



CITY OF ESCONDIDO CONSULTING AGREEMENT

This Consulting Agreement ("Agreement") is made and entered into as of the last signature date set forth below ("Effective Date"),

Between: CITY OF ESCONDIDO
a California municipal corporation
201 N. Broadway
Escondido, CA 92025
Attn: Dane White
(760) 839-4505
("CITY")

And: Griffin Structures, Inc.
a California corporation
1 Technology Dr.
Building 1 Suite 829
Irvine, CA 92618
Attn: Jon Hughes
949-444-1615
("CONSULTANT").

(The CITY and CONSULTANT each may be referred to herein as a "Party" and collectively as the "Parties.")

WHEREAS, the CITY has determined that it is in the CITY's best interest to retain the professional services of a consultant to provide project and construction management services related to the Building Forward Library Facilities Improvement Program grant funded by the California State Library;

WHEREAS, CONSULTANT is considered competent to perform the necessary professional services for the CITY; and

WHEREAS, the CITY and CONSULTANT desire to enter into this Agreement for the performance of the Services described herein.

NOW, THEREFORE, in consideration of the mutual covenants, promises, terms, and conditions set forth herein, and the mutual benefits derived therefrom, the Parties hereby agree as follows:

1. Description of Services. CONSULTANT shall furnish all of the Services described in the Scope of

Work, which is attached to this Agreement as Attachment "A" and incorporated herein by this reference ("Services").

2. Compensation. In exchange for CONSULTANT's completion of the Services, the CITY shall pay, and CONSULTANT shall accept in full, an amount not to exceed the sum of **\$798,000**. CONSULTANT shall be compensated only for performance of the Services described in this Agreement. No compensation shall be provided for any other work or services without the CITY's prior written consent. If this Agreement is amended at any time, additional compensation of CONSULTANT contained in any subsequent amendments shall not exceed a cumulative total of 25% of the maximum payment provided for in this Section 2, unless approved by resolution of the City Council.
3. Performance. CONSULTANT shall faithfully perform the Services in a proficient manner, to the satisfaction of the CITY, and in accord with the terms of this Agreement. CONSULTANT shall be responsible for the professional quality, technical accuracy, timely completion, and coordination of all reports and other information furnished by CONSULTANT pursuant to this Agreement, except that CONSULTANT shall not be responsible for the accuracy of information supplied by the CITY.
4. Personnel. The performance of the Services by certain professionals is significant to the CITY. As such, CONSULTANT shall only assign the persons listed on Attachment "B", attached to this Agreement and incorporated herein by this reference ("Personnel List"), to perform the Services. CONSULTANT shall not add or remove persons from the Personnel List without the City's prior written consent. If CONSULTANT has not designated a person to perform a component of the Services, CONSULTANT shall not assign such component of the Services to a person without obtaining the City's prior written consent. CONSULTANT shall not subcontract any component of the Services without obtaining the City's prior written consent.
 - a. Each individual listed on Attachment "B" must file (i) a Statement of Economic Interests Form 700 ("Form 700") pursuant to the California Political Reform Act of 1974 within 30 days of commencing work pursuant to this Agreement and (ii) a "leaving office" Form 700 within 30 days of concluding work pursuant to this Agreement. If the term of this Agreement extends beyond one year, each individual listed on Attachment "B" must file a Form 700 on an annual basis for each subsequent term year on or before the first of April. The CITY may require each individual listed on Attachment "B" to assist the CITY in completing a Form 805 to identify consultants that make or participate in making governmental decisions and identify the consultants' disclosure requirements. The Clerk's Office will coordinate Form 700 and 805 completion on the CITY's behalf.
5. Termination. The Parties may mutually terminate this Agreement through a writing signed by both Parties. The CITY may terminate this Agreement for any reason upon providing CONSULTANT with 10 days' advance written notice. CONSULTANT agrees to cease all work under this Agreement on or before the effective date of any notice of termination. If the CITY terminates this Agreement due to no fault or failure of performance by CONSULTANT, then CONSULTANT shall be compensated based on the work satisfactorily performed at the time of such termination. In no event shall CONSULTANT be entitled to receive more than the amount that would be paid to CONSULTANT for the full performance of the Services.
6. City Property. All original documents, drawings, electronic media, and other materials prepared by CONSULTANT pursuant to this Agreement immediately become the exclusive property of the CITY,

and shall not be used by CONSULTANT for any other purpose without the CITY's prior written consent.

7. Insurance Requirements.

- a. CONSULTANT shall procure and maintain, at its own cost, during the entire term of this Agreement, insurance against claims for injuries to persons or damages to property that may arise from or in connection with the performance of the Services, and the results of such work, by CONSULTANT, its agents, representatives, employees, or subcontractors. Insurance coverage shall be at least as broad as the following:
 - (1) *Commercial General Liability.* Insurance Services Office ("ISO") Form CG 00 01 covering Commercial General Liability on an "occurrence" basis, including products and completed operations, property damage, bodily injury, and personal & advertising injury, with limits no less than \$2,000,000 per occurrence and \$4,000,000 general aggregate.
 - (2) *Automobile Liability.* ISO Form CA 00 01 covering any auto (Code 1), or if CONSULTANT has no owned autos, hired (Code 8) and non-owned autos (Code 9), with limits no less than \$1,000,000 per accident for bodily injury and property damage, unless waived by the CITY and approved in writing by the CITY's Risk and Safety Division.
 - (3) *Workers' Compensation.* Worker's Compensation as required by the State of California, with Statutory Limits, and Employer's Liability Insurance with limits of no less than \$1,000,000 per accident for bodily injury or disease.
 - (4) *Professional Liability (Errors and Omissions).* Professional Liability (Errors and Omissions) appropriate to CONSULTANT's profession, with limits no less than \$2,000,000 per occurrence or claim and \$2,000,000 aggregate.
 - (5) If CONSULTANT maintains broader coverage and/or higher limits than the minimums otherwise required by this Agreement, the CITY requires and shall be entitled to the broader coverage and/or the higher limits maintained by CONSULTANT.
- b. Each insurance policy required by this Agreement must be acceptable to the City Attorney and shall meet the following requirements:
 - (1) *Acceptability of Insurers.* Insurance coverage must be provided by an insurer authorized to conduct business in the state of California with a current A.M. Best's rating of no less than A-: FSC VII, or as approved by the CITY.
 - (2) *Additional Insured Status.* Both the Commercial General Liability and the Automobile Liability policies must name the CITY (including its officials, officers, and employees) specifically as an additional insured under the policy on a separate endorsement page. The Commercial General Liability additional insured endorsement shall be at least as broad as ISO Form CG 20 10 11 85, or if not available, through the addition of *both* CG 20 10, CG 20 26, CG 20 33, or CG 20 38, *and* CG 20 37 if a later edition is used. The Automobile Liability endorsement shall be at least as broad as ISO Form CA 20 01.
 - (3) *Primary Coverage.* CONSULTANT's insurance coverage shall be primary coverage at least as broad as ISO CG 20 01 04 13 with respect to the CITY, its officials, officers, and employees. Any insurance or self-insurance maintained by the CITY, its officials, officers, agents, employees, or volunteers shall be in excess of CONSULTANT's insurance and shall not contribute with it.
 - (4) *Notice of Cancellation.* Each insurance policy shall provide that coverage shall not be canceled, except with prior written notice to the CITY.
 - (5) *Subcontractors.* If applicable, CONSULTANT shall require and verify that all subcontractors maintain insurance meeting all the requirements stated within this

Agreement, and CONSULTANT shall ensure that the CITY (including its officials, officers, and employees) is an additional insured on any insurance required from a subcontractor.

- (6) *Waiver of Subrogation.* CONSULTANT hereby grants to the CITY a waiver of any right to subrogation that any insurer of CONSULTANT may acquire against the CITY by virtue of the payment of any loss under such insurance. CONSULTANT agrees to obtain any endorsement that may be necessary to affect this waiver of subrogation, but this subsection shall apply regardless of whether or not the CITY has received a waiver of subrogation endorsement from the insurer. Any Workers' Compensation policy required by this Agreement shall be endorsed with a waiver of subrogation in favor of the CITY for all work performed by the CONSULTANT, its employees.
 - (7) *Self-Insurance.* CONSULTANT may, with the CITY's prior written consent, fulfill some or all of the insurance requirements contained in this Agreement under a plan of self-insurance. CONSULTANT shall only be permitted to utilize such self-insurance if, in the opinion of the CITY, CONSULTANT's (i) net worth and (ii) reserves for payment of claims of liability against CONSULTANT are sufficient to adequately compensate for the lack of other insurance coverage required by this Agreement. CONSULTANT's utilization of self-insurance shall not in any way limit the liabilities assumed by CONSULTANT pursuant to this Agreement.
 - (8) *Self-Insured Retentions.* Self-insured retentions must be declared to and approved by the CITY.
- c. *Verification of Coverage.* At the time CONSULTANT executes this Agreement, CONSULTANT shall provide the CITY with original Certificates of Insurance including all required amendatory endorsements (or copies of the applicable policy language effecting the insurance coverage required by this Agreement), which shall meet all requirements under this Agreement. The CITY reserves the right to require complete, certified copies of all required insurance policies, including endorsements required by this Agreement, at any time.
 - d. *Special Risks or Circumstances.* The CITY reserves the right, at any point during the term of this Agreement, to modify the insurance requirements in this Agreement, including limits, based on the nature of the risk, prior experience, insurer, coverage, or other special circumstances.
 - e. *No Limitation of Obligations.* The insurance requirements in this Agreement, including the types and limits of insurance coverage CONSULTANT must maintain, and any approval of such insurance by the CITY, are not intended to and shall not in any manner limit or qualify the liabilities and obligations otherwise assumed by CONSULTANT pursuant to this Agreement, including but not limited to any provisions in this Agreement concerning indemnification.
 - f. Failure to comply with any of the insurance requirements in this Agreement, including, but not limited to, a lapse in any required insurance coverage during the term of this Agreement, shall be a material breach of this Agreement. In the event that CONSULTANT fails to comply with any such insurance requirements in this Agreement, in addition to any other remedies the CITY may have, the CITY may, at its sole option, (i) immediately terminate this Agreement; or (ii) order CONSULTANT to stop work under this Agreement and/or withhold any payment that becomes due to CONSULTANT until CONSULTANT demonstrates compliance with the insurance requirements in this Agreement.

8. Indemnification, Duty to Defend, and Hold Harmless.

- a. CONSULTANT (including CONSULTANT's agents, employees, and subcontractors, if any) shall indemnify, defend, and hold harmless the CITY, its officials, officers, agents, employees, and volunteers from and against any and all claims, demands, actions, causes of action, proceedings (including but not limited to legal and administrative proceedings of any kind), suits, fines, penalties, judgments, orders, levies, costs, expenses, liabilities, losses, damages, or injuries, in

law or equity, including without limitation the payment of all consequential damages and attorney's fees and other related litigation costs and expenses (collectively, "Claims"), of every nature caused by, arising out of, or in connection with CONSULTANT's performance of the Services or its failure to comply with any of its obligations contained in this Agreement, except where caused by the active negligence, sole negligence, or willful misconduct of the CITY.

b. CONSULTANT (including CONSULTANT's agents, employees, and subcontractors, if any) shall indemnify, defend, and hold harmless the CITY, its officials, officers, agents, employees, and volunteers from and against any and all Claims caused by, arising under, or resulting from any violation, or claim of violation, of the San Diego Municipal Storm Water Permit (Order No. R9-2013-0001, as amended) of the California Regional Water Quality Control Board, Region 9, San Diego, that the CITY might suffer, incur, or become subject to by reason of, or occurring as a result of, or allegedly caused by, any work performed pursuant to this Agreement.

c. All terms and provisions within this Section 8 shall survive the termination of this Agreement.

9. Anti-Assignment Clause. Because the CITY has relied on the particular skills of CONSULTANT in entering into this Agreement, CONSULTANT shall not assign, delegate, subcontract, or otherwise transfer any duty or right under this Agreement, including as to any portion of the Services, without the CITY's prior written consent. Any purported assignment, delegation, subcontract, or other transfer made without the CITY's consent shall be void and ineffective. Unless CONSULTANT assigns this entire Agreement, including all rights and duties herein, to a third party with the CITY's prior written consent, CONSULTANT shall be the sole payee under this Agreement. Any and all payments made pursuant to the terms of this Agreement are otherwise not assignable.
10. Attorney's Fees and Costs. In any action to enforce the terms and conditions of this Agreement, the prevailing Party shall be entitled to reasonable attorney's fees and costs.
11. Independent Contractor. CONSULTANT is an independent contractor, and no agency or employment relationship is created by the execution of this Agreement.
12. Amendment. This Agreement shall not be amended except in a writing signed by the CITY and CONSULTANT.
13. Merger Clause. This Agreement, together with its attachments or other documents described or incorporated herein, if any, constitutes the entire agreement and understanding of the CITY and CONSULTANT concerning the subject of this Agreement and supersedes and replaces all prior negotiations, understandings, or proposed agreements, written or oral, except as otherwise provided herein. In the event of any conflict between the provisions of this Agreement and any of its attachments or related documents, if any, the provisions of this Agreement shall prevail.
14. Anti-Waiver Clause. None of the provisions of this Agreement shall be waived by the CITY because of previous failure to insist upon strict performance, nor shall any provision be waived because any other provision has been waived by the CITY, in whole or in part.
15. Severability. This Agreement shall be performed and shall be enforceable to the full extent allowed by applicable law, and the illegality, invalidity, waiver, or unenforceability of any provision of this Agreement shall not affect the legality, validity, applicability, or enforceability of the remaining provisions of this Agreement.
16. Governing Law. This Agreement and all rights and obligations arising out of it shall be construed in accordance with the laws of the State of California. Venue for any action arising from this Agreement shall be conducted only in the state or federal courts of San Diego County, California.

17. Counterparts. This Agreement may be executed on separate counterparts, each of which shall be an original and all of which taken together shall constitute one and the same instrument. Delivery of an executed signature page of this Agreement by electronic means, including an attachment to an email, shall be effective as delivery of an executed original. The Agreement on file with the City is the copy of the Agreement that shall take precedence if any differences exist between or among copies or counterparts of the Agreement.
18. Provisions Cumulative. The foregoing provisions are cumulative to, in addition to, and not in limitation of any other rights or remedies available to the CITY.
19. Notice. Any statements, communications, or notices to be provided pursuant to this Agreement shall be sent to the attention of the persons indicated herein, and the CITY and CONSULTANT shall promptly provide the other Party with notice of any changes to such contact information.
20. Business License. CONSULTANT shall obtain a City of Escondido Business License prior to execution of this Agreement and shall maintain such Business License throughout the term of this Agreement.
21. Compliance with Laws, Permits, and Licenses. CONSULTANT shall keep itself informed of and comply with all applicable federal, state, and local laws, statutes, codes, ordinances, regulations, rules, and other legal requirements in effect during the term of this Agreement. CONSULTANT shall obtain any and all permits, licenses, and other authorizations necessary to perform the Services. Neither the CITY, nor any elected or appointed boards, officers, officials, employees, or agents of the CITY, shall be liable, at law or in equity, as a result of any failure of CONSULTANT to comply with this section.
22. Prevailing Wages. If applicable, pursuant to California Labor Code section 1770 et seq., CONSULTANT agrees that a prevailing rate and scale of wages, in accordance with applicable laws, shall be paid in performing this Agreement. CONSULTANT shall keep itself informed of and comply with all applicable federal, state, and local laws, statutes, codes, ordinances, regulations, rules, and other legal requirements pertaining to the payment of prevailing wages. The prevailing rate and scale to be paid shall be the same as the applicable "General Prevailing Wage Determination" approved by the Department of Industrial Relations as of the Effective Date of this Agreement, which are available online at <http://www.dir.ca.gov/oprl/dprevwagedetermination.htm> and incorporated into this Agreement by this reference. Neither the CITY, nor any elected or appointed boards, officers, officials, employees, or agents of the CITY, shall be liable, at law or in equity, as a result of any failure of CONSULTANT to comply with this section.
23. Immigration Reform and Control Act of 1986. CONSULTANT shall keep itself informed of and shall comply with the Immigration Reform and Control Act of 1986 ("IRCA"). CONSULTANT represents and warrants that all of its employees and the employees of any subcontractor retained by CONSULTANT who perform any of the Services under this Agreement, are and will be authorized to perform the Services in full compliance with the IRCA. CONSULTANT affirms that as a licensed contractor and employer in the State of California, all new employees must produce proof of eligibility to work in the United States within the first three days of employment and that only employees legally eligible to work in the United States will perform the Services. CONSULTANT agrees to comply with the IRCA before commencing any Services, and continuously throughout the performance of the Services and the term of this Agreement.
24. Department of Industrial Relations Compliance. This public project is subject to compliance monitoring and enforcement by the Department of Industrial Relations. CONSULTANT shall post

all job site notices required by regulation. CONSULTANT, as well as any subcontractors, shall be registered pursuant to California Labor Code section 1725.5 to be qualified to bid on, be listed in a bid proposal (subject to the requirements of Public Contract Code section 4104), or engage in the performance of any public works contract subject to the requirements of Division 2, Part 7, Chapter 1 of the California Labor Code. Neither the CITY, nor any elected or appointed boards, officers, officials, employees, or agents of the CITY, shall be liable, at law or in equity, as a result of any failure of CONSULTANT to comply with this section.

25. Effective Date. Unless a different date is provided in this Agreement, the effective date of this Agreement shall be the latest date of execution set forth by the names of the signatories below.

IN WITNESS WHEREOF, this Agreement is executed by the Parties or their duly authorized representatives as of the Effective Date:

CITY OF ESCONDIDO

Date: _____

Dane White, Mayor

Griffin Structures, Inc.

Date: _____

Signature

Name & Title (please print)

APPROVED AS TO FORM:
OFFICE OF THE CITY ATTORNEY
MICHAEL R. MCGUINNESS, CITY ATTORNEY

BY: _____

THE CITY OF ESCONDIDO DOES NOT DISCRIMINATE AGAINST QUALIFIED PERSONS WITH DISABILITIES.

ATTACHMENT "A"

Scope of Work

A. General

Griffin Structures, Inc., a California corporation, ("Consultant") will provide the City of Escondido, a California municipal corporation ("City") with project and construction management services related to the Building Forward Library Facilities Improvement Program grant funded by the California State Library ("Project").

B. Location

Consultant to provide services located at the Escondido Public Library 239 S. Kalmia St. Escondido, CA 92025 ("Project Site") and at Escondido City Hall located at 201 N. Broadway Escondido, CA 92025.

C. Services

Consultant shall provide services in accordance with Consultant's proposal, which is attached to this Scope of Work as Exhibit 1 and incorporated herein by this reference. In the event of a conflict between this Agreement (including this Scope of Work) and Exhibit 1, the terms of this Agreement shall prevail.

PHASE 1: PRECONSTRUCTION

Project Initiation & Communications

Consultant will host a Project initiation meeting to determine the City's goals and objectives, understand key decision makers, and set up a process to engage any stakeholders as a Steering Committee. Topics will include program and Project budget, schedule assumptions, previous and projected outreach efforts, completed due diligence items and others to help focus the work which will follow below.

Due Diligence

Consultant will review as-built drawings, maintenance records, any lead and asbestos reports to provide to the design teams as a way to understand how the library building technically was constructed and renovated over the years. Any other anticipated scope will be vetted to understand if due diligence is necessary to better inform the scope in the following stages.

A&E Solicitation & Recommendation

To assist the City in procuring architectural and engineering (A&E) services, Consultant will develop a detailed RFP to solicit qualified firms and their related experience and fees. In addition to a formal public notification (as determined by the City), Consultant will send the approved RFP to qualified A&E teams within the industry to whom Consultant believes are competent professionals able to complete this scale of work for the City. Services will include pre-proposal conference as well as answering questions from proposers throughout the process. Consultant will also assist the City throughout the interview and selection process including any fee, scope, or contract negotiations.

Design Management

- Review all approved programming and design documents and ensure that the team is aligned on Project goals and requirements;
- Prepare reports on probable cost, constructability, value analysis, and operability;
- Perform periodic checks on the design progress to ensure that the design meets all Project goals including program, cost, schedule, features, and quality; and
- Issue reports on findings.

Constructability Reviews

Consultant will focus on the quality and clarity of drawings and specifications, perform constructability reviews, and provide cost estimating and reconciliation to minimize conflicts and surprises during the construction phase. Consultant's series of constructability reviews will facilitate plan coordination and clarity, which ultimately minimizes the number of contractors' questions and change orders during construction. This process results in contractor bids which are not inflated to cover ambiguities. Specifically, Consultant will accomplish the following subtasks: Budget Development and Schedule Development as described below.

Budget Development

Consultant will review and provide comment on the A&E team's detailed construction cost estimates as the design progresses inputting into a master Project budget which Consultant will keep track of. Consultant will advise the City and the Design Team on any adjustments necessary to keep the Project on budget.

Schedule Development

Concurrently with the development of the design and the budget, Consultant will prepare a development and construction schedule using Critical Path Management (CPM) techniques. The schedule will be prepared using suitable scheduling software, such as Microsoft Project.

Approach to Value Engineering & Life-Cycle Costs

Value engineering is an integral part of Consultant's cost management process, beginning at the start of design. Consultant closely tracks design decisions as they are made and checks them against the City's program, performance criteria, budget, operating cost expectations, reliability expectations, etc. The purpose is to make value engineering an integral part of the design process and avoid a separate Value Engineering exercise after the design is already completed.

Contractor Prequalification

Prior to issuance of bid documents, Consultant will recommend a formal general contractor prequalification process which is a modified version of the State of California Department of Industrial Relations prequalification model.

Bid Management

Consultant will assist the City and the Design Team in the preparation of a complete and coordinated set of bid documents as well as a Contractor form of agreement. We will structure the contractor bid packages to allow open competition consistent with requirements of public contracting code. If contractor RFI's are received during the bid period, we will coordinate the preparation of addenda

with the Design Team or others and issuance of addenda to the bidders. After bids are received and opened, Consultant will assist in the coordination, tabulation, and analysis of the bid responses.

PHASE 2: CONSTRUCTION

Pre-Construction Conference

Consultant will organize and conduct the Pre-Construction meeting and provide agenda and meeting minutes accordingly. Consultant will ensure that all pertinent team members will be present to coordinate with City staff.

Contract Administration

Consultant will work closely with the City to prepare and oversee the mobilization of the Contractor, the phasing of work, and the establishment of suitable and safe construction staging including, but not limited to: fencing, barricades, temp facilities, temp utilities, construction trailer placement etc. The planning of this effort will start early in the preconstruction process. Also, an initial site phasing and staging plan will be included in the bid documents to give guidance to the bidders regarding City standards and expectations.

Submittal Procedures

Consultant will oversee the distribution of all shop drawing submittal reviews, RFI's, payment requests, change orders, product data, material delivery dates, periodic reports, Project logs etc. As described above, Consultant will use Submittal Exchange or City's Virtual Project Manager software for expedient distribution and tracking of these documents. This effort will meet the exact level of detail expected from the City.

Meetings

Consultant will prepare the agendas and meeting minutes, discuss the schedule updates and near-term activities; work with the team to clarify or resolve problems; coordinate with other Contractors; update the team on the status of change orders, submittals, and RFI's; and review safety issues and other topics as they arise. Consultant will assign action items to responsible parties along with the corresponding date the action requires completion. These meetings will be reviewed for concurrence and will be distributed to attendees within five calendar days.

Quality Assurance/Quality Control (QA/QC)

Consultant will employ a robust QA/QC methodology to this Project to observe, verify, and document the specified level of construction quality.

Construction Observation

Consultant will serve as the 'eyes and ears' of the City for quality control. Accordingly, Consultant will walk the site regularly and inspect all installations for consistency with the construction documents. Specifically, Consultant will enforce the highest level of quality of workmanship to ensure the City receives the best value for the investment made on behalf of the community.

Non-Conforming Work

Consultant will observe all installations and notify if any non-confirming work installed. These notices will be detailed thoroughly and provide recommendations to the City and Architect for corrective

measures. Consultant will also notify the Contractor of non-confirming work and track all resolutions via the Field Observation Log described in Exhibit 1.

Progress Review

The Consultant Construction Manager/Project Inspector will provide periodic progress review of all activities performed on the Project. Additionally, a counting of construction days will be accrued as verification of contract days spent, along with a percentage of completion for activities. Any issues or problems will also be documented for future reference. Consultant will review every schedule provided by the Contractor to confirm they meet the overall objectives of the Project. Accordingly, Consultant will oversee and ensure that activities in the field are consistent with the approved schedule, and will recommend corrective action should they fail correlate.

Maintain On-Site Records

Consultant will manage all Project documentation via our cloud-based document management system. As such, Contractor will maintain all shop drawings, product data, samples, submittals, purchases, materials, equipment, and applicable handbooks. All documents will be maintained and turned over to the City at the completion of the Project.

Schedule of Values & Processing of Payments

Consultant will establish, or cause to be established by the Contractor, a comprehensive Schedule of Values for the entirety of the Project for approval by the City. Once approved, this will serve as the basis for all progress payments, which Consultant will review for consistency with progress in the field and make recommendations to the Contractor for correction. Once corrected, Consultant will make recommendations to the City for processing.

Evaluate Change Order Proposal Costs

Consultant will review all change orders and provide supplemental information as needed to justify their approval or rejection. Consultant will negotiate with the Contractor on the City's behalf and serve as the point of contact for resolving issues and mitigating against potential claims. Specifically, Consultant will seek to avoid claims as detailed above.

Change Order Reports

Consultant will maintain a comprehensive log of all change orders for the Project. This log will include anticipated change orders not yet received, change order requests, the status of their review or rejection, and a final documentation of all approved change orders.

Contractor Claims

As described above, Consultant has an extensive claims mitigation and avoidance program which will be employed for this Project.

Project Status Reports

As with the preconstruction phase, Consultant will provide a monthly Project status report for distribution to all parties the City deems appropriate. This report will include key milestones, anticipated work pending, budget updates, photographs, and any key challenges encountered.

Equipment Instruction Manuals, Warranties & Releases

Integral to our cloud- based document management system, Submittal Exchange or City's Virtual Project Manager software will assemble all guarantees, certifications, affidavits, leases, easement deed, operating and maintenance manuals, warranties and any other closeout documents. This system will provide a complete digital file for all documents, for future use, as well as maintain cloud-based file for future use.

Completion of Contracts & Project

Consultant will coordinate the final punch walk of the Project to ensure all improvements are per the plans and specifications. Throughout the course of construction, Consultant will employ a Field Observation Log to identify quality issues observed by the Project team on an ongoing basis. This will function as an ongoing pre-punch list, and therefore help to minimize the issues discovered at the final punch walk. Consultant will also oversee the follow up punch walks to confirm corrective action is resolved. Once completed, Consultant will issue a comprehensive punch list for completion by the Contractor. Afterwards, Consultant will oversee the completion of these items and ensure that all deficiencies and corrections are completed to the satisfaction of the City.

As-Built, Close Out & Warranties Documents

Consultant will maintain a complete and up-to-date set of drawings for the duration of the Project. As such, the CM set will be used as the As-Built set and require that all trade contractors mark up the CM set which will allow for a complete set of As-Built documents be turned over to the City for record purposes.

User Training Sessions

Consultant will oversee and attend all training sessions for City staff. We will require that all training sessions be videotaped and that those tapes be turned over to the City for future reference. These sessions will also be performed in accordance with CalGreen commissioning requirements and managed in a manner that is consistent with state building code.

Accounting Records

Consultant brings a significant amount of experience in cost accounting methods including the management of contract unit costs and T&M analysis and will employ that experience to provide comprehensive cost accounting records and controls. Consultant will use its cost controls system to establish a master budget that captures all costs associate with the Project. Consultant will provide regular updates to the City throughout the duration of the Project.

Permits

Consultant will work with the City and the design team to ensure all permits are pulled and all requirements of the permitting process are enforced.

Initial Start-Up & Testing

As part of the commissioning process, all installations will go through both a pre-functional testing protocol and a functioning test protocol. These tests will be managed and documented by the Commissioning Agent and overseen by the Construction Manager/Project Inspector.

Storm Water Pollution Prevention Plan (SWPPP)

Consultant will oversee the implementation of the SWPPP program, first by requiring the Contractor provide a QSP as required by the State Water Quality Control Board, and then by performing spot check observations. Any deficiencies and repairs that may be needed will be communicated to the Contractor to rectify as required.

Punch List

Consultant will coordinate the final punch walk to ensure all improvements are per the plans and specifications. Specifically, Consultant will employ a Field Observation Log that will seek to identify quality issues observed by the Project team on an ongoing basis. This will serve to function as an ongoing pre-punch list, and therefore help to minimize the issues discovered at the final punch walk. Consultant will also oversee the follow up punch walks to confirm corrective action is resolved. Once completed, Consultant will issue a comprehensive punch list for completion by the Contractor. Consultant will oversee the completion of these items and ensure that all deficiencies and corrections are completed to the satisfaction of the City.

Final Claims Releases

Should any claims be made on the Project, or any stop notices imposed, Consultant will work with the City to resolve all claims for the success of the Project.

Final Project Report & Payment

Consultant Structures will prepare a final report for the City that captures a final summary of all financial matters including Contractor change orders, consultant costs, services, FF&E (as applicable), and other costs related to the Project. This report will also address all schedule issues and contract dates, as well as final acceptance summary with signed receipts from all City staff. The final report will address all close out documentation as well as final FF&E purchases (as applicable) and installations.

User Complaints

Should user complaints issues arise, Consultant will coordinate with the staff and Contractor to investigate and resolve any issues related to the Project.

Year-End Walk Through

Consultant is prepared to provide a year-end walk through at the conclusion of the warranty period to determine if any issues need to be resolved prior to the expiration of the warranty period. This is typically performed at the 11th month, so the Contractor has sufficient time to address the issues prior to expiration.

D. Scheduling

Consultant to schedule specific dates of work in advance by contacting Joanna Axelrod at 760-839-4871 or jaxelrod@escondido.org. Further instructions will be provided upon scheduling.

E. Contract Price and Payment Terms

The contract price shall not exceed **\$798,000**. The contract price includes all labor, materials, equipment, and transportation required to perform the work.

All costs invoiced by Consultant will be billed based on actual time spent. Any unused savings will be returned to the City or reallocated to another use as agreed to by both Parties in writing.

The hourly rates are fully burdened and include overhead profit, taxes, and benefits. Services will be billed as services are performed according to the Fee Proposal and the Resources Allocation Schedule included in Exhibit 1 for each individual employee and task. However, these are estimates only and hours may be reallocated between staff members, subconsultants, and tasks, in consultation with City, in order to accomplish the overall objective and requirements of the Project. Payment will be made after services have been performed and within 30 days of receipt of an invoice for those services.

F. Term

The term of this Agreement shall be from the Effective Date of the Agreement through **January 31, 2026**.

G. Other

Consultant understands and acknowledges that California Building Forward Grant funds will be used in whole to pay for services under this Agreement. Accordingly, Consultant agrees to comply with all City requests relating to the Award Agreement entered into by the City and the California State Library (Agreement No. BF-1-21-019), which is attached hereto as Exhibit 2 and incorporated herein by this reference. Furthermore, Consultant shall comply with all applicable requirements stated in Exhibit 2, including but not limited to the following:

1. **Audit and Records Access:** At the City's direction, Consultant shall allow the State Library, the Department of General Services, the State Auditor, or their designated representatives the right to review, audit, inspect and copy any records and supporting documentation pertaining to the performance of this Agreement. Consultant agrees to maintain such records for possible audit for a minimum of five (5) years after the final payment, or grant term end date, whichever is later, unless a longer period of records retention is stipulated, or until completion of any action and resolution of all issues which may arise as a result of any litigation, dispute, or audit, whichever is later. The Consultant agrees to allow the auditor(s) access to such records during normal business hours and to allow interviews of any employees who might reasonably have information related to such records. Further, the Consultant agrees to include a similar right of the State to audit records and interview staff in any subcontract related to performance of this Agreement. Examples of audit documentation may include, but not limited to, competitive bids, grant amendments, if any, relating to the budget or work plan, copies of any agreements with contractors or subcontractors if utilized, expenditure ledger, payroll register entries, time sheets, personnel expenditure summary form, travel expense log, paid warrants, contracts and change orders, samples of items and materials developed with grant funds, invoices and/or cancelled checks.
2. **Non-Discrimination Clause:** During the term of this Agreement, Consultant (including any subconsultants and subcontractors) shall not unlawfully discriminate, harass, or allow harassment against any employee or applicant for employment because of race, religious creed, color, national origin, ancestry, physical disability, mental disability, medical condition, genetic information, marital status, sex, age, sexual orientation, or military and veteran status. Consultant shall insure that the evaluation and treatment of contractors, employees and applicants for employment are free from such discrimination and harassment. Additionally, Consultant, contractors, and subcontractors, if applicable, shall comply with the provisions of the Fair Employment and Housing Act (Gov. Code §12900 et seq.), the regulations promulgated thereunder (Cal. Code Regs., tit. 2, §11000 et seq.), the provisions of Article 9.5, Chapter 1, Part 1, Division 3, Title 2 of the Government Code (Gov. Code §§ 11135-11139.5), and the regulations or standards adopted by the State Library to implement such article. Consultant shall

permit access by representatives of the Department of Civil Rights and the State Library upon reasonable notice at any time during the normal business hours, but in no case less than 24 hours' notice, to such of its books, records, accounts, and all other sources of information and its facilities as said Department or the State Library shall require ascertaining compliance with this clause. Consultant, and its contractors, and subcontractors shall give written notice of their obligations under this clause to labor organizations with which they have a collective bargaining or other agreement. (See Cal. Code Regs., tit. 2, §11105.) Consultant shall include the non-discrimination and compliance provisions of this clause in all contracts and subcontracts to perform work for the Project.

3. Insurance Requirements: Consultant shall comply with the insurance requirements as described in Exhibit B (ADDITIONAL TERMS AND CONDITIONS) of Exhibit 2.

ATTACHMENT "B"

Personnel List

Pursuant to Section 4 of the Agreement, CONSULTANT shall only assign performance of Services to persons listed below.

1. Jon Hughes, Principal-in-Charge, jhughes@griffinstructures.com, Griffin Structures;
2. Robert Godfrey, Project Executive, rgodfrey@griffinstructures.com, Griffin Structures;
3. Dustin Alamo, Predevelopment Manager, Dalamo@griffinstructures.com, Griffin Structures;
4. Tim Shaw, Sr. Project & Construction Manager, tshaw@griffinstructures.com, Griffin Structures; and
5. Ariana Ramzian, Project Analyst, aramzian@griffinstructures.com, Griffin Structures.

CONSULTANT shall not add or remove persons from this Personnel List without the City's prior written consent. If CONSULTANT has not designated a person to perform a component of the Services, CONSULTANT shall not assign such component of the Services to a person without obtaining the City's prior written consent. CONSULTANT shall not subcontract any component of the Services without obtaining the City's prior written consent.

Should the CONSULTANT be away from the Project due to holidays, vacation, or other such absence, CONSULTANT will notify CITY and provide alternate personnel and/or supplement that absence with the suitable and appropriate work force to minimize disruption to the Project. Such substitutions will not be permitted without the City's prior written consent.

Acknowledged by:

Date: _____

Jon Hughes, Principal-in-Charge