

LEGAL SERVICES AGREEMENT

THIS AGREEMENT, by and between the City of Menlo Park, a municipal corporation herein referred to as "City," and Burke Williams & Sorensen, LLP, a law firm engaged in the practice of law in the State of California, herein called "Burke."

WHEREAS, the City desires to engage Burke to perform the duties of the office of the City Attorney;

WHEREAS, the city attorney of the City of Menlo Park is the chief legal advisor and litigator for the City and is charged with the responsibility of protecting the interest of the City, its directors, officers, employees and agents in any litigation initiated by or against the City, its Council, officers, employees and agents as provided for by California law and the ordinances of the City; and,

WHEREAS, the city attorney reports to and serves under the direct supervision of the City Council as its legal advisor; and.

WHEREAS, the City Council is authorized by law to enter into a contract with a private law firm to perform the services of city attorney and may designate a city attorney and approve of assistant city attorneys as are deemed necessary, as may be recommended by the city attorney; and,

WHEREAS, Burke certifies that the designated city attorney, its attorneys and staff have the skills, qualifications, ability, background, certifications, licenses, knowledge and experience necessary to provide city attorney services on the terms and conditions described herein.

WITNESSETH:

NOW, THEREFORE, THE PARTIES HERETO AGREE AS FOLLOWS:

1.0 Scope of Services.

Nira F. Doherty is appointed as the designated city attorney for City (the "City Attorney"). The City Attorney and Burke are to perform the duties of city attorney and will provide all necessary legal services as may be required from time to time by City as set forth in Exhibit A, which is attached hereto and incorporated herein by reference. Burke shall provide said services at the time, place, and in the manner specified in Exhibit A, subject to the direction and supervision of the City Council. Burke shall coordinate services hereunder with the City Council or its delegee and all performances required hereunder by Burke shall be performed to the satisfaction of the City Council. Nothing in this agreement shall limit City's authority pursuant to California Government Code section 36505 to appoint a different city attorney or the City Attorney under this agreement. Nor shall this agreement limit City's authority under California Government

Code section 53060 to contract with any persons for the furnishing of special services and advice in financial, economic, accounting, engineering, legal, or administrative matters.

2.0 Time of Performance.

The services of Burke are to commence upon March 1, 2021 and shall continue until this Agreement is amended or terminated. Work shall be undertaken and completed in such sequence as to assure their completion as expeditiously as is consistent with professional skill and care.

3.0 Compensation, Reimbursement and Methods of Payments.

Compensation to be paid to Burke shall be in accordance with the Schedule of Charges set forth in Exhibit B, which is attached hereto and incorporated herein by reference. The schedule of charges shall set forth how long the prices are valid.

Unless otherwise agreed, Burke shall provide monthly bills unless charges for a particular month are insignificant. The following information must be provided in monthly bills:

A. A detailed description of work, in time increments of .1 hour (one tenth of an hour) for and by each and every individual billing services to City. Burke shall keep the City advised regarding the identity and the billing rates of those people who work on the account. General information sufficient to identify the work being done shall be provided if services are provided on a fixed cost basis.

B. Identification of the lawyer who is in charge of the matter.

C. Detailed disbursement breakdowns, including the nature and purpose of each disbursement.

D. Each billing item will be separately stated on a separate line identifying the biller, the time spent, and the exact nature of the service rendered.

E. Where charges are made for research time, the specific issue being researched, and the need will be identified. City has retained Burke for Burke's expertise, and therefore expects not to be billed for introductory or background research. The City will not pay for attorneys, law clerks and paralegals educating themselves or doing work of a transient nature on a matter.

F. **Audit and Examination of Accounts:** Burke shall keep and will cause any assignee or consultant under this Agreement to keep accurate books of records and accounts, in accordance with sound accounting principles, which pertain to services to be performed under this Agreement.

- (a) Any audit conducted of books of records and accounts shall be in accordance with generally accepted professional standards and guidelines for auditing.
- (b) Burke hereby agrees to disclose and make available any and all information, reports, books of records or accounts pertaining to this Agreement to the City and any city of the County of San Mateo, or other federal, state, regional or governmental agency which provides funding for these Services.
- (c) Burke shall provide a quarterly memorandum to the City Manager and City Council for the first year of this contract with a summary of its billings, which shall include: The attorney performing the work, the matters involved, the aggregate amounts billed for each matter, whether the work is General City Attorney Services or Special Counsel Services and a summary of expected future activity for each matter.
- (d) All records provided for in this Section are to be maintained and made available throughout the performance of this Agreement and for a period of not less than four (4) years after full completion of services hereunder. All records, which pertain to actual disputes, litigation, appeals or claims, shall be maintained and made available for a period of not less than four (4) years after final resolution of such disputes, litigation, appeals or claims.

4.0 Engagement of Other Counsel, Specialists or Experts.

Burke will not engage or otherwise incur an obligation to pay other counsel, specialists or experts for services in connection with this Agreement without the prior approval of the City Council or City Manager.

5.0 Termination of Agreement and Legal Services.

This Agreement may be terminated by the City immediately with or without cause. Burke may terminate the agreement upon sixty (60) days' written notice of termination.

In such event, all finished or unfinished documents, project data and reports, both originals and all duplicate copies, in all forms and media requested by the City, shall immediately be turned over to the possession of City, which owns all such materials. In the event of such termination, Burke shall be paid for all satisfactory work, unless such termination is made for cause, in which event compensation, if any, shall be adjusted in the City's sole discretion in light of the particular facts and circumstances involved in such termination.

6.0 Performance Review.

City and Burke agree that periodic performance evaluations are an important means by which the City Council and Burke may ensure effective communication

regarding expectations and performance. During the first year of the Term of this Agreement, the City Council shall conduct a six-month performance evaluation of the City Attorney and Burke in August 2021. Thereafter, City shall annually review the performance of the City Attorney and Burke every February or as the City Council may determine; provided, however, a mid-term performance evaluation shall be conducted upon the request of either party. The performance evaluation shall be subject to a process, form, criteria, and format to be determined by the City Council with input from Burke, which the City Council may choose to accept or reject.

Nothing herein shall prevent the City Council from conducting a performance evaluation of the City Attorney or Burke as often as it deems necessary under the circumstances.

7.0 Ownership/Retention of Documents, Books and Records.

All writings prepared by Burke in the course of implementing this Agreement, except working notepads, preliminary draft and internal firm documents, are the property of the City.

Burke shall maintain any and all ledgers, books of account, invoices, vouchers, canceled checks, and other records or documents evidencing or relating to charges for services, or expenditures and disbursements charged to City for a minimum period of four (4) years, or for any longer period required by law, from the date of payment to Burke under this Agreement.

Burke shall maintain all documents and records which demonstrate performance under this Agreement for a minimum period of four (4) years, or for any longer period required by law, from the date of termination of this Agreement.

Any records or documents required to be maintained pursuant to this Agreement shall be made available for inspection or audit by the City Manager, City Auditor or designated City Councilmember(s), at any time during regular business hours, upon written request by the City Council. Copies of such documents shall be provided to the City for inspection at City Hall when it is practical to do so. Otherwise, unless an alternative is mutually agreed upon, the records shall be available at Burke's address indicated for receipt of notices in this Agreement. Nothing herein shall require or permit the release or inspection of any privileged document without the express written waiver of such privilege by the City Council.

Where City has reason to believe that such records or documents may be lost or discarded due to dissolution, disbandment or termination of Burke's business, City may, by written request by any of the above-named officers, require that custody of the records be given to the City and that the records and documents be maintained at City Hall.

8.0 Interest of Members of Local Public Agency.

No member of the governing body of the City, and no other officer, employee or agent of the City who exercises any discretion, function or responsibility in connection with the carrying out of any work, case, or matter to which this Agreement pertains, shall have any personal interest, direct or indirect, in this Agreement.

9.0 Adverse Interest of Counsel.

Burke agrees to secure the informed written consent of the City Council before accepting any representation adverse to the City (actual or apparent) during the term of this Agreement, and to forego such representation if the City Council, in its sole discretion, objects for any reason.

10.0 Conflict of Interest.

Burke certifies that no member, officer or employee of Burke is an officer or employee of the City of Menlo Park except to the extent permitted by law.

Burke (including principals, associates and professional employees) covenants and represents that it does not now have any investment or interest in real property owned or managed by the City, and shall not acquire any interest, direct or indirect, in City property or any other source of income, interest in real property or investment which would be affected in any manner or degree by the performance of Burke's services hereunder. Burke further covenants and represents that in the performance of its duties hereunder no person having any such interest shall perform any services under this Agreement.

11.0 Prohibited Interests.

Burke maintains and warrants that it has not employed nor retained any company or person, other than a bona fide employee working solely for Burke, to solicit or secure this Agreement. Further, Burke warrants that it has not paid nor has it agreed to pay any company or person, other than a bona fide employee working solely for Burke, any fee, commission, percentage, brokerage fee, gift or other consideration contingent upon or resulting from the award or making of this Agreement. For breach or violation of this warranty, City shall have the right to rescind this Agreement without liability. For the term of this Agreement, no member, officer or employee of City, during the term of his or her service with City, shall have any direct interest in this Agreement, or obtain any present or anticipated material benefit arising therefrom.

12.0 Professional Ability of Burke.

City has relied upon the professional training and ability of Burke to perform the

services hereunder as a material inducement to enter into this Agreement. Burke shall therefore provide properly skilled professional and technical personnel to perform all services under this Agreement. All work performed by Burke under this Agreement shall be in accordance with applicable legal requirements and shall meet the standard of quality ordinarily to be expected of competent professionals in Burke's field of expertise.

13.0 Compliance with Laws.

Burke shall use the standard of care in its profession to comply with all applicable federal, state and local laws, codes, ordinances and regulations. Burke represents and warrants to City that it has the licenses, permits, qualifications, insurance and approvals of whatsoever nature which are legally required of Burke to practice its profession. Burke represents and warrants to City that Burke shall, at its sole cost and expense, keep in effect or obtain at all times during the term of this Agreement, any licenses, permits, insurance and approvals which are legally required of Burke to practice its profession, including a City Business License.

14.0 Indemnity.

Burke agrees to defend, indemnify and hold harmless the City, its officers, officials, agents, employees and volunteers from and against any and all claims, demands, actions, losses, damages, injuries, and liability, direct or indirect (including any and all costs and expenses in connection therein), arising out of the performance of this Agreement or its failure to comply with any of its obligations contained in this Agreement, except for any such claim arising out of the sole negligence or willful misconduct of the City, its officers, agents, employees or volunteers. Burke's responsibility for such defense and indemnity obligations shall survive the termination or completion of this Agreement for the full period of time allowed by law. The defense and indemnification obligations of the Agreement are undertaken in addition to, and shall not be in any way be limited by, the insurance obligations contained in this Agreement.

Further, Burke will indemnify City, and hold it harmless, from an assertion that as a result of providing services to City, Burke or any of its employees or persons performing work pursuant to this Agreement is entitled to benefits from, or is covered by, the Social Security retirement system or the California Public Employees Retirement Systems. Notwithstanding the foregoing, however, Burke's obligations for any payments to such claimant shall be limited to those payments which City may be required to pay.

15.0 Assignment and Subcontracting.

The parties recognize that a substantial inducement to City for entering into this Agreement is the professional reputation, experience and competence of Burke. Burke shall be fully responsible to City for all acts or omissions of any subcontractors. Assignments of any or all rights, duties or obligations of the Burke under this Agreement will be permitted only with the express consent of the City Council. Burke shall not subcontract any portion of the work to be performed under this Agreement without the

written authorization of the City. If City consents to such subcontract, Burke shall be fully responsible to City for all acts or omissions of those subcontractors. Nothing in this Agreement shall create any contractual relationship between City and any subcontractor nor shall it create any obligation on the part of the City to pay or to see to the payment of any monies due to any such subcontractor other than as otherwise is required by law.

16.0 Authority to Enter Agreement.

Burke has all requisite power and authority to conduct its business and to execute, deliver, and perform the Agreement. Each party warrants that the individuals who have signed this Agreement have the legal power, right, and authority to make this Agreement and to bind each respective party.

17.0 Choice of Forum.

The parties hereby agree that this Agreement is to be enforced in accordance with the laws of the State of California, is entered into and/or is to be performed in the City of Menlo Park and that all claims or controversies arising out of or related to performance under this Agreement shall be submitted to and resolved in a forum within the County of San Mateo at a place to be determined by the rules of the forum.

18.0 Insurance.

Burke shall procure and maintain, at its sole cost and expense, comprehensive general liability and property insurance, including automobile and excess liability insurance, and professional liability insurance against all claims for injuries against persons or damages to property resulting from Burke's negligent acts or omissions arising out of or related to Burke's performance under this agreement. The coverages and minimum limits are set forth in Exhibit C.

19.0 Notice.

Written communications and invoices under this agreement shall be addressed as follows:

If to CITY: City Clerk (for communications)
 City of Menlo Park
 701 Laurel Street
 Menlo Park, CA 94025

 City Administrative Services Director (for invoices)
 City of Menlo Park
 701 Laurel Street
 Menlo Park, CA 94025

With a copy to: City Manager
City of Menlo Park
701 Laurel Street
Menlo Park, CA 94025

If to Burke: Nira F. Doherty, Partner
Burke, Williams & Sorensen, LLP



20.0 Nondiscrimination.

Burke shall not discriminate in the conduct of the work under this Agreement against any employee, applicant for employment, or volunteer on the basis of race, religious creed, color, national origin, ancestry, physical or mental disability, marital status, pregnancy, sex, age, sexual orientation or other prohibited basis will not be tolerated.

Consistent with City's policy that harassment and discrimination are unacceptable employer/employee conduct, Burke agrees that harassment or discrimination directed toward a job applicant, a City employee, or a citizen by Burke or Burke's employee or subcontractor on the basis of race, religious creed, color, national origin, ancestry, physical or mental disability, marital status, pregnancy, sex, age, sexual orientation or other prohibited basis will not be tolerated. Burke agrees that any and all violation of this provision shall constitute a material breach of the Agreement.

21.0 Independent Contractor.

In the performance of the services in this Agreement, Burke is an independent contractor and is not an agent or employee of City. Burke, its officers, employees, agents, and subcontractors, if any, shall have no power to bind or commit City to any decision or course of action, and shall not represent to any person or business that they have such power. Burke has and shall retain the right to exercise full control of the supervision of the services and over the employment, direction, compensation, and discharge of all persons assisting Burke in the performance of said service hereunder. Burke shall be solely responsible for all matters relating to the payment of its employees, including compliance with social security and income tax withholding, workers' compensation insurance, and all other regulations governing such matters.

22.0 Amendment.

Except as otherwise stated herein, any and all obligations of City and Burke are fully set forth and described in this Agreement. Any changes in this Agreement, including any increase or decrease in the amount of compensation or any change in the term, which shall be mutually agreed upon by and between City and Burke, shall be set

forth in written amendments to this Agreement. Amendments to this Agreement shall be executed by the Mayor.

IN WITNESS WHEREOF, the City and Burke agree as set forth hereinabove as of the date last set forth below.

Burke, Williams & Sorensen

By: 
Nira F. Doherty, Partner

Dated: March 1, 2021

CITY OF MENLO PARK

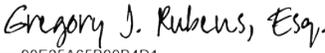
DocuSigned by:

By: 52C4D40424854A2
Drew Combs, Mayor

Dated: 3/22/2021

ATTEST:
DocuSigned by:

By: 30280A20D09E491
Judi Herren, City Clerk

Approved as to Form:
DocuSigned by:

90E25A65B90B4D1
Attorney

- Exhibit A: Scope of Services
- Exhibit B: Schedule of Charges
- Exhibit C: Insurance Provisions

Exhibit A SCOPE OF SERVICES

General City Attorney Services.

Burke will perform the following General City Attorney Services to serve City:

1. Representation and advise for the City Council, City Manager, Boards and Commissions, and City staff as directed, in all matters pertaining to their role in the organization and regarding the legality of matters under their consideration;
2. Attendance at Council meetings and closed sessions, Council subcommittee meetings, and Planning Commission meetings, as directed;
3. One day of office hours a week plus attendance at staff meetings as needed;
4. Legal opinions, assistance, consultation and routine legal advice and consultation;
5. Direct, as necessary, the update of City ordinances, procedures and practices;
6. Review and analyze local, state and federal pending legislation, laws, and court decisions, and provide updates, proactively propose modifications to City policies, ordinances, and plans;
7. Review, approve, and/or prepare ordinances, resolutions and staff reports in connection with preparation of agenda items, including preliminary research and analysis, and review of standard contracts, forms, notices, declarations, certificates, deeds, leases, and other supporting documents required by the City;
8. Analysis of Public Records Act responses and conflict of interest advice including Government Code 1090 and Political Reform Act issues.
9. The areas of municipal law included within the range of basic services include:
 - a. Brown Act Compliance
 - b. Public Records Act
 - c. Conflicts of Interest
 - d. Election law
 - e. Contracts and franchises
 - f. Americans with Disabilities Act (ADA)

Special Counsel Services.

Services not included in General City Attorney Services, above, will be considered "Special Counsel Services." Special Counsel Services generally are complex in nature (as opposed to routine), and require significant amounts of work. Special Counsel Services include but are not limited to, all litigation, arbitration, and mediation activities (including appellate work); municipal code enforcement, complex construction; eminent domain; legal analysis and advice regarding complex environmental matters, including Endangered Species Act issues, environmental permitting and regulatory issues, Clean Water Act compliance issues, NPDES compliance, and the application of and

compliance with the California Environmental Quality Act and National Environmental Policy Act; initiatives and referenda; wage and hour determinations by the DIR;; imposition of fees and taxes pursuant to Propositions 26 and 218; complex housing matters; and contested conflict of interest matters, including the defense of public officials in response to FPPC investigations and charges. Special Legal Services also include legal advice or representation regarding any project or issue that is particularly complex and other duties as assigned by the City Council or City Manager as Special Counsel Services. Labor negotiations and complex personnel matters, including disciplinary matters are not included in this agreement at this time. City is retaining its current outside labor counsel Sloan Sakai Yeung Wong LLP_for these services. In the event the such services are requested of Burke, the City and Burke will amend or supplement this agreement to add such services and rates.

Exhibit B

SCHEDULE OF CHARGES

- A. **General City Attorney Services.** Fees for General City Attorney Services, as described in Exhibit A of this Agreement, will be charged at a rate of \$265 for all attorneys. Paralegals shall be billed at a rate of \$135 per hour.
- B. **Special Legal Services.** Fees for Special Legal Services, as described in Exhibit A of this Agreement, will be charged at a rate of \$305 per hour for partners and \$270 for associates. Paralegals shall be billed at a rate of \$135 per hour.
- C. **Cost Recovery Matters.** Burke will charge its current standard private client rates (as opposed to the public entity client rates provided in this Agreement or charged other public agencies) for work that is reimbursed by private parties pursuant to litigation, conditions of approval, pass through agreements, reimbursement agreements, or other authorization. Current standard private client rates are \$475 for partners and \$425 for associates.
- D. **Transitional Matters.** To prevent potentially duplicative costs to City, Burke shall not charge for time for its attorneys or staff involving review, correspondence or communication with the City's former city attorney's office involving existing or recurring matters. Such time may be provided as information to City but shall be not-chargeable to City. The City may continue to use the Interim City Attorney or her firm for certain limited pending matters until they are concluded, and to the extent Burke is asked or required to work on these pending matters, such work shall be billed at the applicable hourly rates set forth in Exhibit B provided that such work does not result in the City being billed for the same task by both firms.
- E. **Travel Time.** Burke shall not charge for travel time to and from required meetings at the City or with City staff..
- F. **Costs and Expense Reimbursement.** In addition to payment of attorneys fees as set forth above, the City will reimburse Burke for costs and expenses reasonably incurred by Burke in performance of the services provided under this Agreement. City preauthorizes routine costs including but not limited to courier services, cost of producing and reproducing photographs, and court, county, recording and other filing fees.
- G. **Reimbursable Extraordinary Expenses** In addition to payment of attorneys fees as set forth above, and with prior approval from the City Council or City Manager, City will reimburse other non-routine costs and expenses incurred by Burke for or on behalf of, including but not limited to outside counsel, consultants, expert witnesses, travel outside San Mateo County, and outside investigative services.

H. **Adjustment to Hourly Rates.** The hourly rates set forth above shall remain in effect until June 30, 2022. Thereafter, unless otherwise negotiated, the hourly rates will be increased by \$5 annually, which the parties agree represents a fair and reasonable approximation of the increase in the cost of providing services (Cost of Living).

Any increase in compensation beyond the compensation amount set forth in this Agreement must be authorized in advance by the City Council. The City shall not be liable to pay additional compensation to Burke for any additional services performed without written authorization from the City Manager or City Council issued prior to proceeding with amended services.

Exhibit C

Insurance Provisions

(a) Without limiting Burke's indemnification, it is agreed that Burke shall maintain in force at all times during the performance of this contract, the following types of insurance providing coverage on an "occurrence" basis. Said insurance shall name the City, its officers, agents and employees as additional insureds. Evidence of said insurance shall be delivered to City at the same time Burke signs this Agreement in certificate forms acceptable to the City.

Commercial general liability and property damage insurance. Coverage: at least \$1,000,000 per occurrence. If commercial general liability insurance or other form with a general aggregate limit shall apply separately to this Project/location, the general aggregate limit shall be at least twice the required occurrence limit.

Automobile insurance for the vehicle(s) Burke uses in connection with the performance of this Agreement. Coverage: at least \$1,000,000 per occurrence for bodily injury and property damage.

Worker's Compensation insurance to cover its employees as required by the Labor Code of the State of California. Burke's worker's compensation insurance shall include the following language: "All rights of subrogation are hereby waived against the City, its officers and employees when acting within the scope of their appointment or employment." In the event any class of employees engaged in hazardous work under this Contract is not protected under Workers' Compensation Statutes, the Burke shall provide adequate and suitable insurance for the protection of its employees not otherwise protected.

Errors and Omissions insurance. Coverage: at least \$2,000,000 each occurrence, at least \$2,000,000 policy aggregate.

(1) The limits of insurance required in the contract may be satisfied by a combination of primary and umbrella or excess insurance. Any umbrella or excess insurance shall contain or be endorsed to contain a provision that such coverage shall also apply on a primary and noncontributory basis for the benefit of the City (if agreed to in a written contract) before the City's own insurance or self-insurance shall be called upon to protect it as a named insured.

(2) It shall be a requirement under this contract that any available insurance proceeds broader than or in excess of the specified minimum insurance coverage requirements and/or limits shall

be available to the Additional Insured. Furthermore, the requirements for coverage and limits shall be (1) the broader coverage and maximum limits specified in this contract; or (2) the broader coverage and maximum limits of coverage of any insurance policy or proceeds available to the named insured; whichever is greater.

- (3) The insurer waives all rights of subrogation against the City, its elected or appointed officials, officers, employees or agents.
- (4) Any failure to comply with reporting provisions of the policies shall not affect coverage provided to the City, its elected or appointed officers, officials, employees, agents or volunteers.
- (5) The insurance provided by this policy shall not be suspended, voided, canceled, or reduced in coverage or in limits except after thirty days written notice has been received by the City.

(b) Endorsements. Each general liability and automobile liability insurance policy shall be with insurers possessing a Best's rating of no less than A:VII and shall be endorsed with the following specific language:

- (1) The City of Menlo Park, its elected or appointed officers, employees, agents and volunteers are to be covered as additional insureds with respect to liability arising out of work performed by or on behalf of the Burke, including materials, parts or equipment furnished in connection with such work or operations.
- (2) This policy shall be considered primary insurance as respects the City, its elected or appointed officers, officials, employees, agents and volunteers. Any insurance maintained by the City, including any self-insured retention the City may have, shall be considered excess insurance only and shall not contribute with it. The Additional Insured coverage shall be at least as broad as CG 20 01 04 13.
- (3) This insurance shall act for each insured and additional insured as though a separate policy had been written for each, except with respect to the limits of liability of the insuring company.

(c) In the event Burke desires to hire or employ any other company or person to perform any part of the services contemplated herein, the written approval therefore must be first obtained from the City. The City may withhold such approval for any reason. If approval is given by the City, Burke shall secure and provide City evidence securing said Worker's Compensation insurance

covering said approved employee(s) in statutory amounts and providing 30 days' advance notice to City in the event said policy is canceled.

- (1) Should the City approve the hiring or employment of another company or person as a Subcontractor, Burke agrees to include with all subcontractors in the subcontract the same requirements and provisions of this contract including the indemnity and insurance requirements to the extent they apply to the scope of the subcontractor's work. Subcontractors hired by the Burke agree to be bound to Burke and the City in the same manner and to the same extent as Burke is bound to the City under the Contract Documents. Subcontractor further agrees to include these same provisions with any subcontractor. A copy of the City's Contract Document indemnity and insurance provisions will be furnished to the Subcontractor upon request. The Burke shall require all subcontractors to provide a valid certificate of insurance and the required endorsements included in the agreement prior to the commencement of any work and will provide proof of compliance to the City.
- (2) Any approved Subcontractor agrees to be bound to the Burke and City in the same manner and the same extent as Burke is bound to the City under the Contract Documents. Subcontractor further agrees to include the same requirements and provisions of this Contract, including the indemnity and insurance requirements, with any City approved subcontractor to the extent they apply to the scope of subcontractor's work.

(d) Deductibles and Self-Insured Retentions. All self-insured retentions (SIR) must be disclosed to the City's Risk Management for approval and shall not reduce the limits of liability. At the option of City, either: the insurer shall reduce or eliminate such deductibles or self-insurance retention as respects the City, its officers, officials, agents, employees and volunteers; or Burke shall procure a bond guaranteeing payment of losses and related investigations, claim administration and defense expenses. Policies containing any self-insured (SIR) provision shall provide or be endorsed to provide that the SIR may be satisfied by either the named insured or the City. The City reserves the right to obtain a full certified copy of any insurance policy and endorsements. Failure to exercise this right shall not constitute a waiver of the right to exercise later.