

**AGREEMENT BETWEEN THE COUNTY OF SAN MATEO AND EOA INC.**

This Agreement is entered into on October 2, 2018, by and between the County of San Mateo, a political subdivision of the state of California, hereinafter called "County," and EOA Inc., hereinafter called "Contractor."

\* \* \*

Whereas, pursuant to Section 31000 of the California Government Code, County may contract with independent contractors for the furnishing of such services to or for County or any Department thereof; and

Whereas, it is necessary and desirable that Contractor be retained for the purpose of technical support in the development of the County of San Mateo Green Infrastructure Plan.

**Now, therefore, it is agreed by the parties to this Agreement as follows:**

**1. Exhibits and Attachments**

The following exhibits and attachments are attached to this Agreement and incorporated into this Agreement by this reference:

- Exhibit A—Services
- Exhibit B—Payments and Rates
- Attachment IP – Intellectual Property

**2. Services to be performed by Contractor**

In consideration of the payments set forth in this Agreement and in Exhibit B, Contractor shall perform services for County in accordance with the terms, conditions, and specifications set forth in this Agreement and in Exhibit A.

**3. Payments**

In consideration of the services provided by Contractor in accordance with all terms, conditions, and specifications set forth in this Agreement and in Exhibit A, County shall make payment to Contractor based on the rates and in the manner specified in Exhibit B. County reserves the right to withhold payment if County determines that the quantity or quality of the work performed is unacceptable. In no event shall County's total fiscal obligation under this Agreement exceed \$623,817. In the event that the County makes any advance payments, Contractor agrees to refund any amounts in excess of the amount owed by the County at the time of contract termination or expiration. Contractor is not entitled to payment for work not performed as required by this agreement.

**4. Term**

Subject to compliance with all terms and conditions, the term of this Agreement shall be from October 2nd, 2018, through December 31st, 2019.

**5. Termination**

This Agreement may be terminated by Contractor or by the Director of the Office of Sustainability or his/her designee at any time without a requirement of good cause upon thirty (30) days' advance written

notice to the other party. Subject to availability of funding, Contractor shall be entitled to receive payment for work/services provided prior to termination of the Agreement. Such payment shall be that prorated portion of the full payment determined by comparing the work/services actually completed to the work/services required by the Agreement.

County may terminate this Agreement or a portion of the services referenced in the Attachments and Exhibits based upon the unavailability of Federal, State, or County funds by providing written notice to Contractor as soon as is reasonably possible after County learns of said unavailability of outside funding.

County may terminate this Agreement for cause. In order to terminate for cause, County must first give Contractor notice of the alleged breach. Contractor shall have five business days after receipt of such notice to respond and a total of ten calendar days after receipt of such notice to cure the alleged breach. If Contractor fails to cure the breach within this period, County may immediately terminate this Agreement without further action. The option available in this paragraph is separate from the ability to terminate without cause with appropriate notice described above. In the event that County provides notice of an alleged breach pursuant to this section, County may, in extreme circumstances, immediately suspend performance of services and payment under this Agreement pending the resolution of the process described in this paragraph. County has sole discretion to determine what constitutes an extreme circumstance for purposes of this paragraph, and County shall use reasonable judgment in making that determination.

## **6. Contract Materials**

At the end of this Agreement, or in the event of termination, all finished or unfinished documents, data, studies, maps, photographs, reports, and other written materials (collectively referred to as "contract materials") prepared by Contractor under this Agreement shall become the property of County and shall be promptly delivered to County. The Contractor shall retain titles, rights, and interests in any underlying template documents and may make and retain copies of contract materials.

## **7. Relationship of Parties**

Contractor agrees and understands that the work/services performed under this Agreement are performed as an independent contractor and not as an employee of County and that neither Contractor nor its employees acquire any of the rights, privileges, powers, or advantages of County employees.

## **8. Hold Harmless**

### **a. General Hold Harmless**

Contractor shall indemnify and save harmless County and its officers, agents, employees, and servants from all claims, suits, or actions of every name, kind, and description to the extent resulting from the Contractor's negligent performance of this Agreement, the negligent performance of any work or services required of Contractor under this Agreement, or payments made pursuant to this Agreement brought for, or on account of, any of the following:

- (A) injuries to or death of any person, including Contractor or its employees/officers/agents;
- (B) damage to any property of any kind whatsoever and to whomsoever belonging;
- (C) any sanctions, penalties, or claims of damages resulting from Contractor's failure to comply, if applicable, with the requirements set forth in the Health Insurance Portability and Accountability Act of 1996 (HIPAA) and all Federal regulations promulgated thereunder, as amended; or

(D) any other loss or cost, including but not limited to that caused by the concurrent active or passive negligence of County and/or its officers, agents, employees, or servants. However, Contractor's duty to indemnify and save harmless under this Section shall not apply to injuries or damage for which County has been found in a court of competent jurisdiction to be solely liable by reason of its own negligence or willful misconduct.

The duty of Contractor to indemnify and save harmless as set forth by this Section shall include the duty to defend as set forth in Section 2778 of the California Civil Code.

**b. Intellectual Property Indemnification**

Contractor hereby certifies that it owns, controls, and/or licenses and retains all right, title, and/or interest in and to any intellectual property it uses in relation to this Agreement, including the design, look, feel, features, source code, content, and/or other technology relating to any part of the services it provides under this Agreement and including all related patents, inventions, trademarks, and copyrights, all applications therefor, and all trade names, service marks, know how, and trade secrets (collectively referred to as "IP Rights") except as otherwise noted by this Agreement.

Contractor warrants that the services it provides under this Agreement do not infringe, violate, trespass, or constitute the unauthorized use or misappropriation of any IP Rights of any third party. Contractor shall defend, indemnify, and hold harmless County from and against all liabilities, costs, damages, losses, and expenses (including reasonable attorney fees) arising out of or related to any claim by a third party that the services provided under this Agreement infringe or violate any third-party's IP Rights provided any such right is enforceable in the United States. Contractor's duty to defend, indemnify, and hold harmless under this Section applies only provided that: (a) County notifies Contractor promptly in writing of any notice of any such third-party claim; (b) County cooperates with Contractor, at Contractor's expense, in all reasonable respects in connection with the investigation and defense of any such third-party claim; (c) Contractor retains sole control of the defense of any action on any such claim and all negotiations for its settlement or compromise (provided Contractor shall not have the right to settle any criminal action, suit, or proceeding without County's prior written consent, not to be unreasonably withheld, and provided further that any settlement permitted under this Section shall not impose any financial or other obligation on County, impair any right of County, or contain any stipulation, admission, or acknowledgement of wrongdoing on the part of County without County's prior written consent, not to be unreasonably withheld); and (d) should services under this Agreement become, or in Contractor's opinion be likely to become, the subject of such a claim, or in the event such a third party claim or threatened claim causes County's reasonable use of the services under this Agreement to be seriously endangered or disrupted, Contractor shall, at Contractor's option and expense, either: (i) procure for County the right to continue using the services without infringement or (ii) replace or modify the services so that they become non-infringing but remain functionally equivalent.

Notwithstanding anything in this Section to the contrary, Contractor will have no obligation or liability to County under this Section to the extent any otherwise covered claim is based upon: (a) any aspects of the services under this Agreement which have been modified by or for County (other than modification performed by, or at the direction of, Contractor) in such a way as to cause the alleged infringement at issue; and/or (b) any aspects of the services under this Agreement which have been used by County in a manner prohibited by this Agreement.

The duty of Contractor to indemnify and save harmless as set forth by this Section shall include the duty to defend as set forth in Section 2778 of the California Civil Code.

**9. Assignability and Subcontracting**

Contractor will subcontract with Paradigm Environmental to perform portions of Tasks 4, 5, and 9; Lotus Water to perform portions of Tasks 1, 2, 3, 4, 5, and 9; SCI Consulting Group to perform portions of Task 9; and David J. Powers & Associates to perform portions of Task 1 and Task 2. Contractor shall not assign this Agreement or any portion of it to additional third parties or subcontract with additional third parties to provide services required by Contractor under this Agreement without the prior written consent of County. Any such additional assignments or subcontracts without County's prior written consent shall give County the right to automatically and immediately terminate this Agreement without penalty or advance notice.

**10. Insurance**

**a. General Requirements**

Contractor shall not commence work or be required to commence work under this Agreement unless and until all insurance required under this Section has been obtained and such insurance has been approved by County's Risk Management, and Contractor shall use diligence to obtain such insurance and to obtain such approval. Contractor shall furnish County with certificates of insurance evidencing the required coverage, and there shall be a specific contractual liability endorsement extending Contractor's coverage to include the contractual liability assumed by Contractor pursuant to this Agreement. These certificates shall specify or be endorsed to provide that thirty (30) days' notice must be given, in writing, to County of any pending change in the limits of liability or of any cancellation or modification of the policy.

**b. Workers' Compensation and Employer's Liability Insurance**

Contractor shall have in effect during the entire term of this Agreement workers' compensation and employer's liability insurance providing full statutory coverage. In signing this Agreement, Contractor certifies, as required by Section 1861 of the California Labor Code, that (a) it is aware of the provisions of Section 3700 of the California Labor Code, which require every employer to be insured against liability for workers' compensation or to undertake self-insurance in accordance with the provisions of the Labor Code, and (b) it will comply with such provisions before commencing the performance of work under this Agreement.

**c. Liability Insurance**

Contractor shall take out and maintain during the term of this Agreement such bodily injury liability and property damage liability insurance as shall protect Contractor and all of its employees/officers/agents while performing work covered by this Agreement from any and all claims for damages for bodily injury, including accidental death, as well as any and all claims for property damage which may arise from Contractor's operations under this Agreement, whether such operations be by Contractor, any subcontractor, anyone directly or indirectly employed by either of them, or an agent of either of them. Such insurance shall be combined single limit bodily injury and property damage for each occurrence and shall not be less than the amounts specified below:

- (a) Comprehensive General Liability... \$1,000,000
- (b) Motor Vehicle Liability Insurance... \$1,000,000
- (c) Professional Liability..... \$1,000,000

County and its officers, agents, employees, and servants shall be named as additional insured on any such policies of insurance, which shall also contain a provision that (a) the insurance afforded thereby to County and its officers, agents, employees, and servants shall be primary insurance to the full limits of liability of the policy and (b) if the County or its officers, agents, employees, and servants have other insurance against the loss covered by such a policy, such other insurance shall be excess insurance only.

In the event of the breach of any provision of this Section, or in the event any notice is received which indicates any required insurance coverage will be diminished or canceled, County, at its option, may, notwithstanding any other provision of this Agreement to the contrary, immediately declare a material breach of this Agreement and suspend all further work and payment pursuant to this Agreement.

#### **11. Compliance With Laws**

All services to be performed by Contractor pursuant to this Agreement shall be performed in accordance with all applicable Federal, State, County, and municipal laws, ordinances, and regulations, including but not limited to the Health Insurance Portability and Accountability Act of 1996 (HIPAA) and the Federal Regulations promulgated thereunder, as amended (if applicable), the Business Associate requirements set forth in Attachment H (if attached), the Americans with Disabilities Act of 1990, as amended, and Section 504 of the Rehabilitation Act of 1973, which prohibits discrimination on the basis of disability in programs and activities receiving any Federal or County financial assistance. Such services shall also be performed in accordance with all applicable ordinances and regulations, including but not limited to appropriate licensure, certification regulations, provisions pertaining to confidentiality of records, and applicable quality assurance regulations. In the event of a conflict between the terms of this Agreement and any applicable State, Federal, County, or municipal law or regulation, the requirements of the applicable law or regulation will take precedence over the requirements set forth in this Agreement.

Further, Contractor certifies that it and all of its subcontractors will adhere to all applicable provisions of Chapter 4.106 of the San Mateo County Ordinance Code, which regulates the use of disposable food service ware. Accordingly, Contractor shall not use any non-recyclable plastic disposable food service ware when providing prepared food on property owned or leased by the County and instead shall use biodegradable, compostable, reusable, or recyclable plastic food service ware on property owned or leased by the County.

Contractor will timely and accurately complete, sign, and submit all necessary documentation of compliance.

#### **12. Non-Discrimination and Other Requirements**

##### **a. General Non-discrimination**

No person shall be denied any services provided pursuant to this Agreement (except as limited by the scope of services) on the grounds of race, color, national origin, ancestry, age, disability (physical or mental), sex, sexual orientation, gender identity, marital or domestic partner status, religion, political beliefs or affiliation, familial or parental status (including pregnancy), medical condition (cancer-related), military service, or genetic information.

##### **b. Equal Employment Opportunity**

Contractor shall ensure equal employment opportunity based on objective standards of recruitment, classification, selection, promotion, compensation, performance evaluation, and management relations

for all employees under this Agreement. Contractor's equal employment policies shall be made available to County upon request.

**c. Section 504 of the Rehabilitation Act of 1973**

Contractor shall comply with Section 504 of the Rehabilitation Act of 1973, as amended, which provides that no otherwise qualified individual with a disability shall, solely by reason of a disability, be excluded from the participation in, be denied the benefits of, or be subjected to discrimination in the performance of any services this Agreement. This Section applies only to contractors who are providing services to members of the public under this Agreement.

**d. Compliance with County's Equal Benefits Ordinance**

Contractor shall comply with all laws relating to the provision of benefits to its employees and their spouses or domestic partners, including, but not limited to, such laws prohibiting discrimination in the provision of such benefits on the basis that the spouse or domestic partner of the Contractor's employee is of the same or opposite sex as the employee.

**e. Discrimination Against Individuals with Disabilities**

The nondiscrimination requirements of 41 C.F.R. 60-741.5(a) are incorporated into this Agreement as if fully set forth here, and Contractor and any subcontractor shall abide by the requirements of 41 C.F.R. 60-741.5(a). This regulation prohibits discrimination against qualified individuals on the basis of disability and requires affirmative action by covered prime contractors and subcontractors to employ and advance in employment qualified individuals with disabilities.

**f. History of Discrimination**

Contractor certifies that no finding of discrimination has been issued in the past 365 days against Contractor by the Equal Employment Opportunity Commission, the California Department of Fair Employment and Housing, or any other investigative entity. If any finding(s) of discrimination have been issued against Contractor within the past 365 days by the Equal Employment Opportunity Commission, the California Department of Fair Employment and Housing, or other investigative entity, Contractor shall provide County with a written explanation of the outcome(s) or remedy for the discrimination prior to execution of this Agreement. Failure to comply with this Section shall constitute a material breach of this Agreement and subjects the Agreement to immediate termination at the sole option of the County.

**g. Reporting; Violation of Non-discrimination Provisions**

Contractor shall report to the County Manager the filing in any court or with any administrative agency of any complaint or allegation of discrimination on any of the bases prohibited by this Section of the Agreement or the Section titled "Compliance with Laws". Such duty shall include reporting of the filing of any and all charges with the Equal Employment Opportunity Commission, the California Department of Fair Employment and Housing, or any other entity charged with the investigation or adjudication of allegations covered by this subsection within 30 days of such filing, provided that within such 30 days such entity has not notified Contractor that such charges are dismissed or otherwise unfounded. Such notification shall include a general description of the circumstances involved and a general description of the kind of discrimination alleged (for example, gender-, sexual orientation-, religion-, or race-based discrimination).

Violation of the non-discrimination provisions of this Agreement shall be considered a breach of this Agreement and subject the Contractor to penalties, to be determined by the County Manager, including but not limited to the following:

- i. termination of this Agreement;
- ii. disqualification of the Contractor from being considered for or being awarded a County contract for a period of up to 3 years;
- iii. liquidated damages of \$2,500 per violation; and/or
- iv. imposition of other appropriate contractual and civil remedies and sanctions, as determined by the County Manager.

To effectuate the provisions of this Section, the County Manager shall have the authority to offset all or any portion of the amount described in this Section against amounts due to Contractor under this Agreement or any other agreement between Contractor and County.

#### **h. Compliance with Living Wage Ordinance**

As required by Chapter 2.88 of the San Mateo County Ordinance Code, Contractor certifies all contractor(s) and subcontractor(s) obligated under this contract shall fully comply with the provisions of the County of San Mateo Living Wage Ordinance, including, but not limited to, paying all Covered Employees the current Living Wage and providing notice to all Covered Employees and Subcontractors as required under the Ordinance.

#### **13. Compliance with County Employee Jury Service Ordinance**

Contractor shall comply with Chapter 2.85 of the County's Ordinance Code, which states that Contractor shall have and adhere to a written policy providing that its employees, to the extent they are full-time employees and live in San Mateo County, shall receive from the Contractor, on an annual basis, no fewer than five days of regular pay for jury service in San Mateo County, with jury pay being provided only for each day of actual jury service. The policy may provide that such employees deposit any fees received for such jury service with Contractor or that the Contractor may deduct from an employee's regular pay the fees received for jury service in San Mateo County. By signing this Agreement, Contractor certifies that it has and adheres to a policy consistent with Chapter 2.85. For purposes of this Section, if Contractor has no employees in San Mateo County, it is sufficient for Contractor to provide the following written statement to County: "For purposes of San Mateo County's jury service ordinance, Contractor certifies that it has no full-time employees who live in San Mateo County. To the extent that it hires any such employees during the term of its Agreement with San Mateo County, Contractor shall adopt a policy that complies with Chapter 2.85 of the County's Ordinance Code." The requirements of Chapter 2.85 do not apply if this Agreement's total value listed in the Section titled "Payments", is less than one-hundred thousand dollars (\$100,000), but Contractor acknowledges that Chapter 2.85's requirements will apply if this Agreement is amended such that its total value meets or exceeds that threshold amount.

#### **14. Retention of Records; Right to Monitor and Audit**

(a) Contractor shall maintain all required records relating to services provided under this Agreement for three (3) years after County makes final payment and all other pending matters are closed, and Contractor shall be subject to the examination and/or audit by County, a Federal grantor agency, and the State of California.

(b) Contractor shall comply with all program and fiscal reporting requirements set forth by applicable Federal, State, and local agencies and as required by County.

(c) Contractor agrees upon reasonable notice to provide to County, to any Federal or State department having monitoring or review authority, to County's authorized representative, and/or to any of their respective audit agencies access to and the right to examine all records and documents necessary to determine compliance with relevant Federal, State, and local statutes, rules, and regulations, to determine compliance with this Agreement, and to evaluate the quality, appropriateness, and timeliness of services performed.

**15. Merger Clause; Amendments**

This Agreement, including the Exhibits and Attachments attached to this Agreement and incorporated by reference, constitutes the sole Agreement of the parties to this Agreement and correctly states the rights, duties, and obligations of each party as of this document's date. In the event that any term, condition, provision, requirement, or specification set forth in the body of this Agreement conflicts with or is inconsistent with any term, condition, provision, requirement, or specification in any Exhibit and/or Attachment to this Agreement, the provisions of the body of the Agreement shall prevail. Any prior agreement, promises, negotiations, or representations between the parties not expressly stated in this document are not binding. All subsequent modifications or amendments shall be in writing and signed by the parties.

**16. Controlling Law; Venue**

The validity of this Agreement and of its terms, the rights and duties of the parties under this Agreement, the interpretation of this Agreement, the performance of this Agreement, and any other dispute of any nature arising out of this Agreement shall be governed by the laws of the State of California without regard to its choice of law or conflict of law rules. Any dispute arising out of this Agreement shall be venued either in the San Mateo County Superior Court or in the United States District Court for the Northern District of California.

**17. Notices**

Any notice, request, demand, or other communication required or permitted under this Agreement shall be deemed to be properly given when both: (1) transmitted via facsimile to the telephone number listed below or transmitted via email to the email address listed below; and (2) sent to the physical address listed below by either being deposited in the United States mail, postage prepaid, or deposited for overnight delivery, charges prepaid, with an established overnight courier that provides a tracking number showing confirmation of receipt.

In the case of County, to:

Name/Title: Jim Eggemeyer, Director, Office of Sustainability, County of San Mateo  
Address: 455 County Center, 4<sup>th</sup> Floor, Redwood City, CA, 94063  
Telephone: (650) 363-4189  
Email: jeggemeyer@smcgov.org

In the case of Contractor, to:

Name/Title: Ray Goebel, Vice President, EOA Inc.  
Address: 1410 Jackson Street, Oakland, CA, 94162  
Telephone: (510) 832-2852, X113  
Email: rpgoebel@eoainc.com



**18. Electronic Signature**

Both County and Contractor wish to permit this Agreement and future documents relating to this Agreement to be digitally signed in accordance with California law and County's Electronic Signature Administrative Memo. Any party to this Agreement may revoke such agreement to permit electronic signatures at any time in relation to all future documents by providing notice pursuant to this Agreement.

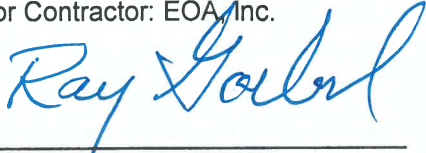
**19. Payment of Permits/Licenses**

Contractor bears responsibility to obtain any license, permit, or approval required from any agency for work/services to be performed under this Agreement at Contractor's own expense prior to commencement of said work/services. Failure to do so will result in forfeit of any right to compensation under this Agreement.

\* \* \*

In witness of and in agreement with this Agreement's terms, the parties, by their duly authorized representatives, affix their respective signatures:

For Contractor: EOA, Inc.



Contractor Signature

9-18-18

Date



Contractor Name (please print)

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COUNTY OF SAN MATEO

By:

President, Board of Supervisors, San Mateo County

Date:

ATTEST:

By:

Clerk of Said Board

## Exhibit A

In consideration of the payments set forth in Exhibit B, Contractor shall provide the following services:

The Contractor shall be responsible for completing a Green Infrastructure Plan for the County of San Mateo. Such Green Infrastructure Plan shall adhere to the guidelines required by the Stormwater Municipal Regional Permit (MRP) issued by the California State Water Resources Control Board and shall include the following elements:

### **Task 1 – Updates of policies, ordinances, and other legal mechanisms to integrate GI requirements**

The Contractor will complete this task with assistance from County staff to create an integrated policy framework that supports the implementation of Green Infrastructure (GI). The Contractor will work in collaboration with Planning and Building staff and other County staff on the assessment, research, writing, public outreach, and adoption processes for updates to existing planning documents, policies, ordinances, and other legal mechanisms, and will create a new drainage ordinance and technical manual, all related to creation of the GI Plan as described in more detail in the following tasks:

#### **Task 1a – Project Work Plan**

The Contractor will work with County staff to develop a detailed work plan, budget, and schedule that prioritizes policy changes, sets work and meeting schedules, public outreach, and presentations to decision makers. The work plan shall:

- Include a project schedule, including timeline of meetings and deliverables;
- Specify the number and frequency of meetings with the Planning and Building staff and the County GI Working Group, as well as the number and target dates for outreach meetings with stakeholders, such as the Midcoast Community Council, the North Fair Oaks Community Council and a workshop with engineers and other design professionals, a workshop with the Planning Commission, and attendance at adoption meetings of the Planning Commission and Board of Supervisors.

#### **Deliverables: The Contractor shall provide the County staff with:**

- A detailed work plan and schedule for the policy work, including a public outreach plan for the policy, ordinance and planning documents update process;
- One meeting with Planning and Building staff, and the County GI Workgroup;

#### **Task 1b – Document Review & Prioritization**

The Contractor will review existing planning documents, policies, ordinances, and other legal mechanisms to determine the updates needed to facilitate implementation of the GI Plan and requirements of the MRP, and prioritize updates, in collaboration with County staff. Tasks include:

- Review model planning update materials provided by the San Mateo Countywide Water Pollution Prevention Program (SMCWPPP) and utilize this policy language when appropriate to the conditions in unincorporated San Mateo County. County documents to be reviewed include the following:
  - General Plan
  - North Fair Oaks Community Plan
  - Local Coastal Program Policies
  - Zoning Regulations
  - Subdivision Regulations
  - Grading Regulations
  - San Mateo County Guidelines for Drainage Review
  - Energy Efficiency Climate Action Plan (Adaptation and Implementation Chapter)
  - Tree Regulations
  - Up to two more policy documents, such as Connect the Coastside, or Local Hazard Mitigation Plan

In consultation with the Contractor, the County will approve the priority pertaining to each potential policy/regulation change, including the technical manual. These priorities shall be reconciled with the requirements of the MRP and shall provide the framework and timeline for each deliverable. This first-cut prioritization should also include a preliminary determination of those policy changes that will be included in the workplan identified in Task 1f.

**Deliverables: The Contractor shall provide the County with:**

- A final, prioritized work plan and schedule for the policy work;
- Draft and final memorandum with the results of document review; and
- One meeting with Planning and Building staff, and the County GI Workgroup.

**Task 1c – Draft Policy Proposals & Amendments**

The Contractor will develop and analyze policy alternatives to determine the preferred alternative amendments that comply with relevant laws and regulations, including the MRP, for all prioritized policies, planning documents, ordinances and other legal mechanisms. The Contractor shall work with County staff to create, as much as is feasible, an integrated policy framework for the County by reconciling Planning policies and policies administered through other departments (as reflected in the list of documents reviewed under Task 1b and Task 2). The Contractor will propose new policies and policy sections to address these goals. References for appropriate language will include:

- The SMCWPPP “Draft Planning Document Update – Model Language” (November 2016);
- The Santa Clara Valley Urban Runoff Pollution Prevention Program (SCVURPPP) “Model Green Infrastructure Language for Incorporation into Municipal Plans” (developed by EOA, September, 2016);
- Language included in existing County documents (e.g., North Fair Oaks Community Plan);
- Relevant language prepared for other agencies’ documents by Contractor team members; and

- Relevant Guidance from the California Coastal Commission.

The Contractor will draft language for updates or amendments to priority policies or planning documents, ordinances and other legal mechanisms to create an integrated policy framework that supports the implementation of GI in unincorporated San Mateo County, consistent with the priority schedule finalized in Task 1b. The Contractor will review the possibility of leveraging private development to install GI in the public right-of-way or to implement GI onsite above and beyond what is required by Provision C.3 in the MRP. The Contractor will support public/community outreach meetings and events, as required, to provide meaningful opportunities for input for proposed policy updates, integrated with and leveraging the County's formal policy adoption public process. This may include presentations to the Board of Supervisor's (BOS) Midcoast Community Council, and North Fair Oaks Community Council and presentation at public workshop with the Planning Commission. The Contractor will also assist staff with presentation of the recommended amendments to relevant public bodies including the Planning Commission and the BOS.

**Deliverables: The Contractor shall provide the County with:**

- Draft policy proposals and draft policy background reports, including graphics where necessary explaining the rationale for policies proposed, particularly how they comply with the MRP requirements;
- Draft amendments to relevant planning documents, policies, ordinances, and other legal mechanisms;
- One meeting with Planning and Building staff, and the County GI Workgroup; and
- Attendance and power point presentation for up to five public meetings.

**Task 1d – Drainage Ordinance & Technical Manual**

The Contractor will create a new drainage ordinance and a new drainage technical manual, intended to assist applicants with design projects that comply with the County's drainage ordinance, including GI requirements.

The new drainage<sup>1</sup> ordinance shall include a three-tiered categorization of projects, including Basic, Prescriptive and Standard. Each project type will have unique submittal requirements, based on the complexity and size of the drainage system and site conditions.

- Basic – No additional storage is required either because sheet flows will not be appreciably modified or the existing drainage system has sufficient capacity to accommodate additional flows from new impervious surface. Basic projects need not prepare any drainage plans, but must demonstrate conformance with these standards.
- Prescriptive – Projects must demonstrate that the additional flows created are below a certain threshold, and that the proposed drainage design meet certain criteria specified in the policy. These projects may proceed without an engineered design. However, the project drainage must

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<sup>1</sup> San Mateo County requires drainage installations to have sufficient capacity to retain a 10 year storm for a specified period, and within FEMA flood zones drainage systems must be able to contain a 100 year storm for a specified period.

be adequately documented by submitting an owner-certified compliance checklist, accompanied by plans documenting the proposed drainage improvements.

- Standard – Projects that must submit an engineered drainage design because the level of flows exceed the thresholds for Basic or Prescriptive compliance. These projects must complete the C.3 form.

The new drainage technical manual will contain the following sections:

1. County's overall approach to regulating drainage;
2. Approaches to managing site water, the calculations that must be used in different situations to comply with the Drainage Ordinance, and design details;
3. Compliance with the drainage design process for small projects; and
4. Compliance with drainage design process for larger projects.

**Deliverables: The Contractor shall provide the County with:**

- A draft Drainage Ordinance that builds upon existing grading ordinance language;
- A compiled technical manual to support the Drainage Ordinance, with standard plans and details based on existing documents and recommended updates; and
- One meeting with Planning and Building staff, and the County GI Workgroup.

### **Task 1e - CEQA**

The Contractor will conduct environmental analysis of the project, consistent with the California Environmental Quality Act (CEQA) and prepare an Initial Study (IS) and a Negative Declaration (ND) or a Mitigated Negative Declaration (MND).

**Deliverables: The Contractor shall provide the County with:**

- One IS/ND or IS/MND and associated CEQA documents (Notices of Determination (NOD), Mitigation, Monitoring, and Reporting Programs (MMRP) for the following:
  - Drainage Ordinance and supporting technical manual; and
  - Updates to the General Plan and policies, or planning documents, ordinances and other legal mechanisms that are part of the GI Plan.

### **Task 1f – Work Plan for Future Updates**

The Contractor will develop a work plan and schedule for the County to update any additional documents not completed prior to July 2019 for transmittal to the Regional Water Quality Control Board as part of the GI Plan, as required in the MRP.

**Deliverables: The Contractor shall provide the County with:**

- One meeting with Planning and Building staff, and the County GI Workgroup;
- A prioritized workplan of future policy changes to integrate MRP GI requirements.

## Task 2 - Updates of Other Policies, Ordinances, Guidelines and Standards, and Other Legal Mechanisms to Integrate GI Requirements

In addition to the policies in Task 1 administered by the Planning and Building Department, the Contractor will evaluate needed changes to policies and standards administered by other departments to integrate the GI requirements of the MRP. Work performed under this task will include the following:

- The City/County Association of Governments of San Mateo County (C/CAG) is developing template GI Guidelines and Standards for jurisdictions to adopt, including GI Typical Details. The Contractor will evaluate the portion of the proposed GI Typical Details that are based on the San Francisco Public Utility Commission's (SFPUC) details and recommend revisions to make them compatible with the Public Works Department's *Standard Drawings for Public Improvement (Revised February 2008)*. The Contractor will also review the *Standard Drawings for Public Improvement* for consistency among the various areas of the County. Recommended changes and GI enhancements will be made in the form of redline/strikeout. The Contractor will also review the full list of C/CAG GI Details under consideration and recommend additional details needed for the County to account for the varied nature of its storm drain infrastructure. The product will be reviewed with County staff, and one set of comments will be incorporated. This work does not include changes to the drawings in AutoCAD.
- The Contractor will review the Public Works Department's encroachment in the public right-of-way permitting process to determine consistency with the County's GI Plan approach and elements, as well as recommended changes to the standard drawings and the policy documents reviewed in Task 1. Recommended changes to the encroachment permitting process will be provided in a memorandum to County staff.
- The Contractor will review the County's Ordinance Code Chapter 4.100, *Stormwater Management and Discharge Control*, to determine compliance with current MRP Provision C.3 requirements and consistency with the County's GI Plan approach and elements. Recommended changes will be provided in a memorandum to County staff, along with a redline version of the ordinance chapter.

### **Deliverables: The Contractor shall provide the County staff with:**

- Draft and final redline updates to the *Standard Drawings for Public Improvement* to incorporate recommended changes for consistency and for incorporation of GI elements;
- Draft and final redline updates to the proposed C/CAG details that are based on SFPUC's GI Typical Details to customize them for the County.
- Draft and final memo recommending additional details to account for County GI needs, including accounting for areas with nontraditional storm drain infrastructure.
- Up to two (2) meetings to discuss County needs related to GI Details and corresponding consultant team recommendations.
- Memorandum on review of and recommended changes to the encroachment in the public right-of-way permitting process.

- Memorandum on review of and recommended changes to County Ordinance Code Chapter 4.100, *Stormwater Management and Discharge Control*.

### **Task 3– Outreach and Education**

The Contractor will conduct the following trainings for County staff at County training facilities:

- a. Workshop on Operation and Maintenance (O&M) of GI Facilities – an all day workshop (6 hours of content) with a field training component, geared toward educating County maintenance staff on O&M procedures and techniques for GI facilities (using materials and checklists from the C/CAG “Green Suite” documents where appropriate);
- b. Workshop on GI Plan Implementation – a half-day (maximum 3 hour) workshop focused on educating management staff from multiple County departments about the content of the GI Plan and roles and responsibilities for implementing the Plan.

#### **Deliverables:**

- PowerPoint presentations for each of the two workshops described above.
- Handout materials for each workshop, assuming up to 50 participants.
- Refreshments (breakfast and lunch for O&M workshop, light breakfast or snack for GI Plan Implementation workshop), assuming up to 50 participants.

### **Task 4 – Project Prioritization and Mapping**

#### **Task 4a - Prioritization Guidance and Feasibility Analysis for GI Implementation**

Based on the Contractor’s experience developing the Stormwater Resource Plan (SRP), Reasonable Assurance Analysis (RAA), and associated GIS databases, the Contractor will work closely with County staff to utilize these foundational datasets and tailor approaches for prioritizing GI project opportunities for unincorporated communities. The SRP included development of a process for identification and prioritization of opportunities for GI projects, including regional stormwater capture projects (e.g., underground infiltration galleries within public parks), low impact development (LID) retrofits on publicly owned parcels, and green streets. The multi-benefit prioritization process was designed to initiate the identification and prioritization of GI project opportunities, while meeting the guidelines set by the State Water Resources Control Board for the SRP and Proposition 1 grant eligibility. To support the GI Plan, the Contractor will revisit the prioritization process and assumptions developed for the SRP, and modify and tailor the process to: (1) meet County preferences on categories and metrics used for project scoring and ranking; (2) incorporate site-specific data or issues for each unincorporated community; and (3) consider other opportunities, constraints, or challenges related to GI, such as road standards, available rights-of-way, utilities, connectivity to the storm drain infrastructure, drainage, depth to groundwater, integration with Safe Routes to School or other Complete Street opportunities, etc. The prioritization process can also be modified to incorporate new information and approaches



developed in parallel efforts supporting C/CAG in development of the San Mateo Countywide Sustainable Streets Master Plan (SSMP). The SSMP will develop additional information on opportunities for GI control measures within green streets, and drainage areas addressed by these control measures. The Contractor will coordinate with the County and C/CAG on the SSMP, and to the extent possible given the schedule of the SSMP, will incorporate information from the SSMP within Task 4A. The Contractor will deliver the County a database and GIS layers including the prioritized list of GI projects. The GIS layer will be incorporated within a public domain web viewer that can assist County staff in viewing project locations and basic project attributes.

To accompany the project database and GIS tools provided to the County, the Contractor will prepare a guidance document that documents the project identification and prioritization process. The guidance document will provide an overview of the purpose of the initial prioritization process for locating project opportunities through initial GIS analysis, and the next steps needed for transitioning projects towards implementation (e.g., field assessments, conceptual design, cost estimating).

**Deliverables: The Contractor shall provide the County staff with:**

- Document summarizing the various unincorporated areas and their characteristics and challenges or opportunities for GI and recommendations for areas to focus on that are most promising for GI;
- Guidance document or checklist for use in the field to determine if site-specific conditions are feasible for GI projects identified in the SRP and RAA;
- Draft and final database and GIS layers of prioritized GI projects. GIS layers will also be loaded into a public domain web viewer to support County staff in review of the projects and use of the tools for future selection of high-priority projects for further investigation; and
- Guidance document documenting the project identification and prioritization process and next steps for project implementation.

**Task 4b - Review, Analyze, and Provide Guidance on the Use of RAA Results**

The RAA considers the GI project opportunities identified in the SRP and performs modeling and cost-optimization to determine the most cost-effective implementation strategy for each municipal jurisdiction (including unincorporated County). The RAA also assesses various considerations for implementation through the comparison of different scenarios. These scenarios include:

- “Cohesive sediment” approach that acknowledges the uncertainty of the PCB source locations and other assumptions for PCB concentrations in stormwater runoff (defined by the San Francisco Estuary Institute through their work developing the Regional Watershed Spreadsheet Model [RWSM]). This approach assumes that a 17.6% reduction in cohesive sediment is sufficient to achieve the 17.6% reduction of PCBs required by the MRP to be achieved through the implementation of GI by 2040.
- “Total PCBs” approach that assumes RWSM predictions of PCB source loads are accurate and that GI should be implemented to maximize load reductions from these areas (through cost-optimization).

- “Proportional” approach that assumes each municipal jurisdiction is individually responsible for the 17.6% reduction.
- “Targeted” approach that assumes the 17.6% reduction can be achieved countywide, independent of municipal jurisdiction. The result is that certain municipalities may implement more GI than others and provide disproportional load reductions, and GI is implemented where it is determined to be most cost-effective (e.g., better infiltration, more GI project opportunities).

The Contractor will meet with County staff on an as-needed basis to discuss the assumptions and results of the RAA in terms of how these assumptions and scenarios impact unincorporated communities or ongoing County decisions on the GI planning process.

**Deliverables: The Contractor shall provide the County staff with:**

- Up to two (2) meetings with presentations to County staff on results of RAA model scenarios; and
- Memo describing how the County considered the various existing scenarios, what our preferred approach is, and why.

**Task 4c - Review Internal and Local Governance Structure and Make Recommendations for Changes to Ensure Successful GI Implementation**

GI implementation requirements of the MRP represent a major shift in planning, funding, and oversight of design, construction, and operation and maintenance, and will require leadership and cooperation from various County offices and departments. This will likely require new opportunities for collaboration of the Office of Sustainability, Public Works, Planning and Building, and Parks, the County Manager’s Project Development Unit and Real Property Division, as well as services within those departments. Any organizational change will also need to consider new funding sources for implementation, in addition to opportunities to dove-tail funding with current County services or programs. There are also potential opportunities to partner with agencies outside the County, including C/CAG, cities, or Caltrans. As needed and requested by the County, the Contractor will review internal and local governance structure and provide recommendations on leadership, staffing, and organizational changes that can support and ensure successful implementation of GI, and any existing operational hurdles or issues that need to be overcome in order to most efficiently implement GI. This may require facilitation of meetings with various County staff and other agencies that may participate in the organization. Based on the Contractor’s review, recommendations will be given to the County on changes to ensure successful GI implementation.

**Deliverables: The Contractor shall provide the County staff with:**

- As needed and requested by the County, up to two (2) meetings with County staff, including staff identified from various County offices and departments, to discuss and obtain information on the County’s organizational structure and issues regarding GI implementation; and

- As needed and requested by the County, one (1) facilitated meeting of County staff and potential staff from other agencies outside the County. The purpose of the meeting will be focused on identifying solutions to overcoming barriers to GI implementation.

#### **Task 4d - Analyze Opportunities to Collaborate with Other County Efforts**

The SRP prioritization process for GI project opportunities identifies the potential dual benefit of GI projects to reduce storm flows and impacts to flood prone areas. County efforts to update the prioritization process in Task 4A may also link GI efforts to the goals of countywide flood resiliency planning. The Contractor is currently performing modeling analysis of flooding impacts in the Atherton Channel and Bayfront Canal watershed, including simulation of GI projects identified in the SRP and incorporated in the RAA. GI is demonstrated to provide an important benefit to reducing storm flows and flooding impacts or mitigating increased flows potentially resulting from climate change, and represent an important tool in the toolbox of flood resiliency projects to be considered in various County watersheds facing similar flooding issues (e.g., Colma Creek, Belmont Creek).

Another opportunity for collaboration is with the Office of Sustainability Climate Change team’s efforts, which could help ensure that green infrastructure is resilient to the impacts of climate change such as flooding, erosion and drought, and that it remains functional throughout the anticipated design life of any proposed project. Collaboration could include collaboration on data sharing, technical analysis and pilot projects in unincorporated areas, as needed. The Contractor should anticipate sharing data with other County staff/contracted consultants, as needed throughout the project.

Another opportunity for collaboration is with the C/CAG Countywide Water Coordination Committee. The Committee promotes cross-jurisdiction communication and develops partnerships between efforts related to stormwater, flood control, and sea level rise planning.

#### **Deliverables: The Contractor shall provide the County staff with:**

- Memo summarizing the opportunities and approach for collaboration with other County efforts;
- Recommended updates to RAA results and project opportunity areas after considering the best available data and maps of climate change impacts such as flooding and erosion;
- As needed and requested by the County, share RAA modeling and data with other County staff and their contracted consultants;
- As needed and requested by the County, up to two (2) meetings with County staff and their consultants to discuss opportunities for collaboration with climate change and flood resiliency efforts; and
- As needed and requested by the County, review minutes and reports from the C/CAG Water Committee and summarize opportunities for collaboration.

#### **Task 4e - Analyze Opportunities for Regional Projects**

Regional projects represent the greatest opportunities for the County to collaborate with cities in terms of implementing GI projects. These projects often have large drainage areas that can span multiple municipal jurisdictions, resulting in each jurisdiction benefiting from the project in terms of PCB or

mercury load reduction. Schools represent another major opportunity given their locations throughout watersheds and available space for stormwater capture and infiltration facilities. Other opportunities may exist to partner with private land owners (e.g., churches, commercial parking lots) to co-locate stormwater regional facilities on their properties. Drainage area or modeled stormwater volumes (based on the RAA model) can serve as tools for developing cost-share agreements with multiple agencies and property owners on project design, construction, or operation and maintenance. As needed and at the request of the County, the Contractor will work with the County to identify additional opportunities for collaboration on regional projects that consider the geographical location of unincorporated areas in proximity to potential project locations. At the direction of the County, the Contractor will perform necessary analysis to quantify the potential benefits of the projects in terms of stormwater volume or pollutant loads reduced, which can be used to facilitate discussions with outside agencies on funding partnerships.

**Deliverables: The Contractor shall provide the County staff with:**

- As needed and requested by the County, the EOA team will identify up to two (2) new regional projects that can provide opportunities for collaboration with other cities. Two- to three-page preliminary conceptual designs will be prepared for each project to facilitate discussions on each project with other cities. Each concept will include results of the analysis of each project's benefits in terms of stormwater volume capture or pollutant load reduction, that can be used to support cost-share agreements between multiple agencies; and
- As needed and requested by the County, one (1) meeting with County staff to discuss opportunities for regional projects.

## **Task 5 – Workplan for Prioritized Projects**

The Contractor will work with County staff to prepare a workplan that provides an implementation road map for capital projects on publicly-owned parcels or ROW. The workplan will include a diverse portfolio of stormwater management tools that maximize the benefits of the existing infrastructure and strategically incorporate a mix of public and private GI projects (identified in previous tasks), programs, and policies to transition the County to an integrated green/gray stormwater system. The culmination of Task 5 will be a clear vision and defined process of how policy, programmatic, GI capital projects, and traditional infrastructure will work together to meet water quality requirements within the implementation timeframes outlined by the MRP.

The Contractor will take the Task 4A prioritized project list, weigh implementation factors, and create a workplan that spreads resource demands and addresses constraints. To create a feasible workplan, the Contractor will consider any administrative, technical, outreach, funding, and schedule constraints identified in other tasks. The workplan will also include consideration of the following for each prioritized project: interagency and stakeholder coordination needs, design and construction schedules, and funding needs. This information will be coupled with policy and programmatic elements of the stormwater program to display how these elements overlay to meet water quality goals. Examples of

possible policy and programmatic components include: C.3 projects, C.3 alternative compliance options (e.g., fee-in-lieu and offsite mitigation), stormwater fee, and GI incentives program.

**Deliverables: The Contractor shall provide the County staff with:**

- Draft and final Outline for the Workplan for Prioritized Projects;
- Draft and final Workplan for Prioritized Projects; and
- Up to three (3) meetings with County staff to discuss components of the Workplan.

## **Task 6 - Completed Project Tracking System**

Not included at this time.

## **Task 7 – Develop Guidelines and Standards**

Work included under Task 2.

## **Task 8 – Evaluation of Funding Options**

Not included at this time.

## **Task 9 – Completion and Adoption of the GI Plan**

The Contractor will work collaboratively with County staff to combine descriptions of the work performed and outputs from other tasks into a comprehensive GI Plan that meets the MRP requirements while reflecting the County’s unique characteristics and priorities. The first step will be to prepare a draft GI Plan Outline for the County’s review and approval, and discuss the format of the document. The Contractor will then draft sections of the Plan as information and products from other tasks become available. The Contractor will also incorporate SMCWPPP products as applicable. It is assumed that the GI Plan document will be developed in MS Word and will include graphics, maps, and photos as appropriate to make the document easily understandable to the public and the County Board of Supervisors (BOS).

An important component of this task is the adoption of the GI Plan by the County Board of Supervisors and the public process leading up to the adoption action. The Contractor will: provide support in the form of outreach and presentations at up to two public meetings and a BOS study session if needed; draft a resolution and staff report for the BOS adoption meeting; and assist with incorporation of input from the public and BOS into the Plan to ensure a smooth and timely adoption.

**Deliverables: The Contractor shall provide the County staff with:**

- Draft GI Plan Outline for County staff review and input;
- Draft GI Plan for County staff review;
- Revised draft GI Plan for public and BOS review; and

- Final GI Plan for BOS adoption.

## **Task 10 - Project Planning**

Not included at this time.

### **Exhibit B**

In consideration of the services provided by Contractor described in Exhibit A and subject to the terms of the Agreement, County shall pay Contractor based on the following fee schedule and terms:

<b>Budget Summary</b>		
<b>Task</b>	<b>Description</b>	<b>Estimated Budget</b>
1.a	Project Work Plan	\$36,410
1.b	Document Review and Prioritization	\$23,596
1.c	Draft Policy Proposals and Amendments	\$47,080
1.d	Drainage Ordinance and Technical Manual	\$89,192
1.e	CEQA Analysis	\$49,439
1.f	Work Plan for Future Updates	\$11,812
2	Updates of Policies, Ordinances, and Other Legal Mechanisms	\$59,032
3	Outreach and Education	\$32,176
4.a	Prioritization Guidance and Feasibility Analysis	\$47,417
4.b	Guidance on Use of RAA Results	\$16,126
4.c	Review Internal and Local Governance Structure	\$25,691
4.d	Analyze Opportunities to Collaborate with County Efforts	\$29,988
4.e	Analyze Opportunities for Regional Projects	\$40,321
5	Workplan for Prioritized Projects	\$52,432
9	Completion of GI Plan	\$63,106
	<b>TOTAL</b>	<b>\$623,817</b>

The Contractor shall invoice the County on a monthly basis and County shall make payments within 20 business days of receipt of invoices.

In no event shall County's total fiscal obligation under this Agreement exceed SIX HUNDRED TWENTY-THREE THOUSAND EIGHT HUNDRED AND SEVENTEEN DOLLARS (\$623,817).

## **Attachment IP**

### **Intellectual Property Rights**

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1. The County of San Mateo (“County”), shall and does own all titles, rights and interests in all Work Products created by Contractor and its subcontractors (collectively “Vendors”) for the County under this Agreement. Contractor may not sell, transfer, or permit the use of any Work Products without the express written consent of the County.
2. “Work Products” are defined as all materials, tangible or not, created in whatever medium pursuant to this Agreement, including without limitation publications, promotional or educational materials, reports, manuals, specifications, drawings and sketches, computer programs, software and databases, schematics, marks, logos, graphic designs, notes, matters and combinations thereof, and all forms of intellectual property.
3. Contractor shall not dispute or contest, directly or indirectly, the County’s exclusive right and title to the Work Products nor the validity of the intellectual property embodied therein. Contractor hereby assigns, and if later required by the County, shall assign to the County all titles, rights and interests in all Work Products. Contractor shall cooperate and cause subcontractors to cooperate in perfecting County’s titles, rights or interests in any Work Product, including prompt execution of documents as presented by the County.
4. To the extent any of the Work Products may be protected by U.S. Copyright laws, Parties agree that the County commissions Vendors to create the copyrightable Work Products, which are intended to be work-made-for-hire for the sole benefit of the County and the copyright of which is vested in the County.
5. In the event that the title, rights, and/or interests in any Work Products are deemed not to be “work-made-for-hire” or not owned by the County, Contractor hereby assigns and shall require all persons performing work pursuant to this Agreement, including its subcontractors, to assign to the County all titles, rights, interests, and/or copyrights in such Work Product. Should such assignment and/or transfer become necessary or if at any time the County requests cooperation of Contractor to perfect the County’s titles, rights or interests in any Work Product, Contractor agrees to promptly execute and to obtain execution of any documents (including assignments) required to perfect the titles, rights, and interests of the County in the Work Products with no additional charges to the County beyond that identified in this Agreement or subsequent change orders. The County, however, shall pay all filing fees required for the assignment, transfer, recording, and/or application.
6. Contractor agrees that before commencement of any subcontract work it will incorporate this **ATTACHMENT IP** to contractually bind or otherwise oblige its subcontractors and personnel performing work under this Agreement such that the County’s titles, rights, and interests in Work Products are preserved and protected as intended herein.