



Julie Christensen, Executive Director
Dogpatch and NW Potrero Green Benefit District
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07 September 2019: Landscape Architectural Services for Esprit Park

Dear Julie

We are pleased to submit this revised proposal to provide Landscape Architectural Services for Esprit Park.

It has been a pleasure working with you and the GBD on this project, and we look forward to further success in community process and design collaboration.

The following proposal outlines what we believe are the necessary minimum services you will need. A detailed description of each phase follows in the scope of services in our agreement.

Please feel free to call me to discuss the content of this proposal and with any questions that you might have.

Sincerely,

A handwritten signature in black ink that reads "David Fletcher". The signature is fluid and cursive, with a prominent "D" and "F".

David Fletcher ASLA, RLA #5377
FLETCHER STUDIO
Landscape Architecture + Urban Design
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AGREEMENT BETWEEN CLIENT & LANDSCAPE ARCHITECT

This Agreement is between Dogpatch and NW Potrero Green Benefit District (Client) and Fletcher Studio, Inc. (Consultant) for the following Project: Esprit Park.

PROJECT DESCRIPTION

The project is sited in the Dogpatch District of San Francisco and will be the renovation of an existing park.

- 1 Existing Park
- 2 Perimeter Sidewalk Improvements

SCOPE OF WORK

The project site work includes:

1. Park Design and Sidewalk Improvements
 - a. Sub-Consultant: Civil engineering
 - b. Sub-Consultant: Electrical Engineering
 - c. Sub-Consultant: Irrigation System Design
 - d. Sub-Consultant: Structural Engineering
 - e. Sub-Consultant: Peer Review

SCOPE OF SERVICES

Design services shall be provided for the project in five (5) phases: Concept Design, Design Development, Construction Documentation, Bidding and Negotiation, and Construction Administration for the project sitework as described below. The services will include hardscape design and documentation, site furnishings and amenities, site lighting, planting design and documentation, irrigation design and documentation, tree protection design and documentation, signage placement and installation specifications.

These are described in more detail below:



CONCEPT DESIGN PHASE (4 - 6 MONTHS)

Based on the Project requirements agreed upon with Client, Consultant shall prepare and present for Client's approval a preliminary design illustrating the scale and relationship of the Project components. The Concept Design Documents shall consist of drawings and other documents including a site plan, if appropriate, and preliminary building plans, sections and elevations; and may include some combination of study models, perspective sketches, or digital modeling. Consultant shall submit the Concept Design Documents to the Client and request Client's approval.

Work shall include:

- + Participate in coordination calls with GBD and RPD Project Managers
- + Attend and support monthly Esprit Community Advisory Group (ECAG) Meeting / Review
- + Seek compliance with RPD design standards and code compliance
- + Review of grant acceptance agreement parameters
- + Review and incorporate civil / topo survey
- + Prepare for, attend and present project at Structural Maintenance Yard and Park Service Manager Staff Review
- + Support RPD PM in completing CEQA environmental evaluation application
- + Refine current Concept Design, including update design of off leash Dog Play Area (DPA) to comply with RPD Performance Standards
- + Provide necessary drawings for third-party cost estimator to prepare estimate. Review third-party cost estimate (contracted by RPD), answer questions, confirm assumptions made by estimators, and make edits to the drawings for the subsequent submittal to keep the design within budget.
- + Participate in value engineering process by making recommendations to keep project within budget.
- + Support community meetings to review updates to design.
- + Design of hardscape design, planting design, site drainage concepts, lighting, and site amenities.
- + Prepare Preliminary Concept Plan: 50% Concept Illustrative Site Master Plan Alternatives: Preparation of one illustrative master plan that convey refined spatial alternatives for the landscape spaces.
- + ECAG Concept Plan Review
- + RPD PM, Operations staff Concept Plan Review
- + Prepare Final Concept Design: 100% Revised Concept Illustrative Site Master Plan: Preparation of one illustrative master plan that conveys refined spatial alternatives for the landscape spaces.
- + 3-D model images and elevations as the Consultant deems necessary to convey design intent.
- + Diagrams.
- + Site Elevations and/or Sections.
- + Concept and material image boards will be presented which convey hardscape material alternatives.
- + Concept and material images will be included to convey planting types and associations.
- + Concept and material images will be included to convey **activity** nodes.
- + Provide materials for and attend RPD Commission Review.

Meetings: Ten (10) Conference Calls
 Two (2) Community Meetings
 One (1) Focus Group Meeting
 Seven (7) Meetings, including:



Project kickoff and site visit with GBD and RPD team
Pre-app meeting with DPH and SAR (Site Assessment and Remediation) re:
serpentine on site and impacts to design and construction
SFPUC Stormwater Control Plan meeting
ADA Review with PW ADA Coordinator

Deliverables: Concept Illustrative site master plans
Concept Hardscape Plan
Concept Planting Plan
Concept Lighting Plan
Concept Amenities Plan
Concept images and diagrams
3-D images and sketches including but not limited to two 3-D images and 2 sections

DESIGN DEVELOPMENT PHASE (4 - 6 MONTHS)

Based on Client's approval of the Concept Design Documents, and on Client's authorization of any adjustments in the Project requirements and the budget for the Cost of the Work, Consultant shall prepare Design Development Documents for Client's approval. The Design Development Documents shall illustrate and describe the development of the approved Concept Design Documents and shall consist of drawings and other documents including plans, sections, elevations, typical construction details, and diagrammatic layouts to fix and describe the size and character of the Project as to landscape architectural systems and such other aesthetic design elements as may be appropriate.

The Design Development Documents shall also include outline specifications that identify major materials and systems and establish in general their quality levels. Consultant shall submit the Design Development Documents to Client for approval. Consultant to advise Client of any adjustments to the estimate of the Cost of the Work and request Client's approval.

Work shall include:

- + 25% Design Development Illustrative Master Plan: Preparation of one design development illustrative master plan for a Design Development. Consultant to revise plan as it to incorporate Agency Holding Jurisdiction feedback (RPD, GBD, Community, Operations, ADA, PUC, SAR, etc.)
- + 50% Revised Illustrative Design Development Master Plan: Preparation of one design development master plan for a Design Development review.
- + Concept and material image boards will be presented which convey hardscape material alternatives and vegetative types and associations.
- + 100% DD Landscape Drawing Submittal: Hardscape layout/materials/details and Planting with Outline Specifications and Details. Team meeting with the RPD PM and PSA Manager. 100% DD set, materials & equipment schedule.
- + Revise the design to incorporate comments from Client and peer reviewers and other project stakeholders including 25%, 50% and 100% DD comments.
- + Prepare for, attend and present project at Structural Maintenance Yard and Park Service Manager Staff Review



- + Provide necessary drawings for third-party cost estimator to prepare estimates at 100% DD. Review third-party cost estimate (contracted by RPD), answer questions, confirm assumptions made by estimators, and make edits to the drawings for the subsequent submittal to keep the design within budget.
- + Participate in value engineering process by making recommendations to keep project within budget.
- + The Consultant shall coordinate the connection points for utilities.
- + Utility Review: Review Civil and MEP utility plans to assess possible conflicts as relates to aesthetic concerns.
- + Civil Coordination: Coordination for stormwater management requirements, to serve as a basis of design where feasible. Assist civil engineer for the landscape design to meet SFPUC requirements for stormwater control plans. Provide and submit necessary drawings, specifications, calculations and other documents necessary for a preliminary stormwater control plan.
- + Irrigation Coordination
- + Coordinate with Client's arborist
- + Site Lighting Coordination (Streetlights by others)
- + Preliminary Client Peer Review
- Coordinate with RPD hazardous material consultant.

Meetings: Fourteen (14) Bi-weekly teleconferences
Eight (8) Meetings, including:
SFPUC Stormwater Control Plan meeting
ADA Review with PW ADA Coordinator
100% DD Review RPD Structural Maintenance Yard Staff
100% DD Review with the RPD PM and Operations Team

Presentation: Two (2) Design presentations to the Client.

Deliverables: One (1) Illustrative Master Plan
One (1) Revised Illustrative Master Plans at 25% and 50%
One (1) Design Development Landscape Drawings Set at 100%
One (1) Outline Specification Manual at 100%

Consultant shall submit the Design Development Documents to Client, advise Client of any adjustments to the estimate of the Cost of the Work, and request Client's approval.

CONSTRUCTION DOCUMENTATION PHASE (6 - 8 MONTHS)

Based on Client's approval of the Design Development Documents, and on Client's authorization of any adjustments in the Project requirements and the budget for the Cost of the Work, Consultant shall prepare Construction Documents for Client's approval. The Construction Documents shall illustrate and describe the further development of the approved Design Development Documents and shall consist of Drawings and Specifications setting forth in detail the quality levels of architectural materials and systems and other requirements for the construction of the Work. Client and Consultant acknowledge that in order to construct the Work, Contractor will provide additional information, including Shop Drawings, Product Data, Samples and other similar submittals, which Consultant shall review to coordinate Consultant's services with the work of Contractor.



Work shall include:

- + Preparation of working drawings for submittal of Construction Documentation set at 60% 90% and 100% completion.
- + Submittal of 60% construction documents to Client for peer review.
- + Revise the design to incorporate comments from Client and peer reviewers..
- + Submittal of 90% construction documents to Client for Structural Maintenance Yard and Park Service Manager Staff Review
- + Preparation of technical specifications related to site work. (Compilation of project specification manual, including but not limited to general conditions, Division 0 and 1 Specifications, provided by RPD).
- + Preparation of hardscape material and layout plans, details and specifications, to include layout of horizontal pedestrian landscape elements including: paving, planter walls, preliminary signage locations and installation details, site furniture/amenities activity nodes, and planting areas.
- + Preparation of planting plans, details and specifications to include the quantity, location, species and size of all plants.
- + Preparation of irrigation plans, details, and specifications. Irrigation plans downstream from point of connection, including the location of main lines, laterals, heads, valves, backflow preventers and controllers.
- + Preparation of tree protection plan. Tree protection guidelines and recommendations to be provided by project Arborist.
- + Preparation of demolition plan and specifications.
- + Preparation of site lighting plan, details and specifications.
- + Working and consultant coordination meetings (see below).
- + Submittal of all documents to the RPD Client for building department review and one two back check revisions, based on concepts concerning landscape improvements. .
- + Provide necessary drawings for third-party cost estimator to prepare estimates at 60% and 90% CDs.
- + Review third-party cost estimates provided by RPD, answer questions, confirm assumptions made by estimators, and make edits to the drawings
- + Participate in value engineering process and make recommendations to keep project within budget.
- + Coordinate with RPD hazardous material consultant.
- + Support Peer Review by GBD outside consultant.
- + Revise drawings and specifications to be in compliance with the SFPUC Stormwater Control requirements. Track comments and revisions requested by SFPUC.
- + Assist with RPD led BUF Application.
- + Assist with RPD led BSM Encroachment Permit

Meetings: Eighteen (18) teleconferences with RPD
Eight (10) meetings, including:
RPD Structural Maintenance Yard Staff Review at 60% and 90% CDs
PUC Stormwater Control Plan meeting
Two (2) ADA Reviews with PW ADA Coordinator
60% and 90% CD Review RPD Structural Maintenance Yard Staff
60%, 90%, and 100% Review RPD PM and Operations Team
Support RPD at building permit submissions review
Support RPD at building permit revisions review

Deliverables: One (1) Construction Document drawing sets at 60%, 90% and 100% Format to be two plotted sets, PDFs, and CAD drawing files.



Two (2) 100% Construction Document sets (full-size hard copies) to be wet stamped and signed by licensed professional in the State of California, suitable for submission to DBI.

Two (2) sets of structural calculations (hard copies) wet stamped and signed by a licensed professional structural engineer in the State of California, suitable for submission to DBI.

One (1) Specification Manual at 60%, 90% and at 100%. Format to be PDFs. Submittals as required for compliance with the SFPUC Stormwater Management Ordinance.

BIDDING AND NEGOTIATION PHASE (5 MONTHS)

During bidding and negotiations, the Consultant will support the Client or Owner's Agent, in attempting to obtain bids from qualified contractors. The Consultant shall respond to questions from bidding contractors.

Work shall include:

- + Participate in pre-bid conference with bidding contractors.
- + QBD/RFC Support: Respond to bidder requests for clarification (RFC) and issue bulletins/addenda as required to clarify scope and answer bidders' questions.
- + Evaluate substitution requests.
- + Provide one conform set, if needed, as PDF and CAD drawing files.

Meetings: One (1) Pre-Bid Meeting
 One (1) Site Meeting
 One (1) Review Meeting

Deliverables: One (1) Conform Set of Construction Documents as PDF and CAD drawing files.

CONSTRUCTION ADMINISTRATION PHASE (8 – 12 MONTHS)

The Consultant shall participate in Project site visits with Contractor to generally review the progress of construction and to see if the work completed is generally consistent with the intent of Consultant's Construction Documents. Although Consultant may observe and discuss potential problems, these visits are not construction inspections or a guarantee that there will not be construction deficiencies. Review required Contractor submittals, such as shop drawings and samples, but only to determine if they conform to Consultant's visual and aesthetic design intent. Client understands that the frequency of Consultant's site visits may limit Consultant's ability to review certain payment applications. Consultant's review shall not be a representation that Consultant has supervised the work, or that Consultant has reviewed how or for what purpose Contractor has used or intends to use Client's payments.

Work shall include:

- + Review signage package provided by RPD. Provide comments, confirm or adjust signage locations, and issue sketch for site signage placement and installation.
- + Review submittals by contractor for comparison to the project specifications and drawings and provide approvals or corrections as necessary. As defined in the Scope of Services Consultant may perform the following services: review and approve or take other appropriate action on



Contractor's submittals to check for conformity with the contract documents. Review submittals up to 2 times. Consultant is not required to review partial submissions.

- + Review and comment on shop drawings.
- + Provide review and comment on Contractor change order if requested by Client.
- + Provide written clarifications of drawings in the form of request for information (RFI) response, ASI bulletins, etc. It is anticipated the number of RFI responses will range between 25-35. If the Contractor's requests for information (RFI's), clarification or interpretation are, in Consultant's professional opinion, readily apparent from reasonable observation of field conditions or a review of the contract documents, or are reasonably inferable there from, Consultant is entitled to be compensated for time spent responding to such requests.
- + Provide site visits (2 hours each), 32 Principal hours, 64 Senior Associate Hours, and 128 project management hours during the landscape construction phase to determine whether the construction and installation of the site work is proceeding in accordance with the Consultant's design intent and the contract documents. On the basis of observations at the site the Consultant may recommend rejection of work for failure to conform to the contract documents. These site reviews may occur at the following milestones: prior commencement of landscape work, inspection of irrigation systems, review hardscape layout, inspection of plant material prior to planting, review placement of plant material prior to planting, reviewing final irrigation work, review final hardscape and planting.
- + Provide a preliminary walk-through and written punch list.
- + Provide final walk-through and written punch list.
- + Review Contractor produced as-built drawings.
- + Consultant's responsibility to provide Construction Phase Services commences with the award of the Contract for Construction and terminates after the Final Punch list Walkthrough is performed.

Meetings: Sixteen (16) teleconferences
Thirty (30) meetings, including:
One (1) Preliminary Walk-through
Two (2) Partnering Sessions
One (1) Pre-construction meeting
One (1) Preliminary Punch list Walkthrough
One (1) Final Punch list Walkthrough



COMPENSATION

Services shall be billed monthly, as a percentage of completion for each phase. Fees for additional meetings will be billed on a time and materials basis with the Client's approval. The following are the estimated fees by phase. Fees will not exceed these figures without authorization from the Client.

FLETCHER STUDIO (Prime Consultant)	
Concept Design	\$71,000
Design Development	\$131,880
Construction Documentation	\$230,000
Bidding and Negotiation	\$20,000
Constr. Admin. (hourly NTE)	\$55,000
Fletcher Studio Total	\$507,880
FLETCHER STUDIO (Sub-consultants)	
Civil Engineering – BKF	\$82,000
Structural Engineering	\$50,000
Electrical Engineering	\$26,500
Peer Review – Drew Detsch	\$12,000
Irrigation Design	\$19,160
Sub-consultants Total	\$189,660
TOTAL CONTRACT	\$697,540

Client agrees to pay Consultant for Basic and Additional Services on the following hourly rate schedule.

Principal:	\$275.00 per hour
Licensed Senior Landscape Architect:	\$195.00 per hour
Project Manager:	\$175.00 per hour
Project Designer:	\$125.00 per hour
Drafting Staff:	\$100.00 per hour
Administrative Staff:	\$85.00 per hour



REIMBURSIBLE EXPENSES

Reimbursable Expenses are in addition to fees for professional services. Reimbursable expenses shall be billed at cost and include, but are not limited to: reproduction by the Prime Consultant or sub-consultants, postage, and handling of documents, long distance and fax charges, travel costs outside the City of San Francisco, and Client-requested renderings and models. Consultant shall obtain prior client approval for reimbursable expenses over \$500.

ADDITIONAL SERVICES

Additional Services beyond Consultant's Basic Services may be provided if confirmed in writing. The services described below are not included in Basic Services and shall be paid for by the Client as provided in this Agreement, in addition to the compensation for Basic Services. If services described under Additional Services are required due to circumstances beyond Consultant's control, Consultant shall notify the Client prior to commencing such services. If the Client deems that such Additional Services are not required, the Client shall give prompt written notice to Consultant. If the Client indicates in writing that all or part of such Additional Services are not required, Consultant shall have no obligation to provide those services.

- A. Making revisions in Drawings, Specifications or other documents when such revisions are:
 - a. Inconsistent with approvals or instruction previously given by the Client, including revisions made necessary by adjustments in the Client's program or Project budget;
 - b. required by the enactment or revision of codes, laws or regulations subsequent to the preparation of such documents; or due to changes required as a result of the Client's failure to render decisions in a timely manner.
- B. Providing services required because of significant changes in the Project including, but not limited to, changes in size, quality, complexity, the Client's or Construction Manger's schedule, or the method of bidding or negotiating and contracting for construction.
- C. Preparing Drawings, Specifications and other documentation and supporting data, evaluating Contractor's proposals, and providing other services related to Change Orders and Construction Change Directives.
- D. Providing services in connection with evaluating substitutions proposed by Contractors and making subsequent revisions to Drawings, Specifications and other documentation resulting therefrom.
- E. Providing consultation concerning replacement of Work damaged by fire or other cause during construction, and furnishing services required in connection with the replacement of such Work.
- F. Providing services made necessary by the termination or default of the Construction Manager or a Contractor, by major defects or deficiencies in the Work of the Contractor, or by failure of performance of either the Client or a Contractor under a Contract for Construction.
- G. Providing services in evaluating an extensive number of claims submitted by the Contractor or others in connection with the Work.
- H. Providing services in connection with a public hearing, dispute resolution proceeding or legal proceeding except where Consultant is party thereto.
- I. Preparing documents for alternate, separate or sequential bids or providing services in connection with bidding, negotiation or construction prior to the completion of the Construction Documents Phase.
- J. Providing services after issuance to the Client of the final payment, or in the absence of a final payment, more than 60 days after the date of Substantial Completion of the Work.



- K. Providing any other services not otherwise included in this Agreement or not customarily furnished in accordance with generally accepted practices governing those providing similar services under like circumstances.

CONSULTANT'S STANDARD OF CARE

Consultant shall perform the design services described in this Agreement according to Exhibit F of the Grant Agreement and Permit to Enter between the City and County of San Francisco Recreation and Park Department and the Client (Grant Agreement), attached as part of this agreement. The parties acknowledge and agree that the Grant Agreement anticipates certain non-fiscal services and information will be provided by RPD for the Project and that Consultant shall be entitled to rely on the accuracy and completeness of services and information furnished by RPD, irrespective of whether the services and information are provided directly by RPD to Consultant or communicated to Consultant by way of Client.

The Scope of Services is based on the following assumptions:

- A. The landscape lighting plan excludes street lighting.
- B. RPD will advise Consultant of any known or suspected contaminants at the Project site. Consultant shall not be liable for any subsurface soil conditions.
- C. Consultant shall render its services as expeditiously as is consistent with professional skill and care. During the course of the Project, anticipated and unanticipated events may impact any Project schedule.
- D. Construction-phase services will be provided to determine the general progress of the work, but will not include supervision of the contractors, or of their means, methods, techniques, schedules, sequences or procedures, or for construction safety or any other related programs. Consultant maintains the right but not the duty to recommend that Client reject work that does not appear to conform generally to the plans and specifications.

CLIENT'S RESPONSIBILITIES

- A. Client shall provide full information about the objectives, schedule, constraints and existing conditions of the Project, and shall establish a budget that includes reasonable contingencies and meets the Project requirements.
- B. Client agrees that pursuant to the Grant Agreement RPD will provide Consultant with information, surveys, reports, and professional recommendations and other related items requested by Consultant in order to provide its services. RPD shall furnish consulting services not provided by Consultant, but required for the Project, such as surveying, which shall include property boundaries, topography, utilities, and wetlands information; geotechnical engineering; and environmental testing services. Client agrees Consultant shall have no responsibility for any portion of the Project designed by RPD other consultants. Consultant, while responsible for coordinating its services with the services of Client's or RPD's other consultants, shall not be required to check or verify other consultants' construction documents and shall be entitled to rely on the compliance of such documents with applicable laws, codes, statutes, ordinances and regulations.
- C. Client agrees to provide the items described above and to render decisions in a timely manner so as not to delay the orderly and sequential progress of Consultant's services. Consultant shall be entitled to rely on the accuracy and completeness of Client's and RPD's information.



- D. Client agrees that pursuant to the Grant Agreement RPD shall employ a Contractor, experienced in the type of Project to be constructed, to perform the construction work and to provide price information.
- E. Client agrees that pursuant to the Grant Agreement RPD will obtain and pay for all necessary permits from authorities with jurisdiction over the Project.

ESTIMATED SCHEDULE AND PROJECT BUDGET

- A. Consultant shall render its services as expeditiously as is consistent with the skill and care of those providing similar services under like circumstances. During the course of the Project, anticipated and unanticipated events may impact the Project schedule.
- B. Client agrees to promptly notify Consultant if Client's schedule or budget changes. Client acknowledges that significant changes to the Project or construction schedule or budget, or to the Project's scope, may require Additional Services of Consultant.

TERMINATION

- A. Either Client or Consultant may terminate this Agreement upon ten days' written notice.
- B. If terminated, Client agrees to pay Consultant for all Basic and Additional Services rendered and Reimbursable Expenses incurred up to the date of termination.
- C. Upon not less than seven days' written notice, Consultant may suspend the performance of its services if Client fails to pay Consultant in full for services rendered or expenses incurred. Consultant shall have no liability because of such suspension of services or termination due to Client's nonpayment.

DISPUTE RESOLUTION

- A. Client and Consultant agree to mediate claims or disputes arising out of or relating to this Agreement before initiating litigation. The mediation shall be conducted by a mediation service acceptable to the parties. A party shall make a demand for mediation within a reasonable time after a claim or dispute arises, and the parties agree to mediate in good faith. In no event shall any demand for mediation be made after such claim or dispute would be barred by applicable law. Mediation fees shall be shared equally.

USE AND OWNERSHIP OF CONSULTANT'S DOCUMENTS

- A. Upon the parties signing this Agreement, Consultant grants Client a nonexclusive license to use Consultant's documents as described in this Agreement, provided Client performs in accordance with the terms of this Agreement. No other license is implied or granted under this Agreement. All



instruments of service prepared by Consultant, including but not limited to, drawings and specifications, are the property of Consultant. These documents shall not be reused on other projects without Consultant's written permission. Consultant retains all rights, including copyrights, in its documents. Client or others cannot use Consultant's documents to complete this Project with others unless Consultant is found to have materially breached this Agreement.

MISCELLANEOUS PROVISIONS

- A. This Agreement is governed by California law.
- B. This Agreement is the entire and integrated agreement between Client and Consultant and supersedes all prior negotiations, statements or agreements, either written or oral. The parties may amend this Agreement only by a written instrument signed by both Client and Consultant.
- C. In the event that any term or provision of this Agreement is found to be unenforceable or invalid for any reason, the remainder of this Agreement shall continue in full force and effect, and the parties agree that any unenforceable or invalid term or provision shall be amended to the minimum extent required to make such term or provision enforceable and valid.
- D. Neither Client nor Consultant shall assign this Agreement without the written consent of the other.
- E. Irrespective of any other term in this Agreement, Consultant shall not control or be responsible for construction means, methods, techniques, schedules, sequences or procedures; or for construction safety or any other related programs; or for another parties' errors or omissions or for another parties' failure to complete their work or services in accordance with Consultant's documents.
- F. To the extent damages are covered by property insurance during construction, Client and Consultant waive all rights against each other and against the contractors, consultants, agents and employees of the other for such damages. Client or Consultant, as appropriate, shall require of the contractors, consultants, agents and employees of any of them similar waivers in favor of the other parties described in this paragraph.
- G. Client acknowledges and agrees that proper Project maintenance is required after the Project is complete. A lack of or improper maintenance in areas such as, but not limited to, e.g. pedestrian pavements, over structure planters and irrigation systems] may result in damage to property or persons. Client further acknowledges and agrees that, as between the parties to this Agreement, Client is solely responsible for the results of any lack of or improper maintenance.
- H. Nothing in this Agreement shall create a contractual relationship for the benefit of any third party.
- I. If this Agreement is not signed and returned to Consultant within 60 days, the offer to perform the described services may, in Consultant's sole discretion, be withdrawn and be null and void.
- J. Client agrees to indemnify, defend and hold Consultant harmless from and against any and all claims, liabilities, suits, demands, losses, costs and expenses, including, but not limited to, reasonable attorneys' fees and all legal expenses and fees incurred through appeal, and all interest thereon, accruing or resulting to any and all persons, firms or any other legal entities on account of any damages or losses to property or persons, including injuries or death, or economic losses, arising out of the Project and/or this Agreement, except that Consultant shall not be entitled to be



indemnified to the extent such damages or losses are found by a court or forum of competent jurisdiction to be caused by Consultant's negligent errors or omissions.

- K. Client understands and acknowledges that the design and construction process for this Project poses certain risks to both Consultant and Client. Client further understands and acknowledges that the amount of risk that Consultant can accept is tied, in part, to the amount of compensation received for services rendered. Consultant's fee for the services offered is based on Client's agreement to limit Consultant's liability as described below. Client further acknowledges that were it not for this promise to limit Consultant's liability, Consultant's compensation would need to increase to address the risks posed by this Project.
- L. Client, acknowledging its right to discuss this provision with legal counsel experienced in the design and construction process, as well as other Consultants, voluntarily agrees that, to the fullest extent permitted by law, Consultant's total liability to Client for any and all injuries, claims, liabilities, losses, costs, expenses or damages whatsoever arising out of or in any way related to the Project or this Agreement from any cause or causes including, but not limited to, Consultant's negligence, errors, omissions or breach of contract, shall not exceed 50% of the total compensation received by Consultant under this Agreement. This limitation of liability shall apply to Client's direct claims and Client's claims arising from third parties.
- M. It is recognized and agreed that the design services provided for in this Agreement will not and cannot be completed until all such services, including the Construction Administration phase services, have been performed in full by the Consultant.
- N. Site Signage design and documentation to be provided by others, for RPD and Landscape Architect's review. (Landscape designer to provide signage location and installation details.)

AGREED

If you are in agreement with the above terms, please sign this agreement and return one copy to Fletcher Studio, 2325 3rd Street, Suite #413 San Francisco, CA 94107.

David Fletcher, Fletcher Studio 09.07.2019
Date

Susan Eslick, President Date
Dogpatch & NW Potrero Hill Green Benefit District

Julie Christensen, Executive Director Date
Dogpatch & NW Potrero Hill Green Benefit District