



City of Sacramento City Council

915 I Street, Sacramento, CA, 95814 8

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Meeting Date: 7/26/2011

Report Type: Consent

Title: Contracts: On-Call Professional Services List

Report ID: 2011-00477

Location: Citywide

Recommendation: Adopt a Resolution: 1) approving an On-Call Master Consultant Services List for a period of five years; 2) authorizing the City Manager or the City Manager's designee to execute 81 professional services agreements in amounts not to exceed \$150,000 or \$300,000 per consultant, per service, per year as identified in Exhibit A; and 3) authorizing other City departments to use the On-Call Master Consultant Services List provided that each department obtains appropriate approvals and executes its own agreements and purchase orders.

Contact: Gary Holm, Operations General Supervisor, (916) 808-6321; Yadi Kavakebi, Facilities Superintendent, (916) 808-8432, General Services Department

Presenter: None

Department: General Services Dept

Division: Facility Maintenance

Dept ID: 13001521

Attachments:

- 1-Description/Analysis
- 2- Resolution
- 3-Exhibit A - On Call List
- 4-Exhibit B - Scopes of Work
- 5-Exhibit C Sample Agreement Cover page
- 6- Exhibit C1 Professional Design
- 7-Exhibit C2 Arch/Engineering
- 8-Exhibit C3 Construction Related

City Attorney Review

Approved as to Form
Kourtney Burdick
7/18/2011 9:10:04 AM

City Treasurer Review

Prior Council Financial Policy Approval or
Outside City Treasurer Scope
Russell Fehr
7/14/2011 9:41:51 AM

Approvals/Acknowledgements

Department Director or Designee: Reina Schwartz - 7/14/2011 12:36:04 PM

Assistant City Manager: Cassandra Jennings - 7/15/2011 4:22:42 PM



Description/Analysis

Issue: The purpose of this report is to establish an on-call master consultant services list for professional services used in delivering City projects. Approving the on-call list will position the Department of General Services to deliver projects in a more cost effective and efficient manner. The proposed on-call list includes agreements for seventeen different professional services as identified in Exhibit A.

Policy Considerations: The recommendations in this report are consistent with City Code Chapter 3.64 and Resolution 2010-346 prohibiting the City from entering into any contract to purchase goods or services from any business or entity headquartered in Arizona.

Environmental Considerations:

California Environmental Quality Act (CEQA): Approval of the On-Call Master Consultant Services List is not a project as defined by CEQA guidelines, Section 15378. The recommended action involves no physical construction and has no potential to cause a significant impact to the environment.

Sustainability: None

Commission/Committee Action: None

Rationale for Recommendation: On December 12, 2006, City Council adopted Resolution No. 2006-895 approving the original On-Call Master Consultant Services List for Public Facilities for the Department of General Services. The list proved to work well in helping the department deliver City projects, but it has now expired. This report recommends approving a new on-call list to continue this “best practice” for cost effective and efficient project delivery.

This list will allow the Department of General Services to continue to deliver projects in a more cost effective and efficient manner, despite recent staffing cutbacks, by expanding the capacity to meet critical project schedule requirements and by reducing the time needed to prepare, evaluate, and execute professional services agreements for each and every project. Additionally, unforeseeable conditions identified during the course of projects may be addressed immediately.

On February 7, 2011, the Department of General Services issued a Request for Qualifications (RFQ) for on-call professional services for projects defined as not exceeding \$150,000 or \$300,000 in total consultant costs per year. The document was advertised on the City’s internet site for bid opportunities. In addition, the RFQ was sent to the Asian Pacific, Black, Hispanic, and Metropolitan Chambers of Commerce.

A total of 226 responses were received. A selection committee comprised of City staff from the Departments of General Services, Parks & Recreation, Economic Development, Human Resources-Risk Management/ADA, and Transportation reviewed and evaluated the responses based on each consultant’s experience in the type of service. Selection committee members selected firms by scoring each response based upon criteria that was identified in the RFQ. The top ranked firms in each type of service are recommended for award.

Financial Considerations: Each agreement executed by the Department of General Services will be in an amount not to exceed \$150,000 or \$300,000 as identified in Exhibit A. Agreement amounts for each type of service are based on historical requirements since the original On-Call Master Consultant Services List for Public Facilities was approved on December 12, 2006. Purchase orders encumbering funds under these agreements will not be created until projects are identified. Funding for each purchase order will be provided for in capital improvement project budgets, which could include local, state, and federal funds, or in department operating budgets as projects are identified. Consultants may have multiple assignments in a given year; however, the aggregate amount shall not exceed either \$150,000 or \$300,000 per consultant, per service, per year.

Emerging Small Business Development (ESBD): The Request for Qualifications (RFQ) required consultants to submit their emerging and small business certification status. Each firm's certification status is listed in Exhibit A.



RESOLUTION NO.

Adopted by the Sacramento City Council

July 26, 2011

APPROVING THE ON-CALL MASTER CONSULTANT SERVICES LIST

BACKGROUND

- A. On December 12, 2006, City Council adopted Resolution No. 2006-895 approving the original On-Call Master Consultant Services List for Public Facilities for the Department of General Services. The list proved to work well in helping the department deliver City projects, but it has now expired. Developing a new on-call list will allow the Department of General Services to continue this “best practice” for cost effective and efficient project delivery.
- B. On February 7, 2011, the Department of General Services issued a Request for Qualifications (RFQ) for on-call professional consultant services not exceeding \$150,000 or \$300,000 per consultant, per service, per year. The document was advertised on the City’s website for bid opportunities. In addition, the RFQ was sent to the Asian Pacific, Black, Hispanic, and Metropolitan chambers of commerce. A total of 226 responses were received. A selection committee comprised of City staff from the Departments of General Services, Parks & Recreation, Economic Development, Human Resources-Risk Management/ADA, and Transportation reviewed and evaluated the responses based on each firm’s experience in the type of service. Selection committee members selected firms by scoring each response based upon criteria that was identified in the RFQ. The top ranked firms in each type of service are recommended for award.

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

- Section 1. The On-Call Master Consultant Services List (Exhibit A) is approved for a period of five years.
- Section 2. The City Manager or the City Manager’s designee is authorized to execute 81 professional services agreements in amounts not to exceed \$150,000 or \$300,000 per consultant, per service, per year with the consultants identified in Exhibit A, performing the services identified in Exhibit B, using the City’s appropriate standard agreement identified in Exhibit C.
- Section 3. Other City departments are authorized to use the On-Call Master Consultant Services List provided that each department obtains appropriate approvals and executes its own agreements and purchase orders.
- Section 4. Exhibits A – C are a part of this resolution.

On-Call Master Consultant Services List

Type of Service	Firm Name	E/SBE Certified	Annual Contract Amount	Eligible for Federal Projects
ADA	SZS Consulting	No	\$300,000	Yes
	Sally Swanson Architects	Yes	\$300,000	Yes
	MIG	No	\$300,000	Yes
	Cynthia Easton	Yes	\$300,000	Yes
Archeological	Par Environmental Services	Yes	\$150,000	Yes
	Tremaine & Associates	Yes	\$150,000	Yes
	Aecom	No	\$150,000	Yes
Architectural	Harrell Architectural Partnership	Yes	\$300,000	Yes
	The HR Group	Yes	\$300,000	Yes
	Dreyfuss & Blackford	Yes	\$300,000	Yes
	Stantec	No	\$300,000	Yes
	DLR Group	No	\$300,000	Yes
Civil Engineering	Mark Thomas & Co.	No	\$300,000	Yes
	Omni Means	Yes	\$300,000	Yes
	JTS Engineering Consultants	Yes	\$300,000	Yes
	Interwest Consulting	No	\$300,000	Yes
	Kimley Horn & Associates	No	\$300,000	Yes
	Cunningham Engineering	Yes	\$300,000	Yes
Cost Estimating	Silva Cost Consulting	Yes	\$150,000	Yes
	Sierra West Group	Yes	\$150,000	Yes
	Kitchell	No	\$150,000	Yes
Electrical Engineering	Salas O'Brien	Yes	\$300,000	Yes
	Stantec	No	\$300,000	Yes
	M. Neils Engineering	No	\$300,000	Yes
	Kitchell	No	\$300,000	Yes
	Ecom Engineering	Yes	\$300,000	No
	Peters Engineering	No	\$300,000	No
Energy	3QC	Yes	\$300,000	Yes
	Salas O'Brien	Yes	\$300,000	Yes
	Enovity	No	\$300,000	Yes
	M. Neils Engineering	No	\$300,000	Yes
	Taylor Systems Engineering	Yes	\$300,000	Yes
Environmental	Nichols Consulting Engineers	No	\$300,000	Yes

	Entek	Yes	\$300,000	Yes
	Enercon Services	No	\$300,000	Yes
	Engeo	No	\$300,000	Yes
	Stantec	No	\$300,000	Yes
	Arcadis	No	\$300,000	Yes
	Westmark	No	\$300,000	Yes
Inspection Services	Consolidated CM	Yes	\$150,000	Yes
	Bureau Veritas North America	No	\$150,000	Yes
	Harris & Associates	No	\$150,000	Yes
Interior Design & Space Planning	ESC Design	Yes	\$150,000	Yes
	Comstock Johnson Architects	Yes	\$150,000	Yes
	Stantec	No	\$150,000	Yes
Landscape Architecture	The HLA Group	Yes	\$150,000	Yes
	Callander Associates	Yes	\$150,000	Yes
	MTW Group	Yes	\$150,000	Yes
	Wood Rodgers	No	\$150,000	Yes
	Stantec	No	\$150,000	Yes
Mechanical Engineering	Salas O'Brien	Yes	\$300,000	Yes
	Stantec	No	\$300,000	Yes
	Peters Engineering	No	\$300,000	No
	Kitchell	No	\$300,000	Yes
	Guttmann & Blaevoet	Yes	\$300,000	Yes
	Capital Engineering Consultants	No	\$300,000	No
Real Estate and Relocation	Overland, Pacific, and Cutler	No	\$300,000	Yes
	Paragon Partners LTD	No	\$300,000	Yes
	Universal Field Services	No	\$300,000	Yes
Real Estate Appraisal	Smith & Associates	No	\$150,000	Yes
	Pattison & Associates	No	\$150,000	No
	ARWS	No	\$150,000	No
	Blaesi & Company	No	\$150,000	Yes
	Craig Owyang Real Estate	No	\$150,000	Yes
	Clark-Wolcott Company	Yes	\$150,000	Yes
	Gregory Sessler	No	\$150,000	Yes
Structural Engineering	CYS Structural Engineers	Yes	\$300,000	Yes
	Buehler & Buehler	No	\$300,000	Yes
	Miyamoto	Yes	\$300,000	Yes
	CSG Consultants	No	\$300,000	Yes
	Walker Parking Consultants	No	\$300,000	No
	Shuhaibar Engineers	Yes	\$300,000	Yes
Surveying	Andregg Geomatics	Yes	\$300,000	Yes
	CBC Surveys	Yes	\$300,000	No

	JTS Engineering Consultants	Yes	\$300,000	Yes
	Mark Thomas & Co.	No	\$300,000	Yes
	Wood Rodgers	No	\$300,000	Yes
Water Intrusion	McGinnis Chen Associates	No	\$300,000	Yes
	Allana Buick & Bers	No	\$300,000	Yes
	Aquatech	No	\$300,000	No
	CSG Consultants	No	\$300,000	Yes

EXHIBIT B
SCOPES OF WORK



ATTACHMENT 1 TO EXHIBIT B

ADA COMPLIANCE & SURVEY SERVICES

SERVICES UNDER THIS AGREEMENT SHALL BE PROCURED IN THE FOLLOWING MANNER:

Services may involve varying levels of effort during the term of the Agreement. The need for services may not be continuous during the term. It is understood and agreed by the CONTRACTOR that no services at all may be required by the CITY under this Agreement. If services are performed under this Agreement, payment for said services shall not exceed the annual contract amount set forth in Exhibit B. Any project which will exceed this amount must be approved by the City Council prior to the commencement of services.

The CITY will contact the CONTRACTOR regarding a specific task or project. At such time, Contractor shall submit a written proposal for the scope of services to be performed related to the specific task or project. If the City and Contractor agree on the proposed scope of services and on Contractor's compensation in accordance with Attachment 1 to Exhibit B and upon negotiated unit prices for items not identified in Attachment 1 to Exhibit B, City will issue a written Notice to Proceed.

The CITY shall have no obligation whatsoever under this Agreement with respect to any costs incurred by CONTRACTOR for services other than services authorized by the CITY pursuant to a written Notice to Proceed.

THE SERVICES TO BE PERFORMED UNDER THIS AGREEMENT INCLUDE, BUT ARE NOT LIMITED TO, THE FOLLOWING:

ADA services will be used in order to assist City project managers with priority ADA/Access Compliance and Survey work, including removal of architectural barriers that would give the greatest access to the largest number of individuals in City Facilities.

Perform a thorough investigation (ADA /Access Compliance and Survey) at each facility (or facility in question) to include taking as-built dimensions of all barriers and digital photographs of each barrier found.

Locate each barrier on CAD reference drawings provided for a point of reference in the ADA/Access Compliance Work plan. All barriers found will be located on the reference drawings for easy reference in the report documents.

Provide draft ADA Work plan reports for each facility that references each barrier with the actual code requirement that define the barrier in the Americans with Disabilities Accessibility Guidelines (ADAAG) and California Building Code requirements contained as part of California Code Requirements/Title 24 (CCR/Title 24).

Provide barrier descriptions, as-built dimensions, cost estimates, quantity, units, digital photos, CAD reference drawings, etc.

Enter barrier description, cost estimate, digital photograph and code reference data, etc. for each barrier into the City ADA Database.

Create an ADA/Access Compliance Phased Work plan that provides a systematic approach to barrier removal through annual phases.

ADA COMPLIANCE & SURVEY SERVICES (CONTINUED)

Each barrier has a recommended solution that is detailed enough to enable the report to be directly used to remove the barrier without requiring further work from a consultant or design documents for simple barrier removal.

Provide a draft version of the ADA Phased Work plans for City review. Work with City to determine situations where program access could be substituted for physical barrier removal.

QUALIFICATIONS:

Firms that specialize in access consulting; firms that dedicate 80% of their work to accessibility not architecture / engineering firms where only a small portion of each project involves accessibility.

Provide list of projects for the past 5 years on ADA / Access Compliance.

Firm (person(s) with the Access Investigator level certification or experience. In some occasions, it is expected that the firms or person(s) selected would be on projects that have already been designed.

Firms that have attend certifications, via the International Code Council (ICC) as an Accessibility Inspector/Plans Examiner, etc are desirable. The Division of the State Architect (DSA) is in the process of developing a final draft of proposed regulations for the California Certified Access Specialist (CASP).

ATTACHMENT 1 TO EXHIBIT B

ARCHEOLOGICAL SERVICES

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THE SERVICES TO BE PERFORMED UNDER THIS AGREEMENT INCLUDE, BUT ARE NOT LIMITED TO, THE FOLLOWING:

Mobilization and Health and Safety Plans

Identification phase of field work

Prepare site for fieldwork.

Survey historic parcel corners.

Conduct identification phase of fieldwork and report results in memo form to City.

Backfill, stabilize site, and mobilize.

Data recovery phase of field work

Complete field investigations, conducting data recovery excavation as necessary.

Backfill and stabilize site.

Laboratory Analysis

Clean, catalog, and analyze artifacts.

Arrange permanent disposition of artifacts.

Reports

Prepare and distribute technical report on findings.

Public Outreach

Prepare and distribute interpretive materials

ATTACHMENT 1 TO EXHIBIT B

ARCHITECTURAL DESIGN

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THE SERVICES TO BE PERFORMED UNDER THIS AGREEMENT INCLUDE, BUT ARE NOT LIMITED TO, THE FOLLOWING:

- Design/Constructability Review
- Code Review
- Site Evaluation and Planning
- Project Planning and Scoping
- Conduct Feasibility Studies
- Conduct building condition studies
- Perform energy analysis, life cycle analysis
- LEED Building Design
- CA Green Building Standards (CAL GREEN) Code Design
- Facility Needs Assessments
- Master Planning
- Design – Build
- State and local agency coordination
- Project and Program Management
- Estimating and Scheduling
- Space/design/document standards
- Development of Prime Contracts, General/Supplemental Conditions
- Bidding/Contractor selection
- Claims avoidance and analysis
- Architectural programming
- CAD Services
- Constructability Review
- Change Order Review
- Provide consultation on proposed improvements and new work
- Construction Administration
- Facility Management
- Provide pre-construction services including but not limited to constructability review, value engineering, budget and cost estimating, master project scheduling, contract bidding
- Identify potential and actual problems associated with the construction project and consult with the design team and City Project Manager to resolve and implement changes to minimize cost and schedule impacts to the project

ATTACHMENT 1 TO EXHIBIT B

CIVIL ENGINEERING SERVICES

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THE SERVICES TO BE PERFORMED UNDER THIS AGREEMENT INCLUDE, BUT ARE NOT LIMITED TO, THE FOLLOWING:

Ability to manage the scope, schedule and budget on public projects.

Experience with projects ranging from tenant improvements, design, project coordination, undergrounding of utilities, public involvement, and acquisitions.

Experience with landscape improvements, demolition, grading, drainage, and utilities relocation on public projects.

Experience with geotechnical engineering, materials testing, foundation engineering, environmental studies.

Develop plans, specifications and estimates involved in complex design issues such as utility relocation, construction staging, landscape architecture, bidding assistance and construction assistance.

Facilitate meetings to gather input, to listen to the community, and foster communication among the different stakeholders.

Experience with functional design and enhancements, safety & operations studies, master planning, paving and drainage design.

Coordination of the city permitting process when assigned to a project.

CIVIL ENGINEERING SERVICES (CONTINUED)

Provide technical and administrative management services for the project, coordination oversight of all activities related to the construction of the project.

Experience with site design, access, egress, roadway design, surveys, title reports, traffic studies, and drainage studies.

Coordination of providing utilities and services to site industry including wet utilities, dry utilities, power and natural gas.

Experience with investigation of utilities and services required for a project and the design needed to provide services.

Provide consultation on proposed improvements and new work.

Identify potential and actual problems associated with the construction project and consult with the design team and City Project manager to resolve and implement changes to minimize cost and schedule impacts to the project.

ATTACHMENT 1 TO EXHIBIT B

COST ESTIMATING SERVICES

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THE SERVICES TO BE PERFORMED UNDER THIS AGREEMENT INCLUDE, BUT ARE NOT LIMITED TO, THE FOLLOWING:

Experience in estimating various phases of public projects site work, including mechanical, plumbing, and electrical estimating. Typical projects include the design and construction of fire stations, libraries, community centers, new office buildings, remodels, or tenant improvement of city owned or leased buildings.

Perform cost estimates on an on-call basis for public project work.

Experience with specialized cost estimating software.

Experience in estimating costs of public sector facilities projects.

Experience with conceptual cost estimates, and subsequent detailed estimates.

Experience with value engineering, life cycle cost estimating, analysis and proposals.

Ability to identify and handle inflationary trends and local market conditions.

Ability to identify risks in a project and deal with those risk factors in your estimates.

Experience with phases in a projects (pre-design, bidding, construction, change order review).
Consultation on proposed improvements and new work.

Experience with estimating change orders and possible revisions.

Experience with developing bid alternatives and evaluating bids.

ATTACHMENT 1 TO EXHIBIT B

ELECTRICAL ENGINEERING SERVICES (Including Voice/Data)

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THE SERVICES TO BE PERFORMED UNDER THIS AGREEMENT INCLUDE, BUT ARE NOT LIMITED TO, THE FOLLOWING:

Power and lighting design for buildings and sites. Specific experience in power and lighting design of Police Stations, Fire Stations, Parking Garages, General Office Buildings and other Public Buildings.

Design for remodels, retrofits, renovations and expansions on existing buildings.

Power system design including, coordinating with the local utility company, site power design, emergency and standby generator design utilizing automatic and/or manual transfer switches, UPS system design, switchgear and power and lighting panel design. Feeder and branch circuit sizing, including voltage drop calculations and correction factors as required.

Design of electrical systems for HVAC modifications and upgrades.

Design of interior and exterior lighting control, including manual switching, stepped and dimmed daylight harvesting, area dimming, occupancy sensor control, photo cell control, time clock control, etc.

Security and Fire Alarm system design. Including preparing shop drawings, battery calculations and voltage drop calculations, to be submitted to the local fire marshal for fire alarm system approval.

Telephone and communication system design for buildings as outlined above.

Preparation of detailed plans and specifications for obtaining building permits, bidding, and construction.

Preparation of CA Title 24 lighting compliance documentation for interior and exterior lighting systems.

Experience designing buildings using (LEED) Leadership in Energy and Environmental Design. Provide recommendations on specific points a building should try and obtain for LEED Certification.

ELECTRICAL ENGINEERING SERVICES (Including Voice/Data) (CONTINUED)

Preparation of criteria plans and specifications for design assist and design build projects. Assistance in preparing RFQ's (Request for Qualifications) for these type of projects.

Ability to perform power system analysis on buildings, providing detailed load calculations, single line diagrams, and recommendations for improvements.

Prepare lighting system design reports, comparing the advantages and disadvantages using different lighting technologies for a specific application. Including light quality, system installed cost, ongoing maintenance cost, and life cycle cost.

Expertise in preparing Due Diligence Reports for power systems and lighting systems.

Work with local jurisdictions, including the City and County of Sacramento building departments.

Work with the local power utility company, the Sacramento Municipal Utility District (SMUD).

Construction administration for projects during the construction phase. Including site observations, submittal review, responding to RFI's (Request for information), reviewing change orders, etc.

Awareness of local, state, and federal codes and requirements.

Other related, but not listed above, electrical engineering duties required for projects.

ATTACHMENT 1 TO EXHIBIT B

ENERGY EFFICIENCY SERVICES

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THE SERVICES TO BE PERFORMED UNDER THIS AGREEMENT INCLUDE, BUT ARE NOT LIMITED TO, THE FOLLOWING:

Experience in performing both walk through energy surveys and investment grade energy surveys of City facilities
Experience in reviewing utility bills to "mine" data for potential improvements
Experience in evaluating mechanical, electrical, envelope and process energy efficiency measures
Experience using existing energy management systems to "mine" data to identify energy efficiency improvements
Experience in interviewing both building users and maintenance personnel to "mine" for areas that may need improvement
Experience in using manual, spreadsheet and computer simulations (TRACE, DOE2.1, etc.) to identify potential savings.
Ability to identify other benefits associated with energy efficiency improvement (e.g. reduces deferred maintenance, reduces peak loads, extends infrastructure, aesthetics, etc.)
Presenting data and results in a manner that compels financial managers to become an ally for energy efficiency improvements.
Working knowledge of and ability to apply CA Green Building Standards (CAL Green) Code Design.

PERFORMANCE CONTRACTING (ENERGY EFFICIENCY)

Ability to package several buildings/facilities into a larger project and to work with several City Departments that have different economic interests.
Understand that economic evaluations need to meet the individual needs of each Department involved in the process.
Ability to package deferred maintenance and other City needs into an energy efficiency performance contract.
Ability to provide municipal leasing packages with competitive interest rates
Ability to minimize the cost to the City by capitalizing on Federal or State tax benefits that may not be available directly to a City.

ENERGY EFFICIENCY SERVICES (CONTINUED)

Ability to use Energy CAP Enterprise software program as a performance tracking tool (see <http://www.energycap.com/>)

COMMISSIONING

Experience in commissioning heating, ventilating, air conditioning, electrical, lighting systems

Generally acting as owners agent for new construction projects from project inception through construction and first year of operation.

Experience in reviewing plans and specifications for long-term energy efficient, accessible, and operationally problem free systems.

Experience in developing, implementing functional performance tests and criteria to determine pass/fail of a system.

Experience in working with contractors as an owners agent and ability to avoid being blamed for contractor delays.

Experience with tools and methods of pre and post energy project measurement & verification.

LIGHTING CONSULTANT

Registered electrical engineer with expertise in energy efficient lighting design.

Demonstrated experience in evaluating different lighting options for new and existing construction.

Experience with point-by-point lighting analysis, economic analyses of options.

Ability to evaluate all costs using life cycle costing methods.

LEED

The City requires the certification of all new buildings under the Leadership in Energy and Environmental Design program

This list will be provided to prime consultants that engage in new construction design work for the City, [and will] [but will NOT] be a mandatory list for those consultants

Consultant must be a LEED accredited professional with demonstrated experience in registering and certifying projects

Consultant must have demonstrated experience in working as part of a design team

The City may directly contract with LEED consultant for training purposes of City staff; experience in training is desirable

The City may directly contract with LEED consultant to assist in implementing LEED for Existing Buildings, experience with LEED EB is desired

ATTACHMENT 1 TO EXHIBIT B

ENVIRONMENTAL SITE ASSESSMENTS, REMEDIATION SERVICES, AND HAZARDOUS MATERIALS SURVEYS

SERVICES UNDER THIS AGREEMENT SHALL BE PROCURED IN THE FOLLOWING MANNER:

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THE SERVICES TO BE PERFORMED UNDER THIS AGREEMENT INCLUDE, BUT ARE NOT LIMITED TO, THE FOLLOWING:

Perform Phase I and Phase II Environmental Site Assessments for hazardous substances in accordance with current standards and/or regulations including the Environmental Protection Agency (EPA), All Appropriate Inquiries regulation (40 CFR Part 312), and ASTM Standard E1527-05: Standards Practice for Environmental Site Assessment: Phase I Environmental Site Assessment Process.

Conduct hazardous materials assessments in buildings for asbestos, lead, mold, etc. and perform abatement monitoring and oversight.

Prepare risk assessments, remedial feasibility studies, remediation action plans, work plans and health & safety plans.

Perform groundwater monitoring, subsurface soil and groundwater investigations and remedial pilot tests including system installation.

Coordinate hazardous waste management/disposal services, including testing, transportation and disposition.

Perform underground storage tank checks, management and coordination of removal.

ENVIRONMENTAL SITE ASSESSMENTS, REMEDIATION SERVICES, AND HAZARDOUS MATERIALS SURVEYS (CONTINUED)

Prepare Storm Water Pollution Prevention Plans per State Water Resources Control Board regulations.

Perform indoor air quality assessment and testing (e.g. mold & vapor intrusion analysis).

Assist the City with the closure of sites.

Obtain project permits (e.g., well installation, well destruction, building demolition, UST removal, storm water construction permits, etc).

Provide assistance in scoping and specifications for contractor remediation and abatement work.

Assist the City with interacting with regulatory agencies including Sacramento County Environmental Management Department (SCEMD), State Department of Toxic Substances Control (DTSC), Regional Water Quality Control Board, and the State Water Resources Control Board (SWRCB).

Possess the necessary training, licenses, and certifications to perform requested tasks (one or more of the above).

Understanding of environmental regulations at state, federal and local levels, including 40 CFR and California titles 8, 15, 22, 23 and 26.

ATTACHMENT 1 TO EXHIBIT B

INSPECTION SERVICES

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THE SERVICES TO BE PERFORMED UNDER THIS AGREEMENT INCLUDE, BUT ARE NOT LIMITED TO, THE FOLLOWING:

The Consultant shall be staffed with personnel having the following minimum qualifications and experience:

Inspectors – Five (5) years of construction inspection experience on public works projects of comparable scope, magnitude and complexity and be certified by the ICBO in the building, electrical, mechanical, and plumbing inspection classifications. DSA certification is preferred but not required.

Provide technical inspection services for the project, coordinate oversight of all activities related to the construction of the project; maintain close liaison with the City Project Manager, and copy City Project Manager on all correspondence. (City Project Manager shall sign construction administration documents).

Perform the duties of an Inspector of Record, coordinate materials sampling, testing, and control, and ensure compliance with project plans, specifications, applicable model codes (i.e., CEC, CMC, CPC, CFC, CBC, , NEC, Title 24 Energy Efficiency Standards, CA Green Building Standards (Cal Green) Code), permits and agreements, and coordinate as required with the City Project Manager.

Depending on project needs and funding, consultant shall provide construction inspection services (non-registered engineer), but may be requested to provide a resident engineer if needed on specific projects. The focus would be to provide construction inspectors pursuant to DSLR prevailing wage rates which are currently listed under the Building/Construction Inspector Group 2 classification.

Provide project schedule analysis and track and monitor the contractor's schedule on a weekly basis, prepare daily inspection records and weekly status reports, and correspondence related to all project activities.

INSPECTION SERVICES (CONTINUED)

Identify actual and potential problems associated with the construction project and consult with the City Project Manager to implement solutions.

Check approved submittals of material delivered to site.

Maintain an awareness of safety and health requirements and enforce applicable regulations and contract provisions for the protection of the public and project personnel.

Review and approve progress payments with City Project Manager, negotiate change orders with City Project Manager, and at completion of project, assist in closeout and compile documents required to issue Certificate of Occupancy by the Public Works Building Official.

Obtain and assist with review of final record drawings at the completion of construction, as outlined in Task 3, "Post Construction Services".

Evaluate cost reduction incentive proposals and provide recommendation to City Project Manager for acceptance or denial.

Review and comment on projects during design phase.

Coordinate project-related submittals and review with the City Project Manager.

ATTACHMENT 1 TO EXHIBIT B

INTERIOR DESIGN/SPACE PLANNING SERVICES

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THE SERVICES TO BE PERFORMED UNDER THIS AGREEMENT INCLUDE, BUT ARE NOT LIMITED TO, THE FOLLOWING:

Meet with End Users and Facility Development staff to discuss project scope and prepare design fee proposal for each project.

Develop space adjacency "bubble" diagrams as required.

Develop "Usable Square Footage" calculations, and develop cost estimates for all Tenant Improvement work and estimated furniture costs.

Develop space plans that conform to the City's standard for workspace size and furniture.

Prepare finish plans, schedules, and color / presentation boards as required.

Coordinate all furniture layouts with building electrical outlets / devices, air ducts, thermostats, etc.

Prepare furniture specifications in City of Sacramento's format for bid / order.

Work with City staff throughout project to conform to City standard's and formats for bidding, purchasing, etc.

Oversee interior design, and furniture installation.

Interior Designers must have current NCIDQ (National Certification Interior Design Qualification) or CCIDC (California Council for Interior Design Certification) certification.

Must have working knowledge of commercial space planning / interior design related codes such as, ADA, fire, exiting, Technical Bulletin 133, flammability, wear data, abrasion resistance, etc.

ATTACHMENT 1 TO EXHIBIT B

LANDSCAPE ARCHITECTURE SERVICES

SERVICES UNDER THIS AGREEMENT SHALL BE PROCURED IN THE FOLLOWING MANNER:

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THE SERVICES TO BE PERFORMED UNDER THIS AGREEMENT INCLUDE, BUT ARE NOT LIMITED TO, THE FOLLOWING:

Perform Feasibility Studies

Participate in the preparation of plans, specifications, and estimates for landscape architectural projects.

Plan and design landscape improvements for City landscape architectural projects, subject to guidance and review by the project manager.

Assist in the preparation of construction drawings, specifications, and cost estimates for bid documents, including the design and layout of grading, drainage, paving, irrigation, plant materials, and play equipment systems, subject to guidance and review by the Project Manager.

Participate in site analyses, master planning, designing, cost estimating, and related landscape architectural advanced planning projects.

Review, check, and correct landscape architectural plans and drawings for accuracy and conformance to original design, and check calculations used in designs and estimates.

Prepare a variety of charts, graphs, maps, plans, and other illustrative materials for presentations.

Provide pre and post Bond Studies

Provide construction administration and management

Provide design and engineering of landscape projects

Provide recommendations on measures for LEED Certification

LANDSCAPE ARCHITECTURE SERVICES (CONTINUED)

Provide design services that maintain watershed protection, including factors such as building orientation, designing the site to retain and make use of storm water runoff, minimizing site erosion, and designing with and preserving natural site features

Utilizing regenerative design principals

Demonstrate experience with numerous successful public projects

ATTACHMENT 1 TO EXHIBIT B

MECHANICAL ENGINEERING SERVICES (Plumbing, Fire Protection, HVAC)

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THE SERVICES TO BE PERFORMED UNDER THIS AGREEMENT INCLUDE, BUT ARE NOT LIMITED TO, THE FOLLOWING:

Experience in performing facility evaluations.

Perform project functions related to life cycle review, constructability reviews, value engineering, master planning and construction inspections.

Awareness of local, state, federal codes and requirements

Provide technical assistance and recommendations for installation, operation, maintenance, repair, and alteration of heating, air conditioning, ventilation, refrigeration, water, sewer, and gas systems.

Oversee staff involved in mechanical maintenance, fabrication, and repair work as required on various city projects.

Assist City Staff in the development of preventive maintenance schedules and replacement programs.

Develop safety standards and procedures complying with CAL-OSHA and other authorities.

Develop operating instructions, safety and maintenance procedures related to city projects.

Prepare and/or obtain estimates for contract maintenance and assigned projects; schedule and inspect contractor's performance of the work for both in-house and contract services.

Experience with modifications/upgrades for HVAC, chillers, cooling towers, pumps, etc.

MECHANICAL ENGINEERING SERVICES (Plumbing, Fire Protection, HVAC) (CONTINUED)

Coordinate the replacement of mechanical systems including computer rooms, air conditioning systems, refrigeration units, and emergency generators.

Oversee project management, cost estimating, and development of construction drawings, specifications and construction inspections.

Conceptual and schematic design of various mechanical systems.

Experience in building management and control systems.

Provide mechanical engineering design and review services as required.

Provide Title 24 energy analyses and calculations.

Provide CA Green Building Standards (Cal Green) Code design.

Specialized experience and technical competence in the areas of plumbing, HVAC, emergency management, expense reduction programs.

ATTACHMENT 1 TO EXHIBIT B

REAL ESTATE APPRAISAL SERVICES

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THE SERVICES TO BE PERFORMED UNDER THIS AGREEMENT INCLUDE, BUT ARE NOT LIMITED TO, THE FOLLOWING:

A. REAL ESTATE APPRAISAL SERVICES – NON-EMINENT DOMAIN ACQUISITIONS, DISPOSITIONS, AND LEASING

The Scope of Work for Real Estate Appraisal Services – Non-Eminent Domain Acquisitions, Dispositions & Leasing includes, but is not limited to, the following:

Provide written *Summary Appraisal* reports, defined in the Uniform Standards of Professional Appraisal Practice (USPAP) as established by the Appraisal Foundation.

The appraiser must use the Market Value Definition as defined in the scope of work provided for each assignment.

The property shall be valued based on its highest and best use.

The appraiser must make a personal inspection of the subject parcel(s) to be appraised, including all improvements, structures, appurtenances, or other elements of value thereon.

Relative to land use and/or environmental issues, contact and/or meet with the appropriate governmental agencies, including, but not limited to the City Planning and Utilities Departments, the US Army Corp. of Engineers, Fish and Game Department, State Lands Commission, or any other agency that the City and/or Consultant believes might have jurisdiction over the land uses on the subject property.

REAL ESTATE APPRAISAL SERVICES (CONTINUED)

Among other things, ensure that the appraisal report contains the following:

A statement of all factors taken into consideration by the Consultant believed to influence, either favorably or unfavorably, the market value of properties in the subject area; together with a statement concerning the activity of the real estate market in the immediate and surrounding area during the past 2-5 years and/or other relevant time period, and a statement of current market conditions.

A statement describing transportation, schools, shopping, and other miscellaneous facilities in the subject area, such as places of worship, parks, playgrounds and public libraries.

Photographs of the subject property.

The name and address of the property owner and the date and place of recording of the instrument of conveyance under which the owner claims title.

The assessed value of the property and the amount of the current real estate tax levy.

A statement as to whether or not the subject property or any portion thereof is subject to special assessments, bonds, or fees; including the nature, amount and number of years during which payments must be made, and whether said special assessments, bonds, or fees affects the fair market value of the subject property.

A statement describing existing utilities, street improvements, and other infrastructure in proximity to the subject property, including the adequacy thereof in terms of amenities available to the property.

A statement of the condition of title, in reference to a preliminary report furnished by the City of Sacramento, identification of title exceptions which might have an effect on the value of the property, and a statement of whether or not such were taken into consideration in the appraisal, and, if so, how they were considered.

A physical description of the subject property. In the event that the property is improved, a statement of the age, dimensions, kind, character, and condition of each of the various structures, improvements, or fixtures on the property with an emphasis on those affected by the proposed acquisition.

A legal description and corresponding plat map of the parcel(s) being appraised.

A report of any and all circumstances found by the Consultant to exist with respect to lawful or unlawful condition, use, or occupancy of the subject property.

If relevant to the assignment, a statement of the rental value of each property and a rental history, if any.

Statement showing all recent sales (within 5 years) of the property(s) appraised, and a statement of all sales of comparable property which the Appraiser has taken into consideration in estimating the Market Value of the subject property. The statement covering sales of comparable properties shall indicate the factors of comparability and shall set forth, among other items, the names of the grantor and grantee, a description of the property and its condition, date of transfer, price and terms, place of recording the conveyance, a map or diagram or other information indicating the location of such sales in relation to the subject property, a photograph, and the name(s) of confirming parties with date of confirmation.

Specified quantitative and/or qualitative adjustments to the comparable sales, preferable in a grid format, shall be provided in the body of the appraisal report itself.

A statement of the Consultant's opinion of the highest and best use of the property and the basis for the determination.

A statement of any and all assumptions and limiting conditions.

A statement of the Consultant's qualifications and experience.

Certification of the Consultant's non-interest, present or contemplated, in the property.

A statement, considering the above elements, of Consultant's opinion of the fair market value for the property being appraised.

Provide a summary of the appraised value for each parcel(s) in a form acceptable to the City that will be given to the property owner by the Real Property Agent.

REAL ESTATE APPRAISAL SERVICES (CONTINUED)

B. REAL ESTATE APPRAISAL SERVICES - EMINENT DOMAIN ACQUISITIONS

The Scope of Work for Real Estate Appraisal Services – Eminent Domain includes, but is not limited to, the following:

The Consultant/firm shall make an appraisal of properties required for public projects and be familiar with recognized appraisal laws, methodologies, and practices, as set forth in the California Eminent Domain Law, Code of Civil Procedure Sections 1230.010 *et seq.*, relative to the acquisition of property by a public agency for a public purpose.

To provide written *Summary Appraisal* reports, as defined in the Uniform Standards of Professional Appraisal Practice (USPAP) as established by the Appraisal Foundation.

The appraiser must use the Fair Market Value Definition as set forth in the California Eminent Domain Law, Code of Civil Procedure.

The properties to be appraised shall be valued based on its highest and best use, and not its proposed public use.

Make a personal inspection of the subject parcel(s) to be appraised, including all improvements, structures, appurtenances including all other elements of value.

Invite the property owner and/or their representative in writing to accompany the appraiser on an inspection of the subject property(s), and to request from said property owner and/or representative that the appraiser be provided with any market data and information that may be relevant to the appraisal of the property.

Relative to land use and/or environmental issues, contact and/or meet with the appropriate governmental agencies, including, but not limited to the City Planning and Utilities Departments, the US Army Corp. of Engineers, Fish and Game Department, State Lands Commission, or any other agency that the City and/or Consultant believes might have jurisdiction over the land uses on the subject property.

Among other things, ensure that the report contains the following:

A statement of all factors taken into consideration by the Consultant believed to influence, either favorably or unfavorably, the market value of properties in the subject area; together with a statement concerning the activity of the real estate market in the immediate and surrounding area during the past 2-5 years and/or other relevant time period, and a statement of current market conditions.

A statement describing transportation, schools, shopping, and other miscellaneous facilities in the subject area, such as places of worship, parks, playgrounds and public libraries.

A photograph of the larger parcel and acquisition area with emphasis on photos which show the relation of the acquisition area to present boundaries and any significant improvements or other features in the acquisition area.

The name and address of the property owner(s) and the date and place of recording of the instrument of conveyance under which the owner(s) claims title.

The assessed value of the property and the amount of the current real estate tax levy.

REAL ESTATE APPRAISAL SERVICES (CONTINUED)

A statement as to whether or not the subject property or any portion thereof is subject to special assessments, bonds, or fees; including the nature, amount and number of years during which payments must be made, and whether said special assessments, bonds, or fees affects the fair market value of the subject property.

A statement describing existing utilities, street improvements, and other infrastructure in proximity to the subject property, including the adequacy thereof in terms of amenities available to the property.

A statement of the condition of title, in reference to a preliminary report furnished by the title company, identification of title exceptions which might have an effect on the value of the property, and a statement of whether or not such were taken into consideration in the appraisal, and, if so, how they were considered.

A physical description of the subject property, or in the case of a partial take, a physical description of the larger parcel with an emphasis on the acquisition area and, in the event that the property is improved, a statement of the age, dimensions, kind, character, and condition of each of the various structures, improvements, or fixtures on the property, with an emphasis on those affected by the proposed acquisition.

A legal description and corresponding plat map of the parcel(s) being appraised.

A report of any and all circumstances found by the consultant to exist with respect to a lawful or unlawful condition, use, or occupancy of each property.

If relevant to the assignment, a statement of the rental value of each property and a rental history, if any.

A statement showing all recent sales (within 5 years) of the properties appraised, and a statement of all sales of comparable property which the Appraiser has taken into consideration in estimating the market value of the subject property. The statement covering sales of comparable properties shall indicate the factors of comparability and shall set forth, among other items, the names of the grantor and grantee, a description of the property and its condition, date of transfer, price and terms, place of recording the conveyance, a map or diagram or other information indicating the location of such sales in relation to the subject property, a photograph, and the name(s) of confirming parties with date of confirmation.

Specified quantitative and/or qualitative adjustments to the comparable sales, preferably in a grid format, shall be provided in the body of the appraisal report itself. A statement of the Consultant's opinion of the highest and best use of the property and the basis for the determination.

If applicable, a statement that loss of goodwill was or was not considered, and the basis for the determination.

A statement of any and all assumptions and limiting conditions.

A statement of the Consultant's qualifications and experience.

Certification of the Consultant's non-interest, present or contemplated, in the property.

A statement in the report, considering the above elements, of consultant's opinion of the fair market value for the proposed acquisition(s).

Provide a summary of the appraised value for each parcel(s) in a form acceptable to the City that will be given to the property owner by the Real Property Agent upon the City making an offer of just compensation.

C. REAL ESTATE APPRAISALS FOR COMMUNITY FACILITY DISTRICTS (BOND APPRAISALS)

The Scope of Work for Real Estate Appraisal Services for Community Facility Districts (Bond Appraisals) includes, but is not limited to, the following:

REAL ESTATE APPRAISAL SERVICES (CONTINUED)

Prepare a market value appraisal, which will serve as a basis for determining value-to-lien ratios for the proposed Community Facilities District and/or assessment district. Since properties within the district may be at various stages of development, five distinct “markets” may exist (properties that are: vacant, partially completed, completed unsold homes, sold homes or model homes) within the proposed CFD or AD. The estimate of market value should be refined to reflect the *Retail Value* of the improved properties, which have received their Certificate of Occupancy or have passed Final Inspection (including model homes), and the *Bulk Sale Value* of all vacant properties. All properties, which do not have a Certificate of Occupancy or have not passed Final Inspection, are to be considered vacant and unimproved.

Include a Discounted Cash Flow (DCF) for the Bulk Sale Valuation. The DCF analysis shall incorporate an absorption forecast developed and supported by the appraiser (*or supplied to the appraiser by the City or third party*) within the report of the appraisal. The expenses of converting raw land to finished product must be deducted from gross cash flow to derive net cash flow prior to discounting. The discount rate should reflect the rates of return needed to attract debt and equity participation in the project.

If applicable, include the Sales Comparison approach to render a bulk value. If possible include an analysis of large bulk sales or at minimum a discussion of large tract land sales as a reasonableness check for the bulk value rendered by the Discounted Cash Flow Analysis.

The estimation of the *retail values* for those fully improved properties, as described above, shall be pursuant to generally accepted mass appraisal valuation methodology.

Render a schedule of preliminary values including both the Retail and Bulk appraised values. The values will be presented in a matrix arranged by Tax Zone by Assessor Parcel Number, or by other means acceptable to the City, and will include the owner’s name(s), size, land use, value per unit (gross acre, net acre, etc.), by the date specified herein. Please include support for the preliminary value estimate including the draft Discounted Cash Flow Analysis and the supporting assumptions.

Make a personal inspection of the subject properties, including; if applicable, all improvements, structures, appurtenances, or other elements of value thereon which are recognized appraisal standards.

Relative to land use issues, contact and/or meet with the appropriate governmental agencies, including, but not limited to, the Planning and Utilities Departments, or any other agency that the Consultant believes would have jurisdiction over the land uses on the subject property.

In addition to those requirements set forth in CDIAC, please insure that the report contains the following:

A statement of all factors taken into consideration by the Consultant believed to influence, either favorably or unfavorably, the bulk market value of properties in the subject area; together with statement concerning the activity of the real estate market in the immediate and surrounding area during the past few years and the statement of current market conditions.

A statement as to whether or not the properties or any portion thereof is subject to special assessments; the nature, amount and number of years during which payments must be made. (*To be provided by City.*)

REAL ESTATE APPRAISAL SERVICES (CONTINUED)

A statement showing all recent sales (within 5 years) of the property appraised, and a statement of all sales of comparable property which the Appraiser has taken into consideration in estimating the retail and bulk market value of the subject properties. The statement covering sales of comparable properties shall indicate the factors of comparability and shall set forth, among other items, the names of the grantor and grantee, a description of the property and its condition, date of transfer, price and terms, place of recording the conveyance, a map or diagram or other information indicating the location of such sales in relation to the subject property, a photograph, and the name(s) of confirming parties with date of confirmation.

ATTACHMENT 1 TO EXHIBIT B

REAL ESTATE SERVICES AND RELOCATION SERVICES

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THE SERVICES TO BE PERFORMED UNDER THIS AGREEMENT INCLUDE, BUT ARE NOT LIMITED TO, THE FOLLOWING:

The City of Sacramento is seeking Consultants to provide real estate services to include the acquisition of real property interests either through non-eminent domain or eminent domain for public projects, the disposition of real property interests, the leasing of real property interests, and relocation assistance services related to the acquisition of real property rights for public projects. The Consultant will negotiate real estate agreements, and/or other agreements for the acquisition, disposition and leasing of real property interests, and conduct all necessary relocation assistance services. The Consultant must have demonstrated experience and qualifications to provide such services and be familiar with federal, state and local procedures and guidelines related to the public real estate and relocation processes.

The Scope of Work for Real Estate and Relocation Services includes, but is not limited to, the following:

Consultant shall coordinate and manage the real estate process with City Real Estate Services/Asset Management Section, Project Manager, fee appraisers, and consultant engineers.

Consultant shall be provided the project schedule for acquisition projects; however, the schedule and deliverables shall be defined by the Real Estate Services/Asset Management Section. The Consultant's schedule and deliverables may or may not match the project schedule.

REAL ESTATE SERVICES AND RELOCATION SERVICES (CONTINUED)

Consultant shall review preliminary reports and litigation guarantees prepared by a title company to ascertain ownership and review underlying documents related to title exceptions and encumbrances affecting the property.

Consultant shall be familiar with the appraisal within the context of each property interest to be acquired or disposed of to facilitate effective negotiations with the property owners or buyers.

Consultant shall be able to prepare appropriate documents including, but not limited to:

Real estate agreements using City's "approved as to form" documents; offer letters; Notice to Appraise letter; opinion of valuation memorandum (in lieu of Summary Appraisal Statement including recommendation for nominal value (for those properties not requiring an appraisal report)); Temporary and/or Permanent Easements; Rights of Entry; Possession & Use Agreements, escrow instructions; Subordination agreements, including obtaining loan numbers and addresses of lenders and others holding superior rights in the property; Grant deeds or other conveyance instruments.

Consultant shall prepare field files for each parcel to include the following:

Reference to City's Project and case file numbers.

Agents Contact Diary.

Real estate documents.

Subordination agreements.

Appraisal data.

Preliminary reports.

Detailed log showing the time spent on each activity.

All other pertinent data regarding subject parcel.

Consultant shall negotiate acquisition or disposition of real property interests, including but not limited to, full or partial acquisitions, permanent easements, temporary easements, rights of entry, possession & use agreements, and tenant consents on behalf of the City in conformance with federal, state and local procedures and guidelines. Activities to include:

Present written offer for purchase or disposal, appraisal summary, and deeds to each property owner or buyer in person when reasonably available.

Review property owner or buyer concerns and discuss this information with City staff and/or appraiser as appropriate.

Provide City staff with a weekly, or as otherwise directed, written "status report" covering each subject parcel.

Maintain a timely written parcel diary covering all meetings and discussions that are pertinent to the acquisition or disposition of each parcel.

Attend meetings as requested by the City relative to negotiations.

Make appropriate number of contacts with property owners or buyers, or property owner's or buyer's designated representatives, either by phone or in person.

Prior to execution of documents, Consultant shall obtain City approval for any offers or settlement, if such amount is other than the appraised amount or amount of just compensation. When negotiations are completed, Consultant shall deliver executed documents to City for approval.

Draft Memorandum of Administrative Settlement or similar document in a format provided by City. If negotiations for acquisition are unsuccessful, provide City with original parcel diary and case file as well as written explanation as to the reasons for failure of negotiations, including recommends for eminent domain and alternatives to eminent domain.

REAL ESTATE SERVICES AND RELOCATION SERVICES (CONTINUED)

Completion of necessary documents and forms for completion of the appropriate Caltrans Right of Way Certification for Local Assistance Project.

Provide escrow coordination and title clearance assistance to City and title company as needed.

In those cases where eminent domain will be pursued, City shall process any eminent domain actions, but shall rely on the Consultant to furnish any information pertinent to the condemnation. Consultant shall provide the following, in addition to any other information Consultant would have access to that might be requested by City Attorney's Office:

Date, time and place of each contact.

Amount of offer.

To whom the offer was made.

Name of all parties present.

Response to offer and any counter offer.

Condemnation support as needed (excluding expert witness testimony).

Negotiations by Consultant will continue after the filing of a condemnation action if it is the City's desire.

The Scope of Work for Relocation Services include, but are not limited to:

1. Conduct the following activities necessary for the effective relocation of residential occupants:

Conduct personal, on-site interviews of prospective displacees to ascertain relocation housing needs and special requirements.

Inform displaced persons of available relocation assistance services and benefits, and explain relocation process.

Provide displacees with on-going advisory assistance to minimize their hardship, including referrals to and coordination with community service resources, public housing and other public services as necessary.

Prepare and distribute Information Statements, Notices of Displacement, 90-Day Notice to Vacate, and other notices as may be required.

Provide written referrals to replacement housing and physically assist displacees in locating replacement housing including transportation of individuals to view replacement sites, if necessary.

Prepare replacement housing/down payment assistance entitlement reports for displaced households.

Determine eligibility for and proposed amount of relocation benefits, including moving payments, rental/down payment assistance, and replacement housing payments.

Inspect replacement dwellings to determine if they meet "decent, safe and sanitary" requirements.

Prepare all applicable benefit claim forms, secure claimant's signatures on claim forms, and submit claim forms to City for processing and payment.

Monitor the move to replacement site, as necessary.

REAL ESTATE SERVICES AND RELOCATION SERVICES (CONTINUED)

Deliver benefit checks and other appropriate payments to claimants.

Maintain necessary case documents and provide City with periodic standard status reports.

Conduct the following activities necessary for the effective relocation of business occupants:

Conduct personal, on-site interviews of prospective displacees to ascertain relocation needs and special requirements.

Inform displaced business of available relocation assistance services and benefits, and explain relocation process.

Prepare and distribute Information Statements, Notices of Displacement, 90-Day Notices to Vacate, and other notices, as may be required.

Assist displacees in locating replacement business sites and provide a required number of written referrals to same.

Provide on-going advisory assistance to business displacees, including lists of qualified movers and vendors.

Prepare specifications for the move and inventory of personal property, ensuring thorough coordination with City staff and/or legal counsel, that no real property is included on the personal property inventory.

Coordinate the walk-through for a minimum of two bids and move estimates with movers and the displaced business.

Monitor the actual move to replacement site and re-establishment activities, as necessary.

Determine eligibility for and proposed amount of relocation benefits, including actual and reasonable moving payments, re-establishment payments, and fixed payments.

Prepare all applicable benefit claim forms, secure claimants, signature on claim forms, and submit claim forms to City for processing and payment.

Deliver benefit checks and other appropriate payments to claimants.

Maintain necessary case documentation and provide City with periodic standard status reports.

ATTACHMENT 1 TO EXHIBIT B

STRUCTURAL ENGINEERING SERVICES

SERVICES UNDER THIS AGREEMENT SHALL BE PROCURED IN THE FOLLOWING MANNER:

Services may involve varying levels of effort during the term of the Agreement. The need for services may not be continuous during the term. It is understood and agreed by the CONTRACTOR that no services at all may be required by the CITY under this Agreement. If services are performed under this Agreement, payment for said services shall not exceed the annual contract amount set forth in Exhibit B. Any project which will exceed this amount must be approved by the City Council prior to the commencement of services.

The CITY will contact the CONTRACTOR regarding a specific task or project. At such time, Contractor shall submit a written proposal for the scope of services to be performed related to the specific task or project. If the City and Contractor agree on the proposed scope of services and on Contractor's compensation in accordance with Attachment 1 to Exhibit B and upon negotiated unit prices for items not identified in Attachment 1 to Exhibit B, City will issue a written Notice to Proceed.

The CITY shall have no obligation whatsoever under this Agreement with respect to any costs incurred by CONTRACTOR for services other than services authorized by the CITY pursuant to a written Notice to Proceed.

THE SERVICES TO BE PERFORMED UNDER THIS AGREEMENT INCLUDE, BUT ARE NOT LIMITED TO, THE FOLLOWING:

Provide technical assistance and recommendations for structural maintenance, repair, and alteration of City owned and leased facilities, including, but not limited to, such areas as carpentry, roof repair, cabinet work, painting and finishing, lock and door maintenance, glass repair, and general building maintenance.

Develop preventive maintenance schedules and replacement programs.

Prepare and/or obtain estimates for contract maintenance and assigned projects; schedule and inspect performance of the work for both in-house and contract services.

Develop safety standards and procedures complying with CAL-OSHA and other authorities.

Develop operating instructions, safety and maintenance procedures.

Develop, supervise, and implement work plans and work schedules for work units.

Review project documents prior to construction.

Coordinate and supervise emergency repairs.

Maintain status of structural maintenance tasks and projects.

Schedule and coordinate work with other sections and divisions.

STRUCTURAL ENGINEERING SERVICES (CONTINUED)

Collect, maintain, monitor, and utilize a variety of records and information through the use of written and computerized management information systems related to the work and work units assigned.

Reviews proposed and new legislation and determines impact to Division activities; keeps informed of changing laws, rules, regulations as related to the Division; ensures compliance with all Federal, State, and local rules and regulations and ensures compliance with applicable codes, design and construction standards.

Possession of a Certificate of Registration as a Professional Engineer in the State of California.

Review and comment on consultant work during design.

Review and provide comment on construction.

Provide consultation on proposed improvements and new work.

ATTACHMENT 1 TO EXHIBIT B

SURVEYING SERVICES

SERVICES UNDER THIS AGREEMENT SHALL BE PROCURED IN THE FOLLOWING MANNER:

Services may involve varying levels of effort during the term of the Agreement. The need for services may not be continuous during the term. It is understood and agreed by the CONTRACTOR that no services at all may be required by the CITY under this Agreement. If services are performed under this Agreement, payment for said services shall not exceed the annual contract amount set forth in Exhibit B. Any project which will exceed this amount must be approved by the City Council prior to the commencement of services.

The CITY will contact the CONTRACTOR regarding a specific task or project. At such time, Contractor shall submit a written proposal for the scope of services to be performed related to the specific task or project. If the City and Contractor agree on the proposed scope of services and on Contractor's compensation in accordance with Attachment 1 to Exhibit B and upon negotiated unit prices for items not identified in Attachment 1 to Exhibit B, City will issue a written Notice to Proceed.

The CITY shall have no obligation whatsoever under this Agreement with respect to any costs incurred by CONTRACTOR for services other than services authorized by the CITY pursuant to a written Notice to Proceed.

THE SERVICES TO BE PERFORMED UNDER THIS AGREEMENT INCLUDE, BUT ARE NOT LIMITED TO, THE FOLLOWING:

Review and check various survey maps and descriptions for accuracy and conformance with established surveying principles and practices and applicable surveying laws, rules and regulations and make various recommendations for improvement

Enforce City policies, codes, regulations and appropriate State and Federal laws

Prepare survey related agenda items for City Council

Establish and maintain permanent system for recording critical survey data and documentation

Establish and maintain equipment and supply requirements

Receive, evaluate, and coordinate requests for surveys, assigning parties, scheduling and setting priorities
Prepare, review, sign and record survey maps and documents

Coordinate with contractors through the Resident Construction Inspector (RCI), engineers, architects and other project personnel regarding survey requirements or problems

Depending on project needs and funding, consultant shall provide construction inspection services (non-registered engineer), but may be requested to provide a resident engineer if needed on specific projects. The focus would be to provide construction inspectors pursuant to DSLR prevailing wage rates which are currently listed under the Building/Construction Inspector Group 2 classification.

SURVEYING SERVICES (CONTINUED)

Knowledge of:

The California Land Surveyors Act

The California Subdivision Map Act

Principles, practices, equipment, and methods used in land surveying

Construction engineering, including site preparation

Leveling, foundation layout, boundary establishment, structural measurements, etc.

Civil engineering drafting and mapping

Survey records management

Real property legal descriptions

Principles and practices of supervision and leadership

Personal computers, including surveying software

Current generation of field survey computers

Obtaining title reports, review and note potential issues

Map elements, locate services based on (e) data and investigative work restrictions

Prepare boundary, topographic, existing conditions and proposed maps in accordance with industry standards and city-standards

ATTACHMENT 1 TO EXHIBIT B

WATER INTRUSION SERVICES

SERVICES UNDER THIS AGREEMENT SHALL BE PROCURED IN THE FOLLOWING MANNER:

Services may involve varying levels of effort during the term of the Agreement. The need for services may not be continuous during the term. It is understood and agreed by the CONTRACTOR that no services at all may be required by the CITY under this Agreement. If services are performed under this Agreement, payment for said services shall not exceed the annual contract amount set forth in Exhibit B. Any project which will exceed this amount must be approved by the City Council prior to the commencement of services.

The CITY will contact the CONTRACTOR regarding a specific task or project. At such time, Contractor shall submit a written proposal for the scope of services to be performed related to the specific task or project. If the City and Contractor agree on the proposed scope of services and on Contractor's compensation in accordance with Attachment 1 to Exhibit B and upon negotiated unit prices for items not identified in Attachment 1 to Exhibit B, City will issue a written Notice to Proceed.

The CITY shall have no obligation whatsoever under this Agreement with respect to any costs incurred by CONTRACTOR for services other than services authorized by the CITY pursuant to a written Notice to Proceed.

THE SERVICES TO BE PERFORMED UNDER THIS AGREEMENT INCLUDE, BUT ARE NOT LIMITED TO, THE FOLLOWING:

Water intrusion is a complex issue that can lead to building material deterioration and mold. Firms should specialize in solving both isolated and widespread water intrusion issues. Must use American Society for Testing and Materials Standard Guidelines (ASTM) as set forth in ASTM E 2128-01 "Standard Guide for Evaluating Water Leakage of Buildings". This includes the structure, roof, walls, and all other building related assemblies.

Find, diagnose, and resolve water intrusion issues in buildings.

Study, research, and understand the transport mechanism that allows water intrusion to occur in various types of building systems and components.

Use state of the art and technologically advanced tools in their investigations such as infrared, nuclear technology, digital moisture scanners, sophisticated video scopes and advance water testing equipment with established and proven protocols.

Investigation, analysis, and reporting of troubled or failed building components related to water intrusion which includes roofing, waterproofing, and exterior wall assemblies such as masonry walls and glass curtain walls.

Roof asset management which includes survey and documentation of all existing roofing systems; database of existing conditions including photographs, roof plans, and roof assembly information; work order requests for maintenance repairs; and recommendations for any needed recovers or replacements.

WATER INTRUSION SERVICES (CONTINUED)

Review of available construction related documents, drawings, notes, repairs, as-built drawings, and modifications, as provided by the City Representative.

Review of leak history file information as provided by the City Representative via written files or verbal communication.

Perform visual surveys of buildings focusing on storefront entries, building system wall cladding, and foundation joints.

Perform visual observations of lamina, sealant joints, interfaced components, windows, intersections, transitions, terminations, penetrations, and horizontal surfaces (roof and related components).

Prepare protocols for water tests and destructive testing as needed.

Water test areas located during visual surveys to determine path of leaks in the building.

Keeping the operation and schedule in mind, consultant will work with the City Representative and/or contractors to open up interior and exterior walls, at sealant joints, wall / window interface joints, soffits, ledges, cornices, etc.

Prepare preliminary reports with recommendations for repairs.

Provide limited details to depict condition and repair requirements.

Provide City Representative a products list for consideration and provide an abbreviated specification for the repair materials and systems.



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EXHIBIT C

SAMPLE PROFESSIONAL SERVICES AGREEMENTS

The attached sample professional services agreements are those that were awarded to the firms. The version of each contract awarded was based upon scope of work and the type of professional license held by the consultant.



PROJECT #:
PROJECT NAME:
DEPARTMENT:
DIVISION:

CITY OF SACRAMENTO

PROFESSIONAL SERVICES AGREEMENT FOR DESIGN SERVICES

**TO BE USED FOR DESIGN PROFESSIONAL SERVICES PERFORMED BY
LICENSED ARCHITECTS, LANDSCAPE ARCHITECTS OR PROFESSIONAL
LAND SURVEYORS OR REGISTERED PROFESSIONAL ENGINEERS**

THIS AGREEMENT is made at Sacramento, California, as of _____, by and between the **CITY OF SACRAMENTO**, a municipal corporation (“CITY”), and

Name of Contractor
Address
Phone/Fax

(“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 therefor. 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.
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 therefor, 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: _____
Print name: _____
Title: _____

For: Gustavo F. Vina, Interim City Manager

APPROVED TO AS FORM:

City Attorney

ATTEST:

City Clerk

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:

NAME OF FIRM

Federal I.D. No.

State I.D. No.

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

Print Name and Title

Additional Signature (*if required*)

Print Name and Title

**DECLARATION OF COMPLIANCE
Equal Benefits Ordinance**

Name of Contractor: _____

Address: _____

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 (the [Ordinance](#)).
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

Date

Print Name

Title

EXHIBIT A

PROFESSIONAL SERVICES AGREEMENT FOR DESIGN SERVICES

SCOPE OF SERVICES

1. Representatives.

The CITY Representative for this Agreement is:

*Name/Title
Address
Phone/Fax/E-mail*

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:

*Name/Title
Address
Phone/Fax/E-mail*

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 ___ [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 *[check one]*

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 a portion of any payment due under this Agreement until all required statements are filed.

4. **Scope of Services.** *[Describe services to be provided here, or, if scope of services is described in an attachment, label the attachment “Attachment 1 to Exhibit A” and include the following sentence:]*

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, or in accordance with the schedule, set forth in the scope of services.

EXHIBIT B

PROFESSIONAL SERVICES AGREEMENT FOR DESIGN SERVICES

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 \$_____.
2. **Billable Rates.** CONTRACTOR shall be paid for the performance of Services on an hourly rate, daily rate, flat fee, lump sum or other basis, as set forth in Attachment 1 to Exhibit B, attached hereto and incorporated herein. *[Attach list of billable rates that apply, labeled "Attachment 1 to Exhibit B".]*
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:

*Office
Address
Phone/Fax*

Attn: _____

- 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 consultants 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.

EXHIBIT D

PROFESSIONAL SERVICES AGREEMENT FOR DESIGN SERVICES

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 claims, actions, damages, costs, liabilities, demands, losses, judgments, penalties 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 "Claims"), including but not limited to Claims arising from personal injury or death, damage to personal, real or intellectual property or the environment, contractual or other economic damages, or regulatory penalties, that arise out of, pertain to or relate to any negligent act or omission, recklessness or willful misconduct of CONTRACTOR, its sub-consultants, subcontractors or agents, and their respective officers and employees, in connection with performance of or failure to perform this Agreement, whether or not such Claims are litigated, settled or reduced to judgment; provided that the foregoing indemnity does not apply to liability for damages for death or bodily injury to persons, injury to property, or other loss, damage or expense to the extent arising from (i) the sole negligence or willful misconduct of, or defects in design furnished by, CITY, its agents, servants, or independent contractors who are directly responsible to CITY, or (ii) the active negligence of CITY.
- 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 a 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 insureds 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 insureds 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. Contractor shall provide initial insurance documents to the Engineer upon request, prior to execution of the final contract. All future insurance renewal documents shall be sent to:

EBIX BPO
212 Kent Street
Portland, MI, 48875

Phone: (517) 647-1700
Fax: (517) 647-7900
Email: CertsOnly@periculum.com

- (2) 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.

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.

- (3) **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:
 - i. Withholding of payments to CONTRACTOR under this Agreement until CONTRACTOR complies;
 - ii. 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.

(4) 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.

(5) 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.

(6) 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.

(7) 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.

(8) **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.

(9) **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.

19. **Use Tax Requirements.** During the performance of this Agreement, CONTRACTOR, for itself, its assignees and successors in interest, agrees as follows:

- A. Use Tax Direct Payment Permit: For all leases and purchases of materials, equipment, supplies, or other tangible personal property used to perform the Contract or Agreement and shipped from outside California, the Contractor and any subcontractors leasing or purchasing such materials, equipment, supplies or other tangible personal property shall obtain a Use Tax Direct Payment Permit from the California State Board of Equalization ("SBE") in accordance with the applicable SBE criteria and requirements.
- B. Sellers Permit: For any construction contract and any construction subcontract in the amount of \$5,000,000 or more, Contractor and the subcontractor(s) shall obtain sellers permits from the SBE and shall register the jobsite as the place of business for the purpose of allocating local sales and use tax to the City. Contractor and its subcontractors shall remit the self-accrued use tax to the SBE, and shall provide a copy of each remittance to the City.
- C. The above provisions shall apply in all instances unless prohibited by the funding source for the Contract or Agreement.

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, that 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 directing 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
Procurement Services Division
5730 24th Street, Bldg. 1
Sacramento, CA 95822

- 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
Procurement Services Division
5730 24th Street, Bldg. 1
Sacramento, CA 95822
- 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.



PROJECT #:
PROJECT NAME:
DEPARTMENT:
DIVISION:

CITY OF SACRAMENTO
**PROFESSIONAL SERVICES AGREEMENT NOT
RELATED TO ARCHITECTS, ENGINEERS, OR CONSTRUCTION**

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

Company Name
Address
City, State

("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.
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: _____

Print name: _____

Title: _____

For: Gustavo F. Vina, Interim City Manager

APPROVED TO AS FORM:

City Attorney

ATTEST:

City Clerk

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:

NAME OF FIRM

Federal I.D. No.

State I.D. No.

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

Print Name and Title

Additional Signature (*if required*)

Print Name and Title

DECLARATION OF COMPLIANCE

Equal Benefits Ordinance

Name of Contractor: _____

Address: _____

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 (the [Ordinance](#)).
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

Date

Print Name

Title

EXHIBIT A
PROFESSIONAL SERVICES AGREEMENT
SCOPE OF SERVICES

1. Representatives.

The CITY Representative for this Agreement is:

Name
Address
City, State
Phone

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:

Name
Address
City, State
Phone

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 required for this Agreement. If required, such coverage must be continued for at least 3 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 *[check one]*

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 a portion 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, or in accordance with the schedule, set forth in the scope of services.

TIME OF PERFORMANCE – XXX CALENDAR DAYS

AGREEMENT EXPIRES - DATE

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 \$ _____
2. **Billable Rates.** CONTRACTOR shall be paid for the performance of Services on an hourly or lump sum basis, 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:

Name
Address
City, State

- 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.

EXHIBIT C

PROFESSIONAL SERVICES AGREEMENT

FACILITIES AND EQUIPMENT TO BE PROVIDED BY CITY

CITY shall [*check one*]

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 a 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 insureds 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 insureds 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. Contractor shall provide initial insurance documents to the Engineer upon request, prior to execution of the final contract. All future insurance renewal documents shall be sent to:

EBIX BPO
212 Kent Street
Portland, MI, 48875

Phone: (517) 647-1700
Fax: (517) 647-7900
Email: CertsOnly@periculum.com

- (2) 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.

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.

- 19. Use Tax Requirements.** During the performance of this Agreement, CONTRACTOR, for itself, its assignees and successors in interest, agrees as follows:
- A. Use Tax Direct Payment Permit: For all leases and purchases of materials, equipment, supplies, or other tangible personal property used to perform the Contract or Agreement and shipped from outside California, the Contractor and any subcontractors leasing or purchasing such materials, equipment, supplies or other tangible personal property shall obtain a Use Tax Direct Payment Permit from the California State Board of Equalization ("SBE") in accordance with the applicable SBE criteria and requirements.
 - B. Sellers Permit: For any construction contract and any construction subcontract in the amount of \$5,000,000 or more, Contractor and the subcontractor(s) shall obtain sellers permits from the SBE and shall register the jobsite as the place of business for the purpose of allocating local sales and use tax to the City. Contractor and its subcontractors shall remit the self-accrued use tax to the SBE, and shall provide a copy of each remittance to the City.
 - C. The above provisions shall apply in all instances unless prohibited by the funding source for the Contract or Agreement.

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, that 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 directing 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
Procurement Services Division
5730 24th Street, Bldg. 1
Sacramento, CA 95822

- 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
Procurement Services Division
5730 24th Street, Bldg. 1
Sacramento, CA 95822
- 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.



PROJECT #:
PROJECT NAME:
DEPARTMENT:
DIVISION:

CITY OF SACRAMENTO

PROFESSIONAL SERVICES AGREEMENT FOR CONSTRUCTION-RELATED SERVICES

TO BE USED FOR PROFESSIONAL SERVICES RELATED TO A CONSTRUCTION PROJECT BUT NOT PERFORMED BY LICENSED ARCHITECTS, LANDSCAPE ARCHITECTS OR PROFESSIONAL LAND SURVEYORS OR REGISTERED PROFESSIONAL ENGINEERS

THIS AGREEMENT is made at Sacramento, California, as of _____, by and between the **CITY OF SACRAMENTO**, a municipal corporation (“CITY”), and

Name of Contractor
Address
Phone/Fax

(“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 therefor. 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.
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 therefor, 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

CONTRACTOR:

By: _____

NAME OF FIRM

Print name: _____

Federal I.D. No.

Title: _____

For: Ray Kerridge, City Manager

State I.D. No.

APPROVED TO AS FORM:

City of Sacramento Business Op. Tax Cert. No.

City Attorney

TYPE OF BUSINESS ENTITY (*check one*):

ATTEST:

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

City Clerk

Attachments

Signature of Authorized Person

- 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

Print Name and Title

Additional Signature (*if required*)

Print Name and Title

**DECLARATION OF COMPLIANCE
Equal Benefits Ordinance**

Name of Contractor: _____

Address: _____

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 (the [Ordinance](#)).
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

Date

Print Name

Title

EXHIBIT A

PROFESSIONAL SERVICES AGREEMENT FOR CONSTRUCTION-RELATED SERVICES

SCOPE OF SERVICES

1. Representatives.

The CITY Representative for this Agreement is:

*Name/Title
Address
Phone/Fax/E-mail*

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:

*Name/Title
Address
Phone/Fax/E-mail*

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 ___ [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 *[check one]*

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 a portion of any payment due under this Agreement until all required statements are filed.

- 4. Scope of Services.** *[Describe services to be provided here, or, if scope of services is described in an attachment, label the attachment "Attachment 1 to Exhibit A" and include the following sentence:]*

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, or in accordance with the schedule, set forth in the scope of services.

EXHIBIT B

PROFESSIONAL SERVICES AGREEMENT FOR CONSTRUCTION-RELATED SERVICES

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 \$_____.
2. **Billable Rates.** CONTRACTOR shall be paid for the performance of Services on an hourly rate, daily rate, flat fee, lump sum or other basis, as set forth in Attachment 1 to Exhibit B, attached hereto and incorporated herein. *[Attach list of billable rates that apply, labeled "Attachment 1 to Exhibit B".]*
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:

Office
Address
Phone/Fax

Attn: _____

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.

EXHIBIT D

PROFESSIONAL SERVICES AGREEMENT FOR CONSTRUCTION-RELATED SERVICES

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 damages for death or bodily injury to persons, injury to property, or other loss, damage or expense to the extent arising from (i) the sole negligence or willful misconduct of, or defects in design furnished by, CITY, its agents, servants, or independent contractors who are directly responsible to CITY, or (ii) the active negligence of CITY.
- 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 a 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 insureds 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:

X 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 insureds 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. Contractor shall provide initial insurance documents to the Engineer upon request, prior to execution of the final contract. All future insurance renewal documents shall be sent to:

EBIX BPO
212 Kent Street

Portland, MI, 48875
Phone: (517) 647-1700
Fax: (517) 647-7900
Email: CertsOnly@periculum.com

- (2) 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.

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.

- (3) **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:
 - i. Withholding of payments to CONTRACTOR under this Agreement until CONTRACTOR complies;
 - ii. 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.

(4) 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.

(5) 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.

(6) 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.

- (7) **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.
- (8) **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.
- (9) **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, that 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 directing 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
921 10th St., Room 402
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
921 10th St., Room 402
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.