AGREEMENT AMENDMENT
City Manager’s Office
701 Laurel St., Menlo Park, CA 94025
tel 650-330-6620

AGREEMENT FOR SERVICES BETWEEN
THE CITY OF MENLO PARK AND GOLDEN BAY CONSTRUCTION, INC.

Amendment #: 3109.1

THIS FIRST AMENDMENT is made and entered into this 2/11/2021, by and between the CITY OF MENLO PARK, a Municipal Corporation, hereinafter referred to as “CITY,” and GOLDEN BAY CONSTRUCTION, INC., hereinafter referred to as “FIRST PARTY.”

1. Pursuant to Section 4. COMPENSATION AND PAYMENT of Agreement No. 3109, (“Agreement”), Section 4. COMPENSATION AND PAYMENT [amendment to section] to read as follows:

“CITY shall pay FIRST PARTY an all-inclusive fee that shall not exceed $48,802.60 as described in Exhibit "A," Scope of Services. All payments shall be inclusive of all indirect and direct charges to the Project incurred by FIRST PARTY. The CITY reserves the right to withhold payment if the City determines that the quantity or quality of the work performed is unacceptable.”

2. Pursuant to Section 24. TERM OF AGREEMENT of Agreement No. 3109, (“Agreement”), Section 24. TERM OF AGREEMENT [amendment to section] to read as follows:

“This agreement shall remain in effect for the period of January 4, 2021 through March 31, 2021 unless extended, amended, or terminated in writing by CITY.”

Except as modified by this Amendment, all other terms and conditions of Agreement No. 3109 remain the same.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement on the day and year first above written.

SIGNATURE PAGE TO FOLLOW
FOR FIRST PARTY:

Johnny Zanette
Printed name

Tax ID#

APPROVED AS TO FORM:

Cara E. Silver, Interim City Attorney

FOR CITY OF MENLO PARK:

Nicole H. Nagaya, Public Works Director

ATTEST:

Judi A. Herren, City Clerk
CAPITAL IMPROVEMENT PROJECT (CIP) AGREEMENT
City Manager’s Office
701 Laurel St., Menlo Park, CA 94025
tel 650-330-6620

Agreement #: 3109

AGREEMENT FOR SERVICES BETWEEN
THE CITY OF MENLO PARK AND GOLDEN BAY CONSTRUCTION, INC.

THIS AGREEMENT made and entered into at Menlo Park, California, this 12/15/2020, by and between the CITY OF MENLO PARK, a Municipal Corporation, hereinafter referred to as "CITY," and GOLDEN BAY CONSTRUCTION, INC., hereinafter referred to as “FIRST PARTY.”

WITNESSETH:

WHEREAS, CITY desires to retain FIRST PARTY to provide certain professional services for CITY in connection with that certain project called: New Americans with Disabilities Act (ADA) curb ramp at the intersection of Doyle Street and Menlo Avenue

WHEREAS, FIRST PARTY is licensed to perform said services and desires to and does hereby undertake to perform said services.

NOW, THEREFORE, IN CONSIDERATION OF THE MUTUAL COVENANTS, PROMISES AND CONDITIONS of each of the parties hereto, it is hereby agreed as follows:

1. SCOPE OF WORK

In consideration of the payment by CITY to FIRST PARTY, as hereinafter provided, FIRST PARTY agrees to perform all the services as set forth in Exhibit "A," Scope of Services.

2. SCHEDULE FOR WORK

FIRST PARTY’s proposed schedule for the various services required pursuant to this agreement will be as set forth in Exhibit "A," Scope of Services. CITY will be kept informed as to the progress of work by written reports, to be submitted monthly or as otherwise required in Exhibit "A." Neither party shall hold the other responsible for damages or delay in performance caused by acts of God, strikes, lockouts, accidents or other events beyond the control of the other, or the other’s employees and agents.

FIRST PARTY shall commence work immediately upon receipt of a “Notice to Proceed” from CITY. The "Notice to Proceed" date shall be considered the "effective date" of the agreement, as used herein, except as otherwise specifically defined. FIRST PARTY shall complete all the work and deliver to CITY all project related files, records, and materials within one month after completion of all of FIRST PARTY’s activities required under this agreement.

3. PROSECUTION OF WORK

FIRST PARTY will employ a sufficient staff to prosecute the work diligently and continuously and will complete the work in accordance with the schedule of work approved by the CITY. (See Exhibit "A," Scope of Services).
4. COMPENSATION AND PAYMENT

A. CITY shall pay FIRST PARTY an all-inclusive fee that shall not exceed $44,366 as described in Exhibit "A," Scope of Services. All payments shall be inclusive of all indirect and direct charges to the Project incurred by FIRST PARTY. The CITY reserves the right to withhold payment if the City determines that the quantity or quality of the work performed is unacceptable.

B. FIRST PARTY’s fee for the services as set forth herein shall be considered as full compensation for all indirect and direct personnel, materials, supplies and equipment, and services incurred by FIRST PARTY and used in carrying out or completing the work.

C. Payments shall be monthly for the invoice amount or such other amount as approved by CITY. As each payment is due, the FIRST PARTY shall submit a statement describing the services performed to CITY. This statement shall include, at a minimum, the project title, agreement number, the title(s) of personnel performing work, hours spent, payment rate, and a listing of all reimbursable costs. CITY shall have the discretion to approve the invoice and the work completed statement. Payment shall be for the invoice amount or such other amount as approved by CITY.

D. Payments are due upon receipt of written invoices. CITY shall have the right to receive, upon request, documentation substantiating charges billed to CITY. CITY shall have the right to perform an audit of the FIRST PARTY’s relevant records pertaining to the charges.

5. EQUAL EMPLOYMENT OPPORTUNITY

A. FIRST PARTY, with regard to the work performed by it under this agreement shall not discriminate on the grounds of race, religion, color, national origin, sex, handicap, marital status or age in the retention of sub-consultants, including procurement of materials and leases of equipment.

B. FIRST PARTY shall take affirmative action to insure that employees and applicants for employment are treated without regard to their race, color, religion, sex, national origin, marital status or handicap. Such action shall include, but not be limited to the following: employment, upgrading, demotion, or transfer; recruitment advertising; layoff or termination; rates of pay or other forms of compensation and selection for training including apprenticeship.

C. FIRST PARTY shall post in prominent places, available to employees and applicants for employment, notices setting forth the provisions of this non-discrimination clause.

D. FIRST PARTY shall state that all qualified applications will receive consideration for employment without regard to race, color, religion, sex, national origin, marital status or handicap.

E. FIRST PARTY shall comply with Title VI of the Civil Rights Act of 1964 and shall provide such reports as may be required to carry out the intent of this section.

F. FIRST PARTY shall incorporate the foregoing requirements of this section in FIRST PARTY’s agreement with all sub-consultants.

6. ASSIGNMENT OF AGREEMENT AND TRANSFER OF INTEREST

A. FIRST PARTY shall not assign this agreement, and shall not transfer any interest in the same (whether by assignment or novation), without prior written consent of the CITY thereto, provided, however, that claims for money due or to become due to the FIRST PARTY from the CITY under this agreement may be assigned to a bank, trust company, or other financial institution without such approval. Notice of an intended assignment or transfer shall be furnished promptly to the CITY.

B. In the event there is a change of more than 30 percent of the stock ownership or ownership in FIRST PARTY from the date of this agreement is executed, then CITY shall be notified before the date of said change of stock ownership or interest and CITY shall have the right, in event of such change in stock ownership or interest, to terminate this agreement upon notice to FIRST PARTY. In the event CITY is not notified of any such change in stock ownership or interest, then upon knowledge of same, it shall be deemed that CITY has terminated this agreement.
7. INDEPENDENT WORK CONTROL

It is expressly agreed that in the performance of the service necessary for compliance with this agreement, FIRST PARTY shall be and is an independent contractor and is not an agent or employee of CITY. FIRST PARTY has and shall retain the right to exercise full control and supervision of the services and full control over the employment, direction, compensation and discharge of all persons assisting FIRST PARTY in the performance of FIRST PARTY’s services hereunder. FIRST PARTY shall be solely responsible for its own acts and those of its subordinates and employees.

8. CONSULTANT QUALIFICATIONS

It is expressly understood that FIRST PARTY is licensed and skilled in the professional calling necessary to perform the work agreed to be done by it under this agreement and CITY relies upon the skill of FIRST PARTY to do and perform said work in a skillful manner usual to the profession. The acceptance of FIRST PARTY’s work by CITY does not operate as a release of FIRST PARTY from said understanding.

9. NOTICES

All notices hereby required under this agreement shall be in writing and delivered in person or sent by certified mail, postage prepaid or by overnight courier service. Notices required to be given to CITY shall be addressed as follows:

Nicole H. Nagaya
Public Works Department
City of Menlo Park
701 Laurel St.
Menlo Park, CA 94025
650-330-6740
nmmelgar@menlopark.org

Notices required to be given to FIRST PARTY shall be addressed as follows:
Johnny Zanette
Golden Bay Construction, Inc.

Provided that any party may change such address by notice, in writing, to the other party and thereafter notices shall be addressed and transmitted to the new address.

10. HOLD HARMLESS

The FIRST PARTY shall defend, indemnify and hold harmless the CITY, its subsidiary agencies, their officers, agents, employees and servants from all claims, suits or actions that arise out of, pertain to, or relate to the negligence, recklessness, or willful misconduct of the FIRST PARTY brought for, or on account of, injuries to or death of any person or damage to property resulting from the performance of any work required by this agreement by FIRST PARTY, its officers, agents, employees and servants. Nothing herein shall be construed to require the FIRST PARTY to defend, indemnify or hold harmless the CITY, its subsidiary agencies, their officers, agents, employees and servants against any responsibility to liability in contravention of Section 2782.8 of the California Civil Code.
11. INSURANCE

A. FIRST PARTY shall not commence work under this agreement until all insurance required under this Section has been obtained and such insurance has been approved by the City, with certificates of insurance evidencing the required coverage.

B. There shall be a contractual liability endorsement extending the FIRST PARTY’s coverage to include the contractual liability assumed by the FIRST PARTY pursuant to this agreement. These certificates shall specify or be endorsed to provide that thirty (30) days’ notice must be given, in writing, to the CITY, at the address shown in Section 9, of any pending cancellation of the policy. FIRST PARTY shall notify CITY of any pending change to the policy. All certificates shall be filed with the City.

1. Workers’ compensation and employer’s liability insurance:
   The FIRST PARTY shall have in effect during the entire life of this agreement workers’ compensation and Employer’s Liability Insurance providing full statutory coverage. In signing this agreement, the FIRST PARTY makes the following certification, required by Section 18161 of the California Labor Code: "I am 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 Code, and I will comply with such provisions before commencing the performance of the work of this agreement" (not required if the FIRST PARTY is a Sole Proprietor).

2. Liability insurance:
   The FIRST PARTY shall take out and maintain during the life of this agreement such Bodily Injury Liability and Property Damage Liability Insurance (Commercial General Liability Insurance) on an occurrence basis as shall protect it while performing work covered by this agreement from any and all claims for damages for bodily injury, including accidental death, as well as claims for property damage which may arise from the FIRST PARTY’s operations under this agreement, whether such operations be by FIRST PARTY or by any sub-consultant or by anyone directly or indirectly employed by either of them. The amounts of such insurance shall be not less than one million dollars ($1,000,000) per occurrence and one million dollars ($1,000,000) in aggregate, or one million dollars ($1,000,000) combined single limit bodily injury and property damage for each occurrence. FIRST PARTY shall provide the CITY with acceptable evidence of coverage, including a copy of all declarations of coverage exclusions. FIRST PARTY shall maintain Automobile Liability Insurance pursuant to this agreement in an amount of not less than one million dollars ($1,000,000) for each accident combined single limit or not less than one million dollars ($1,000,000) for any one (1) person, and one million dollars ($1,000,000) for any one (1) accident, and Three Hundred Thousand Dollars, ($300,000) property damage.

3. Professional liability insurance:
   FIRST PARTY shall maintain a policy of professional liability insurance, protecting it against claims arising out of the negligent acts, errors, or omissions of FIRST PARTY pursuant to this agreement, in the amount of not less than one million dollars ($1,000,000) per claim and in the aggregate. Said professional liability insurance is to be kept in force for not less than one (1) year after completion of services described herein.

C. CITY and its subsidiary agencies, and their officers, agents, employees and servants shall be named as additional insured on any such policies of Commercial General Liability and Automobile Liability Insurance, (but not for the Professional Liability and workers' compensation), which shall also contain a provision that the insurance afforded thereby to the CITY, its subsidiary agencies, and their officers, agents, employees, and servants shall be primary insurance to the full limits of liability of the policy, and that if the CITY, its subsidiary agencies and their officers and employees have other insurance against a loss covered by a policy, such other insurance shall be excess insurance only.

D. 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, CITY, 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 pursuant to this agreement.

E. Before the execution of this agreement, any deductibles or self-insured retentions must be declared to and approved by CITY.
12. PAYMENT OF PERMITS/LICENSES

Contractor shall obtain any license, permit, or approval if necessary from any agency whatsoever for the work/services to be performed, at his/her own expense, before commencement of said work/services or forfeit any right to compensation under this agreement.

13. RESPONSIBILITY AND LIABILITY FOR SUB-CONSULTANTS AND/OR SUBCONTRACTORS

Approval of or by CITY shall not constitute nor be deemed a release of responsibility and liability of FIRST PARTY or its sub-consultants and/or subcontractors for the accuracy and competency of the designs, working drawings, specifications or other documents and work, nor shall its approval be deemed to be an assumption of such responsibility by CITY for any defect in the designs, working drawings, specifications or other documents prepared by FIRST PARTY or its sub-consultants and/or subcontractors.

14. OWNERSHIP OF WORK PRODUCT

Work products of FIRST PARTY for this project, which are delivered under this agreement or which are developed, produced and paid for under this agreement, shall become the property of CITY. The reuse of FIRST PARTY’s work products by City for purposes other than intended by this agreement shall be at no risk to FIRST PARTY.

15. REPRESENTATION OF WORK

Any and all representations of FIRST PARTY, in connection with the work performed or the information supplied, shall not apply to any other project or site, except the project described in Exhibit “A” or as otherwise specified in Exhibit “A.”

16. TERMINATION OF AGREEMENT

A. CITY may give thirty (30) days written notice to FIRST PARTY, terminating this agreement in whole or in part at any time, either for CITY’s convenience or because of the failure of FIRST PARTY to fulfill its contractual obligations or because of FIRST PARTY’s change of its assigned personnel on the project without prior CITY approval. Upon receipt of such notice, FIRST PARTY shall:
   1. Immediately discontinue all services affected (unless the notice directs otherwise); and
   2. Deliver to the CITY all data, drawings, specifications, reports, estimates, summaries, and such other information and materials as may have been accumulated or produced by FIRST PARTY in performing work under this agreement, whether completed or in process.

B. If termination is for the convenience of CITY, an equitable adjustment in the contract price shall be made, but no amount shall be allowed for anticipated profit on unperformed services.

C. If the termination is due to the failure of FIRST PARTY to fulfill its agreement, CITY may take over the work and prosecute the same to completion by agreement or otherwise. In such case, FIRST PARTY shall be liable to CITY for any reasonable additional cost occasioned to the CITY thereby.

D. If, after notice of termination for failure to fulfill agreement obligations, it is determined that FIRST PARTY had not so failed, the termination shall be deemed to have been effected for the convenience of the CITY. In such event, adjustment in the contract price shall be made as provided in Paragraph B of this Section.

E. The rights and remedies of the CITY provided in this Section are in addition to any other rights and remedies provided by law or under this agreement.

F. Subject to the foregoing provisions, the CITY shall pay FIRST PARTY for services performed and expenses incurred through the termination date.
17. INSPECTION OF WORK

It is FIRST PARTY's obligation to make the work product available for CITY's inspections and periodic reviews upon request by CITY.

18. COMPLIANCE WITH LAWS

It shall be the responsibility of FIRST PARTY to comply with all State and Federal Laws applicable to the work and services provided pursuant to this agreement, including but not limited to compliance with prevailing wage laws, if applicable.

19. BREACH OF AGREEMENT

A. This agreement is governed by applicable federal and state statutes and regulations. Any material deviation by FIRST PARTY for any reason from the requirements thereof, or from any other provision of this agreement, shall constitute a breach of this agreement and may be cause for termination at the election of the CITY.

B. The CITY reserves the right to waive any and all breaches of this agreement, and any such waiver shall not be deemed a waiver of any previous or subsequent breaches. In the event the CITY chooses to waive a particular breach of this agreement, it may condition same on payment by FIRST PARTY of actual damages occasioned by such breach of agreement.

20. SEVERABILITY

The provisions of this agreement are severable. If any portion of this agreement is held invalid by a court of competent jurisdiction, the remainder of the agreement shall remain in full force and effect unless amended or modified by the mutual consent of the parties.

21. CAPTIONS

The captions of this agreement are for convenience and reference only and shall not define, explain, modify, limit, exemplify, or aid in the interpretation, construction, or meaning of any provisions of this agreement.

22. LITIGATION OR ARBITRATION

In the event that suit or arbitration is brought to enforce the terms of this agreement, the prevailing party shall be entitled to litigation costs and reasonable attorneys' fees. The Dispute Resolution provisions are set forth on Exhibit "B," 'Dispute Resolution' attached hereto and by this reference incorporated herein.

23. RETENTION OF RECORDS

Contractor shall maintain all required records for three years after the City makes final payment and all other pending matters are closed, and shall be subject to the examination and/or audit of the City, a federal agency, and the state of California.

24. TERM OF AGREEMENT

This agreement shall remain in effect for the period of January 4, 2021 through January 31, 2021 unless extended, amended, or terminated in writing by CITY.
25. ENTIRE AGREEMENT

This document constitutes the sole agreement of the parties hereto relating to said project and states the rights, duties, and obligations of each party as of the document’s date. Any prior agreement, promises, negotiations, or representations between parties not expressly stated in this document are not binding. All modifications, amendments, or waivers of the terms of this agreement must be in writing and signed by the appropriate representatives of the parties to this agreement.

26. STATEMENT OF ECONOMIC INTEREST

Consultants, as defined by Section 18701 of the Regulations of the Fair Political Practices Commission, Title 2, Division 6 of the California Code of Regulations, are required to file a Statement of Economic Interests with 30 days of approval of a contract services agreement with the City of its subdivisions, on an annual basis thereafter during the term of the contract, and within 30 days of completion of the contract.

Based upon review of the Consultant’s Scope of Work and determination by the City Manager, it is determined that Consultant IS NOT required to file a Statement of Economic Interest. A statement of Economic Interest shall be filed with the City Clerk’s office no later than 30 days after the execution of the agreement.

IN WITNESS WHEREOF, the parties hereto have executed this agreement on the day and year first above written.

FOR FIRST PARTY:

[Signature]
Johnny Zanette
Printed name

[Redacted]
Tax ID#

12/14/2020
Date
Johnny Zanette - President
Title

APPROVED AS TO FORM:

[Signature]
Cara E. Silver
Cara E. Silver, Interim City Attorney

12/14/2020
Date

FOR CITY OF MENLO PARK:

[Signature]
Nicole Nagaya
Nicole H. Nagaya, Public Works Director

12/15/2020
Date

ATTEST:

[Signature]
Judi A. Herren, City Clerk

12/15/2020
Date
# EXHIBIT “A” – SCOPE OF SERVICES

## A1. SCOPE OF WORK

FIRST PARTY agrees to provide consultant services for CITY’s Public Works Department. In the event of any discrepancy between any of the terms of the FIRST PARTY’s proposal and those of this agreement, the version most favorable to the CITY shall prevail. FIRST PARTY shall provide the following services:

Provide consultant services set forth in Exhibit A -1, attached hereto.

FIRST PARTY agrees to perform these services as directed by the CITY in accordance with the standards of its profession and CITY’s satisfaction.

## A2. COMPENSATION

CITY shall pay FIRST PARTY an all-inclusive fee of $44,366 as described in Exhibit "A," Scope of Services. All payments, shall be inclusive of all indirect and direct charges to the Project incurred by FIRST PARTY. The CITY reserves the right to withhold payment if the City determines that the quantity or quality of the work performed is unacceptable.

FIRST PARTY’s fee for the services as set forth herein shall be considered as full compensation for all indirect and direct personnel, materials, supplies and equipment, and services incurred by FIRST PARTY and used in carrying out or completing the work.

Payments shall be monthly for the invoice amount or such other amount as approved by CITY. As each payment is due, the FIRST PARTY shall submit a statement describing the services performed to CITY. This statement shall include, at a minimum, the project title, agreement number, the title(s) of personnel performing work, hours spent, payment rate, and a listing of all reimbursable costs. CITY shall have the discretion to approve the invoice and the work completed statement. Payment shall be for the invoice amount or such other amount as approved by CITY.

Payments are due upon receipt of written invoices. CITY shall have the right to receive, upon request, documentation substantiating charges billed to CITY. CITY shall have the right to perform an audit of the FIRST PARTY’s relevant records pertaining to the charges.

## A3. SCHEDULE OF WORK

FIRST PARTY’S proposed schedule for the various services required will be set forth in Exhibit A-1.

## A4. CHANGES IN WORK -- EXTRA WORK

In addition to services described in Section A1, the parties may from time to time agree in writing that FIRST PARTY, for additional compensation, shall perform additional services including but not limited to:

- Change in the services because of changes in scope of the work.
- Additional tasks not specified herein as required by the CITY.

The CITY and FIRST PARTY shall agree in writing to any changes in compensation and/or changes in FIRST PARTY’s services before the commencement of any work. If FIRST PARTY deems work he/she has been directed to perform is beyond the scope of this agreement and constitutes extra work, FIRST PARTY shall immediately inform the CITY in writing of the fact. The CITY shall make a determination as to whether such work is in fact beyond the scope of this agreement and constitutes extra work. In the event that the CITY determines that such work does constitute extra work, it shall provide compensation to the FIRST PARTY in accordance with an agreed cost that is fair and equitable. This cost will be mutually agreed upon by the CITY and FIRST PARTY. A supplemental agreement providing for such compensation for extra work shall be negotiated between the CITY and the FIRST PARTY. Such supplemental agreement shall be executed by the FIRST PARTY and may be approved by the City Manager upon recommendation of the Department Head.

CC Rev 20200301
## A5. BILLINGS

FIRST PARTY’s bills shall include the following information: A brief description of services performed, project title and the agreement number; the date the services were performed; the number of hours spent and by whom; the current contract amount; the current invoice amount.

Except as specifically authorized by CITY, FIRST PARTY shall not bill CITY for duplicate services performed by more than one person. In no event shall FIRST PARTY submit any billing for an amount in excess of the maximum amount of compensation provided in Section A2.

The expenses of any office, including furniture and equipment rental, supplies, salaries of employees, telephone calls, postage, advertising, and all other expenses incurred by FIRST PARTY in the performances of this agreement shall be incurred at the FIRST PARTY’s discretion. Such expenses shall be FIRST PARTY’s sole financial responsibility.
EXHIBIT “B” - DISPUTE RESOLUTION

B1.0 All claims, disputes and other matters in question between the FIRST PARTY and CITY arising out of, or relating to, the contract documents or the breach thereof, shall be resolved as follows:

B2.0 Mediation
B2.1 The parties shall attempt in good faith first to mediate such dispute and use their best efforts to reach agreement on the matters in dispute. After a written demand for non-binding mediation, which shall specify in detail the facts of the dispute, and within ten (10) days from the date of delivery of the demand, the matter shall be submitted to a mutually agreeable mediator. The Mediator shall hear the matter and provide an informal opinion and advice, none of which shall be binding upon the parties, but is expected by the parties to help resolve the dispute. Said informal opinion and advice shall be submitted to the parties within twenty (20) days following written demand for mediation. The Mediator’s fee shall be shared equally by the parties. If the dispute has not been resolved, the matter shall be submitted to arbitration in accordance with Paragraph B3.1.

B3.0 Arbitration
B3.1 Any dispute between the parties that is to be resolved by arbitration as provided in Paragraph B2.1 shall be settled and decided by arbitration conducted by the American Arbitration Association in accordance with the Construction Industry Arbitration Rules of the American Arbitration Association, as then in effect, except as provided below. Any such arbitration shall be held before three arbitrators who shall be selected by mutual agreement of the parties; if agreement is not reached on the selection of the arbitrators within fifteen (15) days, then such arbitrator(s) shall be appointed by the presiding Judge of the court of jurisdiction of the agreement.

B3.2 The provisions of the Construction Industry Arbitration Rules of the American Arbitration Association shall apply and govern such arbitration, subject however to the following:

B3.3 Any demand for arbitration shall be writing and must be made within a reasonable time after the claim, dispute or other matter in question as arisen. In no event shall the demand for arbitration be made after the date that institution of legal or equitable proceedings based on such claim, dispute or other matter would be barred by the applicable statute of limitations.

B3.4 The arbitrator or arbitrators appointed must be former or retired judges, or attorneys at law with last ten (10) years’ experience in construction litigation.

B3.5 All proceedings involving the parties shall be reported by a certified shorthand court reporter, and written transcripts of the proceedings shall be prepared and made available to the parties.

B3.6 The arbitrator or arbitrators must be made within and provide to the parties factual findings and the reasons on which the decisions of the arbitrator or arbitrators is based.

B3.7 Final decision by the arbitrator or arbitrators must be made within ninety (90) days from the date of the arbitration proceedings are initiated.

B3.8 The prevailing party shall be awarded reasonable attorneys’ fees, expert and non-expert witness costs and expenses, and other costs and expenses incurred in connection with the arbitration, unless the arbitrator or arbitrators for good cause determine otherwise.

B3.9 Costs and fees of the arbitrator or arbitrators shall be borne by the non-prevailing party, unless the arbitrator or arbitrators for good cause determine otherwise.

B3.10 The award or decision of the arbitrator or arbitrators, which may include equitable relief, shall be final, and judgment may be entered on it in accordance with applicable law in any court having jurisdiction over the matter.
**Project: 2020 Street Preventive Maintenance**  
City of Menlo Park Project No. 20-010  
Menlo & Doyle Ramp & Valley Gutter

<table>
<thead>
<tr>
<th>Bid Item</th>
<th>Description</th>
<th>Quantity</th>
<th>Unit Price</th>
<th>Extension</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>Mobilization</td>
<td>1</td>
<td>LS $1,500.00</td>
<td>$1,500.00</td>
</tr>
<tr>
<td>2</td>
<td>Traffic Control</td>
<td>1</td>
<td>LS $5,900.00</td>
<td>$5,900.00</td>
</tr>
<tr>
<td>8</td>
<td>Reconstruct PCC Sidewalk</td>
<td>94</td>
<td>SF $26.00</td>
<td>$2,444.00</td>
</tr>
<tr>
<td>9</td>
<td>PCC Curb &amp; Gutter</td>
<td>23</td>
<td>LF $153.00</td>
<td>$3,519.00</td>
</tr>
<tr>
<td>12</td>
<td>3' PCC Valley Gutter &amp; Apron</td>
<td>54</td>
<td>LF $168.00</td>
<td>$9,072.00</td>
</tr>
<tr>
<td>14</td>
<td>New ADA Curb Ramp</td>
<td>1</td>
<td>EA $7,680.00</td>
<td>$7,680.00</td>
</tr>
<tr>
<td>GBC-1</td>
<td>Remove &amp; Replace 6&quot; Asphalt Paving</td>
<td>262</td>
<td>SF $39.00</td>
<td>$10,218.00</td>
</tr>
</tbody>
</table>

**Total Cost:** $40,333.00

**Notes:**
PCO is for installing handicap ramp, valley gutter, curb/gutter, sidewalk and asphalt improvements at the southwest corner of Menlo Avenue and Doyle Street. Scope of work is per the bid items above, layout meeting with the City of Menlo Park on 9/30/20 and the attached picture. A contract time extension of ten (10) working days will be required to perform this additional work. One lane of traffic on Doyle to be maintained by flagging at all times.

**Exclusions:** Permits, fees, bonds, testing, inspection, signage, striping, nights and/or weekend work.

Please contact Brian Cortese at (650) 670-0014 or brian@gbayinc.com with any questions.

---

**Approved:**

**Name:**

**Sign:**

**Date:**
Doyle

---

- Arrow A 25 SF
- CASE-B Ramp Sidewalk Conform 99 SF
- Valley Gutter 145' x 13'
- AC = 13' x 8'
- AC = 9' x 7'
- Curb/Gutter 17 LF
- Curb/Gutter 4 LF

---

4.29 ft
AGREEMENT REQUIREMENTS

Work Warranty and Maintenance Bond:
- The Contractor shall guarantee the entire work constructed under the Contract to be free of defects in material and workmanship for a period of one-year following the date of the Public Work Director's acceptance of work unless a different warranty period is mutually agreed upon in writing.
- The Contractor shall agree to make, at his own expense, any repairs or replacements made necessary by defects in materials or workmanship that become evident within said warranty period. The Contractor shall further agree to indemnify and hold harmless the City and Engineer, their officers, agents and employees against and from all claims and liability arising from damage and injury due to said defects.
- Upon receipt of written order from the Engineer, the Contractor shall make all repairs and replacements within the time indicated above. If the Contractor fails to make the repairs and replacements within said period of time, the City may do the work and the Contractor and his surety shall be liable to the City for the cost of the work.
- The guarantee and conditions specified above shall be secured by a Maintenance Bond, which shall be delivered by the Contractor to the City acceptance of the work and release of the Performance Bond. Said bond shall be in the form included in the Proposal & Contract Book, and it shall be executed by a surety company or companies satisfactory to the City in the amount of ten (10) percent of the Contract Price or $1,000.00, whichever is greater. Said bond shall remain in force for the duration of the warranty period specified.

Traffic Control Requirements:
- Traffic control shall conform to the provisions of Section 12, “Construction Area Traffic Control Devices,” of the Standard Specifications and these special provisions.
- The Contractor shall provide all required signs, barricades, arrow boards, lights, high-level flag trees and other traffic control devices to cause the least possible inconvenience to vehicle, bicycle, and pedestrian traffic in conformance with the principles set forth by the latest California Manual on Uniform Traffic Control Devices (MUTCD), Part 6, “Temporary Traffic Control.”
- The Contractor shall provide and maintain all traffic control and safety devices. The Contractor assumes sole and complete responsibility for the job site conditions including safety of all persons and property from start of construction until final acceptance of construction. This requirement shall apply twenty-four (24) hours/day and shall not be limited to normal work hours. Whenever, in the opinion of the Engineer, field conditions require additional or revised measures to safely control the movement of vehicles, bicycles, and pedestrians, the Contractor shall implement such measures. No additional compensation shall be paid unless it was impossible to have anticipated the circumstances requiring the change.
Traffic Control Plans:

- The Contractor shall submit a detailed site-specific Traffic Control Plan, for the street segment that requires any temporary diversion of one or more lanes or closure of traffic or any bicycle lane or pedestrian walkway, to the Engineer for approval at least two weeks prior to commencing any work on a street segment.

- The plans shall show, in detail, how through traffic will be achieved at all times while work is accomplished. The plans shall also clearly show occupation dates and times.

- Work can only commence after City approves traffic control plans

General Requirements

- Work will only be allowed on one side of the street at any given time with additional consideration being given to staggering blocks, so that vehicular, bicycle, and pedestrian travel is not unduly interrupted.

- Residents and businesses shall be allowed to access or leave their residences or buildings at all times, other than brief transient delays, unless explicit authorization to the contrary is granted by the Engineer.
CERTIFICATE OF LIABILITY INSURANCE

THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AFFIRMATIVELY OR NEGATIVELY AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW. THIS CERTIFICATE OF INSURANCE DOES NOT CONSTITUTE A CONTRACT BETWEEN THE ISSUING INSURER(S), AUTHORIZED REPRESENTATIVE OR PRODUCER, AND THE CERTIFICATE HOLDER.

IMPORTANT: If the certificate holder is an ADDITIONAL INSURED, the policy(ies) must have ADDITIONAL INSURED provisions or be endorsed. If SUBROGATION IS WAIVED, subject to the terms and conditions of the policy, certain policies may require an endorsement. A statement on this certificate does not confer rights to the certificate holder in lieu of such endorsement(s).

PRODUCER: James E. McGovern, Inc.
1825 El Camino Real
Belmont, CA 94002

INSURED:
Golden Bay Construction Inc.
3826 Depot Road
Hayward CA 94545

www.jeminins.com

CONTACT NAME: James E. McGovern, Inc.

PHONE (AC. No, Ext): 650-593-8216
FAX (AC. No): 650-594-9130

INSURER(S) AFFORDING COVERAGE NAIC #
INSURER A: Travelers Indemnity Co of Connecticut A+ XV
25682
INSURER B: Travelers Property Casualty Co of America A+ XV
25674
INSURER C: Everest Premier Insurance Company A+ XV
16045

CERTIFICATE NUMBER: 59074059

COVERAGES

THIS IS TO CERTIFY THAT THE POLICIES OF INSURANCE LISTED BELOW HAVE BEEN ISSUED TO THE INSURED NAMED ABOVE FOR THE POLICY PERIOD INDICATED. NOTWITHSTANDING ANY REQUIREMENT, TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THIS CERTIFICATE MAY BE ISSUED OR MAY PERTAIN, THE INSURANCE AFFORDED BY THE POLICIES DESCRIBED HEREIN IS SUBJECT TO ALL THE TERMS, EXCLUSIONS AND CONDITIONS OF SUCH POLICIES. LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS.

<table>
<thead>
<tr>
<th>INSURER</th>
<th>TYPE OF INSURANCE</th>
<th>ADDL. NO.</th>
<th>POLICY NUMBER</th>
<th>POLICY EFL</th>
<th>POLICY EXP</th>
<th>LIMITS</th>
</tr>
</thead>
<tbody>
<tr>
<td>A</td>
<td>COMMERCIAL GENERAL LIABILITY</td>
<td>✓</td>
<td>✓</td>
<td>CO-4P540202-20</td>
<td>1/1/2020</td>
<td>1/1/2021</td>
</tr>
<tr>
<td></td>
<td>CLAIMS MADE</td>
<td>✓</td>
<td>OCCUR</td>
<td>DAMAGE TO RENTED</td>
<td>$300,000</td>
<td></td>
</tr>
<tr>
<td></td>
<td>XCU-Not Excluded</td>
<td>✓</td>
<td></td>
<td>PROMISES (Ex. occurrence)</td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td>Separation of Insureds</td>
<td>✓</td>
<td></td>
<td>MED EXP (Any one person)</td>
<td>$5,000</td>
<td></td>
</tr>
<tr>
<td></td>
<td>GEN. AGRG. LIMIT APPLIES PER:</td>
<td>✓</td>
<td></td>
<td>PERSONAL &amp; ADV INJURY</td>
<td>$1,000,000</td>
<td></td>
</tr>
<tr>
<td></td>
<td>POLICY</td>
<td>✓</td>
<td>AGRG.</td>
<td>GENERAL AGRG.</td>
<td>$2,000,000</td>
<td></td>
</tr>
<tr>
<td></td>
<td>PROJ.</td>
<td>✓</td>
<td>LOC.</td>
<td>PRODUCTS - COMPLIANCE</td>
<td>$2,000,000</td>
<td></td>
</tr>
</tbody>
</table>
|         | OTHER | ✓ | | | $

B | AUTOMOBILE LIABILITY | ✓ | ✓ | 810.2L97088A-20 | 1/1/2020 | 1/1/2021 | EACH OCCURRENCE: | $1,000,000 |
| | ANY AUTO | ✓ | | COMBINED SINGLE LIMIT (Per accident) | $1,000,000 |
| | OWNED AUTO | ✓ | | BODY INJURY (Per person) | $ |
| | NON-OWNED AUTO | ✓ | | BODY INJURY (Per person) | $ |
| | SCHEDULED AUTO | ✓ | | PROPERTY DAMAGE | $ |
| | AUTO'S ONLY | ✓ | | (Per accident) | $ |
| | NON-OWNED AUTO'S ONLY | ✓ | | | $

B | UMBRELLA / EXCESS LIABILITY | ✓ | ✓ | CUP-4P556469-20 ** Follows Form Over GL, AU & WC ** | 1/1/2020 | 1/1/2021 | EACH OCCURRENCE: | $8,000,000 |
| | OCCUR | ✓ | CLAIMS MADE | AGGREGATE | $8,000,000 |

C | WORKERS COMPENSATION AND EMPLOYER'S LIABILITY | ✓ | ✓ | Y/N | Y | 76000181411-21 | 10/1/2020 | 10/1/2021 | E.L. EACH ACCIDENT (Per accident) | $1,000,000 |
| | ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER MEMBER EXCLUDED? (Mandatory in NM) | ✓ | | E.L. DISEASE - EQ EMPLOYEES | $1,000,000 |
| | YES | ✓ | | E.L. DISEASE - POLICY LIMIT | $1,000,000 |
| | NO | ✓ | | | $

DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES (ACORD 101, Additional Remarks Schedule, may be attached if more space is required)

Re: Capital Improvement Project, City of Menlo Park
Additional Insured. The city of Menlo Park, and its subsidiary agencies, and their officers, agents, employees and servants Additional Insured endorsements attached.

CERTIFICATE HOLDER
City of Menlo Park
701 Laurel Street
Menlo Park CA 94025

CANCELLATION

SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, NOTICE WILL BE DELIVERED IN ACCORDANCE WITH THE POLICY PROVISIONS.

AUTHORIZED REPRESENTATIVE

Steve Suisa

© 1988-2015 ACORD CORPORATION. All rights reserved.
COMMERCIAL AUTO
POLICY NUMBER: 810-2L97086A-20
Golden Bay Construction Inc.

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

ADDITIONAL INSURED PRIMARY AND NON-CONTRIBUTORY WITH OTHER INSURANCE

This endorsement modifies insurance provided by the following:

BUSINESS AUTO COVERAGE FORM

With respect to coverage provided by this endorsement, the provisions of the Coverage Form apply unless modified by this endorsement.

SCHEDULED PERSONS OR ORGANIZATIONS

Additional Insured: The city of Menlo Park, and its subsidiary agencies, and their officers, agents, employees and servants

PROVISIONS

A. The following is added to Paragraph c. in A. 1., Who Is An Insured, of SECTION II-LIABILITY COVERAGE:

Any person or organization shown above who is required under a written contract or agreement between you and that person or organization, that is signed and executed by you before the "bodily injury" or "property damage" occurs and that is in effect during the policy period, to be named as an additional insured is an "insured" for Liability Coverage, but only for damages to which this insurance applies and only to the extent that person or organization qualifies as an "insured" under the Who Is An Insured provision contained in Section II.

B. The following is added to Paragraph 5., Other Insurance, in B. General Conditions of SECTION IV BUSINESS AUTO CONDITIONS:

Regardless of the provisions of paragraph a. and paragraph d. of this part 5. Other Insurance, if the scheduled person or organization shown above has other insurance under which it is the first named insured and that insurance also applies, then this insurance is primary to and non-contributory with that other insurance when the written contract or agreement between you and that scheduled person or organization, that is signed and executed by you before the "bodily injury" or "property damage" occurs and that is in effect during the policy period, requires this insurance to be primary and non-contributory.
COMMERCIAL GENERAL LIABILITY

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

BLANKET ADDITIONAL INSURED
(Includes Products-Completed Operations If Required By Contract)

This endorsement modifies insurance provided under the following:
COMMERCIAL GENERAL LIABILITY COVERAGE PART

PROVISIONS

The following is added to SECTION II – WHO IS AN INSURED:

Any person or organization that you agree in a written contract or agreement to include as an additional insured on this Coverage Part is an insured, but only:

a. With respect to liability for "bodily injury" or "property damage" that occurs, or for "personal injury" caused by an offense that is committed, subsequent to the signing of that contract or agreement and while that part of the contract or agreement is in effect; and

b. If, and only to the extent that, such injury or damage is caused by acts or omissions of you or your subcontractor in the performance of "your work" to which the written contract or agreement applies. Such person or organization does not qualify as an additional insured with respect to the independent acts or omissions of such person or organization.

The insurance provided to such additional insured is subject to the following provisions:

a. If the Limits of Insurance of this Coverage Part shown in the Declarations exceed the minimum limits required by the written contract or agreement, the insurance provided to the additional insured will be limited to such minimum required limits. For the purposes of determining whether this limitation applies, the minimum limits required by the written contract or agreement will be considered to include the minimum limits of any Umbrella or Excess liability coverage required for the additional insured by that written contract or agreement. This provision will not increase the limits of insurance described in Section III – Limits Of Insurance.

b. The insurance provided to such additional insured does not apply to:

(1) Any "bodily injury", "property damage" or "personal injury" arising out of the providing, or failure to provide, any professional architectural, engineering or surveying services, including:

(a) The preparing, approving, or failing to prepare or approve, maps, shop drawings, opinions, reports, surveys, field orders or change orders, or the preparing, approving, or failing to prepare or approve, drawings and specifications; and

(b) Supervisory, inspection, architectural or engineering activities.

(2) Any "bodily injury" or "property damage" caused by "your work" and included in the "products-completed operations hazard" unless the written contract or agreement specifically requires you to provide such coverage for that additional insured during the policy period.

c. The additional insured must comply with the following duties:

(1) Give us written notice as soon as practicable of an "occurrence" or an offense which may result in a claim. To the extent possible, such notice should include:

(a) How, when and where the "occurrence" or offense took place;

(b) The names and addresses of any injured persons and witnesses; and

(c) The nature and location of any injury or damage arising out of the "occurrence" or offense.

(2) If a claim is made or "suit" is brought against the additional insured:
COMMERCIAL GENERAL LIABILITY

(a) Immediately record the specifics of the claim or "suit" and the date received; and

(b) Notify us as soon as practicable and see to it that we receive written notice of the claim or "suit" as soon as practicable.

(3) Immediately send us copies of all legal papers received in connection with the claim or "suit", cooperate with us in the investigation or settlement of the claim or defense against the "suit", and otherwise comply with all policy conditions.

(4) Tender the defense and indemnity of any claim or "suit" to any provider of other insurance which would cover such additional insured for a loss we cover. However, this condition does not affect whether the insurance provided to such additional insured is primary to other insurance available to such additional insured which covers that person or organization as a named insured as described in Paragraph 4.

Other Insurance, of Section IV – Commercial General Liability Conditions.
THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

OTHER INSURANCE – DESIGNATED ADDITIONAL INSURED - PRIMARY WITH RESPECT TO CERTAIN OTHER INSURANCE

This endorsement modifies insurance provided under the following:

COMMERCIAL GENERAL LIABILITY COVERAGE PART

SCHEDULE OF DESIGNATED ADDITIONAL INSURED

Additional Insured: The city of Menlo Park, and its subsidiary agencies, and their officers, agents, employees and servants

PROVISIONS

The following is added to Paragraph 4.a., Primary Insurance, of SECTION IV - COMMERCIAL GENERAL LIABILITY CONDITIONS:

The insurance afforded under this Coverage Part to any additional insured shown in the Schedule Of

Designated Additional Insureds is primary to any of the other insurance, whether primary, excess, contingent or on any other basis, that is available to such additional insured which covers such additional insured as a named insured, and we will not share with that other insurance.
WORKERS COMPENSATION AND EMPLOYERS LIABILITY INSURANCE POLICY

WAIVER OF OUR RIGHT TO RECOVER FROM OTHERS ENDORSEMENT – CALIFORNIA

We have the right to recover our payments from anyone liable for an injury covered by this policy. We will not enforce our right against the person or organization named in the Schedule. (This agreement applies only to the extent that you perform work under a written contract that requires you to obtain this agreement from us.)

You must maintain payroll records accurately segregating the remuneration of your employees while engaged in the work described in the Schedule.

The additional premium for this endorsement shall be 2% of the California workers’ compensation premium otherwise due on such remuneration.

<table>
<thead>
<tr>
<th>PERSON OR ORGANIZATION</th>
<th>JOB DESCRIPTION</th>
</tr>
</thead>
<tbody>
<tr>
<td>Any person or organization for whom the Named insured has agreed by written contract To furnish this waiver.</td>
<td>Blanket Waiver of Subrogation</td>
</tr>
</tbody>
</table>

This endorsement changes the policy to which it is attached and is effective on the date issued unless otherwise stated. (The information below is required only when this endorsement is issued subsequent to preparation of the policy.)

Endorsement Effective: 10/01/2020
Policy No.: 7600018411-21
Endorsement No.
Insured: Golden Bay Construction Inc.
Insurance Company: Everest Premier Insurance Company

Countersigned By: [Signature]

Premium $ INCL.
THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

WAIVER OF TRANSFER OF RIGHTS OF RECOVERY AGAINST OTHERS TO US

This endorsement modifies insurance provided under the following:
COMMERCIAL GENERAL LIABILITY COVERAGE PART

SCHEDULE

Name of Person or Organization:

Additional Insured: The city of Menlo Park, and its subsidiary agencies, and their officers, agents, employees and servants

(If no entry appears above, information required to complete this endorsement will be shown in the Declarations as applicable to this endorsement.)

The TRANSFER OF RIGHTS OF RECOVERY AGAINST OTHERS TO US Condition (Section IV – COMMERCIAL GENERAL LIABILITY CONDITIONS) is amended by the addition of the following:

We waive any right of recovery we may have against the person or organization shown in the Schedule above because of payments we make for injury or damage arising out of your ongoing operations or “your work” done under a contract with that person or organization and included in the “products-completed operations hazard”. This waiver applies only to the person or organization shown in the Schedule above.