



# City of Sacramento City Council

915 I Street, Sacramento, CA, 95814  
[www.CityofSacramento.org](http://www.CityofSacramento.org)

7

**Meeting Date:** 2/8/2011

**Report Type:** Consent

**Title: Administrative Matter: Correction to Resolution 2009-573**

**Report ID:** 2011-00137

**Location:** Citywide

**Recommendation:** Adopt a Resolution correcting a typographical error in the annual one-year extension amount from \$92,000 to \$96,000 for a Professional Services Agreement (Agr. 2009-0840) with Smith Dawson & Andrews (SDA) for federal advocacy services as listed in Resolution 2009-573.

**Contact:** Azadeh Doherty, Principal Planner, (916) 808-3137, Department of Transportation

**Presenter:** None

**Department:** Transportation Department

**Division:** Planning & Policy

**Dept ID:** 15001041

## **Attachments:**

---

1-Description/Analysis

2-Resolution

3-Exhibit A-Agreement No. 2009-0840

4-Exhibit B-Resolution 2009-573 as adopted September 8, 2009

---

## **City Attorney Review**

Approved as to Form  
Jerry Hicks  
2/2/2011 2:26:26 PM

## **City Treasurer Review**

Prior Council Financial Policy Approval or  
Outside City Treasurer Scope  
Janelle Gray  
1/27/2011 11:31:40 AM

## **Approvals/Acknowledgements**

Department Director or Designee: Jerry Way - 1/31/2011 9:31:43 AM

Assistant City Manager: John Dangberg - 2/2/2011 12:50:12 PM



## Description/Analysis

**Issue:** Resolution 2009-573 was adopted on September 8, 2009 authorizing the City Manager to execute a Professional Services Agreement with SDA for a period of two years for an amount not to exceed \$192,000 with three additional one-year extensions for an amount not to exceed \$92,000 for each one year extension.

There was a typographical error in the amount of the contract for each one year extension. Resolution 2009-573 stated the amount as \$92,000 for each one year extension when the amount should be \$96,000 for each one year extension. Staff is submitting a revised resolution with the corrected language.

**Policy Considerations:** It is in the best interest of the City to preserve and ensure a clear and concise legislative history.

### **Environmental Considerations:**

**California Environmental Quality Act (CEQA):** Not applicable.

**Sustainability Considerations:** Not applicable.

**Other:** None.

**Commission/Committee Action:** None.

**Rationale for Recommendation:** After Resolution 2009-573 was adopted on September 8, 2009, staff discovered a typographical error in the amount of the contract with SDA for each one-year extension. A corrected resolution is required for extending the SDA contract in 2011 as set forth in the contract.

**Financial Considerations:** The current agreement with SDA is \$8,000 per month or \$96,000 annually. There are sufficient funds in the Office of the Director's operating budget for this agreement, which is funded by Gas Tax (Fund 2002, 2003), General Fund (Fund 1001), and other funds and reimbursements. The amount in the operating budget is based on the correct amount of \$96,000 for each one-year extension. No additional funds are being requested.

**Emerging Small Business Development (ESBD):** The ESBD requirement of 20% participation in City programs does not apply to this contract for federal transportation advocacy services as the contractor is located outside of the state of California.

## RESOLUTION NO.



Adopted by the Sacramento City Council

### ADMINISTRATIVE CORRECTION TO RESOLUTION No. 2009-573 FOR FEDERAL TRANSPORTATION ADVOCACY SERVICES AGREEMENT WITH SMITH DAWSON & ANDREWS

#### BACKGROUND

- A. In order to continue the federal transportation legislative representation, in June 2009, a Request for Proposal was released.
- B. Smith Dawson & Andrews (SDA) was the only lobbying firm that responded to the request.
- C. For the past seven years SDA has provided lobbying services to the City of Sacramento and its services have been satisfactory.
- D. Subsequent to the adoption of Resolution 2009-573 on September 8, 2009, staff discovered a typographical error in the amount of the contract with SDA for each one-year extension. The resolution as adopted on September 8, 2009 listed the amount of the each one-year extension as \$92,000; the executed contract is for \$96,000 for each one-year extension. A corrected resolution is required for extending the SDA contract in 2011.

#### BASED ON THE FACTS SET FORTH IN THE BACKGROUND, THE CITY COUNCIL RESOLVES AS FOLLOWS:

Section 1. Resolution 2009-573 is amended to read:

“The City Manager is authorized to execute a Professional Services Agreement with Smith Dawson & Andrews for federal advocacy services for a period of two years for an amount not to exceed \$192,000 with three additional one-year extensions for an amount not to exceed \$96,000 for each one-year extension.”

Section 2. Exhibits A and B are incorporated into and made part of this Resolution.

#### Table of Contents:

Exhibit A – Agreement No. 2009-0840

Exhibit B – Resolution 2009-573 as adopted September 8, 2009



## Unexecuted Contract/Agreements

The Unexecuted Contract/Agreement is signed by the other party, is attached as an exhibit to the resolution, and is approved as to form by the City Attorney.

The Unexecuted Contract/Agreement (Public Project) is NOT signed by the other party, is attached as an exhibit to the resolution, and is approved as to form by the City Attorney.

The Unexecuted Contract is NOT included as an exhibit to the Resolution because the Agreement(s) is with other another governmental agency and it is not feasible to obtain the other agency's signature prior to Council action (be they denominated Agreements, MOUs, MOAs, etc.); however, the City Attorney approves the forwarding of the report to Council even though the signed agreement is not in hand yet.

The Unexecuted Contract is NOT included as an exhibit to the resolution because, due to special circumstances, and the City Attorney confirms in writing that it is okay to proceed with Council action even though the signed agreement is not in hand yet.

**2009-0840**

With: Smith Dawson & Andrews  
 Title: Federal Transportation  
 Advocacy Services  
 Authorization: Reso 2009-573

## CONSULTANT AND PROFESSIONAL SERVICES AGREEMENT

PROJECT #: 15001041  
 PROJECT NAME: Federal Transportation Advocacy Services  
 DEPARTMENT: Department of Transportation  
 DIVISION: Planning/Policy

CITY OF SACRAMENTO

### PROFESSIONAL SERVICES AGREEMENT \*

**THIS AGREEMENT** is made at Sacramento, California, as of October 1, 2009, by and between the **CITY OF Sacramento**, a municipal corporation ("CITY"), and

*Smith Dawson & Andrews  
 1150 Connecticut Avenue, NW, Suite 1025  
 Washington, DC 20036  
 Phone (202) 835-0740, fax (202) 775-8526*

("CONTRACTOR"), who agree as follows:

1. **Services.** Subject to the terms and conditions set forth in this Agreement, CONTRACTOR shall provide to CITY the services described in Exhibit A. CONTRACTOR shall provide said services at the time, place, and in the manner specified in Exhibit A. CONTRACTOR shall not be compensated for services outside the scope of Exhibit A unless prior to the commencement of such services: (a) CONTRACTOR notifies CITY and CITY agrees that such services are outside the scope of Exhibit A; (b) CONTRACTOR estimates the additional compensation required for these additional services; and (c) CITY, after notice, approves in writing a Supplemental Agreement specifying the additional services and amount of compensation therefore. CITY shall have no obligations whatsoever under this Agreement and/or any Supplemental Agreement, unless and until this Agreement or any Supplemental Agreement is approved by the Sacramento City Manager or the City Manager's authorized designee, or by the Sacramento City Council, as required by the Sacramento City Code.
2. **Payment.** CITY shall pay CONTRACTOR for services rendered pursuant to this Agreement at the times and in the manner set forth in Exhibit B. The payments specified in Exhibit B shall be the only payments to be made to CONTRACTOR for the services rendered pursuant to this Agreement unless pursuant to Section 1, above, CITY approves additional compensation for additional services. CONTRACTOR shall submit all billings for said services to CITY in the manner specified in Exhibit B, or, if not specified in Exhibit B, according to the usual and customary procedures and practices that CONTRACTOR uses for billing clients similar to CITY.
3. **Facilities and Equipment.** Except as set forth in Exhibit C, CONTRACTOR shall, at its sole cost and expense, furnish all facilities and equipment that may be required for furnishing services pursuant to this Agreement. CITY shall furnish to CONTRACTOR only the facilities and equipment listed in Exhibit C according to any terms and conditions set forth in Exhibit C.

---

\* This form to be used for all professional services, except professional services related to a construction project and professional services performed by licensed architects, landscape architects or professional land surveyors or registered professional engineers.

4.           **General Provisions.** The General Provisions set forth in Exhibit D that include indemnity and insurance requirements, are part of this Agreement. In the event of any conflict between the General Provisions and any terms or conditions of any document prepared or provided by CONTRACTOR and made a part of this Agreement, including without limitation any document relating to the scope of services or payment therefore, the General Provisions shall control over said terms or conditions.
  
5.           **Non-Discrimination in Employee Benefits.** This Agreement is subject to the provisions of Sacramento City Code Chapter 3.54, Non-Discrimination in Employee Benefits by City Contractors. The requirements of Sacramento City Code Chapter 3.54 are summarized in Exhibit E. CONTRACTOR is required to sign the attached Declaration of Compliance (Equal Benefits Ordinance), to assure compliance with these requirements.
  
6.           **Authority.** The person signing this Agreement for CONTRACTOR hereby represents and warrants that he/she is fully authorized to sign this Agreement on behalf of CONTRACTOR and to bind CONTRACTOR to the performance of its obligations hereunder.
  
7.           **Exhibits.** All exhibits referred to herein are attached hereto and are by this reference incorporated as if set forth fully herein.

Executed as of the day and year first above stated.

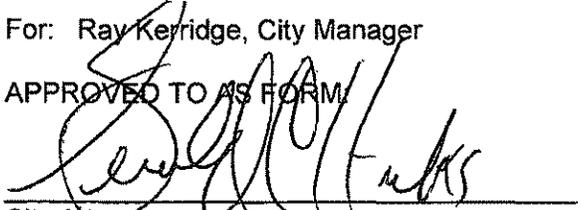
**CITY OF SACRAMENTO**  
A Municipal Corporation

By: 

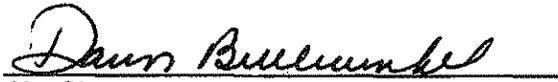
Ray Kerridge, City Manager  
September 14, 2009

For: Ray Kerridge, City Manager

APPROVED TO AS FORM

  
City Attorney

ATTEST:

  
City Clerk *9-16-09*

Attachments

- Exhibit A - Scope of Service
- Exhibit B - Fee Schedule/Manner of Payment
- Exhibit C - Facilities/Equipment Provided
- Exhibit D - General Provisions
- Exhibit E - Non-Discrimination in Employee Benefits

**CONTRACTOR:**

**Smith Dawson & Andrews**  
NAME OF FIRM

52-123 9943  
Federal I.D. No.

N/A  
State I.D. No.

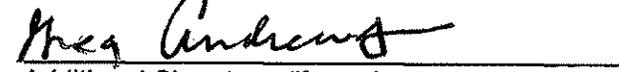
137783  
City of Sacramento Business Op. Tax Cert. No.

TYPE OF BUSINESS ENTITY (check one):

- Individual/Sole Proprietor
- Partnership
- Corporation (may require 2 signatures)
- Limited Liability Company
- Other (please specify: \_\_\_\_\_)

  
Signature of Authorized Person

JAMES P. SMITH PRESIDENT  
Print Name and Title

  
Additional Signature (if required)  
GREG ANDREWS EXECUTIVE  
Print Name and Title  
VICE-PRESIDENT + ASSISTANT SECRETARY

**EXHIBIT A**

**PROFESSIONAL SERVICES AGREEMENT**

**SCOPE OF SERVICES**

**1. Representatives.**

The CITY Representative for this Agreement is:

*Azadeh Doherty, Principal Planner  
City of Sacramento – Department of Transportation  
915 I Street, Suite 2000  
Sacramento, CA 95814  
Phone (916) 808-3137 Fax (916) 808-5573 - adoherty@cityofsacramento.org*

All CONTRACTOR questions pertaining to this Agreement shall be referred to the CITY Representative or the Representative's designee.

The CONTRACTOR Representative for this Agreement is:

*Smith Dawson & Andrews  
1150 Connecticut Avenue, NW, Suite 1025  
Washington, DC 20036  
Phone (202) 835-0740, fax (202) 775-8526*

All CITY questions pertaining to this Agreement shall be referred to the CONTRACTOR Representative. All correspondence to CONTRACTOR shall be addressed to the address set forth on page one of this Agreement. Unless otherwise provided in this Agreement, all correspondence to the CITY shall be addressed to the CITY Representative.

**2. Professional Liability Insurance.** Professional Liability (Errors and Omissions) insurance is \_\_\_ is not X [check one] required for this Agreement. If required, such coverage must be continued for at least \_\_\_\_\_ year(s) following the completion of all Services and Additional Services under this Agreement. (See Exhibit D, Section 11, for complete insurance requirements.)

**3. Conflict of Interest Requirements.**

A. **Generally.** Under the California Political Reform Act, Government Code §§ 81000 et seq., designated employees of the CITY are required to comply with the City's Conflict of Interest Code. The term "designated employees" is a term of art and includes individuals who are working for contractors who are providing services or performing work for the CITY and who are considered to be "consultants" under the Political Reform Act. The term "consultant" generally includes individuals who make, or participate in making, governmental decisions or who serve in a staff capacity. Individuals who perform work that is solely clerical, ministerial, manual or secretarial are not "consultants."

The City's Conflict of Interest Code requires designated employees, including individuals who qualify as "consultants", to file the following statements of economic interests:

- (1) An "assuming office" statement of economic interests to be filed within 30 days after execution of the agreement between the City and the contractor;
- (2) Annual statements of economic interests while the agreement remains in effect, to be filed not later than April 30 of each year; and
- (3) A "leaving office" statement of economic interests to be filed within 30 days of completion of the contract.

The above statements of economic interests are public records subject to public disclosure under the California Public Records Act.

The CITY's Conflict of Interest Code also requires individuals who qualify as "consultants" under the Political Reform Act to comply with the conflict of interest provisions of the Political Reform Act, which generally prohibit individuals from making or participating in the making of decisions that will have a material financial effect on their economic interests.

- B. **Conflict of Interest Statements.** The individual(s) who will provide services or perform work pursuant to this Agreement are "consultants" within the meaning of the Political Reform Act and the City's Conflict of Interest Code:  yes  no

If "yes" is checked above, CONTRACTOR shall cause the following to occur within 30 days after execution of this Agreement:

- (1) Identify the individuals who will provide services or perform work under this Agreement as "consultants";
- (2) Cause these individuals to file with the CITY Representative the assuming office statements of economic interests required by the City's Conflict of Interest Code.

Thereafter, throughout the term of the Agreement, CONTRACTOR shall cause these individuals to file with the CITY Representative annual statements of economic interests, and "leaving office" statements of economic interests, as required by the City's Conflict of Interest Code. The CITY may withhold all or portions of any payment due under this Agreement until all required statements are filed.

4. **Scope of Services.** The services provided shall be as set forth in Attachment 1 to Exhibit A, attached hereto and incorporated herein.
5. **Time of Performance.** The services described herein shall be provided during the period, October 1, 2009 to September 30, 2010. This agreement may be extended annually up to a maximum of three (3) additional years, if mutually agreed.

**DECLARATION OF COMPLIANCE  
Equal Benefits Ordinance**

Name of Contractor: Smith Dawson & Andrews

Address: 1150 Connecticut Avenue, NW, Suite 1025, Washington, DC 20036

The above named Contractor ("Contractor") hereby declares and agrees as follows:

1. Contractor has read and understands the Requirements of the Non-Discrimination in Employee Benefits Code (the "Requirements") attached hereto as Exhibit E.
2. As a condition of receiving this Agreement, Contractor agrees to fully comply with the Requirements, as well as any additional requirements that may be specified in the City of Sacramento's Non-Discrimination in Employee Benefits Code codified at Chapter 3.54 of the Sacramento City Code.
3. Contractor understands, to the extent that such benefits are not preempted or prohibited by federal or state law, employee benefits covered by the Ordinance are any of the following:
  - a. Bereavement Leave
  - b. Disability, life, and other types of insurance
  - c. Family medical leave
  - d. Health benefits
  - e. Membership or membership discounts
  - f. Moving expenses
  - g. Pension and retirement benefits
  - h. Vacation
  - i. Travel benefits
  - j. Any other benefit offered to employees

Contractor agrees that if Contractor offers any of the above-listed employee benefits, Contractor will offer those benefits, without discrimination between employees with spouses and employees with domestic partners, and without discrimination between the spouses and domestic partners of such employees.

4. Contractor understands that Contractor will not be considered to be discriminating in the provision or application of employee benefits under the following conditions or circumstances:
  - a. If the actual cost of providing a benefit to a domestic partner or spouse exceeds the cost of providing the same benefit to a spouse or domestic partner of an employee, Contractor will not be required to provide the benefit, nor shall it be deemed discriminatory, if Contractor requires the employee to pay the monetary difference in order to provide the benefit to the domestic partner or to the spouse.
  - b. If Contractor is unable to provide a certain benefit, despite taking reasonable measures to do so, if Contractor provides the employee with a cash equivalent Contractor will not be deemed to be discriminating in the application of that benefit.
  - c. If Contractor provides employee benefits neither to employee's spouses nor to employee's domestic partners.

- d. If Contractor provides employee benefits to employees on a basis unrelated to marital or domestic partner status.
  - e. If Contractor submits written evidence of making reasonable efforts to end discrimination in employee benefits by implementing policies that will be enacted before the first effective date after the first open enrollment process following the date this Agreement is executed by the City of Sacramento ("City"). Contractor understands that any delay in the implementation of such policies may not exceed one (1) year from the date this Agreement is executed by the City, and applies only to those employee benefits for which an open enrollment process is applicable.
  - f. Until administrative steps can be taken to incorporate nondiscrimination in employee benefits. The time allotted for these administrative steps will apply only to those employee benefits for which administrative steps are necessary and may not exceed three (3) months from the date this Agreement is executed by the City.
  - g. Until the expiration of a current collective bargaining agreement(s) if employee benefits are governed by such collective bargaining agreement(s).
  - h. Contractor takes all reasonable measures to end discrimination in employee benefits by either requesting that the union(s) involved agree to reopen the agreement(s) in order for Contractor to take whatever steps are necessary to end discrimination in employee benefits or by ending discrimination in employee benefits without reopening the collective bargaining agreement(s).
  - i. In the event Contractor cannot end discrimination in employee benefits despite taking all reasonable measures to do so, Contractor provides a cash equivalent to eligible employees for whom ~~employee benefits are not available~~ ~~Unless otherwise authorized in writing by the City Manager, Contractor understands this cash equivalent must begin at the time the union(s) refuse to allow the collective bargaining agreement(s) to be reopened or not longer than three (3) months after the date this Agreement is executed by the City.~~
5. Contractor understands that failure to comply with the provisions of Section 4(a) through 4(i), above, will subject Contractor to possible suspension and/or termination of this Agreement for cause; repayment of any or all of the Agreement amount disbursed by the City; debarment for future agreements until all penalties and restitution have been paid in full and/or for up to two (2) years; and/or the imposition of a penalty, payable to the City, in the sum of \$50.00 for each employee, for each calendar day during which the employee was discriminated against in violation of the provisions of the Ordinance.
  6. Contractor understands and agrees to provide notice to each current employee and, within ten (10) days of hire, to each new employee, of their rights under the Ordinance. Contractor further agrees to maintain a copy of each such letter provided, in an appropriate file for inspection by authorized representatives of the City. Contractor also agrees to prominently display a poster informing each employee of these rights.
  7. Contractor understands that Contractor has the right to request a waiver of, or exemption from, the provisions of the Ordinance by submitting a written request to the City's Procurement Services Division prior to Agreement award, which request shall identify the provision(s) of the Ordinance authorizing such waiver or exemption and the factual basis for such waiver or exemption. The City shall determine in its sole discretion whether to approve any such request.
  8. Contractor agrees to defend, indemnify and hold harmless, the City, its officers and employees, against any claims, actions, damages, costs (including reasonable attorney fees), or other liabilities of any kind arising from any violation of the Requirements or of the Ordinance by Contractor.

The undersigned declares under penalty of perjury under the laws of the State of California that the foregoing is true and correct, and that he or she is authorized to bind the Contractor to the provisions of this Declaration.

  
\_\_\_\_\_  
Signature of Authorized Representative

8-30-09  
Date

JAMES P. SMITH  
Print Name

PRESIDENT  
Title

## **Attachment 1 to Exhibit A**

The Contractor will be required to perform the following services on a routine, regular basis throughout the term of the Contract:

1. Identify and monitor proposed transportation-related legislation, regulations, and issues of interest to the City. To accomplish this, the Contractor must maintain an informed level of communication and involvement with key Congressional staff, the Executive Branch, and administrative agencies, as well as an effective working relationship with organizations with an interest in transportation-related issues of concern to the City. The Contractor must also participate in organizations, coalitions, and forums related to transportation-related issues of concerns to the City, to the extent necessary to maintain an awareness of the development of those issues.
2. Prepare an analysis of the potential impact on the City of proposed transportation-related legislation or regulations.
3. Participate in the preparation of City's legislative program by informing staff of upcoming legislative proposals, budget forecasts, and potential policy issues.
4. Assist in securing authors and drafting language for sponsor bills.
5. Assist in drafting amendments to legislation and regulations.
6. Testify on behalf of the City on legislation at committee and floor hearings, as directed.
7. Provide copies of all written correspondence, testimony, and position papers given on behalf of the City.
8. Schedule visits for City staff with appropriate Members of Congress and key Congressional staff, the Executive Branch, and administrative agencies to advocate legislative and funding priorities.
9. Analyze and prepare advice on the proposed federal budget as it relates to identifying decreases/increases in existing programs, new funding sources and strategies for the city.
10. Review the Federal Register and other publications to identify the availability of new programs or funding opportunities. This may include providing assistance in structuring, preparing, and presenting grant applications to federal agencies, as well as monitoring and expediting the application process.
11. Prepare the following reports in a timely and appropriate manner:

- a. Report of Significant Developments – Deliver to the City a summary of significant transportation-related information on the same day it is obtained. This is limited to information on which the City may need to act prior to receiving the weekly Event Summary.
- b. Event Summary – A weekly report analyzing recent news and events pertaining to transportation-related issues of interest to the City and summarizing related Contractor activities, if applicable.
- c. Monthly Summary – A monthly update providing news on relevant transportation-related legislation and other proposals of interest to the City.
- d. Annual Summary – A summary report to be completed by December 1 of each year detailing developments on significant transportation-related issues; the actions taken by the Contractor to address the City's interests; and, the transportation-related issues that are likely to emerge in the coming year.

## 12. Work Plan

The four (4) primary SDA staff and consultants who will work on behalf of the City of Sacramento Department of Transportation are project manager Greg Andrews, Douglas Wright, E/SBE partner and co-project manager, William Newman, SDA Senior Counsel and Brett Garson, Associate Counsel. Greg will coordinate the SDA team effort on the Washington D.C. front and serve as the primary liaison to the Sacramento area Congressional delegation, the Obama Administration, and the modal offices of US DOT. As co-project manager of the City of Sacramento federal transportation legislative program, Douglas Wright, the E/SBE partner will provide transportation planning services, funding guidance, and government relations counsel to the City, a role he has played for the past 10 years. William Newman, SDA's counsel for energy, environment and rail issues, will coordinate on-going discussions with the Federal Railroad Administration (FRA) related to funding of the City's Intermodal Station project. Mr. Newman has been and will continue to work with the FRA on funding issues related to Section 9002 of the SAFETEA-LU Surface Transportation Act, which provides discretionary funding authority for rail relocation projects, such as reducing the curve of the UPRR mainline track in the Sacramento Railyards. Brett Garson, SDA Associate Counsel will provide legislative analysis and drafting services, and monitor

Congressional activities, and will also serve as liaison to Washington DC based interest groups such as the League of Cities and the US Conference of Mayors.

All four primary SDA staff have sufficient time available to meet the requirements of the City of Sacramento contract.

**Legislative Outlook for 2009 and 2010** - There are two primary areas of interest to Sacramento in transportation legislation for the remainder of 2009 and all of 2010: 1) The annual appropriations process where the City is seeking funding for the Ramona Avenue extension project and the Sacramento Intermodal Station project request submitted by SACOG for the track relocation project. 2) The reauthorization of SAFETEA-LU, which will likely take a multi-year effort before passage.

The Democratic Congressional Leadership has stated emphatically they intend the Congressional appropriations process to proceed under regular order with each of the subcommittees reporting out a bill that would then be passed by the House and Senate before proceeding to conference. While it remains to be seen how the process will eventually play out, the House is on track to meet that target.

The most serious potential obstacle to completing all of the FY 2010 appropriations bills remains the legislative calendar. There are a limited number of legislative days left in the fiscal year when the July and August recesses are factored into the calendar equation. In addition to the time consumed in addressing the inevitable, lists of proposed amendments to each bill, a lone Senator can tie up the floor with seemingly endless parliamentary maneuvers, adding to delays. In addition, the Senate generally concludes the bulk of their appropriations work in July and September, which may jam up the conference committees as they work to complete the process this fall.

The City's transportation appropriations requests are in good shape and are supported by Sacramento's delegation. SDA continues to monitor this process on a daily basis and remains in contact with both the Sacramento congressional delegation and the appropriations committee staff. Despite the best intentions of the Democratic congressional leadership, in all likelihood there will be one or more continuing resolutions (CR's) passed to maintain the flow of federal funds. For the moment,

Congress and the Obama Administration are trying to ensure that there is not an Omnibus spending bill, as has been the case for the last few years.

The other major transportation legislation of interest to Sacramento is the reauthorization of the SAFETEA-LU surface transportation act, which is set to expire on September 30, 2009. The House Transportation and Infrastructure Committee (T&I) released a blueprint of their legislation the week of June 14<sup>th</sup> which outlined the principles of the legislation that Chairman James Oberstar, Surface Transportation sub-committee chairman Peter DeFazio, ranking full Committee member John Mica and ranking sub-committee member John Duncan intend to pursue.

The Surface Transportation sub-committee held a markup on June 24<sup>th</sup> and reported the bill out to full Committee. It is anticipated that the bill may come up for a vote in full Committee sometime in mid to late July. Mr. Oberstar will have to wait for the House Ways & Means Committee to determine how the existing funding will be supplemented to pay for the cost of the proposed program devised by the Transportation and Infrastructure Committee. Currently, the bill has a lot of blank spots within its 700+ pages. Most notably, the proposed bill does not address financing of the Highway Trust Fund (HTF) (the federal account that pays for the bulk of road and transit work), or list the member-supported High Priority Program (HPP) projects. SDA will continue to monitor both of these developments and maintain close contact with Sacramento city officials and the Sacramento Congressional delegation and the House and Senate authorizing committees.

The efforts of Chairman Oberstar and his Committee to reauthorize the nation's transportation programs have been dealt several blows by the Administration, as well as their Senate counterparts in recent days. While Chairman Oberstar has pushed ahead with his effort to pass a comprehensive, six-year authorization before the current SAFETEA-LU law expires, both Secretary LaHood and Senate Chairman Barbara Boxer (D-CA) of the Environment and Public Works Committee (EPW) have both announced a preference to extend the program for 18 months, allowing time for a less hurried approach to fix the pending \$20 billion deficit to the HTF. If this double whammy announcement stands, it would effectively rule out passage of the reauthorization bill this

year, but provides Congress and the Administration time to jointly devise a method to fund the \$500 billion transportation bill.

The bi-partisan leadership of the House T & I Committee has indicated for months that they would not author or support any extensions to the highway program, since they feel such extensions have led to excessive delays in the past. However, a very crowded congressional schedule that has the transportation bill competing for time in the Ways and Means Committee -- which is charged with finding a way to pay for the massive bill -- and on the House floor with appropriations bills, climate legislation and health care reform, may not allow enough time for consideration of the highway bill.

Even if the Oberstar-Mica effort were to overcome the long odds and crowded schedule to pass a bill thru the House this summer, a number of obstacles remain. The Senate would have to pass companion legislation before the September deadline, which is unlikely given the jurisdictional split between the Environmental & Public Works Committee and two other panels, as well as, Senator Boxer's support of the administration plan to delay reauthorization for 18 months

SDA remains in close, regular contact with Congressional leadership and the Administration and will continue to report important news to City staff as we monitor Congressional deliberations over scheduling of the reauthorization process.

### **The Highway Trust Fund**

An issue that will impact both the reauthorization and appropriations processes relates to Department of Transportation estimates that the Highway Trust Fund will run out of funds sometime this summer. DOT is calling for lawmakers to inject \$20 billion into the account to keep it afloat through March 2011, when the Administration's proposed 18-month extension of SAFETEA-LU would expire. Congressional appropriators acknowledge they will prop up the HTF but are struggling to find the necessary offsets for the HTF shortfall.

Last September, when the trust fund faced a similar shortfall, appropriators

transferred \$8 billion from the Treasury's general fund to keep the highway account afloat. This funding was not offset and was included in the Omnibus FY 09 funding bill. The Obama Administration has said it will search for budget offsets to fund the HTF, but to date has not disclosed what other programs would be cut. The Republican leadership, on the other hand, has suggested tapping into unspent stimulus dollars to replenish the trust fund. The bottom line is that no plan to find the necessary funding to fix the estimated \$20 Billion shortfall necessary to fund on-going highway programs has been agreed to by any of the interested parties.

The City of Sacramento's federal transportation funding needs are substantial. They require the City and its delegation to pursue an aggressive strategy during the next two federal appropriations cycles, as well as the reauthorization process. The good news is that the delegation has been supportive of the Sacramento transportation priorities. This good news, however, does not diminish the need for a strategy that involves making important decisions about priorities in funding requests, particularly as the City's federal transportation agenda is now broader and more complex than prior years. Sacramento's transportation priorities match well with policy and program emphases proposed in the new authorizing legislation, the normal appropriations process, and the Obama Administration's Recovery Act funding.

Based upon the federal funding agendas developed for the city in recent years, the priority project needs fall into the four categories below.

\* **Sacramento Intermodal Transportation Facility (SITF)** The City Department of Transportation has submitted a high priority program (HPP) project request to Representative Matsui's office for \$20 M of funding for the next phases of the SITF—the Senate offices have not asked for project submissions as yet. The SITF is the City of Sacramento's top funding priority for reauthorization assistance, and the project has characteristics and elements which clearly define a federal interest. A long-term strategy to secure federal assistance for the Intermodal Station will be dependent to a degree upon the scale of the surface transportation bill when it is finally authorized. However, it is also likely that new authorizing legislation will redefine and create new funding programs. SDA will monitor these program changes and in turn help identify federal funding sources for the array of project elements that comprise the Intermodal project.

\* **North Central Business District Access Improvements** These proposed improvements effectively serve: 1) the development needs of the Sacramento Railyards; and 2, the redevelopment opportunities of the Richards Boulevard area. Previous earmarks facilitated by SDA, and secured by the California Congressional Delegation in both House and Senate Authorization and Appropriation Subcommittees, provided critical support for the completed 7<sup>th</sup> Street project. The funding provided in SAFETEA-LU provided important capital assistance for the transportation improvements to this vital area of the city. To the degree that project elements are integral to the Railyards development, it is hoped that a funding plan between the City and the developer will define these capital obligations, which will allow SDA to assist in pursuing additional federal assistance.

\* **Folsom Boulevard Development** Past efforts have provided substantial federal resources to support a package of projects addressing traffic congestion and safety problems while supporting significant private development. Working closely with Representative Matsui, Senator Feinstein, Senator Boxer, and the House Transportation Appropriations sub-committee, SDA continues to work towards securing a \$6 million earmark in the FY 10 appropriations bill. If successful, this funding should provide an important resource for the Folsom Boulevard Development—Ramona Avenue Extension Project. In a very competitive funding environment, the federal legislative history of Folsom Blvd. funding assistance, and continued strong community support for these improvements, will provide important leverage in seeking additional assistance.

\* **Other Projects** With the pending FY 2010 appropriations request of \$4.0 million for R Street, SDA continues to work closely with the Sacramento Congressional Delegation and the House and Senate Transportation Appropriations Subcommittees to identify and target specific program funding. Other project needs, such as Cosumnes River Boulevard and R Street, may have to be examined in the context of the priorities which have defined the City's federal agenda in recent years.

SDA will assist the City in securing additional federal transportation resources using proven methods that have been successfully employed in the past, but also employing additional measures that should define a proactive lobbying approach to new resources, such as funding from the Recovery Act. Such an approach is certainly

appropriate in light of the progress to date on the STIF and North CBD projects. SDA will continue to work with the City in examining federal resource opportunities from new sources, such as the Recovery Act and any new programs in the reauthorization bill, which may provide an opportunity for additional funding for the SITF and other elements of the Railyards project.

Sacramento's priority projects have enjoyed both authorization and appropriations funding support. The results of these prior efforts are now visible as previously funded projects are completed. SDA believes that a key to this success has been the preparation of an **Annual Federal Transportation Agenda**, which remains an important and useful tool, providing a common base of information and establishing certainty among all decision-makers, other agencies (RT, SACOG), and interested parties to the City's priorities. SDA will continue to support the City in initiating and assisting with this product.

However, beyond this annual document and assistance in the preparation and transmission of specific project requests, SDA recommends that the City seek to be more proactive in lobbying its federal agenda with an **annual visit to Washington** prior to appropriations request submissions, by the City Manager, the Mayor, and/or city staff. This would provide an opportunity to meet with members of the delegation, their staffs, as well as committee staff, in order to discuss Sacramento's priority transportation requests in detail. While SDA maintains on-going contact with these parties, the City's representatives are their own best advocates and such visits should be more frequent and should be supplemental to the annual Cap-to-Cap trip.

The City's lobbying effort should also seek visits to Sacramento by members of the CA delegation, other key members of Congress, and committee staff. The opportunity for congressional visits to Sacramento, including site visits to both past project investments, current and future projects, should remain an important tool in securing support, as well as developing on-going relationships between City leadership and key Members of Congress and their staffs. In recent years, tours with delegation staff to project sites have been very useful, resulting in a noticeable and increased level of interest, enthusiasm, and advocacy on the part of those delegation staff involved. This

effort, which SDA has fostered for the City of Sacramento, should be a regular component of Sacramento's lobbying strategy.

### **Project Schedule**

#### **October 2009: SAFETEA-LU Expiration and the Beginning of FY 2010**

Tasks: September 30<sup>th</sup> 2009 is the last day SAFETEA-LU is authorized to fund surface transportation costs. As of June 2009, while the House Transportation & Infrastructure Committee continues to push for passage of the next surface transportation reauthorization before its September expiration, the Senate and the Administration are pushing for an 18 month extension. Regardless of which approach prevails, SDA will vigilantly monitor the progress of the bill and its impact on the transportation interests of the City of Sacramento. It will also be important for our firm to reinforce your priorities with the California Delegation and with key committees; lobby staff; and monitor the FY 2010 budget deliberations between the two chambers of Congress.

#### **November 2009: Appropriations/Authorizing/Conference Committee**

Tasks: If Congress fails to meet the fiscal year deadline of September 30<sup>th</sup>, authorizing and appropriation conference committee deliberations will continue. SDA will monitor these deliberations to protect the City of Sacramento's legislative priorities. We will meet with the City staff to begin discussing the FY 2011 Annual Federal Transportation Agenda. Depending on how the surface transportation bill shapes-up, SDA and the City will need to ensure that City priorities are included in the final passage. If the bill passes before the end of November, we will provide a detailed report of how it will affect the City. If the bill is still being deliberated, we will need to continue to advocate on behalf of the City's transportation priorities.

#### **December 2009: End of Year Legislative Rush / Holiday Recess**

Tasks: We will continue to monitor the FY 2010 Appropriations process if it is still being deliberated. We will also continue to watch the surface transportation reauthorization process if it has not yet been completed. By this time, we should have solidified what the

City of Sacramento's federal priorities will be in FY 2011—City officials, in consultation with SDA, will identify and prioritize the needs for the FY 2011 appropriation cycle. After a list of transportation projects has been compiled, SDA will work with City officials to draft project white papers for inclusion in the City of Sacramento's federal agenda.

**January 2010: 111<sup>th</sup> Congress Begins (Second Session)**

Tasks: Once we have received formal approval of the transportation agenda from the City Council and City staff, we will finalize the City's legislative strategy and immediately initiate discussions with the California Congressional Delegation staff to familiarize them with each project request. Where necessary, SDA will also begin discussions with the Executive Branch and agencies and continue participation in organizations, coalitions, and forums related to transportation-related issues of concern to the City and maintain an awareness of the development of those issues.

**February 2010: President Submits FY 2011 Budget Proposal to Congress**

Tasks: We will provide the City with an analysis of the President's FY 2011 Budget Proposal and identify and monitor proposed transportation-related legislation, regulations and issues of interest to the City. SDA will initiate discussions with key Congressional staff, the Executive Branch and Administrative agencies. Next, we will identify and secure House and Senate sponsors for appropriations earmarks and draft appropriation request letters and work with staff to complete committee forms for the appropriate members of the California Congressional Delegation.

**March 2010: Congress Adopts Concurrent Budget Resolution**

Tasks: We will schedule and coordinate a visit to Washington, DC for City staff to meet with Members of Congress, Congressional staff and the Executive Branch Agencies to advocate legislative and funding priorities. Where necessary, we will draft testimony for Appropriations Committee hearings, arrange public testimony and prepare amendments or committee report language as appropriate.

**April 2010: Appropriations Hearings/Spring Supplemental**

Tasks: We will closely monitor the budget/appropriations process and reauthorization mark-ups and work with City staff on short term goals and strategies, including grassroots outreach and coordinating letters of support for the City's 2011 Annual Transportation Agenda from the greater Sacramento community leadership.

**May 2010: 302(b) Budget Allocations Made to Appropriations Subcommittees**

Tasks: SDA will examine the 302(b) budget allocations made to all the Appropriations Subcommittees to determine the level of funding allowed for individual subcommittee bills. We will also touch base regularly with Authorizing and Appropriations Committees and staff to identify earmark opportunities and will monitor the House & Senate subcommittee hearings once they begin.

**June – July 2010: House/Senate Subcommittees Mark-Up**

Tasks: SDA will work on an ongoing basis with staff on the respective subcommittees to influence reauthorization and appropriations process before mark-ups and protect our authorization and appropriation requests. We may need to adjust our strategy according to what legislative policies are moving. We will remain vigilant in monitoring the appropriations process and competitive grant applications.

**August 2010: Summer Recess**

Tasks: SDA will work with City staff during the summer recess to make district contacts with Members of the California delegation and invite Members and staff to view projects to insure they have an in-depth overview of the City of Sacramento's Agenda and the positive impact funding for these projects will have on the City and its residents. We will maintain our efforts to mobilize local grassroots support.

**September 2010: House/Senate Committee Mark-Ups Continue**

Tasks: SDA will lobby committee mark-ups as needed and schedule additional visits to DC for City staff, as appropriate, to advocate for Sacramento's legislative/funding

priorities. At this time, we will also have a better understanding of what other pieces of legislation Congress will be working on for the remainder of the year.

## EXHIBIT B

### PROFESSIONAL SERVICES AGREEMENT

#### FEE SCHEDULE/MANNER OF PAYMENT

1. **CONTRACTOR's Compensation.** The total of all fees paid to the CONTRACTOR for the performance of all services set forth in Exhibit A, including normal revisions (hereafter the "Services"), and for all authorized Reimbursable Expenses, shall not exceed the total sum of \$96,000.00 for the one year term.
2. **Billable Rates.** CONTRACTOR shall be paid for the performance of Services on a monthly rate as set forth in Attachment 1 to Exhibit B, attached hereto and incorporated herein.
3. **CONTRACTOR's Reimbursable Expenses.** Reimbursable Expenses shall be limited to actual expenditures of CONTRACTOR for expenses that are necessary for the proper completion of the Services and shall only be payable if specifically authorized in advance by CITY.
4. **Payments to CONTRACTOR.**
  - A. Payments to CONTRACTOR shall be made within a reasonable time after receipt of CONTRACTOR's invoice, said payments to be made in proportion to services performed or as otherwise specified in Attachment 1 to Exhibit B. CONTRACTOR may request payment on a monthly basis. CONTRACTOR shall be responsible for the cost of supplying all documentation necessary to verify the monthly billings to the satisfaction of CITY.
  - B. All invoices submitted by CONTRACTOR shall contain the following information:
    - (1) Job Name
    - (2) Description of services billed under this invoice, and overall status of project
    - (3) Date of Invoice Issuance
    - (4) Sequential Invoice Number
    - (5) CITY's Purchase Order Number
    - (6) Total Contract Amount
    - (7) Amount of this Invoice (Itemize all Reimbursable Expenses)
    - (8) Total Billed to Date
    - (9) Total Remaining on Contract
    - (10) Updated project schedule. This shall identify those steps that shall be taken to bring the project back on schedule if it is behind schedule.
  - C. Items shall be separated into Services and Reimbursable Expenses. Billings that do not conform to the format outlined above shall be returned to CONTRACTOR for correction. CITY shall not be responsible for delays in payment to CONTRACTOR resulting from CONTRACTOR's failure to comply with the invoice format described below.

D. Requests for payment shall be sent to:

*Azadeh Doherty, Principal Planner  
City of Sacramento – Department of Transportation  
915 I Street, Suite 2000  
Sacramento, CA 95814  
Phone (916) 808-3137 Fax (916) 808-5573 - [adoherty@cityofsacramento.org](mailto:adoherty@cityofsacramento.org)*

5. **Additional Services.** Additional Services are those services related to the scope of services of CONTRACTOR set forth in Exhibit A but not anticipated at the time of execution of this Agreement. Additional Services shall be provided only when a Supplemental Agreement authorizing such Additional Services is approved by CITY in accordance with CITY's Supplemental Agreement procedures. CITY reserves the right to perform any Additional Services with its own staff or to retain other contractors to perform said Additional Services.
6. **Accounting Records of CONTRACTOR.** During performance of this Agreement and for a period of three (3) years after completing all Services and Additional Services hereunder, CONTRACTOR shall maintain all accounting and financial records related to this Agreement, including, but not limited to, records of CONTRACTOR's costs for all Services and Additional Services performed under this Agreement and records of CONTRACTOR's Reimbursable Expenses, in accordance with generally accepted accounting practices, and shall keep and make such records available for inspection and audit by representatives of the CITY upon reasonable written notice.
7. **Taxes.** CONTRACTOR shall pay, when and as due, any and all taxes incurred as a result of CONTRACTOR's compensation hereunder, including estimated taxes, and shall provide CITY with proof of such payment upon request. CONTRACTOR hereby agrees to indemnify CITY for any claims, losses, costs, fees, liabilities, damages or injuries suffered by CITY arising out of CONTRACTOR's breach of this Section 7.

**Attachment 1 to Exhibit B**

**Fee Proposal**

This Proposal has been prepared in response to the City's RFP for Federal Transportation Legislative Services (Program Code 15001011). This separate enclosed cost proposal, is binding upon SDA for 120 days from the date of submission. SDA proposes a monthly retainer fee of \$8,000 per month.

On behalf of Smith Dawson & Andrews, we thank you for the opportunity to present our qualifications. After you have reviewed our proposal, please do not hesitate to contact us directly with any questions or comments. SDA and DWC This Proposal prepared in response to the City's RFP, including the enclosed but separate cost proposal, is binding upon SDA for 120 days from the date of submission. SDA proposes a monthly retainer fee of \$8,000 per month.

**EXHIBIT C**

**PROFESSIONAL SERVICES AGREEMENT**

**FACILITIES AND EQUIPMENT TO BE PROVIDED BY CITY**

CITY shall *[check one]*

X Not furnish any facilities or equipment for this Agreement; or

\_\_\_\_\_ furnish the following facilities or equipment for the Agreement; *[list, if applicable]*

**EXHIBIT D**  
**PROFESSIONAL SERVICES AGREEMENT**

**GENERAL PROVISIONS**

**1. Independent Contractor.**

- A. It is understood and agreed that CONTRACTOR (including CONTRACTOR's employees) is an independent contractor and that no relationship of employer-employee exists between the parties hereto for any purpose whatsoever. Neither CONTRACTOR nor CONTRACTOR's assigned personnel shall be entitled to any benefits payable to employees of CITY. CITY is not required to make any deductions or withholdings from the compensation payable to CONTRACTOR under the provisions of this Agreement, and CONTRACTOR shall be issued a Form 1099 for its services hereunder. As an independent contractor, CONTRACTOR hereby agrees to indemnify and hold CITY harmless from any and all claims that may be made against CITY based upon any contention by any of CONTRACTOR's employees or by any third party, including but not limited to any state or federal agency, that an employer-employee relationship or a substitute therefor exists for any purpose whatsoever by reason of this Agreement or by reason of the nature and/or performance of any Services under this Agreement. (As used in this Exhibit D, the term "Services" shall include both Services and Additional Services as such terms are defined elsewhere in this Agreement.)
- B. It is further understood and agreed by the parties hereto that CONTRACTOR, in the performance of its obligations hereunder, is subject to the control and direction of CITY as to the designation of tasks to be performed and the results to be accomplished under this Agreement, but not as to the means, methods, or sequence used by CONTRACTOR for accomplishing such results. To the extent that CONTRACTOR obtains permission to, and does, use CITY facilities, space, equipment or support services in the performance of this Agreement, this use shall be at the CONTRACTOR's sole discretion based on the CONTRACTOR's determination that such use will promote CONTRACTOR's efficiency and effectiveness. Except as may be specifically provided elsewhere in this Agreement, the CITY does not require that CONTRACTOR use CITY facilities, equipment or support services or work in CITY locations in the performance of this Agreement.
- C. If, in the performance of this Agreement, any third persons are employed by CONTRACTOR, such persons shall be entirely and exclusively under the direction, supervision, and control of CONTRACTOR. Except as may be specifically provided elsewhere in this Agreement, all terms of employment, including hours, wages, working conditions, discipline, hiring, and discharging, or any other terms of employment or requirements of law, shall be determined by CONTRACTOR. It is further understood and agreed that CONTRACTOR shall issue W-2 or 1099 Forms for income and employment tax purposes, for all of CONTRACTOR's assigned personnel and subcontractors.

D. The provisions of this Section 1 shall survive any expiration or termination of this Agreement. Nothing in this Agreement shall be construed to create an exclusive relationship between CITY and CONTRACTOR. CONTRACTOR may represent, perform services for, or be employed by such additional persons or companies as CONTRACTOR sees fit provided that CONTRACTOR does not violate the provisions of Section 5, below.

2. **Licenses; Permits, Etc.** CONTRACTOR represents and warrants that CONTRACTOR has all licenses, permits, City Business Operations Tax Certificate, qualifications, and approvals of whatsoever nature that are legally required for CONTRACTOR to practice its profession or provide any services under the Agreement. CONTRACTOR represents and warrants that CONTRACTOR shall, at its sole cost and expense, keep in effect or obtain at all times during the term of this Agreement any licenses, permits, and approvals that are legally required for CONTRACTOR to practice its profession or provide such Services. Without limiting the generality of the foregoing, if CONTRACTOR is an out-of-state corporation, CONTRACTOR warrants and represents that it possesses a valid certificate of qualification to transact business in the State of California issued by the California Secretary of State pursuant to Section 2105 of the California Corporations Code.
3. **Time.** CONTRACTOR shall devote such time and effort to the performance of Services pursuant to this Agreement as is necessary for the satisfactory and timely performance of CONTRACTOR's obligations under this Agreement. Neither party shall be considered in default of this Agreement, to the extent that party's performance is prevented or delayed by any cause, present or future, that is beyond the reasonable control of that party.
4. **CONTRACTOR Not Agent.** Except as CITY may specify in writing, CONTRACTOR and CONTRACTOR's personnel shall have no authority, express or implied, to act on behalf of CITY in any capacity whatsoever as an agent. CONTRACTOR and CONTRACTOR's personnel shall have no authority, express or implied, to bind CITY to any obligations whatsoever.
5. **Conflicts of Interest.** CONTRACTOR covenants that neither it, nor any officer or principal of its firm, has or shall acquire any interest, directly or indirectly, that would conflict in any manner with the interests of CITY or that would in any way hinder CONTRACTOR's performance of Services under this Agreement. CONTRACTOR further covenants that in the performance of this Agreement, no person having any such interest shall be employed by it as an officer, employee, agent or subcontractor, without the written consent of CITY. CONTRACTOR agrees to avoid conflicts of interest or the appearance of any conflicts of interest with the interests of CITY at all times during the performance of this Agreement. If CONTRACTOR is or employs a former officer or employee of the CITY, CONTRACTOR and any such employee(s) shall comply with the provisions of Sacramento City Code Section 2.16.090 pertaining to appearances before the City Council or any CITY department, board, commission or committee.
6. **Confidentiality of CITY Information.** During performance of this Agreement, CONTRACTOR may gain access to and use CITY information regarding inventions, machinery, products, prices, apparatus, costs, discounts, future plans, business affairs, governmental affairs, processes, trade secrets, technical matters, systems, facilities, customer lists, product design, copyright, data, and other vital information (hereafter collectively referred to as "City Information") that are

valuable, special and unique assets of the CITY. CONTRACTOR agrees to protect all City Information and treat it as strictly confidential, and further agrees that CONTRACTOR shall not at any time, either directly or indirectly, divulge, disclose or communicate in any manner any City Information to any third party without the prior written consent of CITY. In addition, CONTRACTOR shall comply with all CITY policies governing the use of the CITY network and technology systems, as set forth in applicable provisions of the City of Sacramento Administrative Policy Instructions # 30. A violation by CONTRACTOR of this Section 6 shall be a material violation of this Agreement and shall justify legal and/or equitable relief.

**7. CONTRACTOR Information.**

- A. CITY shall have full ownership and control, including ownership of any copyrights, of all information prepared, produced, or provided by CONTRACTOR pursuant to this Agreement. In this Agreement, the term "information" shall be construed to mean and include: any and all work product, submittals, reports, plans, specifications, and other deliverables consisting of documents, writings, handwritings, typewriting, printing, photostating, photographing, computer models, and any other computerized data and every other means of recording any form of information, communications, or representation, including letters, works, pictures, drawings, sounds, or symbols, or any combination thereof. CONTRACTOR shall not be responsible for any unauthorized modification or use of such information for other than its intended purpose by CITY.
- B. CONTRACTOR shall fully defend, indemnify and hold harmless CITY, its officers and employees, and each and every one of them, from and against any and all claims, actions, lawsuits or other proceedings alleging that all or any part of the information prepared, produced, or provided by CONTRACTOR pursuant to this Agreement infringes upon any third party's trademark, trade name, copyright, patent or other intellectual property rights. CITY shall make reasonable efforts to notify CONTRACTOR not later than ten (10) days after CITY is served with any such claim, action, lawsuit or other proceeding, provided that CITY's failure to provide such notice within such time period shall not relieve CONTRACTOR of its obligations hereunder, which shall survive any termination or expiration of this Agreement.
- C. All proprietary and other information received from CONTRACTOR by CITY, whether received in connection with CONTRACTOR's proposal to CITY or in connection with any Services performed by CONTRACTOR, will be disclosed upon receipt of a request for disclosure, pursuant to the California Public Records Act; provided, however, that, if any information is set apart and clearly marked "trade secret" when it is provided to CITY, CITY shall give notice to CONTRACTOR of any request for the disclosure of such information. The CONTRACTOR shall then have five (5) days from the date it receives such notice to enter into an agreement with the CITY, satisfactory to the City Attorney, providing for the defense of, and complete indemnification and reimbursement for all costs (including plaintiff's attorney fees) incurred by CITY in any legal action to compel the disclosure of such information under the California Public Records Act. The CONTRACTOR shall have sole responsibility for defense of the actual "trade secret" designation of such information.
- D. The parties understand and agree that any failure by CONTRACTOR to respond to the notice provided by CITY and/or to enter into an agreement with CITY, in accordance with

the provisions of subsection C, above, shall constitute a complete waiver by CONTRACTOR of any rights regarding the information designated "trade secret" by CONTRACTOR, and such information shall be disclosed by CITY pursuant to applicable procedures required by the Public Records Act.

8. **Standard of Performance.** CONTRACTOR shall perform all Services required pursuant to this Agreement in the manner and according to the standards currently observed by a competent practitioner of CONTRACTOR's profession in California. All products of whatsoever nature that CONTRACTOR delivers to CITY pursuant to this Agreement shall be prepared in a professional manner and conform to the standards of quality normally observed by a person currently practicing in CONTRACTOR's profession, and shall be provided in accordance with any schedule of performance specified in Exhibit A. CONTRACTOR shall assign only competent personnel to perform Services pursuant to this Agreement. CONTRACTOR shall notify CITY in writing of any changes in CONTRACTOR's staff assigned to perform the Services required under this Agreement, prior to any such performance. In the event that CITY, at any time during the term of this Agreement, desires the removal of any person assigned by CONTRACTOR to perform Services pursuant to this Agreement, because CITY, in its sole discretion, determines that such person is not performing in accordance with the standards required herein, CONTRACTOR shall remove such person immediately upon receiving notice from CITY of the desire of CITY for the removal of such person.

9. **Term; Suspension; Termination.**

- A. This Agreement shall become effective on the date that it is approved by both parties, set forth on the first page of the Agreement, and shall continue in effect until both parties have fully performed their respective obligations under this Agreement, unless sooner terminated as provided herein.
- B. CITY shall have the right at any time to temporarily suspend CONTRACTOR's performance hereunder, in whole or in part, by giving a written notice of suspension to CONTRACTOR. If CITY gives such notice of suspension, CONTRACTOR shall immediately suspend its activities under this Agreement, as specified in such notice.
- C. CITY shall have the right to terminate this Agreement at any time by giving a written notice of termination to CONTRACTOR. If CITY gives such notice of termination, CONTRACTOR shall immediately cease rendering Services pursuant to this Agreement. If CITY terminates this Agreement:
  - (1) CONTRACTOR shall, not later than five days after such notice of termination, deliver to CITY copies of all information prepared pursuant to this Agreement.
  - (2) CITY shall pay CONTRACTOR the reasonable value of Services rendered by CONTRACTOR prior to termination; provided, however, CITY shall not in any manner be liable for lost profits that might have been made by CONTRACTOR had the Agreement not been terminated or had CONTRACTOR completed the Services required by this Agreement. In this regard, CONTRACTOR shall furnish to CITY such financial information as in the judgment of the CITY is necessary for CITY to determine the reasonable value of the Services rendered

by CONTRACTOR. The foregoing is cumulative and does not affect any right or remedy that CITY may have in law or equity.

**10. Indemnity.**

- A. Indemnity: CONTRACTOR shall defend, hold harmless and indemnify CITY, its officers and employees, and each and every one of them, from and against any and all actions, damages, costs, liabilities, claims, demands, losses, judgments, penalties, costs and expenses of every type and description, including, but not limited to, any fees and/or costs reasonably incurred by CITY's staff attorneys or outside attorneys and any fees and expenses incurred in enforcing this provision (hereafter collectively referred to as "Liabilities"), including but not limited to Liabilities arising from personal injury or death, damage to personal, real or intellectual property or the environment, contractual or other economic damages, or regulatory penalties, arising out of or in any way connected with performance of or failure to perform this Agreement by CONTRACTOR, any sub-consultant, subcontractor or agent, anyone directly or indirectly employed by any of them or anyone for whose acts any of them may be liable, whether or not (i) such Liabilities are caused in part by a party indemnified hereunder or (ii) such Liabilities are litigated, settled or reduced to judgment; provided that the foregoing indemnity does not apply to liability for any damage or expense for death or bodily injury to persons or damage to property to the extent arising from the sole negligence or willful misconduct of CITY, its agents, servants, or independent contractors who are directly responsible to CITY, except when such agents, servants, or independent contractors are under the direct supervision and control of CONTRACTOR.
- B. Insurance Policies; Intellectual Property Claims: The existence or acceptance by CITY of any of the insurance policies or coverages described in this Agreement shall not affect or limit any of CITY's rights under this Section 10, nor shall the limits of such insurance limit the liability of CONTRACTOR hereunder. This Section 10 shall not apply to any intellectual property claims, actions, lawsuits or other proceedings subject to the provisions of Section 7.B., above. The provisions of this Section 10 shall survive any expiration or termination of this Agreement.

**11. Insurance Requirements.** During the entire term of this Agreement, CONTRACTOR shall maintain the insurance coverage described in this Section 11.

Full compensation for all premiums that CONTRACTOR is required to pay for the insurance coverage described herein shall be included in the compensation specified for the Services provided by CONTRACTOR under this Agreement. No additional compensation will be provided for CONTRACTOR's insurance premiums.

It is understood and agreed by the CONTRACTOR that its liability to the CITY shall not in any way be limited to or affected by the amount of insurance coverage required or carried by the CONTRACTOR in connection with this Agreement.

A. Minimum Scope & Limits of Insurance Coverage

- (1) Commercial General Liability Insurance, providing coverage at least as broad as ISO CGL Form 00 01 on an occurrence basis for bodily injury, including death, of

one or more persons, property damage and personal injury, with limits of not less than one million dollars (\$1,000,000) per occurrence. The policy shall provide contractual liability and products and completed operations coverage for the term of the policy.

- (2) Automobile Liability Insurance providing coverage at least as broad as ISO Form CA 00 01 on an occurrence basis for bodily injury, including death, of one or more persons, property damage and personal injury, with limits of not less than one million dollars (\$1,000,000) per occurrence. The policy shall provide coverage for owned, non-owned and/or hired autos as appropriate to the operations of the CONTRACTOR.

No automobile liability insurance shall be required if CONTRACTOR completes the following certification:

"I certify that a motor vehicle will not be used in the performance of any work or services under this agreement." \_\_\_\_\_ (CONTRACTOR initials)

- (3) Workers' Compensation Insurance with statutory limits, and Employers' Liability Insurance with limits of not less than one million dollars (\$1,000,000). The Worker's Compensation policy shall include a waiver of subrogation for contracts involving construction or maintenance, or if required by the CITY by selecting the option below:

\_\_\_\_\_ Workers' Compensation waiver of subrogation in favor of the City is required for all work performed by the CONTRACTOR.

No Workers' Compensation insurance shall be required if CONTRACTOR completes the following certification:

"I certify that my business has no employees, and that I do not employ anyone. I am exempt from the legal requirements to provide Workers' Compensation insurance." \_\_\_\_\_ (CONTRACTOR initials)

- (4) Professional Liability Insurance providing coverage on claims made basis for errors, omissions or malpractice with limits of not less than one million (\$1,000,000) dollars if required by the CITY under Exhibit A, Section 2.

B. Additional Insured Coverage

- (1) Commercial General Liability Insurance: The CITY, its officials, employees and volunteers shall be covered by policy terms or endorsement as additional insured as respects general liability arising out of activities performed by or on behalf of CONTRACTOR, products and completed operations of CONTRACTOR, and premises owned, leased or used by CONTRACTOR. The general liability additional insured endorsement must be signed by an authorized representative of the insurance carrier for contracts involving construction or maintenance, or if required by the CITY by selecting the option below;

\_\_\_\_\_ Additional insured endorsement must be signed by an authorized representative of the insurance carrier.

If the policy includes a blanket additional insured endorsement or contractual additional insured coverage, the above signature requirement may be fulfilled by submitting that document with a signed declaration page referencing the blanket endorsement or policy form.

- (2) Automobile Liability Insurance: The CITY, its officials, employees and volunteers shall be covered by policy terms or endorsement as additional insured as respects auto liability.

C. Other Insurance Provisions

The policies are to contain, or be endorsed to contain, the following provisions:

- (1) Except for professional liability, CONTRACTOR's insurance coverage shall be primary insurance as respects CITY, its officials, employees and volunteers. Any insurance or self-insurance maintained by CITY, its officials, employees or volunteers shall be in excess of CONTRACTOR's insurance and shall not contribute with it.
- (2) Any failure to comply with reporting provisions of the policies shall not affect coverage provided to CITY, its officials, employees or volunteers.
- (3) Coverage shall state that CONTRACTOR's insurance shall apply separately to each insured against whom claim is made or suit is brought, except with respect to the limits of the insurer's liability.
- (4) CITY will be provided with thirty (30) days written notice of cancellation or material change in the policy language or terms.

D. Acceptability of Insurance

Insurance shall be placed with insurers with a Bests' rating of not less than A:V. Self-insured retentions, policy terms or other variations that do not comply with the requirements of this Section 11 must be declared to and approved by the CITY Risk Management Division in writing prior to execution of this Agreement.

E. Verification of Coverage

- (1) CONTRACTOR shall furnish CITY with certificates and required endorsements evidencing the insurance required. The certificates and endorsements shall be forwarded to the CITY representative named in Exhibit A. Copies of policies shall be delivered to the CITY on demand. Certificates of insurance shall be signed by an authorized representative of the insurance carrier.
- (2) The CITY may withdraw its offer of contract or cancel this Agreement if the

certificates of insurance and endorsements required have not been provided prior to execution of this Agreement. The CITY may withhold payments to CONTRACTOR and/or cancel the Agreement if the insurance is canceled or CONTRACTOR otherwise ceases to be insured as required herein.

F. Subcontractors

CONTRACTOR shall require and verify that all sub-consultants and subcontractors maintain insurance coverage that meets the minimum scope and limits of insurance coverage specified in subsection A, above.

12. **Equal Employment Opportunity.** During the performance of this Agreement, CONTRACTOR, for itself, its assignees and successors in interest, agrees as follows:

- A. Compliance With Regulations: CONTRACTOR shall comply with the Executive Order 11246 entitled "Equal Opportunity in Federal Employment", as amended by Executive Order 11375 and 12086, and as supplemented in Department of Labor regulations (41 CFR Chapter 60), hereinafter collectively referred to as the "Regulations".
- B. Nondiscrimination: CONTRACTOR, with regards to the work performed by it after award and prior to completion of the work pursuant to this Agreement, shall not discriminate on the ground of race, color, religion, sex, national origin, age, marital status, physical handicap or sexual orientation in selection and retention of subcontractors, including procurement of materials and leases of equipment. CONTRACTOR shall not participate either directly or indirectly in discrimination prohibited by the Regulations.
- C. Solicitations for Subcontractors, Including Procurement of Materials and Equipment: In all solicitations either by competitive bidding or negotiations made by CONTRACTOR for work to be performed under any subcontract, including all procurement of materials or equipment, each potential subcontractor or supplier shall be notified by CONTRACTOR of CONTRACTOR's obligation under this Agreement and the Regulations relative to nondiscrimination on the ground of race, color, religion, sex, national origin, age, marital status, physical handicap or sexual orientation.
- D. Information and Reports: CONTRACTOR shall provide all information and reports required by the Regulations, or by any orders or instructions issued pursuant thereto, and shall permit access to its books, records, accounts, other sources of information and its facilities as may be determined by the CITY to be pertinent to ascertain compliance with such Regulations, orders and instructions. Where any information required of CONTRACTOR is in the exclusive possession of another who fails or refuses to furnish this information, CONTRACTOR shall so certify to the CITY, and shall set forth what efforts it has made to obtain the information.
- E. Sanctions for Noncompliance: In the event of noncompliance by CONTRACTOR with the nondiscrimination provisions of this Agreement, the CITY shall impose such sanctions as it may determine to be appropriate including, but not limited to:
  - (1) Withholding of payments to CONTRACTOR under this Agreement until CONTRACTOR complies;

(2) Cancellation, termination, or suspension of the Agreement, in whole or in part.

F. Incorporation of Provisions: CONTRACTOR shall include the provisions of subsections A through E, above, in every subcontract, including procurement of materials and leases of equipment, unless exempted by the Regulations, or by any order or instructions issued pursuant thereto. CONTRACTOR shall take such action with respect to any subcontract or procurement as the CITY may direct as a means of enforcing such provisions including sanctions for noncompliance; provided, however, that in the event CONTRACTOR becomes involved in, or is threatened with, litigation with a subcontractor or supplier as a result of such direction, CONTRACTOR may request CITY to enter such litigation to protect the interests of CITY.

13. **Entire Agreement.** This document, including all Exhibits, contains the entire agreement between the parties and supersedes whatever oral or written understanding they may have had prior to the execution of this Agreement. No alteration to the terms of this Agreement shall be valid unless approved in writing by CONTRACTOR, and by CITY, in accordance with applicable provisions of the Sacramento City Code.
14. **Severability.** If any portion of this Agreement or the application thereof to any person or circumstance shall be held invalid or unenforceable, the remainder of this Agreement shall not be affected thereby and shall be enforced to the greatest extent permitted by law.
15. **Waiver.** Neither CITY acceptance of, or payment for, any Service or Additional Service performed by CONTRACTOR, nor any waiver by either party of any default, breach or condition precedent, shall be construed as a waiver of any provision of this Agreement, nor as a waiver of any other default, breach or condition precedent or any other right hereunder.
16. **Enforcement of Agreement.** This Agreement shall be governed, construed and enforced in accordance with the laws of the State of California. Venue of any litigation arising out of or connected with this Agreement shall lie exclusively in the state trial court or Federal District Court located in Sacramento County in the State of California, and the parties consent to jurisdiction over their persons and over the subject matter of any such litigation in such courts, and consent to service of process issued by such courts.
17. **Assignment Prohibited.** The expertise and experience of CONTRACTOR are material considerations for this Agreement. CITY has a strong interest in the qualifications and capability of the persons and entities who will fulfill the obligations imposed on CONTRACTOR under this Agreement. In recognition of this interest, CONTRACTOR shall not assign any right or obligation pursuant to this Agreement without the written consent of the CITY. Any attempted or purported assignment without CITY's written consent shall be void and of no effect.
18. **Binding Effect.** This Agreement shall be binding on the heirs, executors, administrators, successors and assigns of the parties, subject to the provisions of Section 17, above.

## EXHIBIT E

### REQUIREMENTS OF THE NON-DISCRIMINATION IN EMPLOYEE BENEFITS CODE

#### INTRODUCTION

The Sacramento Non-Discrimination In Employee Benefits Code (the "Ordinance"), codified as Sacramento City Code Chapter 3.54, prohibits City contractors from discriminating in the provision of employee benefits between employees with spouses and employees with domestic partners, and between the spouses and domestic partners of employees.

#### APPLICATION

The provisions of the Ordinance apply to any contract or agreement (as defined below), between a Contractor and the City of Sacramento, in an amount exceeding \$25,000.00. The Ordinance applies to that portion of a contractor's operations that occur: (i) within the City of Sacramento; (ii) on real property outside the City of Sacramento if the property is owned by the City or if the City has a right to occupy the property; or (iii) at any location where a significant amount of work related to a City contract is being performed.

The Ordinance does not apply: to subcontractors or subcontracts of any Contractor or contractors; to transactions entered into pursuant to cooperative purchasing agreements approved by the Sacramento City Council; to legal contracts of other governmental jurisdictions or public agencies without separate competitive bidding by the City; where the requirements of the ordinance will violate or are inconsistent with the terms or conditions of a grant, subvention or agreement with a public agency or the instructions of an authorized representative of any such agency with respect to any such grant, subvention or agreement; to permits for excavation or street construction; or to agreements for the use of City right-of-way where a contracting utility has the power of eminent domain.

#### DEFINITIONS

As set forth in the Ordinance, the following definitions apply:

"Contract" means an agreement for public works or improvements to be performed, or for goods or services to be purchased or grants to be provided, at the expense of the City or to be paid out of moneys deposited in the treasury or out of the trust money under the control or collected by the City. "Contract" also means a written agreement for the exclusive use ("exclusive use" means the right to use or occupy real property to the exclusion of others, other than the right reserved by the fee owner) or occupancy of real property for a term exceeding 29 days in any calendar year, whether by singular or cumulative instrument, (i) for the operation or use by others of real property owned or controlled by the City for the operation of a business, social, or other establishment or organization, including leases, concessions, franchises and easements, or (ii) for the City's use or occupancy of real property owned by others, including leases, concessions, franchises and easements.

"Contract" shall not include: a revocable at-will use or encroachment permit for the use of or encroachment on City property regardless of the ultimate duration of such permit; excavation, street construction or street use permits; agreements for the use of City right-of-way where a contracting utility has the power of eminent domain; or agreements governing the use of City property that constitute a public forum for activities that are primarily for the purpose of espousing or advocating causes or ideas

and that are generally protected by the First Amendment to the United States Constitution or that are primarily recreational in nature.

"Contractor" means any person or persons, firm partnership or corporation, company, or combination thereof, which enters into a Contract with the City. "Contractor" does not include a public entity.

"Domestic Partner" means any person who has a currently registered domestic partnership with a governmental entity pursuant to state or local law authorizing the registration.

"Employee Benefits" means bereavement leave; disability, life, and other types of insurance; family medical leave; health benefits; membership or membership discounts; moving expenses; pension and retirement benefits; vacation; travel benefits; and any other benefit given to employees. "Employee benefits" shall not include benefits to the extent that the application of the requirements of this chapter to such benefits may be preempted by federal or state.

#### **CONTRACTOR'S OBLIGATION TO PROVIDE THE CITY WITH DOCUMENTATION AND INFORMATION**

Contractor shall provide the City with documentation and information verifying its compliance with the requirements of the Ordinance within ten (10) days of receipt of a request from the City. Contractors shall keep accurate payroll records, showing, for each City Contract, the employee's name, address, Social Security number, work classification, straight time pay rate, overtime pay rate, overtime hours worked, status and exemptions, and benefits for each day and pay period that the employee works on the City Contract. Each request for payroll records shall be accompanied by an affidavit to be completed and returned by the Contractor, as stated, attesting that the information contained in the payroll records is true and correct, and that the Contractor has complied with the requirements of the Ordinance. A violation of the Ordinance or noncompliance with the requirements of the Ordinance shall constitute a breach of contract.

#### **EMPLOYER COMPLIANCE CERTIFICATE AND NOTICE REQUIREMENTS**

(a) All contractors seeking a Contract subject to the Ordinance shall submit a completed Declaration of Compliance Form, signed by an authorized representative, with each proposal, bid or application. The Declaration of Compliance shall be made a part of the executed contract, and will be made available for public inspection and copying during regular business hours.

(b) The Contractor shall give each existing employee working directly on a City contract, and (at the time of hire), each new employee, a copy of the notification provided as Attachment "A."

(c) Contractor shall post, in a place visible to all employees, a copy of the notice provided as Attachment "B."

## Attachment A



### YOUR RIGHTS UNDER THE CITY OF SACRAMENTO'S NON-DISCRIMINATION IN EMPLOYEE BENEFITS CODE

On ..... (date), your employer (the "Employer") entered into a contract with the City of Sacramento (the "City") for ..... (contract details), and as a condition of that contract, agreed to abide by the requirements of the City's Non-Discrimination In Employee Benefits Code (Sacramento City Code Section 3.54).

The Ordinance does not require the Employer to provide employee benefits. The Ordinance does require that if certain employee benefits are provided by the Employer, that those benefits be provided without discrimination between employees with spouses and employees with domestic partners, and without discrimination between the spouse or domestic partner of employees.

The Ordinance covers any employee working on the specific contract referenced above, but only for the period of time while those employees are actually working on this specific contract.

The included employee benefits are:

- Bereavement leave
- Disability, life and other types of insurance
- Family medical leave
- Health benefits
- Membership or membership discounts
- Moving expenses
- Pension and retirement benefits
- Vacation
- Travel benefits
- Any other benefits given to employees

(Employee Benefits does not include benefits that may be preempted by federal or state law.)

If you feel you have been discriminated or retaliated against by your employer in the terms and conditions of your application for employment, or in your employment, or in the application of these employee benefits, because of your status as an applicant or as an employee protected by the Ordinance, or because you reported a violation of the Ordinance, and after having exhausted all remedies with your employer,

**You May . . .**

- Submit a written complaint to the City of Sacramento, Contract Services Unit, containing the details of the alleged violation. The address is:

City of Sacramento  
Contract Services Unit  
915 I St, 2<sup>nd</sup> Floor  
Sacramento, CA 95814-2714

- Bring an action in the appropriate division of the Superior Court of the State of California against the Employer and obtain the following remedies:

- Reinstatement, injunctive relief, compensatory damages and punitive damages
- Reasonable attorney's fees and costs

## Attachment B



### YOUR RIGHTS UNDER THE CITY OF SACRAMENTO'S NON-DISCRIMINATION IN EMPLOYEE BENEFITS CODE

If your employer provides employee benefits, they must be provided to those employees working on a City of Sacramento contract without discriminating between employees with spouses and employees with domestic partners.

The included employee benefits are:

- Bereavement leave
- Disability, life and other types of insurance
- Family medical leave
- Health benefits
- Membership or membership discounts
- Moving expenses
- Pension and retirement benefits
- Vacation
- Travel benefits
- Any other benefits given to employees

If you feel you have been discriminated against by your employer . . .

**You May . . .**

- Submit a written complaint to the City of Sacramento, Contract Services Unit, containing the details of the alleged violation. The address is:

City of Sacramento  
Contract Services Unit  
915 I St, 2<sup>nd</sup> Floor  
Sacramento, CA 95814-2714

- Bring an action in the appropriate division of the Superior Court of the State of California against the employer and obtain reinstatement, injunctive relief, compensatory damages, punitive damages and reasonable attorney's fees and costs.

#### **Discrimination and Retaliation Prohibited.**

If you feel you have been discriminated or retaliated against by your employer in the terms and conditions of your application for employment, or in your employment, because of your status as an applicant or as an employee protected by the Ordinance, or because you reported a violation of this Ordinance . . .

**You May Also . . .**

Submit a written complaint to the City of Sacramento, Contract Services Unit, at the same address, containing the details of the alleged violation.



# CERTIFICATE OF LIABILITY INSURANCE

DATE (MM/DD/YYYY)  
08/28/2009

<b>PRODUCER</b> CS&S/IN/AL/IA GROUP LLC PO Box 946580, Maitland, FL 32794-6580	<p style="font-size: small;">THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW.</p>												
<b>INSURED</b> SMITH DAWSON&ANDREWS INC 1150 CONNECTICUT AVE NW STE 10 WASHINGTON, DC 20036	<table border="1" style="width: 100%; border-collapse: collapse;"> <tr> <th style="width: 70%;">INSURERS AFFORDING COVERAGE</th> <th style="width: 30%;">NAIC #</th> </tr> <tr> <td>INSURER A: Continental Casualty Company</td> <td></td> </tr> <tr> <td>INSURER B:</td> <td></td> </tr> <tr> <td>INSURER C:</td> <td></td> </tr> <tr> <td>INSURER D:</td> <td></td> </tr> <tr> <td>INSURER E:</td> <td></td> </tr> </table>	INSURERS AFFORDING COVERAGE	NAIC #	INSURER A: Continental Casualty Company		INSURER B:		INSURER C:		INSURER D:		INSURER E:	
INSURERS AFFORDING COVERAGE	NAIC #												
INSURER A: Continental Casualty Company													
INSURER B:													
INSURER C:													
INSURER D:													
INSURER E:													

**COVERAGES**

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

INSR LTR	ADD'L INSRD	TYPE OF INSURANCE	POLICY NUMBER	POLICY EFFECTIVE DATE (MM/DD/YYYY)	POLICY EXPIRATION DATE (MM/DD/YYYY)	LIMITS												
A	X	GENERAL LIABILITY <input checked="" type="checkbox"/> COMMERCIAL GENERAL LIABILITY <input type="checkbox"/> CLAIMS MADE <input checked="" type="checkbox"/> OCCUR <hr/> GEN'L AGGREGATE LIMIT APPLIES PER: <input type="checkbox"/> POLICY <input type="checkbox"/> PROJECT <input checked="" type="checkbox"/> LOC	2099566163	10/15/2009	10/15/2010	<table border="1" style="width: 100%; border-collapse: collapse; font-size: x-small;"> <tr><td>EACH OCCURRENCE</td><td style="text-align: right;">\$1,000,000</td></tr> <tr><td>DAMAGE TO RENTED PREMISES (Ea Occurrence)</td><td style="text-align: right;">\$300,000</td></tr> <tr><td>MED EXP (Any one person)</td><td style="text-align: right;">\$10,000</td></tr> <tr><td>PERSONAL &amp; ADV INJURY</td><td style="text-align: right;">\$1,000,000</td></tr> <tr><td>GENERAL AGGREGATE</td><td style="text-align: right;">\$2,000,000</td></tr> <tr><td>PRODUCTS - COM/PO/AGG</td><td style="text-align: right;">\$2,000,000</td></tr> </table>	EACH OCCURRENCE	\$1,000,000	DAMAGE TO RENTED PREMISES (Ea Occurrence)	\$300,000	MED EXP (Any one person)	\$10,000	PERSONAL & ADV INJURY	\$1,000,000	GENERAL AGGREGATE	\$2,000,000	PRODUCTS - COM/PO/AGG	\$2,000,000
EACH OCCURRENCE	\$1,000,000																	
DAMAGE TO RENTED PREMISES (Ea Occurrence)	\$300,000																	
MED EXP (Any one person)	\$10,000																	
PERSONAL & ADV INJURY	\$1,000,000																	
GENERAL AGGREGATE	\$2,000,000																	
PRODUCTS - COM/PO/AGG	\$2,000,000																	
A		AUTOMOBILE LIABILITY <input type="checkbox"/> ANY AUTO <input type="checkbox"/> ALLOWNED AUTOS <input type="checkbox"/> SCHEDULED AUTOS <input checked="" type="checkbox"/> HIRED AUTOS <input checked="" type="checkbox"/> NON-OWNED AUTOS	2099566163	10/15/2009	10/15/2010	<table border="1" style="width: 100%; border-collapse: collapse; font-size: x-small;"> <tr><td>COMBINED SINGLE LIMIT (Ea accident)</td><td style="text-align: right;">\$1,000,000</td></tr> <tr><td>BODILY INJURY (Per person)</td><td></td></tr> <tr><td>BODILY INJURY (Per accident)</td><td></td></tr> <tr><td>PROPERTY DAMAGE (Per accident)</td><td></td></tr> </table>	COMBINED SINGLE LIMIT (Ea accident)	\$1,000,000	BODILY INJURY (Per person)		BODILY INJURY (Per accident)		PROPERTY DAMAGE (Per accident)					
COMBINED SINGLE LIMIT (Ea accident)	\$1,000,000																	
BODILY INJURY (Per person)																		
BODILY INJURY (Per accident)																		
PROPERTY DAMAGE (Per accident)																		
		GARAGE LIABILITY <input type="checkbox"/> ANY AUTO				<table border="1" style="width: 100%; border-collapse: collapse; font-size: x-small;"> <tr><td>AUTO ONLY - EA ACCIDENT</td><td></td></tr> <tr><td>OTHER THAN AUTO ONLY:</td><td style="text-align: right;">EA ACC</td></tr> <tr><td></td><td style="text-align: right;">AGG</td></tr> </table>	AUTO ONLY - EA ACCIDENT		OTHER THAN AUTO ONLY:	EA ACC		AGG						
AUTO ONLY - EA ACCIDENT																		
OTHER THAN AUTO ONLY:	EA ACC																	
	AGG																	
		EXCESS / UMBRELLA LIABILITY <input type="checkbox"/> ANY AUTO <input type="checkbox"/> OCCUR <input type="checkbox"/> CLAIMS MADE <input type="checkbox"/> DEDUCTIBLE <input type="checkbox"/> RETENTION \$ <input type="text"/>				<table border="1" style="width: 100%; border-collapse: collapse; font-size: x-small;"> <tr><td>EACH OCCURRENCE</td><td></td></tr> <tr><td>AGGREGATE</td><td></td></tr> </table>	EACH OCCURRENCE		AGGREGATE									
EACH OCCURRENCE																		
AGGREGATE																		
		WORKERS COMPENSATION AND Y/N EMPLOYERS' LIABILITY <input type="checkbox"/> ANY PROPRIETOR / PARTNER / EXECUTIVE OFFICE / MEMBER EXCLUDED?(Mandatory in NH) If yes, describe under SPECIAL PROVISIONS below				<table border="1" style="width: 100%; border-collapse: collapse; font-size: x-small;"> <tr><td>WC STATUTORY <input type="checkbox"/> OTHER <input type="checkbox"/></td><td></td></tr> <tr><td>E.L. EACH ACCIDENT</td><td></td></tr> <tr><td>E.L. DISEASE - EA EMPLOYEE</td><td></td></tr> <tr><td>E.L. DISEASE - POLICY LIMIT</td><td></td></tr> </table>	WC STATUTORY <input type="checkbox"/> OTHER <input type="checkbox"/>		E.L. EACH ACCIDENT		E.L. DISEASE - EA EMPLOYEE		E.L. DISEASE - POLICY LIMIT					
WC STATUTORY <input type="checkbox"/> OTHER <input type="checkbox"/>																		
E.L. EACH ACCIDENT																		
E.L. DISEASE - EA EMPLOYEE																		
E.L. DISEASE - POLICY LIMIT																		
		OTHER																

DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES / EXCLUSIONS ADDED BY ENDORSEMENT / SPECIAL PROVISIONS

Certificate Holder is Named as Additional Insured - Owners, Lessees or Contractors.  
 RE: Federal Transportation Advocacy Services ( Project Number 15001041)

<p><b>CERTIFICATE HOLDER</b></p> City of Sacramento Department of Transportation Engineering Services Division 915 I St, Room 2000 Sacramento, CA 95814 Attn.: David Flores, Jr., MPA	<p><b>CANCELLATION</b></p> <p style="font-size: x-small;">SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, THE ISSUING INSURER WILL ENDEAVOR TO MAIL 30 DAYS WRITTEN NOTICE TO THE CERTIFICATE HOLDER NAMED TO THE LEFT, BUT FAILURE TO DO SO SHALL IMPOSE NO OBLIGATION OR LIABILITY OF ANY KIND UPON THE INSURER, ITS AGENTS OR REPRESENTATIVES.</p> <p>AUTHORIZED REPRESENTATIVE</p>
--	--

### **IMPORTANT**

If the certificate holder is an ADDITIONAL INSURED, the policy(ies) must be endorsed. A statement on this certificate does not confer rights to the certificate holder in lieu of such endorsement(s).

If SUBROGATION IS WAIVED, subject to the terms and conditions of the policy, certain policies may require an endorsement. A statement on this certificate does not confer rights to the certificate holder in lieu of such endorsement(s).

### **DISCLAIMER**

This Certificate of Insurance does not constitute a contract between the issuing insurer(s), authorized representative or producer, and the certificate holder, nor does it affirmatively or negatively amend, extend or alter the coverage afforded by the policies listed thereon.

**THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.**  
**NON-CONTRACTORS BLANKET ADDITIONAL INSURED**

This endorsement modifies insurance provided under the following:

**BUSINESSOWNERS LIABILITY COVERAGE FORM**

Coverage afforded under this extension of coverage endorsement does not apply to any person or organization covered as an additional insured on any other endorsement now or hereafter attached to this Coverage Part.

**1. ADDITIONAL INSURED – BLANKET VENDORS**

**WHO IS AN INSURED** is amended to include as an additional insured any person or organization (referred to below as vendor) with whom you agreed, because of a written contract or agreement to provide insurance, but only with respect to "bodily injury" or "property damage" arising out of "your products" which are distributed or sold in the regular course of the vendor's business, subject to the following additional exclusions:

1. The insurance afforded the vendor does not apply to:
  - a. "Bodily injury" or "property damage" for which the vendor is obligated to pay damages by reason of the assumption of liability in a contract or agreement. This exclusion does not apply to liability for damages that the vendor would have in the absence of the contract or agreement;
  - b. Any express warranty unauthorized by you;
  - c. Any physical or chemical change in the product made intentionally by the vendor;
  - d. Repackaging, except when unpacked solely for the purpose of inspection, demonstration, testing, or the substitution of parts under instructions from the manufacturer, and then repackaged in the original container;
  - e. Any failure to make such inspections, adjustments, tests or servicing as the vendor has agreed to make or normally undertakes to make in the usual course of business, in connection with the distribution or sale of the products;
  - f. Demonstration, installation, servicing or repair operations, except such operations performed at the vendor's premises in connection with the sale of the product;
  - g. Products which, after distribution or sale by you, have been labeled or relabeled or used as a container, part or ingredient of any other thing or substance by or for the vendor; or

h. "Bodily injury" or "property damage" arising out of the sole negligence of the vendor for its own acts or omission or those of its employees or anyone else acting on its behalf. However, this exclusion does not apply to:

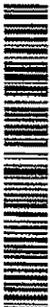
- (1) The exceptions contained in Subparagraphs d. or f.; or
  - (2) Such inspections, adjustments, tests or servicing as the vendor has agreed to make or normally undertakes to make in the usual course of business, in connection with the distribution or sale of the products.
2. This insurance does not apply to any insured person or organization, from whom you have acquired such products, or any ingredient, part or container, entering into, accompanying or containing such products.
  3. This provision 2. does not apply to any vendor included as an insured by an endorsement issued by us and made a part of this Coverage Part.
  4. This provision 2. does not apply if "bodily injury" or "property damage" included within the "products-completed operations hazard" is excluded either by the provisions of the Coverage Part or by endorsement.

**2. MISCELLANEOUS ADDITIONAL INSUREDS**

**WHO IS AN INSURED** is amended to include as an insured any person or organization (called additional insured) described in paragraphs 2.a. through 2.h. below whom you are required to add as an additional insured on this policy under a written contract or agreement but the written contract or agreement must be:

1. Currently in effect or becoming effective during the term of this policy; and
2. Executed prior to the "bodily injury," "property damage" or "personal and advertising injury," but

Only the following persons or organizations are additional insureds under this endorsement and



coverage provided to such additional insureds is limited as provided herein:

**a. Additional Insured – Your Work**

That person or organization for whom you do work is an additional insured solely for liability due to your negligence specifically resulting from your work for the additional insured which is the subject of the written contract or written agreement. No coverage applies to liability resulting from the sole negligence of the additional insured.

The insurance provided to the additional insured is limited as follows:

- (1) The Limits of Insurance applicable to the additional insured are those specified in the written contract or written agreement or in the Declarations of this policy, whichever is less. These Limits of Insurance are inclusive of, and not in addition to, the Limits of Insurance shown in the Declarations.
- (2) The coverage provided to the additional insured by this endorsement and paragraph F.9. of the definition of "insured contract" under **Liability and Medical Expenses Definitions** do not apply to "bodily injury" or "property damage" arising out of the "products-completed operations hazard" unless required by the written contract or written agreement.
- (3) The insurance provided to the additional insured does not apply to "bodily injury," "property damage," or "personal and advertising injury" arising out of the rendering or failure to render any professional services.

**b. State or Political Subdivisions**

A state or political subdivision subject to the following provisions:

- (1) This insurance applies only with respect to the following hazards for which the state or political subdivision has issued a permit in connection with premises you own, rent, or control and to which this insurance applies:
  - (a) The existence, maintenance, repair, construction, erection, or removal of advertising signs, awnings, canopies, cellar

entrances, coal holes, driveways, manholes, marquees, hoistway openings, sidewalk vaults, street banners, or decorations and similar exposures; or

(b) The construction, erection, or removal of elevators; or

- (2) This insurance applies only with respect to operations performed by you or on your behalf for which the state or political subdivision has issued a permit.

This insurance does not apply to "bodily injury," "property damage" or "personal and advertising injury" arising out of operations performed for the state or municipality.

**c. Controlling Interest**

Any persons or organizations with a controlling interest in you but only with respect to their liability arising out of:

- (1) Their financial control of you; or
- (2) Premises they own, maintain or control while you lease or occupy these premises.

This insurance does not apply to structural alterations, new construction and demolition operations performed by or for such additional insured.

**d. Managers or Lessors of Premises**

A manager or lessor of premises but only with respect to liability arising out of the ownership, maintenance or use of that specific part of the premises leased to you and subject to the following additional exclusions:

This insurance does not apply to:

- (1) Any "occurrence" which takes place after you cease to be a tenant in that premises; or
- (2) Structural alterations, new construction or demolition operations performed by or on behalf of such additional insured.

**e. Mortgagee, Assignee or Receiver**

A mortgagee, assignee or receiver but only with respect to their liability as mortgagee, assignee, or receiver and arising out of the ownership, maintenance, or use of a premises by you.

This insurance does not apply to structural alterations, new construction or demolition operations performed by or for such additional insured.

**f. Owners/Other Interests - Land is Leased**

An owner or other interest from whom land has been leased by you but only with respect to liability arising out of the ownership, maintenance or use of that specific part of the land leased to you and subject to the following additional exclusions:

This insurance does not apply to:

- (1) Any "occurrence" which takes place after you cease to lease that land; or
- (2) Structural alterations, new construction or demolition operations performed by or on behalf of such additional insured.

**g. Co-owner of Insured Premises**

A co-owner of a premises co-owned by you and covered under this insurance but only with respect to the co-owners liability as co-owner of such premises.

**h. Lessor of Equipment**

Any person or organization from whom you lease equipment. Such person or organization are insureds only with respect to their liability arising out of the maintenance, operation or use by you of equipment leased to you by such person

or organization. A person's or organization's status as an insured under this endorsement ends when their written contract or agreement with you for such leased equipment ends.

With respect to the insurance afforded these additional insureds, the following additional exclusions apply:

This insurance does not apply:

- (1) To any "occurrence" which takes place after the equipment lease expires; or
- (2) To "bodily injury," "property damage" or "personal and advertising injury" arising out of the sole negligence of such additional insured.

Any insurance provided to an additional insured designated under paragraphs a. through h. above does not apply to "bodily injury" or "property damage" included within the "products-completed operations hazard."

**3. The following is added to Paragraph H. of the BUSINESSOWNERS COMMON POLICY CONDITIONS:**

**H. Other Insurance**

- 4. This insurance is excess over any other insurance naming the additional insured as an insured whether primary, excess, contingent or on any other basis unless a written contract or written agreement specifically requires that this insurance be either primary or primary and noncontributing.

0002/0000320995961E00445



Client#: 82051

SMITHDAW

# ACORD™ CERTIFICATE OF LIABILITY INSURANCE

DATE (MM/DD/YYYY)  
08/27/2009

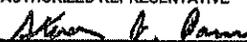
<b>PRODUCER</b> NIA/UIA GROUP, LLC 245 Main Street White Plains, NY 10601 914 946-3600		THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW.	
<b>INSURED</b> Smith Dawson & Andrews, Inc. 1150 Connecticut Ave. NW Suite 1025 Washington, DC 20036		<b>INSURERS AFFORDING COVERAGE</b> INSURER A: <b>Liberty Mutual</b> INSURER B: INSURER C: INSURER D: INSURER E:	<b>NAIC #</b> 23043

**COVERAGES**

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

INSR ADD'L LTR. INSRD	TYPE OF INSURANCE	POLICY NUMBER	POLICY EFFECTIVE DATE (MM/DD/YY)	POLICY EXPIRATION DATE (MM/DD/YY)	LIMITS
	<b>GENERAL LIABILITY</b> <input type="checkbox"/> COMMERCIAL GENERAL LIABILITY <input type="checkbox"/> CLAIMS MADE <input type="checkbox"/> OCCUR GEN'L AGGREGATE LIMIT APPLIES PER: <input type="checkbox"/> POLICY <input type="checkbox"/> PRO-JECT <input type="checkbox"/> LOC				EACH OCCURRENCE \$ DAMAGE TO RENTED PREMISES (Ea occurrence) \$ MED EXP (Any one person) \$ PERSONAL & ADV INJURY \$ GENERAL AGGREGATE \$ PRODUCTS - COMP/OP AGG \$
	<b>AUTOMOBILE LIABILITY</b> <input type="checkbox"/> ANY AUTO <input type="checkbox"/> ALL OWNED AUTOS <input type="checkbox"/> SCHEDULED AUTOS <input type="checkbox"/> HIRED AUTOS <input type="checkbox"/> NON-OWNED AUTOS				COMBINED SINGLE LIMIT (Ea accident) \$ BODILY INJURY (Per person) \$ BODILY INJURY (Per accident) \$ PROPERTY DAMAGE (Per accident) \$
	<b>GARAGE LIABILITY</b> <input type="checkbox"/> ANY AUTO				AUTO ONLY - EA ACCIDENT \$ OTHER THAN EA ACC \$ AUTO ONLY: AGG \$
	<b>EXCESS/UMBRELLA LIABILITY</b> <input type="checkbox"/> OCCUR <input type="checkbox"/> CLAIMS MADE DEDUCTIBLE RETENTION \$				EACH OCCURRENCE \$ AGGREGATE \$ \$ \$ \$
<b>A</b>	<b>WORKERS COMPENSATION AND EMPLOYERS' LIABILITY</b> ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? If yes, describe under SPECIAL PROVISIONS below OTHER	<b>WC533S470998019</b>	<b>02/26/09</b>	<b>02/26/10</b>	<input checked="" type="checkbox"/> WC STATUTORY LIMITS <input type="checkbox"/> OTHER E.L. EACH ACCIDENT <b>\$1,000,000</b> E.L. DISEASE - EA EMPLOYEE <b>\$1,000,000</b> E.L. DISEASE - POLICY LIMIT <b>\$1,000,000</b>

DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES / EXCLUSIONS ADDED BY ENDORSEMENT / SPECIAL PROVISIONS  
**RE: Federal Transportation Advocacy Services (Project Number 15001041)**  
 Evidence of Insurance

<b>CERTIFICATE HOLDER</b> City of Sacramento Department of Transportation Engineering Services Division 915 I Street, Room 2000 Sacramento, CA 95814 Attn: David Flores, Jr., MPA	<b>CANCELLATION</b> SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, THE ISSUING INSURER WILL ENDEAVOR TO MAIL <u>30</u> DAYS WRITTEN NOTICE TO THE CERTIFICATE HOLDER NAMED TO THE LEFT, BUT FAILURE TO DO SO SHALL IMPOSE NO OBLIGATION OR LIABILITY OF ANY KIND UPON THE INSURER, ITS AGENTS OR REPRESENTATIVES. AUTHORIZED REPRESENTATIVE 
---	--

## **IMPORTANT**

If the certificate holder is an ADDITIONAL INSURED, the policy(ies) must be endorsed. A statement on this certificate does not confer rights to the certificate holder in lieu of such endorsement(s).

If SUBROGATION IS WAIVED, subject to the terms and conditions of the policy, certain policies may require an endorsement. A statement on this certificate does not confer rights to the certificate holder in lieu of such endorsement(s).

## **DISCLAIMER**

The Certificate of Insurance on the reverse side of this form does not constitute a contract between the issuing insurer(s), authorized representative or producer, and the certificate holder, nor does it affirmatively or negatively amend, extend or alter the coverage afforded by the policies listed thereon.



Resolution 2009-573 as adopted September 8, 2009:

**RESOLUTION NO. 2009-573**

Adopted by the Sacramento City Council

September 8, 2009

**AGREEMENT WITH SMITH DAWSON & ANDREWS FOR  
FEDERAL TRANSPORTATION ADVOCACY SERVICES**

**BACKGROUND**

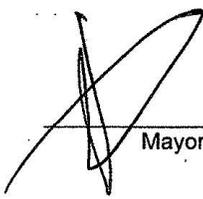
- A. In order to continue the federal transportation legislative representation, in June 2009, a Request for Proposal was released.
- B. Smith Dawson & Andrews (SDA) was the only lobbying firm that responded to the request.
- C. For the past five years SDA has provided lobbying services to the City of Sacramento and its services have been satisfactory.

**BASED ON THE FACTS SET FORTH IN THE BACKGROUND, THE CITY COUNCIL  
RESOLVES AS FOLLOWS:**

Section 1. The City Manager is authorized to execute a Professional Services Agreement with Smith Dawson & Andrews for federal advocacy services for a period of two years for an amount not to exceed \$192,000 with three additional one-year extensions for an amount not to exceed \$92,000 for each one year extension.

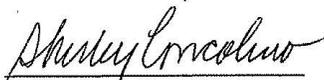
Adopted by the City of Sacramento City Council on September 8, 2009 by the following vote:

- Ayes: Councilmembers Cohn, Fong, Hammond, McCarty, Pannell, Sheedy, Tretheway, Waters, and Mayor Johnson.
- Noes: None.
- Abstain: None.
- Absent: None.



\_\_\_\_\_  
Mayor Kevin Johnson

Attest:



\_\_\_\_\_  
Shirley Concolino, City Clerk