

## INDEPENDENT CONTRACTOR SERVICES AGREEMENT

This Independent Contractor Services Agreement ("**ICSA**," and, together with the rest of the Contract Documents, "**Agreement**") is made as of the \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, ("**Effective Date**") by and between **SAN FRANCISCO PARKS ALLIANCE, a California non-profit corporation ("SFPA")**, and \_\_\_\_\_, a \_\_\_\_\_ ("**Contractor**"), for work to be performed for the project known as \_\_\_\_\_ in San Francisco, California (the "**Project**"). SFPA and Contractor, in consideration of their mutual covenants set forth herein, agree as follows:

**1. Contract Documents.** The Contract Documents include (*check all that apply*):

- This ICSA
- Exhibit A: General Conditions
- Exhibit B: Scope of Work
- Exhibit C: Project Specific Requirements
- Exhibit D: Construction Provisions
- Exhibit E: Design Professional Provisions
- Exhibit F: Insurance Provisions
- Other: \_\_\_\_\_

**2. Duties and Scope of Work.** Contractor shall render the services specified in Exhibit B pursuant to the terms and conditions of the Contract Documents. If and to the extent that any terms or conditions of Exhibit A conflict with any terms or conditions of Exhibit B, Exhibit A governs. If and to the extent that Exhibit C contains any client-imposed (e.g. by the City and County of San Francisco) terms or conditions that are stricter or more onerous than the terms or conditions of any other Contract Documents, the client-imposed terms or conditions in Exhibit C control.

**3. Billing, Payment and Expenses.**

- a. **Timing of Payment.** Contractor will submit monthly invoices by mail or email to SFPA, Attn: \_\_\_\_\_, 1074 Folsom Street, San Francisco, CA 94103 or \_\_\_\_\_@sfparksalliance.org. Each invoice shall reflect actual work performed and expenses incurred. Payment of undisputed amounts of Contractor invoices will be due in U.S. funds thirty (30) business days after the invoice and receipts for authorized expenses, if any, are delivered to SFPA and SFPA accepts the services rendered, and will be late if not paid within sixty (60) business days after delivery of the invoice ("**Due Date**"). Contractor may stop providing services if a payment has not been made more than twenty (20) business days after the Due Date, upon SFPA's failure to cure such lateness after being given written notice of the payment due. Contractor shall provide a completed W-9 Form and a copy of its City Business License before the first invoice. Contractor shall provide such supporting documentation with its invoices as is required by the Contract Documents or otherwise reasonably requested by SFPA.
- b. **Taxes.** Contractor shall pay all sales, consumer, gross receipt, use and other similar taxes imposed by a governmental authority on or for the Work or portions thereof, and shall include any such tax amount in each invoice submitted hereunder at the rate required by the applicable governmental authority



c. **Reimbursable Expenses.** SFPA shall reimburse Contractor and its employees, contractors and staff for any actually incurred expenses to the extent incurred by Contractor in the performance of the services hereunder, including (but not limited to) for the actual cost of supplies, printing, copying, mailing and travel (with automobile mileage at current IRS rate per mile) up to a not-to-exceed threshold of \$ [REDACTED] unless approved in advance and in writing by SFPA. Expenses submitted by Contractor for reimbursement by SFPA shall be substantiated by proper and adequate documentation and receipts. Such expenses must be reasonable in amount, related to and in furtherance of the contract purposes and must be incurred in accordance with IRS regulations and procedures regarding business expenses, as more fully described in IRS Publication 463 "Travel, Entertainment, Gift and Car Expenses."

4. **Term.** The Term of this Agreement commences as describe in Exhibit B and shall remain in effect unless (a) terminated by either party pursuant to the termination provisions of the Contract Documents or (b) otherwise ends as provided for by the Contract Documents.

By their signatures below, each Party agrees to be bound by the Contract Documents and the terms and conditions therein.

**FOR SAN FRANCISCO PARKS ALLIANCE.**

**FOR [Contractor LEGALNAME]**

**Dated:** [REDACTED]

**Date:** [REDACTED]

**Signature:**

**Signature:**

[REDACTED]

[REDACTED]

**Drew Becher**  
**Chief Executive Officer**  
**San Francisco Parks Alliance**  
**1074 Folsom Street**  
**San Francisco, CA 94103**  
**drew@sfparksalliance.org**

**[Name]**  
**[Title]**  
**[Address]**  
**[Email]**

## INDEPENDENT CONTRACTOR SERVICES AGREEMENT

### Exhibit A

#### Independent Contractor Services Agreement – Standard Terms and Conditions

1. **Agreement and Definitions.** These Standard Terms and Conditions are fully incorporated into and are a material part of the Agreement between SFPA and Contractor. The following definitions apply to the Contract Documents:

- (a) SFPA and Contractor are each a “**Party**” and together are the “**Parties.**” Any person or entity who is not a party to this contract is a “**Third Party,**” and no third party beneficiary rights are created by this ICSA except as may be specifically provided in the Contract Documents.
- (b) “**Deliverable**” means any Deliverable to be delivered by Contractor to SFPA as specified in Exhibit B to the ICSA.
- (c) “**Work**” means the work and/or services described on Exhibit B to the ICSA and reasonably inferable therefrom as necessary to complete such work and/or services, including Deliverable and all labor, materials, equipment, required permits, and other items necessary and desirable to accomplish the objectives of the SFPA as set forth in this Agreement.

2. **Independent Contractors.** The relationship of the Parties is that of independent contractors, and neither Party is an agent, joint venturer, or legal partner of the other Party, notwithstanding use of words like “collaborator” or “partner” in publicity or otherwise. Neither Party shall participate in the other Party’s employee benefit or compensation plans. Each Party shall be solely responsible for compensating its own employees and contractors and for paying their workers’ compensation and other benefits, if any. Neither Party may enter into contracts or incur liabilities on behalf of the other. Each Party shall be responsible for the conduct of its own business. Contractor and SFPA agree that no employment relationship is created by this agreement. SFPA is interested only in the results to be achieved. Contractor, Contractor’s employees, and any subcontractors hired by Contractor are independent contractors and are not considered agents or common law employees of SFPA for any purpose. In addition, Contractor is not entitled to and knowingly and voluntarily waives any of the benefits that Company provides its common law employees. To the extent required by law, Contractor shall be solely responsible for and shall make proper and timely payment of any withholding or other taxes, such as the Contractor’s estimated state and federal income taxes and self-employment tax, and Contractor hereby agrees to defend and indemnify SFPA against any claims, liabilities or expenses SFPA incurs as a result of Contractor’s breach of its obligations under this provision.

3. **Time.** Time is of the essence in Contractor’s Work under the Contract Documents. Contractor agrees to commence the Services and Work promptly on the date provided for commencement in Exhibit B to the ICSA, and to achieve Final Completion of the Work not later than the date provided for completion in Exhibit B to the ICSA (the “**Contract Time**”). Final Completion is defined as the date when the Work is fully complete and Contractor has fully performed all of its obligations under this Agreement, except those obligations of the Contractor, such as correction of the Work and indemnification, that extend beyond the completion of the Work.

4. **Subcontractors.** Contractor shall not engage any subcontractors to perform any portion of the Work under the Agreement without the prior written consent of SFPA, such consent not to be unreasonably withheld. Contractor shall bind its subcontractors to the terms stated herein and shall ensure that all persons performing any portion of the Work under this Agreement are properly licensed to perform such Work in the jurisdiction in which the Project is located. Contractor hereby affirms that it will be fully responsible for the errors, omissions and negligent acts of itself and of its subcontractors. Contractor shall be responsible for, and has included in the Contract Sum (as defined in Exhibit B to the ICSA), all costs for the Work of Contractor and all subcontractors retained by Contractor as may be necessary to accomplish the Work. Contractor agrees to pay its subcontractors within seven (7) days after Contractor receives payment from SFPA.

5. **Changes**. Contractor may be requested by SFPA to make changes in the Work within the general scope of this Agreement, consisting of additions, deletions, changes in time for performance or other revisions (“Changed Work”) without invalidating this Agreement, and the Contract Sum and Contract Time may be adjusted accordingly. Contractor, prior to commencing any Changed Work, shall promptly submit to SFPA written copies of any claim for adjustment to the Contract Sum and/or Contract Time as a result of such Changed Work for approval, and Contractor shall not proceed with any Changed Work without written authorization from the SFPA. In the event that SFPA and Contractor cannot agree upon a fixed amount for the Changed Work, the Contract Sum shall be adjusted by an amount not to exceed the actual labor and material cost of the Changed Work plus a reasonable mark-up mutually agreed to by the parties of such actual labor and material cost to compensate Contractor and its subcontractors for all overhead, profit and fee. In the event that SFPA and Contractor cannot agree upon an adjustment to the Contract Time for the Changed Work, the Contract Time shall be adjusted by the number of days that the Contract Time is shown to have been affected solely by only the Changed Work. If Contractor claims entitlement to an adjustment in the Contract Sum or Contract Time for any reason whatsoever, Contractor shall submit any such claim to SFPA in writing within five (5) days after Contractor becomes aware, or reasonably should have become aware, of the basis for the claim; otherwise the claim shall be deemed waived and released.

6. **Assignment**. SFPA may assign or novate all or a portion of its rights and duties under this Agreement to certain persons or entities financially able to pay amounts due under this Agreement, and in the event of such assignment or novation, this Agreement shall be fully binding upon Contractor to the full extent as if executed initially with the assignee or novatee. Contractor may not assign this Agreement or any of its obligations to perform under this Agreement without the express written consent of SFPA, nor may Contractor assign its rights to payment without SFPA’s express written consent.

7. **Force Majeure**. Neither Party shall be liable for a delay in its events, projects, activities, installations, or performance of its obligations under this Agreement to the extent such delay is caused by circumstances beyond its control, including, without limitation, weather, natural disaster, unavailability of energy, telecommunication, utility, internet, or other transmission services, war, riot, labor difficulties, supplier or carrier failures, national, regional, or local emergency, vandalism, explosion, federal, state or municipal law, order, regulation, or request, damage or destruction of the facilities or locations where performance is required, denial of permits or permissions required for performance, or any other causes, contingencies, or circumstances anywhere in the World which prevent or make that Party’s performance under this Agreement impracticable or impossible (a “Force Majeure Event”). If a Force Majeure Event occurs, the non-performing Party shall not be deemed to have breached this Agreement to the extent that such Force Majeure Event prevents or makes performance under this Agreement impracticable or impossible.

8. **Notices**. All notices between the Parties required by this Agreement shall be deemed to have been received by the addressee if delivered to an officer of the corporation for whom they are intended or if sent by certified mail, return receipt requested, by telegram, by hand or by overnight courier addressed to the signatory of the ICSA for the Party intended to receive the notice, at the address shown in the signature block of the ICSA.

9. **Waiver of Consequential Damages**. SFPA and Contractor waive consequential damages for claims, disputes or other matters in question arising out of or relating to the Contract Documents, except as otherwise provided in the Contract Documents. This mutual waiver is applicable, without limitation, to all consequential damages due to either Party’s termination of this Agreement except as specifically provided in Section 10.

10. **Termination**. This Agreement may be terminated as follows:

- (a) *Termination for Cause*: Either Party shall have the right to terminate the Agreement for Cause should the other Party fail to cure the circumstances giving rise to such Cause within ten (10) days’ of receiving written notice from the non-breaching Party stating that breach has occurred and identifying the Cause of such breach. “Cause” shall mean: (i) the Parties’ inability to agree upon the terms of a change order; (ii) willful misfeasance or gross negligence in the performance of a Party’s duties under this Agreement; (iii) the material breach of a Party’s obligations under this Agreement, including but not limited to failure to deliver any Deliverable(s) on time, failure to make payments due in full, or failure to

cooperate with reasonable requests; or (iv) dissolution, bankruptcy, or insolvency of a Party. Additionally, SFPA may terminate this Agreement for Cause at any time if it reasonably determines that Contractor's continued delivery of Services is inconsistent with SFPA's nonprofit mission. In the event of Termination by SFPA under this Paragraph 11(a), SFPA may finish the Work by whatever method SFPA may deem expedient and may offset any damages suffered by SFPA against amounts otherwise owing to Contractor. If the expense of finishing Contractor's Work and other costs incurred or damages suffered by SFPA resulting from Contractor's breach exceeds the unpaid balance of the Contract Sum, Contractor shall pay the difference to SFPA.

- (b) *For Any Reason*: This Agreement may be terminated without cause and for any reason upon ten (10) days' written notice, but it may not be terminated by Contractor without Cause within thirty (30) days of a scheduled SFPA event that is the subject of this Agreement. Upon Termination under this Paragraph 11(b), SFPA shall make payments of reasonable fees and pre-approved expenses that have been accrued by and are due to Contractor under this Agreement as of the date of Termination.
- (c) *Lost Profits*: Under no circumstances shall SFPA be liable for lost profits to Contractor.
- (d) The provisions of Sections 2, 6, 8, 9, 10, 11 (as modified by any other Exhibits to this Agreement, if applicable), 12 and 13(a), (b), (f) through (m), of this Exhibit A, and Section 3 of Exhibit D (if applicable), shall survive the termination of the Agreement.

#### 11. Dispute Resolution.

- (a) The Parties shall first attempt to resolve through good faith negotiation any disputes arising in connection with the performance of any obligation under, or interpretation of, this Agreement.
- (b) If a dispute is not resolved within 45 days of the earlier of (1) a Party's written request to the other to meet in good faith to resolve the dispute or (2) the first meeting of both parties to attempt to resolve the dispute by good faith negotiation, then that dispute shall be resolved by binding arbitration which, unless the parties mutually agree otherwise, shall be administered by the American Arbitration Association in accordance with its Commercial Arbitration Rules in effect on the date of the Agreement.
  - i. Discovery in any arbitration shall be permitted but it shall be limited to a reasonable number of depositions, not to exceed five (5) per each party, and the exchange of documents and witness lists.
  - ii. The arbitrator in an arbitration proceeding shall have the power to award damages or grant remedies that would otherwise be available under California law in a California state court having jurisdiction of the matter, but shall not have the power to award any other damages or grant any other relief, and shall not have the power to award punitive damages against any party or to vary the provisions of this Agreement.
  - iii. Except as otherwise required by law, the Parties agree that the arbitration proceeding will be confidential, all conduct, statements, promises, offers, views and opinions, oral or written, made during the arbitration by any party or a party's agent, employee or attorney will remain confidential and, where appropriate, will be considered work-product and privileged, and the existence and the results of the arbitration will be maintained in confidence by the parties and their respective agents, employees and attorneys as confidential at all times.
  - iv. Either Party, at its sole discretion, may consolidate an arbitration conducted under this Agreement with any other arbitration to which it is a party provided that (1) the arbitration agreement governing the other arbitration permits consolidation; (2) the arbitrations to be consolidated substantially involve common questions of law or fact; and (3) the arbitrations employ materially similar procedural rules and methods for selecting arbitrator(s).
  - v. Either Party, at its sole discretion, may include by joinder persons or entities substantially involved in a common question of law or fact whose presence is required if complete relief is to be accorded in arbitration, provided that the party sought to be joined consents in writing to such joinder. Consent to arbitration involving an additional person or entity shall not constitute consent to arbitration of any claim, dispute or other matter in question not described in the written consent.
  - vi. SFPA and Contractor grant to any person or entity made a party to an arbitration conducted under this Section 11, whether by joinder or consolidation, the same rights of joinder and consolidation as SFPA and Contractor under this Agreement.



- (c) Pending resolution of any dispute, Contractor shall continue to perform its obligations under this Agreement so as not to delay the Work, and SFPA shall continue to pay all amounts not in dispute.

## 12. **Indemnification and Release.**

- (a) Contractor shall indemnify, defend and hold SFPA, its landlord (if any), tenant(s) (if any), lender(s) (if any), and such other persons or entities designated by SFPA, and their respective officers, directors, members, principals, affiliates, agents and employees (the "Indemnified Parties") harmless from and against any and all liability, damages, losses, and costs, including but not limited to reasonable attorneys' fees (together, "Claims") to the extent caused by the breach of contract, negligence, recklessness or intentional wrongful misconduct of Contractor, subcontractors, and/or other persons employed or utilized by Contractor in the performance of its Work, and except to the extent of the willful misconduct or sole or active negligence of an Indemnified Party. This provision shall survive the completion of the Work, final payment, or earlier termination of this Agreement.
- (b) Contractor shall, at its own expense, repair or cause to be repaired any damage to the Project or other property, other than that necessary for the proper execution of the Work, caused by Contractor or any of its subcontractors or suppliers, of whatever tier.
- (c) Contractor, for Contractor and its guests, invitees, agents, subcontractors and vendors (collectively, the "Contractor Parties"), assumes all risk of personal injury to, or for any damage to or for any loss of property of, Contractor or Contractor Parties, arising, during, or related to the services and the Project. In no event shall SFPA be liable or responsible for any loss, damage or injury to any person or to any property of Contractor or Contractor Parties in, about or around the Project resulting from any cause whatsoever, unless such loss, damage or injury is due to SFPA's gross negligence or willful misconduct.

## 13. **Miscellaneous Provisions**

- (a) **Use of Name or Logo.** Each Party may use the other Party's name, logo or other Intellectual Property only with the other Party's prior written consent and only in the manner specified in such consent.
- (b) **Nonprofit Public Disclosures.** Because it is a non-profit, SFPA may be required to disclose its financial information, contracts, highly-compensated contractors, employees, and other information in public tax filings and returns, and otherwise in accord with "sunshine" or other disclosure laws, regulations, and requirements ("Nonprofit Public Disclosure Obligations"). Contractor agrees that SFPA shall not be in breach of this Agreement and shall have no liability for disclosures made in compliance with law, rules, regulations, grants, or other public funding requirements.
- (c) **Clean-up.** Contractor shall keep the Project and surrounding area free from accumulation of waste materials or rubbish caused by Work or Contractor's performance of this Agreement.
- (d) **Coordination.** Contractor shall coordinate its Work with SFPA and, as may be applicable, with SFPA's design professionals and consultants, with SFPA's other contractors, with all applicable utility providers, and with the services of all subcontractors and other contractors and designers retained by SFPA.
- (e) **Compliance with Laws and Regulations.** Contractor agrees to comply with all federal, state and local laws, ordinances, codes and/or rules and regulations in connection with all performance of its obligations under this Agreement. Contractor further agrees to comply with all reasonable rules and regulations that may be issued by SFPA. Except to the extent otherwise provided in the Contract Documents or as specified in Exhibit B, Contractor shall obtain all permits required in connection with the Work and arrange all inspections required in connection therewith. Contractor shall abide by all requirements of the City and County of San Francisco related to Contractor's entry onto the Project and performance of the Work, as applicable. Contractor represents that it is experienced and fully qualified to perform the Work contemplated by this Agreement, and that it is properly licensed pursuant to applicable law to perform such Work.
- (f) **Intellectual Property.** Any and all work product produced by Contractor in the course of Contractor's performance of the Work ("Work Product"), including, but not limited to, items developed on SFPA's behalf, are and shall remain SFPA's exclusive property and SFPA shall own all right, title and interest, including all intellectual property rights, in and to the Work Product, including all patent rights (together with any division, continuation, continuation-in-part, reissue, renewal, or extension thereof; any foreign counterpart thereto; and any other like statutory right relating thereto), copyright rights (together with the right to secure renewals and extensions of such copyrights throughout the

world, for the full term of said copyrights and any renewal extensions of same that is or may be granted throughout the world), trademarks (together with the goodwill associated therewith), trade secret rights and any other intellectual property rights.

- (i) Contractor acknowledges and agrees that all Work Product shall be considered works made for hire under the U.S. Copyright Act and, to the extent any Work Product does not qualify as a work made for hire or if Contractor should otherwise be deemed to retain any rights to any Work Product, then Contractor shall assign and transfer and does hereby expressly and irrevocably assign and transfer to SFPA all right, title and interest, worldwide, in and to such Work Product. Contractor shall provide reasonable assistance to SFPA to obtain, renew and from time to time enforce copyrights, patents, trademark registrations and other rights with respect to the Work Product in any and all countries. During and after the course of this agreement, Contractor shall promptly execute all documentation that may be reasonably requested by SFPA (a) to effectuate any such assignment or evidence SFPA's ownership the rights set forth in this section or (b) for use in applying for and obtaining or renewing such copyrights, patents, trademark registrations and other rights, and enforcing same, together with any assignments thereof to SFPA.
- (ii) Contractor represents and warrants that the provision of the Work and any Work Product developed by Contractor in performing the Work will not result in the infringement of any third-party intellectual property rights and will not violate any other third-party rights, including but not limited to moral rights and the rights of privacy and publicity.
- (iii) Contractor, in executing this Agreement, agrees to expressly waive the provisions of 17 U.S.C. sections 106A(a)(2), 106A(a)(3), 106A(e)(1), 113(d)(1), and 113(d)(2).

(g) **Merger.** This Agreement constitutes the entire agreement between the parties hereto with respect to the Work, and supersedes all prior negotiations, representations and agreements, either written or oral with respect thereto. No Party has relied upon any promise, representation or warranty, other than those contained herein in executing this Agreement.

(h) **No Waiver.** No waiver, alteration or modification of any of the provisions of this Agreement shall be binding upon either SFPA or Contractor unless the same shall be in writing and signed by both SFPA and Contractor.

(i) **Choice of Law.** This Agreement shall be construed under the laws of the State of California without regard to its choice of law rules.

(j) **Interpretation.** The language in all parts of this Agreement shall be construed as a whole in accord with its fair meaning, not for or against any Party, and without regard to any statutes which provide for the language of an agreement to be construed against the drafter.

(k) **Severability.** If any provision of this Agreement is determined to be invalid or unenforceable, this Agreement shall remain in effect, and the offending provision shall be modified to the extent required to make the provision valid or enforceable and in accordance with the intent of the Parties at the time of contracting, or if that is not possible, then that provision shall be stricken and the remainder of the Agreement shall remain in full force and effect.

(l) **Headings.** Paragraph headings used herein are for convenience only and shall not affect the interpretation nor be deemed to be a part of this Agreement.

(m) **Authority.** The person signing the ICSA represents and warrants that s/he has the authority to sign and bind the entity on whose behalf s/he purports to sign. The ICSA may be signed in counterparts, which together shall constitute one contract. Faxed or scanned signatures shall be construed to be as valid as originals.

(n) **Insurance** Contractor shall comply with the insurance requirements of Exhibit F to the ICSA.



**INDEPENDENT CONTRACTOR SERVICES AGREEMENT**

**Exhibit B**

**Independent Contractor Services Agreement – Scope of Work**

1. **Work.** Contractor shall perform the following Work:

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*(check all that apply):*

- as shown on the attached drawings (listed below)
- as defined in the attached specifications (listed below)
- Other: \_\_\_\_\_

2. **Contract Time.** Contractor shall complete the Work:

*(check all that apply):*

- by \_\_\_\_\_.
- according to the attached schedule.
- Other: \_\_\_\_\_

3. **Contract Sum.** Contractor shall perform the Work for:

*(check one):*

- for the rates listed on the attached rate sheet (“Contract Sum”)
- for the fixed price of: \$\_\_\_\_\_ (“Contract Sum”)
- for a not-to-exceed price of: \$\_\_\_\_\_ based on the rates listed on the attached rate sheet (“Contract Sum”)
- Other: \_\_\_\_\_ (“Contract Sum”)





**Drawings List (if required)**



**Specifications List (if required)**

**Schedule (if required)**

**Rate Sheet (if required)**



**INDEPENDENT CONTRACTOR SERVICES AGREEMENT**

**Exhibit C**

**Independent Contractor Services Agreement – Project Specific Requirements**

For this Project, SFPA has entered into a [Lease][Access][License]Right-of-Entry][Other] agreement (“Owner Agreement”) with [redacted] (“Owner”), dated [redacted] that requires that SFPA’s sub-agreements, including its agreement with Contractor, include certain provisions.

A copy of the Owner Agreement is attached to this Exhibit and is hereby incorporated into the Contract Documents by reference, and all provisions required by the Owner Agreement to be included in SFPA’s sub-agreements are hereby deemed to be so included in SFPA’s agreement with Contractor, whether or not expressly stated elsewhere in the Contract Documents. Further, in addition to Contractor’s other duties and obligations under the Contract Documents, Contractor is hereby obligated to SFPA to the same extent that SFPA is obligated to Owner. In the event of a conflict between Contractor’s obligations to SFPA under the ICSA and the Owner Agreement, the more onerous obligation shall govern.

**Additional Project-specific requirements applicable to the Work include:**

- 1. [redacted]
- 2. [redacted]
- 3. [redacted]

## INDEPENDENT CONTRACTOR SERVICES AGREEMENT

### Exhibit D

#### Independent Contractor Services Agreement – Construction Provisions.

1. **Liens.** Contractor shall, within ten (10) days after the date of receiving notice of any design professional's or mechanic's liens from subconsultants or subcontractors of all tiers or suppliers in connection with the Project, cause to be removed (by way of release bonds, if necessary) all such design professional's or mechanic's liens arising out of the Work of this ICSA.
2. **Dispute Resolution.** Section 11 of Exhibit A to the ICSA is modified as follows: all references to "Commercial Arbitration Rules" shall be deemed to instead refer to "Construction Industry Arbitration Rules."
3. **Warranty.** Contractor warrants to SFPA that materials and equipment furnished under this Agreement will be of good quality and new, that the Work will be free from defects not inherent in the quality required or permitted, that the Work will be done in a workmanlike and correct manner, and that the Work will conform to the requirements of this Agreement. SFPA shall not be required to pay for Work that does not conform to the requirements of this Agreement. All substitutions of materials and/or equipment shall be approved in writing by SFPA. Services not conforming to these requirements, including substitutions not properly approved and authorized by SFPA, may be considered defective and rejected by SFPA. Contractor's warranty excludes remedy for damage or defect caused by abuse, modifications not made by Contractor, improper or insufficient maintenance, improper operation or normal wear and tear and normal usage. This warranty shall be in addition to and not in limitation of any other warranty or remedy required by law or by this Agreement. If, within one year after final payment under this Agreement, any of the Work is found not to be in accordance with this Agreement, Contractor shall correct it promptly after receipt of written notice from SFPA to do so. Nothing contained in this Paragraph 6 shall be construed to establish a period of limitation as to obligations other than Contractor's duty to correct or replace Work under this Paragraph 6. Contractor's warranty and correction obligations under this Paragraph 6 shall survive the completion of the Work, final payment, or earlier termination of this Agreement.



## INDEPENDENT CONTRACTOR SERVICES AGREEMENT

### Exhibit E

#### Independent Contractor Services Agreement – Design Professional Provisions

1. **Standard of Care** Contractor shall perform its services under the Contract Documents in accordance with the professional standard of care applicable to the design and construction administration of projects of similar size and complexity in the San Francisco Bay Area. Contractor shall perform its services as expeditiously as is consistent with such professional skill and care and the orderly progress of the Project.
2. **Liens**. Contractor shall, within ten (10) days after the date of receiving notice of any design professional's or mechanic's liens from subconsultants or subcontractors of all tiers or suppliers in connection with the Project, cause to be removed (by way of release bonds, if necessary) all such design professional's or mechanic's liens arising out of the Work of this ICSA.
3. **Dispute Resolution**. Section 11 of Exhibit A to the ICSA is modified as follows: all references to "Commercial Arbitration Rules" shall be deemed to instead refer to "Construction Industry Arbitration Rules."

**INDEPENDENT CONTRACTOR SERVICES AGREEMENT**

**Exhibit F**

**Independent Contractor Services Agreement – Insurance**

1. **Insurance.** Contractor, at its sole cost and expense, shall at all times during the performance of the Work and for a period of at least three (3) years after final completion of the Work, carry and maintain the following insurance coverage with insurance companies licensed and authorized to do business within the jurisdiction in which the Project is located, with a minimum A.M. Best rating of A-VII.

*(check all that apply):*

(a) Commercial general liability insurance on a form at least as broad as Insurance Services Office ("ISO") form CG 00 01 04 13 or another "occurrence" form providing equivalent coverage and approved in writing by SFPA, providing commercial general liability coverage, contractual liability coverage, coverage for bodily injury (including death), property damage (including loss of use thereof), ongoing and completed operations, and personal and advertising injury, with minimum limits of liability equal to the greater of (i) the limits set forth in Contractor's commercial general liability policy or (ii) the following amounts:

\$2,000,000	general aggregate (other than products-completed operations)
\$2,000,000	products-completed operations aggregate limit
\$1,000,000	personal and advertising injury limit
\$1,000,000	per occurrence limit
\$ 50,000	fire damage limit (any one fire)
\$ 5,000	medical expense limit (any one person)

(b) Commercial (Business) Automobile Liability insurance issued on a form at least as broad as ISO business auto coverage form CA 00 01 10 13 or other form providing equivalent coverage, approved by SFPA in writing, covering all owned, hired, borrowed and non-owned vehicles (Symbol 1) brought onto the Project or used in connection with the Work, with minimum limits of liability equal to the greater of (i) the limits set forth in Contractor's commercial automobile liability policy or (ii) \$1,000,000 each accident combined single limit for bodily injury, death, and property damage.

(c) Workers' compensation insurance as required by statute. Employers' liability insurance with limits of liability coverage of not less than \$500,000 each accident, \$500,000 each employee-disease, and \$500,000 policy limit-disease. Contractor hereby waives all rights of recovery against SFPA and the other Indemnified Parties (as defined below) arising out of claims made under the workers' compensation or employer's liability insurance required to be maintained under this Agreement, and all such insurance shall include, by endorsement or otherwise, a waiver of subrogation in favor of SFPA and the other Indemnified Parties.

(d) Umbrella liability insurance on a follow-form basis with respect to insurance required to be maintained pursuant to Paragraphs (a), (b), and (c) above, with minimum limits equal to the greater of (i) the limits set forth in Contractor's umbrella liability policy or (ii) \$20,000,000.

(e) Pollution legal liability insurance covering losses caused by pollution conditions that arise from the operations of Contractor under this Agreement and completed operations. Completed operations coverage shall remain in effect for at least five (5) years after Final Completion of the Work. Such insurance shall apply to bodily injury, property damage (including loss of use of damaged property or of property that has been physically injured), cleanup costs, liability and cleanup costs while in transit, and defense (including costs and expenses incurred in the investigation, defense and settlement of claims). The policy of insurance affording these required coverages shall be written with limits of at least the amounts set forth below. If such coverage is written on a claims-made basis, Contractor warrants that any retroactive date applicable to coverages under the policy precedes Contractor's



performance of any Work under the Agreement and that continuous coverage will be maintained or an extended reporting period will be exercised for at least five (5) years after Work is completed. Contractor also must furnish to the SFPA certificates of insurance evidencing pollution legal liability insurance maintained by the transportation and disposal site operators(s) used by Contractor for losses arising from facility(ies) accepting, storing or disposing Hazardous Materials or other waste as a result of Contractor's operations under the Agreement. Such coverages must be maintained with limits of at least \$5,000,000 each loss and \$5,000,000 annual aggregate.

Other: \_\_\_\_\_

SFPA shall be designated as additional insureds on ISO Form CG 20 26 11 85 or its equivalent for all coverages required to be maintained under this Agreement except worker's compensation. Coverage for the additional insureds shall be primary and non-contributory, and not excess, over any liability insurance maintained by any additional insured.

To the extent that Contractor employs, utilizes or contracts with subcontractors and/or independent contractors for some or all of the Work to be provided hereunder, Contractor shall require such subcontractors and/or independent contractors to comply with the insurance requirements as set forth in this Agreement.

Prior to the commencement of the Work and at least five (5) days prior to each renewal period, Contractor will provide SFPA with current certificates of such insurance evidencing the coverage required to be maintained hereunder and the additional insureds' status. Contractor shall notify SFPA in writing immediately if Contractor's insurance coverage is terminated or modified for any reason.