Way Services, Inc. at 2300 Contra Costa Blvd., Suite 525, Pleasant Hill, CA 94523.

1.6 "Deliverables" means Contractor's work product resulting from the Services that are provided by Contractor to City during the course of Contractor's performance of the Agreement, including without limitation, the work product described in the "Scope of Services" attached as Appendix A.

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

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

1.9 "Party" and "Parties" mean the City and Contractor either collectively or individually.

1.10 "Services" means the work performed by Contractor under this Agreement as specifically described in the "Scope of Services" attached as Appendix A, including all

services, labor, supervision, materials, equipment, actions and other requirements to be performed and furnished by Contractor under this Agreement.

Article 2 Term of the Agreement

2.1 The term of this Agreement shall commence on the latter of: (i) first day of March 15, 2023; or (ii) the Effective Date and expire on March 31, 2028, unless earlier terminated as otherwise provided herein. Notwithstanding anything in this Agreement to the contrary, either party, in its sole discretion, may terminate this Agreement for any reason upon delivery of not less than thirty (30) days' prior written notice to the other party.

2.2 The City has two (2) options to renew the Agreement for a period of two (2) years each. The City may extend this Agreement beyond the expiration date by exercising an option at the City's sole and absolute discretion and by modifying this Agreement as provided in Section 11.5, "Modification of this Agreement."

Article 3 Financial Matters

3.1 **Certification of Funds; Budget and Fiscal Provisions; Termination in the Event of Non-Appropriation.** This Agreement is subject to the budget and fiscal provisions of the City's Charter. Charges will accrue only after prior written authorization certified by the Controller, and the amount of City's obligation hereunder shall not at any time exceed the amount certified for the purpose and period stated in such advance authorization. This Agreement will terminate without penalty, liability or expense of any kind to City at the end of any fiscal year if funds are not appropriated for the next succeeding fiscal year. If funds are appropriated for a portion of the fiscal year, this Agreement will terminate, without penalty, liability or expense of any kind at the end of the term for which funds are appropriated. City has no obligation to make appropriations for this Agreement in lieu of appropriations for new or other agreements. City budget decisions are subject to the discretion of the Mayor and the Board of Supervisors. Contractor's assumption of risk of possible non-appropriation is part of the consideration for this Agreement.

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

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

3.3 Compensation.

3.3.1 **Payment.** Contractor shall provide an invoice to the City on a monthly basis for Services completed in the immediate preceding month, unless a different schedule is set out in Appendix B, "Calculation of Charges" Compensation shall be made for Services identified in the invoice that the Treasure Island Director, in his sole discretion, concludes has been satisfactorily performed. Payment shall be made within 30 calendar days of receipt of the invoice, unless the City notifies the Contractor that a dispute as to the invoice exists. In no event shall the amount of this Agreement exceed Four Million and Five Hundred Dollars (\$4,500,000.00). The breakdown of charges associated with this Agreement appears in Appendix B "Calculation of Charges" attached hereto and incorporated by reference as though fully set forth herein. In no event shall City be liable for interest or late charges for any late payments.

3.3.2 **Payment Limited to Satisfactory Services.** Contractor is not entitled to any payments from City until the Treasure Island Development Authority approves Services, including any furnished Deliverables, as satisfying all of the requirements of this Agreement. Payments to Contractor by City shall not excuse Contractor from its obligation to replace unsatisfactory Deliverables, including equipment, components, materials, or Services even if the unsatisfactory character of such Deliverables, equipment, components, materials, or Services may not have been apparent or detected at the time such payment was made. Deliverables, equipment, components, materials and Services that do not conform to the requirements of this Agreement may be rejected by City and in such case must be replaced by Contractor without delay at no cost to the City.

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

3.3.4 **Invoice Format.** Invoices furnished by Contractor under this Agreement must be in a form acceptable to the Controller and City, and must include a unique invoice number. Payment shall be made by City to Contractor at the address specified in Section 11.1, "Notices to the Parties," or in such alternate manner as the Parties have mutually agreed upon in writing.

3.3.5 **LBE Payment and Utilization Tracking System.** Contractor must submit all required payment information using the City's Financial System as required by CMD to enable the City to monitor Contractor's compliance with the LBE subcontracting commitments in this Agreement. Contractor shall pay its LBE subcontractors within three working days after receiving payment from the City, except as otherwise authorized by the LBE Ordinance. The Controller is not authorized to pay invoices submitted by Contractor prior to Contractor's submission of all required CMD payment information. Failure to submit all required payment information to the City's Financial System with each payment request may result in the Controller withholding 20% of the payment due pursuant to that invoice until the

required payment information is provided. Following City's payment of an invoice, Contractor has ten calendar days to acknowledge using the City's Financial System that all subcontractors have been paid. Self-Service Training for suppliers is located at this link:

<https://sfcitypartner.sfgov.org/Training/TrainingGuide>.

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

(a) All City vendors receiving new contracts, contract renewals, or contract extensions must sign up to receive electronic payments through Paymode-X, the City's third party service that provides Automated Clearing House (ACH) payments. Electronic payments are processed every business day and are safe and secure. To sign up for electronic payments, visit www.sfgov.org/ach.

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

3.4 **Audit and Inspection of Records.** Contractor agrees to maintain and make available to the City, during regular business hours, accurate books and accounting records relating to its Services. Contractor will permit City to audit, examine and make excerpts and transcripts from such books and records, and to make audits of all invoices, materials, payrolls, records or personnel and other data related to all other matters covered by this Agreement, whether funded in whole or in part under this Agreement. Contractor shall maintain such data and records in an accessible location and condition for a period of not fewer than five years after final payment under this Agreement or until after final audit has been resolved, whichever is later. The State of California or any Federal agency having an interest in the subject matter of this Agreement shall have the same rights as conferred upon City by this Section. Contractor shall include the same audit and inspection rights and record retention requirements in all subcontracts.

3.5 **Submitting False Claims.** The full text of San Francisco Administrative Code Chapter 21, Section 21.35, including the enforcement and penalty provisions, is incorporated into this Agreement. Pursuant to San Francisco Administrative Code §21.35, any contractor or subcontractor who submits a false claim shall be liable to the City for the statutory penalties set forth in that section. A contractor or subcontractor will be deemed to have submitted a false claim to the City if the contractor or subcontractor: (a) knowingly presents or causes to be presented to an officer or employee of the City a false claim or request for payment or approval; (b) knowingly makes, uses, or causes to be made or used a false record or statement to get a false claim paid or approved by the City; (c) conspires to defraud the City by getting a false claim allowed or paid by the City; (d) knowingly makes, uses, or causes to be made or used a false record or statement to conceal, avoid, or decrease an obligation to pay or transmit money or property to the City; or (e) is a beneficiary of an inadvertent submission of a false claim to the

City, subsequently discovers the falsity of the claim, and fails to disclose the false claim to the City within a reasonable time after discovery of the false claim.

3.6 Payment of Prevailing Wages

3.6.1 **Covered Services.** Services to be performed by Contractor under this Agreement may involve the performance of trade work covered by the provisions of Section 6.22(e) [Prevailing Wages] of the Administrative Code or Section 21C [Miscellaneous Prevailing Wage Requirements] (collectively, "Covered Services"). The provisions of Section 6.22(e) and 21C of the Administrative Code are incorporated as provisions of this Agreement as if fully set forth herein and will apply to any Covered Services performed by Contractor and its subcontractors.

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

3.6.3 **Subcontract Requirements.** As required by Section 6.22(e)(5) of the Administrative Code, Contractor shall insert in every subcontract or other arrangement, which it may make for the performance of Covered Services under this Agreement, a provision that said subcontractor shall pay to all persons performing labor in connection with Covered Services under said subcontract or other arrangement not less than the highest general prevailing rate of wages as fixed and determined by the Board of Supervisors for such labor or services.

3.6.4 **Posted Notices.** As required by Section 1771.4 of the California Labor Code, Contractor shall post job site notices prescribed by the California Department of Industrial Relations ("DIR") at all job sites where services covered by Chapter 6.22 are to be performed.

3.6.5 **Payroll Records.** As required by Section 6.22(e)(6) of the Administrative Code and Section 1776 of the California Labor Code, Contractor shall keep or cause to be kept complete and accurate payroll records for all trade workers performing Covered Services. Such records shall include the name, address and social security number of each worker who provided Covered Services on the project, including apprentices, his or her classification, a general description of the services each worker performed each day, the rate of pay (including rates of contributions for, or costs assumed to provide fringe benefits), daily and weekly number of hours worked, deductions made and actual wages paid. Every subcontractor who shall undertake the performance of any part of Covered Services shall keep a like record of

each person engaged in the execution of Covered Services under the subcontract. All such records shall at all times be available for inspection of and examination by the City and its authorized representatives and the DIR.

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

3.6.7 **Compliance Monitoring.** Covered Services to be performed under this Agreement are subject to compliance monitoring and enforcement of prevailing wage requirements by the DIR and /or the OLSE. Contractor and any subcontractors performing Covered Services will cooperate fully with the DIR and/or the OLSE and other City employees and agents authorized to assist in the administration and enforcement of the prevailing wage requirements, and agrees to take the specific steps and actions as required by Section 6.22(e)(7) of the Administrative Code. Steps and actions include but are not limited to requirements that: (i) the Contractor will cooperate fully with the Labor Standards Enforcement Officer and other City employees and agents authorized to assist in the administration and enforcement of the Prevailing Wage requirements and other labor standards imposed on Public Works Contractor by the Charter and Chapter 6 of the San Francisco Administrative Code; ii) the Contractor agrees that the Labor Standards Enforcement Officer and his or her designees, in the performance of their duties, shall have the right to engage in random inspections of job sites and to have access to the employees of the Contractor, employee time sheets, inspection logs, payroll records and employee paychecks; (iii) the contractor shall maintain a sign-in and sign-out sheet showing which employees are present on the job site; (iv) the Contractor shall prominently post at each job-site a sign informing employees that the project is subject to the City's Prevailing Wage requirements and that these requirements are enforced by the Labor Standards Enforcement Officer; and (v) that the Labor Standards Enforcement Officer may audit such records of the Contractor as he or she reasonably deems necessary to determine compliance with the Prevailing Wage and other labor standards imposed by the Charter and this Chapter on Public Works Contractors. Failure to comply with these requirements may result in penalties and forfeitures consistent with analogous provisions of the California Labor Code, including Section 1776(g), as amended from time to time.

3.6.8 **Remedies.** Should Contractor, or any subcontractor who shall undertake the performance of any Covered Services, fail or neglect to pay to the persons who

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

Article 4 Services and Resources

4.1 **Services Contractor Agrees to Perform.** Contractor agrees to perform the Services provided for in Appendix A, "Scope of Services." Officers and employees of the City are not authorized to request, and the City is not required to reimburse the Contractor for, Services beyond the Scope of Services listed in Appendix A, unless Appendix A is modified as provided in Section 11.5, "Modification of this Agreement."

4.2 **Qualified Personnel.** Contractor shall utilize only competent personnel under the supervision of, and in the employment of, Contractor (or Contractor's authorized subcontractors) to perform the Services. Contractor will comply with City's reasonable requests regarding assignment and/or removal of personnel, but all personnel, including those assigned at City's request, must be supervised by Contractor. Contractor shall commit adequate resources to allow timely completion within the project schedule specified in this Agreement.

4.3 **Subcontracting.** Contractor may subcontract portions of the Services only upon prior written approval of City. Contractor is responsible for its subcontractors throughout the course of the work required to perform the Services. All Subcontracts must incorporate the terms of Article 10 "Additional Requirements Incorporated by Reference" of this Agreement, unless inapplicable. Neither Party shall, on the basis of this Agreement, contract on behalf of, or in the name of, the other Party. Any agreement made in violation of this provision shall be null and void. Contractor will not employ subcontractors.

4.4 **Independent Contractor; Payment of Employment Taxes and Other Expenses.**

4.4.1 **Independent Contractor.** For the purposes of this Article 4, "Contractor" shall be deemed to include not only Contractor, but also any agent or employee of Contractor. Contractor acknowledges and agrees that at all times, Contractor or any agent or employee of Contractor shall be deemed at all times to be an independent contractor and is wholly responsible for the manner in which it performs the services and work requested by City under this Agreement. Contractor, its agents, and employees will not represent or hold themselves out to be employees of the City at any time. Contractor or any agent or employee of Contractor shall not have employee status with City, nor be entitled to participate in any plans, arrangements, or distributions by City pertaining to or in connection with any retirement, health

or other benefits that City may offer its employees. Contractor or any agent or employee of Contractor is liable for the acts and omissions of itself, its employees and its agents. Contractor shall be responsible for all obligations and payments, whether imposed by federal, state or local law, including, but not limited to, FICA, income tax withholdings, unemployment compensation, insurance, and other similar responsibilities related to Contractor's performing services and work, or any agent or employee of Contractor providing same. Nothing in this Agreement shall be construed as creating an employment or agency relationship between City and Contractor or any agent or employee of Contractor. Any terms in this Agreement referring to direction from City shall be construed as providing for direction as to policy and the result of Contractor's work only, and not as to the means by which such a result is obtained. City does not retain the right to control the means or the method by which Contractor performs work under this Agreement. Contractor agrees to maintain and make available to City, upon request and during regular business hours, accurate books and accounting records demonstrating Contractor's compliance with this section. Should City determine that Contractor, or any agent or employee of Contractor, is not performing in accordance with the requirements of this Agreement, City shall provide Contractor with written notice of such failure. Within five (5) business days of Contractor's receipt of such notice, and in accordance with Contractor policy and procedure, Contractor shall remedy the deficiency. Notwithstanding, if City believes that an action of Contractor, or any agent or employee of Contractor, warrants immediate remedial action by Contractor, City shall contact Contractor and provide Contractor in writing with the reason for requesting such immediate action.

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

4.5 Assignment. The Services to be performed by Contractor are personal in character. Neither this Agreement, nor any duties or obligations hereunder, may be directly or indirectly assigned, novated, hypothecated, transferred, or delegated by Contractor, or, where the

Contractor is a joint venture, a joint venture partner, (collectively referred to as an “Assignment”) unless first approved by City by written instrument executed and approved in the same manner as this Agreement in accordance with the Administrative Code. The City’s approval of any such Assignment is subject to the Contractor demonstrating to City’s reasonable satisfaction that the proposed transferee is: (i) reputable and capable, financially and otherwise, of performing each of Contractor’s obligations under this Agreement and any other documents to be assigned, (ii) not forbidden by applicable law from transacting business or entering into contracts with City; and (iii) subject to the jurisdiction of the courts of the State of California. A change of ownership or control of Contractor or a sale or transfer of substantially all of the assets of Contractor shall be deemed an Assignment for purposes of this Agreement. Contractor shall immediately notify City about any Assignment. Any purported Assignment made in violation of this provision shall be null and void.

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

Article 5 Insurance and Indemnity

5.1 **Insurance.**

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

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

(b) Commercial General Liability Insurance with limits not less than \$1,000,000 each occurrence and \$2,000,000 general aggregate for Bodily Injury and Property Damage, including Contractual Liability, Personal Injury, Products and Completed Operations; and

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

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

(a) Name as Additional Insured the US Navy, the Treasure Island Development Authority, and the City and County of San Francisco, their Officers, Agents, and Employees.

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

5.1.3 All policies shall be endorsed to provide thirty (30) days' advance written notice to the City of cancellation for any reason, intended non-renewal, or reduction in coverages. Notices shall be sent to the City address set forth in Section 11.1, entitled "Notices to the Parties."

5.1.4 Should any of the required insurance be provided under a claims-made form, Contractor shall maintain such coverage continuously throughout the term of this Agreement and, without lapse, for a period of three years beyond the expiration of this Agreement, to the effect that, should occurrences during the contract term give rise to claims made after expiration of the Agreement, such claims shall be covered by such claims-made policies.

5.1.5 Should any required insurance lapse during the term of this Agreement, requests for payments originating after such lapse shall not be processed until the City receives satisfactory evidence of reinstated coverage as required by this Agreement, effective as of the lapse date. If insurance is not reinstated, the City may, at its sole option, terminate this Agreement effective on the date of such lapse of insurance.

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

5.1.7 The Workers' Compensation policy(ies) shall be endorsed with a waiver of subrogation in favor of the City for all work performed by the Contractor, its employees, agents and subcontractors.

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

5.2 **Indemnification.** Contractor shall indemnify and hold harmless City and its officers, agents and employees from, and, if requested, shall defend them from and against any and all claims, demands, losses, damages, costs, expenses, and liability (legal, contractual, or otherwise) arising from or in any way connected with any: (i) injury to or death of a person, including employees of City or Contractor; (ii) loss of or damage to property; (iii) violation of local, state, or federal common law, statute or regulation, including but not limited to privacy or personally identifiable information, health information, disability and labor laws or regulations; (iv) strict liability imposed by any law or regulation; or (v) losses arising from Contractor's

execution of subcontracts not in accordance with the requirements of this Agreement applicable to subcontractors; so long as such injury, violation, loss, or strict liability (as set forth in subsections (i) – (v) above) arises directly or indirectly from Contractor’s negligence or willful misconduct in the performance of this Agreement, including, but not limited to, Contractor’s use of facilities or equipment provided by City or others, regardless of the negligence of, and regardless of whether liability without fault is imposed or sought to be imposed on City, except to the extent that such indemnity is void or otherwise unenforceable under applicable law, and except where such loss, damage, injury, liability or claim is the result of the active negligence or willful misconduct of City and is not contributed to by any act of, or by any omission to perform some duty imposed by law or agreement on Contractor, its subcontractors, or either’s agent or employee. The foregoing indemnity shall include, without limitation, reasonable fees of attorneys, consultants and experts and related costs and City’s costs of investigating any claims against the City.

In addition to Contractor’s obligation to indemnify City, Contractor specifically acknowledges and agrees that it has an immediate and independent obligation to defend City from any claim which actually or potentially falls within this indemnification provision, even if the allegations are or may be groundless, false or fraudulent, which obligation arises at the time such claim is tendered to Contractor by City and continues at all times thereafter.

Contractor shall indemnify and hold City harmless from all loss and liability, including attorneys’ fees, court costs and all other litigation expenses for any infringement of the patent rights, copyright, trade secret or any other proprietary right or trademark, and all other intellectual property claims of any person or persons arising directly or indirectly from the receipt by City, or any of its officers or agents, of Contractor's Services.

Article 6 Liability of the Parties

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

6.2 Liability for Use of Equipment. City shall not be liable for any damage to persons or property as a result of the use, misuse or failure of any equipment used by Contractor, or any of its subcontractors, or by any of their employees, even though such equipment is furnished, rented or loaned by City.

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

Article 7 Payment of Taxes

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

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

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

7.2.2 Contractor, on behalf of itself and any permitted successors and assigns, recognizes and understands that the creation, extension, renewal, or assignment of this Agreement may result in a "change in ownership" for purposes of real property taxes, and therefore may result in a revaluation of any possessory interest created by this Agreement. Contractor accordingly agrees on behalf of itself and its permitted successors and assigns to report on behalf of the City to the County Assessor the information required by Revenue and Taxation Code section 480.5, as amended from time to time, and any successor provision.

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

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

7.3 **Withholding.** Contractor agrees that it is obligated to pay all amounts due to the City under the San Francisco Business and Tax Regulations Code during the term of this Agreement. Pursuant to Section 6.10-2 of the San Francisco Business and Tax Regulations

Code, Contractor further acknowledges and agrees that City may withhold any payments due to Contractor under this Agreement if Contractor is delinquent in the payment of any amount required to be paid to the City under the San Francisco Business and Tax Regulations Code. Any payments withheld under this paragraph shall be made to Contractor, without interest, upon Contractor coming back into compliance with its obligations.

Article 8 Termination and Default

8.1 Termination for Convenience

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

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

- (a) Halting the performance of all Services under this Agreement on the date(s) and in the manner specified by City.
- (b) Terminating all existing orders and subcontracts, and not placing any further orders or subcontracts for materials, Services, equipment or other items.
- (c) At City's direction, assigning to City any or all of Contractor's right, title, and interest under the orders and subcontracts terminated. Upon such assignment, City shall have the right, in its sole discretion, to settle or pay any or all claims arising out of the termination of such orders and subcontracts.
- (d) Subject to City's approval, settling all outstanding liabilities and all claims arising out of the termination of orders and subcontracts.
- (e) Completing performance of any Services that City designates to be completed prior to the date of termination specified by City.
- (f) Taking such action as may be necessary, or as the City may direct, for the protection and preservation of any property related to this Agreement which is in the possession of Contractor and in which City has or may acquire an interest.

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

- (a) The reasonable cost to Contractor, without profit, for all Services prior to the specified termination date, for which Services City has not already tendered

payment. Reasonable costs may include a reasonable allowance for actual overhead, not to exceed a total of 10% of Contractor's direct costs for Services. Any overhead allowance shall be separately itemized. Contractor may also recover the reasonable cost of preparing the invoice.

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

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

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

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

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

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

8.2 **Termination for Default; Remedies.**

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

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

| | | | |
|-----------|--------------------------|-------|-------------------------------------------------------------------|
| 3.5 | Submitting False Claims. | 10.4 | Nondisclosure of Private, Proprietary or Confidential Information |
| 4.5 | Assignment | 10.10 | Alcohol and Drug-Free Workplace |
| Article 5 | Insurance and Indemnity | 10.13 | Working with Minors |
| Article 7 | Payment of Taxes | 11.10 | Compliance with Laws |

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

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

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

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

Agreement; and (iii), any damages imposed by any ordinance or statute that is incorporated into this Agreement by reference, or into any other agreement with the City.

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

8.2.4 Any notice of default must be sent by registered mail to the address set forth in Article 11.

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

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

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

| | | | |
|-----------|----------------------------------------------------|-------|-------------------------------------------------------------------|
| 3.3.2 | Payment Limited to Satisfactory Services | 9.1 | Ownership of Results |
| 3.3.7(a) | Grant Funded Contracts - Disallowance | 9.2 | Works for Hire |
| 3.4 | Audit and Inspection of Records | 10.4 | Nondisclosure of Private, Proprietary or Confidential Information |
| 3.5 | Submitting False Claims | 11.6 | Dispute Resolution Procedure |
| Article 5 | Insurance and Indemnity | 11.7 | Agreement Made in California; Venue |
| 6.1 | Liability of City | 11.8 | Construction |
| 6.3 | Liability for Incidental and Consequential Damages | 11.9 | Entire Agreement |
| Article 7 | Payment of Taxes | 11.10 | Compliance with Laws |
| 8.1.6 | Payment Obligation | 11.11 | Severability |

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

Article 9 Rights In Deliverables

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

9.2 **Works for Hire.** If, in connection with Services, Contractor or its subcontractors creates Deliverables including, without limitation, artwork, copy, posters, billboards, photographs, videotapes, audiotapes, systems designs, software, reports, diagrams, surveys, blueprints, source codes, or any other original works of authorship, whether in digital or any other format, such works of authorship shall be works for hire as defined under Title 17 of the United States Code, and all copyrights in such works shall be the property of the City. If any Deliverables created by Contractor or its subcontractor(s) under this Agreement are ever determined not to be works for hire under U.S. law, Contractor hereby assigns all Contractor's copyrights to such Deliverables to the City, agrees to provide any material and execute any documents necessary to effectuate such assignment, and agrees to include a clause in every subcontract imposing the same duties upon subcontractor(s). With City's prior written approval, Contractor and its subcontractor(s) may retain and use copies of such works for reference and as documentation of their respective experience and capabilities.

Article 10 Additional Requirements Incorporated by Reference

10.1 **Laws Incorporated by Reference.** The full text of the laws listed in this Article 10, including enforcement and penalty provisions, are incorporated by reference into this Agreement. The full text of the San Francisco Municipal Code provisions incorporated by reference in this Article and elsewhere in the Agreement ("Mandatory City Requirements") are available at www.sfgov.org under "Government."

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

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

10.4 **Nondisclosure of Private, Proprietary or Confidential Information.**

10.4.1 If this Agreement requires City to disclose "Private Information" to Contractor within the meaning of San Francisco Administrative Code Chapter 12M, Contractor and subcontractor shall use such information only in accordance with the restrictions stated in Chapter 12M and in this Agreement and only as necessary in performing the Services. Contractor is subject to the enforcement and penalty provisions in Chapter 12M.

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

10.5 **Nondiscrimination Requirements**

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

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

10.6 **Local Business Enterprise and Non-Discrimination in Contracting Ordinance.** Contractor shall comply with provisions contained in the Jobs and Equal Opportunity Program ("JEOP").

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

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

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

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

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

10.12 **Reserved (Slavery Era Disclosure).**

10.13 **Working with Minors.** In accordance with California Public Resources Code Section 5164, if Contractor, or any subcontractor, is providing services at a City park, playground, recreational center or beach, Contractor shall not hire, and shall prevent its subcontractors from hiring, any person for employment or a volunteer position in a position having supervisory or disciplinary authority over a minor if that person has been convicted of

any offense listed in Public Resources Code Section 5164. In addition, if Contractor, or any subcontractor, is providing services to the City involving the supervision or discipline of minors or where Contractor, or any subcontractor, will be working with minors in an unaccompanied setting on more than an incidental or occasional basis, Contractor and any subcontractor shall comply with any and all applicable requirements under federal or state law mandating criminal history screening for such positions and/or prohibiting employment of certain persons including but not limited to California Penal Code Section 290.95. In the event of a conflict between this section and Section 10.14, “Consideration of Criminal History in Hiring and Employment Decisions,” of this Agreement, this section shall control.

10.14 **Consideration of Criminal History in Hiring and Employment Decisions**

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

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

10.15 **Public Access to Nonprofit Records and Meetings.** If Contractor receives a cumulative total per year of at least \$250,000 in City funds or City-administered funds and is a non-profit organization as defined in Chapter 12L of the San Francisco Administrative Code, Contractor must comply with the City's Public Access to Nonprofit Records and Meetings requirements, as set forth in Chapter 12L of the San Francisco Administrative Code, including the remedies provided therein.

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

10.17 Distribution of Beverages and Water.

10.17.1 **Sugar-Sweetened Beverage Prohibition.** Contractor agrees that it shall not sell, provide, or otherwise distribute Sugar-Sweetened Beverages, as defined by San Francisco Administrative Code Chapter 101, as part of its performance of this Agreement.

10.17.2 **Packaged Water Prohibition.** Contractor agrees that it shall not sell, provide, or otherwise distribute Packaged Water, as defined by San Francisco Environment Code Chapter 24, as part of its performance of this Agreement.

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

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

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

10.20 **Preservative Treated Wood Products.** Contractor shall comply with the provisions of San Francisco Environment Code Chapter 13, which requires that each Contractor purchasing preservative-treated wood products on behalf of the City, shall only purchase such products from the list of alternatives adopted by the Department of the Environment pursuant to Section 1302 of Chapter 13, unless otherwise granted an exemption by the terms of that Chapter.

Article 11 General Provisions

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

To City: **Treasure Island Development Authority
One Avenue of the Palms
Treasure Island
San Francisco, CA. 94130
Attn: Robert P. Beck, Treasure Island Director
Fax: (415) 274-0299**

To Contractor: **Associated Right of Way Services
2300 Contra Costa Blvd.**

**Suite 525
Pleasant Hill, CA 94523
Attn: Larry Castellanos, Vice President
lcastellanos@arws.com**

Any notice of default must be sent by registered mail. Either Party may change the address to which notice is to be sent by giving written notice thereof to the other Party. If email notification is used, the sender must specify a receipt notice.

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

11.3 **Payment Card Industry (“PCI”) Requirements.** Contractors providing services and products that handle, transmit or store cardholder data, are subject to the following requirements:

11.3.1 Applications shall be compliant with the Payment Application Data Security Standard (PA-DSS) and validated by a Payment Application Qualified Security Assessor (PA-QSA). A Contractor whose application has achieved PA-DSS certification must then be listed on the PCI Councils list of PA-DSS approved and validated payment applications.

11.3.2 Gateway providers shall have appropriate Payment Card Industry Data Security Standards (PCI DSS) certification as service providers (<https://www.pcisecuritystandards.org/index.shtml>). Compliance with the PCI DSS shall be achieved through a third party audit process. The Contractor shall comply with Visa Cardholder Information Security Program (CISP) and MasterCard Site Data Protection (SDP) programs.

11.3.3 For any Contractor that processes PIN Debit Cards, payment card devices supplied by Contractor shall be validated against the PCI Council PIN Transaction Security (PTS) program.

11.3.4 For items 11.3.1 to 11.3.3 above, Contractor shall provide a letter from their qualified security assessor (QSA) affirming their compliance and current PCI or PTS compliance certificate.

11.3.5 Contractor shall be responsible for furnishing City with an updated PCI compliance certificate 30 calendar days prior to its expiration.

11.3.6 **Bank Accounts.** Collections that represent funds belonging to the City and County of San Francisco shall be deposited, without detour to a third party's bank account, into a City and County of San Francisco bank account designated by the Office of the Treasurer and Tax Collector.

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

11.5 **Modification of this Agreement.** This Agreement may not be modified, nor may compliance with any of its terms be waived, except as noted in Section 11.1, "Notices to Parties," regarding change in personnel or place, and except by written instrument executed and approved in the same manner as this Agreement. Contractor shall cooperate with Department to submit to the Director of CMD any amendment, modification, supplement or change order that would result in a cumulative increase of the original amount of this Agreement by more than 20% (CMD Contract Modification Form).

11.6 **Dispute Resolution Procedure.**

11.6.1 **Negotiation; Alternative Dispute Resolution.** The Parties will attempt in good faith to resolve any dispute or controversy arising out of or relating to the performance of services under this Agreement. If the Parties are unable to resolve the dispute, then, pursuant to San Francisco Administrative Code Section 21.35, Contractor may submit to the Contracting Officer a written request for administrative review and documentation of the Contractor's claim(s). Upon such request, the Contracting Officer shall promptly issue an administrative decision in writing, stating the reasons for the action taken and informing the Contractor of its right to judicial review. If agreed by both Parties in writing, disputes may be resolved by a mutually agreed-upon alternative dispute resolution process. If the parties do not mutually agree to an alternative dispute resolution process or such efforts do not resolve the dispute, then either Party may pursue any remedy available under California law. The status of any dispute or controversy notwithstanding, Contractor shall proceed diligently with the performance of its obligations under this Agreement in accordance with the Agreement and the written directions of the City. Neither Party will be entitled to legal fees or costs for matters resolved under this section.

11.6.2 **Government Code Claim Requirement.** No suit for money or damages may be brought against the City until a written claim therefor has been presented to and rejected by the City in conformity with the provisions of San Francisco Administrative Code Chapter 10 and California Government Code Section 900, et seq. Nothing set forth in this Agreement shall operate to toll, waive or excuse Contractor's compliance with the California Government Code Claim requirements set forth in San Francisco Administrative Code Chapter 10 and California Government Code Section 900, et seq.

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

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

11.9 **Entire Agreement.** This contract sets forth the entire Agreement between the parties, and supersedes all other oral or written provisions. This Agreement may be modified only as provided in Section 11.5, “Modification of this Agreement.”

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

11.11 **Severability.** Should the application of any provision of this Agreement to any particular facts or circumstances be found by a court of competent jurisdiction to be invalid or unenforceable, then (a) the validity of other provisions of this Agreement shall not be affected or impaired thereby, and (b) such provision shall be enforced to the maximum extent possible so as to effect the intent of the parties and shall be reformed without further action by the parties to the extent necessary to make such provision valid and enforceable.

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

11.13 **Order of Precedence.** Contractor agrees to perform the services described below in accordance with the terms and conditions of this Agreement and implementing task orders. Should there be a conflict of terms or conditions of this Agreement and any implementing task orders, the terms of this Agreement shall control and prevail.

Article 12 MacBride And Signature

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

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

| | |
|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <p>TREASURE ISLAND DEVELOPMENT AUTHORITY</p> <p>By: _____</p> <p>Robert P. Beck, Treasure Island Director</p> <p>Approved as to Form:</p> <p>David Chiu City Attorney</p> <p>By: _____</p> <p>Vincent Brown Deputy City Attorney</p> | <p>CONTRACTOR</p> <p>Associated Right of Way Services, Inc., a California Stock Corporation</p> <p>_____</p> <p>Larry Castellanos, SR/WA Vice President</p> <p>City Vendor No.:</p> |
|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|

Appendix

- A: Scope of Services to be provided by Contractor
- B: Calculation of Charges to be provided by Contractor

Appendix A

Scope of Services

1. Description of Services

hA. Introduction

The former Naval Station Treasure Island was a military base located on Treasure Island and Yerba Buena Island (the “Base”). The Base was selected for closure and disposition by the Base Realignment and Closure Commission in 1993 and ceased operations in 1997.

The Treasure Island Development Authority (“TIDA”) was created by San Francisco Board of Supervisors (“BOS”) in 1997 as a non-profit, public benefit corporation dedicated to the planning, redevelopment, reconstruction, rehabilitation, reuse and conversion of the Base. Beginning in 1997 TIDA entered into master leases with the Navy to make interim use of former Navy housing on the island to address the City’s housing needs while planning for the redevelopment of the Base. TIDA then entered into subleases with a market rate property manager and several affordable housing providers to manage the leasing, maintenance, and operation of portions of the former Navy housing. All residents of Treasure Island are post-acquisition residents.

In early 2000, TIDA initiated a master developer selection process, culminating in the selection of Treasure Island Community Development, LLC (the “Master Developer”) in 2003. The Development Plan and Term Sheet for Redevelopment of Naval Station Treasure Island was endorsed by the TIDA Board of Directors and the BOS in December 2006 and updates were endorsed in April 2010. On June 7, 2011, the BOS voted 11-0 on various pieces of legislation authorizing the Treasure Island/Yerba Buena Island Development Project (the “Project”), including a Disposition and Development Agreement (the “DDA”).

In conjunction with the entitlement of the Project and the approval of the DDA, the City adopted two separate transition housing plans, the Transition Housing Rules and Regulations for The Villages at Treasure Island (the “THRR”) for the residents of the market rate housing units and the One Treasure Island Transition Housing Plan (the “One TI Transition Housing Plan”) for residents of the affordable housing providers.

The THRR provide Transitioning Households (as defined in the THRR) as of the Effective Date of the THRR certain transition housing opportunities and benefits as part of the Project. The THRR were amended on December 11, 2019, to provide residents moving into The Villages between the Effective Date of the THRR and the amendment date a priority for placement in new affordable housing on Treasure Island if they meet income eligibility requirements.

In 2021, TIDA entered into a Memorandum of Understanding with the Mayor’s Office of Community Development (“MOHCD”) which describes the roles of TIDA and MOHCD in the

development of affordable housing on Treasure Island and fulfillment of TIDA's transition housing obligations.

B. Services

Contractor shall provide professional services to assist TIDA in implementing the THRR and to provide Advisory Services (as described in the THRR) to help The Villages households and residents understand the opportunities, benefits, and options available to them under the THRR and to support them in making informed decisions. Additionally, the Contractor will support TIDA in fulfilling its role under the MOU with MOHCD. The Contractor may also be requested to provide some support for relocations under the TIHDI Transition Housing Plan, however, these services will be ancillary to the principal scope of services.

Contractor agrees to perform the following services. The listed services are representative of the types of services which will be required under this Contract, but is not intended to be complete:

- i. Assisting the Authority in strategic planning for transition plans and timing
 - a. Analyze available information to assist TIDA in assessing individual Transitioning Household's eligibility and unit needs to support TIDA in planning for the construction of Transition Units.
 - b. Track long-term moves and project TIDA's remaining transition housing obligations.
 - c. Support TIDA in interpreting and implementing the THRR and in developing detailed plans for managing the extension of Transition Unit Offers.
 - d. Monitor housing inventory within The Villages and support scheduling for Transition Unit construction, Transition Unit Offers, and Interim Moves as required.
 - e. Participate in planning and coordination meetings with MOHCD
 - f. If requested, devise and conduct an outreach effort to engage each household residing at The Villages to verify household composition, assess potential eligibility for affordable housing, and/or interest in pre-marketing opportunities.
- ii. Individual Advisory Services - providing individual consultation and advisory services one-on-one to households and individual residents who are considering available options
 - a. Provide information on the THRR, benefits and eligibility requirements, affordable housing eligibility criteria and availability, pre-marketing opportunities, and other advisory services as described in the THRR.
 - b. Advise households and individual residents of eligibility/ineligibility for benefits.
 - c. Keep residents informed of the schedule for the development of new housing on Treasure Island.
 - d. Support residents seeking to purchase a market rate or inclusionary affordable condominium unit and process down payment assistance requests.
 - e. Process early in-lieu payment requests.
 - f. Provide translation services for non-English speaking residents.
- iii. Facilitate Transition Unit Offers
 - a. Conduct outreach to advise prospective Transitioning Households of the Transition Unit Offer process, transition benefit options, and the schedule for new units – market rate, affordable, or Transition Units – to be available.

- b. When Transition Units are to be available, plan and administer the Transition Unit Offer process.
 - c. Advise Transitioning Households of their benefit options and coordinate Long Term Moves or In-Lieu Payment requests arising from benefit selection.
- iv. Administer Pre-Marketing Efforts
 - a. Coordinate with the developers of new market rate housing on Treasure Island and inform residents of The Villages of pre-marketing opportunities as provided in the THRR.
 - b. Prepare plans for informing residents of The Villages of inclusionary affordable housing opportunities within new market rate buildings and support households, individual residents, or groups of residents in assessing their eligibility for affordable housing opportunities; inform residents of DAHLIA Lottery application windows; connect residents with first time homebuyer workshops and resources; and support residents as-needed in the income certification necessary to secure affordable housing placements.
- v. Resident outreach
 - a. Creating collateral materials to describe eligibility requirements, available benefits, and provide guidance for the implementation of the rules and guidelines.
 - b. Preparing and distributing mailers, door hangers, and hosting public Open House/Town Hall type meetings to share information with residents.
- vi. Record Keeping
 - a. Maintain a library of all materials prepared to communicate with residents including e-mails, mailers, door hangers, flyers, poster boards, slideshows, and other presentation materials.
 - b. Maintain a record of all communications with individual households and residents.
 - c. Maintain a “portal” allowing residents to electronically access a record of the letters and written communications addressed specifically to that household from either TIDA or the Contractor.
 - d. Assist TIDA in drafting Interpretation and Implementation Procedures to document important decisions in implementing the THRR.
- vii. Interim Moves

If Interim Moves are required of Villages households, support the process through developing and distributing informational materials, hosting Open Houses, supporting unit selection processes, and facilitating moves.
- viii. Moving Assistance

If/when requested, provide Moving Assistance to Transitioning Households that make Interim Moves and that select the Transition Unit Option for Long-Term Move, including transportation of personal property, packing, unpacking and insurance coverage while in transit.
- ix. As-Needed Consulting Services

Provide additional relocation-related consulting services, as needed, on an ongoing basis to implement the THRR, to include utilization of outside counsel as pre-approved by the Office of the City Attorney.
- x. All written Deliverables, including any copies, shall be submitted on recycled paper and printed on double-sided pages to the maximum extent possible.

C. Authorization of Services

- i. Work will be authorized annually or more frequently via Contract Service Orders (CSOs) detailing anticipated services, performance requirements, and/or deliverables for a specified period of performance. Upon request by the Treasure Island Development Authority, the Contractor shall prepare and submit a period specific work plan outlining the background, understanding and approach for the period, and including proposed scope of services, deliverables, staffing, schedule, and fee. The Contractor’s period-specific proposal will be reviewed and the Authority will negotiate with the Contractor to develop a mutually agreeable basis for each CSO. Each authorized CSO will detail the services to be performed, period of performance, expected deliverables, milestones, and authorized budget. Contractor invoicing under the CSO shall be for the time and materials required to fulfill the authorized services.
- ii. Contractor shall provide services on an as-needed basis. CSOs will be issued, and all work shall be completed within the term of this Agreement and as specified in the schedule for the assignment included in the CSO. Work under this Agreement is project-driven, and no particular tasks have yet been specified. The Contractor shall be aware that project work may consist of many smaller tasks as well as a few large projects. Since the exact nature and timing of anticipated work done under this Agreement is not known, the City will prepare site-specific project requirements as the need for these services arise. Each site-specific project shall be executed via individual CSOs operating within the framework of this Agreement. The total value of all awarded CSOs under this Agreement may cumulatively add up to but may not exceed the total Agreement contract value.
- iii. **Contract Service Order Procedures.** The Contractor shall perform work at the agreed upon unit or lump sum prices that are developed from Appendix B, Calculation of Charges for each proposal and CSO. Contractor shall be ready to perform the work within twenty-four hours of the date of receipt of a fully executed CSO. Each CSO will designate the corresponding project location, scope of work to be performed, time for completion of the work, deliverables, and any other requirements for a specific work assignment.

D. Distribution of Workload

Table 1 below provides an anticipated workload distribution of the tasks described above in paragraph B. This information is approximate and provided for purposes of determining required team composition and LBE Subconsultant participation.

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| TABLE 1 |
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| Workload Description | Percentage Distribution |
|----------------------------------------------------|--------------------------------|
| Strategic planning for transition plans and timing | 25% |
| Public outreach | 20% |
| Individual Advisory Services | 30% |
| Tracking Transition Housing Plan Progress | 15% |
| Other As-Needed Consultation | 10% |
| TOTAL | 100% |

- E. Deliverables and Evaluating Work Products: Work products will vary with each CSO. The period-specific CSO will detail the work products required, and specify how the work products will be deemed satisfactory or unsatisfactory.
- F. Schedule: The schedule for each task and period of performance will be established with each assignment-specific CSO, include any interim milestones and timelines for submission of deliverables.
- G. Reference Documents: The follow documents are provided for the review of prospective respondents:
- i. Transition Housing Rules and Regulations for The Villages at Treasure Island (the “THRR”)
 - ii. THRR Interpretation and Implementation Procedure Memoranda 1-6
 - iii. Memorandum of Understanding for Treasure Island Affordable Housing Projects between the Mayor’s Office of Community Development (“MOHCD” and the Treasure Island Development Authority (“TIDA”)
 - iv. One Treasure Island (“OneTI”) Transition Housing Plan (the “One TI Transition Housing Plan”)
 - v. Additional information that has been made available to residents regarding the implementation of the THRR can be found on the TIDA website at: <https://sf.govresource/2022/treasure-island-transition-housing-resources-andinformation>
2. **Services Provided by Attorneys.** Any services to be provided by a law firm or attorney

must be reviewed and approved in writing in advance by the City Attorney. No invoices for services provided by law firms or attorneys, including, without limitation, as subcontractors of Contractor, will be paid unless the provider received advance written approval from the City Attorney.

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

4. Department Liaison

In performing the Services provided for in this Agreement, Contractor's liaison with the Treasure Island Development Authority will be Loraine Lee.

Appendix B

Calculation of Charges

Contractor charges shall be calculated by the hour, with an agreed upon Schedule of Fees, and a not-to-exceed estimate of the number of hours expected to complete the work. The contractor fee estimate will be included as part of the approved CSO for each assignment. The Schedule of Fees to be used for individual assignment-specific CSOs is attached within this Appendix B.

The Contractor's charges must comply with the following:

1. **Base Hourly Rate for Prime Contractor Employees and Subcontractor Employees.** Employees shall include employees of the Prime Contractor and employees of any Subcontractors to the Prime Contractor.
2. **Maximum Actual Hourly Labor Cost:** The maximum Actual Labor Cost, for any Employee cannot exceed \$220/hour. The Base Hourly Rate for an Employee must include costs associated with health benefits, retirement benefits, profit sharing, sick leave, and vacation.
3. **Hourly Rate Base Year:** All initial Hourly Billing Rates shall reflect 2023 billing rates.
4. **Hourly Billing Rates Increases:** Hourly Billing Rates may be increased based on the annual percentage change of the Consumer Price Index (CPI) for the San Francisco Bay Area for Urban Wage Earners and Clerical Workers.
5. **Hourly Base Rate Verification:** The Contractor may be required to provide certified payroll records documenting the actual salaries of all individuals who will be added to the Project.
6. **Employee Substitution:** If Contractor's Employee is replaced or substituted after the Contract is executed, the Actual Labor Cost of the Prime Contractor Employee, Subcontractor Employee or Individual Contractor replacing the Employee shall not exceed the Total Actual Labor Cost proposed for that position in the Calculation of Charges.
7. Contractor invoices shall be submitted monthly.
8. Travel and expense reimbursement such as mileage, costs for Contractor's meals, accommodations, long distance and cellular phone charges, postage, vehicle rental, etc., are subject to approval by the City and must comply with the U.S, General Services Administration CONUS Rates.

9. No invoices for Services provided by law firms or attorneys, including, without limitation, as subcontractors of Contractor, will be paid unless the provider received advance written approval from the City Attorney.

1 (Agreement for Advisory Services Related to Transition Housing)

2 **RESOLUTION APPROVING AND AUTHORIZING THE EXECUTION OF A PROFESSIONAL**
3 **SERVICES AGREEMENT BETWEEN THE TREASURE ISLAND DEVELOPMENT**
4 **AUTHORITY AND ASSOCIATED RIGHT OF WAY SERVICES, INC., TO PROVIDE**
5 **ADVISORY AND CONSULTING SERVICES FOR IMPLEMENTATION OF THE TRANSITION**
6 **HOUSING RULES AND REGULATIONS FOR THE VILLAGES AT TREASURE ISLAND**

7 **WHEREAS**, On May 2, 1997, the Board of Supervisors passed Resolution No. 380-97,
8 authorizing the Mayor’s Treasure Island Project Office to establish a nonprofit public benefit
9 corporation known as the Treasure Island Development Authority (the “Authority”) to act as a
10 single entity focused on the planning+, redevelopment, reconstruction, rehabilitation, reuse and
11 conversion of the Former Naval Station Treasure Island located on Treasure Island and Yerba
12 Buena Island (together, the "Base") for the public interest, convenience, welfare and common
13 benefit of the inhabitants of the City and County of San Francisco; and

14 **WHEREAS**, On June 7, 2011, the BOS voted 11-0 on various pieces of legislation
15 authorizing the Treasure Island/Yerba Buena Island Development Project (the “Project”),
16 including a Disposition and Development Agreement (the “DDA”); and

17 **WHEREAS**, The DDA contains a Housing Plan which, amongst other matters, granted
18 certain housing opportunities and benefits as part of the Project to residents of affordable and
19 market units on the island; and

20 **WHEREAS**, The benefits available to residents of market-rate units leased to and
21 operated by the John Stewart Company were enumerated in the Transition Housing Rules and
22 Regulations for The Villages at Treasure Island (the “THRR”); and

23 **WHEREAS**, The THRR grants certain housing opportunities and transition benefits as
24 part of the Project to those households who were living in The Villages at Treasure Island (“The
25 Villages”) at the time of the approval of the DDA on June 2011; and

1 **WHEREAS**, These residents are identified as Pre-Development and Disposition
2 Agreement (“Pre-DDA”) households; and

3 **WHEREAS**, On December 11, 2019, the Authority Board approved a second
4 amendment to the THRR to provide income qualifying “Post-Development and Disposition
5 Agreement (“Post-DDA”) residents a priority for newly constructed affordable for-rent or BMR
6 for-sale housing units on Treasure Island; and

7 **WHEREAS**, The benefits available to residents of housing units leased to and operated
8 by affordable housing providers under the Treasure Island Homeless Development Initiative
9 (“TIHDI”) were enumerated in the TIHDI Transition Housing Plan; and

10 **WHEREAS**, The Authority requires on-going support to administer and implement the
11 THRR, identify and engage eligible households to explain available benefits, and to gather
12 information needed to plan for the construction of the appropriate number and size of Transition
13 Units; and

14 **WHEREAS**, The Authority Board of Directors authorized the issuance of a Request for
15 Proposals by Resolution 22-19-0914; and

16 **WHEREAS**, Staff issued a Request for Proposals, organized a review panel to evaluate
17 the written proposal and an oral interview, and the Contract Monitoring Division applied rating
18 bonuses in accordance with the RFP, and concluded with the determination of an Intent to
19 Award the Contract to Associated Right of Way Services, Inc.; and

20 **WHEREAS**, The Civil Service Commission authorized, via CSC 47321 22/23, an
21 contract with an initial term of five (5) years with two (2) two (2) year extension options for a
22 maximum term of nine (9) years and an aggregate contract sum of \$4,500,000; and

23 **WHEREAS**, Implementing the THRRs requires continuous engagement with eligible
24 households to explain available benefits, process Early In-Lieu requests, assist residents in
25 navigating the process to certify eligibility for affordable housing opportunities, and gather

1 information needed to plan for the construction of the appropriate number and size of Transition
2 Units; and

3 **WHEREAS**, The first Transition Units are constructed at Star View Court and the first
4 Transition Unit offers will need to be made to eligible households in 2023; and

5 **WHEREAS**, Six additional market rate buildings with inclusionary affordable units will be
6 completed in the next three years, and we want to ensure that residents of The Villages are
7 properly advised of these opportunities; and

8 **WHEREAS**, The current contract for advisory services expires on March 31, 2023; and
9 **now, therefore be it**

10 **RESOLVED**, That the Authority Board of Directors authorizes the Director to execute an
11 Agreement between the Authority and Associated Right of Way Services, Inc. for an initial term
12 of five (5) years and an initial contract sum not to exceed \$2,500,000.00 for Advisory Services
13 related to transition housing services for residents of The Villages at Treasure Island; **and be it**

14 **FURTHER RESOLVED**, That the Authority Board of Directors authorizes the Treasure
15 island Director or his designee to enter into any additions, amendments or other modifications
16 to the Agreement that the Director determines in consultation with the City Attorney are in the
17 best interests of the Authority, do not materially increase the obligations or liabilities of the
18 Authority, do not materially reduce the rights of the Authority, and are necessary or advisable
19 to complete the tasks contemplated by the Agreement, such determination to be conclusively
20 evidenced by the execution and delivery by the Treasure Island Director or his designee of the
21 documents and any amendments thereto.

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CERTIFICATE OF SECRETARY

I hereby certify that I am the duly elected Secretary of the Treasure Island Development Authority, a California nonprofit public benefit corporation, and that the above Resolution was duly adopted and approved by the Board of Directors of the Authority at a properly noticed meeting on March 8, 2023.

Mark Dunlop, TIDA Board Secretary