

**PROFESSIONAL SERVICES AGREEMENT  
FOR  
BICYCLE NETWORK PLAN**

STATE OF TEXAS                   §  
   §  
COUNTY OF BEXAR           §

This Agreement is entered into by and between the City of San Antonio, a Texas Municipal Corporation ("City") acting by and through its City Manager, pursuant to Ordinance No. \_\_\_\_\_ passed and approved on the \_\_\_\_\_ day of \_\_\_\_\_, 2022 and RS&H, Inc. by and through its Senior Vice President Steve Creamer ("Consultant"), both of which may be referred to herein collectively as the "Parties".

The Parties hereto severally and collectively agree, and by the execution hereof are bound, to the mutual obligations herein contained and to the performance and accomplishment of the tasks hereinafter described.

**I. DEFINITIONS**

As used in this Agreement, the following terms shall have meanings as set out below:

- 1.1 "City" is defined in the preamble of this Agreement and includes its successors and assigns.
- 1.2 "Consultant" is defined in the preamble of this Agreement and includes its successors.
- 1.3 "Director" shall mean the director of City's Transportation Department.
- 1.4 "Subcontractor" shall mean subcontractors or subconsultants at any tier that are under the direct or indirect control or responsibility of the Consultant, and includes all independent contractors, agents, employees, authorized resellers, or anyone else for whom the Consultant may be liable at any tier, including a person or entity that is, or will be, providing or performing an essential aspect of this Agreement, including Consultant's manufacturers, distributors, and suppliers.

**II. TERM**

- 2.1 Unless sooner terminated in accordance with the provisions of this Agreement, the term of this Agreement shall commence on November 3, 2022 and terminate on November 2, 2024.
- 2.2 At City's option, this Agreement may be renewed and extended beyond the date stated above under the same terms and conditions for up to two (2) additional one (1) year periods. All renewals shall be in writing, signed by the City Manager, his/her designee, or the Director, subject to and contingent upon appropriation of funds and expenditures due hereunder.
- 2.3 If funding for the entire Agreement is not appropriated at the time this Agreement is entered into, City retains the right to terminate this Agreement at the expiration of each of City's budget periods, and any additional contract period beyond the initial term set forth in 2.1 is subject to and contingent upon subsequent appropriation.

### III. SCOPE OF SERVICES

3.1 Consultant agrees to provide the services described in this Article III entitled Scope of Services in exchange for the compensation described in Article IV. Compensation.

3.2 **Task 1: Project Leadership & Coordination (Project Management Plan).** The Consultant will be responsible for all project management activities for the development of the Bike Network Plan (BNP). The Consultant will provide expert guidance and technical skills to the City of San Antonio to deliver an updated BNP. As the lead on delivering the vision of the residents of the City of San Antonio, the Consultant will facilitate project meetings, inter-agency, stakeholder, resident, and business participation methods to maximize feedback from all internal and external stakeholders. Further, Consultant shall:

3.2.1 Develop a project Leadership & Coordination Plan (Work Plan) to direct the flow of all deliverables for successful completion of the BNP. The Work Plan will include a confirmation of the BNP scope, schedule, critical path issues, deliverable formats and relationships/communication channels necessary for the Consultant to achieve success.

A. Key elements of the Work Plan must include, but is not limited to:

- i. Key consultants & City Transportation staff contact information,
- ii. Schedule of proposed project meetings/presentations (Kick-Off, Internal Project Management Meetings with Transportation Department Project Manager & Staff; Meetings with Internal City Departments (Internal Advisory Committee (IAC)) and preferred meeting formats/frequencies needed to achieve the stated project goals (virtual, in-person, conference, etc. to be discussed and refined during the Kick-Off Meeting).
  - a. Consultant shall participate in a number of on-site meetings. On-site meetings may include, but are not limited to, technical and community stakeholder meetings, public/community meetings, advisory committee meetings, Alamo Area Metropolitan Planning Organization (AAMPO) meetings, Planning Commission briefings and public hearings, City Council briefings and public hearings, and similar governing and advisory bodies. Additionally, the consultant is expected to make themselves available for bi-weekly project coordination calls with the City. The consultant shall also provide weekly email updates to the City project manager as well as monthly progress reports with invoices.
- iii. Schedule of BNP deliverables.
- iv. Meeting documentation strategy (such as sign-in sheets, agendas, notes, next steps/" look ahead", facilitators, and exhibits).
- v. Potential barriers to successful BNP/critical path items.
- vi. Budget management (including invoicing, progress reports, change orders).

B. **DELIVERABLES:** Written Leadership & Coordination Plan in electronic format accompanied with a PowerPoint presentation highlighting the key elements of the Leadership & Coordination Plan.

C. **DUE DATE:** Within twenty (20) days of Notice to Proceed (NTP)

3.3 **Task 2: Communications & Engagement Plan.** The Consultant will develop a comprehensive Communications & Engagement Plan to ensure communication of the Purpose & Need (P & N) of the BNP and outline how staff and consultants will meet with, discuss, educate, and inform stakeholders about the SA Tomorrow Principles and how they will be carried out through the development of the BNP. The Engagement Plan should include information and guidance provided by the City's Communications & Engagement (C&E) SASpeakUp! team as coordinated through the Transportation Department Public Relations Manager. The Communication & Engagement Plan should provide a simplified framework and comprehensible narrative towards the goal of completing the baseline network of bicycle infrastructure for the City in the next ten (10) years. Further:

3.3.1 The Communication & Engagement Plan developed by the Consultant for the BNP should utilize the City's Equity Atlas to determine the appropriate level and type of engagement needed to capture the feedback and insight of residents, businesses and visitors, alike. The Consultant will include communication with stakeholders that meet the National Environmental Policy Act (NEPA) and Section 106 of the National Historic Preservation Act (NHPA) "consultation" requirements as necessary, to ensure the documentation of community engagement to support the City's future applications for competitive, discretionary grants. This communication and documentation will support future grant opportunities identified in the Infrastructure Investment and Jobs Act (IIJA) of 2021. The Communications & Engagement Strategy will identify strategies for the integration of equity and meeting, event, and outreach activities undertaken for the BNP, which will support the federal grant opportunities and meet the City's equity goals.

A. The Communication and Engagement Plan will identify the specific engagement tools and strategies and their purpose for the development of the bicycle network. The 2011 Bike Master Plan laid out the priorities for the City of San Antonio at the time and the City has accomplished several of the identified goals outlined in the 2011 Plan. The Unified Development Code for the City of San Antonio, including all amendment and updates adopted by the City of San Antonio effective January 2023 will serve as a resource in the types of bicycle-related development goals of the City and inform future recommendations of the BNP. Given the close relationship between the operations of the transportation network, bicycle infrastructure and the City's planning and development and development code priorities, the BNP will be used as a guiding tool for the incorporation of bicycle infrastructure to complement the City's Bond and Capital Improvement program priorities.

B. **DELIVERABLES:** A document that outlines a series of engagement strategies and their purpose; methodologies and tools suitable for standalone distribution at various types of venues and events to the audiences such as the general public; stakeholders in the business and development/real estate community; advocacy organizations; utility partners, civic groups, and tourists. The document will summarize the vision and goals for bicycling throughout the City. The Consultant will provide print ready materials in electronic format for the City, as well as large format hard copies as appropriate.

C. **DUE DATE:** Within thirty (30) days of NTP

- D. **DELIVERABLES:** At the direction and in consultation with the Transportation Department Public Relations Manager, and/or other designated Transportation Department staff, Consultant will create a live and interactive project website outlining key facts about the BNP, how stakeholders can get involved, related links to City of San Antonio bicycle-related resources, and any other information related to the BNP as determined by City.
- E. **DUE DATE:** Within sixty (60) Days of NTP. Updated monthly as the project progresses.
- F. **DELIVERABLES:** Engagement and outreach implementation strategy that outlines the engagement strategies, how the Consultant will support and staff engagement and outreach, and a timeline for executing the strategies. Strategies should include incentives for participating in the community engagement process, virtual reality and/or video visualizations, competitive engagement activities/challenges, and other innovative actions to encourage broad participation consistent with local and state regulations.
- G. **DUE DATE:** Within thirty (30) Days of NTP. Update to the Communication & Engagement Plan will be completed based on the assessment of outreach efforts and meaningful feedback received.

3.4 **Task 3: Health Impact Assessment (HIA).** The Consultant will ensure that health and reduction in health disparities are considered in decision-making associated with the BNP update. In partnership with staff from Metro Health, Consultant will use an objective and scientific approach to document the analysis methodology and social determinants of health associated with the proposed network of bicycle infrastructure, facilities, routes and services and the distribution of their Citywide effects. Further, Consultant shall:

3.4.1 Compile existing conditions on City-wide health disparities and their relationship to existing cycling infrastructure, facilities, routes, and services. The report should include information on pedestrian and cycling fatalities and serious injuries as provided in the *2020 Severe Pedestrian/Bicycle Injury & Fatalities Reports* found on the City's Vision Zero<sup>®</sup> Website; San Antonio Police Department crash data reports; and other sources that inform the current health of San Antonians.

- A. **DELIVERABLE:** HIA Report on the existing health conditions, bicycle levels of stress ("8-80"), social determinants of health and well-being of City residents based on existing City bicycle infrastructure, routes, and services.
- B. **DUE DATE:** Within 190 days of NTP.
- C. **DELIVERABLE:** HIA report on strategies to address and/or mitigate the identified health conditions of San Antonians and how policies and plans proposed in the City's BNP update can:
  - i. Reduce health disparities and bicycle levels of stress;
  - ii. Improve access to housing, education, employment, transportation, public services, and recreational activities.
  - iii. Reduce the economic impact of health disparities; and

iv. Improve environmental sustainability and stewardship.

D. **DUE DATE:** Within 450 days of NTP.

E. **DELIVERABLE:** HIA report on the potential benefits and/or detriments to the health, bicycle level of stress, social determinants of health and well-being of City residents that may result from the implementation of the recommended bicycle network.

F. **DUE DATE:** Within 450 days of NTP.

3.5 **Task 4: Existing Conditions & Needs Assessment & Inventory.** The Consultant will collect and evaluate existing information related to the City's bicycle infrastructure, including but not limited to bike facilities by type (shared use path, cycle track, shared lane, etc.), multi-use and recreational trails, parking facilities; bicycle shops (purchase and repair); existing and proposed plans and gather additional information, as needed, to form a comprehensive understanding of the current state of the City's bike network and needs. Further, Consultant shall:

3.5.1 Compile data on City of San Antonio roadway types, widths, curb cuts, etc. to develop a master database of pertinent roadway information to complete **Task 5. Bicycle Design Guidelines, Plan and Bike Typologies**, under Section 3.6 below. This condition assessment shall describe the proposed methods for evaluating and documenting the existing conditions for cycling in the City. The assessment of existing conditions should include a wide range of indicators to describe conditions for non-motorized transportation (and electric bikes) in the City including measures of facility condition (e.g., Pavement, striping/markings quality, signage), level of use, traffic level of stress, performance, mode share, peak travel times, and other indicators. Use counts and volumes should also incorporate cyclist crash data as derived from recent Vision Zero® reports and other existing databases approved by City. Limited original bicycle data will be collected at locations to be identified by the Consultant and agreed to by the City prior to data being collected.

This assessment will also serve as a baseline inventory for which system performance and improvements can be measured against on a regular basis. A System Inventory shall also be developed to include maps of existing transportation facilities for biking, including on-street bicycle facilities, bicycle boulevards, designated bike routes, shared use paths and trails. The inventory should also identify existing bikeshare locations and facilities for both non-motorized and electric bicycles. The Consultant shall provide Department staff with interactive GIS data layers of existing non-motorized and electric bike facilities throughout the City.

This Task will also include review of existing inventories of bicycle infrastructure, on-going and completed plans, projects and programs that impact and/or influence the BNP. Plans to be reviewed include, but are not limited to:

- SA Tomorrow
- SA Climate Ready
- 2012, 2017, and 2022 City of San Antonio Bond Projects and Programs
- City of San Antonio Public Works, Parks, and Planning Department plans and programs that impact roadways, streets and bridge projects; parks and recreational

facilities

- Texas Department of Transportation Bicycle & Roadway Projects in the City of San Antonio
- San Antonio River Authority Plans (SARA)
- CPS Energy Plans
- San Antonio Water System (SAWS)
- Bexar County Parks
- Bexar County Public Works Department
- Texas DOT Bicycle Tourism Trail Network
- VIA Vision 2040
- VIA's Keep SA Moving plan

#### **Geographic Information Systems (GIS) Data**

Roadway Metrics/Data:

- Roadway name/route identifier
- Current street centerlines
- Average Daily Traffic (ADT) for arterial and collector roadways
- Number of lanes and lane widths
- One-way designations
- Truck/Freight routes
- Functional classification
- Location of traffic signal and pedestrian activated signals
- Posted speed
- Parking (peak hour vs. non-peak hour)
- Right-of-way limits
- Jurisdiction (local/state)

#### **Demographic & Land Use Data**

Refer to City's Equity Atlas and 2019 Racial Indicator Report

- Population and age distribution (2020 Census Data if available)
- Household demographics
- Land use/Zoning – City of San Antonio Unified Development Code (UDC)

#### **Points of Interest & Land Uses**

- Master Planned Communities and Developments of Regional Impact (PUD's of regional significance)
- SA Tomorrow Regional Centers
- Elementary, middle, high schools and Charter Schools
- College and University campuses
- Parks, Trails and Greenways and off-road (mountain bike) trails
- Major Activity Centers (AAMPO designated and also based on observed activities during study)
- Historic resources (Section 106)

#### **Transportation Connections:**

- Transit stops, stations and centers (existing and planned, e.g., ART Corridors: North-South ART, etc.).

- Transit Ridership and connections to jobs/SA Tomorrow Regional Centers within 15 minutes, 30 minutes and 1+ hours by transit.
  - Current bicycle counts and access to jobs/SA Tomorrow Regional Centers by bicycle within 15 minutes, 30 minutes and 1+ hours.
  - Existing bicycle parking and shops (repair, for sale, rentals).
  - Vision Zero® bicycle and pedestrian fatality and serious injury locations.
  - Scheduled roadway re-surfacing, construction, and pavement improvements (in accordance with 5-year Bond and City of San Antonio CIP) that will impact bicycle facilities.
- A. **DELIVERABLES:** Existing Conditions Assessment & Inventory Report, database and related information on the current Bike Network and the bike facilities and amenities (to include the Bike Share/Rental and Bike Tours Program managed by the Center City Development Office (CCDO) and its relationship to the current bicycle network) to share during internal and external presentations on the Existing Conditions for groups such as a technical and community advisory groups.
- B. **DUE DATE:** Within 190 days of NTP. It is acknowledged that related meetings and/or presentations on the Existing Conditions Report may be scheduled beyond the prescribed timeframe and this is acceptable.
- C. **DELIVERABLES:** Geographic Information Systems (GIS) Base Map for BNP & Bikeshare Facilities/Amenities.
- D. **DUE DATE:** GIS Base Map of all existing conditions within 190 Days and final map within 430 days of NTP.
- E. **DELIVERABLES:** Bicycle Equity Index (BEI) measuring and mapping the equity of access to bicycle infrastructure using indicators such as race/ethnicity, income, travel characteristics, transit dependent indicators and Environmental Justice indicators.
- F. **DUE DATE:** Within 190 days of NTP.

### 3.6 **Task 5: Bicycle Design Guidelines and Bike Typologies.**

- 3.6.1 The Consultant will develop a set of bicycle guidelines based on industry best practices, that can be used by designers, real estate experts, developers, City staff, and other stakeholders to guide the placement and type of bicycle infrastructure and facilities located throughout the City. These guidelines will help translate the principles of SA Tomorrow and the City's current Unified Development Code (UDC) into a physical design. Examples might include spacing of certain amenities, trail head designs, fencing and path/trail guidelines, lighting guidelines, etc. National, state, and local examples of these designs should be integrated in the guidelines. The Consultant will draw upon guidelines laid out in the NACTO Urban Street Design Guide, NACTO Urban Bikeway Design Guide, Complete Streets Principles, Vision Zero guidelines, and all relevant City of San Antonio, TxDOT and federal requirements, in compliance with Universal ADA and accessibility standards.

- A. Typologies for the minimum bicycle-related facilities needed will be developed to provide guidance on the appropriate facility by roadway type, width, ADT, transit corridor dedication, etc., and their effect on bicyclist comfort and safety to ensure that bicyclists are protected on roadways and in the right-of-way (as needed) - particularly on roadways with high volumes of traffic/speed. These typologies will also inform automobile users and make them aware of the priority of cyclists on certain roadways in the City in accordance with the aforementioned typologies. The Consultant will collect and evaluate existing information and gather additional information as needed to form a comprehensive understanding of the physical nature of priority bicycle corridors predicated upon the typology of the street, neighborhood, community network, in which the bicycle facility is located with the safety of the cyclist being the paramount goal. Task 5 will provide the standards to support and inform Tasks 8 & 9, the Draft & Final Bike Network Plans, respectively, and should result in the Citywide BNP.
- B. **DELIVERABLE:** A document of the bicycle guidelines and typologies provided to the City in ready to print electronic format and web-based formats for the Bicycle Network corridors developed in Tasks 8 & 9.
- C. **DUE DATE:** Within 225 days of NTP.
- D. **DELIVERABLE:** Proposed Street cross-sections and intersection treatments (transitions) with illustrations displaying general design concepts in the roadway and in other environments (multi-use, off-street and urban paths and trails) supported by examples of supportive best cycling practices. This resource will be provided in print ready electronic format.
- E. **DUE DATE:** Within 225 days of NTP.
- F. **DELIVERABLE:** Technical memorandum and table of current UDC bicycle-related requirements or standards that may need to be revised to support: 1.) Reduced levels of stress for cyclists; 2.) Improved bicycle safety; 3.) Connectivity to facilities and/or infrastructure; 4.) Relationship between parking on streets where there are bike lanes; 5.) ADA connections adjacent to bicycle infrastructure/facilities; and 6.) Impact of dedicated right and left turn lanes on bicycle facilities. This deliverable should include recommended offsets for the development community where facilities such as urban trails, bicycle lockers/showers in new buildings, repair shops (as part of ground floor retail requirements), and other bike-related amenities can be provided where right-of-way limits preclude bike lanes/shared-use paths and an analysis of the potential cost impacts of recommended amendments.
- G. **DUE DATE:** Within 225 days of NTP.
- H. **DELIVERABLE:** San Antonio Bicycle Facility Context Guide Table that includes, at a minimum context for the type of facility and minimum facilities needed for the bicycle infrastructure/facility, based on the vehicle speed, number of lanes, transit corridor dedication, and ADT. Illustrative examples of the different facility types will be provided. The Context Guide will be provided in print ready electronic format.



- I. **DUE DATE:** Within 225 days of NTP.
- J. **DELIVERABLE:** Sign and pavement marking and wayfinding plan to include new bicycle infrastructure and facilities proposed for applicable roadway conditions and bicycle facility environment (i.e., shared use path or off-roadway bicycle trails/connections, parking for bikes and bike share programs).
- K. **DUE DATE:** Within 300 days of NTP.
- L. **DELIVERABLE:** Traffic Signal Plan for all bicycle facility types located at signalized intersections. This deliverable may include enhancements to or interface with existing and/or planned signals for other modes, and/or new “smart” signals (RFID, bicycle detection, etc.) and recommended locations to pilot this technology in the City with the new network.
- M. **DUE DATE:** Within 345 days of NTP.

3.6.2 Deliverables under this Section 3.6 should be formatted to support conversion to an easily accessible customer-facing resource on the City’s Transportation Department website which will serve as a “one-stop”, useful, easy-reference tool for developers, stakeholders, residents, cyclists, and other stakeholders. City will provide a go-by for Consultant to reference.

### 3.7 **Task 6: Recommended Bike Network Plan.**

- 3.7.1 The Consultant will develop a recommended system of connected, safe and accessible bicycle paths and lanes informed by the existing conditions, interface with existing/planned modes, and forecast of future demand informed by development plans and priorities of the City. The resultant plan will include a baseline network of primary, secondary, and tertiary bike lanes and facilities. The BNP should include performance measures based on design standards and acceptable levels of stress for the type and location of the bike infrastructure and facilities recommended. Visualization of graphic concepts will be included.
  - A. Additionally, the BNP will include a recommended strategy for the management and integration of the City’s Bike Share/Rental and Bike Tours Program and facilities - currently overseen by the City’s Center City Development Department (CCDO)-into the Transportation Department and how proposed bike share facilities and services will integrate into the BNP.
  - B. To achieve the SA Tomorrow goals through the development of the BNP, the City will need to address short-and long-term policy constraints and opportunities that may impact the implementation of the recommended BNP. The Consultant will provide a summary of recommended policy actions needed to support the implementation of the BNP.
  - C. **DELIVERABLE:** A Citywide BNP to include a primary, secondary, and tertiary network of bicycle facilities in PDF and Shapefile, or other data format that is compatible with the City’s GIS database, to include applicable layers for all components of the Plan,

including the BEI. The format of the plan should allow and support interactive use of the planned network by stakeholders on the City's BNP website and other GIS interfaces for the City.

- D. **DUE DATE:** Within 420 days of NTP.
- E. **DELIVERABLE:** Report on the City's existing Bike Share/Rental and Bike Tours Program and proposed integration of the program into the lines of business within the Transportation Department and the integration of the Bike Share/Rental and Bike Tours Program into the BNP.
- F. **DUE DATE:** Within 420 days of NTP.
- G. **DELIVERABLE:** Policy Action Report on the existing federal, state, and local regulations, statutes, and internal and external government practices that may impact the implementation of the BNP. This should be a high-level report to be shared with internal City Executive Leadership to inform conversations with all levels of government.
- H. **DUE DATE:** Within 345 days of NTP.
- I. **DELIVERABLE:** Report on possible improvements to the Bicycle Equity Index (BEI) existing condition that may result from the implementation of the recommended BNP.
- J. **DUE DATE:** Within 420 days of NTP.

### 3.8 **Task 7. Cost Estimate & Funding Strategy.**

3.8.1 The Consultant will prepare a planning level cost estimate to support the complete build-out of the BNP in a phased approach to include the following phases:

- Phase 1: Immediate (a.k.a. "Low-hanging fruit") – 12-18 months;
- Phase 2: Short-term (18 months - 2 years);
- Phase 3: Mid-term (2-4 years); and
- Phase 4: Long Term (4 or more years).

The Consultant is welcome to propose another phasing methodology. The cost estimate should include planning-level cost estimates for Phases 2-4 and planning level construction cost estimates for all Phase 1 BNP elements proposed. Cost estimates are an estimate representing the judgment of the estimators who have no control over the Design Engineer's fees, over the cost of labor, materials or equipment, over the Contractor's methods of determining prices, or over competitive bidding, market or negotiating conditions. Accordingly, the Consultant cannot and does not warrant or represent that negotiated prices will not vary from the cost estimates, funding, or from any evaluation by the Consultant.

- A. The funding strategy to support the completion of the BNP should include an emphasis on leveraging programs funded through the City's Bond (2017 and 2022) and other Infrastructure Maintenance Programs (IMP); and potential opportunities for sources of funds through competitive and formula programs proposed under the

2021 Bipartisan Infrastructure Law (BIL), which will inform the prioritization of the funds to coincide with the BNP Phases. Ten million dollars have been set aside in the 2022 Bond Program to support the implementation of recommendations from the BNP upon its completion. This should be considered as the funding strategy is developed. The funding strategy must include federal, state, and local (City of San Antonio BOND, Public Works Department Streets IMP, Tax Increment Reinvestment Zones (TIRZ), etc.); and sources of funding consistent with Federal Highway Administration (FHWA)/TxDOT and AAMPO formula programs for highway and Federal Transit Administration (FTA) transit/multi-modal projects that can be leveraged to support bicycle facilities and amenities.

- B. **DELIVERABLE:** Cost Estimate for Phases 1-4 to include detailed planning, engineering, design and construction cost estimates for Phase 1 of the BNP to include all applicable environmental actions necessary to achieve the BNP Phase 1. Planning level cost estimates for Phases 2-4 to include recommended environmental actions needed to achieve the BNP Phases 2-4. Cost estimates should account for COVID-related cost drivers and applicable escalation costs.
- C. **DUE DATE:** Within 430 days of NTP.
- D. **DELIVERABLE:** Maintenance cost estimate for Phases 1-4 to include the cost of capital equipment to maintain/clean bike infrastructure (e.g., lane sweepers) over the first five (5) years of the BNP, to include applicable cost escalations associated with maintenance of facilities and infrastructure and COVID-related cost drivers.
- E. **DUE DATE:** Within 430 days of NTP.
- F. **DELIVERABLE:** Funding Strategy Plan for all four BNP Phases to include the related component of the plan (e.g., facilities, parking, bike garages, etc.), the cost estimate and recommended funding sources (i.e., Transportation Department annual budget (capital/operating); Bond; AAMPO, TxDOT, BIL or other sources); and schedule (See Section 3.9, Task 8. Implementation Plan). The funding strategy should include a crosswalk outlining the approach the City should take to prepare for grant opportunities as part of the funding strategy.
- G. **DUE DATE:** Within 345 days of the NTP
- H. **DELIVERABLE:** Policy Action & Constraints Report on the existing federal, state, and local regulations, statutes and internal, right-of-way acquisition, utility and external government practices that may impact the implementation of the BNP. This should be a high-level report to be shared with internal City Executive Leadership to inform conversations with all levels of government.
- I. **DUE DATE:** Within 345 days of NTP.

### 3.9 **Task 8. Implementation Plan.**

- 3.9.1 The Consultant will prepare a Bicycle Network Implementation Plan that marries Tasks 5, 6 and 7 to include the schedule and phasing of the implementation of key policies and

standards necessary to support the BNP and the accompanying plan element and funding required to bring the plan to fruition. The Implementation Plan should include the Phased approach (or equivalent based on the Consultant's optimal recommendation to achieve the City's goals) and the related phasing scenarios for design and construction of the phases.

- A. As outlined in Section 3.8, Task 7. Cost Estimate and Funding Strategy Task, the Consultant will identify and recommend specific projects that will serve as candidates for grant applications and other funding sources. An important element in the Implementation Plan will be to coordinate and integrate the recommended approval process associated with seeking various funding sources (i.e., Council Approval, local public engagement, NEPA actions, etc.) and the schedule of those approvals to achieve funding deadlines. The Implementation Plan should take into account the current designed, planned and/or soon to be constructed projects in the BNP network that can be leveraged with other City of San Antonio and non-City (e.g., VIA, TxDOT, SARA, etc.) to allow for project cost and time efficiencies. Recommendations for logical project segment breaks or the Phases should be considered to support economies of scale and potential delays in BNP completion. The recommendations in the Implementation Plan should include a comprehensive list of projects, including planning level project costs for Phases 2-4 and detailed cost estimates for Phase 1, with a prioritized timeline for implementation.
- B. Based on the SA Tomorrow principles, BNP guidelines/typologies and City-wide development plans the Implementation Plan will be prepared to address the for the four (4) Phases detailed in Section 3.8, Task 7. Cost Estimate & Funding Strategy. The selection of street and corridor segments that need the most immediate network attention for safety reasons (e.g., Vision Zero®) should be a key emphasis area.
- C. **DELIVERABLE:** Implementation Plan for the BNP including all of the relevant components and phases of the plan (e.g., facilities, parking, bike garages, policies, etc.), the cost estimates and recommended funding sources (i.e., Transportation Dept. annual budget (capital/operating); Bond; AAMPO, TxDOT, BIL or other sources); and schedule (See Task 8. Implementation Plan).
- D. **DUE DATE:** Within 480 days of the NTP
- E. **DELIVERABLE:** Consultant will assist in preparing one grant application for the City to support competitive grant applications that may be available to fund elements of the BNP through the Bipartisan Infrastructure Law (BIL) and the Infrastructure Investment and Jobs Act (IIJA).
- F. **DUE DATE:** Within 480 days of the NTP
- G. **DELIVERABLE:** Performance measures and targets for the BNP to include, but not be limited to annual evaluation metrics to determine the achievement of the plans phased goals and priorities. Performance metrics should include a recurring, annual survey mechanism to gauge the resident, businesses, and visitor experience of the BNP information, resources, and facilities.

H. **DUE DATE:** Within 300 days of NTP.

### 3.10 **Task 9. Draft Final Plan.**

3.10.1 The Consultant will prepare a draft plan that summarizes all the work completed in a single document provided in print ready electronic format, as well as formatted for website posting. This document will be reviewed by members of the technical and community advisory groups and other internal and external stakeholders.

A. **DELIVERABLE:** A draft document with high quality presentation and graphic elements; comprehensive maps documenting: existing conditions; potential street cross-sections/elevations in accordance with Complete Streets, NACTO, ADA, and state and federal design guidelines. Graphics will include City-wide maps (GIS shapefiles, too) identifying the primary, secondary, and tertiary bike network for the City and other facilities.

B. **DUE DATE:** Within 527 days of NTP

C. **DELIVERABLE:** Briefings (number to be determined at a later date and may be included as part of Task 2. Communications & Engagement Plan) and presentations on the Draft Final Plan for stakeholders. It is anticipated that the briefings will, at a minimum, include two City Council Committees, and one full City Council briefing (B Session).

D. **DUE DATE:** Within 480-540 days of NTP.

E. **DELIVERABLE:** Summary of all comments received from stakeholders and the public from Task 9.1.4 in a table that outlines the Consultant and/or City response to the Draft Final Plan. Comments will be provided in print ready electronic format and included in the appendix of the Final Plan.

F. **DUE DATE:** Within 570 days of NTP

### 3.11 **Task 10. Final Plan.**

3.11.1 The Consultant will prepare the final BNP to include an appendix of the comments and recommendations received on the Draft Final Plan and any other related Appendices needed to document the process undertaken to bring the 2022 Bicycle Network Plan Update to fruition.

A. **DELIVERABLE:** A final Bicycle Network Plan Update, to be adopted by San Antonio City Council. The final plan shall be presented in electronic and web-based versions. The final deliverable will be provided in print ready, electronic format.

B. **DUE DATE:** Within 627 Days of NTP

C. **DELIVERABLE:** Citywide event to thank all of the residents, stakeholders, and City Departments for their efforts over the study period to elevate the bicycle experience in the City and the region with the adoption of the BNP.

- D. **DUE DATE:** Within 30 days of adoption of the BNP by the San Antonio City Council.
- E. **DELIVERABLE:** BNP After-Action Report in electronic format on Lessons Learned and highlights of best practices developed as part of the City of San Antonio BNP development process.
- F. **DUE DATE:** 45 Days prior to Consultant Contract Close-out for all BNP tasks.

- 3.12 All work performed by Consultant hereunder shall be performed to the reasonable satisfaction of Director. The determination made by Director shall be final, binding and conclusive on all Parties hereto. City shall be under no obligation to pay for any work performed by Consultant, which is not satisfactory to Director. City shall have the right to terminate this Agreement, in accordance with Article VII. Termination, in whole or in part, should Consultant's work not be satisfactory to Director; however, City shall have no obligation to terminate and may withhold payment for any unsatisfactory work, as stated herein, even should City elect not to terminate. City shall notify Consultant in writing of any decision to withhold payment. Should City elect to terminate, it will do so in accordance with the provisions for Defaults with Opportunity for Cure contained in this Agreement. The City may authorize additional calendar days or make adjustments to the Task schedule and related deliverables, within the existing scope of this Agreement, upon mutual Agreement in writing, between the Director and Consultant, as to the reasonableness of said additional time or adjustment.

#### **IV. COMPENSATION TO CONSULTANT**

- 4.1 In consideration of Consultant's performance in a satisfactory and efficient manner, as determined solely by Director, of all services and activities set forth in this Agreement, the City agrees to pay Consultant an amount not to exceed TWO MILLION SEVEN HUNDRED THOUSAND AND NO/CENTS (\$2,700,00.00) as total compensation, to be paid to Consultant monthly in arrears for work performed. Consultant shall be paid on an hourly rate basis at rates specified in Exhibit 2: Work Plan and Compensation Schedule incorporated herein. Approved expenses will be reimbursed at cost. Compensation Schedule may be modified, if necessary, not to exceed \$2,700,00.00 as a total compensation.
- 4.2 Consultant shall submit invoices monthly in arrears for work performed to City, in a form acceptable to City, which City shall pay within 30 days of receipt and approval by Director. Invoices shall be submitted to: City of San Antonio, Accounts Payable, P.O. Box 839976, San Antonio, Texas 78283-3976, with a copy to City of San Antonio, Transportation Department, P.O. Box 839966, San Antonio, Texas 78283-3966.
- Invoice shall be accompanied by progress report of accomplishments and work products within the period. If progress is satisfactory within each period, according to the Work Plan and Compensation Schedule attached as Exhibit 2 payment shall be issued.
- 4.3 No additional fees or expenses of Consultant shall be charged by Consultant nor be payable by City. The parties hereby agree that all compensable expenses of Consultant have been provided for in the total payment to Consultant as specified in Section 4.1 above. Total payments to

Consultant cannot exceed that amount set forth in Section 4.1 above, without prior approval and agreement of all parties, evidenced in writing and approved by the San Antonio City Council by passage of an ordinance therefor.

- 4.4 Final acceptance of work products and services require written approval by City. The approving official shall be Director. Payment will be made to Consultant following written approval of the final work products and services by Director. City shall not be obligated or liable under this Agreement to any party, other than Consultant, for the payment of any monies or the provision of any goods or services.

## **V. OWNERSHIP OF DOCUMENTS**

- 5.1 Any and all writings, documents or information in whatsoever form and character produced by Consultant pursuant to the provisions of this Agreement is the exclusive property of City without limitation; and no such writing, document or information shall be the subject of any copyright or proprietary claim by Consultant.
- 5.2 Consultant understands and acknowledges that as the exclusive owner of any and all such writings, documents and information, City has the right to use all such writings, documents and information as City desires, subject to Section 5.4 below.
- 5.3 City shall own all right, title and interest in all intellectual property delivered by the Consultant under this Agreement, including, without limitation, all text, drawings, graphs, tables, photographs, illustrations and other content in fulfillment of this Agreement and related documentation developed by the Consultant for the City (collectively, "Work Product"). All such Work Product shall be considered "Works Made for Hire" (as such are defined under the U.S. Copyright Laws) and, as such, shall be owned by and for the benefit of City. Consultant hereby assigns to City for no additional consideration, all worldwide right, title, and interest that it may possess in such Work Product including, but not limited to, all intellectual property rights thereto and Consultant shall execute such further assurances evidencing such assignment as City may require from time to time. Upon request, Consultant will take such steps as are reasonably necessary to enable City, at City's cost and expense, to carry out the intent of the above assignment and to record such assignment.
- 5.4 Any modification of the Works Made for Hire or their reuse on another project by City without the approval of Consultant shall be at City's sole risk and without liability to Consultant.

## **VI. RECORDS RETENTION**

- 6.1 Consultant and its subcontractors, if any, shall properly, accurately and completely maintain all documents, papers, and records, and other evidence pertaining to the services rendered hereunder (hereafter referred to as "documents"), and shall make such materials available to the City at their respective offices, at all reasonable times and as often as City may deem necessary during the Agreement period, including any extension or renewal hereof, and the record retention period established herein, for purposes of audit, inspection, examination, and making excerpts or copies of same by City and any of its authorized representatives.

- 6.2 Consultant shall retain any and all documents produced as a result of services provided hereunder for a period of four (4) years (hereafter referred to as "retention period") from the date of termination of the Agreement. If, at the end of the retention period, there is litigation or other questions arising from, involving or concerning this documentation or the services provided hereunder, Consultant shall retain the records until the resolution of such litigation or other such questions. Consultant acknowledges and agrees that City shall have access to any and all such documents at any and all times, as deemed necessary by City, during said retention period. City may, at its election, require Consultant to return the documents to City at Consultant's expense prior to or at the conclusion of the retention period. In such event, Consultant may retain a copy of the documents at its sole cost and expense.
- 6.3 Consultant shall notify City, immediately, in the event Consultant receives any requests for information from a third party, which pertain to the documentation and records referenced herein. Consultant understands and agrees that City will process and handle all such requests.

## VII. TERMINATION

- 7.1 For purposes of this Agreement, "termination" of this Agreement shall mean termination by expiration of the Agreement term as stated in Article II. Term, or earlier termination pursuant to any of the provisions hereof.
- 7.2 Termination Without Cause. This Agreement may be terminated by City without cause upon thirty (30) calendar days' written notice, which notice shall be provided in accordance with Article VIII. Notice.
- 7.3 Termination For Cause. Upon written notice, which notice shall be provided in accordance with Article VIII. Notice, City may terminate this Agreement as of the date provided in the notice, in whole or in part, upon the occurrence of one (1) or more of the following events, each of which shall constitute an Event for Cause under this Agreement:
- 7.3.1 The sale, transfer, pledge, conveyance or assignment of this Agreement without prior approval, as provided in Article XII. Assignment and Subcontracting; or
  - 7.3.2 Any material breach of the terms of this Agreement, as determined solely by City.
- 7.4 Defaults With Opportunity for Cure. Should Consultant default in the performance of this Agreement in a manner stated in this section 7.4 below, same shall be considered an event of default. City shall deliver written notice of said default specifying such matter(s) in default. Consultant shall have 30 calendar days after receipt of the written notice, in accordance with Article VIII. Notice, to cure such default. If Consultant fails to cure the default within such 30 day cure period, City shall have the right, without further notice, to terminate this Agreement in whole or in part as City deems appropriate, and to contract with another consultant to complete the work required in this Agreement. City shall also have the right to offset the cost of said new Agreement with a new consultant against Consultant's future or unpaid invoice(s), subject to the duty on the part of City to mitigate its losses to the extent required by law.
- 7.4.1 Failure to comply with the terms and conditions stated in Article XIV. SBEDA;
  - 7.4.2 Bankruptcy or selling substantially all of company's assets;



- 7.4.3 Failing to perform or failing to comply with any covenant herein required; or
- 7.4.4 Performing unsatisfactorily.
- 7.5 Termination By Law. If any state or federal law or regulation is enacted or promulgated which prohibits the performance of any of the duties herein, or, if any law is interpreted to prohibit such performance, this Agreement shall automatically terminate as of the effective date of such prohibition.
- 7.6 Regardless of how this Agreement is terminated, Consultant shall effect an orderly transfer to City or to such person(s) or firm(s) as the City may designate, at no additional cost to City, all completed or partially completed documents, papers, records, charts, reports, and any other materials or information produced as a result of or pertaining to the services rendered by Consultant, or provided to Consultant, hereunder, regardless of storage medium, if so requested by City, or shall otherwise be retained by Consultant in accordance with Article VI. Records Retention. Any record transfer shall be completed within thirty (30) calendar days of a written request by City and shall be completed at Consultant's sole cost and expense. Payment of compensation due or to become due to Consultant is conditioned upon delivery of all such documents, if requested by City.
- 7.7 Within forty-five (45) calendar days of the effective date of completion, or termination or expiration of this Agreement, Consultant shall submit to City its claims, in detail, for the monies owed by City for services performed under this Agreement through the effective date of termination. Failure by Consultant to submit its claims within said forty-five (45) calendar days shall negate any liability on the part of City and constitute a **Waiver** by Consultant of any and all right or claims to collect moneys that Consultant may rightfully be otherwise entitled to for services performed pursuant to this Agreement.
- 7.8 Upon the effective date of expiration or termination of this Agreement, Consultant shall cease all operations of work being performed by Consultant or any of its subcontractors pursuant to this Agreement.
- 7.9 Termination not sole remedy. In no event shall City's action of terminating this Agreement, whether for cause or otherwise, be deemed an election of City's remedies, nor shall such termination limit, in any way, at law or at equity, City's right to seek damages from or otherwise pursue Consultant for any default hereunder or other action.

## VIII. NOTICE

- 8.1 Except where the terms of this Agreement expressly provide otherwise, any election, notice, or communication required or permitted to be given under this Agreement shall be in writing and deemed to have been duly given if and when delivered to the addresses set forth below the communication is:
- delivered personally (with receipt acknowledged);
  - three (3) days after depositing same in the U.S. mail, first class, with proper postage prepaid;
  - upon receipt if sending the same by certified mail, return receipt requested;

- upon receipt when sent by a commercial courier service (such as Federal Express or DHL Worldwide Express) for expedited delivery to be confirmed in writing by such courier; or
- by electronic mail ("email") to the email address listed below. Electronic service is deemed given on the date sent, upon receipt of confirmation of such electronic transmission (including PDF); service after 5:00 p.m. local time of recipient shall be deemed served on the following business day.

Either party may designate a different mailing or email address at any time upon written notice to the other party.

If intended for City, to:

Tomika Monterville  
City of San Antonio  
Transportation Department  
PO Box 839966  
San Antonio, Texas 78283

Email: Tomika.Monterville@sanantonio.gov

If intended for Consultant, to

Steve Creamer  
Senior Vice President  
RS&H, Inc.  
4835 LBJ Freeway, Suite 800  
Dallas, Texas 75244

Email: Steve.Creamer@rsandh.com

## **IX. INTELLECTUAL PROPERTY**

**9.1 Intellectual Property.** Consultant agrees to abide by the following regarding intellectual property rights:

**9.1.1** Consultant shall pay all royalties and licensing fees. Consultant shall hold the City harmless and indemnify the City from the payment of any royalties, damages, losses or expenses including attorney's fees for suits, claims or otherwise, growing out of infringement or alleged infringement of copyrights, patents, trademarks, trade secrets, or other intellectual property used in Consultant's performance of this Agreement. It shall defend all suits for infringement of any Intellectual Property rights. Further, if Consultant has reason to believe that the design, service, process or product specified is an infringement of an Intellectual Property right, it shall promptly give such information to the City.

**9.1.2** Upon receipt of notification that a third-party claims that any materials, methods, or other intellectual property used by Consultant in its performance of this Agreement infringes upon any United States patent or copyright, Consultant will immediately:

- a. obtain, at Consultant's sole expense, the necessary license(s) or rights that would allow the City to continue using the deliverables and any other work product, provided, as the case may be, or,
- b. alter the deliverables and any other work product so that the alleged infringement is eliminated, and
- c. reimburse the City for any expenses incurred by City to implement emergency backup measures if the City is prevented from using the deliverables or work product while the dispute is pending.

**9.1.3** Consultant further agrees to:

- a. assume the defense of any claim, suit, or proceeding brought against the City for infringement of any United States patent, copyright, trademark or any other intellectual property rights arising from the use of the deliverables any other work product provided under this Agreement,
- b. assume the expense of such defense, including costs of investigations, reasonable attorneys' fees, expert witness fees, damages, and any other litigation-related expenses, and indemnify the City against any monetary damages and/or costs awarded in such suit;

Provided that:

- a. Consultant is given sole and exclusive control of all negotiations relative to the settlement thereof, but that Consultant agrees to consult with the City Attorney of the City during such defense or negotiations and make good faith effort to avoid any position adverse to the interest of the City,
- b. the deliverable and/or other work product is used by the City in the form, state, or condition as delivered by Consultant or as modified by City without the permission of Consultant, so long as such modification is not the source of the infringement claim,
- c. the liability claimed shall not have arisen out of the City's negligent act or omission, and the City promptly provide Consultant with written notice within fifteen (15) days following the formal assertion of any claim with respect to which the City asserts that Consultant assumes responsibility under this section.

- 9.2 Ownership and Licenses. In accordance with Texas law, Consultant acknowledges and agrees that all local government records created or received in the transaction of official business or the creation or maintenance of which were paid for with public funds are declared to be public property and subject to the provisions of Chapter 201 of the Texas Local Government Code and Subchapter J, Chapter 441 of the Texas Government Code. Thus, no such local government records produced by or on the behalf of Consultant pursuant to the resulting contract shall be the subject of any copyright or proprietary claim by Consultant.
- 9.3 The term "local government record" as used in this document means any document, paper, letter, book, map, photograph, sound or video recording, microfilm, magnetic tape, electronic medium, or other information recording medium, regardless of physical form or characteristic and regardless of whether public access to it is open or restricted under the laws of the state, created or received by local government or any of its officials or employees pursuant to law including an ordinance, or in the transaction of official business.
- 9.4 Consultant acknowledges and agrees that all local government records, as described in this document, produced in the course of the work pursuant to this Agreement, will belong to and be the property of City. Consultant will be required to turn over to City, all such records as required by said contract. Consultant shall not, under any circumstances, release any records created during the course of performance of the contract to any entity without City's written permission, unless required to do so by a Court of competent jurisdiction.
- 9.5 Consultant agrees to comply with all applicable federal, state, and local law, rules and regulations governing documents and ownership, access and retention.

## **X. NON-DISCRIMINATION**

- 10.1 Non-Discrimination. As a party to this contract, Consultant understands and agrees to comply with the Non-Discrimination Policy of the City of San Antonio contained in Chapter 2, Article X. of the City Code and further, shall not discriminate on the basis of race, color, religion, national origin, sex, sexual orientation, gender identity, veteran status, age or disability, unless exempted by state or federal law, or as otherwise established herein.

## **XI. INSURANCE**

- 11.1 No later than 30 days before the scheduled event, Consultant must provide a completed Certificate(s) of Insurance to City's Transportation Department. The certificate must be:
- clearly labeled with the legal name of the event in the Description of Operations block;
  - completed by an agent and signed by a person authorized by the insurer to bind coverage on its behalf (City will not accept Memorandum of Insurance or Binders as proof of insurance);
  - properly endorsed and have the agent's signature, and phone number.

Certificates may be mailed or sent via email, directly from the insurer's authorized representative. City shall have no duty to pay or perform under this Agreement until such certificate and endorsements have been received and approved by City's Transportation Department. No officer or employee, other than City's Risk Manager, shall have authority to waive this requirement.

If the City does not receive copies of insurance endorsement, then by executing this Agreement, Consultant certifies and represents that its endorsements do not materially alter or diminish the insurance coverage for the Event.

- 11.2 The City's Risk Manager reserves the right to modify the insurance coverages, their limits, and deductibles prior to the scheduled event or during the effective period of this Agreement based on changes in statutory law, court decisions, and changes in the insurance market which presents an increased risk exposure.

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- 11.3 Consultant shall obtain and maintain in full force and effect for the duration of this Agreement, at Consultant's sole expense, insurance coverage written on an occurrence basis, by companies authorized and admitted to do business in the State of Texas and with an A.M. Best's rating of no less than A- (VII), in the following types and for an amount not less than the amount listed below. If the Consultant claims to be self-insured, they must provide a copy of their declaration page so the City can review their deductibles:

<b>INSURANCE TYPE</b>	<b>AMOUNTS</b>
1. Workers' Compensation	Statutory
2. Employers' Liability	\$1,000,000 /\$1,000,000 /\$1,000,000
3. Commercial General Liability Insurance to include coverage for the following: a. Premises/Operations b. Products/Completed Operations c. Personal/Advertising Injury d. Contractual Liability *e. Independent Contractors	For Bodily Injury and Property Damage \$1,000,000 per occurrence; \$2,000,000 general aggregate, or its equivalent in Umbrella or Excess Liability Coverage must include per project aggregate.
4. Business Automobile Liability a. Owned/leased vehicles b. Non-owned vehicles c. Hired Vehicles	Combined Single Limit for Bodily Injury and Property Damage of \$1,000,000 per occurrence.
5. Professional Liability (Claims-made Coverage)  Coverage to be maintained and in effect for no less than four years subsequent to the completion of professional services.	\$1,000,000 per claim, to pay on behalf of the insured all sums which the insured shall become legally obligated to pay as damages by reason of any act, malpractice, error, or omission in professional services
* If applicable	

- 11.4 Consultant must require, by written contract, that all subcontractors providing goods or services under this Agreement obtain the same insurance coverages required of Consultant and provide a certificate of insurance and endorsement that names Consultant and CITY as additional insureds. Consultant shall provide City with subcontractor certificates and endorsements the subcontractor starts work.
- 11.5 If a loss results in litigation, then the City is entitled, upon request and without expense to the City, to receive copies of the policies, declaration page and all endorsements. Consultant must comply with such requests within 10 days by submitting the requested insurance documents to the City at the following address:

City of San Antonio  
Transportation Department  
PO Box 839966  
San Antonio, Texas 78283

- 11.6 Consultant's insurance policies must contain or be endorsed to contain the following provisions:
- Name City and its officers, officials, employees, volunteers, and elected representatives

as additional insureds by endorsement, as respects operations and activities of, or on behalf of, the named insured performed under contract with City. The endorsement requirement is not applicable for workers' compensation and professional liability policies.

- Endorsement that the "other insurance" clause shall not apply to City where City is an additional insured shown on the policy. City's insurance is not applicable in the event of a claim.
- Consultant shall submit a waiver of subrogation to include, workers' compensation, employers' liability, general liability and auto liability policies in favor of City; and
- Provide thirty (30) days advance written notice directly to City of any suspension, cancellation, non-renewal or materials change in coverage, and not less than ten (10) calendar days advance written notice for nonpayment of premium.

- 11.7 Within ten (10) calendar days of a suspension, cancellation, material change in coverage, or non-renewal of coverage, Consultant shall provide a replacement Certificate of Insurance and applicable endorsements to City. City shall have the option to suspend Consultant's performance should there be a lapse in coverage at any time during this Agreement. Failure to provide and to maintain the required insurance shall constitute a material breach of this Agreement.
- 11.8 In addition to any other remedies City may have upon Consultant's failure to provide and maintain any insurance or policy endorsements to the extent and within the time required, City may order Consultant to stop work and/or withhold any payment(s) which become due to Consultant under this Agreement until Consultant demonstrates compliance with requirements.
- 11.9 Nothing contained in this Agreement shall be construed as limiting the extent to which Consultant may be held responsible for payments of damages to persons or property resulting from Consultant's or its subcontractors' performance of the work covered under this Agreement.
- 11.10 Consultant's insurance shall be deemed primary and non-contributory with respect to any insurance or self-insurance carried by City for liability arising out of operations under this Agreement.
- 11.11 The insurance required is in addition to and separate from any other obligation contained in this Agreement and no claim or action by or on behalf of City shall be limited to insurance coverage provided.
- 11.12 Consultant and any subcontractor are responsible for all damage to their own equipment and/or property result from their own negligence.

## XII. INDEMNIFICATION

- 12.1 **CONSULTANT covenants and agrees to FULLY INDEMNIFY, DEFEND and HOLD HARMLESS, the CITY and the elected officials, employees, officers, directors, volunteers and representatives of the CITY, individually and collectively, from and against any and all costs, claims, liens, damages, losses, expenses, fees, fines, penalties, proceedings, actions, demands, causes of action, liability and suits of any kind and nature, including but not limited to, personal or bodily injury, death and property damage, made upon the CITY directly or indirectly arising out of, resulting from or**

related to CONSULTANT'S activities under this Agreement, including any acts or omissions of CONSULTANT, any agent, officer, director, representative, employee, consultant or subcontractor of CONSULTANT, and their respective officers, agents employees, directors and representatives while in the exercise of the rights or performance of the duties under this Agreement. The indemnity provided for in this paragraph shall not apply to any liability resulting from the negligence of CITY, its officers or employees, in instances where such negligence causes personal injury, death, or property damage. IN THE EVENT CONSULTANT AND CITY ARE FOUND JOINTLY LIABLE BY A COURT OF COMPETENT JURISDICTION, LIABILITY SHALL BE APPORTIONED COMPARATIVELY IN ACCORDANCE WITH THE LAWS FOR THE STATE OF TEXAS, WITHOUT, HOWEVER, WAIVING ANY GOVERNMENTAL IMMUNITY AVAILABLE TO THE CITY UNDER TEXAS LAW AND WITHOUT WAIVING ANY DEFENSES OF THE PARTIES UNDER TEXAS LAW.

- 12.2 The provisions of this INDEMNITY are solely for the benefit of the parties hereto and not intended to create or grant any rights, contractual or otherwise, to any other person or entity. CONSULTANT shall advise the CITY in writing within 24 hours of any claim or demand against the CITY or CONSULTANT known to CONSULTANT related to or arising out of CONSULTANT's activities under this AGREEMENT and shall see to the investigation and defense of such claim or demand at CONSULTANT's cost. The CITY shall have the right, at its option and at its own expense, to participate in such defense without relieving CONSULTANT of any of its obligations under this paragraph.
- 12.3 Defense Counsel - City shall have the right to select or to approve defense counsel to be retained by CONSULTANT in fulfilling its obligation hereunder to defend and indemnify City, unless such right is expressly waived by City in writing. CONSULTANT shall retain City approved defense counsel within seven (7) business days of City's written notice that City is invoking its right to indemnification under this Agreement. If CONSULTANT fails to retain Counsel within such time period, City shall have the right to retain defense counsel on its own behalf, and CONSULTANT shall be liable for all costs incurred by City. City shall also have the right, at its option, to be represented by advisory counsel of its own selection and at its own expense, without waiving the foregoing.
- 12.4 Employee Litigation – In any and all claims against any party indemnified hereunder by any employee of CONSULTANT, any subcontractor, anyone directly or indirectly employed by any of them or anyone for whose acts any of them may be liable, the indemnification obligation herein provided shall not be limited in any way by any limitation on the amount or type of damages, compensation or benefits payable by or for CONSULTANT or any subcontractor under worker's compensation or other employee benefit acts.

In addition, Respondent agrees to indemnify, defend, and hold the City harmless from any claim involving patent infringement, trademarks, trade secrets, and copyrights on goods supplied.

### **XIII. ASSIGNMENT AND SUBCONTRACTING**

- 13.1 Consultant shall supply qualified personnel as may be necessary to complete the work to be performed under this Agreement. Persons retained to perform work pursuant to this Agreement

shall be the employees or subcontractors of Consultant. Consultant, its employees or its subcontractors shall perform all necessary work.

- 13.2 It is City's understanding and this Agreement is made in reliance thereon, that Consultant intends to use the following subcontractors in the performance of this Agreement: Kittelson & Associates, Inc., Design Workshop, RJ Rivera Associates, Chamoy Creative, Modern Mobility Partners, LLC. Any deviation from this subcontractor list, whether in the form of deletions, additions or substitutions shall be approved the Director evidenced in writing and signed by both parties, prior to the provision of any services by said subcontractor.
- 13.3 Any work or services approved for subcontracting hereunder shall be subcontracted only by written contract and, unless specific waiver is granted in writing by the City, shall be subject by its terms to each and every provision of this Agreement. Compliance by subcontractors with this Agreement shall be the responsibility of Consultant. City shall in no event be obligated to any third party, including any subcontractor of Consultant, for performance of services or payment of fees. Any references in this Agreement to an assignee, transferee, or subcontractor, indicate only such an entity as has been approved by the City Council or Director, where applicable.
- 13.4 Consultant shall provide adequate staff for the proper coordination and expedition of the Work. City reserves the right to require Consultant to remove from the Project any employee(s) City, at its sole discretion, deems incompetent, careless, insubordinate, unnecessary or in violation of any terms of this Agreement. This provision is applicable to subcontractors, sub-subcontractors and their employees.
- 13.5 Consultant shall not change any key personnel or key subcontractors without the prior written consent of City, which consent shall not be unreasonably withheld. In the event key personnel leaves Contractor's employment, such key personnel's replacement shall be subject to City's reasonable approval.
- 13.6 Except as otherwise stated herein, Consultant may not sell, assign, pledge, transfer or convey any interest in this Agreement, nor delegate the performance of any duties hereunder, by transfer, by subcontracting or any other means, without the consent of the City Council, as evidenced by passage of an ordinance. As a condition of such consent, if such consent is granted, Consultant shall remain liable for completion of the services outlined in this Agreement in the event of default by the successor Consultant, assignee, transferee, or subcontractor.
- 13.7 Any attempt to transfer, pledge or otherwise assign this Agreement without said written approval, shall be void ab initio and shall confer no rights upon any third person. Should Consultant assign, transfer, convey, delegate, or otherwise dispose of any part of all or any part of its right, title or interest in this Agreement, City may, at its option, cancel this Agreement and all rights, titles and interest of Consultant shall thereupon cease and terminate, in accordance with Article VII. Termination, notwithstanding any other remedy available to City under this Agreement. The violation of this provision by Consultant shall in no event release Consultant from any obligation under the terms of this Agreement, nor shall it relieve or release Consultant from the payment of any damages to City, which City sustains as a result of such violation.

#### **XIV. INDEPENDENT CONTRACTOR**



- 14.1 Consultant covenants and agrees that he or she is an independent contractor and not an officer, agent, servant or employee of City; that Consultant shall have exclusive control of and exclusive right to control the details of the work performed hereunder and all persons performing same, and shall be responsible for the acts and omissions of its officers, agents, employees, contractors, subcontractors and consultants; that the doctrine of “respondeat superior” shall not apply as between City and Consultant, its officers, agents, employees, contractors, subcontractors and consultants, and nothing herein shall be construed as creating the relationship of employer-employee, principal-agent, partners or joint venturers between City and Consultant. The parties hereto understand and agree that the City shall not be liable for any claims which may be asserted by any third party occurring in connection with the services to be performed by the Consultant under this Agreement and that the Consultant has no authority to bind the City.

#### **XV. SMALL BUSINESS ECONOMIC DEVELOPMENT ADVOCACY (SBEDA)**

- 15.1 Consultant shall comply with the requirements of the City of San Antonio Small Business Economic Development Advocacy Ordinance (Ordinance No, 2010-06-17-0531, as amended), as further described in Exhibit 1: SBEDA Requirements hereto (the “SBEDA”) for City funds being used in the performance and accomplishment of this Agreement.

#### **XVI. CONFLICT OF INTEREST**

- 16.1 The Charter of the City of San Antonio and the City of San Antonio Code of Ethics prohibit a City officer or employee, as those terms are defined in Section 2-52 of the Code of Ethics, from having a direct or indirect financial interest in any contract with the City. An officer or employee has a “prohibited financial interest” in a contract with the City or in the sale to the City of land, materials, supplies or service, if any of the following individual(s) or entities is a party to the contract or sale:
- a City officer or employee; his or her spouse, sibling, parent, child or other family member within the first degree of consanguinity or affinity;
  - an entity in which the officer or employee, or his or her parent, child or spouse directly or indirectly owns (i) 10 percent or more of the voting stock or shares of the entity, or (ii) 10 percent or more of the fair market value of the entity; or
  - an entity in which any individual or entity listed above is (i) a subcontractor on a City contract, (ii) a partner or (iii) a parent or subsidiary entity.
- 16.2 Pursuant to the subsection above, Consultant warrants and certifies, and this Agreement is made in reliance thereon, that by contracting with the City, Consultant does not cause a City employee or officer to have a prohibited financial interest in the Contract. Consultant further warrants and certifies that it has tendered to the City a Contracts Disclosure Statement in compliance with the City’s Ethics Code.

#### **XVII. AMENDMENTS**

- 17.1 Except where the terms of this Agreement expressly provide otherwise, any alterations, additions, or deletions to the terms hereof, shall be effected by amendment, in writing, executed by both

City and Consultant, and subject to approval by the City Council, as evidenced by passage of an ordinance.

#### **XVIII. SEVERABILITY**

- 18.1 If any clause or provision of this Agreement is held invalid, illegal or unenforceable under present or future federal, state or local laws, including but not limited to the City Charter, City Code, or ordinances of the City of San Antonio, Texas, then and in that event it is the intention of the parties hereto that such invalidity, illegality or unenforceability shall not affect any other clause or provision hereof and that the remainder of this Agreement shall be construed as if such invalid, illegal or unenforceable clause or provision was never contained herein; it is also the intention of the parties hereto that in lieu of each clause or provision of this Agreement that is invalid, illegal, or unenforceable, there be added as a part of the Agreement a clause or provision as similar in terms to such invalid, illegal or unenforceable clause or provision as may be possible, legal, valid and enforceable.

#### **XIX. LICENSES/CERTIFICATIONS**

- 19.1 Consultant warrants and certifies that Consultant and any other person designated to provide services hereunder has the requisite training, license and/or certification to provide said services, and meets all competence standards promulgated by all other authoritative bodies, as applicable to the services provided herein.

#### **XX. COMPLIANCE**

- 20.1 Consultant shall provide and perform all services required under this Agreement in compliance with all applicable federal, state and local laws, rules and regulations.

#### **XXI. NONWAIVER OF PERFORMANCE**

- 21.1 Unless otherwise specifically provided for in this Agreement, a waiver by either Party of a breach of any of the terms, conditions, covenants or guarantees of this Agreement shall not be construed or held to be a waiver of any succeeding or preceding breach of the same or any other term, condition, covenant or guarantee herein contained. Further, any failure of either Party to insist in any one or more cases upon the strict performance of any of the covenants of this Agreement, or to exercise any option herein contained, shall in no event be construed as a waiver or relinquishment for the future of such covenant or option. In fact, no waiver, change, modification or discharge by either party hereto of any provision of this Agreement shall be deemed to have been made or shall be effective unless expressed in writing and signed by the party to be charged. In case of City, such changes must be approved by the City Council, as described in Article XVI. Amendments. No act or omission by a Party shall in any manner impair or prejudice any right, power, privilege, or remedy available to that Party hereunder or by law or in equity, such rights, powers, privileges, or remedies to be always specifically preserved hereby.

#### **XXII. LAW APPLICABLE & LEGAL FEES**

22.1 **THIS AGREEMENT SHALL BE CONSTRUED UNDER AND IN ACCORDANCE WITH THE LAWS OF THE STATE OF TEXAS AND ALL OBLIGATIONS OF THE PARTIES CREATED HEREUNDER ARE PERFORMABLE IN BEXAR COUNTY, TEXAS.**

22.2 Any legal action or proceeding brought or maintained, directly or indirectly, as a result of this Agreement shall be heard and determined in the City of San Antonio, Bexar County, Texas.

22.3 The Parties hereto expressly agree that, in the event of litigation, each party hereby waives its right to payment of attorneys' fees.

#### **XXIII. LEGAL AUTHORITY**

23.1 The signer of this Agreement for Consultant represents, warrants, assures and guarantees that he has full legal authority to execute this Agreement on behalf of Consultant and to bind Consultant to all of the terms, conditions, provisions and obligations herein contained.

#### **XXIV. PARTIES BOUND**

24.1 This Agreement shall be binding on and inure to the benefit of the parties hereto and their respective heirs, executors, administrators, legal representatives, and successors and assigns, except as otherwise expressly provided for herein.

#### **XXV. CAPTIONS**

25.1 The captions contained in this Agreement are for convenience of reference only, and in no way limit or enlarge the terms and/or conditions of this Agreement.

#### **XXVI. INCORPORATION OF EXHIBITS**

26.1 Each of the Exhibits listed below is an essential part of the Agreement, which governs the rights and duties of the parties, and shall be interpreted in the order of priority as appears below, with this document taking priority over all exhibits:

Exhibit 1: SBEDA Requirements

Exhibit 2: Work Plan and Compensation Schedule

#### **XXVII. ENTIRE AGREEMENT**

27.1 This Agreement, together with its authorizing ordinance and its exhibits, if any, constitute the final and entire agreement between the parties hereto and contain all of the terms and conditions agreed upon. No other agreements, oral or otherwise, regarding the subject matter of this Agreement shall be deemed to exist or to bind the parties hereto, unless same be in writing, dated subsequent to the date hereto, and duly executed by the parties, in accordance with Article XVI. Amendments.

#### **XXVIII. PROHIBITION ON CONTRACTS WITH COMPANIES BOYCOTTING ISRAEL**

- 28.1 Texas Government Code §2271 provides that a governmental entity may not enter into a contract with a company for goods or services, unless the contract contains a written verification from the company that it:
- (1) does not boycott Israel; and
  - (2) will not boycott Israel during the term of the contract.
- 28.2 "Boycott Israel" means refusing to deal with, terminating business activities with, or otherwise taking any action that is intended to penalize, inflict economic harm on, or limit commercial relations specifically with Israel, or with a person or entity doing business in Israel or in an Israeli-controlled territory, but does not include an action made for ordinary business purposes.
- 28.3 "Company" means a for-profit sole proprietorship, organization, association, corporation, partnership, joint venture, limited partnership, limited liability partnership, or limited liability company, including a wholly owned subsidiary, majority-owned subsidiary, parent company, or affiliate of those entities or business associations that exists to make a profit.
- 28.4 This section applies only to a contract that:
- (1) is between a governmental entity and a company with ten (10) or more full-time employees; and
  - (2) has a value of \$100,000 or more that is to be paid wholly or partly from public funds of the governmental entity.
- 28.5 By submitting an offer to or executing contract documents with the City of San Antonio, Company hereby verifies that it:
- (1) does not boycott Israel; and
  - (2) will not boycott Israel during the term of the contract.
- 28.6 City's hereby relies on Company's verification. If found to be false, City may terminate the contract for material breach.

**XXIX. PROHIBITION ON CONTRACTS WITH COMPANIES ENGAGED IN  
BUSINESS WITH IRAN, SUDAN, OR FOREIGN TERRORIST ORGANIZATION**

- 29.1 Texas Government Code §2252.152 provides that a governmental entity may not enter into a governmental contract with a company that is identified on a list prepared and maintained under Texas Government Code §2252.153 or §2270.0201. By submitting an offer to or executing contract documents with the City of San Antonio, Company hereby verifies that: it is not identified on such a list; and that it will notify City should it be placed on such a list during the term of this contract. City hereby relies on Consultant's verification. If found to be false, or if Consultant is identified on such list during the term of this contract, City may terminate this contract for material breach.

**XXX. PROHIBITION ON CONTRACTS WITH COMPANIES THAT DISCRIMINATE  
AGAINST FIREARM AND AMMUNITION INDUSTRIES**

- 30.1 Texas Government Code §2274 (enacted by SB 19, 87th Texas Legislature, Regular Session (2021)), provides that a governmental entity may not enter into a contract with a company for the purchase of goods or services unless the contract contains a written verification from the

company that it:

- (1) does not have a practice, policy, guidance, or directive that discriminates against a firearm entity or firearm trade association; and
- (2) will not discriminate during the term of the contract against a firearm entity or firearm trade association.

30.2 This section applies only to a contract that:

- (1) is between a governmental entity and a company with at least ten (10) full-time employees; and
- (2) has a value of at least \$100,000 that is to be paid wholly or partly from public funds of the governmental entity.

30.3 By submitting an offer to or executing contract documents with the City of San Antonio, Company hereby verifies that it:

- (1) does not have a practice, policy, guidance, or directive that discriminates against a firearm entity or firearm trade association; and
- (2) will not discriminate during the term of this contract against a firearm entity or firearm trade association.

30.4 City hereby relies on Company's verification. If found to be false, City may terminate the contract for material breach.

#### **XXXI. PROHIBITION ON CONTRACTS WITH COMPANIES BOYCOTTING CERTAIN ENERGY COMPANIES**

31.1 Pursuant to Texas Government Code §2274 (enacted by SB 13, 87th Texas Legislature, Regular Session (2021)), a governmental entity may not enter into a contract with a company for goods or services unless the contract contains a written verification from the company that it:

- (1) does not boycott energy companies; and
- (2) will not boycott energy companies during the term of this contract.

31.2 This section only applies to a contract that:

- (1) is between a governmental entity and a company with ten (10) or more full-time employees; and
- (2) has a value of \$100,000 or more that is to be paid wholly or partly from public funds of the governmental entity.

31.3 By submitting an offer to or executing contract documents with the City of San Antonio, Company hereby verifies that it:

- (1) does not boycott energy companies; and
- (2) will not boycott energy companies during the term of this contract.

31.4 City's hereby relies on Company's verification. If found to be false, City may terminate the contract for material breach.

#### **XXXII. COUNTERPARTS; FACSIMILE OR EMAIL SIGNATURES**

- 32.1 This Agreement may be executed in any number of counterparts, each of which shall be deemed an original, and all of such counterparts shall constitute one agreement. To facilitate execution of this Agreement, the parties may execute and exchange by telephone facsimile or email counterparts of the signature pages.

### XXXIII. PROHIBITED CONTRIBUTIONS

- 33.1 Consultant acknowledges that City Code Section 2-309 provides that any person acting as a legal signatory for a proposed contractual relationship that applies for a "high-profile" discretionary contract, as defined by the City of San Antonio Contracting Policy and Process Manual, may not make a campaign contribution to any councilmember or candidate at any time from the time the person submits the response to the Request for Proposal (RFP) or Request for Qualifications (RFQ) until 30 calendar days following the contract award. Consultant understands that if the legal signatory entering the contract has made such a contribution, the city may not award the contract to that contributor or to that contributor's business entity. Any legal signatory for a proposed high-profile contract must be identified within the response to the RFP or RFQ, if the identity of the signatory will be different from the individual submitting the response.
- 33.2 Consultant acknowledges that the City has identified this Agreement as high profile.
- 33.3 Consultant warrants and certifies, and this Agreement is made in reliance thereon, that the individual signing this Agreement has not made any contributions in violation of City Code section 2-309, and will not do so for 30 calendar days following the award of this Agreement. Should the signor of this Agreement violate this provision, the City Council may, in its discretion, declare this Agreement void.

**EXECUTED** and **AGREED** to as of the dates indicated below.

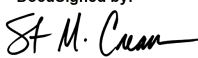
**CITY OF SAN ANTONIO**

\_\_\_\_\_  
(Signature)

Erik Walsh  
City Manager

Date: \_\_\_\_\_

**RS&H, Inc.**  
DocuSigned by:

  
\_\_\_\_\_  
9450CB824CA047D...  
(Signature)

Steve Creamer  
Senior Vice President

Date: 10/25/2022

Approved as to Form:

\_\_\_\_\_  
Assistant City Attorney

EXHIBIT 1  
SBEDA Requirements

Exhibit 2  
Work Plan and Compensation Schedule  
Bicycle Network Plan

Bicycle Network Plan		Professional Fees
3.2	Task 1: Project Leadership & Coordination (the product of this task will be executed through the duration of the project)	\$400,000
3.3	Task 2: Communications & Engagement (the product of this task will be executed through the duration of the project)	\$775,000
3.4	Task 3: Health Impact Assessment (HIA)	\$150,000
3.5	Task 4: Existing Conditions & Needs Assessment & Inventory	\$400,000
3.6	Task 5: Bicycle Design Guidelines and Bike Typology	\$100,000
3.7	Task 6: Recommended Bike Network Plan	\$250,000
3.8	Task 7: Cost Estimate & Funding Strategy	\$150,000
3.9	Task 8: Implementation Plan	\$200,000
3.10	Task 9: Draft Final Plan	\$150,000
3.11	Task 10: Final Plan	\$125,000

**GRAND TOTAL FEE     \$2,700,000**



### **Standard Hourly Rate Schedule**

Standard Hourly Rates may be subject to annual review on or before the anniversary date of this Agreement. Any adjustments shall be negotiated and approved in writing by both Parties pursuant to Article XVII. Amendments. Adjusted rates cannot be utilized for hours performed prior to the approval date.

RS&H hourly rates for services in effect on the date of the Agreement are:

<b>Classification</b>	<b>Rate Per Hour</b>	<b>Anticipated Portion of Effort by Classification</b>
Project Officer	\$335.00	1%
Project Manager	\$360.00	8%
QA/QC	\$320.00	2%
Senior Planner	\$220.00	8%
Planner	\$145.00	13%
Jr. Planner	\$130.00	15%
Senior Engineer	\$245.00	6%
Project Engineer	\$170.00	8%
EIT	\$110.00	10%
Senior GIS Specialist	\$225.00	6%
GIS Specialist	\$120.00	10%
Website Developer	\$130.00	3%
3-D Visualization	\$185.00	3%
Graphics	\$110.00	5%
Administrative	\$125.00	2%

Subconsultant hourly rates may vary. Approved expenses will be reimbursed at cost.