

## **RESOLUTION NO. 2011-549**

Adopted by the Sacramento City Council

October 11, 2011

### **APPROVAL OF PROFESSIONAL SERVICES AGREEMENT WITH LARRY WALKER ASSOCIATES, INC. FOR FY2011/2012 STORMWATER MONITORING SERVICES (I14010200)**

#### **BACKGROUND**

- A. In September 2008, the Regional Water Quality Control Board - Central Valley Region reissued a National Pollutant Discharge Elimination System (NPDES) permit (Permit) to the County of Sacramento and the Cities of Sacramento, Citrus Heights, Elk Grove, Folsom, Galt, and Rancho Cordova (Permittees), regulating the discharge of stormwater to local bodies of water.
- B. The Permit requires that the Permittees develop and implement programs to reduce pollution caused by stormwater runoff and to conduct a Stormwater Monitoring Program. The Permittees share the cost of stormwater monitoring required by the Permit, pursuant to the terms of a master Memorandum of Understanding (the "MOU"), approved by the City Council in 2003.
- C. Larry Walker Associates, Inc. has been selected to provide the required stormwater monitoring services for up to three years through a Request for Qualifications process.
- D. In accordance with the MOU, the cost of these services will be shared by the parties. During the first monitoring year, the cost to the City of Sacramento will not exceed \$296,547, and the County of Sacramento and the Cities of Citrus Heights, Elk Grove, Folsom, Galt, and Rancho Cordova will reimburse the City for their cost share in the total amount of \$519,316.
- E. The Manager of Environmental Planning Services has reviewed the project and has determined that it is not subject to California Environmental Quality Act review, because it is an information collection activity as part of an ongoing water quality study (CEQA Guidelines Section 15306). There will be no environmental impacts associated with collection and analysis of water quality samples.

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

Section 1. The City Manager or City Manager's designee is authorized to execute a Professional Services Agreement with Larry Walker Associates, Inc., to provide Stormwater Monitoring Services for FY2011/2012 for an amount not to exceed \$815,863.

Section 2. The City Manager or City Manager's designee is authorized to amend the FY10-FY14 NPDES Program (I14010200) Revenue and Expenditure Budgets (Fund 6211), for the reimbursement from the County of Sacramento and the Cities of Citrus Heights, Elk Grove, Folsom, Galt, and Rancho Cordova for their share of the FY 2011/2012 Stormwater Monitoring Program costs in the total amount of \$519,316.

Section 3. Exhibit A is made part of this Resolution.

**Table of Contents**

Exhibit A – Professional Services Agreement with Larry Walker Associates, Inc.

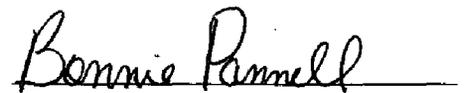
Adopted by the City of Sacramento City Council on October 11, 2011 by the following vote:

Ayes: Councilmembers Ashby, Cohn, D Fong, R Fong, McCarty, Pannell, Sheedy.

Noes: None.

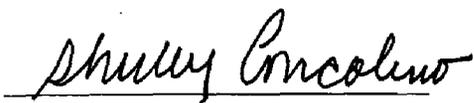
Abstain: None.

Absent: Mayor Johnson and Councilmember Schenirer



Bonnie Pannell, Vice-Mayor

Attest:



Shirley Concolino, City Clerk

PROJECT #: I14010200  
PROJECT NAME: Stormwater Monitoring Services for FY 2011/2012  
DEPARTMENT: Utilities  
DIVISION: Engineering

CITY OF SACRAMENTO

PROFESSIONAL SERVICES AGREEMENT FOR DESIGN SERVICES

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

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

*Larry Walker Associates, Inc.  
707 4th Street, Suite 200  
Davis, Ca 95616  
(530) 753-6400 (phone)  
(530) 753-7030 (fax)*

("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 therefor. CITY shall have no obligations whatsoever under this Agreement and/or any Supplemental Agreement, unless and until this Agreement or any Supplemental Agreement is approved by the Sacramento City Manager or the City Manager's authorized designee, or by the Sacramento City Council, as required by the Sacramento City Code.
- 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.

CONTRACTOR and made a part of this Agreement, including without limitation any document relating to the scope of services or payment therefor, the General Provisions shall control over said terms or conditions.

5. **Non-Discrimination in Employee Benefits.** This Agreement is subject to the provisions of Sacramento City Code Chapter 3.54, Non-Discrimination in Employee Benefits by City Contractors. The requirements of Sacramento City Code Chapter 3.54 are summarized in Exhibit E. CONTRACTOR is required to sign the attached Declaration of Compliance (Equal Benefits Ordinance), to assure compliance with these requirements.
6. **Authority.** The person signing this Agreement for CONTRACTOR hereby represents and warrants that he/she is fully authorized to sign this Agreement on behalf of CONTRACTOR and to bind CONTRACTOR to the performance of its obligations hereunder.
7. **Exhibits.** All exhibits referred to herein are attached hereto and are by this reference incorporated as if set forth fully herein.

Executed as of the day and year first above stated.

**CITY OF SACRAMENTO**  
A Municipal Corporation

**CONTRACTOR:**

By: \_\_\_\_\_

\_\_\_\_\_  
NAME OF FIRM

Print name: \_\_\_\_\_

\_\_\_\_\_  
Federal I.D. No.

Title: \_\_\_\_\_

\_\_\_\_\_  
State I.D. No.

For: Gustavo F. Vina, Interim City Manager

\_\_\_\_\_  
City of Sacramento Business Op. Tax Cert. No.

APPROVED TO AS FORM:

TYPE OF BUSINESS ENTITY (*check one*):

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

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

ATTEST:

\_\_\_\_\_  
City Clerk

\_\_\_\_\_  
**Signature of Authorized Person**

Attachments

\_\_\_\_\_  
Print Name and Title

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

\_\_\_\_\_  
Additional Signature (*if required*)

\_\_\_\_\_  
Print Name and Title

**DECLARATION OF COMPLIANCE  
Equal Benefits Ordinance**

Name of Contractor: \_\_\_\_\_

Address: \_\_\_\_\_

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

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

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

4. Contractor understands that Contractor will not be considered to be discriminating in the provision or application of employee benefits under the following conditions or circumstances:
  - a. If the actual cost of providing a benefit to a domestic partner or spouse exceeds the cost of providing the same benefit to a spouse or domestic partner of an employee, Contractor will not be required to provide the benefit, nor shall it be deemed discriminatory, if Contractor requires the employee to pay the monetary difference in order to provide the benefit to the domestic partner or to the spouse.
  - b. If Contractor is unable to provide a certain benefit, despite taking reasonable measures to do so, if Contractor provides the employee with a cash equivalent Contractor will not be deemed to be discriminating in the application of that benefit.
  - c. If Contractor provides employee benefits neither to employee's spouses nor to employee's domestic partners.
  - d. If Contractor provides employee benefits to employees on a basis unrelated to marital or domestic partner status.
  - e. If Contractor submits written evidence of making reasonable efforts to end discrimination in employee benefits by implementing policies that will be enacted before the first effective date

after the first open enrollment process following the date this Agreement is executed by the City of Sacramento ("City"). Contractor understands that any delay in the implementation of such policies may not exceed one (1) year from the date this Agreement is executed by the City, and applies only to those employee benefits for which an open enrollment process is applicable.

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

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

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

\_\_\_\_\_  
Date

\_\_\_\_\_  
Print Name

\_\_\_\_\_  
Title

**EXHIBIT A**

**PROFESSIONAL SERVICES AGREEMENT FOR DESIGN SERVICES**

**SCOPE OF SERVICES**

**1. Representatives.**

The CITY Representative for this Agreement is:

*Delia McGrath  
1395 35<sup>th</sup> Avenue  
Sacramento, Ca 95822  
916-808-5390 phone  
916-808-1497 fax*

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:

*Brian Laurenson  
707 4<sup>th</sup> Street, Suite 200  
Davis, CA 95616  
530-753-6400 phone  
530-753-7030 fax*

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 \_\_\_\_\_ year(s) following the completion of all Services and Additional Services under this Agreement. (See Exhibit D, Section 11, for complete insurance requirements.)

**3. Conflict of Interest Requirements.**

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

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

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

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

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

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

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

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

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

**4. Scope of Services.**

The services provided shall be as set forth in Attachment 1 to Exhibit A, attached hereto and incorporated herein.

- 5. Time of Performance.** CONTRACTOR shall perform services under this Agreement as described herein, for the 2011/2012 fiscal year (referred to hereafter as the "Initial Term"). The Initial Term may be extended for subsequent one year terms, up to a total Agreement term of 3

years (including Initial Term and 2 one-year extensions), if CONTRACTOR and the CITY execute supplemental agreement(s) specifying the scope of services and payment provisions for such extended term(s), subject to approval by the Sacramento City Council.

**Attachment 1 to Exhibit A**  
**SCOPE OF SERVICES**  
**Sacramento Stormwater Monitoring Program, 2011-12**

This Scope of Work describes the consulting services to be provided by Larry Walker Associates, Inc. (LWA) and its subcontractors (collectively, "Consulting Team") to the Sacramento Stormwater Quality Partnership (Partnership) during the 2011-12 contract year, under the terms of LWA's Stormwater Monitoring Program contract with the City of Sacramento Department of Utilities.

**Task 1. MONITORING MANAGEMENT**

This task involves all work related to monitoring activity coordination, including sampling and analysis plans (SAP's) preparation, pre-season equipment preparation, weather forecasting, Coordinated Monitoring Program (CMP) coordination, and Partnership status updating following monitoring mobilization efforts related to this contract. These activities provide general monitoring support for all of the monitoring activities. Specific monitoring tasks are included under in this Scope of Services to cover the individual study monitoring and reporting tasks.

***Subtask 1.1 Preseason Preparations***

Preseason preparations refer to specific maintenance, planning, and training tasks that occur before active monitoring begins.

**Sampling Plan Preparation and Field Crew Training**

The Consulting Team will update the 2011-12 monitoring year urban tributary sampling and analysis plan and the Coordinated Monitoring Program (CMP) river sampling coordination plan. These documents will specify sampling locations, analytical constituents, laboratories, bottle and equipment cleaning procedures, QC rotation schedule and communication plan. The urban tributary SAP will also include field procedures for dry and wet weather monitoring. Analytical constituents and associated sample collection procedures will conform to the requirements of the NPDES Permit, in particular the schedules for monitoring of constituents listed in the NPDES Permit MRP, Table B and include pyrethroids in the water column samples. The Consulting Team shall identify and secure the services of qualified laboratories to perform all sample analyses specified in the SAP, and assign qualified consulting team staff to perform all required monitoring functions.

Consulting Team will provide recommendations on the selection of two detention basins outside of North Natomas based on a short list provided by the Partnership and any available reports from the North Natomas Detention Basin study. By August 2, 2010, Consulting Team will submit to the Partnership a technical memorandum summarizing selection recommendations and provide a sample collection plan that includes a constituent list and sampling protocols for three wet weather events and one dry weather event. These recommendations are due to the Regional Board with the 2011-12 Annual Report (October 1, 2012) as part of the wet detention basin special study report. However, it is expected that using the document prepared in this subtask, the Partnership will request from the Regional Board approval to move sampling to the 2011-12 monitoring year.

Consulting Team will review laboratory performance and compliance with reporting limitation requirements in Table B of the permit and provide recommendations for a primary and secondary laboratory. The memorandum will compare reporting limitations, turnaround time, historical performance and logistics of potential contract laboratories.

Consulting Team will plan, arrange and conduct a two hour training session for Partnership and Consulting Team field personnel, covering clean sampling techniques and the procedures outlined in the urban tributary monitoring SAP and the urban runoff discharge characterization SAP.

### **Urban Runoff Discharge Characterization Station Preparations**

The urban runoff discharge stations are enabled with automated composite samplers, enclosures, and remote telephonic connections. The Strong Ranch Slough location has a new CR1000 datalogger with a custom sampling program that was installed in summer 2010, but has not been actively used yet for sampling. The Consulting Team will test the new Strong Ranch Slough configuration prior to use. The Sump 111 location will remain as previously configured. The Natomas Detention Basin No. 4 outlet sampling equipment remains from the basin effectiveness study and will be used as-is unless an evaluation of the equipment has identified problems or equipment that needs to be replaced. Testing and calibration of all field equipment will be performed including depth and flow sensors, rain gages and sampler aliquot collection. The Consulting Team will collect equipment blank samples for Teflon tubing and composite bottles for total organic carbon, metals and trace organics, if necessary based on actual equipment deployed.

### **Urban Tributary Station Preparations**

The urban tributary locations are generally "manually" sampled using one-time grab samples or composites of manually collected aliquots. The Consulting Team will procure and deploy all equipment, materials, and supplies necessary to perform the urban tributary monitoring activities specified in the SAP. Testing and calibration of field equipment will be performed as needed.

### ***Subtask 1.2 Pre-storm Activities***

Pre-storm activities refer to the tasks performed by the consulting team immediately before a targeted storm event. These activities include procuring and mobilizing sampling equipment, reviewing updated weather forecast information, and coordinating field-staffing logistics.

### **Equipment Preparation**

The Consulting Team will prepare and mobilize all necessary equipment to complete monitoring activities including composite bottles (carboys), pump tubing, sample bottles, portable pumps, field meters, coolers, ice, etc. Consulting Team will mobilize equipment to the appropriate field staff including Partnership staff, as necessary. Equipment that comes in direct contact with sample will be laboratory-cleaned according to the Partnership protocols.

### **Weather Tracking**

This sub-task involves all work related to providing weather updates to the Partnership with daily written forecasts during the business week and unlimited 24-hour, 7-day per week phone consultation, on request. A specialized weather consulting firm will be contracted to provide primary forecasting services. The Consulting Team will generally act as the primary point of contact for the forecaster unless alternative arrangements are made. The Consulting Team will provide forecast information to the consulting team performing monitoring for the Partnership in the form of daily weekday written forecasts and business hour phone communication or pre-arranged after-hour support. As candidate storm events are identified, the Consulting Team will notify field crews and consult the Partnership as necessary.

### **Study Coordination**

The Consulting Team will maintain contact with all key field staff for each study including the CMP ambient river monitoring crew. Field crews will be updated, as necessary, according to the Partnership "storm action levels" which specify readiness and mobilization status. The Consulting Team will present monitoring options to the Partnership with regard to storm selection and event timing as forecasts develop. The Partnership "storm contact" will provide feedback on whether to mobilize for a storm event or in scheduling dry weather events.

Consulting Team will assist in the activities of the CMP to provide support for collection of American and Sacramento River samples during up to three wet weather monitoring events and one dry weather event. Consulting Team will confirm that sample analysis includes Table B of the Monitoring and Reporting Program (MRP). CMP staff will collect river samples. If requested, Consulting Team will make all necessary arrangements to ensure that such samples are collected by CMP staff, including labeling and delivering sample bottles, preparing chain of custody forms, and ensuring sample delivery to the analytical laboratories. Analytical costs are not included in this agreement, and will be billed directly to the Partnership by the CMP. Urban runoff discharge characterization, urban tributary and receiving water will be coordinated to the extent possible.

### ***Subtask 1.3 Storm Activities***

This subtask involves the general oversight and coordination by the "monitoring manager" during the storm event of all field activities for urban tributary and CMP river monitoring. The Consulting Team monitoring manager will remain available by phone throughout the entirety of the sampling event to coordinate weather forecast reporting, field condition evaluation, storm progress tracking, sample pick-up, staffing, equipment troubleshooting, as well as providing essential mobilization and tracking duties. It may also be necessary for the monitoring manager to mobilize to the field for final site visits at the end of the monitoring event.

### ***Subtask 1.4 Post-storm Activities***

This subtask cover activities following the completion of sampling related to preparation of storm composites, sample shipment, coordination with laboratories, and monitoring activity summary e-mails.

### **Sample Disposition**

At the conclusion of each monitoring event for each of the studies, Consulting Team will deliver the urban runoff discharge characterization and urban tributary samples from the field stations to the staging area. The composite samples will be broken down by Consulting Team into appropriate containers for all required analyses as specified in the SAP, and placed on ice. All samples will be promptly packed and delivered to the analytical laboratories. Consulting Team will prepare chain of custody documentation to accompany the samples from staging area to laboratory. Consulting Team will pay for commercial delivery services as needed.

### **Oversee Laboratory Activities**

Laboratories shall be instructed to batch Sacramento stormwater samples separately, or exclusively with samples of a compatible matrix, to minimize analytical interferences from other sources. Laboratory turn-around times shall be 30 days from receipt of samples. Laboratories shall be requested to output analytical data into spreadsheet files in the format established for the Sacramento Stormwater Monitoring Database, and provide them to the Consulting Team along with hard copy lab reports.

Consulting Team shall conduct follow-up communications with analytical laboratories as needed, to confirm laboratory receipt of samples, verify laboratory instructions for sample preparation and analysis, and assist laboratory personnel with other questions or issues as they arise.

### **Summary E-mail Notification**

This subtask involves distribution of status e-mails following any mobilization effort and event summary memoranda following successfully captured monitoring events. The post event status email will be sent to the Partnership within 48 hours of the completion of any mobilization effort whether it results in a successfully captured event or a false start. The e-mails will provide a brief summary of the forecast, decision-to-mobilize discussion, monitoring activities, problems encountered, rainfall totals, and any recommendations for future events.

### **TASK 2. URBAN RUNOFF DISCHARGE CHARACTERIZATION MONITORING**

This task involves all specific work related to urban runoff discharge monitoring, including collection of samples, QA/QC data evaluation, and reporting. This task relates to monitoring activities on North Natomas Basin No. 4, Sump 111 and Strong Ranch Slough, as required by the Sacramento Stormwater NPDES Permit (MRP section II.C, Urban Discharge Monitoring).

#### ***Subtask 2.1 Monitoring***

This subtask involves work related to discharge sample collection and analysis of samples from North Natomas Basin No. 4, Sump 111, and Strong Ranch Slough. Additional details on procedures will be included in the 2009/10 SAP.

Consulting Team shall conduct urban runoff discharge monitoring using composite collection equipment and existing permanent sampling stations at the three locations. Consulting Team shall collect samples during up to three storm events and one dry weather events at three urban runoff sites (North Natomas Basin No. 4, Sump 111, and Strong Ranch Slough) between September 1, 2011 – June 30, 2011, weather and other conditions permitting. Consulting Team shall be responsible for field supervisory activities prior to and during monitoring events. Consulting Team shall provide monitoring support services and all monitoring including maintenance/equipment calibration and troubleshooting. The Partnership will provide at least one field staff to support Consulting Team led activities, as necessary for longer monitoring events and during the first event of the year.

Storm-length or 24-hour composites (whichever is less) shall be collected for each of the events monitored. Consulting Team staff shall be responsible for deploying, changing, and collecting composite carboys as needed, and for collecting grab samples for constituents as specified in the SAP. Samples will be analyzed for constituents in Table B of the MRP for all events and additional pesticides (carbamate, organochlorine, and triazines) during events when receiving water toxicity samples are collected (see Task 4. WATER COLUMN TOXICITY).

#### **False Starts**

In the event that a storm is selected for monitoring and sample collection activities commence, but the storm does not or is not projected to produce sufficient rainfall within a reasonable period to produce adequate runoff to perform sampling, field crews will be demobilized and the event will be considered a false start. Labor hours and other direct costs are budgeted for two false starts.

### **Blackout periods**

Monitoring will not be required under this Scope of Work during the following period (all dates inclusive): November 23, 2010 – November 28, 2010 and December 23, 2010 – January 2, 2012; and other periods to be determined jointly by Consulting Team and Partnership during the course of the wet weather monitoring season. The monitoring task manager will remind Partnership contacts and field crews in advance of these blackout dates.

### ***Subtask 2.2 Reporting***

The Consulting Team will prepare a report summarizing field activities and the reported data for the urban tributary efforts described in subtask 2.1.

Consulting Team will check all lab data reports to verify that all requested analyses were completed and that all requested results were reported (including laboratory internal QA/QC results), and that specifications for holding times, analytical methods, and reporting limits were met by the laboratories. Consulting Team will contact laboratory personnel to request that they correct errors, provide missing information, or rerun sample analyses as needed. The designated agency contacts will be copied on all formal memoranda sent to analytical labs.

Consulting Team will conduct a comprehensive evaluation of all QA/QC data produced by the analytical laboratories, apply the QA/QC results to the environmental sample data, and qualify any data which do not meet data quality objectives, according to protocols established in the most recent Partnership Data Quality Evaluation Plan (DQEP).

### **Draft and Final Urban Runoff Discharge Characterization Monitoring Report**

Consulting Team will prepare a draft urban tributary monitoring report containing the results of all monitoring events, including a description of monitoring field activities, rainfall/runoff measurements during the monitoring events, antecedent precipitation conditions, analytical results, and the full documentation of the data evaluation according to the DQEP. Consulting Team will deliver draft report to Partnership by July 20, 2012 in electronic format (Microsoft Word and PDF format) for review and comment.

Consulting Team will respond to Partnership review comments on the draft report, incorporate changes where necessary, and deliver an electronic copy of the final report within three weeks of receipt of Partnership comments. As requested, Consulting Team also will provide up to twelve hard copies of the report and laboratory reports.

### **Task 3. URBAN TRIBUTARY MONITORING**

This task relates to monitoring activities on Willow Creek in Folsom, Arcade Creek, and Laguna Creek, as required by the Sacramento Stormwater NPDES Permit (MRP section II.B-2, Urban Tributary Monitoring).

### ***Subtask 3.1 Monitoring***

Urban tributary monitoring includes water and sediment quality studies of three long-term urban tributary monitoring stations.

Consulting Team will collect samples from Arcade Creek at Watt Avenue (Sacramento), Laguna Creek at Stockton Boulevard (Sacramento), and Willow Creek at Blue Ravine Road (Folsom), during three wet weather events and one dry weather event between September 1, 2011 and June 30, 2012. Consulting Team will target the first event of the wet season forecasted with a minimum 0.33" of rain

during a 24-hour period and a minimum 50% probability of precipitation. These mobilization criteria may be modified with Partnership approval.

Consulting Team will collect all samples as grab samples during the 2011-12 year. Samples will be collected at mid-depth, mid-stream locations (where feasible), and timed to be as near the peak of the hydrograph as possible during wet weather events.

Consulting Team will install continuous depth, pH, turbidity, and temperature probes at the Willow Creek and Laguna Creek locations to assist with monitoring mobilization and characterizing the representativeness of any grab samples. The continuous probes will be installed in late September and maintained through the last monitored storm event or longer, depending on direction from the Partnership.

Consulting Team will collect sediment samples in the urban tributaries once in the dry season (June – September) and once in the wet season within two weeks following a monitored storm event. Consulting Team will submit samples to analytical laboratories for total solids and pyrethroid analysis.

### **False Starts**

In the event that a storm is selected for monitoring and sample collection activities commence, but the storm does not or is not projected to produce sufficient rainfall within a reasonable period to produce adequate runoff to perform sampling, field crews will be demobilized and the event will be considered a false start. Labor hours and other direct costs are budgeted for two false starts.

### **Blackout periods**

Monitoring will not be required under this Scope of Work during the following period (all dates inclusive): November 23, 2010 – November 28, 2010 and December 23, 2011 – January 2, 2012; and other periods to be determined jointly by Consulting Team and Partnership during the course of the wet weather monitoring season. The monitoring task manager will remind Partnership contacts and field crews in advance of these blackout dates.

### **Subtask 3.2 Reporting**

The Consulting Team will prepare a report summarizing field activities and the reported data for the urban tributary efforts described in subtask 3.1.

Consulting Team will check all lab data reports to verify that all requested analyses were completed and that all requested results were reported (including laboratory internal QA/QC results), and that specifications for holding times, analytical methods, and reporting limits were met by the laboratories. Consulting Team will contact laboratory personnel to request that they correct errors, provide missing information, or rerun sample analyses as needed. The designated agency contacts will be copied on all formal memoranda sent to analytical labs.

Consulting Team will conduct a comprehensive evaluation of all QA/QC data produced by the analytical laboratories, apply the QA/QC results to the environmental sample data, and qualify any data which do not meet data quality objectives, according to protocols established in the most recent Partnership Data Quality Evaluation Plan (DQEP).

### **Draft and Final Urban Tributary Monitoring Report**

Consulting Team will prepare a draft urban tributary monitoring report containing the results of all monitoring events, including a description of monitoring field activities, rainfall/runoff measurements

during the monitoring events, antecedent precipitation conditions, analytical results, and the full documentation of the data evaluation according to the DQEP. Consulting Team will deliver draft report to Partnership by July 20, 2012 in electronic format (Microsoft Word and PDF format) for review and comment.

Consulting Team will respond to Partnership review comments on the draft report, incorporate changes where necessary, and deliver an electronic copy of the final report within three weeks of receipt of Partnership comments. As requested, Consulting Team also will provide up to twelve hard copies of the report and laboratory reports.

#### **Task 4. WATER COLUMN TOXICITY MONITORING**

Toxicity analyses are required planned during the 2011-12 monitoring period according to the *2009-12 NPDES Receiving Water Toxicity Sampling & Analysis Plan* revised in June 2011 (Toxicity SAP). Revisions to the proposed 2011-12 toxicity monitoring program were due to the Regional Board in the October 2010 Annual Monitoring Report.

Pacific EcoRisk (PER) will perform all toxicity testing on samples collected by the river and urban tributary teams. PER will assist, as necessary, with sample collection and delivery to ensure that sample holding time requirements are met. LWA will provide overall technical and administrative oversight, including review of key task deliverables.

Consulting Team shall collect water column toxicity samples from three monitoring events (two wet weather and one dry weather), including the first event of the year at the seven receiving water sites. Consulting Team shall perform a dilution series on samples with 100% mortality within 24 hours of test initiation, up to two samples. Additional dilution series, as required, will be performed under a separate contract with PER or another lab. As it is expected that not all follow-up analysis will be necessary, remaining funds will be used under other tasks.

Consulting Team shall begin a Phase I TIE immediately on all samples that cause statistically significant toxicity and greater than or equal to 50% increase in *Pimephales promelas* or *Ceriodaphnia dubia* mortality compared to the laboratory control. If mortality of both test species exceeds the 50% trigger, then TIEs shall be conducted using both species. TIEs are required until the cause of toxicity is determined. TIE shall be conducted by qualified personnel according to the approach in the June 2011 Toxicity SAP. The budget includes all toxicity tests, including *Selenastrum capricornutum* (algal growth) in the first event and up to three targeted TIEs per event. Additional TIE work may be performed as requested by the Partnership based on recommendations from the Consulting Team. Because the need for additional toxicity identification is based on yet-known results, the estimated budget may change significantly. If additional budget is necessary beyond this estimate, discretionary activities described in other tasks may be removed, as directed by the Partnership, to allow completion of required TIE or TRE work. Additional TIE analyses, may also be performed under a separate contract between the Partnership and PER or another lab.

#### **Task 5. PROGRAM EFFECTIVENESS ASSESSMENT**

The Consulting Team will assist the Partnership in assessing the effectiveness of their monitoring and target pollutant programs through the update and implementation of a watershed pollutant removal spreadsheet. Consulting Team will also assist in effectiveness evaluation as part of the Annual Monitoring Report assistance (see subtask 6.2).

### **Subtask 5.1 Monitoring Element Assistance**

The Consulting Team will summarize the effectiveness evaluation analysis performed as part of the Subtask 2.2 and 3.2 reporting tasks and other available historical data including upstream-downstream comparisons, new development – old development comparisons, trend analysis, and other analysis as requested by the Partnership. This task will also consider strategic planning issues related to monitoring planning activities.

### **Subtask 5.2 Target Pollutant Element Assistance**

The Consulting Team will review and update the watershed model spreadsheet load removed model, developed previously, to evaluate sources and effectiveness of programs on target pollutants. The spreadsheet model will also help to estimate the amount of pollutant prevented from discharging to receiving waters by existing BMPs as required by the NPDES Permit. If requested by the Partnership, Consulting Team will prepare a brief memorandum in early 2012 to summarize the results of the model and subsequent recommendations and next steps. It is expected that the watershed model can be updated for mercury and sediment and expanded to include either a pesticide or copper if data are readily available from the Partnership.

Consulting Team will assist the Partnership in facilitation of the Target Pollutant program, including convening Partnership work groups to review and update target pollutant strategies, preparing the Target Pollutant section of the annual report and other related tasks. The Consulting Team will provide as needed assistance for effectiveness evaluation assistance including updates to the target pollutant work plans.

### **Subtask 5.3 New Development BMP Sampling Plan and Initial Sampling**

The Consulting Team will prepare a sampling and analysis plan (BMP SAP) for the BMP monitoring study (MRP Section III.A.) based on the study selected by the Partnership and as described in the selection analysis and work plan prepared under a separate contract. The Consulting Team is preparing the Work Plan that will provide the basis for the BMP SAP document. It is expected that development of the SAP will require multiple field visits during rainfall events to confirm the feasibility of the initial sampling design. During these field visits limited samples may be collected. The draft SAP will be submitted to the Partnership by January 15, 2012.

Depending on the progress of the BMP SAP development, weather conditions and the extent of TIE analyses, sampling may be initiated in early 2012 at the discretion of the Partnership. This budget assumes that one event will be sampled for a limited number of analyses at two locations (i.e., inlet and outlet) and does not include installation

### **Task 6. TECHNICAL EXPERTISE**

The Consulting Team will assist the Partnership in the preparation of technical reports and “as-needed” regulatory assistance related to Permit compliance or regional regulatory activities (e.g., TMDL development, Basin Plan amendments, etc.). The Consulting Team and Permittees will jointly prepare a program calendar to coordinate key deliverable milestones and track monitoring events and Permit-required deadlines.

### **Subtask 6.1 Prepare Notice of Water Quality Exceedances**

Consulting Team will promptly review all CMP river and urban tributary monitoring data and compare the results to applicable water quality standards as required by NPDES Permit provision “C. Receiving Water Limitations,” and Monitoring and Reporting Program requirements I C and I D. The “water quality

standards" are broadly defined in the Permit language; this is interpreted to include applicable standards, objectives and criteria within the Basin Plan, California Toxics Rule, National Toxics Rule, California Department of Health Services (Title 22), and California Department of Fish and Game (diazinon and chlorpyrifos criteria). CMP data will be delivered to the Consulting Team with sufficient time to prepare the analysis and letter. The Consulting Team will prepare a Notice of Water Quality Exceedance (NWQE) for submittal to the CVRWQCB. The Consulting Team will use the agreed upon evaluation process and will document this process for the inclusion in the Annual Monitoring Report. The draft letter will be submitted in an editable electronic format to the Partnership at least one week before it is due to the CVRWQCB or three weeks after the data is provided by the CMP, whichever is sooner.

### **Subtask 6.2 Prepare Annual Monitoring Report Sections**

The Consulting Team will provide assistance in the preparation of the Joint Program Annual Report, due to the RWQCB by October 1, 2012. The Consulting Team will prepare the monitoring section and the Report of Water Quality Exceedance (RWQE) appendix of the Joint Report. The Partnership will consider and provide guidance on these sections. The Partnership will determine the schedule for delivery of these items before July 1, 2012. The RWQE is prepared according to the Permit requirements. Upon a determination by either the Permittees or the RWQCB that urban discharges are causing or contributing to exceedance(s) of a water quality standard within Sacramento-area receiving waters, and on an as-needed basis as determined by the Permittees, Consulting Team will prepare a Report of Water Quality Exceedance, pursuant to the procedure specified in Receiving Water Limitation C.3. of the Partnership NPDES Permit. The report will describe BMPs that are currently being implemented and additional BMPs that will be implemented to prevent further such exceedances. The report will be in such format as decided upon in consultation with the Permittees and CVRWQCB staff.

Additionally, the Consulting Team will provide assistance in evaluating and reporting the documentation of activities that relate to monitoring permit requirements and evaluates the direct and indirect effectiveness of each activity. Where possible effectiveness will be assessed as raised awareness, changed behaviors, reduced loads and improved runoff quality. As a result of the effectiveness assessment, reporting will also include recommendation to improve program elements, modify existing BMPs or identify use of new BMPs. The Annual Report will also encompass the results of the watershed pollutant removal spreadsheet (Subtask 5.2).

### **Subtask 6.3 General Policy Tracking**

The Consulting Team will assist the Partnership, as necessary, with regulatory issues. Additional tasks may include tracking statewide policy changes relevant to the monitoring program and providing e-mail summaries and updates or meeting notes. This includes tracking the efforts and providing appropriate response associated with the Total Maximum Daily Loads (TMDL), Drinking Water Policy Group and Pelagic Organism Decline activities. The Consulting Team will provide as-necessary newsletter style summaries of Delta-specific issues in coordination with other Delta dischargers.

### **Subtask 6.4 Coordinated Monitoring Program Report Preparation**

The Consulting Team will prepare a memorandum report summarizing the monitoring activities of the CMP including reporting of data results, summary of quality control or sample collection issues, comparison to select and applicable water quality objectives and preparation of updated trend plots and summary statistics. It is expected that the level of effort and format will be similar to the report prepared for the CMP in August 2011.

**Task 7. CITY OF SACRAMENTO SERVICES**

Consulting Team will provide as-needed services to the City of Sacramento that will not be billed to other Partnership members. It is expected that will include work related to the Arcade Creek Basin sampling, drinking water, and solid waste related water quality regulatory and monitoring issues specific to the City of Sacramento.

**Task 8. PROJECT MANAGEMENT**

Consulting Team will provide project management to ensure that the project is completed on time and within budget, including project coordination and administration necessary to achieve the tasks previously described, and periodic communications with the Partnership and subcontractors. Consulting Team will provide qualified staff to complete all tasks as described in the preceding Scope of Services.

Consulting Team will schedule, prepare for and attend bi-monthly progress meetings with the Partnership to discuss progress and results of the monitoring program. Consulting Team will prepare an agenda and distribute to Partnership agencies in advance of each scheduled progress meeting. At the request of the Partnership, Consulting Team may schedule bi-monthly monitoring or effectiveness evaluation work group teleconferences in those months without progress meetings.

Consulting Team will produce Progress Reports for review at the progress meetings as needed to keep the Partnership apprised of work progress, schedule and budget status.

Consulting Team will submit a monthly invoice with detailed budget status information on a subtask basis, and a monthly written report describing project activities and expenditures during the period covered by the invoice.

**Notes to Scope of Work**

- The period during which the Larry Walker Associates services described herein will be performed will extend from approximately October 2011 through approximately June 2012. However, upon mutual consent of City and Larry Walker Associates, some activities may extend beyond this time period.
- Remaining budget from FY2011/2012 may be utilized for assignments continuing in FY2012/2013.

## 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 **\$815,863**.
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  
1395 35<sup>th</sup> Avenue  
Sacramento, Ca 95822  
916-808-5390 phone  
916-808-1497 fax  
Attn: Delia McGrath*

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.

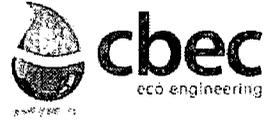
**ATTACHMENT 1 TO EXHIBIT B**

**SACRAMENTO STORMWATER QUALITY PARTNERSHIP 2011-12 MONITORING BUDGET**

TASK	DESCRIPTION	LABOR HOURS					LAB COSTS [1]	OTHER DIRECT COSTS [1]	TOTALS [1]
		LWA SENIOR ADVISOR	LWA PROJECT MANAGER	SENIOR ENG./SCI.	STAFF ENG./SCI. II	STAFF ENG./SCI.			
<b>MONITORING MANAGEMENT AND COORDINATION</b>									
1.1	<i>Preseason Preparations</i>	0	20	44	104	104	\$ 1,000	\$ 600	\$ 47,952
	<i>Sampling Plan Preparation &amp; Training</i>	0	12	24	64	64	\$ -	\$ 500	
	<i>Station and Equipment Preparations</i>	0	8	20	40	40	\$ 1,000	\$ 100	
1.2	<i>Pre-storm activities</i>	0	36	0	64	120	\$ 1,550	\$ 6,935	\$ 45,269
	<i>Equipment Preparation</i>	0	12	0	64	80	\$ 1,550	\$ 500	
	<i>Weather Tracking</i>	0	24	0	0	0	\$ -	\$ 6,435	
1.3	<i>Storm activities</i>	0	40	24	0	0	\$ 1,164	\$ -	\$ 15,676
	<i>Coordinate activities</i>	0	40	24	0	0	\$ 1,164	\$ -	
	<i>Weather Tracking</i>	0	0	0	0	0	\$ -	\$ -	
1.4	<i>Post-storm activities</i>	0	12	12	44	72	\$ -	\$ 2,200	\$ 25,284
	<i>Oversee Laboratory Activities</i>	0	4	4	8	36	\$ -	\$ -	
	<i>Sample Disposition</i>	0	4	8	24	32	\$ -	\$ 2,200	
	<i>Prepare Summary E-mail</i>	0	4	0	12	4	\$ -	\$ -	
	<b>Sub TOTAL LABOR HOURS</b>	0	108	80	212	296			
	<b>Sub TOTAL COSTS</b>						\$ 3,714	\$ 9,735	\$ 134,181
<b>URBAN RUNOFF DISCHARGE CHARACTERIZATION MONITORING</b>									
2.1	<i>Monitoring</i>	0	0	16	64	64	\$ 61,638	\$ 2,000	\$ 86,966
2.2	<i>Reporting</i>	0	20	0	80	80	\$ -	\$ 250	\$ 30,330
	<b>Sub TOTAL LABOR HOURS</b>	0	20	16	144	144			
	<b>Sub TOTAL COSTS</b>						\$ 61,638	\$ 2,250	\$ 117,296
<b>URBAN TRIBUTARY MONITORING</b>									
3.1	<i>Monitoring</i>	0	0	16	64	64	\$ 65,241	\$ 14,500	\$ 103,069
3.2	<i>Reporting</i>	0	20	0	80	80	\$ -	\$ 300	\$ 30,380
	<b>Sub TOTAL LABOR HOURS</b>	0	20	16	144	144			
	<b>Sub TOTAL COSTS</b>						\$ 65,241	\$ 14,800	\$ 133,449
<b>WATER COLUMN TOXICITY MONITORING</b>									
4.1	<i>Monitoring</i>	0	4	0	16	16	\$ 145,530	\$ -	\$ 151,546
4.2	<i>Reporting</i>	0	40	0	40	0	\$ -	\$ -	\$ 16,760
	<b>Sub TOTAL LABOR HOURS</b>	0	44	0	56	16			
	<b>Sub TOTAL COSTS</b>						\$ 145,530	\$ -	\$ 168,306
<b>PROGRAM EFFECTIVENESS ASSESSMENT</b>									
5.1	<i>Monitoring Element Assistance</i>	0	24	0	8	0	\$ -	\$ -	\$ 7,256
5.2	<i>Target Pollutants Element Assistance</i>	0	8	120	40	8	\$ -	\$ 150	\$ 33,982
5.3	<i>BMP SAP and Monitoring</i>	0	16	80	24	24	\$ 4,827	\$ 800	\$ 32,931
	<b>Sub TOTAL COSTS</b>		48	200	72	32	\$ 4,827	\$ 950	\$ 74,169
<b>TECHNICAL EXPERTISE</b>									
6.1	<i>Prepare NWOEs</i>	0	8	0	24	40	\$ -	\$ -	\$ 11,752
6.2	<i>Prepare AMR Sections</i>	0	24	40	40	40	\$ -	\$ 100	\$ 26,476
6.3	<i>TMDL Support Services</i>	0	24	60	12	0	\$ -	\$ 150	\$ 19,986
6.4	<i>General Policy Tracking</i>	0	140	40	0	0	\$ -	\$ 500	\$ 42,580
6.5	<i>CMP Report Memo</i>	0	6	16	60	16	\$ -	\$ 100	\$ 17,472
	<b>Sub TOTAL LABOR HOURS</b>	0	202	156	136	96			
	<b>Sub TOTAL COSTS</b>						\$ -	\$ 850	\$ 118,266
<b>7.0 CITY OF SACRAMENTO ONLY</b>									
	<i>Arcade Creek Detention Basin</i>	0	24	0	40	0	\$ -	\$ -	\$ 12,856
	<i>As-needed services</i>	0	40	40	24	0	\$ -	\$ 200	\$ 22,080
	<b>Sub TOTAL LABOR HOURS</b>	0	64	40	64	0			
	<b>Sub TOTAL COSTS</b>						\$ -	\$ 200	\$ 34,936
<b>8.0 PROJECT MANAGEMENT</b>									
		0	80	60	0	24	\$ -	\$ 500	\$ 35,260
	<b>Sub TOTAL LABOR HOURS</b>	0	80	60	0	24			
	<b>Sub TOTAL COSTS</b>						\$ -	\$ 500	\$ 35,260
	<b>TOTAL LABOR HOURS</b>	0	586	568	828	752			
	<b>TOTAL COSTS</b>						\$ 280,950	\$ 29,285	\$ 815,863

Notes:  
 [1] Includes 10% LWA markup for lab costs and subcontractor labor.  
 The City Representative can approve reallocations of the above budget amounts from one task to another, and can approve carrying over unused funding from one Fiscal Year into the next, provided that the not-to-exceed amount specified in Exhibit B is not exceeded.





Hydrophilus | Hydrology | Geomorphology | Design

## cbec, inc., eco-engineering

### RATE SCHEDULE

Effective January 1, 2011

Category	Hourly Rate
President	\$ 145
Senior Associate / Eco-Hydrologist	\$125
Associate / Eco-Engineer	\$110
Associate / Eco-Hydrologist	\$110
Desktop Publishing	\$ 55
Technicians	\$ 75
Clerical	\$ 45

Expenses are invoiced at 115% of cost.

Unless expressly provided for within the contract, rates are subject to increase annually on January 1 of each year.

2701 Del Paso Road, Suite 130/232, Sacramento, CA 95835, USA  
T/F 916 570 2502 C 916 243 8299 [cbec@cbec.com](mailto:cbec@cbec.com)

*Environmentally sustainable solutions for the water resources industry*

## Memorandum

To: *Brian Laurensen, LWA*

From: *Lou Regenmorter, CDM*

Date: *June 1, 2011*

Subject: *CDM Staff and Labor Rates for 2011/2012*

Listed below are names of current CDM staff that will be available to work on the Sacramento NPDES monitoring program in 2011/2012. Their individual labor rates are listed next to their names. Rates for selected general labor categories are also provided.

<b>PERSONNEL</b>	<b>Rate \$/Hour</b>
Bruce Corwin, Client Officer	\$250
Lou Regenmorter, PM	\$200
Tom Titus, Staff Scientist	\$125
Bill Schilling, Staff Engineer	\$110
Asami Tanimato, Staff Scientist	\$110
Chris Park, Staff Scientist	\$110
Stacy Porter, Staff Scientist	\$110
Sami Nall, Staff Engineer	\$100
Ali Kleyman, Staff Scientist	\$100
Steve Umbertis, Junior Scientist	\$90

<b>LABOR CATEGORY</b>	<b>Rate \$/Hour</b>
Staff Engineer/Scientist	\$110
Junior Engineer/Scientist	\$90
Contract Administrator	\$100
Word Processor	\$80

An annual 3 percent escalation in hourly rates is expected for all employees in 2012/2013 and 2013/2014. Bruce Corwin's rate will remain at \$250 per hour for the duration of the contract. Lou Regenmorter's rate will not be increased by more than 2 percent annually for the duration of the contract.

Feel free to contact me if you have any questions.

## Pacific EcoRisk Rate Schedule-Staff

Staff	Title	Billing Rate/hr
Dr. Scott Ogle	CEO/Special Projects Director	195
Jeffrey Cotsifas	President/Special Projects Director	185
Steven Clark	Vice President/Special Projects Director	175
Assistant Project Manager	Assistant Project Manager	125
Sr. Scientist	Sr. Scientist	110
Scientist	Scientist	95
Administrative Assistant	Administrative Assistant	70
Lab Tech	Lab Tech	65

Staff involved with sampling would generally be the scientists and senior scientist.



## EXHIBIT D

### PROFESSIONAL SERVICES AGREEMENT FOR DESIGN SERVICES

#### GENERAL PROVISIONS

##### 1. Independent Contractor.

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

- D. The provisions of this Section 1 shall survive any expiration or termination of this Agreement. Nothing in this Agreement shall be construed to create an exclusive relationship between CITY and CONTRACTOR. CONTRACTOR may represent, perform services for, or be employed by such additional persons or companies as CONTRACTOR sees fit provided that CONTRACTOR does not violate the provisions of Section 5, below.
2. **Licenses; Permits, Etc.** CONTRACTOR represents and warrants that CONTRACTOR has all licenses, permits, City Business Operations Tax Certificate, qualifications, and approvals of whatsoever nature that are legally required for CONTRACTOR to practice its profession or provide any services under the Agreement. CONTRACTOR represents and warrants that CONTRACTOR shall, at its sole cost and expense, keep in effect or obtain at all times during the term of this Agreement any licenses, permits, and approvals that are legally required for CONTRACTOR to practice its profession or provide such Services. Without limiting the generality of the foregoing, if CONTRACTOR is an out-of-state corporation, CONTRACTOR warrants and represents that it possesses a valid certificate of qualification to transact business in the State of California issued by the California Secretary of State pursuant to Section 2105 of the California Corporations Code.
  3. **Time.** CONTRACTOR shall devote such time and effort to the performance of Services pursuant to this Agreement as is necessary for the satisfactory and timely performance of CONTRACTOR's obligations under this Agreement. Neither party shall be considered in default of this Agreement, to the extent that party's performance is prevented or delayed by any cause, present or future, that is beyond the reasonable control of that party.
  4. **CONTRACTOR Not Agent.** Except as CITY may specify in writing, CONTRACTOR and CONTRACTOR's personnel shall have no authority, express or implied, to act on behalf of CITY in any capacity whatsoever as an agent. CONTRACTOR and CONTRACTOR's personnel shall have no authority, express or implied, to bind CITY to any obligations whatsoever.
  5. **Conflicts of Interest.** CONTRACTOR covenants that neither it, nor any officer or principal of its firm, has or shall acquire any interest, directly or indirectly, that would conflict in any manner with the interests of CITY or that would in any way hinder CONTRACTOR's performance of Services under this Agreement. CONTRACTOR further covenants that in the performance of this Agreement, no person having any such interest shall be employed by it as an officer, employee, agent or subcontractor, without the written consent of CITY. CONTRACTOR agrees to avoid conflicts of interest or the appearance of any conflicts of interest with the interests of CITY at all times during the performance of this Agreement. If CONTRACTOR is or employs a former officer or employee of the CITY, CONTRACTOR and any such employee(s) shall comply with the provisions of Sacramento City Code Section 2.16.090 pertaining to appearances before the City Council or any CITY department, board, commission or committee.
  6. **Confidentiality of CITY Information.** During performance of this Agreement, CONTRACTOR may gain access to and use CITY information regarding inventions, machinery, products, prices, apparatus, costs, discounts, future plans, business affairs, governmental affairs, processes, trade secrets, technical matters, systems, facilities, customer lists, product design, copyright,

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

**7. CONTRACTOR Information.**

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

notice provided by CITY and/or to enter into an agreement with CITY, in accordance with the provisions of subsection C, above, shall constitute a complete waiver by CONTRACTOR of any rights regarding the information designated "trade secret" by CONTRACTOR, and such information shall be disclosed by CITY pursuant to applicable procedures required by the Public Records Act.

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

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

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

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

**10. Indemnity.**

- A. Indemnity: CONTRACTOR shall defend, hold harmless and indemnify CITY, its officers and employees, and each and every one of them, from and against any and all claims, actions, damages, costs, liabilities, demands, losses, judgments, penalties and expenses of every type and description, including, but not limited to, any fees and/or costs reasonably incurred by CITY's staff attorneys or outside attorneys and any fees and expenses incurred in enforcing this provision (hereafter collectively referred to as "Claims"), including but not limited to Claims arising from personal injury or death, damage to personal, real or intellectual property or the environment, contractual or other economic damages, or regulatory penalties, that arise out of, pertain to or relate to any negligent act or omission, recklessness or willful misconduct of CONTRACTOR, its sub-consultants, subcontractors or agents, and their respective officers and employees, in connection with performance of or failure to perform this Agreement, whether or not such Claims are litigated, settled or reduced to judgment; provided that the foregoing indemnity does not apply to liability for damages for death or bodily injury to persons, injury to property, or other loss, damage or expense to the extent arising from (i) the sole negligence or willful misconduct of, or defects in design furnished by, CITY, its agents, servants, or independent contractors who are directly responsible to CITY, or (ii) the active negligence of CITY.
- B. Insurance Policies: Intellectual Property Claims: The existence or acceptance by CITY of any of the insurance policies or coverages described in this Agreement shall not affect or limit any of CITY's rights under this Section 10, nor shall the limits of such insurance limit the liability of CONTRACTOR hereunder. This Section 10 shall not apply to any intellectual property claims, actions, lawsuits or other proceedings subject to the provisions of Section 7.B., above. The provisions of this Section 10 shall survive any expiration or termination of this Agreement.

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

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

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

A. Minimum Scope & Limits of Insurance Coverage

- (1) Commercial General Liability Insurance, providing coverage at least as broad as ISO CGL Form 00 01 on an occurrence basis for bodily injury, including death, of one or more persons, property damage and personal injury, with limits of not less

than one million dollars (\$1,000,000) per occurrence. The policy shall provide contractual liability and products and completed operations coverage for the term of the policy.

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

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

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

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

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

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

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

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

B. Additional Insured Coverage

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

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

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

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

C. Other Insurance Provisions

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

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

D. Acceptability of Insurance

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

E. Verification of Coverage

- (1) CONTRACTOR shall furnish CITY with certificates and required endorsements evidencing the insurance required. 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



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

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

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

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

The included employee benefits are:

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

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

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

**You May . . .**

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

City of Sacramento  
Procurement Services Division  
5730 24<sup>th</sup> Street, Bldg. 1  
Sacramento, CA 95822

- Bring an action in the appropriate division of the Superior Court of the State of California against the Employer and obtain the following remedies:
  - Reinstatement, injunctive relief, compensatory damages and punitive damages
  - Reasonable attorney's fees and costs

## Attachment B



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

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

The included employee benefits are:

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

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

#### **You May . . .**

- Submit a written complaint to the City of Sacramento, Contract Services Unit, containing the details of the alleged violation. The address is:  
  
City of Sacramento  
Procurement Services Division  
5730 24<sup>th</sup> 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.