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

Contract #: 2083

AGREEMENT FOR SERVICES BETWEEN
THE CITY OF MENLO PARK AND AECOM TECHNICAL SERVICES, INC.

THIS AGREEMENT made and entered into at Menlo Park, California, this 15th day of March, 2017, by and between the CITY OF MENLO PARK, a Municipal Corporation, hereinafter referred to as "CITY", and AECOM TECHNICAL SERVICES, 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: Middle Avenue Pedestrian & Bicycle Rail Crossing Study

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 $614,605.00 as described in Exhibit "A", Scope of Services. This compensation shall be based on the rates described in Exhibit "A". All payments, including fixed hourly rates, 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, a statement describing the services performed shall be submitted to CITY by the FIRST PARTY. 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% of the stock ownership or ownership in **FIRST PARTY** from the date of this Agreement is executed, then **CITY** shall be notified prior to 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:

Justin I. C. Murphy  
Public Works  
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:

Ramsey Hissen  
AECOM TECHNICAL SERVICES, INC.  
300 Lakeside Drive, Suite 400  
Oakland, CA 94612  
408-961-8426  
Ramsey.hissen@aecom.com

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.
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<th>10. HOLD HARMLESS</th>
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<td>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.</td>
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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. Worker's Compensation and Employer's Liability Insurance:
   The FIRST PARTY shall have in effect during the entire life of this Agreement Worker's Compensation and Employer's Liability Insurance providing full statutory coverage. In signing this Agreement, the FIRST PARTY makes the following certification, required by Section 3700 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 Worker's 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 Worker's 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. Prior to 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, prior to 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 March 27, 2017 through Project Completion 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 or 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 / 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.

FIRST PARTY:

Signature

Name

95- 2661922

Tax ID#

APPROVED AS TO FORM:

William L. McClure, City Attorney

CITY OF MENLO PARK:

Signature

Alex D. McIntyre

Name

City Manager

Title

ATTEST:

Pamela Aguilar, City Clerk, City of Menlo Park

Date
EXHIBIT “A” – SCOPE OF SERVICES

A1. SCOPE OF WORK

FIRST PARTY agrees to provide consultant services for CITY’s Public Works. 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 general consultant services for projects as determined by the CITY. The detailed scope of work for each task the CITY assigns the consultant shall be referred to as Exhibit A-1, which will become part of this Agreement. A notice to proceed will be issued separately for each separate scope of work agreed to between the CITY and FIRST PARTY.

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 hereby agrees to pay FIRST PARTY at the rates to be negotiated between FIRST PARTY and CITY as detailed in Exhibit A-1. The actual charges shall be based upon (a) FIRST PARTY’s standard hourly rate for various classifications of personnel; (b) all fees, salaries and expenses to be paid to engineers, consultants, independent contractors, or agents employed by FIRST PARTY; and shall (c) include reimbursement for mileage, courier and plan reproduction. The total fee for each separate Scope of Work agreed to between the CITY and FIRST PARTY shall not exceed the amount shown in Exhibit A-1.

FIRST PARTY shall be paid within thirty (30) days after approval of billing for work completed and approved by the CITY. Invoices shall be submitted containing all information contained in Section A5 below. In no event shall FIRST PARTY be entitled to compensation for extra work unless an approved change order, or other written authorization describing the extra work and payment terms, has been executed by CITY prior to the commencement of the work.

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 prior to 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.
## 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 A-1: SCOPE OF SERVICES

The City of Menlo Park seeks to plan, design, and ultimately construct a grade-separated railroad crossing for pedestrians and bicyclists in the southern segment of the City in the vicinity of Middle Avenue. The crossing will provide a safe and convenient east/west connection across the City; and allow non-motorized traffic on the west side of the tracks at the currently-planned development at 500 El Camino Real, access to/from Alma Street, Burgess Park and other nearby destinations on the east side of the railroad corridor, such as Arrillaga Gymnasium, Menlo Park Library and City Hall.

A crossing at Middle Avenue was incorporated into the City’s El Camino Real and Downtown Specific Plan in 2012, but the planning for the crossing dates back even further, to 2008, when a study was prepared to determine the most desirable location. A new crossing at Middle Avenue was chosen because there are no crossings in the City south of Ravenswood Avenue, which is about 1,500 feet (~ 0.3 mile) to the north and the closest crossing to the south is one-half mile away at Palo Alto Avenue in the City of Palo Alto.

This crossing, in conjunction with the City’s Ravenswood Avenue Railroad Crossing Project, will encourage the use of non-motorized travel by Menlo Park residents and visitors, including students, commuters, shoppers and those simply wanting enjoy a stroll through one of the most charming cities in the San Francisco Bay Area.

The Study will evaluate two crossing options for two potential future railroad options for a total of four possible alternatives:

- An overcrossing and undercrossing that maintains the existing tracks at their current elevation profile
- An overcrossing and undercrossing that raises the tracks

These two railroad options are currently being studied by the AECOM team for the Ravenswood Avenue Railroad Crossing Project. The AECOM team understands that a comprehensive Project Report and a well-developed 30% Plans, Specifications and Estimate (PS&E) package will help the City obtain future funding and move the project into final design and construction.

Task 1 - Project Management and Coordination

1.1 Meetings and General Coordination

AECOM will provide leadership and direction for each task for the duration of the project: Our project manager, Peter DeStefano, will check in with the team’s task leaders and hold meetings, as needed, to confirm each task is on schedule and within budget. A kick-off meeting will be held shortly after notice to proceed (NTP) and a Project Execution Plan (PXP) will be developed to assure the project gets off to a healthy start. The PXP will include the project’s scope, budget for each task, team organization, roles, contacts, a milestone schedule, list of deliverables, and quality control reviewers, procedures and estimated timelines.

Status update meetings with the City will be scheduled on a monthly basis, either via WebEx or in-person. We will develop an agenda prior to each meeting and complete a summary after each meeting.

1.2 Invoices and Progress Reports

AECOM will prepare monthly invoices and progress reports in incremental timeframes not to exceed 60 days. Our progress reports will include earned value reports to monitor schedule and budget.

1.3 Project Schedule

AECOM will use the project schedule included in this Scope of Services and update it on a monthly basis after the initial meeting with the City. The schedule will be updated using Microsoft (MS) Project and be presented in Gantt chart format. We will also provide an easy-to-read milestone schedule of key deliverables for the City and task leaders.

Task 1 Deliverables:

- Project Execution Plan
EXHIBIT A-1: SCOPE OF SERVICES

- Meeting Agendas and Meeting Minutes
- Invoices and Progress Reports
- Project Schedule in Gantt Chart Format
- Milestone Schedule

Task 1 Assumptions:
- From an assumed NTP date of March 2017 through an assumed project completion date of August 2018, a total of 18 meetings with the City are assumed; nine (9) in-person meetings and nine (9) held via WebEx. Additional meetings for other purposes, such as for preparation of community meetings, are covered under separate tasks described in this work plan.

Task 2 - Data Collection and Analysis & Existing Conditions Report

2.1 Review Existing Studies, Plans, and Reports
The AECOM team will review the pertinent reports on the City's website including the 2016 General Plan and El Camino Real and Downtown Specific Plan. This will assure that the alternatives developed by the team are consistent with the City's plans and standards developed to date. We will also gather and review any pertinent traffic-related information, such as traffic volumes, accident data and speed surveys.

In addition, the AECOM team will conduct an initial field review and additional site visits, as-needed. Photographs of key features will be taken during each visit for future reference. The field reviews will help the AECOM team understand the unique features that may affect the layout of the alternatives.

2.2 Topographic Survey and Right-of-Way Mapping

2.2.1 Ground Control Survey
Our subconsultant, Tekwill, Inc. (Tekwill) will establish and target approximately five (5) horizontal and vertical ground control points necessary for photogrammetric mapping. A combination of global positioning system (GPS) technology and "conventional" land surveying equipment and techniques (traversing using a total station instrument and differential leveling using an automatic or digital level) will be employed to establish horizontal and vertical control.

Tekwill will establish horizontal coordinates referenced to the California Coordinate System of 1983 (CCS83, 2010), Zone 3 and elevations referenced to the North American Vertical Datum of 1988; unless other datums are specified prior to the commencement of the project.

2.2.2 Surface Utility Field Survey
Tekwill will locate safely accessible surface utilities within the project limits. Surface utilities that will be located may include sewer manholes and cleanouts, storm drain manholes and catch basins, water valves, gas valves, electric boxes and handholes, telephone boxes, cable television boxes, and other visible surface indications of utilities, including potholing stakes.

Tekwill will measure the invert elevations for storm and sanitary manholes and for catch basins that can be opened with a reasonable effort using common hand tools. "Dip sheets" will be prepared for each invert measured. The "dip sheet" will include a sketch of the structure and the incoming and outgoing pipes. Surface utilities located in the field will be incorporated into our digital maps using the appropriate symbol. Each utility will be annotated with a unique identification code.

2.2.3 Aerial Photography
Tekwill will obtain natural color, vertical, stereo aerial photography of the project area using a precision, calibrated, cartographic camera equipped with a six-inch focal length lens and forward motion compensation (FMC). The photography will be taken at an altitude of 1,200 feet above the mean elevation of the terrain, resulting in an average scale of photography of 1:2400 (1" = 200). The photography will consist of one (1) line with two (2) exposures (one stereo model).
2.2.4 Digital Planimetric and Topographic Mapping

Towill will compile a digital topographic map at a scale of 1" = 20' with a contour interval of one foot for the project area. Breaklines and spot elevations will be digitized to create a digital terrain model (DTM). Contours will be generated from a DTM. Planimetric features such as buildings, roads, fences, vegetation, and the like will be digitized at elevations that provide the best horizontal accuracy, which may or may not be at ground level. Planimetric features digitized will be typical for a map scale of 1" = 20'.

The final topographic map data will conform to Towill’s standards unless the City provides alternate CAD standards prior to the commencement of the project.

2.2.5 Digital Orthophotography

We will prepare color digital orthophotography of the project area at a scale of 1" = 50' with a pixel ground resolution of 0.25-foot (200 pixels per inch). The orthophoto limits shall correspond to the topographic mapping limits. In accordance with standard mapping practice, images will be rectified at ground level. Therefore, the top of above-ground features (rooftops, tops of trees, etc.) may not necessarily appear in their correct horizontal positions. The digital orthophoto will be georeferenced to the project horizontal datum for use with AutoCAD.

2.2.6 Boundary and Easement Surveys

The existing property ownership and easements will be created using coordinate geometry (COGO) based on the record information provided to Towill. We will attempt to locate up to three property corners referenced within these documents for use in referencing these parcels to the project horizontal datum for incorporation into the mapping produced under Task 2.2.4. If title reports are provided, easements will also be shown.

2.3 Utility Research and Coordination

AECOM has previously compiled utility as-built plans of the project area. These were obtained for the Ravenswood Avenue Railroad Crossing Project. We will contact additional utility companies, as needed, to complete our utility investigation. The ultimate goal is to establish which utilities can be protected-in-place and which ones will need to be relocated for each of the alternatives. The as-builds and Towill’s utility field survey will be the basis of the existing utilities shown on the 30% plans.

2.3.1 Utility Pothising

The AECOM team will also positively identify underground utilities in the vicinity of the crossing and its foundation locations. Up to eight (8) vacuum potholes and up to four (4) electronic probes will be performed.

Removal of the pavement will be done using air tools as needed and the potholes will be excavated using high pressure air and vacuum extraction. After the utility is exposed, the type, size, and depth of the utility will be recorded. A pothole field data sheet will be prepared.

A stake or nail will be placed over each pothole and a mark with an appropriate color of paint to indicate the type of utility and the direction/alignment of the line. Backfilling will be done using controlled density fill. Permanent concrete repair work, such as cutting and removal and restoration, as well as permit fees are not included.

2.4 Environmental Conditions

AECOM has already conducted an extensive review of environmental documentation, regulatory requirements, and public concerns in the project area. The team will update the description of environmental conditions and clearance requirements based on the refined crossing alternatives, additional information from the survey and geotechnical assessment, and recommendations for the design and construction.

2.5 Geotechnical Investigation

AECOM will prepare a Geotechnical Investigation Report. Drilling and sampling of three borings and one cone penetration test (CPT) will be performed. One groundwater monitoring well will be installed as well.

Laboratory testing will ensue and this will be followed up with an engineering analysis. The report will include a summary of the subsurface explorations data, including a soil profile, a log of test borings, laboratory results and ground water
EXHIBIT A-1: SCOPE OF SERVICES

elevation data. Recommendations for the following will also be included: the undercrossing and overcrossing’s structure and foundation, retaining walls, temporary shoring and dewatering. In addition, construction considerations will be included.

Potential geotechnical/geologic risks will be discussed, including slope/trench stability, geology, seismic-related impacts, erosion and groundwater conditions. Mitigation measures will also be provided.

2.6 Existing Conditions Report
AECOM will prepare a report that summarizes our findings of the site’s conditions including the geological conditions, the existing utilities, property lines, and traffic conditions on Alma Street and the El Camino/Middle Avenue intersection. We will also discuss with the City if future existing conditions, such as the Middle Plaza Development Project should be included in this report. The report will also describe any conditions that may impact or provide an opportunity for any of the alternatives.

Task 2 Deliverables:
- One (1) summary of the ground (photo) control coordinates and brief descriptions of the points. The summary will include the primary control monuments used as the basis for our horizontal and vertical surveys.
- One (1) Excel spreadsheet containing the unique identification code, x, y, z coordinates and a brief description for each utility surveyed.
- One (1) set of 8 1/2” x 11” dip sheets; one for each manhole or catch basin located.
- One (1) set of 1000 dpi copies of the imagery in JPEG format.
- One (1) set of AutoCAD drawing files containing the digital planimetric/topographic map and digital terrain data.
- One (1) set of TIFF image files with corresponding TFW files.
- One (1) AutoCAD design file of the existing property ownership.
- Draft & Final Existing Conditions Report
- Draft & Final Geotechnical Investigation Report
- Pothole Field Data Sheets

Task 2 Assumptions:
- This project will not follow the Caltrans ABC protocol for surveying and aerial mapping.
- Towill’s scope includes surveying of utility pothole markings under the following assumptions: The potholing does not occur within Caltrain’s right-of-way, it takes place prior to Towill’s field survey work and only one mobilization will be required.
- The extent of the topographical mapping area is based on the limits shown in Attachment A of the RFP.
- The City will provide all of the necessary deeds and/or preliminary title reports for this task.
- Re-establishment of property corners, found to be missing or damaged, during the course of the surveying work will not be required.
- Record of Survey will not be required.
- Removal of aerial targets or other paint marks created by the surveyor is not required.
- For the geotechnical borings, it is assumed that the site is accessible by a truck-mounted drill rig.
- Drill cuttings to be stored on site; analytical testing and disposal are included, assuming non-hazardous materials.
- The City or Caltrain to provide access/right of entry permit to boring locations.
- Analysis of borings for hazardous materials is not included.
- A ground motion report is not included.
- Drilling permit fees for the geotechnical borings are included in our cost proposal. These fees will be paid by AECOM to San Mateo County and reimbursed by the City.
- Existing traffic counts will be based on readily-available information provided by the City.
- Existing and future volumes, level of service (LOS) and delays of the Middle Avenue/El Camino Real intersection will be based on the 500 El Camino Real Development Project’s Infill Environmental Impact Report.
EXHIBIT A-1: SCOPE OF SERVICES

Task 3 - Community Engagement

3.1 Community Engagement Plan

The AECOM team will develop a plan that will list the goals of the anticipated community, stakeholder, commission and council meetings for the project. The plan will include a timeline and the expected outreach plan and responsibilities of team members for each of the meetings. For example, the plan will indicate how the community will be contacted for each meeting, and who will be responsible for meeting summaries and information uploaded to the project’s website.

3.2 Community Meetings

The AECOM team, led by Eileen Goodwin, will facilitate and attend each of the three community meetings. In addition, we will prepare a presentation, develop exhibit boards and generate a summary of each meeting. We will also develop answers to “Frequently Asked Questions” (FAQs). This will not only assure the meetings stay on topic, but it will also minimize the time spent answering some of the same questions over again. Topics for the meetings will include the existing conditions and constraints, the relationship of the crossing alternatives to the local streets and intersections, and the proposed Middle Plaza layout.

3.3 Commission Presentation

The AECOM team will present the developed alternatives to the Complete Streets Commission. We will also prepare the presentation materials and a meeting summary of the meeting.

3.4 City Council Presentation

The AECOM team will present a summary of the four alternatives and an evaluation of each to the Menlo Park City Council to gain their concurrence on a preferred alternative.

3.5 Interagency Coordination

The AECOM team will present the developed alternatives to other agencies, as requested. We anticipate one coordination meeting with Caltrain, one with the Menlo Park Fire Protection District and the Menlo Park Police Department and one with Caltrans. Coordination with Caltrain will be particularly critical because obtaining consensus from them will help assure that the City will be able to obtain CPUC approval of a new railroad crossing. We will prepare presentation materials and a meeting summary for each meeting.

3.6 Maintain Database of Community Comments and Stakeholders

The AECOM team will maintain a list of community and stakeholder comments and answers to questions, when applicable. Answers to commonly asked questions will be included in the project’s FAQs.

3.7 Develop Web Content

The AECOM team will develop commonly requested information, such as a project “Fact Sheet”, still image renderings, a milestone schedule, upcoming community meetings and FAQs.

3.8 3D Animation of the Preferred Alternative (Optional Task)

Due to the success and positive feedback from the public on other similar projects, we recommend including the development of a three-dimensional animation of the preferred alternative. This would be particularly invaluable at the City Council meeting where council members’ concurrence on the preferred alternative will be requested.

Task 3 Deliverables:

- Community Engagement Plan
- Meeting Materials (PowerPoint presentation and Exhibit Boards)
- Meeting Summaries
- Project Fact Sheet
- Answers to FAQs
Task 3 Assumptions:

- The cost proposal assumes three (3) community meetings, one (1) commission meeting, one (1) City Council meeting and three (3) interagency meetings.
- AECOM will develop and manage an email list of interested community members.
- The City will be responsible for meeting notifications (email blasts, flyers, mailers, etc.) and reserving the venues for each community meeting.

Task 4 - Identify and Develop Grade Separation Conceptual Designs

4.1 Development of Conceptual Designs
The AECOM team will develop a site plan, profile/elevation and typical section drawings for each of the four crossing alternatives. The drawings will provide enough detail to allow for the discussion of the pros and cons and the evaluation of each alternative described in Task 5. The development of the alternatives will be based on the data gathered in Task 2, such as information from the geotechnical investigation report. The drawings will also allow for the development of a planning-level cost estimate.

4.2 Development of Access Connections
The AECOM team will develop pedestrian and bicycle crossing safety improvements on Alma Street and at the El Camino/Middle Avenue intersection. These improvements may include features, such as pavement markings, rapid flashing beacons and advanced warning signage to alert motorists. For each alternative, we will also look into how the crossing integrates into the design and layout of the proposed Middle Plaza at 500 El Camino Real.

4.3 Still Image Renderings
In addition to the engineering drawings described in Task 4.1, the AECOM Team will prepare still image renderings of each alternative for use in the meetings described in Task 3.

Task 4 Deliverables:

- Preliminary Engineering Drawings of Each Alternative
- Exhibits showing improvements on Alma Street and the El Camino/Middle Avenue intersection
- 3D Renderings of Each Alternative

Task 4 Assumptions:

- Up to three (3) engineering drawings of each alternative.
- Up to two (2) exhibits for pedestrian and bicycle crossing improvements; one on Alma Street, one at the El Camino Real/Middle Avenue intersection.
- Up to three (3) 3D renderings of each alternative.

Task 5 - Evaluation of Crossing Conceptual Designs & Selection of Preferred Alternative

5.1 Development of Evaluation Criteria
The AECOM team will create a comprehensive list of criteria that the four alternatives will be evaluated on. The criteria will include the following: ease of access by users, aesthetics and visual impacts to the community, impacts to utilities, impacts to the railroad operations during construction, ease of construction over or under an operating railroad, required property acquisitions and/or easements, drainage requirements, environmental impacts, structural feasibility and risks, and overall cost.

5.2 Evaluation of Crossing Alternatives and Recommendation
After all of the evaluation criteria are compiled, the AECOM team will collaborate with the City to weigh each criteria and create a method to score each alternative, which will allow the team to ultimately decide on a preferred alternative. The weights of each criteria and the scoring system will allow the team to better explain to the community, key stakeholders and the City Council why the preferred alternative was chosen over the others.
EXHIBIT A-1: SCOPE OF SERVICES

Task 5 Deliverables:
- Evaluation Matrix
- Narrative of the Evaluation of the Alternatives

Task 6 - Environmental Clearance and Documentation

Environmental conditions in the proposed project area have been studied extensively for the Downtown Specific Plan and in-progress Middle Plaza at 500 El Camino Real Project. The project area is highly urbanized and has low potential for impacts from the proposed project. AECOM will determine the potential effects of the preferred alternative and prepare a succinct Initial Study/Mitigated Negative Declaration (IS/MND) that satisfies the California Environmental Quality Act (CEQA). The IS/MND will leverage approved environmental documentation from the Downtown Specific Plan and Middle Plaza at 500 El Camino Real Project to the maximum extent possible.

As an optional scope item, AECOM will also identify any additional clearances needed to satisfy the National Environmental Policy Act (NEPA). This is noted as optional task in our cost proposal.

The proposed project area is mostly within the area covered by the Downtown Specific Plan Environmental Impact Report (EIR), and some of the EIR's resource study areas such as Biology and Transportation fully encompass the expected project footprint. AECOM will prepare the following to support the IS/MND resource area discussions as needed.

Aesthetic Resources: AECOM will analyze the changes in views that residents, motorists, and nearby businesses may experience from the bicycle/pedestrian crossing structure and approaches, including potential effects from daytime shadows and nighttime light, glare, or urban sky glow. The analysis will incorporate renderings developed as part of Task 4 and help demonstrate that the proposed project will not adversely affect the existing setting, an important conclusion for gaining environmental document approval.

Air Quality: While consistent with 2010 Clean Air Plan Transportation Control Measures to support pedestrian and bicycle networks, the project has the potential to expose pedestrian and bicyclists to elevated concentrations of diesel particulate matter, including PM2.5, from Caltrain and Union Pacific Railroad operations. The air quality assessment will address the potential for exposure in excess of Bay Area Air Quality Management District limits (in accordance with Mitigation Measure AIR-7) and identify any appropriate mitigation beyond that already included in the Downtown Specific Plan EIR.

Cultural Resources: Historical resources in the project area have already been surveyed as part of the Downtown Specific Plan and the City's 1990 historic buildings survey. The project vicinity contains historic architectural resources, which are likely far enough away that no project-related impacts would occur. Subsurface excavation for an undercrossing structure or overcrossing supports would have the potential to encounter previously unrecorded archaeological or paleontological resources. Consistent with Downtown Specific Plan Mitigation Measure CUL-2A, AECOM will prepare a site-specific cultural resources study that includes an updated records search, pedestrian survey of the project area, development of a historic context, and sensitivity assessment for buried prehistoric and historic-period deposits, in accordance with federal and state requirements. Native American outreach will be conducted in compliance with California Assembly Bill 52 (2015). Subsurface testing and a treatment plan can be provided as additional scope items.

Public Services and Utilities: AECOM will address the potential effects to recreation use at Burgess Park from the crossing's eastern approach, as a result of temporary construction activities and potential permanent changes to recreation fields.

Transportation, Circulation and Parking: The Downtown Specific Plan EIR did not include analysis of potential conflict points between vehicles, bicycles, and pedestrians from the proposed crossing facility. AECOM will prepare a limited analysis at appropriate study intersections to address operating conditions with respect to pedestrian and bicycle circulation.
EXHIBIT A-1: SCOPE OF SERVICES

Evaluation of potential impacts and mitigation for other resource areas appears to be covered by the Downtown Specific Plan EIR and would be referenced in the IS/MND.

AECOM will submit an administrative draft IS/MND to the City and address any comments from City reviewers. When authorized by the City, we will provide a public draft IS/MND for posting on the City website and Notice of Completion for filing with the State Clearinghouse. After the public review period, AECOM will compile and address public comments in coordination with the City, and provide a final IS/MND, Notice of Intent to adopt a Mitigated Negative Declaration, and Notice of Determination.

Task 6 Deliverables:
- Draft & Final IS/MND
- Notice of Intent
- Notice of Determination

Task 6 Assumptions:
- The IS/MND will evaluate a single preferred project alternative as developed in Task 5.
- A freestanding Cultural Resources Study will be prepared to support the IS/MND. The remaining studies to deliver in Task 6 will be incorporated into the IS/MND and are not proposed as freestanding reports. If needed, technical analyses for air quality and traffic can be provided in memo format.
- Preparation of additional studies to satisfy NEPA and/or Caltrans documentation requirements can be provided as additional services.
- This scope includes responding to up to 50 pages of comments on the public draft IS/MND.
- A PDF for web upload and up to 10 printed copies each of the draft IS/MND and the final IS/MND will be provided for the City to distribute to the public.
- One AECOM Environmental team member will attend up to three community meetings and up to three meetings with the City.
- CEQA document filing fees, including the California Department of Fish and Wildlife filing fee, will be paid by the City.

Task 7 - 30% Construction Design Documents

7.1 30% Construction Drawings
After completion of Task 6 or as directed by the City, the AECOM team will develop 30%-level engineering drawings of the preferred alternative. We anticipate approximately 18 drawings:

- Title/Cover Sheet (1)
- Existing Conditions Plan (1)
- Site Plan (1)
- Typical Cross Sections (1)
- Grading and Drainage Plan & Details (2)
- Utility Plans (2)
- Construction Details (2)
- Signing and Pavement Delineation (1)
- Structural Plans (3)
- Construction Staging (1)
- Electrical Plans (2)
- Mechanical Plan (1)

7.2 30% Technical Specifications
The AECOM team will develop unedited, 30%-level technical specifications.
EXHIBIT A-1: SCOPE OF SERVICES

7.3 30% Engineer's Cost Estimate

The AECOM team will develop a 30%-level cost estimate with an appropriate contingency percentage. We will include construction and construction management, right-of-way related items (property acquisitions, temporary construction easements, utility relocations, etc.), permits, CPUC and/or other filing fees, and allowance for City administration and inspection of the project.

Task 7 Deliverables:

- Draft and Final 30% PS&E Package

Task 7 Assumptions:

- Our cost proposal is based on the 18 drawings listed in Task 7.1.
- The 30% structural drawings do not include seismic design calculations.
- Up to one round of comments from the City.
- The boilerplate specifications will be based on Caltrans standard specifications, or another boilerplate provided by the City.
- Right of way engineering services will not be provided. Cost estimates for right-of-way-related items, such as acquisitions and temporary construction easements will be based on values mutually-agreed upon by AECOM and the City.

Task 8 - Project Report

8.1 Draft Project Report

A comprehensive Draft Project Report (DPR) will be prepared, which will include a written summary and attachments, where appropriate, and the elements completed in Tasks 2 through 7. The report will also include the project's history and background and summarize the project's purpose and need.

8.2 Final Project Report

After comments (two rounds maximum) are received from the City and Caltrain, AECOM will provide written responses to all comments and submit the Final PR to the City for final signature and approval. The Final PR will also include any special requirements needed to advance the project and a discussion about future funding sources and a table outlining a funding plan for final design, right-of-way, utility relocations, construction, and any support costs associated with these items.

Task 8 Deliverables:

- Draft and Final Project Report

Task 8 Assumptions:

- Unless otherwise noted by the City, AECOM will follow Caltrans' latest template for a Project Report.
- Up to two rounds of comments from the City and Caltrain. For example, AECOM will submit the PR a maximum of three times; once in "Draft" format, once in "Draft Final" format and lastly in "Final" format for approval and signature.

Middle Avenue Pedestrian & Bicycle Rail Crossing Study
# City of Menlo Park - Middle Avenue Pedestrian & Bicycle Rail Crossing Study - March 8, 2017

<table>
<thead>
<tr>
<th>Task</th>
<th>Task Name</th>
<th>Description</th>
<th>Baseline Cost</th>
<th>Current Cost</th>
<th>Task Cost</th>
<th>Task Percentage</th>
</tr>
</thead>
<tbody>
<tr>
<td>1.1</td>
<td>Preliminary Investigation</td>
<td>Environmental Study</td>
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<td>$45,000</td>
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<td>1.2</td>
<td>Feasibility Analysis</td>
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<td>Design Development</td>
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<td>1.4</td>
<td>Construction Document Development</td>
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<tr>
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<td>$25,000</td>
<td>$5,000</td>
<td>16%</td>
</tr>
</tbody>
</table>

**Cost Summary:**

- **Baseline Cost:** $150,000
- **Current Cost:** $125,000
- **Total Cost:** $25,000

**Notes:**

- All costs are in USD.
- The table above shows the breakdown of costs for each task in the project.
- The total cost is calculated by summing up the baseline and current costs for each task.

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**The Level of Effort is based on the following assumptions:**

- Efforts are allocated based on the project's scope and timeline.
- The costs are estimated based on standard industry rates.

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**Options for Additional Work:**

- Additional work can be added as needed, subject to approval and additional funding.

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**Total Cost (Not Including Additional Work):** $25,000
EXHIBIT “B” - DISPUTE RESOLUTION

<table>
<thead>
<tr>
<th>Section</th>
<th>Description</th>
</tr>
</thead>
<tbody>
<tr>
<td>B1.0</td>
<td>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:</td>
</tr>
<tr>
<td>B2.0</td>
<td>Mediation</td>
</tr>
<tr>
<td>B2.1</td>
<td>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.</td>
</tr>
<tr>
<td>B3.0</td>
<td>Arbitration</td>
</tr>
<tr>
<td>B3.1</td>
<td>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.</td>
</tr>
<tr>
<td>B3.2</td>
<td>The provisions of the Construction Industry Arbitration Rules of the American Arbitration Association shall apply and govern such arbitration, subject, however to the following:</td>
</tr>
<tr>
<td>B3.3</td>
<td>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.</td>
</tr>
<tr>
<td>B3.4</td>
<td>The arbitrator or arbitrators appointed must be former or retired judges, or attorneys at law with last ten (10) years’ experience in construction litigation.</td>
</tr>
<tr>
<td>B3.5</td>
<td>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.</td>
</tr>
<tr>
<td>B3.6</td>
<td>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.</td>
</tr>
<tr>
<td>B3.7</td>
<td>Final decision by the arbitrator or arbitrators must be made within ninety (90) days from the date of the arbitration proceedings are initiated.</td>
</tr>
<tr>
<td>B3.8</td>
<td>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.</td>
</tr>
<tr>
<td>B3.9</td>
<td>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.</td>
</tr>
<tr>
<td>B3.10</td>
<td>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.</td>
</tr>
</tbody>
</table>