



City of San Leandro

Meeting Date: June 17, 2019

Staff Report

File Number: 19-287

Agenda Section: CONSENT CALENDAR

Agenda Number: 8.D.

TO: City Council

FROM: Jeff Kay
City Manager

BY: Tom Liao
Community Development Director

FINANCE REVIEW: David Baum
Finance Director

TITLE: Staff Report for a Resolution of the City of San Leandro City Council to Approve Two Consultant Services Agreements for Third Party Plan Check Services Between the City of San Leandro and CSG Consultants, Inc. for \$200,000 and TRB+Associates for \$200,000 (or a Total Amount Not to Exceed \$400,000 Per Fiscal Year During the FY 2019-21 Contract Period)

SUMMARY AND RECOMMENDATIONS

Construction activity in the City is currently high and is projected to continue for at least the next few years. Third party plan check consultants assist the City in managing the workload in order to meet deadlines and provide quality customer service.

Staff recommends the City Council authorize the City Manager to enter into two Consultant Services Agreements (with TRB+Associates and CSG Consultants, Inc.) for third party plan check services for a combined not-to-exceed amount of \$400,000 per fiscal year for FY2019-20 and FY2020-21 in order for the Building Division of the Community Development Department to continue providing plan check services in a timely manner, provide Certified Access Specialist (CAsp) services as required by California statute and to supplement current staffing during this period of significant development activity.

BACKGROUND

The City of San Leandro's Building and Safety Services Division of the Community Development Department ensures minimum standards to safeguard life, limb, health, property and public welfare by regulating and controlling the design, construction, quality of materials, use and occupancy, locations and maintenance of buildings and structures within the City through plan review, permit issuances and inspections.

The volume of construction activity, as well as the type and complexity of projects, has increased significantly since 2013. Between 2007 and 2012, the average annual construction valuation of

building permit activity in the City was \$62 million. Since 2013, valuation, number and complexity of permits have increased significantly. Building permit construction valuation has remained at \$130 Million or higher over the past 5 years, and is expected to increase in Fiscal Years 2019-20 and 2020-21, as the high level of entitled projects begin construction. Large projects that have recently been submitted for building permits include the nonprofit Eden Housing, Inc.'s proposed 62 unit affordable rental housing development (Parrot Street Apartments) and Waste Management's Davis Street Transfer Station masterplan improvements. Maximus Developers is expected to submit its building permit application in Summer 2019 for the recently entitled 687 unit apartments.

Third party plan check consultants assist the City during times of high activity to meet deadlines and enable the City to provide quality customer service. Under the City Council approved FY 2019-21 Two Year Budget, the City Council approved appropriations of an amount not to exceed \$400,000 for FY 2019-21 and \$400,000 for FY 2020-21 for Third Party Plan Check consultants (see "Fiscal Impacts and Budget Authority" below for more details).

Analysis

Building and Safety Services Division conducted a competitive Request for Proposal (RFP) process for third party plan check firms over the last month. There were four firms that responded. The RFP responses were evaluated based on the following criteria: qualifications, experience of the firm, staffing and resources. Staff recommends the City contract with TRB+Associates (TRB) and CSG Consultants, Inc. for independent consultant plan check services, inspection services, CASp services and front counter staff.

The contracts would be for a two year period and include a provision for fixed fee plan check review charged as a percentage of the City's established plan check fees. Staff augmentation would be paid based on the hourly rates established for the various positions.

TRB was established in 2006 and is headquartered in San Ramon. TRB was selected because of the size of its engineering staff, its considerable experience with complex construction methods and the quality of past work. The agreement with TRB is for a not-to-exceed amount of \$200,000 in FY 2019-20 and \$200,000 in FY 2020-21. TRB also provided third party plan check for Building and Safety Services Division over the last two years and performed very effectively.

CSG Consultants, Inc. was established in 1991 and is based in Foster City. It performs work only for public agencies and provides plan check services and staffing (inspectors, plan checkers and technicians) throughout the western United States. The Agreement with CSG Consultants, Inc. is for a not-to-exceed amount of \$200,000 in FY 2019-20 and \$200,000 in FY 2020-21.

Staff recommends the City Council authorize the City Manager to enter into the two Agreements for a combined not-to-exceed amount of \$400,000 per year, effective July 1, 2019, in order for the Building and Safety Services Division to continue providing plan check services in a timely manner during this period of high development activity.

Legal Analysis

The Consulting Services Agreements were reviewed by the City Attorney and approved as to form.

Fiscal Impacts and Budget Authority

This \$400,000 General Fund expenditure per fiscal year is included in the City Council approved FY 2019-21 Two Year Budget under Building and Safety Services Division's expenditure account 010-42-002-5120. Therefore, each contract will not exceed \$200,000 per fiscal year in FY 2019-20 and FY 2020-21.

ATTACHMENT

Attachments to Related Legislative File

- CSG Consultants, Inc. CSA for 2019-21
- TRB+Associates CSA 2019-21

PREPARED BY: Jerome Smith Jr., Chief Building Official, and Tom Liao, Community Development Director



City of San Leandro

Meeting Date: June 17, 2019

Resolution - Council

File Number: 19-286 **Agenda Section:** CONSENT CALENDAR

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TO: City Council

FROM: Jeff Kay
City Manager

BY: Tom Liao
Community Development Director

FINANCE REVIEW: David Baum
Finance Director

TITLE: RESOLUTION of the City of San Leandro City Council to Approve Two Consulting Services Agreements for Third Party Plan Check Services, One Agreement Between the City of San Leandro and CSG Consultants, Inc. for \$200,000 and One Agreement Between the City of San Leandro and TRB+Associates for \$200,000 (or an Amount Not to Exceed \$400,000 Per Fiscal Year During the FY 2019-21 Contract Period)

WHEREAS, agreements between the City of San Leandro and CSG Consultants, Inc. and between the City of San Leandro and TRB+Associates, copies of which are attached and incorporated herein, are presented to this City Council; and

WHEREAS, the City Council is familiar with the contents thereof; and

WHEREAS, in order to expedite the third party plan check projects on schedule and on budget, avoid as much as possible costly delay claims, and ensure that the City completes projects according to the City's highest standards, the City Council finds that providing authorization to the City Manager or his or her designee to negotiate consulting services agreement is in the best interest of public health, safety and welfare; and

WHEREAS, the California Health and Safety Code requires the City to use third party plan checkers upon the request of an applicant if the City is unable to review a completed plan application within the period of time specified by State law; and

WHEREAS, the City Manager recommends approval of said agreements.

NOW, THEREFORE, the City Council of the City of San Leandro does RESOLVE as follows:

That said agreements expiring June 30, 2021 are hereby approved and execution thereof is hereby authorized for third party plan check services provided by two (2) qualified firms as

provided in the associated staff report; and

That the City Manager or his designee is hereby authorized to negotiate and approve cumulative amendments to the agreements up to a maximum of 25% of the original contract amount provided that the amended amounts are budgeted.

- CSG Consultants, Inc. for an amount not-to-exceed \$200,000 (with amendments for up to a not-to-exceed amount of an additional \$50,000) per fiscal year;
- TRB+Associates for an amount not-to-exceed \$200,000 (with amendments for up to a not-to-exceed amount of an additional \$50,000) per fiscal year.

**CONSULTING SERVICES AGREEMENT BETWEEN
THE CITY OF SAN LEANDRO AND
CSG Consultants
FOR
PLAN CHECK SERVICES**

THIS AGREEMENT for consulting services is made by and between the City of San Leandro ("City") and CSG Consultants ("Consultant") (together sometimes referred to as the "Parties") as of July 1, 2019 (the "Effective Date").

Section 1. SERVICES. Subject to the terms and conditions set forth in this Agreement, Consultant shall provide to City the services described in the Scope of Work attached as Exhibit A at the time and place and in the manner specified therein. In the event of a conflict in or inconsistency between the terms of this Agreement and Exhibit A, the Agreement shall prevail.

- 1.1 **Term of Services.** The term of this Agreement shall begin on the Effective Date and shall end on June 30, 2021. Subject to mutual agreement of the parties, this Agreement may be extended two years. Consultant shall complete the work described in Exhibit A on or before that date, unless the term of the Agreement is otherwise terminated or extended, as provided for in Section 8. The time provided to Consultant to complete the services required by this Agreement shall not affect the City's right to terminate the Agreement, as referenced in Section 8.
- 1.2 **Standard of Performance.** Consultant shall perform all services required pursuant to this Agreement in the manner and according to the standards observed by a competent practitioner of the profession in which Consultant is engaged.
- 1.3 **Assignment of Personnel.** Consultant shall assign only competent personnel to perform services pursuant to this Agreement. In the event that City, in its sole discretion, at any time during the term of this Agreement, desires the reassignment of any such persons, Consultant shall, immediately upon receiving notice from City of such desire of City, reassign such person or persons.
- 1.4 **Time.** Consultant shall devote such time to the performance of services pursuant to this Agreement as may be reasonably necessary to meet the standard of performance provided in Subsection 1.2 above and to satisfy Consultant's obligations hereunder.
- 1.5 **City of San Leandro Living Wage Rates.** This contract may be covered by the City of San Leandro Living Wage Ordinance (LWO). Bidder's attention is directed to the San Leandro Municipal Code, Title 1, Chapter 6, Article 6. Successful Bidder must submit completed self-verification form and comply with the LWO if covered.

Section 2. COMPENSATION. City hereby agrees to pay Consultant a sum not to exceed \$200,000 per fiscal year, notwithstanding any contrary indications that may be contained in Consultant's proposal, for services to be performed and reimbursable costs incurred under this Agreement. In the event of a conflict between this Agreement and Consultant's proposal, attached as Exhibit B, regarding the amount of compensation, the Agreement shall prevail. City shall pay Consultant for services rendered pursuant to this Agreement at the time and in the manner set forth herein. The payments specified below shall be the only payments from City to Consultant for services rendered pursuant to this Agreement. Consultant shall submit all invoices to City in the manner specified herein. Except as

specifically authorized by City in writing, Consultant shall not bill City for duplicate services performed by more than one person.

Consultant and City acknowledge and agree that compensation paid by City to Consultant under this Agreement is based upon Consultant's estimated costs of providing the services required hereunder, including salaries and benefits of employees and subcontractors of Consultant. Consequently, the Parties further agree that compensation hereunder is intended to include the costs of contributions to any pensions and/or annuities to which Consultant and its employees, agents, and subcontractors may be eligible. City therefore has no responsibility for such contributions beyond compensation required under this Agreement.

- 2.1 Invoices.** Consultant shall submit invoices, not more often than once a month during the term of this Agreement, based on the cost for services performed and reimbursable costs incurred prior to the invoice date. Invoices shall contain the following information:
- Serial identifications of progress bills; i.e., Progress Bill No. 1 for the first invoice, etc.;
 - The beginning and ending dates of the billing period;
 - A Task Summary containing the original contract amount, the amount of prior billings, the total due this period, the balance available under the Agreement, and the percentage of completion;
 - At City's option, for each work item in each task, a copy of the applicable time entries or time sheets shall be submitted showing the name of the person doing the work, the hours spent by each person, a brief description of the work, and each reimbursable expense;
 - The total number of hours of work performed under the Agreement by Consultant and each employee, agent, and subcontractor of Consultant performing services hereunder;
 - The Consultant's signature;
 - Consultant shall give separate notice to the City when the total number of hours worked by Consultant and any individual employee, agent, or subcontractor of Consultant reaches or exceeds 800 hours within a 12-month period under this Agreement and any other agreement between Consultant and City. Such notice shall include an estimate of the time necessary to complete work described in Exhibit A and the estimate of time necessary to complete work under any other agreement between Consultant and City, if applicable.
- 2.2 Monthly Payment.** City shall make monthly payments, based on invoices received, for services satisfactorily performed, and for authorized reimbursable costs incurred. City shall have 30 days from the receipt of an invoice that complies with all of the requirements above to pay Consultant.
- 2.3 Final Payment.** City shall pay the last 10% of the total sum due pursuant to this Agreement within 60 days after completion of the services and submittal to City of a final invoice, if all services required have been satisfactorily performed.
- 2.4 Total Payment.** City shall pay for the services to be rendered by Consultant pursuant to this Agreement. City shall not pay any additional sum for any expense or cost whatsoever incurred by

Consultant in rendering services pursuant to this Agreement. City shall make no payment for any extra, further, or additional service pursuant to this Agreement.

In no event shall Consultant submit any invoice for an amount in excess of the maximum amount of compensation provided above either for a task or for the entire Agreement, unless the Agreement is modified prior to the submission of such an invoice by a properly executed change order or amendment.

- 2.5 **Hourly Fees.** Fees for work performed by Consultant on an hourly basis shall not exceed the amounts shown on the compensation schedule attached hereto as Exhibit B.
- 2.6 **Reimbursable Expenses.** Reimbursable expenses are specified in Exhibit B, Expenses not listed in Exhibit B are not chargeable to City. Reimbursable expenses are included in the total amount of compensation provided under this Agreement that shall not be exceeded.
- 2.7 **Payment of Taxes.** Consultant is solely responsible for the payment of employment taxes incurred under this Agreement and any similar federal or state taxes.
- 2.8 **Payment upon Termination.** In the event that the City or Consultant terminates this Agreement pursuant to Section 8, the City shall compensate the Consultant for all outstanding costs and reimbursable expenses incurred for work satisfactorily completed as of the date of written notice of termination. Consultant shall maintain adequate logs and timesheets to verify costs incurred to that date.
- 2.9 **Authorization to Perform Services.** The Consultant is not authorized to perform any services or incur any costs whatsoever under the terms of this Agreement until receipt of authorization from the Contract Administrator.

Section 3. FACILITIES AND EQUIPMENT. Except as set forth herein, Consultant shall, at its sole cost and expense, provide all facilities and equipment that may be necessary to perform the services required by this Agreement. City shall make available to Consultant only the facilities and equipment listed in this section, and only under the terms and conditions set forth herein.

City shall furnish physical facilities such as desks, filing cabinets, and conference space, as may be reasonably necessary for Consultant's use while consulting with City employees and reviewing records and the information in possession of the City. The location, quantity, and time of furnishing those facilities shall be in the sole discretion of City. In no event shall City be obligated to furnish any facility that may involve incurring any direct expense, including but not limited to computer, long-distance telephone or other communication charges, vehicles, and reproduction facilities.

Section 4. INSURANCE REQUIREMENTS. Before fully executing this Agreement, Consultant, at its own cost and expense, unless otherwise specified below, shall procure the types and amounts of insurance listed below against claims for injuries to persons or damages to property that may arise from or in connection with the performance of the work hereunder by the Consultant and its agents, representatives, employees, and subcontractors. Consistent with the following provisions, Consultant shall provide proof satisfactory to City of such insurance that meets the requirements of this section and under forms of insurance satisfactory in all respects, and that such insurance is in effect prior to beginning work to the City. Consultant shall maintain the insurance policies required by this section throughout the term of this Agreement. The cost of such insurance shall be included in the Consultant's bid. Consultant shall not allow any subcontractor to commence work on any subcontract until Consultant has obtained all

insurance required herein for the subcontractor(s) and provided evidence that such insurance is in effect to City. VERIFICATION OF THE REQUIRED INSURANCE SHALL BE SUBMITTED AND MADE PART OF THIS AGREEMENT PRIOR TO EXECUTION. Consultant shall maintain all required insurance listed herein for the duration of this Agreement.

4.1 Workers' Compensation.

4.1.1 General Requirements. Consultant shall, at its sole cost and expense, maintain Statutory Workers' Compensation Insurance and Employer's Liability Insurance for any and all persons employed directly or indirectly by Consultant. The Statutory Workers' Compensation Insurance and Employer's Liability Insurance shall be provided with limits of not less than \$1,000,000 per accident. In the alternative, Consultant may rely on a self-insurance program to meet those requirements, but only if the program of self-insurance complies fully with the provisions of the California Labor Code. Determination of whether a self-insurance program meets the standards of the California Labor Code shall be solely in the discretion of the Contract Administrator.

The Workers' Compensation policy shall be endorsed with a waiver of subrogation in favor of the entity for all work performed by the Consultant, its employees, agendas, and subcontractors.

4.1.2 Submittal Requirements. To comply with Subsection 4.1, Consultant shall submit the following:

- a. Certificate of Liability Insurance in the amounts specified in the section; and
- b. Waiver of Subrogation Endorsement as required by the section.

4.2 Commercial General and Automobile Liability Insurance.

4.2.1 General Requirements. Consultant, at its own cost and expense, shall maintain commercial general liability insurance for the term of this Agreement in an amount not less than \$1,000,000 and automobile liability insurance for the term of this Agreement in an amount not less than \$1,000,000 per occurrence, combined single limit coverage for risks associated with the work contemplated by this Agreement. If a Commercial General Liability Insurance or an Automobile Liability form or other form with a general aggregate limit is used, either the general aggregate limit shall apply separately to the work to be performed under this Agreement or the general aggregate limit shall be at least twice the required occurrence limit. Such coverage shall include but shall not be limited to, protection against claims arising from bodily and personal injury, including death resulting therefrom, and damage to property resulting from activities contemplated under this Agreement, including the use of owned and non-owned automobiles.

4.2.2 Minimum Scope of Coverage. Commercial general coverage shall be at least as broad as Insurance Services Office Commercial General Liability occurrence form CG 0001 (most recent edition) covering comprehensive General Liability on an "occurrence" basis. Automobile coverage shall be at least as broad as Insurance Services Office Automobile Liability form CA 0001, Code 1 (any auto). No endorsement shall be attached limiting the coverage.

4.2.3 Additional Requirements. Each of the following shall be included in the insurance coverage or added as a certified endorsement to the policy:

- a. The Insurance shall cover on an occurrence or an accident basis, and not on a claims-made basis.
- b. City, its officers, officials, employees, and volunteers are to be covered as additional insureds as respects: liability arising out of work or operations performed by or on behalf of the Consultant; or automobiles owned, leased, hired, or borrowed by the Consultant.
- c. Consultant hereby agrees to waive subrogation which any insurer or contractor may require from vendor by virtue of the payment of any loss. Consultant agrees to obtain any endorsements that may be necessary to affect this waiver of subrogation.
- d. For any claims related to this Agreement or the work hereunder, the Consultant's insurance covered shall be primary insurance as respects the City, its officers, officials, employees, and volunteers. Any insurance or self-insurance maintained by the City, its officers, officials, employees, or volunteers shall be excess of the Consultant's insurance and shall not contribute with it.

4.2.4 Submittal Requirements. To comply with Subsection 4.2, Consultant shall submit the following:

- a. Certificate of Liability Insurance in the amounts specified in the section;
- b. Additional Insured Endorsement as required by the section;
- c. Waiver of Subrogation Endorsement as required by the section; and
- d. Primary Insurance Endorsement as required by the section.

4.3 Professional Liability Insurance.

4.3.1 General Requirements. Consultant, at its own cost and expense, shall maintain for the period covered by this Agreement professional liability insurance for licensed professionals performing work pursuant to this Agreement in an amount not less than \$1,000,000 covering the licensed professionals' errors and omissions. Any deductible or self-insured retention shall not exceed \$150,000 per claim.

4.3.2 Claims-Made Limitations. The following provisions shall apply if the professional liability coverage is written on a claims-made form:

- a. The retroactive date of the policy must be shown and must be before the date of the Agreement.

- b. Insurance must be maintained and evidence of insurance must be provided for at least 5 years after completion of the Agreement or the work, so long as commercially available at reasonable rates.
- c. If coverage is canceled or not renewed and it is not replaced with another claims-made policy form with a retroactive date that precedes the date of this Agreement, Consultant shall purchase an extended period coverage for a minimum of 5 years after completion of work under this Agreement.
- d. A copy of the claim reporting requirements must be submitted to the City for review prior to the commencement of any work under this Agreement.

4.3.3 Additional Requirements. A certified endorsement to include contractual liability shall be included in the policy.

4.3.4 Submittal Requirements. To comply with Subsection 4.3, Consultant shall submit the Certificate of Liability Insurance in the amounts specified in the section.

4.4 All Policies Requirements.

4.4.1 Acceptability of Insurers. All insurance required by this section is to be placed with insurers with a Bests' rating of no less than A:VII.

4.4.2 Verification of Coverage. Prior to beginning any work under this Agreement, Consultant shall furnish City with complete copies of all Certificates of Liability Insurance delivered to Consultant by the insurer, including complete copies of all endorsements attached to the policies. All copies of Certificates of Liability Insurance and certified endorsements shall show the signature of a person authorized by that insurer to bind coverage on its behalf. If the City does not receive the required insurance documents prior to the Consultant beginning work, it shall not waive the Consultant's obligation to provide them. The City reserves the right to require complete copies of all required insurance policies at any time.

4.4.3 Deductibles and Self-Insured Retentions. Consultant shall disclose to and obtain the written approval of City for the self-insured retentions and deductibles before beginning any of the services or work called for by any term of this Agreement. At the option of the City, either: the insurer shall reduce or eliminate such deductibles or self-insured retentions as respects the City, its officers, employees, and volunteers; or the Consultant shall provide a financial guarantee satisfactory to the City guaranteeing payment of losses and related investigations, claim administration and defense expenses.

4.4.4 Wasting Policies. No policy required by this Section 4 shall include a "wasting" policy limit (i.e. limit that is eroded by the cost of defense).

4.4.5 Endorsement Requirements. Each insurance policy required by Section 4 shall be endorsed to state that coverage shall not be canceled by either party, except after 30 days' prior written notice has been provided to the City.

4.4.6 Subcontractors. Consultant shall include all subcontractors as insureds under its policies or shall furnish separate certificates and certified endorsements for each subcontractor. All coverages for subcontractors shall be subject to all of the requirements stated herein.

4.5 Remedies. In addition to any other remedies City may have if Consultant fails to provide or maintain any insurance policies or policy endorsements to the extent and within the time herein required, City may, at its sole option exercise any of the following remedies, which are alternatives to other remedies City may have and are not the exclusive remedy for Consultant's breach:

- Obtain such insurance and deduct and retain the amount of the premiums for such insurance from any sums due under the Agreement;
- Order Consultant to stop work under this Agreement or withhold any payment that becomes due to Consultant hereunder, or both stop work and withhold any payment, until Consultant demonstrates compliance with the requirements hereof; and/or
- Terminate this Agreement.

Section 5. INDEMNIFICATION AND CONSULTANT'S RESPONSIBILITIES. Refer to the attached Exhibit C, which is incorporated herein and made a part of this Agreement.

Section 6. STATUS OF CONSULTANT.

6.1 Independent Contractor. At all times during the term of this Agreement, Consultant shall be an independent contractor and shall not be an employee of City. City shall have the right to control Consultant only insofar as the results of Consultant's services rendered pursuant to this Agreement and assignment of personnel pursuant to Subsection 1.3; however, otherwise City shall not have the right to control the means by which Consultant accomplishes services rendered pursuant to this Agreement. Notwithstanding any other City, state, or federal policy, rule, regulation, law, or ordinance to the contrary, Consultant and any of its employees, agents, and subcontractors providing services under this Agreement shall not qualify for or become entitled to, and hereby agree to waive any and all claims to, any compensation, benefit, or any incident of employment by City, including but not limited to eligibility to enroll in the California Public Employees Retirement System (PERS) as an employee of City and entitlement to any contribution to be paid by City for employer contributions and/or employee contributions for PERS benefits.

6.2 Consultant Not an Agent. Except as City may specify in writing, Consultant shall have no authority, express or implied, to act on behalf of City in any capacity whatsoever as an agent. Consultant shall have no authority, express or implied, pursuant to this Agreement to bind City to any obligation whatsoever.

Section 7. LEGAL REQUIREMENTS.

7.1 Governing Law. The laws of the State of California shall govern this Agreement.

7.2 Compliance with Applicable Laws. Consultant and any subcontractors shall comply with all laws and regulations applicable to the performance of the work hereunder, including but not limited to, the California Building Code, the Americans with Disabilities Act, and any copyright, patent or trademark

law. Consultant's failure to comply with any law(s) or regulation(s) applicable to the performance of the work hereunder shall constitute a breach of contract.

7.3 Other Governmental Regulations. To the extent that this Agreement may be funded by fiscal assistance from another governmental entity, Consultant and any subcontractors shall comply with all applicable rules and regulations to which City is bound by the terms of such fiscal assistance program.

7.4 Licenses and Permits. Consultant represents and warrants to City that Consultant and its employees, agents, and any subcontractors have all licenses, permits, qualifications, and approvals of whatsoever nature that are legally required to practice their respective professions. Consultant represents and warrants to City that Consultant and its employees, agents, any subcontractors shall, at their sole cost and expense, keep in effect at all times during the term of this Agreement any licenses, permits, and approvals that are legally required to practice their respective professions. In addition to the foregoing, Consultant and any subcontractors shall obtain and maintain during the term of this Agreement valid Business Licenses from City.

7.5 Nondiscrimination and Equal Opportunity. Consultant shall not discriminate, on the basis of a person's race, religion, color, national origin, age, physical or mental handicap or disability, medical condition, marital status, sex, or sexual orientation, against any employee, applicant for employment, subcontractor, bidder for a subcontract, or participant in, recipient of, or applicant for any services or programs provided by Consultant under this Agreement. Consultant shall comply with all applicable federal, state, and local laws, policies, rules, and requirements related to equal opportunity and nondiscrimination in employment, contracting, and the provision of any services that are the subject of this Agreement, including but not limited to the satisfaction of any positive obligations required of Consultant thereby.

Consultant shall include the provisions of this Subsection in any subcontract approved by the Contract Administrator or this Agreement.

Section 8. TERMINATION AND MODIFICATION.

8.1 Termination. City may cancel this Agreement at any time and without cause upon written notification to Consultant.

Consultant may cancel this Agreement upon 30 days' written notice to City and shall include in such notice the reasons for cancellation.

In the event of termination, Consultant shall be entitled to compensation for services performed to the effective date of termination; City, however, may condition payment of such compensation upon Consultant delivering to City any or all documents, photographs, computer software, video and audio tapes, and other materials provided to Consultant or prepared by or for Consultant or the City in connection with this Agreement.

8.2 Extension. City may, in its sole and exclusive discretion, extend the end date of this Agreement beyond that provided for in Subsection 1.1. Any such extension shall require a written amendment to this Agreement, as provided for herein. Consultant understands and agrees that, if City grants such an extension, City shall have no obligation to provide Consultant with compensation beyond the maximum amount provided for in this Agreement. Similarly, unless authorized by the Contract

Administrator, City shall have no obligation to reimburse Consultant for any otherwise reimbursable expenses incurred during the extension period.

- 8.3 Amendments.** The Parties may amend this Agreement only by a writing signed by all the Parties.
- 8.4 Assignment and Subcontracting.** City and Consultant recognize and agree that this Agreement contemplates personal performance by Consultant and is based upon a determination of Consultant's unique personal competence, experience, and specialized personal knowledge. Moreover, a substantial inducement to City for entering into this Agreement was and is the professional reputation and competence of Consultant. Consultant may not assign this Agreement or any interest therein without the prior written approval of the Contract Administrator. Consultant shall not subcontract any portion of the performance contemplated and provided for herein, other than to the subcontractors noted in the proposal, without prior written approval of the Contract Administrator.
- 8.5 Survival.** All obligations arising prior to the termination of this Agreement and all provisions of this Agreement allocating liability between City and Consultant shall survive the termination of this Agreement.
- 8.6 Options upon Breach by Consultant.** If Consultant materially breaches any of the terms of this Agreement, City's remedies shall include, but are not limited to, the following:
- 8.6.1** Immediately terminate the Agreement;
 - 8.6.2** Retain the plans, specifications, drawings, reports, design documents, and any other work product prepared by Consultant pursuant to this Agreement;
 - 8.6.3** Retain a different consultant to complete the work described in Exhibit A not finished by Consultant; or
 - 8.6.4** Charge Consultant the difference between the cost to complete the work described in Exhibit A that is unfinished at the time of breach and the amount that City would have paid Consultant pursuant to Section 2 if Consultant had completed the work.

Section 9. KEEPING AND STATUS OF RECORDS.

- 9.1 Records Created as Part of Consultant's Performance.** All reports, data, maps, models, charts, studies, surveys, photographs, memoranda, plans, studies, specifications, records, files, or any other documents or materials, in electronic or any other form, that Consultant prepares or obtains pursuant to this Agreement and that relate to the matters covered hereunder shall be the property of the City. Consultant hereby agrees to deliver those documents to the City upon termination of the Agreement. It is understood and agreed that the documents and other materials, including but not limited to those described above, prepared pursuant to this Agreement are prepared specifically for the City and are not necessarily suitable for any future or other use. City and Consultant agree that, until final approval by City, all data, plans, specifications, reports and other documents are confidential and will not be released to third parties without prior written consent of both Parties.
- 9.2 Consultant's Books and Records.** Consultant shall maintain any and all ledgers, books of account, invoices, vouchers, canceled checks, and other records or documents evidencing or relating to charges for services or expenditures and disbursements charged to the City under this Agreement for

a minimum of 3 years, or for any longer period required by law, from the date of final payment to the Consultant to this Agreement.

- 9.3 Inspection and Audit of Records.** Any records or documents that Subsection 9.2 of this Agreement requires Consultant to maintain shall be made available for inspection, audit, and/or copying at any time during regular business hours, upon oral or written request of the City. Under California Government Code Section 8546.7, if the amount of public funds expended under this Agreement exceeds \$10,000.00, the Agreement shall be subject to the examination and audit of the State Auditor, at the request of City or as part of any audit of the City, for a period of 3 years after final payment under the Agreement.

Section 10. MISCELLANEOUS PROVISIONS.

- 10.1 Attorneys' Fees.** If a party to this Agreement brings any action, including an action for declaratory relief, to enforce or interpret the provision of this Agreement, the prevailing party shall be entitled to reasonable attorneys' fees in addition to any other relief to which that party may be entitled. The court may set such fees in the same action or in a separate action brought for that purpose.
- 10.2 Venue.** In the event that either party brings any action against the other under this Agreement, the Parties agree that trial of such action shall be vested exclusively in the state courts of California in the County of Alameda or in the United States District Court for the Northern District of California.
- 10.3 Severability.** If a court of competent jurisdiction finds or rules that any provision of this Agreement is invalid, void, or unenforceable, the provisions of this Agreement not so adjudged shall remain in full force and effect. The invalidity in whole or in part of any provision of this Agreement shall not void or affect the validity of any other provision of this Agreement.
- 10.4 No Implied Waiver of Breach.** The waiver of any breach of a specific provision of this Agreement does not constitute a waiver of any other breach of that term or any other term of this Agreement.
- 10.5 Successors and Assigns.** The provisions of this Agreement shall inure to the benefit of and shall apply to and bind the successors and assigns of the Parties.
- 10.6 Use of Recycled Products.** Consultant shall prepare and submit all reports, written studies and other printed material on recycled paper to the extent it is available at equal or less cost than virgin paper.
- 10.7 Conflict of Interest.** Consultant may serve other clients, but none whose activities within the corporate limits of City or whose business, regardless of location, would place Consultant in a "conflict of interest," as that term is defined in the Political Reform Act, codified at California Government Code Section 81000 *et seq.*

Consultant shall not employ any City official in the work performed pursuant to this Agreement. No officer or employee of City shall have any financial interest in this Agreement that would violate California Government Code Section 1090 *et seq.*

Consultant hereby warrants that it is not now, nor has it been in the previous 12 months, an employee, agent, appointee, or official of the City. If Consultant was an employee, agent, appointee, or official of the City in the previous 12 months, Consultant warrants that it did not participate in any

manner in the forming of this Agreement. Consultant understands that, if this Agreement is made in violation of California Government Code Section 1090 *et seq.*, the entire Agreement is void and Consultant will not be entitled to any compensation for services performed pursuant to this Agreement, including reimbursement of expenses, and Consultant will be required to reimburse the City for any sums paid to the Consultant. Consultant understands that, in addition to the foregoing, it may be subject to criminal prosecution for a violation of California Government Code Section 1090 *et seq.*, and, if applicable, will be disqualified from holding public office in the State of California.

10.8 Solicitation. Consultant agrees not to solicit business at any meeting, focus group, or interview related to this Agreement, either orally or through any written materials.

10.9 Contract Administration. This Agreement shall be administered by Jerome Smith Jr. ("Contract Administrator"). All correspondence shall be directed to or through the Contract Administrator or his or her designee.

10.10 Notices. Any written notice to Consultant shall be sent to:

CSG Consultants
Attn. Greg Masztal
550 Pilgrim Drive
Foster City, CA 94404
gregm@csgengr.com

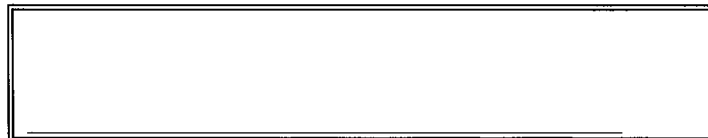
Any written notice to City shall be sent to:

City of San Leandro, Building and Safety Services
Attn. Jerome Smith Jr. Chief Building Official
835 East 14th Street
San Leandro, CA 94577
JSmithJr@sanleandro.org

With a copy to:

City of San Leandro
Department of Finance
c/o Purchasing Technician
835 East 14th Street
San Leandro, CA 94577

10.11 Professional Seal. Where applicable in the determination of the contract administrator, the first page of a technical report, first page of design specifications, and each page of construction drawings shall be stamped/sealed and signed by the licensed professional responsible for the report/design preparation. The stamp/seal shall be in a block entitled "Seal and Signature of Registered Professional with report/design responsibility," as in the following example.



Seal and Signature of Registered Professional with
report/design responsibility.

10.12 Integration. This Agreement, including the scope of work attached hereto and incorporated herein as Exhibits A, B, and C represents the entire and integrated agreement between City and Consultant and supersedes all prior negotiations, representations, or agreements, either written or oral.

<u>Exhibit A</u>	Scope of Services
<u>Exhibit B</u>	Compensation Schedule & Reimbursable Expenses
<u>Exhibit C</u>	Indemnification

10.13 Counterparts. This Agreement may be executed in multiple counterparts, each of which shall be an original and all of which together shall constitute one agreement.

10.14 Certification per Iran Contracting Act of 2010. In the event that this contract is for one million dollars (\$1,000,000.00) or more, by Consultant's signature below Consultant certifies that Consultant, and any parent entities, subsidiaries, successors or subunits of Consultant are not identified on a list created pursuant to subdivision (b) of Section 2203 of the California Public Contract Code as a person engaging in investment activities in Iran as described in subdivision (a) of Section 2202.5, or as a person described in subdivision (b) of Section 2202.5 of the California Public Contract Code, as applicable.

SIGNATURES ON FOLLOWING PAGE

The Parties have executed this Agreement as of the Effective Date. The persons whose signatures appear below certify that they are authorized to sign on behalf of the respective Party.

CITY OF SAN LEANDRO

CSG Consulting

Jeff Kay, City Manager

Cyrus Kianpour, President

Attest:

Consultant's DIR Registration Number, if applicable

Leticia I. Miguel, City Clerk

Approved as to Fiscal Authority:

David Baum, Finance Director

010-42-002-5120

Account Number

Approved as to Form:

Richard D. Pio Roda, City Attorney

Per Section 10.7:

Form 700 Not Required

Form 700 Required

Tom Liao, Community Development Director

Approach to Work and Turnaround Times

SECTION

3

PROVEN APPROACH TO WORK

CSG's proposed team has been selected to best support the City of San Leandro and will deliver the highest level of service through its application of technical expertise, knowledge of municipal processes and procedures, efficient and effective customer care, and application of code compliance combined with innovative and helpful alternatives. Our extensive experience in furnishing comprehensive building and fire life safety services to jurisdictions provides a consistent, strong technical foundation to all projects. From cutting edge digital plan review and online plan check status reporting to providing faster-than-scheduled turnaround times, CSG will deliver the highest quality services to the City of San Leandro.

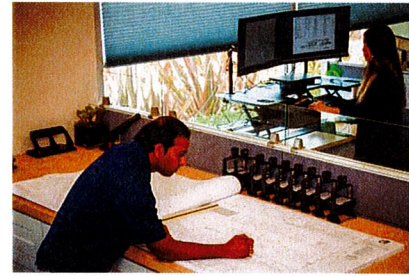
Key benefits that we offer include:

- ▶ **Customized, responsive services.** We are skilled at assessing time commitments, developing an accurate work plan and applying dedicated, professional personnel. We can quickly fine-tune staffing levels to match or adjust to changes in plan review, inspection and front counter activity. And, with our digital plan review capabilities, we are able utilize resources from any of our regional offices.
- ▶ **A wealth of fully committed and qualified personnel.** We maintain staff that is fully licensed and certified at the highest level of industry standards. To keep our personnel on the industry's leading edge, many serve as popular educational instructors and lecturers as well as sit on boards and committees for organizations developing and implementing important code regulations. We also keep up with latest in procedures and use of products, e.g., green building, accessibility, CASp certification requirements, NPDES, MRP, and more.
- ▶ **Rapid turnarounds and expedited services.** With extensive experience in the digital plan review process combined with extensive code application experience, our staff excels at providing expeditious turnarounds. We easily match and more often beat any required turnaround deadlines.
- ▶ **Leading-edge, cost-saving technology.** CSG offers a suite of digital options — speedy digital plan reviews including electronic versions of plan comments; an easy-to-use web portal for plan submittal, tracking and approval of digital plans; and available full scanning and archiving services.
- ▶ **Concentrated focus on cost-saving approaches and methods.** Because we serve numerous municipalities and agencies, we are constantly improving and adapting to provide our clients with the most cost-effective services.
- ▶ **Environmentally friendly practices.** Our corporate policy on sustainability supports a healthy environment, reduces our carbon footprint and promotes environmental stewardship through environmentally preferable purchasing and other sustainability actions. Our digital plan review system encourages the bypass of paper use, and all possible documents at CSG are printed double-sided on recycled, post-consumer content paper.

BUILDING PLAN REVIEW SERVICES

Compliance Standards

Our team of professionals is ready to assist in all aspects of plan review and to focus on the special needs and requirements of each of our clients. We pledge prompt turnaround times and offer comprehensive online status reports. Our plan reviewers carefully review all documents for compliance with building codes, fire codes, energy conservation standards, State accessibility regulations, and all local ordinances. We understand and will comply with the City's own requirements for plan review services. Our engineers and plan reviewers review plans for compliance with all policy and model codes adopted by the State of California and local jurisdiction, including but not limited to:



- ▶ *California Building Code, Volumes 1 and 2*
- ▶ *California Residential Code*
- ▶ *California Electrical Code*
- ▶ *California Plumbing Code*
- ▶ *California Mechanical Code*
- ▶ *California Fire Code*
- ▶ *California Energy Code*
- ▶ *California Green Building Code*
- ▶ *National Fire Codes as published by the National Fire Protection Association (NFPA); as adopted and referenced by the State of California (California Code of Regulations, Title-19, Section 1.09)*
- ▶ *State Historical Building Code*
- ▶ *NPDES/WQMP/SWPPP Compliance*
- ▶ *Local adopted ordinances and amendments relative to building, fire and municipal codes, including project Conditions of Approval from other agency departments, divisions, regulating agencies, and jurisdictions*

Digital Plan Review

CSG began the transition to digital plan review over 18 years ago, leading the consultant field with this ground-breaking service. *All paper plans submitted to CSG are immediately scanned into digital files and stored on CSG's servers for quick and easy access by both our clients and our plan reviewers.* Our plan reviewers furnish electronic versions of their plan comments conforming to each client's established correction list templates. Any additional forms utilized by the City for alternative methods of construction and/or deviations from requirements will be incorporated into the correction comments and returned with the appropriate recommendations. Plan check comments can be delivered electronically by email or other City approved means, enabling City staff to immediately modify CSG's checklist for incorporation with other department comments. **Upon request, clients can be provided with a set of digitally scanned plans at no cost, including convenient, "green" (paperless) storage of all construction-related documents.**



In addition, for jurisdictions requesting a pure digital plan review workflow, CSG has developed a web application for an applicant to submit digital files directly to us, which includes an online portal for the applicant/jurisdiction to retrieve comments and submitted digital files with marked-up plans including redlines. This online portal tracks all submittals, including re-submittals until the plans have been approved.

All paper plans submitted to CSG are immediately scanned into digital files for quick and easy access by our clients and plan reviewers.

Key features of our digital plan review service include:

- **Efficient.** Plans are pushed to plan review staff the same day they are submitted.
- **User-friendly.** CSG developed its own web-based portal to manage the electronic file submittal process. By using a web interface, the applicant is no longer faced with size restrictions on email attachments or required to learn complex FTP settings.
- **Proven.** We have provided a digital plan review option to our clients for over 18 years.
- **Non-Proprietary.** CSG's electronic review process is 100% PDF-based with no additional software required to view redlines.
- **Extensible.** Should the City decide to implement electronic review as a standard, CSG offers an integration path for our electronic plan review software—GreenVue Fusion.



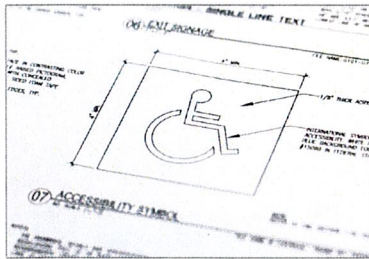
Online Plan Check Status

CSG offers a convenient service allowing clients to check plan review status and comments online. By logging in to our Plan Check Status website, staff as well as authorized applicants can view each project document and communicate with the plan checker via e-mail or electronic post-a-note. Staff or authorized applicants can download comments from the web upon completion of the plan check. **There is no additional cost for this service.**

Plans Pickup and Delivery

CSG will arrange for pickup and delivery of plans from/to City offices. The pickup and delivery of plans and other materials via CSG staff or an approved alternative service is provided at **no additional cost.**

CASp Review Services



We understand California Building Departments are required to have CASp certified staff in place and available for technical questions and interpretations. Our CASp certified staff members are knowledgeable of state and federal accessibility laws and regulations and possess the expertise necessary to promote access to facilities for persons with disabilities. In accordance with current regulations, CSG can supply a CASp certified professional to review plans for accessibility and to facilitate compliance with regulations.

OSHPD 3 Reviews

Our staff of professional engineers and certified plans examiners is experienced with the differences between CBC and OSHPD 3 facilities and have successfully completed OSHPD 3 plan reviews for multiple client agencies.

Green Building and LEED Certification

Our Building Division staff is experienced in plan review and inspection for compliance with CALGreen, LEED equivalency, and local green building ordinances. In addition, CSG Consultants has the qualifications necessary to assist the City in both the development of policy and the implementation of green and sustainable building practices. CSG's Sustainability Programs division can assist, for example, with construction and demolition debris recycling programs as well as public outreach to the building industry. We have LEED accredited personnel on staff.

Standard Plan Check Turnaround Times

CSG works hard to provide the best quality and most timely service in the industry. We pride ourselves in maintaining the requested plan check times for all our clients—**even delivering faster than our own deadlines.** Our goal is to approve code-complying projects and to successfully and quickly move work

through jurisdictional processes. CSG will ensure that all building and safety duties and follow-up actions will be performed in a timely and responsive manner.

The following are CSG’s proposed plan check turnaround times.

TYPE OF REVIEW	INITIAL REVIEW (BUSINESS DAYS)	RE-CHECK (BUSINESS DAYS)
Commercial New Construction or Addition*	10	5
Tenant Infill/Remodel	10	5
Residential New Construction	10	5
Residential Addition/Remodel	10	5
Expedited	5	5

**Turnaround time may vary with the complexity and magnitude of the project. If a review is anticipated to take longer than the maximum turnaround timing, CSG will notify the City’s representative and negotiate additional time required to ensure an appropriate level of review.*

Expedited Plan Check Services

CSG completes initial expedited plan check within 5 working days. Rechecks will be completed within 5 working days. At the City’s request, we can perform plan check services within an accelerated time frame; with fees negotiated between the City and CSG.

BUILDING INSPECTION SERVICES

CSG provides fully integrated, multi-disciplined building and fire inspection services for residential, commercial, and industrial projects, and are experienced in all construction types. We provide experienced, ICC certified (and/or with other appropriate entities in accordance with AB717) inspectors. Our inspectors ensure compliance with applicable codes and requirements by identifying non-compliant code requirements and offering solutions for potential risks and safety hazards, and by working as a team to bring projects into compliance. Specific responsibilities include but are not limited to the following:

- ▶ *Providing inspection services for project compliance with State adopted codes and local amendments including building, electrical, mechanical and plumbing codes*
- ▶ *Addressing inquiries and resolving complaints*
- ▶ *Providing code interpretation, inspection and enforcement*
- ▶ *Maintaining records and files associated with construction permits and building code enforcement*

Our inspection staff easily integrates into client organizations, consistently enforcing policies and procedures and remaining transparent to applicants and customers. CSG provides all vehicles, fuel, maintenance and other equipment necessary for inspectors to carry out duties with **no additional cost to the City.**



With no additional cost to the City, CSG provides all vehicles, fuel, maintenance and other equipment necessary for inspectors to carry out duties.

CASp Inspection Services

To facilitate the City’s compliance with current rules and regulations, CSG will provide a CASp certified professional for technical questions and interpretations, and to perform accessibility compliance inspections when requested.

AVAILABILITY AND CUSTOMER SERVICE

One of CSG's key functions is to serve as a seamless extension of City staff. We clearly understand the importance of our role in the success of the City and commit to providing its citizens and business partners—residents, architects, engineers, developers, contractors—as well as City staff, the highest level of service. We believe effective communication and excellent customer service are essential to developing and continuing a successful working relationship between the City, CSG, and the development community.

Office Hours and Meeting Availability

CSG staff plan checkers are available for applicant inquiries anytime during regular business hours without charge via telephone, 8:00 AM to 5:00 PM, Monday through Friday. CSG inspectors can be ready to provide services with 24 hours' notice. We can easily alter our hours to meet the City's needs. Evenings and weekends for special events and meetings can be accommodated with 48 hours' notice. For the City's convenience, we can also meet in person with City staff, architects and applicants. We recognize the value of pre-design consultation with prospective applicants and are available to provide this service as well. Our Project Manager will be available in person for consultation and meetings with a reasonable lead time.

Response to City Questions or Requests

CSG staff can typically respond to the City for all questions or requests generated during any plan review on the same day, but no later than the following day a request is received.

Fee Schedule

SECTION

6

CSG’s fee schedule for the proposed scope of services is provided in the table below. Plan review based on a percentage of the City’s plan check fee includes one initial plan review and two subsequent reviews. Additional reviews, deferred submittals, revisions and RFIs will be charged at the appropriate hourly rate below. RFIs for larger developments will be performed at an hourly rate, and turnaround times will be agreed upon in advance with the City.

CSG will coordinate the pickup and return of all plans to CSG via CSG staff or a licensed courier service. ***This service is provided at no additional cost.***

PERSONNEL / REVIEW TYPE	ALL INCLUSIVE FEE / HOURLY RATE
BUILDING PLAN REVIEW SERVICES	
Residential and Non-Residential Building Plan Review	65% of City’s Building Plan Check Fee
Structural Only Review	50% of City’s Building Plan Check Fee
Expedited Building Plan Review	95% of City’s Building Plan Check Fee
Building Plan Review	\$135
Structural Only Review	\$150
CASp Review	\$150
Expedited Plan Review	1.5 X Hourly Rate
INSPECTION SERVICES	
Building Inspector	\$125
CASp Inspection	\$150

All hourly rates include salaries, benefits, workers compensation insurance, local travel and miscellaneous office expenses. Should the scope of work change, or circumstances develop which necessitate special handling, CSG will notify the City prior to proceeding. Overtime services will be billed at 1.5x the applicable hourly rate. On each anniversary of the contract start date, CSG will increase hourly rates based on change in CPI for the applicable region. CSG will mail an invoice at the beginning of every month for services rendered during the previous month. Unless otherwise agreed, payment terms are 30-days from receipt of invoice.

EXHIBIT C

INDEMNIFICATION

- A. Consultant shall, to the extent permitted by law, including without limitation California Civil Code 2782 and 2782.8, indemnify, hold harmless and assume the defense of, in any actions at law or in equity, the City, its employees, agents, volunteers, and elective and appointive boards, from all claims, losses, and damages, including property damage, personal injury, death, and liability of every kind, nature and description, arising out of, pertaining to or related to the negligence, recklessness or willful misconduct of Consultant or any person directly or indirectly employed by, or acting as agent for, Consultant, during and after completion of Consultant's work under this Agreement.
- B. With respect to those claims arising from a professional error or omission, Consultant shall defend, indemnify and hold harmless the City (including its elected officials, officers, employees, and volunteers) from all claims, losses, and damages arising from the professionally negligent acts, errors or omissions of Consultant, however, the cost to defend charged to Consultant shall not exceed Consultant's proportionate percentage fault.
- C. Consultant's obligation under this section does not extend to that portion of a claim caused in whole or in part by the sole negligence or willful misconduct of the City.
- D. Consultant shall also indemnify, defend and hold harmless the City from all suits or claims for infringement of any patent rights, copyrights, trade secrets, trade names, trademarks, service marks, or any other proprietary rights of any person or persons because of the City or any of its officers, employees, volunteers, or agents use of articles, products things, or services supplied in the performance of Consultant's services under this Agreement, however, the cost to defend charged to Consultant shall not exceed Consultant's proportionate percentage fault.