



**City of Sacramento
City Council**

2

915 I Street, Sacramento, CA, 95814
www.CityofSacramento.org

Meeting Date: 8/9/2011

Report Type: Consent

Title: Agreements: Plan Review, Inspection and/or Permit Counter Services

Report ID: 2011-00698

Location: Citywide

Recommendation: Adopt a Resolution 1) awarding separate consultant and professional service agreements to 4Leaf, Inc., Bureau Veritas North America, Inc., and TRB Associates, Inc. for building plan review services, counter services and inspection services in an annual not to exceed amount of \$100,000 for the initial agreement year and annual not to exceed amounts of \$100,000 for each of two additional option years for a total not to exceed time period of three years and a total not to exceed amount of \$300,000 for each agreement and 2) authorizing the City Manager to execute each agreement and to exercise all annual options under the agreements provided that sufficient funds are available in the budget for the applicable Fiscal Year.

Contact: Marge Innocenti, Administrative Analyst, (916) 808-8898, Community Development Department

Presenter: None

Department: Community Development Dept

Division: Building

Dept ID: 21001211

Attachments:

- 1-Description/Analysis
- 2-Background
- 3-Resolution
- 4-4Leaf Agreement
- 5-Bureau Veritas North America Agreement
- 6-TRB Agreement

City Attorney Review

Approved as to Form
Paul Gale
7/28/2011 2:48:57 PM

City Treasurer Review

Prior Council Financial Policy Approval or
Outside City Treasurer Scope
Russell Fehr
7/21/2011 12:21:32 PM

Approvals/Acknowledgements

Department Director or Designee: Max Fernandez - 7/25/2011 12:08:02 PM

Assistant City Manager: Cassandra Jennings - 7/28/2011 10:45:33 AM



Description/Analysis

Issue: The Community Development Department needs to use consultant services for plan review, permit inspections, and counter services when workload demands and specific expertise cannot be met by current staff. The use of consultants will provide flexibility in meeting service peak demand levels.

Policy Considerations: This request to adopt the attached resolution is in compliance with California Government Code Section 65943 which specifies 30 days maximum time for complete plan submittal verification, and California Health and Safety Code Section 19837 which specifies 50 days maximum for cycle one response for structural building safety plan review, and 60 days maximum for re-submittals.

Environmental Considerations: California Environmental Quality Act (CEQA): Under the California Environmental Quality Act (CEQA) guidelines, continuing administrative activities do not constitute a project and are, therefore, exempt from review.

Commission/Committee Action: Not applicable.

Rationale for Recommendation: The use of professional services agreements for plan review/inspection, and counter consultant services is necessary for maintaining government code plan review compliance as well as for providing flexibility in meeting service demand levels.

Financial Considerations: The approval of the three agreements will have no impact to the General Fund. Funding for the three agreements will be covered under the Community Development Department's operating budget.

Emerging Small Business Development (ESBD): 4Leaf, Inc. and TRB and Associates are ESBD certified. Bureau Veritas North America, Inc. is not ESBD certified.



BACKGROUND

Plan Review, Inspection and/or Permit Counter Consulting Services Agreements

The Community Development Department has solicited the professional services of consultant firms with expertise in plan review, inspection, and permit counter services. The following is a summary of the RFP process for this project:

- The Request for Proposal (RFP #P11211212004) was advertised on the City of Sacramento's public website according to Professional Services City Policy Number 4102 for a minimum of 11 calendar days (posted 22 days from March 2 thru March 23, 2011). More than 60 consultants and contractors downloaded the RFP.
- A pre-proposal meeting was held on March 11, 2011. The RFP was reviewed in detail, questions were answered by staff, and the RFP process and policy guidelines were discussed. Ten consultants attended in addition to three city staff.
- Publication requirements of the bid in the City's official newspaper were also completed during this time.
- The closing for the submission of the RFP's was March 23, 2011 @ 10:00 a.m. There were sixteen (16) proposals accepted by the Office of the City Clerk according to the above deadline. There was also one (1) late proposal which was forwarded by the City Clerk's Office to CDD. The proposal (unopened) has been returned by certified mail to the consultant, and staff has advised the consultant of the reason for not accepting the proposal (i.e. late submission).
- All sixteen proposals were evaluated by a cross-functional team, made up of six City staff from the Building Inspection section. The proposals were evaluated on the basis of professional expertise in life safety, structural, electrical, mechanical/plumbing, energy, CAL Green, LEED, Built-it Green, FEMA guidelines, CASP, historical building code and/or fire plan review and/or building inspections, and/or Permit Counter Services. The following criteria were used for this evaluation:
 - i. Experience and qualifications in area of specialties (35 pts.)
 - ii. Use of staff to complete work (25 pts.)
 - iii. Recommendations of past clients (20 pts.)
 - iv. Quality of response (5 pts.)

- v. Pricing/Fee structures (15 pts.)
- vi. ESBD certification (5% increase above total score for certified firms)

The evaluation of the professional criteria (see items i.-iv. above) and ESBD certification (item vi.) was performed on the basis of each proposer's demonstrated competence and the above professional qualifications necessary for the services required without consideration of pricing/fee structures according to City Administrative Policy No. 4102. The final ranking included the true value of the pricing of each proposal combined with the professional criteria scores which resulted in a numerical ranking of each proposal.

- The three top-rated proposals were from the following firms:
 - 1- 4Leaf, Inc. (ESBD certified)
 - 2- Bureau Veritas North America, Inc. (not ESBD certified)
 - 3- TRB and Associates, Inc. (ESBD certified)



Back to Table
of Contents

RESOLUTION NO.

Adopted by the Sacramento City Council

AWARDING PROFESSIONAL SERVICES AGREEMENTS FOR PLAN REVIEW, INSPECTION AND/OR PERMIT COUNTER SERVICES

BACKGROUND

- A. The City of Sacramento issued a Request for Proposals for Plan Review, Inspection and Permit Counter consulting services on March 2, 2011.
- B. Sixteen proposals were submitted by the deadline of March 23, 2011. The proposals were evaluated and ranked, and the following three firms were selected: (1) 4 Leaf, Inc.; (2) Bureau Veritas North America, Inc., and (3) TRB and Associates.
- C. There is sufficient funding budgeted in Fiscal Year 2011/12 for the approval of the contracts.

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

- Section 1. Awards separate consultant and professional service agreements to 4Leaf, Inc., Bureau Veritas North America, Inc., and TRB and Associates, Inc. for building plan review services, counter services and inspection services in an annual not to exceed amount of \$100,000 for each agreement for the initial year and annual not to exceed amounts of \$100,000 for two additional option years for a total not to exceed time period of three years and a total not to exceed amount of \$300,000 for each agreement.
- Section 2. The City Manager is authorized to execute each agreement and to exercise successive one-year options of each agreement for a total agreement term of three years for each agreement provided that sufficient funds are available in the budget adopted for the applicable fiscal year.



Requires Council Approval: No YES Meeting: 7/12/11

Real Estate Other Party Signature Needed Recording Requested

General Information

Type: Professional Services Formal Bid-Prof Service	PO Type:	Attachment: Original No.:
\$ Not to Exceed: \$ 300,000		Original Doc Number:
Other Party: 4 Leaf, Inc.		Certified Copies of Document: 1
Project Name: Contract: Plan Review, Inspection/Permit Counter Consulting Services		Deed: <input type="checkbox"/> None <input type="checkbox"/> Included <input type="checkbox"/> Separate
Project Number:	Bid Transaction #: P11211212004	E/SBE-DBE-M/WBE: N/A

Department Information

Department: CDD Division: Building&Bldg. Plan Check
 Project Mgr: Ed Short Supervisor: Ryan DeVore
 Contract Services: Marge Innocenti Date:6/23/11 Division Mgr: Ryan DeVore
 Phone Number: 808-8898 Org Number: 21001211 & 21001212
 Comment:

Review and Signature Routing

Department	Signature or Initial	Date
Project Mgr:	Ed Short	6-27-11
Accounting:	MI	6-27-11
Contract Services:	MI	6-27-11
Supervisor:	RED	6/27/11
Division Manager:	RCD	6/27/11
City Attorney	Signature or Initial	Date
City Attorney:	Paul A. Melo	7-1-11
<input type="checkbox"/> Send Interoffice Mail <input checked="" type="checkbox"/> Notify for Pick Up		
Authorization	Signature or Initial	Date
Choose Director		
Department Director:	MPA	7/5/11
City Mgr: yes <input checked="" type="checkbox"/> No <input type="checkbox"/>		

For City Clerk Processing

Finalized:
Initial:
Date:

Imaged:
Initial:
Date:

Received:
(City Clerk Stamp Here)

PROJECT #:P111212004
PROJECT NAME: Design Professional Services
DEPARTMENT: Community Development Department
DIVISION: Building

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 4LEAF, Inc.

Address 4401 Hazel Ave., Su. 135, Fair Oaks, CA 95628

Phone/Fax (916) 965-0010/(916) 965-0013

("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

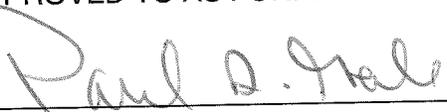
By: _____

Print name: _____

Title: _____

For: William H. Edgar, Interim City Manager

APPROVED TO AS FORM:



City Attorney 7-1-11

CONTRACTOR:

4LEAF, Inc.

NAME OF FIRM

94-3393574

Federal I.D. No.

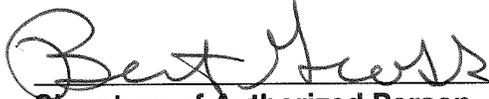
469-4704-0

State I.D. No.

120224
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

Bert Gross, Vice President
Print Name and Title

Additional Signature (*if required*)

Print Name and Title

ATTEST:

City Clerk

Attachments

- Exhibit A - Scope of Service
- Attachment 1 – Exhibit A
- Exhibit B - Fee Schedule/Manner of Payment
- Attachment 1 – Exhibit B
- Exhibit C - Facilities/Equipment Provided
- Exhibit D - General Provisions
- Exhibit E - Non-Discrimination in Employee Benefits

**DECLARATION OF COMPLIANCE
Equal Benefits Ordinance**

Name of Contractor: 4LEAF, INC.

Address: 4401 Hazel Ave., Suite 135, Fair Oaks, CA 95628

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

6/22/11
Date

Bert Gross
Print Name

Vice- President
Title

EXHIBIT A

PROFESSIONAL SERVICES AGREEMENT FOR DESIGN SERVICES

SCOPE OF SERVICES

1. Representatives.

The CITY Representative for this Agreement is:

*Ed Short, P.E., Supervising Engineer
300 Richards Blvd., Sacramento, Ca., 95811
(916) 808-8859; eshort@cityofsacramento.org*

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

The CONTRACTOR Representative for this Agreement is:

*Name/Title Bert Gross, Vice President
Address 4401 Hazel Avenue, Suite 135, Fair Oaks, CA 95628*

Phone: 916-965-0010/Fax: 916-965-0013 /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 X is not ___ [check one] 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 "contractors" under the Political Reform Act. The term "contractor" 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 "contractors."

The CITY's Conflict of Interest Code requires designated employees, including individuals who qualify as "contractors", 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" 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 "contractors" 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 "contractors" within the meaning of the Political Reform Act and the CITY's Conflict of Interest Code: X yes no [check one]

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

- (4) 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.
- (5) Identify individuals who will provide services or perform work under this Agreement as "contractors";

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 a one (1) year period from the date of the execution of this agreement with the CITY's option to extend the time

of performance for additional one (1) year terms up to a total agreement term of three (3) years (including the initial term and all extensions).

Attachment 1 to-Exhibit A Scope of Services

1.1 GENERAL

The building plan review, counter, and inspection services to be performed by the CONTRACTOR shall be specified in authorization letters from the CITY to CONTRACTOR.

1.2 BUILDING PLAN REVIEW SERVICES

Without limiting the generality of the following, the Building Plan Review Services may include any or all of the following specific tasks;

1. Upon initiation of the project, the Consultant will receive an authorization letter to perform work that identifies the project and the scope of plan review. Building plan review services may include any one or more of the following specific tasks:
 - a. Non-structural fire and life safety plans examination
 - b. Structural plans examination
 - c. Energy code plans examination
 - d. Barrier free plans examination
 - e. Electrical, mechanical & plumbing code plans examination
 - f. Fire sprinkler and alarm plans examination
2. Stated plan review turnaround times will begin the next business day after the CONTRACTOR has been notified by the City. CONTRACTOR shall pick up all documents to be reviewed from the City. CONTRACTOR shall review plans submitted in compliance with all applicable law, including but not limited to the California Building Standards Code and the Sacramento City Code. The CONTRACTOR shall confer with the Building Official or his/her agent on any portion of the review that specifically requires an approval of the Building Official under the applicable Code(s), or that involves an interpretation or an alternate means or methods request.
3. Within the timelines listed below, the CONTRACTOR shall complete the initial review and either approve the plans, notify the CITY of approval, and return all materials forwarded for review to the CITY, or send the CITY a correction letter indicating the plans are not approved. Each timeline will begin from the day the CONTRACTOR receives a complete project submittal.

Unless otherwise agreed to by the CITY in writing in advance, the following timelines apply:

- a. Single Family Projects - Initial review of projects sent to the CONTRACTOR at a rate of twenty (20) or fewer projects per week will be completed within ten (10) working days. Projects in addition to twenty per week will be reviewed within a mutually agreed schedule. A re-submittal will be reviewed within five (5) working days and a second re-submittal will be reviewed within (3) working days.
- b. All Other Projects (including typical new commercial and multi-family buildings) up to \$3 million in construction valuation – Initial review will be completed within ten (10) working days for typical projects. Re-submittals will be reviewed within five (5) working days; for projects over \$3 million in construction valuation – Initial review will be completed within fifteen (15) working days for typical projects. Re-submittals will be reviewed within ten (10) working days.
- c. Expedited Plan Review- Initial review will be completed in five (5) working days for a (typical) project that is less than \$3 million in construction evaluation. Re-submittals will be reviewed within (3) working days.

The CONTRACTOR shall notify the CITY within two (2) days of receipt of plans if a timeline cannot be met due to the quantity and/or the complexity of the project and a mutually acceptable schedule will be determined.

4. If corrections are required, the CONTRACTOR shall send a correction letter to the CITY's Building Official or his/her designated agent. The correction letter shall describe each required correction or addition, and reference the applicable code section. The correction letter shall also direct the applicant to submit the revised or added information to the CITY's designee per the submittal requirements for the permit type under review.
5. Comments or clarifications for the permit applicant shall be prepared in a professional manner and with the level of care, skill and competence ordinarily exercised.
6. The CONTRACTOR shall respond to telephone inquiries and plan check comment clarification related to projects being reviewed from CITY staff, developer's engineer or architect or others.
7. If plans are approved, the CONTRACTOR shall forward to the CITY a transmittal including the plans and associated documents with the plans stamped "approved for permit issuance" to indicate that the plans have been reviewed and found to be in substantial compliance with applicable codes. The transmittal shall indicate any deferred submittals, special inspection forms, etc. to be included as part of the information to be submitted to the CITY during construction.

8. There shall be no required minimum usage of any “on-call, as-needed” building plan review services described in this agreement.
9. At the request of the City, CONTRACTOR shall provide electronic plan reviews and the required protocol for electronic submittals and processing when this service is utilized. As necessary, CONTRACTOR shall train City staff regarding submittals, processing and issuance of projects reviewed electronically.
10. At the request of the City, CONTRACTOR shall provide third-party plan reviews/inspections by allowing an applicant to provide payment directly to the CONTRACTOR for CONTRACTOR’s plan review fee or inspection costs. CONTRACTOR shall be solely responsible for the collection of any of third-party fees. In any case, the City will always receive its appropriate plan review fees. In all cases, a standardized Third-Party Agreement Form for plan review and/or inspections will be used as established by the City.
11. Form correction and transmittal letters may be provided by the CITY, or CONTRACTOR will supply CITY-approved correction and/or transmittal letters.

1.3 Counter Services

1. All permit processing and counter services shall be performed at the City office and under the direction of City staff.
2. Consultant shall assign personnel who are professionally qualified to perform permit processing and counter services. All on-site materials, resources, tools and City policy training shall be supplied by the City.

1.4 Inspection Services

1. All field Inspection shall be performed through the CITY Community Development Department and under the direction of CITY staff.
2. CONTRACTOR shall assign personnel who are professionally qualified to perform commercial and/or residential construction inspection. All vehicles, safety apparel, communication devices, materials, resources, tools and training shall be supplied by the CONTRACTOR. CITY shall provide CITY-specific policy training and provide any necessary CITY maps, forms and data entry training.
3. Projects under construction by permit from the CITY shall be inspected for compliance with State of California Building, Mechanical, Plumbing, Electrical, Energy and Fire Codes, as amended by the CITY and as designated by the CITY.

1.5 CITY

Plan Review

1. CITY shall provide to the CONTRACTOR, (2) complete sets of plans, structural calculations, energy calculations, geotechnical reports, specifications and related documents for the completion of the plans examination. For complex commercial projects, (3) complete sets at a minimum shall be submitted or as mutually agreed upon.
2. CITY shall determine which plans are to be reviewed by the CONTRACTOR.
3. CITY shall intake, track, and process the permit applications and all plan revisions per current CITY permit procedures. At the request of the CITY, the CONTRACTOR shall update the CITY'S tracking system per the City's plan/permit procedures.
4. Pick-up and delivery of plans and supporting documents are the sole responsibilities of the CONTRACTOR.

1.6 ADDITIONAL BUILDING SAFETY SERVICES AVAILABLE
(Charged on an hourly basis or included %--PLEASE SPECIFY.)

1. Preliminary review meetings with CITY staff and/or development proponents to review projects. (48 hour advance notice required)
1. Fire Code plan reviews on buildings.
2. Fire sprinkler and fire alarm system plan reviews.

1.7 BUILDING SAFETY SERVICES FEES

1. Refer to Attachment 1 to Exhibit B.

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 \$100,000.00 for one year and shall not exceed \$100,000.00 for each of two additional option years for a total contract amount not to exceed \$300,000.00. This contract is On-Call and this CONTRACTOR may not be called by the CITY to perform any services described in this contract and therefore no compensation would be paid to the CONTRACTOR for the length of the contract.
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.
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:

*City of Sacramento
Community Development Dept.
300 Richards Blvd. 3rd Floor
Sacramento, CA 95811
Attn: Ed Short*

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.

Attachment 1 to Exhibit B

Building Safety Fees

CONTRACTOR's Building Plan Review Fees

Building Plan Check Rates (Please insert specific rates as proposed.)

Fee Proposal for Plan Check: First Check and two Rechecks					
Percent (%) of Client Collected Plan Check Fee					
Project Type	Type of Plan Check				
	Structural Only	Fire Sprinkler Review	Structural Plus Life Safety	Mech/Plumbing/Elec only	Complete Plan Review
UP TO \$1,000,000 Valuation	35%	\$95/hr	50%	25%	62%
Exceeding \$1,000,000 Valuation	32%	\$95/hr	47%	22%	59%
Expedited Plan Review	35%	50%	50%	25%	62%

Note: Minimum Plan Check Fee is \$250

The fee reflects a percentage of those plan check fees referenced in the City's– Building Department Fee Schedule. Fee includes the initial plan review and up to two (2) rechecks.

Labor Rate Schedule (Hourly)

The CONTRACTORS may also provide Plan Check and Inspection services to the City on an hourly basis, as shown below:

CLASSIFICATION	HOURLY RATE
Building Official	\$125
Project Manager	\$125
Senior Plans Examiner Engineer/Architect (AIA, CE, EE, FPE, ME, SE)	\$110
Fire Plan Review	\$95
Plans Examiner Engineer/Architect (AIA, CE, EE, FPE, ME, SE)	\$95
Senior Plans Examiner	\$85
Plans Examiner	\$75
Permit Technician	\$45
Clerical Support	\$40
Supervising Building Inspector	\$95
Senior Building Inspector	\$85
Building Inspector	\$65

CASp Assessment	\$150
-----------------	-------

Overtime

CONTRACTOR'S overtime for non-exempt employees is the above hourly rate plus 50%, for hours in excess of 8 hours per day.

Professional Reimbursement

The hourly billing rates include the cost of salaries of the CONTRACTOR's employees, plus sick leave, vacation, holiday and other fringe benefits. The percentage added to salary costs includes indirect overhead costs and fee (profit). All employees classified as "non-exempt" by the U.S. Department of Labor will be compensated at 1-1/2 times salary, as per State and Federal wage and hour laws. Billing rates will be calculated according for these overtime hours.

Direct Expenses

The foregoing Schedule of Charges is incorporated into the agreement for the services provided. These fees include the initial plan review plus two (2) rechecks. When substantial revisions occur, additional fees may be charged at the hourly rates shown in the Labor Rate Schedule, if the City collects an hourly rate from the applicant for extra review cycles and pending approval of the City Building Official or his/her designee.

Fees for Additional Services—optional if not included in % of fees collected:

1. Preliminary plan review meetings to review code requirements will be charged at the hourly rates shown in the Labor Rate Schedule.
2. Additional plan reviews beyond the initial and two (2) rechecks will be charged at the hourly rates shown in the Labor Rate Schedule.
3. Review of deferred submittals will be charged at the hourly rates shown in the Labor Rate Schedule.
4. Revisions to plans that require additional plan review will be charged at the hourly rates shown in Labor Rate Schedule.
5. Attendance at meetings when requested by the CITY will be charged at the hourly rates shown in Labor Rate Schedule.
6. Fire Code, Fire Sprinkler, Fire Alarm plan reviews when requested by the CITY will be charged at the hourly rates shown in Labor Rate Schedule.
7. Overtime rates are the hourly rates shown in the Labor Rates Schedule plus 50% in excess of 8 hours per day.

Notes:

- CONTRACTOR staff normal work days are Monday through Friday (8am - 5pm). Office work on Saturdays, Sundays or CITY Holidays will be performed on at specific request of the CITY Representative. Billing for work performed outside normal work hours and on Saturdays, Sundays or CITY Holidays shall be at 1½ times the rates shown above.
- The CITY is not under any obligation to utilize the CONTRACTOR, and there is no guarantee of compensation.

EXHIBIT C

PROFESSIONAL SERVICES AGREEMENT FOR DESIGN SERVICES

FACILITIES AND EQUIPMENT TO BE PROVIDED BY CITY

CITY shall [*check one*]

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

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

EXHIBIT D

PROFESSIONAL SERVICES AGREEMENT 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 therefore 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, photostatting, 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. The certificates and endorsements shall be forwarded to the CITY representative named in Exhibit A. Copies of policies shall be delivered to the CITY on demand. Certificates of insurance shall be signed by an authorized representative of the insurance carrier.
- (2) The CITY may withdraw its offer of contract or cancel this Agreement if the certificates of insurance and endorsements required have not been provided prior to execution of this Agreement. The CITY may withhold payments to CONTRACTOR and/or cancel the Agreement if the insurance is canceled or CONTRACTOR otherwise ceases to be insured as required herein.

F. Subcontractors

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

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

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

efforts it has made to obtain the information.

E. Sanctions for Noncompliance: In the event of noncompliance by CONTRACTOR with the nondiscrimination provisions of this Agreement, the CITY shall impose such sanctions as it may determine to be appropriate including, but not limited to:

- (1) Withholding of payments to CONTRACTOR under this Agreement until CONTRACTOR complies;
- (2) Cancellation, termination, or suspension of the Agreement, in whole or in part.

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

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

purported assignment without CITY's written consent shall be void and of no effect.

18. **Binding Effect.** This Agreement shall be binding on the heirs, executors, administrators, successors and assigns of the parties, subject to the provisions of Section 17, above.
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 to Exhibit E



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 a proposer 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 to Exhibit E



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.



CERTIFICATE OF LIABILITY INSURANCE

OP ID: RR

DATE (MM/DD/YYYY)

05/18/11

THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AFFIRMATIVELY OR NEGATIVELY AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW. THIS CERTIFICATE OF INSURANCE DOES NOT CONSTITUTE A CONTRACT BETWEEN THE ISSUING INSURER(S), AUTHORIZED REPRESENTATIVE OR PRODUCER, AND THE CERTIFICATE HOLDER.

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

PRODUCER Granite Prof Ins Lic #OC41366 Brokerage, Inc. 6600 Koll Center Parkway #100 Pleasanton, CA 94566	925-462-8400 925-462-8888	CONTACT NAME: _____	
		PHONE (A/C, No, Ext): _____	FAX (A/C, No): _____
		E-MAIL ADDRESS: _____	
		PRODUCER CUSTOMER ID #: 4LEAF-1	
		INSURER(S) AFFORDING COVERAGE	NAIC #
INSURED 4LEAF, Inc. 2110 Rheem Drive, Ste. A Pleasanton, CA 94588	INSURER A : Travelers Property Casualty Co		
	INSURER B : Peerless Insurance Co.		
	INSURER C : Granite State Insurance Co		
	INSURER D : Nat Union Fire Ins PA		
	INSURER E : Continental Casualty Co.		
INSURER F : _____			

COVERAGES

CERTIFICATE NUMBER:

REVISION NUMBER:

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

INSR LTR	TYPE OF INSURANCE	ADDL INSR	SUBR WVD	POLICY NUMBER	POLICY EFF (MM/DD/YYYY)	POLICY EXP (MM/DD/YYYY)	LIMITS
A	GENERAL LIABILITY			6801A466524	04/09/11	04/09/12	EACH OCCURRENCE \$ 2,000,000
	<input checked="" type="checkbox"/> COMMERCIAL GENERAL LIABILITY	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>				DAMAGE TO RENTED PREMISES (Ea occurrence) \$ 300,000
	<input type="checkbox"/> CLAIMS-MADE <input checked="" type="checkbox"/> OCCUR						MED EXP (Any one person) \$ 5,000
	<input checked="" type="checkbox"/> DED \$0						PERSONAL & ADV INJURY \$ 2,000,000
	GEN'L AGGREGATE LIMIT APPLIES PER:						GENERAL AGGREGATE \$ 4,000,000
	<input checked="" type="checkbox"/> POLICY <input type="checkbox"/> PRO-JECT <input type="checkbox"/> LOC						PRODUCTS - COMP/OP AGG \$ 4,000,000
							Emp Ben. \$ 2,000,000
B	AUTOMOBILE LIABILITY		<input checked="" type="checkbox"/>	BA2772762	04/09/11	04/09/12	COMBINED SINGLE LIMIT (Ea accident) \$ 1,000,000
	<input checked="" type="checkbox"/> ANY AUTO						BODILY INJURY (Per person) \$
	<input type="checkbox"/> ALL OWNED AUTOS						BODILY INJURY (Per accident) \$
	<input type="checkbox"/> SCHEDULED AUTOS						PROPERTY DAMAGE (Per accident) \$
	<input checked="" type="checkbox"/> HIRED AUTOS						\$
	<input checked="" type="checkbox"/> NON-OWNED AUTOS						\$
							\$
D	UMBRELLA LIAB			EBU033077374	04/09/11	04/09/12	EACH OCCURRENCE \$ 2,000,000
	<input checked="" type="checkbox"/> EXCESS LIAB	<input checked="" type="checkbox"/>	<input type="checkbox"/>				AGGREGATE \$ 2,000,000
	<input type="checkbox"/> DEDUCTIBLE						\$
	RETENTION \$						\$
C	WORKERS COMPENSATION AND EMPLOYERS' LIABILITY			001635630	04/09/11	04/09/12	<input checked="" type="checkbox"/> WC STATUTORY LIMITS <input type="checkbox"/> OTHER
	ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? (Mandatory in NH)	Y/N	N/A				E.L. EACH ACCIDENT \$ 1,000,000
	If yes, describe under DESCRIPTION OF OPERATIONS below						E.L. DISEASE - EA EMPLOYEE \$ 1,000,000
							E.L. DISEASE - POLICY LIMIT \$ 1,000,000
E	Prof. Liability			MCA288265114	04/11/11	04/11/12	Limit 1,000,000 Retention 50,000

DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES (Attach ACORD 101, Additional Remarks Schedule, if more space is required)

The CITY, its officials, employees and volunteers are listed as additional insured per endorsement GECA701(01/07) for auto and CGD2520805 and CGD0370405 for general liability. Waiver of subrogation applies for general liability and auto.

CERTIFICATE HOLDER**CANCELLATION**

CITYS-3

Ed Short, P.E. Supervising Engineer
 City of Sacramento
 300 Richards Blvd
 Sacramento, CA 95811

SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, NOTICE WILL BE DELIVERED IN ACCORDANCE WITH THE POLICY PROVISIONS.

AUTHORIZED REPRESENTATIVE

© 1988-2009 ACORD CORPORATION. All rights reserved.

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY

BLANKET ADDITIONAL INSURED (CONTRACTORS OPERATIONS)

This endorsement modifies insurance provided under the following:

COMMERCIAL GENERAL LIABILITY COVERAGE PART

1. WHO IS AN INSURED – (Section II) is amended to include any person or organization that you agree in a "written contract requiring insurance" to include as an additional insured on this Coverage Part, but:
 - a) Only with respect to liability for "bodily injury", "property damage" or "personal injury"; and
 - b) If, and only to the extent that, the injury or damage is caused by acts or omissions of you or your subcontractor in the performance of "your work" to which the "written contract requiring insurance" applies. The person or organization does not qualify as an additional insured with respect to the independent acts or omissions of such person or organization.
2. The insurance provided to the additional insured by this endorsement is limited as follows:
 - a) In the event that the Limits of Insurance of this Coverage Part shown in the Declarations exceed the limits of liability required by the "written contract requiring insurance", the insurance provided to the additional insured shall be limited to the limits of liability required by that "written contract requiring insurance". This endorsement shall not increase the limits of insurance described in Section III – Limits Of Insurance.
 - b) The insurance provided to the additional insured does not apply to "bodily injury", "property damage" or "personal injury" arising out of the rendering of, or failure to render, any professional architectural, engineering or surveying services, including:
 - i. The preparing, approving, or failing to prepare or approve, maps, shop drawings, opinions, reports, surveys, field orders or change orders, or the preparing, approving, or failing to prepare or approve, drawings and specifications; and
 - ii. Supervisory, inspection, architectural or engineering activities.
3. The insurance provided to the additional insured by this endorsement is excess over any valid and collectible "other insurance", whether primary, excess, contingent or on any other basis, that is available to the additional insured for a loss we cover under this endorsement.
4. As a condition of coverage provided to the additional insured by this endorsement:
 - a) The additional insured must give us written notice as soon as practicable of an "occurrence" or an offense which may result in a claim. To the extent possible, such notice should include:
 - i. How, when and where the "occurrence" or offense took place;
 - ii. The names and addresses of any injured persons and witnesses; and
 - iii. The nature and location of any injury or damage arising out of the "occurrence" or offense.
 - b) If a claim is made or "suit" is brought against the additional insured, the additional insured must:
 - i. Immediately record the specifics of the claim or "suit" and the date received; and
5. The insurance provided to the additional insured does not apply to "bodily injury" or "property damage" caused by "your work" and included in the "products-completed operations hazard".
6. The insurance provided to the additional insured does not apply to "bodily injury" or "property damage" that occurs, or "personal injury" arising out of an offense committed, while any separate liability insurance that you have procured for that person or organization is in effect, regardless of whether the scope or limits of insurance in this Coverage Part exceed those of that separate liability insurance or whether that separate liability insurance is valid and collectible.

COMMERCIAL GENERAL LIABILITY

- ii. Notify us as soon as practicable.
The additional insured must see to it that we receive written notice of the claim or "suit" as soon as practicable.
- c) The additional insured must immediately send us copies of all legal papers received in connection with the claim or "suit", cooperate with us in the investigation or settlement of the claim or defense against the "suit", and otherwise comply with all policy conditions.
- d) The additional insured must tender the defense and indemnity of any claim or "suit" to any provider of "other insurance" which would cover the additional insured for a loss we cover under this endorsement.

5. The following definition is added to SECTION V – DEFINITIONS:

"Written contract requiring insurance" means that part of any written contract or agreement under which you are required to include a person or organization as an additional insured on this Coverage Part, provided that the "bodily injury" and "property damage" occurs and the "personal injury" is caused by an offense committed:

- a. After the signing and execution of the contract or agreement by you;
- b. While that part of the contract or agreement is in effect; and
- c. Before the end of the policy period.

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

OTHER INSURANCE – ADDITIONAL INSURED

This endorsement modifies insurance provided under the following:

COMMERCIAL GENERAL LIABILITY COVERAGE PART

PROVISIONS

COMMERCIAL GENERAL LIABILITY CONDITIONS (Section IV), Paragraph 4. (**Other Insurance**), is amended as follows:

1. The following is added to Paragraph a. **Primary Insurance**:

However, if you specifically agree in a written contract or written agreement that the insurance provided to an additional insured under this Coverage Part must apply on a primary basis, or a primary and non-contributory basis, this insurance is primary to other insurance that is available to such additional insured which covers such additional insured as a named insured, and we will not share with that other insurance, provided that:

- a. The "bodily injury" or "property damage" for which coverage is sought occurs; and

- b. The "personal injury" or "advertising injury" for which coverage is sought arises out of an offense committed

subsequent to the signing and execution of that contract or agreement by you.

2. The first Subparagraph (2) of Paragraph b. **Excess Insurance** regarding any other primary insurance available to you is deleted.
3. The following is added to Paragraph b. **Excess Insurance**, as an additional subparagraph under Subparagraph (1):

That is available to the insured when the insured is added as an additional insured under any other policy, including any umbrella or excess policy.

COMMERCIAL AUTO GOLD ENDORSEMENT

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

This endorsement modifies insurance provided under the following:

BUSINESS AUTO COVERAGE FORM

SECTION II - LIABILITY COVERAGE

A. COVERAGE

1. WHO IS AN INSURED

The following is added:

- d. Any organization, other than a partnership or joint venture, over which you maintain ownership or a majority interest on the effective date of this Coverage Form, if there is no similar insurance available to that organization.
- e. Any organization you newly acquire or form other than a partnership or joint venture, and over which you maintain ownership of a majority interest. However, coverage under this provision does not apply:
 - (1) If there is similar insurance or a self-insured retention plan available to that organization; or
 - (2) To "bodily injury" or "property damage" that occurred before you acquired or formed the organization.
- in f. Any volunteer or employee of yours while using a covered "auto" you do not own, hire or borrow your business or your personal affairs. Insurance provided by this endorsement is excess over any other insurance available to any volunteer or employee.
- g. Any person, organization, trustee, estate or governmental entity with respect to the operation, maintenance or use of a covered "auto" by an insured, if:
 - (1) You are obligated to add that person, organization, trustee, estate or governmental entity as an additional insured to this policy by:
 - (a) an expressed provision of an "insured contract", or written agreement; or
 - (b) an expressed condition of a written permit issued to you by a governmental or public authority.
 - (2) The "bodily injury" or "property damage" is caused by an "accident" which takes place after:
 - (a) You executed the "insured contract" or written agreement; or
 - (b) the permit has been issued to you.

2. COVERAGE EXTENSIONS

a. Supplementary Payments.

Subparagraphs (2) and (4) are amended as follows:

(2) Up to \$2500 for cost of bail bonds (including bonds for related traffic law violations) required because of an "accident" we cover. We do not have to furnish these bonds.

(4) All reasonable expenses incurred by the "Insured" at our request, including actual loss of earning up to \$500 a day because of time off from work.

SECTION III - PHYSICAL DAMAGE COVERAGE

A. COVERAGE

The following is added:

5. Hired Auto Physical Damage

or a. Any "auto" you lease, hire, rent or borrow from someone other than your employees or partners members of their household is a covered "auto" for each of your physical damage coverages.

b. The most we will pay for "loss" in any one "accident" is the smallest of:

(1) \$50,000

(2) The actual cash value of the damaged or stolen property as of the time of the "loss"; or

(3) The cost of repairing or replacing the damaged or stolen property with other property of like kind and quality.

If you are liable for the "accident", we will also pay up to \$500 per "accident" for the actual loss of use to the owner of the covered "auto".

c. Our obligation to pay for, repair, return or replace damaged or stolen property will be reduced by an amount that is equal to the amount of the largest deductible shown for any owned "auto" for that coverage. However, any Comprehensive Coverage deductible shown in the Declarations does not apply to "loss" caused by fire or lightning.

d. For this coverage, the insurance provided is primary for any covered "auto" you hire without a driver and excess over any other collectible insurance for any covered "auto" that you hire with a driver.

6. Rental Reimbursement Coverage

based on the rental of a comparable vehicle, which in many cases may be substantially less than \$75 per day, and will only be allowed for a period of time it should take to repair or replace the vehicle with reasonable speed and similar quality, up to a maximum of 30 days. We will also pay up to \$500 for reasonable and necessary expenses incurred by you to remove and replace your materials and equipment from the covered "auto".

If "loss" results from the total theft of a covered "auto" of the private passenger type, we will pay under this coverage only that amount of your rental reimbursement expenses which is not already provided under paragraph 4. **Coverage Extension.**

7. Lease Gap Coverage

If a long-term leased "auto" is a covered "auto" and the lessor is named as an Additional Insured - Lessor, In the event of a total loss, we will pay your additional legal obligation to the lessor for any difference between the actual cash value of the "auto" at the time of the loss and the "outstanding balance" of the lease.

"Outstanding balance" means the amount you owe on the lease at the time of loss less any amounts representing taxes; overdue payments; penalties, interest or charges resulting from overdue payments; additional mileage charges; excess wear and tear charges; and lease termination fees.

B. EXCLUSIONS

The following is added to Paragraph 3

The exclusion for "loss" caused by or resulting from mechanical or electrical breakdown does not apply to the accidental discharge of an airbag.

Paragraph 4 is replaced with the following:

4. We will not pay for "loss" to any of the following:

- a. Tapes, records, disks or other similar audio, visual or data electronic devices designed for use with audio, visual or data electronic equipment.
- b. Equipment designed or used for the detection or location of radar.
- c. Any electronic equipment that receives or transmits audio, visual or data signals.

Exclusion 4.c does not apply to:

- (1) Electronic equipment that receives or transmits audio, visual or data signals, whether or not designed solely for the reproduction of sound, if the equipment is permanently installed in the covered "auto" at the time of the "loss" and such equipment is designed to be solely operated by use of the power from the "auto's" electrical system, in or upon the covered "auto"; or
- (2) Any other electronic equipment that is:
 - (a) Necessary for the normal operation of the covered "auto" or the monitoring of the covered "auto's" operating system; or
 - (b) An integral part of the same unit housing any sound reproducing equipment described in (1) above and permanently installed in the opening of the dash or console of the covered "auto" normally used by the manufacturer for installation of a radio.

D. DEDUCTIBLE

The following is added: No deductible applies to glass damage if the glass is repaired rather than replaced.

SECTION IV. BUSINESS AUTO CONDITIONS

A. LOSS CONDITIONS

Item 2.a. and b. are replaced with:

2. Duties In The Event of Accident, Claim, Suit, or Loss

- a. You must promptly notify us. Your duty to promptly notify us is effective when any of your executive officers, partners, members, or legal representatives is aware of the accident, claim, "suit", or loss. Knowledge of an accident, claim, "suit", or loss, by other employee(s) does not imply you also have such knowledge.
- b. To the extent possible, notice to us should include:
 - (1) How, when and where the accident or loss took place;
 - (2) The names and addresses of any injured persons and witnesses; and
 - (3) The nature and location of any injury or damage arising out of the accident or loss.

The following is added to 5.

We waive any right of recovery we may have against any additional insured under **Coverage A. 1. Who Is An Insured g.**, but only as respects loss arising out of the operation, maintenance or use of a covered "auto" pursuant to the provisions of the "insured contract", written agreement, or permit.

B. GENERAL CONDITIONS

9. is added

9. UNINTENTIONAL FAILURE TO DISCLOSE HAZARDS

Your unintentional failure to disclose any hazards existing at the effective date of your policy will not prejudice the coverage afforded. However, we have the right to collect additional premium for any such hazard.

COMMON POLICY CONDITIONS

2.b. is replaced by the following:

- b. 60 days before the effective date of cancellation if we cancel for any other reason.

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

Endorsement No. 001

This endorsement, effective 12:01 AM 06/01/2011

Forms a part of Policy No. WC 001-63-5630

013-52-0411-00

Issued to 4 LEAF INC (A CORP)

By GRANITE STATE INSURANCE COMPANY

NOTICE TO POLICYHOLDER

This endorsement modifies insurance provided under this Workers Compensation and Employers Liability Insurance Policy

Premium for this endorsement: \$287

THE FOLLOWING RATING PLAN IS ADDED TO THIS POLICY:
SPECIFIC WAIVER STATE: CA AMOUNT: \$250.00

Issue Date: 06/06/11

WAIVER OF OUR RIGHT TO RECOVER FROM OTHERS ENDORSEMENT--CALIFORNIA

This endorsement changes the policy to which it is attached effective on the inception date of the policy unless a different date is indicated below.

(The following "attaching clause" need be completed only when this endorsement is issued subsequent to preparation of the policy).

This endorsement, effective 12:01 AM 06/01/2011 forms a part of Policy No. WC 001-63-5630

Issued to 4 LEAF INC (A CORP)

By GRANITE STATE INSURANCE COMPANY

Premium 250

We have the right to recover our payments from anyone liable for an injury covered by this policy. We will not enforce our right against the person or organization named in the Schedule. (This agreement applies only to the extent that you perform work under a written contract that requires you to obtain this agreement from us).

You must maintain payroll records accurately segregating the remuneration of your employees while engaged in the work described in the Schedule.

The additional premium for this endorsement shall be 5.0 % of the California workers' compensation premium otherwise due on such remuneration.

Schedule

Person or Organization

CITY OF SACRAMENTO
ED SHORT, P.E.
300 RICHARDS BLVD
SACRAMENTO, CA 95811

JOB NUMBER: J1713

JOB LOCATION: CITY OF SACRAMENTO/DESIGN SERVICES

THE PREMIUM WILL BE 5% OF THE UNMODIFIED PREMIUM ARISING OUT OF THE WORK FOR WHICH THE WAIVER IS GRANTED. MINIMUM PREMIUM \$250.

Job Description

DESIGN SERVICES
PLAN REVIEW

EXTENSION OF ITEM 4. OF THE INFORMATION PAGE

WC 001-63-5630
Policy Prefix & No.

CALIFORNIA
Schedule

665119
INTRA/Independent State Risk ID

013-52-0411-00

4 LEAF INC (A CORP)

Item 4. Classification of Operations	Premium Basis		Rates	
	Code No.	Estimated Total Annual Remuneration	Per \$100 of Remuneration	Estimated Annual Premiums
RATING GROUP: 0001-01				
ENGINEERS - CONSULTING- MECHANICAL, CIVIL, ELECTRICAL AND MINING ENGINEERS AND ARCHITECTS - NOT ENGAGED IN ACTUAL CONSTRUCTION OR OPERATION - INCLUDING OUTSIDE SALESPERSONS AND CLERICAL OFFICE EMPLOYEES	8601	3,777,200	1.17	44,193
STATE OF CALIFORNIA TOTALS				
TOTAL CLASSIFICATION PREMIUM				44,193
SPECIFIC WAIVER	0930			250
TOTAL UNMODIFIED PREMIUM				44,443
EXPERIENCE PREMIUM (ACTUAL) 1.5700	9897			25,333
MODIFIED STANDARD PREMIUM				69,776
MERIT RATINGPLAN -10.00%	9885			-6,978
UNDISCOUNTED PREMIUM				62,798
PREMIUM DISCOUNT -10.00%	0063			-6,280
DISCOUNTED PREMIUM				56,518
EXPENSE CONSTANT	0900			230
TERRORISM 3.00%	9740			1,326
TOTAL ESTIMATED PREMIUM				58,074
GUARANTEE ASSOCIATION ASSESS 2.559%	9713			1,486
CA ADMIN REVOLVING FUND ASSESS 1.4721%	9683			855
CA FRAUD ASSESSMENT 0.4348%	9682			253
UIEB TRUST FUND ASSESSMENT 0.4101%	9705			238
SIB TRUST FUND ASSESSMENT 0.1776%	9706			103
CA OSHA ASSESSMENT 0.2467%	9708			143
CA LECF ASSESSMENT 0.2315%	9709			134
ANNUALIZED TOTAL				61,286
EXPERIENCE RATING MODIFICATION = 1.57				
TOTAL PREMIUM FOR TERRORISM COVERAGE INCLUDED IN TOTAL ESTIMATED PREMIUM \$1,326				



Requires Council Approval: No YES Meeting: 7/12/11

Real Estate Other Party Signature Needed Recording Requested

General Information

Type: Professional Services Formal Bid-Prof Service	PO Type:	Attachment: Original No.:
\$ Not to Exceed: \$ 300,000		Original Doc Number:
Other Party: Bureau Veritas North America, Inc.		Certified Copies of Document:: 1
Project Name: Contract: Plan Review, Inspection/Permit Counter Consulting Services		Deed: <input type="checkbox"/> None <input type="checkbox"/> Included <input type="checkbox"/> Separate
Project Number:	Bid Transaction #: P11211212004	E/SBE-DBE-M/WBE: N/A

Department Information

Department: CDD Division: Building&Bldg. Plan Check
 Project Mgr: Ed Short Supervisor: Ryan DeVore
 Contract Services: Marge Innocenti Date:6/23/11 Division Mgr: Ryan DeVore
 Phone Number: 808-8898 Org Number: 21001211 & 21001212
 Comment:

Review and Signature Routing

Department	Signature or Initial	Date
Project Mgr:	Ed Short	6-27-11
Accounting:	Marge Innocenti	6-27-11
Contract Services:	MS	6-27-11
Supervisor:	RCD	6/27/11
Division Manager:	RCD	6/27/11
City Attorney	Signature or Initial	Date
City Attorney:	Paul D. Gade	7-1-11

Send Interoffice Mail Notify for Pick Up

Authorization	Signature or Initial	Date
Choose Director		
Department Director:	[Signature]	7/5/11
City Mgr: yes <input checked="" type="checkbox"/> No <input type="checkbox"/>		

For City Clerk Processing

Finalized:
Initial: _____
Date: _____

Imaged:
Initial: _____
Date: _____

Received:
(City Clerk Stamp Here)

Contract Cover/Routing Form: Must Accompany ALL Contracts;

PROJECT #:P111212004
PROJECT NAME: Design Professional Services
DEPARTMENT: Community Development Department
DIVISION: Building

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 Bureau Veritas North America, Inc.
Address 180 Promenade Circle, Suite 150, Sacramento, CA 95834
Phone/Fax (916) 725-4200/(916) 725-8242

(“CONTRACTOR”), who agree as follows:

- 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.
- 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.
- 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: William H. Edgar, Interim City Manager

APPROVED TO AS FORM:



City Attorney 7-1-11

CONTRACTOR:

Bureau Veritas North America, Inc.

NAME OF FIRM

06-1689244

Federal I.D. No.

C2888871

State I.D. No.

268-3340-0

City of Sacramento Business Op. Tax Cert. No.

TYPE OF BUSINESS ENTITY (*check one*):

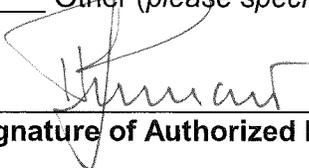
Individual/Sole Proprietor

Partnership

Corporation (*may require 2 signatures*)

Limited Liability Company

Other (*please specify: _____*)



Signature of Authorized Person

Pedro Guimaraes, CEO

Print Name and Title



Additional Signature (*if required*)

Heather Bush, Vice President

Print Name and Title

ATTEST:

City Clerk

Attachments

Exhibit A - Scope of Service

Attachment 1 – Exhibit A

Exhibit B - Fee Schedule/Manner of Payment

Attachment 1 – Exhibit B

Exhibit C - Facilities/Equipment Provided

Exhibit D - General Provisions

Exhibit E - Non-Discrimination in Employee Benefits

**DECLARATION OF COMPLIANCE
Equal Benefits Ordinance**

Name of Contractor: Bureau Veritas North America, Inc.

Address: 180 Promenade Circle, Suite 150, Sacramento, CA 95834

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

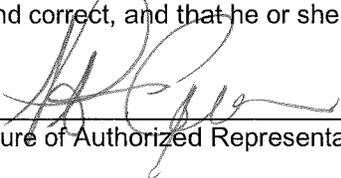
Contractor agrees that if Contractor offers any of the above-listed employee benefits, Contractor will offer those benefits, without discrimination between employees with spouses and employees with domestic partners, and without discrimination between the spouses and domestic partners of such employees.

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

6/27/11

Date

Pete Guisasola

Print Name

Director of Municipal Code Compliance

Title

EXHIBIT A

PROFESSIONAL SERVICES AGREEMENT FOR DESIGN SERVICES

SCOPE OF SERVICES

1. Representatives.

The CITY Representative for this Agreement is:

*Ed Short, P.E., Supervising Engineer
300 Richards Blvd., Sacramento, Ca., 95811
(916) 808-8859; eshort@cityofsacramento.org*

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

The CONTRACTOR Representative for this Agreement is:

Name/Title Pete Guisasola/Director of Municipal Code Compliance
Address 180 Promenade Circle, Suite 150, Sacramento, CA 95834
Phone: 916-514-4512/E-mail: Pete.guisasola@us.bureauveritas.com

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 X is not [check one] 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 "contractors" under the Political Reform Act. The term "contractor" 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 "contractors."

The CITY's Conflict of Interest Code requires designated employees, including individuals who qualify as "contractors", 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” 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 “contractors” 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 “contractors” 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:

- (4) 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.
- (5) Identify individuals who will provide services or perform work under this Agreement as “contractors”;

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 a one (1) year period from the date of the execution of this agreement with the CITY’s option to extend the time

of performance for additional one (1) year terms up to a total agreement term of three (3) years (including the initial term and all extensions).

Attachment 1 to-Exhibit A Scope of Services

1.1 GENERAL

The building plan review, counter, and inspection services to be performed by the CONTRACTOR shall be specified in authorization letters from the CITY to CONTRACTOR.

1.2 BUILDING PLAN REVIEW SERVICES

Without limiting the generality of the following, the Building Plan Review Services may include any or all of the following specific tasks;

1. Upon initiation of the project, the Consultant will receive an authorization letter to perform work that identifies the project and the scope of plan review. Building plan review services may include any one or more of the following specific tasks:
 - a. Non-structural fire and life safety plans examination
 - b. Structural plans examination
 - c. Energy code plans examination
 - d. Barrier free plans examination
 - e. Electrical, mechanical & plumbing code plans examination
 - f. Fire sprinkler and alarm plans examination
2. Stated plan review turnaround times will begin the next business day after the CONTRACTOR has been notified by the City. CONTRACTOR shall pick up all documents to be reviewed from the City. CONTRACTOR shall review plans submitted in compliance with all applicable law, including but not limited to the California Building Standards Code and the Sacramento City Code. The CONTRACTOR shall confer with the Building Official or his/her agent on any portion of the review that specifically requires an approval of the Building Official under the applicable Code(s), or that involves an interpretation or an alternate means or methods request.
3. Within the timelines listed below, the CONTRACTOR shall complete the initial review and either approve the plans, notify the CITY of approval, and return all materials forwarded for review to the CITY, or send the CITY a correction letter indicating the plans are not approved. Each timeline will begin from the day the CONTRACTOR receives a complete project submittal.

Unless otherwise agreed to by the CITY in writing in advance, the following timelines

apply:

- a. Single Family Projects - Initial review of projects sent to the CONTRACTOR at a rate of twenty (20) or fewer projects per week will be completed within ten (10) working days. Projects in addition to twenty per week will be reviewed within a mutually agreed schedule. A re-submittal will be reviewed within five (5) working days and a second re-submittal will be reviewed within (3) working days.
- b. All Other Projects (including typical new commercial and multi-family buildings) up to \$3 million in construction valuation – Initial review will be completed within ten (10) working days for typical projects. Re-submittals will be reviewed within five (5) working days; for projects over \$3 million in construction valuation – Initial review will be completed within fifteen (15) working days for typical projects. Re-submittals will be reviewed within ten (10) working days.
- c. Expedited Plan Review- Initial review will be completed in five (5) working days for a (typical) project that is less than \$3 million in construction evaluation. Re-submittals will be reviewed within (3) working days.

The CONTRACTOR shall notify the CITY within two (2) days of receipt of plans if a timeline cannot be met due to the quantity and/or the complexity of the project and a mutually acceptable schedule will be determined.

4. If corrections are required, the CONTRACTOR shall send a correction letter to the CITY's Building Official or his/her designated agent. The correction letter shall describe each required correction or addition, and reference the applicable code section. The correction letter shall also direct the applicant to submit the revised or added information to the CITY's designee per the submittal requirements for the permit type under review.
5. Comments or clarifications for the permit applicant shall be prepared in a professional manner and with the level of care, skill and competence ordinarily exercised.
6. The CONTRACTOR shall respond to telephone inquiries and plan check comment clarification related to projects being reviewed from CITY staff, developer's engineer or architect or others.
7. If plans are approved, the CONTRACTOR shall forward to the CITY a transmittal including the plans and associated documents with the plans stamped "approved for permit issuance" to indicate that the plans have been reviewed and found to be in substantial compliance with applicable codes. The transmittal shall indicate any deferred submittals, special inspection forms, etc. to be included as part of the information to be submitted to the CITY during construction.

8. There shall be no required minimum usage of any “on-call, as-needed” building plan review services described in this agreement.
9. At the request of the City, CONTRACTOR shall provide electronic plan reviews and the required protocol for electronic submittals and processing when this service is utilized. As necessary, CONTRACTOR shall train City staff regarding submittals, processing and issuance of projects reviewed electronically.
10. At the request of the City, CONTRACTOR shall provide third-party plan reviews/inspections by allowing an applicant to provide payment directly to the CONTRACTOR for CONTRACTOR’s plan review fee or inspection costs. CONTRACTOR shall be solely responsible for the collection of any of third-party fees. In any case, the City will always receive its appropriate plan review fees. In all cases, a standardized Third-Party Agreement Form for plan review and/or inspections will be used as established by the City.
11. Form correction and transmittal letters may be provided by the CITY, or CONTRACTOR will supply CITY-approved correction and/or transmittal letters.

1.3 Counter Services

1. All permit processing and counter services shall be performed at the City office and under the direction of City staff.
2. Consultant shall assign personnel who are professionally qualified to perform permit processing and counter services. All on-site materials, resources, tools and City policy training shall be supplied by the City.

1.4 Inspection Services

1. All field Inspection shall be performed through the CITY Community Development Department and under the direction of CITY staff.
2. CONTRACTOR shall assign personnel who are professionally qualified to perform commercial and/or residential construction inspection. All vehicles, safety apparel, communication devices, materials, resources, tools and training shall be supplied by the CONTRACTOR. CITY shall provide CITY-specific policy training and provide any necessary CITY maps, forms and data entry training.
3. Projects under construction by permit from the CITY shall be inspected for compliance with State of California Building, Mechanical, Plumbing, Electrical, Energy and Fire Codes, as amended by the CITY and as designated by the CITY.

1.5 CITY

Plan Review

1. CITY shall provide to the CONTRACTOR, (2) complete sets of plans, structural calculations, energy calculations, geotechnical reports, specifications and related documents for the completion of the plans examination. For complex commercial projects, (3) complete sets at a minimum shall be submitted or as mutually agreed upon.
2. CITY shall determine which plans are to be reviewed by the CONTRACTOR.
3. CITY shall intake, track, and process the permit applications and all plan revisions per current CITY permit procedures. At the request of the CITY, the CONTRACTOR shall update the CITY'S tracking system per the City's plan/permit procedures.
4. Pick-up and delivery of plans and supporting documents are the sole responsibilities of the CONTRACTOR.

1.6 ADDITIONAL BUILDING SAFETY SERVICES AVAILABLE
(Charged on an hourly basis or included %--PLEASE SPECIFY.)

1. Preliminary review meetings with CITY staff and/or development proponents to review projects. (48 hour advance notice required)
1. Fire Code plan reviews on buildings.
2. Fire sprinkler and fire alarm system plan reviews.

1.7 BUILDING SAFETY SERVICES FEES

1. Refer to Attachment 1 to Exhibit B.

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 \$100,000.00 for one year and shall not exceed \$100,000.00 for each of two additional option years for a total contract amount not to exceed \$300,000.00. This contract is On-Call and this CONTRACTOR may not be called by the CITY to perform any services described in this contract and therefore no compensation would be paid to the CONTRACTOR for the length of the contract.
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.
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:

*City of Sacramento
Community Development Dept.
300 Richards Blvd. 3rd Floor
Sacramento, CA 95811
Attn: Ed Short*

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.

Attachment 1 to Exhibit B

Building Safety Fees

CONTRACTOR's Building Plan Review Fees

Building Plan Check Rates (Please insert specific rates as proposed.)

Fee Proposal for Plan Check: First Check and two Rechecks Percent (%) of Client Collected Plan Check Fee					
Project Type	Type of Plan Check				
	Structural Only	Fire Sprinkler Review	Structural Plus Life Safety	Mech/Plumbing/Elec only	Complete Plan Review
UP TO \$1,000,000 Valuation	48%	\$90/hr	58%	20%	67%
Exceeding \$1,000,000 Valuation	44%	\$90/hr	53%	15%	63%
Expedited Plan Review	125%	125%	125%	125%	125%

Note: Minimum Plan Check Fee is \$250

The fee reflects a percentage of those plan check fees referenced in the City's— Building Department Fee Schedule. Fee includes the initial plan review and up to two (2) rechecks.

Labor Rate Schedule (Hourly)

The CONTRACTORS may also provide Plan Check and Inspection services to the City on an hourly basis, as shown below:

CLASSIFICATION	HOURLY RATE
Structural Engineer	\$95
Electrical Engineer	\$95
Mechanical Engineer	\$95
Senior Engineer	\$95
Plan Check Engineer	\$95
Fire Plan Reviewer	\$90
Certified Plans Examiner	\$80
Supervising Inspector (Commercial)	\$85
Residential Inspector	\$70
Other as specified	

Overtime

CONTRACTOR'S overtime for non-exempt employees is the above hourly rate plus 25%, for hours in excess of 8 hours per day.

Professional Reimbursement

The hourly billing rates include the cost of salaries of the CONTRACTOR's employees, plus sick leave, vacation, holiday and other fringe benefits. The percentage added to salary costs includes indirect overhead costs and fee (profit). All employees classified as "non-exempt" by the U.S. Department of Labor will be compensated at 1-1/2 times salary, as per State and Federal wage and hour laws. Billing rates will be calculated according for these overtime hours.

Direct Expenses

The foregoing Schedule of Charges is incorporated into the agreement for the services provided. These fees include the initial plan review plus two (2) rechecks. When substantial revisions occur, additional fees may be charged at the hourly rates shown in the Labor Rate Schedule, if the City collects an hourly rate from the applicant for extra review cycles and pending approval of the City Building Official or his/her designee.

Fees for Additional Services—optional if not included in % of fees collected:

1. Preliminary plan review meetings to review code requirements will be charged at the hourly rates shown in the Labor Rate Schedule.
2. Additional plan reviews beyond the initial and two (2) rechecks will be charged at the hourly rates shown in the Labor Rate Schedule.
3. Review of deferred submittals will be charged at the hourly rates shown in the Labor Rate Schedule.
4. Revisions to plans that require additional plan review will be charged at the hourly rates shown in Labor Rate Schedule.
5. Attendance at meetings when requested by the CITY will be charged at the hourly rates shown in Labor Rate Schedule.
6. Fire Code, Fire Sprinkler, Fire Alarm plan reviews when requested by the CITY will be charged at the hourly rates shown in Labor Rate Schedule.

Notes:

- CONTRACTOR staff normal work days are Monday through Friday (8am - 5pm). Office work on Saturdays, Sundays or CITY Holidays will be performed on at specific request of the CITY Representative. Billing for work performed outside normal work hours and on Saturdays, Sundays or CITY Holidays shall be at 1½ times the rates shown above.

- The CITY is not under any obligation to utilize the CONTRACTOR, and there is no guarantee of compensation.

EXHIBIT C

PROFESSIONAL SERVICES AGREEMENT FOR DESIGN SERVICES

FACILITIES AND EQUIPMENT TO BE PROVIDED BY CITY

CITY shall [*check one*]

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

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

EXHIBIT D

PROFESSIONAL SERVICES AGREEMENT 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 therefore 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

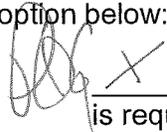
ISO CGL Form 00 01 on an occurrence basis for bodily injury, including death, of one or more persons, property damage and personal injury, with limits of not less than one million dollars (\$1,000,000) per occurrence. The policy shall provide contractual liability and products and completed operations 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:

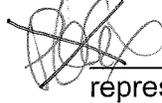
"I certify that my business has no employees, and that I do not employ anyone. I am exempt from the legal requirements to provide Workers' Compensation insurance." _____ (CONTRACTOR initials)

- (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. The certificates and endorsements shall be forwarded to the CITY representative named in Exhibit A. Copies of policies shall be delivered to the CITY on demand. Certificates of insurance shall be

signed by an authorized representative of the insurance carrier.

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

F. Subcontractors

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

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

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

sanctions as it may determine to be appropriate including, but not limited to:

- (1) Withholding of payments to CONTRACTOR under this Agreement until CONTRACTOR complies;
- (2) Cancellation, termination, or suspension of the Agreement, in whole or in part.

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

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

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 to Exhibit E



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 a proposer 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 to Exhibit E



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.



CERTIFICATE OF LIABILITY INSURANCE

DATE(MM/DD/YYYY)
05/18/2011

THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AFFIRMATIVELY OR NEGATIVELY AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW. THIS CERTIFICATE OF INSURANCE DOES NOT CONSTITUTE A CONTRACT BETWEEN THE ISSUING INSURER(S), AUTHORIZED REPRESENTATIVE OR PRODUCER, AND THE CERTIFICATE HOLDER.

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

PRODUCER Aon Risk Services Northeast, Inc. Parsippany NJ Office 10 Lanidex Center West P.O. Box 608 Parsippany NJ 07054-0608 USA	CONTACT NAME: PHONE (A/C. No. Ext): (866) 283-7122 FAX (A/C. No.): (847) 953-5390		
	E-MAIL ADDRESS:		
INSURED Bureau Veritas North America, Inc. 180 Promenade Circle, Suite 150 Sacramento CA 95834 USA	INSURER(S) AFFORDING COVERAGE		NAIC #
	INSURER A: Lexington Insurance Company		19437
	INSURER B: New Hampshire Ins Co		23841
	INSURER C: National Union Fire Ins Co of Pittsburgh		19445
	INSURER D: Commerce & Industry Ins Co		19410
	INSURER E: Granite State Insurance Company		23809
INSURER F:			

COVERAGES **CERTIFICATE NUMBER:** 570042533757 **REVISION NUMBER:**

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

INSR LTR	TYPE OF INSURANCE	ADDL INSR	SUBR WVD	POLICY NUMBER	POLICY EFF (MM/DD/YYYY)	POLICY EXP (MM/DD/YYYY)	LIMITS
D	GENERAL LIABILITY <input checked="" type="checkbox"/> COMMERCIAL GENERAL LIABILITY CLAIMS-MADE <input checked="" type="checkbox"/> OCCUR GEN'L AGGREGATE LIMIT APPLIES PER: <input type="checkbox"/> POLICY <input checked="" type="checkbox"/> PROJECT <input checked="" type="checkbox"/> LOC	Y	Y	GL6439313	04/01/2011	04/01/2012	EACH OCCURRENCE \$1,000,000 DAMAGE TO RENTED PREMISES (Ea occurrence) \$1,000,000 MED EXP (Any one person) \$25,000 PERSONAL & ADV INJURY \$1,000,000 GENERAL AGGREGATE \$2,000,000 PRODUCTS - COMP/OP AGG \$2,000,000
C	AUTOMOBILE LIABILITY	Y		CA 3377177	04/01/2011	04/01/2012	COMBINED SINGLE LIMIT (Ea accident) \$1,000,000
E	<input checked="" type="checkbox"/> ANY AUTO <input type="checkbox"/> ALL OWNED AUTOS <input type="checkbox"/> HIRED AUTOS <input type="checkbox"/> SCHEDULED AUTOS <input type="checkbox"/> NON-OWNED AUTOS	Y	Y	AOS CA 3377178 MA	04/01/2011	04/01/2012	BODILY INJURY (Per person) BODILY INJURY (Per accident) PROPERTY DAMAGE (Per accident)
	UMBRELLA LIAB OCCUR EXCESS LIAB CLAIMS-MADE <input type="checkbox"/> DED <input type="checkbox"/> RETENTION						EACH OCCURRENCE AGGREGATE
B	WORKERS COMPENSATION AND EMPLOYERS' LIABILITY ANY PROPRIETOR / PARTNER / EXECUTIVE OFFICER/MEMBER EXCLUDED? (Mandatory in NH) If yes, describe under DESCRIPTION OF OPERATIONS below	Y/N		WC025842303	04/01/2011	04/01/2012	<input checked="" type="checkbox"/> WC STATUTORY LIMITS <input type="checkbox"/> OTHER
B		N/A	Y	AOS WC025842304 CA	04/01/2011	04/01/2012	E.L. EACH ACCIDENT \$1,000,000 E.L. DISEASE-EA EMPLOYEE \$1,000,000 E.L. DISEASE-POLICY LIMIT \$1,000,000
A	Archit&Eng Prof			026030221 SIR applies per policy terms & conditions	11/30/2010	12/15/2011	Each Claim \$1,000,000 Aggregate \$1,000,000

DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES (Attach ACORD 101, Additional Remarks Schedule, if more space is required)
RE: City of Sacramento Plan Reviews or Other Services. The City of Sacramento, its officials, employees and volunteers are included as Additional Insured with respect to General Liability and Auto Liability policy where required by written contract. A waiver of subrogation is granted in favor of Additional Insured on the General Liability and workers' compensation policies where required by written contract. Auto Liability evidenced herein is primary and non-contributory to other insurance available to the certificate holder, but only to the extent required by written contract with the insured. Separation of insureds is included in the Auto Liability policy. See attached Endt. CG 20 10 07 04, CG 24 04 0509, WC 04 03 61 Endt.

CERTIFICATE HOLDER City of Sacramento Department of Human Resources Loss Control Division Attn: Deborah Patterson, Risk Mgmt. 915 "I" Street, Fourth Fl. Sacramento CA 95814 USA	CANCELLATION SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, NOTICE WILL BE DELIVERED IN ACCORDANCE WITH THE POLICY PROVISIONS. AUTHORIZED REPRESENTATIVE <i>Aon Risk Services Northeast, Inc.</i>
---	--

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

ADDITIONAL INSURED - OWNERS, LESSEES OR CONTRACTORS - SCHEDULED PERSON OR ORGANIZATION

This endorsement modifies insurance provided under the following:

COMMERCIAL GENERAL LIABILITY COVERAGE PART

SCHEDULE

Name Of Additional Insured Person(s) Or Organization(s):	Location(s) Of Covered Operations
BLANKET WHERE REQUIRED BY WRITTEN CONTRACT	
Information required to complete this Schedule, if not shown above, will be shown in the Declarations.	

A. Section II - Who Is An Insured is amended to include as an additional insured the person(s) or organization(s) shown in the Schedule, but only with respect to liability for "bodily injury", "property damage" or "personal and advertising injury" caused, in whole or in part, by:

1. Your acts or omissions; or
2. The acts or omissions of those acting on your behalf;

in the performance of your ongoing operations for the additional insured(s) at the location(s) designated above.

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

This insurance does not apply to "bodily injury" or "property damage" occurring after:

1. All work, including materials, parts or equipment furnished in connection with such work, on the project (other than service, maintenance or repairs) to be performed by or on behalf of the additional insured(s) at the location of the covered operations has been completed; or
2. That portion of "your work" out of which the injury or damage arises has been put to its intended use by any person or organization other than another contractor or subcontractor engaged in performing operations for a principal as a part of the same project.

WAIVER OF TRANSFER OF RIGHTS OF RECOVERY AGAINST OTHERS TO US

This endorsement modifies insurance provided under the following:

COMMERCIAL GENERAL LIABILITY COVERAGE PART
PRODUCTS/COMPLETED OPERATIONS LIABILITY COVERAGE PART

SCHEDULE

Name Of Person Or Organization:

Any person or organization requiring a waiver of transfer of rights of recovery pursuant to the terms of any contract or agreement you enter into with such person or organization.

Information required to complete this Schedule, if not shown above, will be shown in the Declarations.

The following is added to Paragraph 8. Transfer Of Rights Of Recovery Against Others To Us of Section IV - Conditions:

We waive any right of recovery we may have against the person or organization shown in the Schedule above because of payments we make for injury or damage arising out of your ongoing operations or "your work" done under a contract with that person or organization and included in the "products-completed operations hazard". This waiver applies only to the person or organization shown in the Schedule above.

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

ENDORSEMENT #

This endorsement, effective 12:01 A.M. 4/01/2011 forms a part of Policy

No. CA 9835763/CA 9835764 issued to Bureau Veritas North America, Inc. by
National Union Fire Insurance Company of Pittsburgh/Granite State Insurance Company
(The above "attaching clause" need be completed only when this endorsement is issued subsequent to the preparation of the policy).

NOTICE OF CANCELLATION AND NONRENEWAL TO CERTIFICATE HOLDER

This endorsement modifies insurance provided under the following:

COMMERCIAL GENERAL LIABILITY COVERAGE FORM
BUSINESS AUTO COVERAGE FORM
TRUCKERS COVERAGE FORM
GARAGE COVERAGE FORM

We shall provide written notice in accordance with state law in the event this policy is cancelled or nonrenewed, for any reason other than non payment of premium, to those entities set out in the schedule below.

Schedule

Notice will be mailed to: City of Sacramento, Department of Human Resources, Loss Control Division, 915 "I" Street, Fourth Fl., Sacramento, CA 95814

To the attention of: Deborah Patterson, Risk Mgmt.

Contract, Permit or Job Number :Plan Review Services

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

ENDORSEMENT #

This endorsement, effective 12:01 A.M. 4/01/2011 forms a part of Policy

No. GL6439313 issued to Bureau Veritas North America, Inc.
by Commerce & Industry Insurance Company

(The above "attaching clause" need be completed only when this endorsement is issued subsequent to the preparation of the policy).

NOTICE OF CANCELLATION AND NONRENEWAL TO CERTIFICATE HOLDER

This endorsement modifies insurance provided under the following:

COMMERCIAL GENERAL LIABILITY COVERAGE FORM
BUSINESS AUTO COVERAGE FORM
TRUCKERS COVERAGE FORM
GARAGE COVERAGE FORM

We shall provide written notice in accordance with state law in the event this policy is cancelled or nonrenewed, for any reason other than non payment of premium, to those entities set out in the schedule below.

Schedule

Notice will be mailed to: City of Sacramento, Department of Human Resources, Loss Control Division, 915 "I" Street, Fourth Fl., Sacramento, CA 95814

To the attention of: Deborah Patterson, Risk Mgmt.

Contract, Permit or Job Number :Plan Review Services

BLANKET WAIVER OF OUR RIGHT TO RECOVER FROM OTHERS ENDORSEMENT

This endorsement changes the policy to which it is attached effective on the inception date of the policy unless a different date is indicated below.

(The following "attaching clause" need be completed only when this endorsement is issued subsequent to preparation of the policy).

This endorsement, effective 12:01 AM 04/01/2011 forms a part of Policy No. WC 025-84-2304

Issued to BUREAU VERITAS NORTH AMERICA, INC.

By NEW HAMPSHIRE INSURANCE COMPANY

We have a right to recover our payments from anyone liable for an injury covered by this policy. We will not enforce our right against any person or organization with whom you have a written contract that requires you to obtain this agreement from us, as regards any work you perform for such person or organization.

The additional premium for this endorsement shall be 2 % of the total estimated workers compensation premium for this policy.

WC 04 03 61
(Ed. 11/90)

Countersigned by _____



Archive Copy

Authorized Representative _____

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

ENDORSEMENT #

This endorsement, effective 12:01 A.M. 4/01/2011 forms a part of Policy

No. WC24549234/WC24549235 issued to Bureau Veritas North America, Inc.
by New Hampshire Insurance Company

(The above "attaching clause" need be completed only when this endorsement is issued subsequent to the preparation of the policy).

NOTICE OF CANCELLATION AND NONRENEWAL TO CERTIFICATE HOLDER

This endorsement modifies insurance provided under the following:

WORKERS COMPENSATION AND EMPLOYERS LIABILITY INSURANCE POLICY

We shall provide written notice in accordance with state law in the event this policy is cancelled or nonrenewed, for any reason other than non payment of premium, to those entities set out in the schedule below.

Schedule

Notice will be mailed to: City of Sacramento, Department of Human Resources, Loss Control Division, 915 "I" Street, Fourth Fl., Sacramento, CA 95814

To the attention of: Deborah Patterson, Risk Mgmt.

Contract, Permit or Job Number :Plan Review Services

WAIVER OF OUR RIGHT TO RECOVER FROM OTHERS ENDORSEMENT

This endorsement changes the policy to which it is attached effective on inception date of the policy unless a different date is indicated below.

(The following "attaching clause" need be completed only when this endorsement is issued subsequent to preparation of the policy).

This endorsement, effective 12:01 AM 04/01/2011 forms a part of Policy No. WC 025-84-2303

Issued to BUREAU VERITAS NORTH AMERICA, INC.

By NEW HAMPSHIRE INSURANCE COMPANY

Premium

We have the right to recover our payments from anyone liable for an injury covered by this policy. We will not enforce our right against the person or organization named in the Schedule. This agreement applies only to the extent that you perform work under a written contract that requires you to obtain this agreement from us.

This agreement shall not operate directly or indirectly to benefit any one not named in the Schedule.

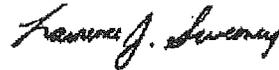
Schedule

**ANY PERSON OR ORGANIZATION TO WHOM YOU BECOME
OBLIGATED TO WAIVE YOUR RIGHTS OF RECOVERY
AGAINST, UNDER ANY CONTRACT OR AGREEMENT YOU ENTER
INTO PRIOR TO THE OCCURRENCE OF LOSS.**

This form is not applicable in California, Kentucky, New Hampshire, New Jersey, North Dakota, Ohio, Tennessee, Texas, Utah, or Washington.

WC 00 03 13
(Ed. 04/84)

Countersigned by _____



Authorized Representative



Requires Council Approval: No YES Meeting: 7/12/11

Real Estate Other Party Signature Needed Recording Requested

General Information

Type: Professional Services Formal Bid-Prof Service	PO Type:	Attachment: Original No.:
\$ Not to Exceed: \$ 300,000		Original Doc Number:
Other Party: TRB & Associates, Inc.		Certified Copies of Document: 1
Project Name: Contract: Plan Review, Inspection/Permit Counter Consulting Services		Deed: <input type="checkbox"/> None <input type="checkbox"/> Included <input type="checkbox"/> Separate
Project Number:	Bid Transaction #: P11211212004	E/SBE-DBE-M/WBE: N/A

Department Information

Department: CDD Division: Building&Bldg. Plan Check
 Project Mgr: Ed Short Supervisor: Ryan DeVore
 Contract Services: Marge Innocenti Date: 6/23/11 Division Mgr: Ryan DeVore
 Phone Number: 808-8898 Org Number: 21001211 & 21001212
 Comment:

Review and Signature Routing

Department	Signature or Initial	Date
Project Mgr:	<i>ES</i>	6-27-11
Accounting:	<i>MI</i>	6-27-11
Contract Services:	<i>MI</i>	6-27-11
Supervisor:	<i>RCD</i>	6/29/11
Division Manager:	<i>RCD</i>	6/29/11

City Attorney Signature or Initial Date
 City Attorney: *Paul Drake* 7-1-11

Send Interoffice Mail Notify for Pick Up

Authorization	Signature or Initial	Date
Choose Director Department Director:	<i>MBP</i>	7/5/11
City Mgr: yes <input checked="" type="checkbox"/> No <input type="checkbox"/>		

For City Clerk Processing

Finalized:
Initial:

Date:

Imaged:
Initial:

Date:

Received:
(City Clerk Stamp Here)

PROJECT #:P111212004
PROJECT NAME: Design Professional Services
DEPARTMENT: Community Development Department
DIVISION: Building

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 TRB and Associates, Inc.
Address 3180 Crow Canyon Place Suite 216, San Ramon, CA 94583
Phone/Fax (925) 866-2633/(925) 790-0011

("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: William H. Edgar, Interim City Manager

APPROVED TO AS FORM:



City Attorney 7-1-11

ATTEST:

City Clerk

Attachments

- Exhibit A - Scope of Service
- Attachment 1 – Exhibit A
- Exhibit B - Fee Schedule/Manner of Payment
- Attachment 1 – Exhibit B
- Exhibit C - Facilities/Equipment Provided
- Exhibit D - General Provisions
- Exhibit E - Non-Discrimination in Employee Benefits

**DECLARATION OF COMPLIANCE
Equal Benefits Ordinance**

Name of Contractor: TRB and Associates

Address: 3180 Crow Canyon Place, Suite 16, San Ramon, CA 94583

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

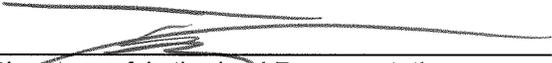
Contractor agrees that if Contractor offers any of the above-listed employee benefits, Contractor will offer those benefits, without discrimination between employees with spouses and employees with domestic partners, and without discrimination between the spouses and domestic partners of such employees.

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

6-28-2011

Date

Todd Bailey

Print Name

President

Title

EXHIBIT A

PROFESSIONAL SERVICES AGREEMENT FOR DESIGN SERVICES

SCOPE OF SERVICES

1. Representatives.

The CITY Representative for this Agreement is:

*Ed Short, P.E., Supervising Engineer
300 Richards Blvd., Sacramento, Ca., 95811
(916) 808-8859; eshort@cityofsacramento.org*

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

The CONTRACTOR Representative for this Agreement is:

*Name/Title Todd Bailey, President
Address 3180 Crow Canyon Place, Suite 15, San Ramon, CA 94583
Phone: (925) 866-2633/Fax: (925) 790-0011/E-mail: www.TRBplus.com*

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 X is not [check one] 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 "contractors" under the Political Reform Act. The term "contractor" 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 "contractors."

The CITY's Conflict of Interest Code requires designated employees, including individuals who qualify as "contractors", 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" 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 "contractors" 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 "contractors" 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:

- (4) 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.
- (5) Identify individuals who will provide services or perform work under this Agreement as "contractors";

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 a one (1) year period from the date of the execution of this agreement with the CITY's option to extend the time

of performance for additional one (1) year terms up to a total agreement term of three (3) years (including the initial term and all extensions).

Attachment 1 to-Exhibit A Scope of Services

1.1 GENERAL

The building plan review, counter, and inspection services to be performed by the CONTRACTOR shall be specified in authorization letters from the CITY to CONTRACTOR.

1.2 BUILDING PLAN REVIEW SERVICES

Without limiting the generality of the following, the Building Plan Review Services may include any or all of the following specific tasks;

1. Upon initiation of the project, the Consultant will receive an authorization letter to perform work that identifies the project and the scope of plan review. Building plan review services may include any one or more of the following specific tasks:
 - a. Non-structural fire and life safety plans examination
 - b. Structural plans examination
 - c. Energy code plans examination
 - d. Barrier free plans examination
 - e. Electrical, mechanical & plumbing code plans examination
 - f. Fire sprinkler and alarm plans examination
2. Stated plan review turnaround times will begin the next business day after the CONTRACTOR has been notified by the City. CONTRACTOR shall pick up all documents to be reviewed from the City. CONTRACTOR shall review plans submitted in compliance with all applicable law, including but not limited to the California Building Standards Code and the Sacramento City Code. The CONTRACTOR shall confer with the Building Official or his/her agent on any portion of the review that specifically requires an approval of the Building Official under the applicable Code(s), or that involves an interpretation or an alternate means or methods request.
3. Within the timelines listed below, the CONTRACTOR shall complete the initial review and either approve the plans, notify the CITY of approval, and return all materials forwarded for review to the CITY, or send the CITY a correction letter indicating the plans are not approved. Each timeline will begin from the day the CONTRACTOR receives a complete project submittal.

Unless otherwise agreed to by the CITY in writing in advance, the following timelines

apply:

- a. Single Family Projects - Initial review of projects sent to the CONTRACTOR at a rate of twenty (20) or fewer projects per week will be completed within ten (10) working days. Projects in addition to twenty per week will be reviewed within a mutually agreed schedule. A re-submittal will be reviewed within five (5) working days and a second re-submittal will be reviewed within (3) working days.
- b. All Other Projects (including typical new commercial and multi-family buildings) up to \$3 million in construction valuation – Initial review will be completed within ten (10) working days for typical projects. Re-submittals will be reviewed within five (5) working days; for projects over \$3 million in construction valuation – Initial review will be completed within fifteen (15) working days for typical projects. Re-submittals will be reviewed within ten (10) working days.
- c. Expedited Plan Review- Initial review will be completed in five (5) working days for a (typical) project that is less than \$3 million in construction evaluation. Re-submittals will be reviewed within (3) working days.

The CONTRACTOR shall notify the CITY within two (2) days of receipt of plans if a timeline cannot be met due to the quantity and/or the complexity of the project and a mutually acceptable schedule will be determined.

4. If corrections are required, the CONTRACTOR shall send a correction letter to the CITY's Building Official or his/her designated agent. The correction letter shall describe each required correction or addition, and reference the applicable code section. The correction letter shall also direct the applicant to submit the revised or added information to the CITY's designee per the submittal requirements for the permit type under review.
5. Comments or clarifications for the permit applicant shall be prepared in a professional manner and with the level of care, skill and competence ordinarily exercised.
6. The CONTRACTOR shall respond to telephone inquiries and plan check comment clarification related to projects being reviewed from CITY staff, developer's engineer or architect or others.
7. If plans are approved, the CONTRACTOR shall forward to the CITY a transmittal including the plans and associated documents with the plans stamped "approved for permit issuance" to indicate that the plans have been reviewed and found to be in substantial compliance with applicable codes. The transmittal shall indicate any deferred submittals, special inspection forms, etc. to be included as part of the information to be submitted to the CITY during construction.

8. There shall be no required minimum usage of any “on-call, as-needed” building plan review services described in this agreement.
9. At the request of the City, CONTRACTOR shall provide electronic plan reviews and the required protocol for electronic submittals and processing when this service is utilized. As necessary, CONTRACTOR shall train City staff regarding submittals, processing and issuance of projects reviewed electronically.
10. At the request of the City, CONTRACTOR shall provide third-party plan reviews/inspections by allowing an applicant to provide payment directly to the CONTRACTOR for CONTRACTOR’s plan review fee or inspection costs. CONTRACTOR shall be solely responsible for the collection of any of third-party fees. In any case, the City will always receive its appropriate plan review fees. In all cases, a standardized Third-Party Agreement Form for plan review and/or inspections will be used as established by the City.
11. Form correction and transmittal letters may be provided by the CITY, or CONTRACTOR will supply CITY-approved correction and/or transmittal letters.

1.3 Counter Services

1. All permit processing and counter services shall be performed at the City office and under the direction of City staff.
2. Consultant shall assign personnel who are professionally qualified to perform permit processing and counter services. All on-site materials, resources, tools and City policy training shall be supplied by the City.

1.4 Inspection Services

1. All field Inspection shall be performed through the CITY Community Development Department and under the direction of CITY staff.
2. CONTRACTOR shall assign personnel who are professionally qualified to perform commercial and/or residential construction inspection. All vehicles, safety apparel, communication devices, materials, resources, tools and training shall be supplied by the CONTRACTOR. CITY shall provide CITY-specific policy training and provide any necessary CITY maps, forms and data entry training.
3. Projects under construction by permit from the CITY shall be inspected for compliance with State of California Building, Mechanical, Plumbing, Electrical, Energy and Fire Codes, as amended by the CITY and as designated by the CITY.

1.5 CITY

Plan Review

1. CITY shall provide to the CONTRACTOR, (2) complete sets of plans, structural calculations, energy calculations, geotechnical reports, specifications and related documents for the completion of the plans examination. For complex commercial projects, (3) complete sets at a minimum shall be submitted or as mutually agreed upon.
2. CITY shall determine which plans are to be reviewed by the CONTRACTOR.
3. CITY shall intake, track, and process the permit applications and all plan revisions per current CITY permit procedures. At the request of the CITY, the CONTRACTOR shall update the CITY'S tracking system per the City's plan/permit procedures.
4. Pick-up and delivery of plans and supporting documents are the sole responsibilities of the CONTRACTOR.

1.6 ADDITIONAL BUILDING SAFETY SERVICES AVAILABLE (Charged on an hourly basis or included %--PLEASE SPECIFY.)

1. Preliminary review meetings with CITY staff and/or development proponents to review projects. (48 hour advance notice required)
1. Fire Code plan reviews on buildings.
2. Fire sprinkler and fire alarm system plan reviews.

1.7 BUILDING SAFETY SERVICES FEES

1. Refer to Attachment 1 to Exhibit B.

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 \$100,000.00 for one year and shall not exceed \$100,000.00 for each of two additional option years for a total contract amount not to exceed \$300,000.00. This contract is On-Call and this CONTRACTOR may not be called by the CITY to perform any services described in this contract and therefore no compensation would be paid to the CONTRACTOR for the length of the contract.
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.
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:

*City of Sacramento
Community Development Dept.
300 Richards Blvd. 3rd Floor
Sacramento, CA 95811
Attn: Ed Short*

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.

Attachment 1 to Exhibit B

Building Safety Fees

CONTRACTOR's Building Plan Review Fees

Building Plan Check Rates (Please insert specific rates as proposed.)

Fee Proposal for Plan Check: First Check and two Rechecks Percent (%) of Client Collected Plan Check Fee					
Project Type	Type of Plan Check				
	Structural Only	Fire Sprinkler Review	Structural Plus Life Safety	Mech/Plumbing/Elec only	Complete Plan Review
UP TO \$1,000,000 Valuation	50%	hrly rates	hrly rates	hrly rates	72%
Exceeding \$1,000,000 Valuation	45%	hrly rates"	N/A	N/A	68%
Expedited Plan Review	As negotiated	As negotiated	As negotiated	As negotiated	As negotiated

Note: Minimum Plan Check Fee is \$250

The fee reflects a percentage of those plan check fees referenced in the City's-- Building Department Fee Schedule. Fee includes the initial plan review and up to two (2) rechecks.

Labor Rate Schedule (Hourly)

The CONTRACTORS may also provide Plan Check and Inspection services to the City on an hourly basis, as shown below:

CLASSIFICATION	HOURLY RATE
Principal/Project Manager	\$135
Building Official	\$130
Senior Plan Review Engineer/Architect	\$130
Senior Plans Examiner	\$120
Plan Review Engineer/Architect	\$110
Plans Examiner	\$ 95
Permit Technician	\$ 60
Clerical/Admin	\$ 45
CASp Certified Inspector	\$135
Supervising Inspector	\$ 90
Senior Inspector	\$ 80
Inspector	\$ 70

Overtime

CONTRACTOR'S overtime for non-exempt employees is the above hourly rate plus 25%, for hours in excess of 8 hours per day.

Professional Reimbursement

The hourly billing rates include the cost of salaries of the CONTRACTOR's employees, plus sick leave, vacation, holiday and other fringe benefits. The percentage added to salary costs includes indirect overhead costs and fee (profit). All employees classified as "non-exempt" by the U.S. Department of Labor will be compensated at 1-1/2 times salary, as per State and Federal wage and hour laws. Billing rates will be calculated according for these overtime hours.

Reimbursement for CONTRACTOR's employee-owned vehicles when used in connection with CITY inspections will be at the rate of \$0.60 per mile.

Direct Expenses

The foregoing Schedule of Charges is incorporated into the agreement for the services provided. These fees include the initial plan review plus two (2) rechecks. When substantial revisions occur, additional fees may be charged at the hourly rates shown in the Labor Rate Schedule, if the City collects an hourly rate from the applicant for extra review cycles and pending approval of the City Building Official or his/her designee.

Fees for Additional Services—optional if not included in % of fees collected:

1. Preliminary plan review meetings to review code requirements will be charged at the hourly rates shown in the Labor Rate Schedule.
2. Additional plan reviews beyond the initial and two (2) rechecks will be charged at the hourly rates shown in the Labor Rate Schedule.
3. Review of deferred submittals will be charged at the hourly rates shown in the Labor Rate Schedule.
4. Revisions to plans that require additional plan review will be charged at the hourly rates shown in Labor Rate Schedule.
5. Attendance at meetings when requested by the CITY will be charged at the hourly rates shown in Labor Rate Schedule.
6. Fire Code, Fire Sprinkler, Fire Alarm plan reviews when requested by the CITY will be charged at the hourly rates shown in Labor Rate Schedule.

Notes:

- CONTRACTOR staff normal work days are Monday through Friday (8am - 5pm). Office work on Saturdays, Sundays or CITY Holidays will be performed on at specific request of the CITY Representative. Billing for work performed outside normal work hours and on Saturdays, Sundays or CITY Holidays shall be at 1 and 1/4 times the rates shown above.
- The CITY is not under any obligation to utilize the CONTRACTOR, and there is no guarantee of compensation.

EXHIBIT C

PROFESSIONAL SERVICES AGREEMENT FOR DESIGN SERVICES

FACILITIES AND EQUIPMENT TO BE PROVIDED BY CITY

CITY shall [*check one*]

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

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

EXHIBIT D

PROFESSIONAL SERVICES AGREEMENT 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 therefore 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. The certificates and endorsements shall be forwarded to the CITY representative named in Exhibit A. Copies of policies shall be delivered to the CITY on demand. Certificates of insurance shall be

signed by an authorized representative of the insurance carrier.

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

F. Subcontractors

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

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

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

sanctions as it may determine to be appropriate including, but not limited to:

- (1) Withholding of payments to CONTRACTOR under this Agreement until CONTRACTOR complies;
- (2) Cancellation, termination, or suspension of the Agreement, in whole or in part.

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

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

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 to Exhibit E



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 a proposer 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 to Exhibit E



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.



THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.
BLANKET ADDITIONAL INSURED – LIABILITY EXTENSION

This endorsement modifies insurance provided under the following:

BUSINESSOWNERS LIABILITY COVERAGE FORM

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

1. ADDITIONAL INSURED – BLANKET VENDORS

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

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

employees or anyone else acting on its behalf. However, this exclusion does not apply to:

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

2. MISCELLANEOUS ADDITIONAL INSUREDS

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

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

Only the following persons or organizations are additional insureds under this endorsement and coverage provided to such additional insureds is limited as provided herein:

a. Additional Insured – Your Work

That person or organization for whom you do work is an additional insured solely for liability due to your negligence specifically resulting

from your work for the additional insured which is the subject of the written contract or written agreement. No coverage applies to liability resulting from the sole negligence of the additional insured.

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

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

b. State or Political Subdivisions

A state or political subdivision subject to the following provisions:

- (1) This insurance applies only with respect to the following hazards for which the state or political subdivision has issued a permit in connection with premises you own, rent, or control and to which this insurance applies:
 - (a) The existence, maintenance, repair, construction, erection, or removal of advertising signs, awnings, canopies, cellar entrances, coal holes, driveways, manholes, marquees, hoistway openings, sidewalk vaults, street banners, or decorations and similar exposures; or
 - (b) The construction, erection, or removal of elevators; or
- (2) This insurance applies only with respect to operations performed by you or on your behalf for which the state or political subdivision has issued a permit.

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

c. Controlling Interest

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

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

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

d. Managers or Lessors of Premises

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

This insurance does not apply to:

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

e. Mortgagee, Assignee or Receiver

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

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

f. Owners/Other Interests – Land is Leased

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

This insurance does not apply to:

- (1) Any "occurrence" which takes place after you cease to lease that land; or

3012000340097 1865342188



- (2) Structural alterations, new construction or demolition operations performed by or on behalf of such additional insured.

g. Co-owner of Insured Premises

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

h. Lessor of Equipment

Any person or organization from whom you lease equipment. Such person or organization are insureds only with respect to their liability arising out of the maintenance, operation or use by you of equipment leased to you by such person or organization. A person's or organization's status as an insured under this endorsement ends when their written contract or agreement with you for such leased equipment ends.

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

This insurance does not apply:

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

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

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

H. Other Insurance

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

4. LEGAL LIABILITY - DAMAGE TO PREMISES

- A. Under B. Exclusions, 1. Applicable to Business Liability Coverage, Exclusion k.

Damage To Property, is replaced by the following:

k. Damage To Property

"Property damage" to:

- 1. Property you own, rent or occupy, including any costs or expenses incurred by you, or any other person, organization or entity, for repair, replacement, enhancement, restoration or maintenance of such property for any reason, including prevention of injury to a person or damage to another's property;
- 2. Premises you sell, give away or abandon, if the "property damage" arises out of any part of those premises;
- 3. Property loaned to you;
- 4. Personal property in the care, custody or control of the insured;
- 5. That particular part of any real property on which you or any contractors or subcontractors working directly or indirectly in your behalf are performing operations, if the "property damage" arises out of those operations; or
- 6. That particular part of any property that must be restored, repaired or replaced because "your work" was incorrectly performed on it.

Paragraph 2 of this exclusion does not apply if the premises are "your work" and were never occupied, rented or held for rental by you.

Paragraphs 1, 3, and 4, of this exclusion do not apply to "property damage" (other than damage by fire or explosion) to premises:

- (1) rented to you;
- (2) temporarily occupied by you with the permission of the owner, or
- (3) to the contents of premises rented to you for a period of 7 or fewer consecutive days.

A separate limit of insurance applies to Damage To Premises Rented To You as described in Section D - Liability and Medical Expenses Limits of Insurance.

Paragraphs 3, 4, 5, and 6 of this exclusion do not apply to liability assumed under a sidetrack agreement.

Paragraph 6 of this exclusion does not apply to "property damage" included in the "products-completed operations hazard."

B. Under B. Exclusions, 1. Applicable to Business Liability Coverage, the last paragraph of 2. Exclusions is deleted and replaced by the following:

Exclusions c, d, e, f, g, h, i, k, l, m, n, and o, do not apply to damage by fire to premises while rented to you or temporarily occupied by you with permission of the owner or to the contents of premises rented to you for a period of 7 or fewer consecutive days. A separate limit of insurance applies to this coverage as described in Section D. Liability And Medical Expenses Limits Of Insurance.

C. The first Paragraph under item 5. Damage To Premises Rented To You Limit of Section D. Liability And Medical Expenses Limits Of Insurance is replaced by the following:

The most we will pay under Business Liability for damages because of "property damage" to any one premises, while rented to you, or temporarily occupied by you, with the permission of the owner, including contents of such premises rented to you for a period of 7 or fewer consecutive days, is the Damage to Premises Rented to You limit shown in the Declaration.

5. Broad Knowledge of Occurrence

The following items are added to E. Businessowners General Liability Conditions in the Businessowners Liability Coverage Form:

e. Paragraphs a. and b. apply to you or to any additional insured only when such "occurrence," offense, claim or "suit" is known to:

- (1) You or any additional insured that is an individual;
- (2) Any partner, if you or an additional insured is a partnership;
- (3) Any manager, if you or an additional insured is a limited liability company;
- (4) Any "executive officer" or insurance manager, if you or an additional insured is a corporation;

(5) Any trustee, if you or an additional insured is a trust; or

(6) Any elected or appointed official, if you or an additional insured is a political subdivision or public entity.

This paragraph e. applies separately to you and any additional insured.

6. Bodily Injury

Section F. Liability and Medical Expenses Definitions, item 3. "Bodily Injury" is deleted and replaced with the following:

"Bodily injury" means bodily injury, sickness or disease sustained by a person, including death, humiliation, shock, mental anguish or mental injury by that person at any time which results as a consequence of the bodily injury, sickness or disease.

7. Expanded Personal and Advertising Injury Definition

The following is added to Section F. Liability and Medical Expenses Definitions, item 14. Personal and Advertising Injury, in the Businessowners General Liability Coverage Form:

h. Discrimination or humiliation that results in injury to the feelings or reputation of a natural person, but only if such discrimination or humiliation is:

- 1. Not done intentionally by or at the direction of:
 - a. The insured; or
 - b. Any "executive officer," director, stockholder, partner, member or manager (if you are a limited liability company) of the insured; and
- 2. Not directly or indirectly related to the employment, prospective employment, past employment or termination of employment of any person or person by any insured.

B. The following is added to Exclusions, Section B.:

(15) Discrimination Relating to Room, Dwelling or Premises

Caused by discrimination directly or indirectly related to the sale, rental, lease or sub-lease or prospective sale, rental, lease or sub-lease of any room, dwelling or premises by or at the direction of any insured.

30929003420371865342.187



(16) Fines or Penalties

Fines or penalties levied or imposed by a governmental entity because of discrimination.

- C. This provision (**Expanded Personal and Advertising Injury**) does not apply to discrimination or humiliation committed in the states of New York or Ohio. Also, **Expanded**

Personal and Advertising Injury Coverage does not apply to policies issued in the states of New York or Ohio.

- D. This provision (**Expanded Personal and Advertising Injury**) does not apply if **Personal and Advertising Injury Liability** is excluded either by the provisions of the Policy or by endorsement.

WORKERS' COMPENSATION AND EMPLOYERS' LIABILITY INSURANCE POLICY

BLANKET WAIVER OF OUR RIGHT TO RECOVER FROM OTHERS

This endorsement changes the policy to which it is attached.

It is agreed that **Part One Workers' Compensation Insurance G. Recovery From Others** and **Part Two Employers' Liability Insurance H. Recovery From Others** are amended by adding the following:

We will not enforce our right to recover against persons or organizations. (This agreement applies only to the extent that you perform work under a written contract that requires you to obtain this agreement from us.)

PREMIUM CHARGE - \$26

The charge will be an amount to which you and we agree that is a percentage of the total standard premium for California exposure. The amount is 2. %.

000034

01020050271244030062535550755

