

SERVICE PROVIDER AGREEMENT

This SERVICE PROVIDER AGREEMENT (“**Agreement**”) is entered into this ____ day of _____, 2022 (“**Effective Date**”), by and between the CITY OF ALAMEDA, a municipal corporation (“the **City**”), and Arup North America Limited, an out of state stock corporation, whose address is 1330 Broadway, Suite 1300, Oakland, CA 94612 (“**Provider**”), in reference to the following facts and circumstances:

RECITALS

- A. The City is a municipal corporation duly organized and validly existing under the laws of the State of California with the power to carry on its business as it is now being conducted under the statutes of the State of California and the Charter of the City.
- B. The City is in need of the following services: professional engineering services to support the City and its consultants in the development of a Project Initiation Document (PID) for the Oakland-Alameda Bicycle/Pedestrian Bridge project. City staff issued a Request for Proposals on March 10, 2022 and after a submittal period of 34 days received five timely submitted proposals. Staff reviewed the proposals, interviewed qualified firms and selected the service provider that best meets the City’s needs.
- C. Provider is specially trained, experienced and competent to perform the special services which will be required by this Agreement
- D. The City and Provider desire to enter into an agreement for project oversight, on-call services and support to the City and its consultants in the development of a PID for the Oakland-Alameda Bicycle/Pedestrian Bridge project, upon the terms and conditions herein.

AGREEMENT

NOW, THEREFORE, in consideration of the forgoing, which are incorporated herein by reference, and for good and valuable consideration, the receipt and adequacy of which are hereby acknowledged, the City and Provider agree as follows:

1. TERM:

The term of this Agreement shall commence on the ____ day of _____ 2022, and shall terminate on the 30th day of June 2024, unless terminated earlier as set forth herein.

The parties may agree to extend the term of this Agreement on a year-by-year basis, for up to three (3) additional years. Any extension shall be documented in a signed amendment. In the event that the parties agree to extend the Agreement, all provisions of the Agreement shall remain unchanged with the exception that the compensation shall be adjusted by the Consumer Price Index for the San Francisco Bay area as reported by the U.S. Department of Labor, Bureau of Labor Statistics for the previous calendar year.

2. SERVICES TO BE PERFORMED:

Provider agrees to do all necessary work at its own cost and expense, to furnish all labor, tools, equipment, materials, except as otherwise specified, and to do all necessary work included in Exhibit A as requested. Provider acknowledges that the work plan included in Exhibit A is tentative and does not commit the City to request Provider to perform all tasks included therein.

3. COMPENSATION TO PROVIDER:

a. By the 7th day of each month, Provider shall submit to the City an invoice for the total amount of work done the previous month. Pricing and accounting of charges are to be according to the fee schedule as set forth in Exhibit B and incorporated herein by this reference. Extra work must be approved in writing by the City Manager or their designee prior to performance and shall be paid on a Time and Material basis as set forth in Exhibit B.

b. The total five-year compensation for this Agreement shall not exceed \$200,000. Use of contingency shall be for items of work outside the original scope and requires prior written authorization by the City.

4. TIME:

Provider and the City agree that Provider shall endeavor to meet the agreed schedule and provide all services in accordance with the Standard of Care.

5. STANDARD OF CARE:

Provider agrees to perform all services hereunder in a manner commensurate with the prevailing standards of like professionals or service providers, as applicable, in the San Francisco Bay Area and agrees that all services shall be performed by qualified and experienced personnel who are not employed by the City.

6. INDEPENDENT PARTIES:

Provider hereby declares that Provider is engaged as an independent business and Provider agrees to perform the services as an independent contractor. The manner and means of conducting the services and tasks are under the control of Provider except to the extent they are limited by statute, rule or regulation and the express terms of this Agreement. No civil service status or other right of employment will be acquired by virtue of Provider's services. None of the benefits provided by the City to its employees, including but not limited to unemployment insurance, workers' compensation plans, vacation and sick leave, are available from the City to Provider, its employees or agents. Deductions shall not be made for any state or federal taxes, FICA payments, PERS payments, or other purposes normally associated with an employer-employee relationship from any compensation due to Provider. Payments of the above items, if required, are the responsibility of Provider.

7. IMMIGRATION REFORM AND CONTROL ACT (IRCA):

Provider assumes any and all responsibility for verifying the identity and employment authorization of all of its employees performing work hereunder, pursuant to all applicable IRCA or other federal, or state rules and regulations. Provider shall indemnify, defend, and hold the City

harmless from and against any loss, damage, liability, costs or expenses arising from any noncompliance of this provision by Provider.

8. NON-DISCRIMINATION:

Consistent with the City's policy and state and federal law that harassment and discrimination are unacceptable conduct, Provider and its employees, contractors, and agents shall not harass or discriminate against any job applicant, City employee, or any other person on the basis of any kind of any statutorily (federal, state or local) protected class, including but not limited to: race, religious creed, color, national origin, ancestry, disability (both mental and physical) including HIV and AIDS, medical condition (e.g. cancer), genetic information, marital status, sex, gender, gender identity, gender expression, age, sexual orientation, pregnancy, political affiliation, military and veteran status or legitimate union activities. Provider agrees that any violation of this provision shall constitute a material breach of this Agreement.

9. HOLD HARMLESS:

a. To the fullest extent permitted by law, Provider shall indemnify, defend (with counsel acceptable to the City, though the defense obligation does not apply for professional negligence claims for which Provider shall reimburse City for reasonable defense fees as part of its indemnity obligation) and hold harmless the City, its City Council, boards, commissions, officials, employees, agents and volunteers ("Indemnitees") from and against any and all third party loss, damages, liability, obligations, claims, suits, judgments, costs and expenses whatsoever, including reasonable attorney's fees and costs of litigation ("Claims"), caused by Provider's performance of its obligations under this Agreement or out of the operations conducted by Provider to the extent of Provider's proportionate fault. Provider shall not have any obligations to indemnify Indemnitees to the extent the loss or damage is found to have resulted from the negligence or the willful misconduct of the City. The defense and indemnification obligations of this Agreement are undertaken in addition to, and shall not in any way be limited by, the insurance obligations contained in this Agreement but are intended to meet the requirements of California Civil Code § 2782.8.

b. As to Claims for professional liability only, Provider's obligation to defend Indemnitees (as set forth above) is limited as provided in California Civil Code Section 2782.8.

c. Provider's obligation to indemnify, defend and hold harmless Indemnitees shall expressly survive the expiration or early termination of this Agreement.

10. INSURANCE:

a. On or before the commencement of the terms of this Agreement, Provider shall furnish the City's Risk Manager with certificates showing the type, amount, class of operations covered, effective dates and dates of expiration of insurance coverage in compliance with Sections 10.b. (1) through (4) Such certificates, which do not limit Provider's indemnification, shall also contain substantially the following statement:

"Should any of the above insurance covered by this certificate be canceled or coverage reduced before the expiration date thereof, the

insurer affording coverage shall provide thirty (30) days' advance written notice to the City of Alameda. Attention: Risk Manager.”

Provider shall maintain in force at all times during the performance of this Agreement all appropriate coverage of insurance required by this Agreement with an insurance company licensed to offer insurance business in the State of California with a current A.M. Best's rating of no less than A:VII or Standard & Poor's Rating (if rated) of at least BBB unless otherwise acceptable to the City. Provider shall deliver updated insurance certificates to the City at the address described in Section 17.f. prior to the expiration of the existing insurance certificate for the duration of the term of Agreement. Endorsements naming the City, its City Council, boards, commissions, officials, employees, agents, and volunteers as additional insured shall be submitted with the insurance certificates.

Provider Initials

b. COVERAGE REQUIREMENTS:

Provider shall maintain insurance coverage and limits at least as broad as:

(1) Workers' Compensation:

Statutory coverage as required by the State of California.

(2) Liability:

Commercial general liability coverage in the following minimum limits:

Bodily Injury: \$1,000,000 each occurrence
 \$2,000,000 aggregate - all other

Property Damage: \$1,000,000 each occurrence
 \$2,000,000 aggregate

If submitted, combined single limit policy with per occurrence limits in the amounts of \$2,000,000 and aggregate limits in the amounts of \$4,000,000 will be considered equivalent to the required minimum limits shown above. Additional Insured Endorsement naming the City, its City Council, boards, commissions, officials, employees, agents, and volunteers is required.

(3) Automotive:

Comprehensive automobile liability coverage (any auto) in the following minimum limits:

Bodily injury: \$1,000,000 each occurrence
Property Damage: \$1,000,000 each occurrence

or

Combined Single Limit: \$2,000,000 each occurrence

Additional Insured Endorsement naming the City, its City Council, boards, commissions, officials, employees, agents, and volunteers is required.

(4) Professional Liability:

Professional liability insurance which includes coverage appropriate for the professional acts, errors and omissions of Provider's profession and work hereunder, including, but not limited to, technology professional liability errors and omissions if the services being provided are technology-based, in the following minimum limits:

\$2,000,000 each occurrence

Technology professional liability errors and omissions shall include, or be endorsed to include, property damage liability coverage for damage to, alteration of, loss of, or destruction of electronic data and/or information "property" of the City in the care, custody, or control of Provider. If not covered under Provider's liability policy, such "property" coverage of the City may be endorsed onto Provider's Cyber Liability Policy as covered property as follows: cyber liability coverage in an amount sufficient to cover the full replacement value of damage to, alteration of, loss of, or destruction of electronic data and/or information "property" of the City that will be in the care, custody, or control of Provider.

As to commercial general liability and automobile liability insurance, such insurance will provide that it constitutes primary insurance with respect to claims insured by such policy, and, except with respect to limits, that insurance applies separately to each insured against whom claim is made or suit is brought. Such insurance is not additional to or contributing with any other insurance carried by or for the benefit of the City.

c. SUBROGATION WAIVER:

Provider hereby agrees to waive rights of subrogation that any insurer of Provider may acquire from Provider by virtue of the payment of any loss. Provider agrees to obtain any endorsement that may be necessary to affect this waiver of subrogation, but this provision applies regardless of whether the City has received a waiver of subrogation endorsement from the insurer. The Workers' Compensation policy shall be endorsed with a waiver of subrogation in favor of the City for all work performed by Provider, its employees, agents and subcontractors.

d. FAILURE TO SECURE:

If Provider at any time during the term hereof should fail to secure or maintain the foregoing insurance, the City shall be permitted to obtain such insurance in Provider's name or as an agent of Provider and shall be compensated by Provider for the costs of the insurance premiums at the maximum rate permitted by law and computed from the date written notice is received that the premiums have not been paid.

e. ADDITIONAL INSUREDS:

The City, its City Council, boards, commissions, officials, employees, agents, and volunteers shall be named as additional insured(s) under all insurance coverages, except workers' compensation and professional liability insurance. The naming of an additional insured shall not

affect any recovery to which such additional insured would be entitled under this policy if not named as such additional insured. An additional insured named herein shall not be held liable for any premium, deductible portion of any loss, or expense of any nature on this policy or any extension thereof. Any other insurance held by an additional insured shall not be required to contribute anything toward any loss or expense covered by the insurance provided by this policy. Additional Insured coverage under Provider's policy shall be primary and non-contributory and will not seek contribution from the City's insurance or self-insurance.

E. SUFFICIENCY OF INSURANCE:

The insurance limits required by the City are not represented as being sufficient to protect Provider. Provider is advised to consult Provider's insurance broker to determine adequate coverage for Provider. The coverage and limits shall be the minimum coverage and limits specified in this Agreement.

11. CONFLICT OF INTEREST:

Provider warrants that it is not a conflict of interest for Provider to perform the services required by this Agreement. Provider may be required to fill out a conflict of interest form if the services provided under this Agreement require Provider to make certain governmental decisions or serve in a staff capacity as defined in Title 2, Division 6, Section 18700 of the California Code of Regulations.

12. PROHIBITION AGAINST TRANSFERS:

a. Provider shall not assign, sublease, hypothecate, or transfer this Agreement, or any interest therein, directly or indirectly, by operation of law or otherwise, without prior written consent of the City Manager. Provider shall submit a written request for consent to transfer to the City Manager at least thirty (30) days in advance of the desired transfer. The City Manager or their designee may consent or reject such request in their sole and absolute discretion. Any attempt to do so without said consent shall be null and void, and any assignee, sublessee, hypothecate or transferee shall acquire no right or interest by reason of such attempted assignment, hypothecation or transfer. However, claims for money against the City under this Agreement may be assigned by Provider to a bank, trust company or other financial institution without prior written consent.

b. The sale, assignment, transfer or other disposition of any of the issued and outstanding capital stock, membership interest, partnership interest, or the equivalent, which shall result in changing the control of Provider, shall be construed as an assignment of this Agreement. Control means fifty percent or more of the voting power of Provider.

13. APPROVAL OF SUB-PROVIDERS:

a. Only those persons and/or businesses whose names and resumés are attached to this Agreement shall be used in the performance of this Agreement. However, if after the start of this Agreement, Provider wishes to use sub-providers, at no additional costs to the City, then Provider shall submit a written request for consent to add sub-providers including the names of the sub-providers and the reasons for the request to the City Manager at least five (5) days in advance. The City Manager may consent or reject such requests in their sole and absolute discretion.

b. Each sub-provider shall be required to furnish proof of workers' compensation insurance and shall also be required to carry general, automobile and professional liability insurance (as applicable) in reasonable conformity to the insurance carried by Provider, unless otherwise agreed by the City in writing.

c. In addition, any tasks or services performed by sub-providers shall be subject to each provision of this Agreement. Provider shall include the following language in their agreement with any sub-provider: "Sub-providers hired by Provider agree to be bound to Provider and the City in the same manner and to the same extent as Provider is bound to the City."

d. The requirements in this Section 13 shall not apply to persons who are merely providing materials, supplies, data or information that Provider then analyzes and incorporates into its work product.

14. PERMITS AND LICENSES:

Provider, at its sole expense, shall obtain and maintain during the term of this Agreement, all appropriate permits, certificates and licenses, including a City business license that may be required in connection with the performance of the services and tasks hereunder.

15. REPORTS:

a. Each and every report, draft, work product, map, record and other document produced, prepared or caused to be prepared by Provider pursuant to or in connection with this Agreement shall be the exclusive property of the City.

b. No report, information or other data given to or prepared or assembled by Provider pursuant to this Agreement shall be made available to any individual or organization by Provider without prior approval of the City Manager or their designee.

c. Provider shall, at such time and in such form as City Manager or their designee may require, furnish reports concerning the status of services and tasks required under this Agreement.

d. Notwithstanding, this Agreement does not restrict or deprive Provider of any of its rights or proprietary interests in any materials that existed prior to or are developed independently of the performance of Provider's services pursuant to this Agreement (the "Pre-Existing Materials"). If any Pre-Existing Materials are delivered in connection with or as part of the performance of Provider's services, the Provider hereby grants the City a non-exclusive, world-wide, royalty-free, irrevocable license to use such Pre-Existing Materials to enable the full use and benefit of the Work Product.

16. RECORDS:

a. Provider shall maintain complete and accurate records with respect to the services, tasks, work, documents and data in sufficient detail to permit an evaluation of Provider's performance under the Agreement, as well as maintain books and records related to sales, costs, expenses, receipts and other such information required by the City that relate to the performance of the services and tasks under this Agreement (collectively the "**Records**").

b. All Records shall be maintained in accordance with generally accepted accounting principles and shall be clearly identified and readily accessible. Provider shall provide free access to the Records to the representatives of the City or its designees during regular business hours upon reasonable prior notice. The City has the right to examine and audit the Records, and to make copies or transcripts therefrom as necessary, and to allow inspection of all proceedings and activities related to this Agreement. Such Records, together with supporting documents, shall be kept separate from other documents and records and shall be maintained by Provider for a period of three (3) years after receipt of final payment.

c. If supplemental examination or audit of the Records is necessary due to concerns raised by the City's preliminary examination or audit of records, and the City's supplemental examination or audit of the records discloses a failure to adhere to appropriate internal financial controls, or other breach of this Agreement or failure to act in good faith, then Provider shall reimburse the City for all reasonable costs and expenses associated with the supplemental examination or audit.

17. NOTICES:

a. All notices shall be in writing and delivered: (i) by hand; or (ii) sent by registered, express, or certified mail, with return receipt requested or with delivery confirmation requested from the U.S. postal service; or (iii) sent by overnight or same day courier service at the party's respective address listed in this Section.

b. Each notice shall be deemed to have been received on the earlier to occur of: (x) actual delivery or the date on which delivery is refused; or (y) three (3) days after notice is deposited in the U.S. mail or with a courier service in the manner described above (Sundays and City holidays excepted).

c. Either party may, at any time, change its notice address (other than to a post office box address) by giving the other party three (3) days prior written notice of the new address.

d. All notices, demands, requests, or approvals from Provider to the City shall be addressed to the City at:

City of Alameda
Planning Building & Transportation
2263 Santa Clara Ave
Alameda, CA 94501
ATTENTION: Rochelle Wheeler
Ph: (510) 747-7442

e. All notices, demands, requests, or approvals from the City to Provider shall be addressed to Provider at:

Arup North America Limited
1330 Broadway Suite 1300
Oakland CA, 94612
ATTENTION: John Eddy, PE, Principal
Ph: (415) 309-0205

f. All updated insurance certificates from Provider to the City shall be addressed to the City at:

City of Alameda
Planning Building & Transportation
2263 Santa Clara Ave
Alameda, CA 94501
ATTENTION: Rochelle Wheeler
Ph: (510) 747-7442 / rwheeler@alamedaca.gov

18. SAFETY:

a. Provider will be solely and completely responsible for conditions of all vehicles owned or operated by Provider, including the safety of all persons and property during performance of the services and tasks under this Agreement. This requirement will apply continuously and not be limited to normal working hours. In addition, Provider will comply with all safety provisions in conformance with U.S. Department of Labor Occupational Safety and Health Act, any equivalent state law, and all other applicable federal, state, county and local laws, ordinances, codes, and any regulations that may be detailed in other parts of the Agreement. Where any of these are in conflict, the more stringent requirements will be followed. Provider's failure to thoroughly familiarize itself with the aforementioned safety provisions will not relieve it from compliance with the obligations and penalties set forth herein.

b. Provider will immediately notify the City within 24 hours of any incident of death, serious personal injury or substantial property damage that occurs in connection with the performance of this Agreement. Provider will promptly submit to the City a written report of all incidents that occur in connection with this Agreement. This report must include the following information: (i) name and address of injured or deceased person(s); (ii) name and address of Provider's employee(s) involved in the incident; (iii) name and address of Provider's liability insurance carrier; (iv) a detailed description of the incident; and (v) a police report.

19. TERMINATION:

a. In the event either Party fails or refuses to perform any of the provisions hereof at the time and in the manner required hereunder, that Party shall be deemed in default in the performance of this Agreement. If such default is not cured within two (2) business days after receipt by defaulting Party from the other of written notice of default, specifying the nature of such default and the steps necessary to cure such default, the non-defaulting Party may thereafter

immediately terminate the Agreement forthwith by giving to defaulting Party written notice thereof.

b. The foregoing notwithstanding, the City shall have the option, at its sole discretion and without cause, of terminating this Agreement by giving seven (7) days' prior written notice to Provider as provided herein.

c. Upon termination of this Agreement either for cause or for convenience, each party shall pay to the other party that portion of compensation specified in this Agreement that is earned and unpaid prior to the effective date of termination. The obligation of the parties under this Section 19.c. shall survive the expiration or early termination of this Agreement.

20. ATTORNEYS' FEES:

In the event of the bringing of any action or suit by a party hereto against the other party by reason of any breach of any covenants, conditions, obligation or provision arising out of this Agreement, the prevailing party shall be entitled to recover from the non-prevailing party all of its costs and expenses of the action or suit, including reasonable attorney's fees, experts' fees, all court costs and other costs of action incurred by the prevailing party in connection with the prosecution or defense of such action and enforcing or establishing its rights hereunder (whether or not such action is prosecuted to a judgment). For the purposes of this Agreement, reasonable fees of attorneys of the Alameda City Attorney's office shall be based on the fees regularly charged by private attorneys with the equivalent number of years of experience in the subject matter area of the law for which the services were rendered who practice in Alameda County in law firms with approximately the same number of attorneys as employed by the Alameda City Attorney's Office.

21. HEALTH AND SAFETY REQUIREMENTS.

Provider acknowledges that the City shall have the right to impose, at the City's sole discretion, requirements that it deems are necessary to protect the health and safety of the City employees, residents, and visitors. Provider agrees to comply with all such requirements, including, but not limited to, mandatory vaccinations, the use of personal protective equipment (e.g. masks), physical distancing, and health screenings. Provider also agrees to make available to the City, at the City's request, records to demonstrate Provider's compliance with this Section. [See Certification of Compliance attached.]

22. COMPLIANCE WITH ALL APPLICABLE LAWS:

During the term of this Agreement, Provider shall keep fully informed of all existing and future state and federal laws and all municipal ordinances and regulations of the City of Alameda which affect the manner in which the services or tasks are to be performed by Provider, as well as all such orders and decrees of bodies or tribunals having any jurisdiction or authority over the same. Provider shall comply with all applicable laws, state and federal and all ordinances, rules and regulations enacted or issued by the City.

23. CONFLICT OF LAW:

This Agreement shall be interpreted under, and enforced by the laws of the State of California without regard to any choice of law rules which may direct the application of laws of another jurisdiction. The Agreement and obligations of the parties are subject to all valid laws,

orders, rules, and regulations of the authorities having jurisdiction over this Agreement (or the successors of those authorities). Any suits brought pursuant to this Agreement shall be filed with the courts of the County of Alameda, State of California.

24. WAIVER:

A waiver by the City of any breach of any term, covenant, or condition contained herein shall not be deemed to be a waiver of any subsequent breach of the same or any other term, covenant, or condition contained herein, whether of the same or a different character.

25. INTEGRATED CONTRACT:

Subject to the language of Section 30, the Recitals and exhibits are a material part of this Agreement and are expressly incorporated herein. This Agreement represents the full and complete understanding of every kind or nature whatsoever between the parties hereto, and all preliminary negotiations and agreements of whatsoever kind or nature are merged herein. No verbal agreement or implied covenant shall be held to vary the provisions hereof. Any modification of this Agreement will be effective only by written execution signed by both the City and Provider.

26. CAPTIONS:

The captions in this Agreement are for convenience only, are not a part of the Agreement and in no way affect, limit or amplify the terms or provisions of this Agreement.

27. COUNTERPARTS:

This Agreement may be executed in any number of counterparts (including by fax, PDF, DocuSign, or other electronic means), each of which shall be deemed an original, but all of which shall constitute one and the same instrument.

28. SIGNATORY:

By signing this Agreement, signatory warrants and represents that they executed this Agreement in their authorized capacity and that by their signature on this Agreement, they or the entity upon behalf of which they acted, executed this Agreement.

29. CONTROLLING AGREEMENT:

In the event of a conflict between the terms and conditions of this Agreement (as amended, supplemented, restated or otherwise modified from time to time) and any other terms and conditions wherever contained, including, without limitation, terms and conditions included within exhibits, the terms and conditions of this Agreement shall control and be primary.

30. ALAMEDA CTC LOCAL BUSINESS CONTRACT EQUITY PROGRAM:

a. Provider shall comply with all applicable provisions of Alameda County Transportation Commission's (ALAMEDA CTC's) Local Business Contract Equity (LBCE) Program, as set forth in Exhibit C.

b. If the Provider or any subconsultant is a Local Business Enterprise (“LBE”), Small Local Business Enterprise (“SLBE”), and/or Very Small Local Business Enterprise (“VSLBE”) firm, the certificate for that firm shall be attached to this Agreement. These certificates are included as Exhibit D.

c. No substitution of a listed LBE, SLBE, or VSLBE subconsultant on a contract can be made without the prior written approval of City with agreement of ALAMEDA CTC. If an LBE, SLBE, or VSLBE subconsultant is unable to perform successfully, the City or Provider shall submit a written request to ALAMEDA CTC for approval to replace such firm. Provider must make good faith efforts to replace such LBE, SLBE, or VSLBE with another LBE, SLBE, or VSLBE, respectively. ALAMEDA CTC may investigate the circumstances surrounding the substitution request.

d. Provider agrees that within ten (10) calendar days’ receipt of payment from City, Provider shall pay to its subconsultants all amounts due from such payment for satisfactory performance of its contract, subject to such legal requirements under federal or state law regarding withholding of disputed payments and applicable penalties. Any delay or postponement of payment over thirty (30) days may take place only for good cause and with ALAMEDA CTC’s prior written approval. This requirement shall not be construed to limit or impair any contractual, administrative, or judicial remedies, otherwise available to the Provider or subconsultant in the event of a dispute involving late payment or nonpayment by the Provider, deficient subconsultant performance, and/or noncompliance by a subconsultant. This clause applies to LBE, SLBE, and VSLBE and non- LBE, SLBE, and VSLBE subconsultants.

e. Provider agrees to include any subconsultant’s acceptable invoices with each Payment Request Form that it submits to Sponsor Agency no later than thirty (30) calendar days after receipt of such invoice from the subconsultant. This clause applies to LBE, SLBE, and VSLBE and non- LBE, SLBE, and VSLBE subconsultants.

f. Provider agrees further to release retainage payments, if any, to each subconsultant within thirty (30) calendar days after the subconsultant’s work is completed and accepted. Any delay or postponement of payment over thirty (30) days may take place only for good cause and with ALAMEDA CTC’s prior written approval. This clause applies to LBE, SLBE, and VSLBE and non- LBE, SLBE, and VSLBE subconsultants.

Signatures on following page

IN WITNESS WHEREOF, the parties have each caused this Agreement to be duly executed on its behalf as of the Effective Date.

Arup North America Limited
an out of state stock corporation

CITY OF ALAMEDA
a municipal corporation

John Eddy, PE
Principal

Dirk Brazil
Interim City Manager

RECOMMENDED FOR APPROVAL

NAME
TITLE

Andrew Thomas
Planning Building & Transportation
Director

APPROVED AS TO FORM:
City Attorney

Celena H. Chen
Chief Planning Counsel

**Certification of Compliance
With the City of Alameda’s Vaccination Requirement**

The City of Alameda (“City”) requires all individuals who perform work for the City to be fully vaccinated¹ against COVID-19. All service providers and contractors for the City must sign the following statement certifying compliance with this requirement.

By signing below, I certify that all of our personnel who are performing work for the City are fully vaccinated against COVID-19. I also acknowledge that the City reserves the right to review any relevant records to demonstrate our compliance with this requirement.
I declare under penalty of perjury that the foregoing is true and correct.

Arup North America Limited

Date: _____

By: John Eddy, PE, Principal

¹ For the purposes of this Certification of Compliance, an individual is considered to be fully vaccinated if two weeks have passed since their second dose in a 2-dose series (such as the Pfizer or Moderna vaccines) or if two weeks have passed since receiving their single-dose vaccine (such as Johnson & Johnson’s Janssen vaccine).

Exhibit A:

SCOPE OF WORK

Under contract to the City of Alameda (“City”), Arup North America Limited (“Consultant”) shall provide technical oversight, technical support and on-call services for the Project Initiation Document (PID) Phase of the Oakland-Alameda Estuary Crossing Project (Project). The City will contract separately with HNTB (“PID Consultant”) to prepare the PID.

Consultant work shall be completed on an on-call, as-needed basis, to be approved in advance by City. Tasks may include:

Project Management

A. Contract Administration and Project Control:

1. Prepare and submit monthly invoices with a summary of activities undertaken during the invoicing period in conformance with this Agreement and Alameda CTC Consultant Payment Request Forms. Provide the City with one-month look ahead describing Consultant’s activities and anticipated budget expenditures. Manage Consultant’s contract costs.
2. Maintain Project records of Consultant’s Project correspondence and work products.

B. Project Communications:

1. Prepare and submit correspondence and memos, including all meeting minutes, for meetings organized and led by Consultant.
2. Upon request, review communication materials prepared by PID Consultant including the Project fact sheet, Project web- page and materials prepared to update the public and elected officials of project progress.

C. Project Meetings:

1. Upon request and as budget allows, attend internal Project meetings with PID Consultant and/or City.
2. Support, upon request, informational meetings including: City Boards and Commissions, City Councils, and other stakeholders and interested parties.

Support PID Development

Consultant will support the City, and provide technical oversight, in its review and management of the PID preparation by the PID Consultant, including the many technical documents required for the PID and developed in accordance with the latest Caltrans regulations, policies, procedures, manuals and standards. Caltrans’ Project Development Procedures Manual (PDPM) will guide review of the PID and its supporting documents.

Consultant may also advise City on overall Project direction, strategies and approaches; and prepare additional materials to support the successful completion and adoption of the PID.

Upon request, the task will include the review of the following project documents and materials developed by the PID Consultant: the Project need and purpose statement, the type of PID needed, and past studies and analysis.

The Consultant, upon request, will provide the following services:

- A. Review mapping, reports, plans and other information collected and compiled by the PID Consultant.
- B. Review documents and other information completed by the PID Consultant in accordance with Caltrans' latest PDPM.
- C. Review the electronic base map of the project area with coverage of approaches to the project limits; a catalogue of as-built plans and notes for the existing facilities impacted by the proposed Project; and a right of way map of the project area prepared by the PID Consultant.
- D. Review traffic studies prepared by the PID Consultant.
- E. Review criteria for comparing and evaluating the conceptual alternatives, and selecting the build alternatives.
- F. Review up to six (6) conceptual alternatives prepared by the PID Consultant.
- G. Review up to three (3) technically, economically, and politically feasible build alternatives (variations) and supporting documentation prepared by the PID Consultant.
- H. Review the proposed horizontal and vertical geometrics for each build alternative prepared by the PID Consultant.
- I. Review the right of way, easements, utilities' easements, order of magnitude cost estimates; and permit, agreements, and license requirements prepared by the PID Consultant for each of the selected build alternatives.
- J. Review required reports prepared by the PID Consultant to document the studies and design elements for value engineering opportunities, addressing those elements where it may appear that significant cost savings or other advantages can be realized.
- K. Advise on PID Consultant's proposed funding, operations, delivery strategy and maintenance commitments for the project build alternatives.
- L. Advise on PID Consultant's NEPA and CEQA clearance approaches, and recommendations for lead and responsible agencies.
- M. Review and advise on the near-immediate waterway clearance emergency action plan prepared by the PID Consultant.
- N. Review Draft and Final Draft PID prepared by the PID Consultant.
- O. Advise on the interaction with and, upon request, support and attend meetings with:
 - a. Technical Advisory Committee and Political Advisory Committee
 - b. Stakeholder agencies and entities
 - c. Public

Deliverables

Deliverable 1: Memos, spreadsheets, and annotated documents summarizing the review by Consultant.

Consultant may review and advise on the deliverables prepared by PID Consultant, which may include:

- Need and purpose definition
- Conceptual alternatives
- Alternatives screening criteria
- Build Alternatives (screened)
- Technical reports, as required
- Cost estimates
- Draft PID
- Responses to comments on Draft PID
- Final Draft PID
- Responses to comments on Final Draft PID
- Final PID

Deliverable 2: Meeting agendas and minutes for meetings organized and led by Consultant.

Deliverable 3: Other documents and materials to support the successful completion and adoption of the PID, upon request from City and within Agreement budget.



Fee Schedule

(July 1, 2022 through June 30, 2023)*

LBE	SLBE	VSLBE	Firm / Staff		Project Management	Develop PID	Total Budget
x			Arup	Rate	\$ 52,128	\$72,861	\$ 124,989
			Project Director	\$440	24	39	
			Project Manager	\$310	96	64	
			Technical Advisor - Planning	\$310		44	
			Senior Bridge Engineer	\$163		62	
			Marine Engineer	\$310		16	
			Senior Traffic Engineer	\$163		44	
			Project Control	\$123	96	0	
x	x	x	VST Engineering			\$15,498	\$15,498
			Principal Civil Engineer	\$224		65	
			Junior Cost Estimator	\$134		7	
x	x		Parikh Consultants, Inc			\$13,707	\$13,707
			Project Manager	\$308		8	
			Sr. Project Engineer/Geologist	\$206		17	
			Project Geologist	\$141		25	
			Staff Engineer	\$117		36	
			Hardesty & Hanover			\$31,200	\$ 31,200
			Movable Bridge Specialist (Principal)	\$375		23	
			Lead Structural Engineer (Principal)	\$375		14	
			Lead Mechanical Engineer	\$275		33	
			Lead Electrical Engineer	\$250		33	
			Ken Terpstra			\$14,500	\$14,500
			USCG Consultant	\$250		58	
Task Budget Total					\$52,128	\$147,766	\$199,894

* For period of July 1, 2023 through June 30, 2024, rates will increase by 4%.



ALAMEDA COUNTY TRANSPORTATION COMMISSION

LOCAL BUSINESS CONTRACT EQUITY PROGRAM

Adopted December 7, 2017

TABLE OF CONTENTS

TABLE OF CONTENTS	I
SECTION I. POLICY	1
<i>A. Policy Statement</i>	1
<i>B. Background</i>	1
<i>C. Applicability</i>	2
SECTION II. PROGRAM IMPLEMENTATION	2
<i>A. LBE, SLBE and VSLBE Goals and Participation</i>	2
<i>B. Waiver of Goals</i>	4
<i>C. Use of Sponsor Agency Local Business Preference Program</i>	4
<i>D. Certification</i>	4
<i>E. Status Monitoring and Reporting</i>	7
<i>F. Program Compliance</i>	8
<i>G. Program Outreach</i>	8
SECTION III. REPORTING AND OTHER REQUIREMENTS	9
<i>A. Reporting Requirements</i>	9
<i>B. Records Maintenance</i>	9
<i>C. Prompt Payment</i>	10
<i>D. Penalties and Sanctions</i>	10
<i>E. Program Review</i>	11
<i>F. Severability</i>	11
<i>G. Confidentiality</i>	11
APPENDICES	12
APPENDIX A. DEFINITIONS	13
APPENDIX B. RESPONSIBILITIES OF SPONSOR AGENCIES	17
APPENDIX C. GOOD FAITH EFFORTS FOR CONSTRUCTION CONTRACTS	18
<i>A. Good Faith Efforts Criteria</i>	18
<i>B. Good Faith Efforts Review</i>	19
APPENDIX D. RESPONSIBILITIES OF LBCE LIAISON OFFICER	20

SECTION I. POLICY

A. Policy Statement

The Alameda County Transportation Commission (Alameda CTC) has established this Local Business Contract Equity (LBCE) Program to create economic growth and jobs within Alameda County by requiring local contracting that supports residents and businesses in Alameda County. The LBCE Program helps to identify and engage the participation of Local Business Enterprise (LBE), Small Local Business Enterprise (SLBE) and Very Small Local Business Enterprise (VSLBE) firms located in Alameda County on applicable contracts as specified in **Section I.C** (Applicability).

Further, the LBCE Program contributes to the overall economic vitality of the County by:

1. Encouraging businesses to locate and remain in Alameda County;
2. Providing employment opportunities for residents of Alameda County; and
3. Generating economic activity and stimulating the local economy.

B. Background

The Alameda County Transportation Authority (ACTA) adopted a Local Business and Minority/Woman-Owned Business Enterprise Construction Program in 1995 as part of the first Measure B program. The initial goal of the program was to ensure participation of local firms as well as minority- and women-owned businesses. Over the years, the program evolved to reflect changes in statutes and court rulings associated with contract equity issues at both the state and federal levels.

In 2000 and 2001, ACTA formally adopted an LBE/SLBE Program with the specific purpose of encouraging businesses of all sizes to locate and remain in Alameda County, employ County residents, and spend Measure B funds for goods and services within Alameda County.

In 2007, ACTA and the Alameda County Transportation Improvement Authority (ACTIA), the agency created to administer the 2000 Measure B sales tax, jointly adopted a Local Business Contract Equity Program as a replacement for the earlier LBE/SLBE Program, extending its application to VSLBE firms and incorporating other policy changes designed to improve and facilitate implementation of the program.

In July 2010, Alameda CTC was created by the merger of the Alameda County Congestion Management Agency (ACCMA) and ACTIA, to streamline operations, eliminate redundancies, and save taxpayers' dollars. Alameda CTC is responsible for administering the sales tax Expenditure Plans, including contract oversight, policy direction, financing, investment management, and coordination of projects with regional transit and transportation agencies and other project sponsors, as required.

In November 2010, Alameda County voters approved the Measure F Alameda County Vehicle Registration Fee (VRF) program. The goal of the VRF program is to sustain the county's transportation network and reduce traffic congestion and vehicle-related pollution.

In November 2014, Alameda County voters approved Measure BB, augmenting and extending the existing transportation sales tax to fund implementation of a 30-year Transportation Expenditure Plan through 2045.

The funds produced by Measure B, Measure BB and the VRF provide significant dollars in transportation-related contracts for Alameda County-based firms. It is Alameda CTC's objective to identify and include qualified Alameda County-based businesses in the purchases of goods and

services required by the Alameda CTC and its Sponsor Agencies for area-wide transportation capital projects, local streets and roads, mass transit projects, bicycle and pedestrian safety, special transportation for seniors and people with disabilities, and other programs included in the Transportation Expenditure Plans.

C. Applicability

This LBCE Program applies to contracts in excess of \$25,000, in accordance with both **Paragraphs 1 and 2** below:

1. **Fund Source.** This LBCE Program applies to contracts which are funded either:
 - a. Solely by VRF, Measure B and/or Measure BB funds, or
 - b. In part by VRF, Measure B, and/or Measure BB funds in combination with other local funds.

The LBCE Program does not apply to contracts that include state and/or federal funds.

2. **Contract Type.** This LBCE Program applies to contracts which are either:
 - a. Administered by Alameda CTC, or
 - b. Related to, or in support of, a Sponsor Agency-administered capital project.

The applicable goals are specified in **Section II.A** (LBE, SLBE and VSLBE Goals and Participation).

This LBCE Program is intended to be consistent with the Alameda CTC’s Procurement Policy, which may be updated and approved by the Commission as necessary.

This LBCE Program is neutral as to race, religion, color, ethnicity, national origin, age, sex, physical handicap, sexual orientation, and any other characteristic protected by law.

SECTION II. PROGRAM IMPLEMENTATION

A. LBE, SLBE and VSLBE Goals and Participation

An LBE, SLBE or VSLBE contract goal is a percentage of the total contract amount that is expected to be performed by the firms with the corresponding certification. LBE, SLBE, and VSLBE firms must be certified prior to submission of any bid or proposal to be counted towards meeting the applicable LBE, SLBE, and/or VSLBE goals.

1. Summary of Goals

TABLE 1: SUMMARY OF GOALS

Type of Contract	LBE	SLBE ¹	VSLBE ²
Contract over \$75,000			
Construction	60.0%	20.0%	N/A
Professional Services	70.0%	30.0%	N/A
Contract greater than \$25,000 and equal to or less than \$75,000			
Construction	N/A	N/A	N/A
Professional Services	N/A	N/A	30.0%
1. <i>SLBE participation also counts toward fulfilling the LBE goal.</i>			
2. <i>VSLBE participation also counts toward fulfilling the LBE and SLBE goals.</i>			

2. Applicable Credits for Contract Award

During the selection process for contract award of professional services contracts, the ability to meet or exceed LBE, SLBE and/or VSLBE goals shall yield applicable credits as follows:

- LBE and SLBE Goals: Five percent (5.0%) of the total evaluation points for each goal, for a total of ten percent (10.0%).
- VSLBE Goal: Twenty percent (20.0%) of the total evaluation points.

3. LBE Goals

The LBE goals for contracts over \$75,000 are as follows:

- Sixty percent (60.0%) on construction contracts, and
- Seventy percent (70.0%) on professional services contracts.

Participation of businesses that are certified as LBE, SLBE, or VSLBE count toward fulfilling a LBE contract goal.

The LBE goal for construction contracts can be met through the participation of certified prime and/or subcontractor(s). A bidder that fails to meet the LBE goal on a construction contract shall not be awarded the contract unless the Good Faith Efforts (GFE) requirements are met (see **Appendix C**).

The LBE goal for professional services contracts can be met through the participation of certified prime and/or subcontractor(s). A proposer that fails to meet the LBE goal shall not receive the applicable credit of five percent (5.0%) of the total evaluation points during the selection process.

4. SLBE Goals

The SLBE goals for contracts over \$75,000 are as follows:

- Twenty percent (20.0%) on all construction contracts, and
- Thirty percent (30.0%) on all professional services contracts.

Participation of businesses that are certified as SLBE or VSLBE count toward fulfilling a SLBE contract goal.

The SLBE goal for construction contracts can be met through the participation of certified prime and/or subcontractor(s). A bidder that fails to meet the SLBE goal on a construction contract shall not be awarded the contract unless the GFE requirements are met (see **Appendix C**).

The SLBE goal for professional services contracts can be met through the participation of certified prime and/or subcontractor(s). A proposer that fails to meet the SLBE goal shall not receive the applicable credit of five percent (5.0%) of the total evaluation points during the selection process.

5. VSLBE Goal

The VSLBE goal of thirty percent (30.0%) applies to professional services contracts greater than \$25,000 and equal to or less than \$75,000.

The VSLBE goal can be met through the participation of certified prime and/or subcontractor(s). A proposer that fails to meet the VSLBE goal shall not receive the applicable credit of twenty percent (20.0%) of the total evaluation points during the selection process.

B. Waiver of Goals

In some cases, a request may be made to waive the LBE and/or SLBE goals due to extremely limited subcontracting opportunities for LBE and/or SLBE firms, lack of interested LBE and/or SLBE firms in the geographic area in which work is to be performed, or other reasons. Alameda CTC or the Sponsor Agency may recommend that a contract be advertised without LBE and/or SLBE goals, and such recommendation must be reviewed and approved by the Commission. Before making a recommendation to waive the goals, the following due-diligence steps must be completed:

1. Define the draft scope of work, items of work and estimated value of work items.
2. Review Alameda CTC certification database, and the certification database of partner certifying agencies, for certified businesses that are willing and able to perform the listed items of work.
3. Conduct focused outreach to identify Alameda County businesses, whether certified or eligible for certification, that are willing and able to perform the listed items of work.
4. Post the “Intent to Waive Goals” notice and the description of the draft scope of work and items of work on Alameda CTC’s website at least forty-five (45) calendar days before advertising the contract to allow any LBE, SLBE and/or VSLBE firms to notify Alameda CTC of their interest and ability to perform such work.

If Alameda CTC determines that, after completing the steps listed above, there is an insufficient number of LBE and/or SLBE firms willing and able to perform the items of work, a recommendation shall be submitted to the Commission for permission to advertise without one or both goals. Alameda CTC’s report to the Commission shall contain a detailed description of the steps taken to identify any LBE, SLBE and/or VSLBE firms to perform the items of work.

C. Use of Sponsor Agency Local Business Preference Program

A Sponsor Agency may request to use its own local business preference program in lieu of this LBCE Program if such program has been formally adopted by the Sponsor Agency’s governing body. A Sponsor Agency’s request to use its own local business program must include a copy of the program and evidence of the governing body’s adoption of such program. Substitution of the LBCE Program must be approved in writing by the LBCE Liaison Officer prior to advertisement of the contract.

D. Certification

1. Eligibility

For a business (e.g., non-profit, sole proprietorship, partnership, corporation, or joint venture) to be eligible for certification under this LBCE Program, it must meet or exceed all applicable criteria set forth below:

- **LBE Criteria**

- a. Hold a valid business license issued by Alameda County or a city within Alameda County for at least six (6) months prior to certification date;
- b. Be located and fully operational at a fixed place of business within Alameda County where administrative, clerical, professional, and other productive work is continuously performed relative to its commercial contracts for at least six (6) months prior to the certification date, with two types of evidence of maintaining a working office at such

business address: (1) proof of a prior or current fully executed contract containing such business address, and (2) a lease agreement or proof of ownership of real property for the fixed place of business (a temporary, mobile or virtual office, project work station, telephone answering and/or mail service in an office suite, post office box or address, etc., do not constitute a fixed place of business location);

- c. Have a minimum of one full-time equivalent employee staffing the Alameda County office, if the business has one or more offices located outside of Alameda County;
 - d. Be bona fide with real and continuing business activities and ownership interests which are not created merely for the purpose of meeting the objectives of the LBCE Program; and
 - e. Be economically independent, perform commercially useful functions, and have a customer base (a business acting as a passive conduit rather than contributing a value added or actual portion of the work performed does not qualify for certification).
- **SLBE Criteria**
 - a. Meet all LBE Criteria; and
 - b. Have annual gross revenue, averaged over the most recent three (3) tax years, that does not exceed the current small business size standard for its principal business activity code as established by the U.S. Small Business Administration (SBA) and available on the SBA website.
 - **VSLBE Criteria**
 - a. Meet all SLBE Criteria; and
 - b. Have annual gross revenue, averaged over the most recent three (3) tax years, that does not exceed \$3,500,000.

2. Certification Process

Businesses must submit a valid and complete application, with all required forms and documentation, in accordance with application instructions. Alameda CTC may conduct a site visit before certifying the firm, and at any time during the term of the certification as it may be extended. The application processing period is approximately thirty (30) calendar days from the date a valid and complete application is received by Alameda CTC. Alameda CTC certifications shall be valid for up to two (2) years from the last day of the month in which the certification was granted.

3. Recertification Process

Certifications must be renewed biennially by submitting a valid and complete recertification application, with all required forms and documentation, in accordance with application instructions. If a firm's certification lapses, that firm must follow the Certification Process to again be certified under this LBCE Program.

4. Certification Denial Appeals

A firm that is found to be ineligible for certification under the LBCE Program may make a written appeal within ten (10) calendar days of the notice of determination. Written appeals must be addressed to the LBCE Liaison Officer, and must include any evidence that might refute the original finding. The LBCE Liaison Officer will conduct an investigation, and review all records

used in making the determination, along with the written appeal. The LBCE Liaison Officer will present findings and make a recommendation to the Executive Director for action. The Executive Director will render a final determination within thirty (30) calendar days of receiving the appeal, and such determination shall be final.

5. Status Changes

A firm that no longer meets the certification requirements will be subject to decertification. Changes to eligibility criteria may result in status changes from one certification category to another. Alameda CTC shall inform such firms of any such changes to status or decertification. A certified firm shall promptly notify Alameda CTC in writing of any change in circumstances affecting such firm's ability to meet size, certification status, ownership, or control requirements or any material change in the information provided in its application form.

6. Investigations of Any Challenges to LBE, SLBE, or VSLBE Status

Alameda CTC may investigate any written communications challenging the validity of a certification status of a business. The communication must clearly outline the reason(s), and include any evidence, on which the validity of a certification is questioned. If an investigation determines that a firm was properly certified but is no longer eligible, Alameda CTC will adjust or cancel the certification pursuant to the Status Changes provisions above. Any firm determined to have knowingly made, used, or caused to be made or used a false record, information or statement to secure its status as an LBE, SLBE or VSLBE will be decertified and sanctions will be imposed. Sanctions may include, but are not limited to:

- a. Banning of the business from bidding, working or providing goods and services on all Alameda CTC contracts for a period of three (3) years;
- b. Ineligibility, if applicable, as an LBE, SLBE, and VSLBE for the purposes of all contracts projects, and programs, including subcontracting and joint ventures, under this LBCE Program for a period of three (3) years;
- c. Referral of the matter to legal counsel for determination as to refer complaint to the District Attorney for criminal prosecution; and
- d. Any other penalty available by law or in equity.

Any violations found after awarding a contract will be considered a material breach of contract and Alameda CTC may, at its option, consider the contract null and void; recover any and all damages; and immediately implement penalties. Alameda CTC shall inform such firms, and may advise partner certifying agencies of any status changes, including decertification and debarment.

7. Decertification Appeals

If a firm disputes a certification status change or decertification following an investigation, that firm may appeal the finding by submitting a written appeal within ten (10) calendar days after Alameda CTC's issuance of the notice of the results of the investigation. Written appeals must be addressed to the LBCE Liaison Officer, and must include any evidence that might refute the original finding. The LBCE Liaison Officer will review all records used in making the determination, along with the written appeal. The LBCE Liaison Officer will present findings and make a recommendation to the Executive Director for action. If the Executive Director finds that the status change or decertification was valid, the matter will be presented to the Commission for a final determination, and such determination shall be final. If, however, the Executive Director

finds that the appeal is valid, the Executive Director shall rescind the certification status change or decertification.

E. Status Monitoring and Reporting

1. Measurement

Only the value of the work actually performed by LBE, SLBE and/or VSLBE firms will be counted towards the applicable goals. Alameda CTC will count expenditures to LBE, SLBE and/or VSLBE firms when the firm is performing a Commercially Useful Function on that contract. The entire amount of that portion of a contract that is performed by the LBE, SLBE, and/or VSLBE firm's own workforce will be counted. This includes the cost of equipment, supplies, and materials obtained by the LBE, SLBE and/or VSLBE firms for work on the contract.

Alameda CTC or its Sponsor Agency will evaluate the amount of work subcontracted, industry practices, whether the amount the firm is to be paid under the contract is commensurate with the work it is actually performing, as well as the credit claimed for its performance of the work, and other relevant factors in determining whether a business is performing a Commercially Useful Function.

When a business is presumed to not be performing a Commercially Useful Function, the business may present evidence to rebut this presumption. Alameda CTC or the Sponsor Agency will make the final determination whether the firm is performing a Commercially Useful Function given the type of work involved, normal industry practices, and the evidence presented.

2. Participation Requirements

When a firm loses or changes its certification status after contract award, the participation of such firm shall continue to count toward the goal(s) based on its certification status as reported at the time of the contract award. However, any additional work given to a firm through a contract amendment after it has lost its certification, shall not count towards the applicable goal.

3. Joint Ventures

For joint ventures, Alameda CTC will count the total participation dollar value (participation ratio times the total project cost) of the LBE, SLBE, and/or VSLBE contract(s) equal to the distinct, clearly defined portion of the work of the contract that the LBE, SLBE, and/or VSLBE performs toward the goals. The participation ratio will be based on the average of LBE, SLBE, and/or VSLBE revenue share and the profit share, if different, attributed to the LBE, SLBE, and/or VSLBE. When a joint venture subcontracts part of the work on its contract to another firm, the value of the subcontracted work may be counted toward the LBE, SLBE, and/or VSLBE goal if the subcontractor(s) are certified as such. Work on subcontracts to non-certified firms do not count toward the LBE, SLBE, and/or VSLBE goals.

The dollar amount of the joint venture to be counted towards the goals for LBE, SLBE and/or VSLBE participation, is calculated using the following formula:

$$\begin{array}{l} \text{Dollar value of} \\ \text{joint venture} \\ \text{contract} \end{array} \quad \mathbf{X} \quad \begin{array}{l} \text{Percent of LBE/SLBE/VSLBE joint} \\ \text{venture financial participation in the} \\ \text{contract} \end{array} \quad = \quad \begin{array}{l} \text{Dollar value of joint} \\ \text{venture contract} \\ \text{applicable to goals} \end{array}$$

Whenever a joint venture involves LBE, SLBE, and/or VSLBE firms, the prime contractor shall provide Alameda CTC with the basis for creation of the joint venture, the responsibilities of each of the parties, and a full account of the LBE, SLBE, and/or VSLBE participation of each of the parties. Such joint venture shall ensure that the participating LBE, SLBE, and/or VSLBE have a commensurate share of the profit or loss to be realized from the joint venture. The agreement establishing the joint venture shall be in writing. Alameda CTC shall have the right to review the joint venture agreement and determine if such arrangement is within the requirements and intent of this LBCE Program.

F. Program Compliance

All prime contractors shall take all necessary and reasonable measures to achieve the LBE, SLBE, and/or VSLBE participation commitment established in the contract by the completion of the contract. Any modification to the original participation level shall be approved by Alameda CTC.

Any substitution of LBE, SLBE, and/or VSLBE subcontractor(s) must be approved in writing beforehand by Alameda CTC, or by the Sponsor Agency with written consent from Alameda CTC. If an LBE, SLBE, and/or VSLBE subcontractor is unable to perform successfully, such subcontractor shall be replaced and the Sponsor Agency, or the prime contractor, shall notify Alameda CTC and respectively seek written consent or approval to substitute such subcontractor. Alameda CTC may investigate the circumstances surrounding the request for substitution. The prime contractor shall make its best effort to replace the original LBE, SLBE, or VSLBE with another firm that shall count toward the same participation (e.g., an LBE firm may be substituted by an LBE, SLBE or VSLBE).

Alameda CTC and its Sponsor Agencies shall monitor compliance with the requirements of this LBCE Program during the term of the contract. If Alameda CTC or its Sponsor Agency determines that a prime contractor or subcontractor has failed to comply with the LBCE Program, Alameda CTC or its Sponsor Agency shall notify the contractor to remedy any such failure(s). Alameda CTC may require reports, information, and documentation from prime contractors, subcontractors, bidders, and the Sponsor Agency, as reasonably necessary, to determine compliance with this LBCE Program. Alameda CTC may hold a hearing to evaluate potential non-compliance issues. While the evaluation points for meeting the LBE, SLBE and/or VSLBE goals are applied during the selection process, there is no requirement that any particular goal be met on non-construction contracts. Similarly, participation falling short of the overall goal on construction contracts shall not be considered non-compliant if the bidder made Good Faith Efforts to meet the goals.

G. Program Outreach

Alameda CTC will use the following means to increase LBE, SLBE, and VSLBE participation:

1. Hold periodic workshops to inform businesses of upcoming contract and business networking opportunities.
2. Provide information on contracting processes and specific contract opportunities (e.g., make an effort to ensure: inclusion of LBE, SLBE, and/or VSLBE firms on contracting opportunity mailing lists; dissemination of the list of potential subcontractors to bidders regarding prime contracts; and make information available in languages other than English, as appropriate).
3. To the extent practicable, unbundle large contracts to make them more accessible to small businesses.

4. Encourage prime contractors to subcontract portions of work that they might otherwise perform with their own workforce.
5. Provide assistance to Sponsor Agencies during bid evaluations and with ways to achieve LBCE Program goals.
6. Employ robust contract compliance measures to ensure that prime contractor commitments to LBE, SLBE, and/or VSLBE firms are met.

SECTION III. REPORTING AND OTHER REQUIREMENTS

A. Reporting Requirements

Alameda CTC shall submit an LBCE Utilization Report to the Commission on an annual basis. The report shall include expenditures made by Alameda CTC and its Sponsor Agencies to LBE, SLBE, and VSLBE firms during the reporting period. The expenditures will show award amount and payments to the prime contractors and their respective subcontractors by contract type (e.g., construction contract or professional services contract) and certification status.

The Sponsor Agencies shall provide this information on a semi-annual basis or when requesting reimbursement from Alameda CTC, whichever occurs first, regardless of whether or not such contracts are subject to the LBCE Program goal requirements. The information shall list the total payments made on each active contract during the reporting period, in addition to awards, modifications, and payments to all LBE, SLBE, VSLBE prime and subcontractors at all tiers of the contract.

B. Records Maintenance

The awarding agency (Alameda CTC or its Sponsor Agency) shall maintain accurate records for each contract awarded. The records shall include dollar values, the nature of the goods or services to be provided, the name of the prime contractor to which the contract was awarded, and the effort the prime contractor employed to solicit bids from LBE, SLBE and/or VSLBE firms. In addition, the information shall include all subcontracts awarded by the prime contractor identifying for each subcontractor the dollar value, the nature of the goods or services provided, and the name of the subcontractor.

All prime contractors are required to maintain certain records and documents for a period of five (5) years after Alameda CTC's payment of the final invoice. These records will be made available for inspection upon request by an authorized representative of Alameda CTC and shall include the following:

1. The name and address of each first-tier subcontractor;
2. The name and business address, regardless of tier, of every LBE, SLBE and/or VSLBE subcontractor;
3. The date of payment and the total dollar amount paid to each subcontractor; and
4. The date of work performed by their own workforce along with the corresponding dollar value of the work claimed toward the applicable LBCE goal.

C. Prompt Payment

The prime contractor shall be paid within thirty (30) calendar days of submitting a valid and complete invoice with all required supporting documentation. Accompanying the request for payment, a prime contractor will submit a Payment Request Form summarizing payments due. When paying the prime contractor, Alameda CTC or its Sponsor Agency will include a Payment Request Form that reflects all approved items. Prime contractors shall include an exact copy of this Payment Request Form with each payment to subcontractors.

The prime contractor shall submit acceptable subcontractors' invoices with each Payment Request Form no later than thirty (30) calendar days after receipt of such invoices from its subcontractors.

Alameda CTC or its Sponsor Agency shall ensure that the clause(s) regarding prompt payment will be included in each contract subject to this LBCE Program, per Alameda CTC's Sample Contract Language requirements.

D. Penalties and Sanctions

When a contract subject to this LBCE Program is awarded and Alameda CTC and/or Sponsor Agency has cause to believe that any bidder, prime contractor, or subcontractor has willfully failed to comply with any of the provisions of this LBCE Program, either Alameda CTC or the Sponsor Agency may conduct an investigation. In order to complete its investigation, Alameda CTC or Sponsor Agency may require reports, information and documentation from bidders, prime contractors, subcontractors, and/or the Sponsor Agency, as are reasonably necessary to determine compliance with the requirements of this LBCE Program.

Based on this investigation, if Alameda CTC, or the Sponsor Agency with the advice and consent of Alameda CTC, finds non-compliance, the investigating entity will provide the bidder or prime contractor with written notice that a determination of non-compliance has been made. The recipient of such written notice shall reply within thirty (30) calendar days concerning whether it wishes to file a protest of the determination. Alameda CTC or the Sponsor Agency shall review the protest for at least thirty (30) calendar days, but not more than one hundred twenty (120) calendar days from the date the protest is received. Alameda CTC or the Sponsor Agency may extend the review period for up to thirty (30) calendar days for good cause, consistent with applicable statutes.

The sanctions that may be imposed for each violation of this LBCE Program are as follows:

1. Imposing a fine;
2. Suspending the contract until violation is remedied;
3. Terminating the contract; and
4. Disqualifying the bidder, contractor, subcontractor or other business from eligibility for providing goods or services to Alameda CTC for a period of up to three (3) years.

The Alameda CTC or the Sponsor Agency shall monitor the recipient's implementation of the agreement terms to ensure compliance.

If a bidder, prime contractor or subcontractor disputes a determination of non-compliance or any sanction imposed as a result of such a determination, the bidder, prime contractor or subcontractor may appeal Alameda CTC's or the Sponsor Agency's determination to the Commission. To be considered by the Commission, any such appeal must be submitted in writing to the LBCE Liaison

Officer and must be received within thirty (30) calendar days after issuance of the determination of non-compliance by Alameda CTC or the Sponsor Agency.

E. Program Review

This LBCE Program will be reviewed periodically by Alameda CTC. Alameda CTC may make changes to the LBCE Program as needed to implement the goals and objectives of the LBCE Program. Changes to the LBCE Program shall be submitted to the Commission for approval.

F. Severability

The provisions of this LBCE Program are declared to be separate and severable. The invalidity of any clause, sentence, paragraph, subdivision, section or portion of this LBCE Program, or the invalidity of the application thereof to any person or circumstances shall not affect the validity of the remainder of this LBCE Program, or the validity of its application to other persons or circumstances.

G. Confidentiality

Alameda CTC and its consultants shall safeguard from disclosure to third parties information that may reasonably be regarded as confidential business information, consistent with federal, state, and local law.

APPENDICES

APPENDIX A. DEFINITIONS.....	133
APPENDIX B. RESPONSIBILITIES OF SPONSOR AGENCIES.....	177
APPENDIX C. GOOD FAITH EFFORTS FOR CONSTRUCTION CONTRACTS.....	188
A. <i>Good Faith Efforts Criteria</i>	188
B. <i>Good Faith Efforts Review</i>	199
APPENDIX D. RESPONSIBILITIES OF LBCE LIAISON OFFICER.....	20

APPENDIX A. DEFINITIONS

The terms used in this LBCE Program are defined in the list below, in alphabetical order.

Alameda County Transportation Commission (Alameda CTC). Alameda CTC is a joint powers agency which plans, funds and delivers a broad spectrum of transportation projects and programs to enhance mobility throughout Alameda County, as the successor to three previous agencies: Alameda County Transportation Authority (ACTA), Alameda County Transportation Improvement Authority (ACTIA), and Alameda County Congestion Management Agency (ACCMA). Alameda CTC is responsible for the administration of voter-approved Measure B and Measure BB sales taxes and other local funds for transportation improvements and the Congestion Management Program in Alameda County.

Awarding Agency. Alameda CTC or a Sponsor Agency responsible for advertising, awarding and administering a contract.

Bid. A quote, proposal, or offer by a contractor to provide labor, material, goods and/or services to Alameda CTC or a Sponsor Agency for a specified price.

Capital Project. A capital project (as differentiated from a program) specifically listed in the Measure B or Measure BB Transportation Expenditure Plans, or an individual project to which the Commission uses its discretion to allocate Measure B, Measure BB or VRF funds to fund any portion of the development or construction of that project. Projects funded through Sponsor Agency's direct local distribution funds are not included.

Certification. The process of granting a status to firms qualified in the LBCE Program through the submission of a completed application. A firm may qualify as an LBE, SLBE, or a VSLBE, which are further defined herein.

Certification List. List of certified LBE, SLBE, and VSLBE firms maintained by Alameda CTC and available to the public on Alameda CTC's website.

Commercially Useful Function. A responsibility of a business for carrying out a piece of contract work by actually performing, managing, and supervising the work involved or providing the materials, equipment, or supplies to Alameda CTC or a Sponsor Agency as required by bid solicitation. To perform a Commercially Useful Function, a business must perform or exercise responsibility for at least thirty percent (30%) of the total cost of its contract with its own workforce, or the business must not subcontract a greater portion of the work than would be expected on the basis of normal industry practice for the type of work involved.

Commission. The governing body of Alameda CTC. The Commission is comprised of 22 members, with the following representation: All five Alameda County Supervisors, two representatives from the City of Oakland, one representative from each of the other 13 incorporated cities in Alameda County, one representative from the Alameda-Contra Costa Transit District, and one representative from the Bay Area Rapid Transit District.

Construction Contract. A legally binding agreement between Alameda CTC or a Sponsor Agency and a duly licensed person or firm to provide labor, materials, and/or equipment for Construction work.

Construction Work. Services performed by a duly licensed person or firm to build or construct structures, roadways, or roadway appurtenances for Alameda CTC or a Sponsor Agency.

Contract. A legally binding agreement obligating a seller to furnish goods or services (including, but not limited to, construction and professional services) and a buyer to pay for the goods or services.

Contractor/Consultant. A person or business entity with a current business license issued by a city or county that undertakes a contract to provide materials or labor to perform services or complete a job.

Fixed Place of Business. A fixed office, place, site, structure, or other similar facility, through which an individual or firm engages in a trade or business. For this purpose a fixed place of business shall include, but not be limited to, a designated office space; a factory; a store or sales outlet; or a workshop. A firm shall not be considered to have a fixed place of business merely because such individual or firm uses another person's office or fixed place of business, if such trade or business activities are relatively sporadic or infrequent, taking into account what is normal industry practice for that trade or business.

Good Faith Efforts (GFE). The steps set forth in Appendix C of this LBCE Program undertaken to comply with the goals and requirements imposed by Alameda CTC for participation of LBE and SLBE firms as a subcontractor on construction contracts.

GFE Points. The evaluation methodology employed on a construction bid to determine if a business meets the LBE or SLBE goals or made an acceptable effort towards attaining the goals established.

Joint Venture. An association of two or more individuals or entities for the purpose of engaging in a specific business enterprise for profit.

Local Business Contract Equity (LBCE) Liaison Officer. Alameda CTC's LBCE Liaison Officer is the agency representative primarily responsible for implementing all aspects of the LBCE Program.

Local Business Enterprise (LBE). An Alameda County business that meets LBE Criteria and is certified by the Alameda CTC.

LBE Goal. The targeted percentage of participation by LBE firms, as established by Alameda CTC, for contracts which are awarded by Alameda CTC and/or its Sponsor Agencies which are subject to this LBCE Program.

Measure B. The local initiatives approved by the voters of Alameda County in 1986 and 2000 to levy a one-half (1/2) cent sales and use tax on purchases within the County in order to finance certain transportation-related projects and programs as set forth in the Transportation Expenditure Plans that supported the measures which are incorporated by reference into this LBCE Program. The measures authorized the creation of Alameda CTC's predecessor agencies to administer the

implementation of Measure B. A copy of both Measure B documents, including the Transportation Expenditure Plans, are available at Alameda CTC's office and on its website.

Measure BB. The local initiative approved by Alameda County voters on November 4, 2014, to levy a one-half (1/2) cent sales and use tax through March 31, 2022 and thereafter a one cent sales and use tax through March 31, 2045 on purchases within the County to finance certain capital transportation projects and programs as set forth in the 2014 Transportation Expenditure Plan which outlines essential transportation improvements in every city throughout Alameda County and is incorporated by reference into this LBCE Program. A copy of Measure BB documents, including the Transportation Expenditure Plan, are available at Alameda CTC's office and on its website.

North American Industry Classification System (NAICS). The standardized system that classifies business establishments for the purpose of collecting, analyzing, and publishing statistical data related to the U.S. economy. The NAICS industry codes define establishments based on the activities in which they are primarily engaged.

Participation. Instance in which a prime contractor utilizes one or more LBE, SLBE, and/or VSLBE firms to meet Alameda CTC's LBE and SLBE subcontracting requirements. Prime contractors may count towards its subcontracting goals only those expenditures to LBE, SLBE, and VSLBE firms that perform a Commercially Useful Function.

Partner Certifying Agencies. Alameda County certifying agencies which work cooperatively with Alameda CTC in its efforts to certify Alameda County businesses under the LBCE Program.

Prime Contractor/Prime Consultant. Any person(s), firm, partnership, corporation, or joint venture who submits a bid or proposal and/or enters into a contract with Alameda CTC or a Sponsor Agency to provide goods and/or perform construction or professional services. Prime contractors shall perform at least thirty percent (30.0%) of construction work or professional services on a contract.

Principal Business Activity Code. A code designed to classify an enterprise by the type of activity in which it is engaged to facilitate the administration of the Internal Revenue Code. The principal business activity codes are based on the North American Industry Classification System.

Professional Services. Labor, materials, or equipment for professional services including, but not limited to, architects, engineering and construction-related services.

Small Local Business Enterprise (SLBE). An LBE with annual gross revenues, averaged over the most recent three (3) tax years, that does not exceed the U.S. Small Business Administration (SBA) small business size standard for its principal business activity.

SLBE Goal. The targeted percentage of participation by SLBE firms, as established by Alameda CTC, for contracts awarded by Alameda CTC and/or its Sponsor Agencies which are subject to this LBCE Program.

Sponsor Agency. Any public entity receiving Measure B, Measure BB, VRF, and/or other local funds from Alameda CTC to implement projects. Please refer to Appendix B for Responsibilities of Sponsor Agencies.

Subcontractor/Subconsultant. Any individual, partnership, corporation, firm, or other legal entity entering into a contract with a prime contractor to perform a portion of the construction work or professional services under a contract with Alameda CTC or a Sponsor Agency, including but not limited to truckers, manufacturers, suppliers of goods and/or services, and owner-operators of equipment.

U.S. Small Business Administration (SBA) Small Business Size Standard. A small business size standard determined by the U.S. SBA that represents the largest the gross revenues of a business (including its subsidiaries and affiliates) may be and still remain classified as a small business. SBA has established a Table of Small Business Size Standards which is matched to the North American Industry Classification System (NAICS) for industries.

Vehicle Registration Fee (VRF). Alameda County VRF Program that was approved by the voters in November 2010. The fee generates revenues through a \$10 per year vehicle registration fee.

Very Small Business Local Enterprise (VSLBE). An SLBE with annual gross revenue, averaged over the most recent three (3) tax years, which does not exceed \$3,500,000.

VSLBE Goal. The targeted percentage of participation by VSLBE firms, as established by Alameda CTC, for contracts awarded by Alameda CTC and/or its Sponsor Agencies which are subject to this LBCE Program.

APPENDIX B. RESPONSIBILITIES OF SPONSOR AGENCIES

Sponsor Agencies' responsibilities for contracts that are subject to the LBCE Program are as follows:

1. Advertise, award and administer any professional services or construction contract on capital projects not performed by the Sponsor Agency's own forces.
2. Include required provisions verbatim in the procurement document and subsequent contract for professional service and construction contracts (see Alameda CTC's Sample Contract Language for sample language and requirements).
3. Invite Alameda CTC staff and/or consultants to participate as a voting member in the selection of professional consultants and furnish copies of the procurement documents (e.g., Request for Proposals and Invitation for Bids) and contracts to Alameda CTC for review prior to approval by the Sponsor Agency on contracts utilizing Alameda CTC funds.
4. Advertise, award, and administer the construction and utility relocation contracts for Capital Projects in accordance with the applicable requirements of the Local Agency Public Construction Act and the California Labor Code, including its prevailing wage provisions. The Sponsor Agency shall obtain applicable wage rates from the California Department of Industrial Relations and shall adhere to the applicable provisions of the California Labor Code. Violations shall be reported to the California Department of Industrial Relations.
5. Comply with Alameda CTC's LBCE Program when selecting all professional consultants and construction contractors, unless the Sponsor Agency has received approval from Alameda CTC for the Waiver of Goals provisions or for the use of the Sponsor Agency's own local business program.
6. Utilize applicable credits for evaluation when selecting all vendors on phases of the Capital Projects for non-construction contracts. In the event that LBE or SLBE goals are not met on construction projects, Sponsor Agency will require contractors and vendors to make GFE using the process set forth in this LBCE Program. In the event that LBE or SLBE goals are not met on professional services contracts, Sponsor Agency will ensure that evaluation criteria will be applied as set forth in this LBCE Program.
7. Work with Alameda CTC to achieve Alameda CTC's objectives and clarify the required participation goals in the specific agreement in the event that the Sponsor Agency is bound by other mandated contract participation requirements.
8. On capital projects where the Sponsor Agency hires a consultant to administer a phase of the work funded by Alameda CTC, the Sponsor Agency will provide Alameda CTC with a list of prime contractors and subcontractors showing tasks and dollar values, and Progress Reports by project phase, when requesting reimbursement or on a semi-annual basis, whichever comes first. These reports shall describe the following: current status of the capital project; actions and eligible costs expended or incurred since the last report; actions expected to be taken during the next month; an updated schedule with estimated completion timeframe; scope changes; capital project related issues; any unexpected legal, environmental, engineering or construction difficulties; notices of potential claim; business enterprise participation from prime contractors and first-tier subcontractors; and any additional relevant information requested by Alameda CTC.

APPENDIX C. GOOD FAITH EFFORTS FOR CONSTRUCTION CONTRACTS

It is Alameda CTC's intent and policy to fulfill its goals for LBE and SLBE participation. If a bidder fails to meet the LBE or SLBE goals, Alameda CTC must determine whether the bidder made GFE to meet the LBE and SLBE goals. Efforts that are merely pro forma shall not be deemed GFE. Documentation of the contractor's GFE shall be submitted within four (4) calendar days of bid opening if the bidder does not meet the LBE and/or SLBE goals.

A. Good Faith Efforts Criteria

The prime contractor's GFE to reach out to LBE and SLBE firms shall be determined by the level of effort put into achieving the eight (8) measures outlined below. Failure to meet LBE and SLBE goals will not by itself be the basis for disqualification or determination of non-compliance with the LBCE Program. However, failure to include supporting documentation of a GFE and failure to achieve 70 out of 100 GFE evaluation points will render the bid non-responsive and will result in its rejection. A prime contractor shall certify, in its bid documents, which of the following actions it took in order to establish that it made a reasonable GFE to meet Alameda CTC's LBE and SLBE goals:

1. Attend pre-bid meetings scheduled by Alameda CTC or its Sponsor Agency to inform all bidders of the LBCE Program requirements for the project for which the contract will be awarded. Alameda CTC must have a record of the prime contractor's signature on the attendance sheet. **GFE Points = 5**
2. Identify specific items of work to be performed by LBE and SLBE firms in order to increase the likelihood of meeting the LBE and SLBE Goals. This includes, where appropriate, breaking out contract work items into economically feasible units to facilitate LBE and SLBE participation. **GFE Points = 15**
3. Advertise, not less than ten (10) business days before the date the bids are opened, in one or more local daily or weekly newspapers, trade association publications, trade oriented publications, trade journals, or other appropriate media to solicit LBE and/or SLBE firms that are interested in participating in the project. **GFE Points = 10**
4. Provide written notice of interest in bidding LBE and SLBE firms. Written notice shall specify which items of work the prime contractor has identified pursuant to Item 2 above. This notice shall be provided to LBE and SLBE firms within five (5) calendar days after the pre-bid meeting. **GFE Points = 15**
5. Follow-up on the written notice of interest by contacting the owner or other manager of the LBE and SLBE firms to determine whether the enterprises were interested in performing specific items of the project. The prime contractor is required to document the follow-up activities and provide written documentation (including copies of all communications) stating the date and method of contact and the reason for not using the subcontractor. **GFE Points = 20**
6. Make the project plans, specifications, and requirements for the selected work items available for review by interested LBE and SLBE firms. The prime contractor is required to provide a list of all LBE and SLBE firms to whom the project information was made available, method of contact, and copies of notifications. **GFE Points = 5**

7. Where needed, advise and make an effort to assist interested LBE and SLBE firms in obtaining lines of credit, or required insurance. **GFE Points = 5**
8. Negotiate in good faith with LBE and SLBE subcontractors. The prime contractor shall provide evidence that negotiations with LBE and SLBE firms were completed in good faith by documenting and providing names, addresses, telephone numbers, and email addresses of LBE and SLBE firms that were considered. To the extent that the prime contractor negotiated with the LBE and SLBE firms and did not select them for the work, the prime contractor shall provide written documentation for rejecting LBE and SLBE bids.
GFE Points = 25

B. Good Faith Efforts Review

The GFE Evaluation Process consists of a two-tiered review process:

1. **Interdisciplinary Review Team:** The initial review/analysis of the GFE documents will be performed by Alameda CTC staff. This initial report will be presented to the Interdisciplinary Review Team (IRT), nominated by the Executive Director, which determines if a GFE was demonstrated. A written evaluation report will be submitted to all bidders, stating whether the apparent low bidder has complied with the GFE requirements. To protest the IRT decision, a bidder has five (5) business days from the date of the written evaluation report to file a written objection. In the event a hearing is deemed appropriate by the Executive Director, all bidders shall be given at least five (5) business days' notice of the hearing. The IRT shall make its findings within ten (10) business days after the hearing. The IRT's decision may be appealed by the bidder or other interested parties, as defined in the bid document.
2. **GFE Review Committee:** Review of a decision of the IRT that is appealed will be conducted by a GFE Review Committee (Committee), which will be comprised of two (2) Commission members and an outside independent appointee. The two (2) Commission members will be appointed by the Chair of the Commission. The outside independent appointee will be retained by the Alameda CTC's Executive Director. The Committee shall hold a hearing in Alameda County. All subcontractors listed on the Good Faith Efforts Report and all bidders and their subcontractors that participated in the bidding process will be given at least ten (10) business days' notice of the hearing. The Committee will review evidence at the hearing and other factors relevant to the case to determine whether the apparent low bidder made GFE to meet the LBE and SLBE goals. The Committee shall review and keep confidential any information revealing a prime contractor's proprietary interests and shall exclude the public from the hearing for that limited purpose. The Committee shall give all bidders and all subcontractors participating in bids on the project an opportunity to present evidence relating to the apparent low bidder's GFE to meet the LBE and SLBE goals. The Committee makes a final determination as to whether a GFE was demonstrated. Alameda CTC or Sponsor Agency will rely on the decision of the Committee, and Alameda CTC will hold the Sponsor Agency harmless for implementing the decision of the Committee.

APPENDIX D.
RESPONSIBILITIES OF LBCE LIAISON OFFICER

Alameda CTC's LBCE Liaison Officer is responsible for implementing all aspects of the LBCE Program. The LBCE Liaison Officer has direct, independent access to the Executive Director of Alameda CTC concerning LBCE Program matters. The LBCE Liaison Officer may be assisted by staff and Alameda CTC consultants as necessary.

The specific duties and responsibilities of the LBCE Liaison Officer under this LBCE Program shall include, but not be limited to, the following:

1. Analyze and assess the available resources and evidence to establish and achieve overall annual program goals each year;
2. Develop, monitor and evaluate the LBCE Program, and prepare supplemental written procedures and guidelines to implement the LBCE Program;
3. Maintain and update the LBCE Program Certification List;
4. Oversee measures to facilitate the participation of local and small business concerns through outreach and other community programs, training and business development programs, restructuring contracting opportunities, and simplifying bonding, surety and insurance requirements;
5. Oversee the contract bid and award process, review contract specifications, ensure the staffing of pre-bid conferences to provide LBCE Program information and participate in the process of evaluating bids for contractor responsiveness, responsibility and GFE;
6. Monitor specific contract performance, payments, and actual participation;
7. Monitor overall participation, adjust the overall goals and means of achievement, assess areas of over-concentration of participation, identify ways to improve progress and reporting to Alameda CTC, as needed;
8. Refer LBE, SLBE and VSLBE firms to resources that provide technical assistance;
9. Oversee outreach to LBE, SLBE and VSLBE firms and community organizations to advise them of opportunities; and
10. Maintain all appropriate records and documentation of the LBCE Program, including gathering and reporting statistical data.



May 1, 2020

Mr. Aidan Hughes
 Arup North America, Ltd.
 1330 Broadway, Suite 1300
 Oakland, CA 94612

RE: Alameda County Transportation Commission Local Business Contract Equity Program Certification #ARU20200501-01

Dear Mr. Hughes:

CONGRATULATIONS! After careful review of your application, we have determined that your company meets the criteria under the Alameda County Transportation Commission (Alameda CTC) Local Business Contract Equity (LBCE) Program. Your firm is now certified with Alameda CTC and is eligible to meet LBCE Program participation goals subject to the terms and conditions identified below:

Certification Number:	#ARU20200501-01
Certification Category:	<input checked="" type="checkbox"/> Local Business Enterprise <input type="checkbox"/> Small Local Business Enterprise <input type="checkbox"/> Very Small Local Business Enterprise
Issue Date:	May 01, 2020
Expiration Date:	May 31, 2022

You must promptly notify Alameda CTC of any change in circumstances affecting your company's ability to meet size, certification status, ownership, or control requirements, or any material change in the information provided in your application form, within the two-year certification period. Alameda CTC reserves the right to request additional information and to conduct an on-site visit for the purpose of verifying information contained in your application during the certification term.

Should you have any questions or require additional information, please feel free to contact the Contract Equity Team at (510) 208-7460 or via email at Certification@AlamedaCTC.org.

Sincerely,

A handwritten signature in blue ink, appearing to read "Seung Cho", is written over the word "Sincerely,".

Seung Cho
 Director of Procurement and Information Technology



May 26, 2020

Mr. Gary Parikh
Parikh Consultants, Inc.
333 Hegenberger Road, Suite 303
Oakland, CA 94621

RE: Alameda County Transportation Commission Local Business Contract Equity Program Certification #PAR20200526-02

Dear Mr. Parikh:

CONGRATULATIONS! After careful review of your application, we have determined that your company meets the criteria under the Alameda County Transportation Commission (Alameda CTC) Local Business Contract Equity (LBCE) Program. Your firm is now certified with Alameda CTC and is eligible to meet LBCE Program participation goals subject to the terms and conditions identified below:

Certification Number:	#PAR20200526-02
Certification Category:	<input checked="" type="checkbox"/> Local Business Enterprise <input checked="" type="checkbox"/> Small Local Business Enterprise <input type="checkbox"/> Very Small Local Business Enterprise
Issue Date:	May 26, 2020
Expiration Date:	May 31, 2022

You must promptly notify Alameda CTC of any change in circumstances affecting your company’s ability to meet size, certification status, ownership, or control requirements, or any material change in the information provided in your application form, within the two-year certification period. Alameda CTC reserves the right to request additional information and to conduct an on-site visit for the purpose of verifying information contained in your application during the certification term.

Should you have any questions or require additional information, please feel free to contact the Contract Equity Team at (510) 208-7460 or via email at Certification@AlamedaCTC.org.

Sincerely,

Seung Cho
Director of Procurement and Information Technology



April 25, 2022

Mr. Anthony Valdiosera
VST Engineering
344 20th St.
Oakland, CA 94612

RE: Alameda County Transportation Commission Local Business Contract Equity Program Certification #VST20220425-03

Dear Mr. Valdiosera:

CONGRATULATIONS! After careful review of your application, we have determined that your company meets the criteria under the Alameda County Transportation Commission (Alameda CTC) Local Business Contract Equity (LBCE) Program. Your firm is now certified with Alameda CTC and is eligible to meet LBCE Program participation goals subject to the terms and conditions identified below:

Certification Number:	#VST20220425-03
Certification Category:	<input checked="" type="checkbox"/> Local Business Enterprise <input checked="" type="checkbox"/> Small Local Business Enterprise <input checked="" type="checkbox"/> Very Small Local Business Enterprise
Issue Date:	April 25, 2022
Expiration Date:	April 30, 2024

You must promptly notify Alameda CTC of any change in circumstances affecting your company’s ability to meet size, certification status, ownership, or control requirements, or any material change in the information provided in your application form, within the two-year certification period. Alameda CTC reserves the right to request additional information and to conduct an on-site visit for the purpose of verifying information contained in your application during the certification term.

Should you have any questions or require additional information, please feel free to contact the Certification Team at Certification@AlamedaCTC.org.

Sincerely,

Seung Cho
Director of Procurement and Information Technology

LIMITED POWER OF ATTORNEY

Dated 1 April 2020

OPERATIVE PROVISIONS:

1. DEFINITIONS

Unless the contrary intention appears, the following definitions apply:

Arup: **Arup North America Limited** a company incorporated in England and Wales with registered number 2094896 whose primary office address is 900 Wilshire Boulevard, 19th Floor, Los Angeles, California 94105.

Agent: **John Eddy of Arup - San Francisco Office, 560 Mission Street, Suite 700, San Francisco, CA 94105, USA**, an Adult over 18 years of age and a resident of the **State of California**

2. APPOINTMENT AND POWERS

By this Instrument, Arup appoints the Agent, who is an employee of Arup or its affiliated entities, as its attorney-in-fact and in Arup's name or otherwise and on its behalf to bind Arup and sign, execute, deliver and/or issue any proposal, tender and related documents, including agreements, up to a total fee of USD \$10,000,000 which the Agent in Agent's absolute discretion considers desirable in connection with Arup's ordinary course of business (the "Purpose"). This Limited Power of Attorney hereby revokes any previous Power of Attorney conferred upon the Agent by the Principal or any of its affiliated entities.

3. RATIFICATION

Arup undertakes to ratify and confirm whatever the Agent does or purports to do in good faith in the exercise of any power conferred by this Limited Power of Attorney in connection with the Purpose.

4. TERM AND REVOCATION

- 4.1 This Limited Power of Attorney shall remain effective for five years from the date herein unless revoked earlier in writing by Arup.
- 4.2 This Limited Power of Attorney shall be automatically terminated by operation of law when the Agent is no longer the employee of Arup or its affiliated entities.

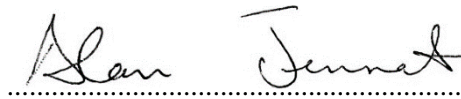
4.3 This Limited Power of Attorney may be terminated at any time immediately upon written confirmation by Arup, and Arup may decide to appoint other Agents for the Purpose.

5. VALIDITY

If any part of any provision of this document is ruled invalid or unenforceable under applicable law, such part will be ineffective to the extent of such invalidity only, without in any way affecting the remaining party of such provisions or the remaining provisions of this document.

This document has been executed and is delivered and takes effect on the date stated herein.

Signed as a deed by **Alan Jennat** as attorney for **Arup North America Limited** under a power of attorney dated 01 April 2020.

Handwritten signature of Alan Jennat in cursive script, positioned above a horizontal dotted line.

as attorney for **Arup North America Limited**

in the presence of:

.....

Name of Witness:

Address of Witness:

Occupation of Witness:

NOTARY ACKNOWLEDGMENT

STATE OF NEW YORK

COUNTY OF NEW YORK

On this 1st day of APRIL, 2020, before me, the undersigned, a Notary Public in and for said state, personally appeared ALAN JENNAT, personally known to me or proved to me on the basis of satisfactory evidence to be the individual(s) whose name is subscribed to the within instrument and acknowledged to me that he/she executed same in his/her capacity, and that be his/her signature on the instrument, the individual(s), or the person(s) upon behalf of which the individual acted, executed the instrument



Notary Public

LUCIANNE THANTU
Notary Public, State of New York
No. 01TH3122144
Qualified in New York County
Commission Expires February 07, 2021

My commission expires _____