



City of Sacramento City Council

915 I Street, Sacramento, CA, 95814

www.CityofSacramento.org

Meeting Date: 10/9/2012

Report Type: Consent

Title: Mixed-Income Housing Ordinance Update Project (121005000)

Report ID: 2012-00792

Location: Citywide

Recommendation: Pass a Resolution 1) establishing the Mixed-Income Housing Ordinance Update Project as a new Multi-Year Operating Project; 2) transferring \$74,005 from the Community Development Department's operating budget and appropriating \$37,755 from the Development Services Fund (Fund 2016) to the Mixed-Income Housing Ordinance Update Project (121005000); and 3) authorizing the City Manager or his designee to execute a professional services agreement with Keyser Marston Associates for \$111,760 to assist staff with technical studies and guidance necessary for the update.

Contact: Desmond Parrington, Infill Coordinator, (916) 808-5044; Thomas S. Pace, Long Range Planning Manager, (916) 808-6848, Community Development Department

Presenter: None

Department: Community Development Dept

Division: Long Range Planning

Dept ID: 21001222

Attachments:

1-Description/Analysis

2-Background

3-Resolution

4-Professional Services Agreement with Keyser Marston Associates

City Attorney Review

Approved as to Form
Sabina D. Gilbert
9/28/2012 5:00:13 PM

City Treasurer Review

Reviewed for Impact on Cash and Debt
John Colville
9/21/2012 1:19:34 PM

Approvals/Acknowledgements

Department Director or Designee: Max Fernandez - 9/24/2012 9:38:07 AM

Description/Analysis

Issue: City staff is seeking Council approval of an agreement for professional services with Keyser Marston Associates (KMA) for \$111,760 to assist City staff with the technical analyses necessary to support the update of the City's Mixed-Income Housing Ordinance. KMA will be assisting staff with the development of a new inclusionary housing strategy as well as a nexus study necessary to support changes to the Ordinance.

The City received four responses to its Request for Proposals (RFP). Keyser Marston Associates was unanimously selected by the five-member review panel due to the quality of their scope and because they are one of the most experienced firms in California with this type of work. They have assisted the City in the past when they prepared a new nexus study for the Housing Trust Fund program in 2006. In addition, they have assisted numerous cities throughout California with recent updates to their inclusionary programs, including San Francisco, San Diego, Walnut Creek, and Fremont among others.

In conjunction with the City's Housing Element update, City staff is embarking on an update of the City's inclusionary housing policy, referred to as the City's Mixed-Income Housing Ordinance (refer to [Chapter 17.190](#) of the City's Code). The ordinance, which establishes an inclusionary housing program, requires 15% of all housing built in certain areas of the City to be affordable to low (80% of Area Median Income) and very low-income (50% AMI) households. The current ordinance applies to current and former greenfield areas of the City such as Natomas and Delta Shores that are typically built out as master planned communities. However, the ordinance also applies to two large brownfield sites, the Downtown Railyards and the Curtis Park Railyards, as well as to some infill areas including the portion of North Sacramento north of Interstate 80.

Staff is embarking on an update of the Mixed-Income Housing Ordinance as a result of several important changes, including:

- Current housing market conditions
- Recent court decisions which may make portions of the City's ordinance unenforceable
- Infeasibility of the ordinance's obligations for new housing development
- Lack of flexibility of the existing ordinance
- Increasing shift of development from greenfield areas to infill areas
- Loss of redevelopment set aside funding for affordable housing
- Continued decline in federal funding for affordable housing
- Neighborhood concern about the size, scale, and management of affordable apartment projects
- Concerns about overconcentration of affordable housing in some areas

With the update of the Mixed-Income Housing Ordinance, staff plans to address the following issues:

- Potential citywide application given the focus on infill development (per Program 5 from City's 2008-2013 Housing Element);
- Neighborhood concerns regarding the size, scale, and management of inclusionary housing developments;
- Greater flexibility and options for development projects to meet requirements, including in-lieu or impact fees;
- Housing needs of very low, low- and moderate-income households;
- The need to address different project types (e.g., higher density infill projects as well as large master planned subdivisions); and
- The need for a range of housing types including potentially "affordable by design development."

The update process is expected to follow the same timeline as the City's Housing Element and staff intends to conduct outreach with the public and key stakeholders and bring forward proposed changes in late 2013. Additional information on the update to the Mixed-Income Ordinance is provided in the Background section of this report.

Policy Considerations: The City's 2008-2013 Housing Element identifies the need for a variety of housing opportunities for all segments of the community. The Mixed-Income Ordinance is one tool to achieve that policy. The Housing Element also speaks to the need to update the Ordinance and explore economic feasibility as well as other options for the program (refer to Housing Element policy H-1.3.4 and programs 5, 52, and 93)

Economic Impacts: None.

Environmental Considerations: The actions in this report are exempt from the California Environmental Quality Act (CEQA) under CEQA Guidelines (14 Cal. Code Reg. Section 15262 et seq.) as they concern planning and funding activities for possible future projects. No project is being proposed at this time. Staff is only presenting details about a pending planning initiative. Environmental review pursuant to the CEQA will be conducted prior to the adoption of any implementing ordinances.

Sustainability: A sustainable community includes housing for current and future households of all income levels. The update to the City's Mixed Income Housing Ordinance is designed to ensure that the City continues to produce quality mixed income communities that serve the needs of all households despite the changed legal, economic and financial conditions.

Commission/Committee Action: None.

Rationale for Recommendation: Recent court decisions (e.g., Palmer, Patterson, San Jose, and Folsom cases) and the state of the housing market have raised concerns about the enforceability of parts of the City's ordinance. In addition, the conditions of the region's

housing market coupled with community concerns about inclusionary housing development and the loss of redevelopment set-aside funding have made it apparent that changes to the Ordinance are needed if it is to remain effective and beneficial to the community. Failure to update the Ordinance to comply with recent court decisions may make the City vulnerable to future legal challenges.

Financial Considerations: A total of \$111,760 is needed for the eighteen month consultant agreement with Keyser Marston Associates. Of that amount, \$74,005 will come from the Community Development Department's General Fund operating budget and the remainder (\$37,755) will come from the Development Services Fund (Fund 2016) fund balance.

Emerging Small Business Development (ESBD): Not applicable.

Background

In 2000, the City adopted its Mixed Income Housing Ordinance ([Chapter 17.190](#) of the City's Zoning Code) which mandates that 15% of the housing in developments of 10 or more residential units be affordable to very low- (50% AMI) and low-income (80% AMI) households for 30 years. Developers may elect to satisfy the requirements through the provision of either deed-restricted rental or ownership units, but 10% must be affordable to very low-income households and 5% to low-income households. The percentages are reversed for condominium projects. In the case of exclusive single-family developments less than five acres, the entire 15% may be provided to low-income households if the units are single-family ownership units. Concurrent development of the affordable units is required. Off-site production is allowed and a land dedication option is also available, though it has been rarely used. The ordinance is focused on affordable housing production. An in-lieu fee payment option is not allowed under the ordinance. The City does provide a variety of benefits to the development, but some of these are rarely used as they trigger prevailing wage requirements for the projects.

The ordinance applies to the City's "new growth areas" where most new residential development was expected to occur, primarily the areas of North Natomas and North Sacramento above Interstate 80 and the southern part of the City below Cosumnes River Boulevard as well as the area east of Power Inn Road (refer to map in [Section 17.190.140](#) of the Ordinance). However, the ordinance also applied to two large brownfield sites– the Downtown Railyards and Curtis Park Railyards. The Mixed-Income Housing Ordinance applies exclusively to residential development while the City's Housing Trust Fund Fee Program is an affordable housing impact fee program (also known as a commercial-housing linkage fee program) that applies to non-residential development throughout the City (refer to [Chapter 17.188](#) of the City's Zoning Code).

In terms of affordable housing production, the Mixed-Income Ordinance has been quite successful, resulting in over 1,300 new affordable units since 2000. The ordinance has provided essential housing to address the needs of the large percentage of households in the City with lower incomes (refer to the Community Profile in the City's [2008-2013 Housing Element](#)). However, few of the projects have been mixed-income developments as the need for federal or state financing assistance has resulted in more large 100% affordable projects. Community members and neighborhoods containing these developments have expressed concern about the size, scale, massing and composition of these projects in addition to concerns about property management and over-concentration.

Since 2007, the City has seen a dramatic decline in its housing market with median prices falling by over 60% in many of the new growth areas such as North Natomas and

North Sacramento. For example, the median home price in the region in 2005 was \$477,980, but by the end of 2011 the median dropped to \$178,000. As a result, there is growing concern that rather than encourage the production of affordable housing, the ordinance will be a barrier to residential development in these areas. Even during the housing boom, projects in North Sacramento had difficulty meeting the requirements of the ordinance due to the smaller scale of those projects and the predominance of single-family development there.

During this same period, there was also a shift in development activity to the urban core, and based on the City's General Plan projections, this trend is expected to continue with most new growth happening as infill in existing areas rather than in greenfield areas at the City's edges. However, with the loss of redevelopment set-aside funding, the City has few resources to support the development of affordable housing in infill areas.

While the current ordinance offers one option (land dedication), there is very limited flexibility for innovative solutions apart from the development of affordable housing as specified in the ordinance. In the past, several creative approaches that would have resulted in the production of affordable housing were rejected because they did not meet the requirements of the ordinance. As a result there is limited flexibility to address market conditions or community needs.

In 2008, the Sacramento Housing and Redevelopment Agency (SHRA), which administers the City's inclusionary ordinance, commissioned a detailed economic impact analysis of the Mixed-Income Housing Ordinance. The analysis considered the financial feasibility of potential modifications to the City's ordinance including expansion of the ordinance citywide, increasing the income targets, and the use of in-lieu fees. The study determined that housing development was not currently feasible even without inclusionary requirements. However, even as the housing market improved, higher density infill projects would struggle more than other housing types with inclusionary requirements, according to the analysis. After completion of the study, SHRA embarked on a series of stakeholder workshops designed to identify the changes that the key stakeholders could support, but a consensus was not reached on the necessary modifications to the ordinance, and no changes were made.

Despite this impasse, the City is embarking on an update to its Mixed-Income Housing Ordinance to ensure that the City has an effective yet flexible program that can produce affordable housing, but is responsive to housing market conditions. In addition, the City also needs a program that produces affordable housing projects that fit well within the community and distributes those projects throughout the City rather than just in some areas.



RESOLUTION NO. 2012-

Adopted by the Sacramento City Council

ESTABLISHING THE MIXED-INCOME HOUSING ORDINANCE UPDATE PROJECT (I21005000) AS A NEW MULTI-YEAR OPERATING PROJECT; APPROVING THE APPROPRIATION OF FUNDS TO THE MIXED-INCOME HOUSING ORDINANCE UPDATE PROJECT (I21005000); AND APPROVING AN AGREEMENT WITH KEYSER MARSTON ASSOCIATES TO ASSIST STAFF WITH THE TECHNICAL ANALYSES FOR THE UPDATE

BACKGROUND

- A. In 2000, the City of Sacramento adopted the Mixed-Income Housing Ordinance, an inclusionary housing program, to promote the development of housing to serve the needs of all economic segments in new growth areas.
- B. Since 2000, the Mixed-Income Housing Ordinance has produced over 1,300 housing units affordable to very low and low-income households.
- C. In 2008, the City adopted the 2008-2013 Housing Element, part of the 2030 General Plan, which identified the need to modify the ordinance and to conduct an economic feasibility analysis focused on expansion of the ordinance.
- D. During the Housing Element process and discussions related to modifications to the Mixed-Income Ordinance, some neighborhoods raised concerns about the size, scale, and management of multi-family inclusionary housing projects.
- E. In 2009, staff presented City Council with the findings of the economic feasibility analysis which concluded that the ordinance was not feasible in the current housing market.
- F. In 2009, two important court decisions raised concerns about the enforceability of parts of the City's Mixed-Income Ordinance.
- G. Due to recent changes in State law, the City is required to prepare and submit to the California Department of Housing and Community Development a Housing Element for the new eight-year period from 2013 to 2021 and that document must include a review of the effectiveness of its existing policies and programs.
- H. As part of this review, City staff has embarked on an update of the Ordinance and issued a Request for Proposals to assist with technical analyses necessary for an update.
- I. Staff received and evaluated four proposals, and Keyser Marston Associates (KMA) was unanimously selected as the preferred consultant based on their scope

of services and extensive experience with updates to inclusionary housing programs.

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

- Section 1. The Mixed-Income Housing Ordinance Update Project (I21005000) is established as a new Multi-Year Operating Project.
- Section 2. The FY2012/13 Operating Budget is amended by transferring \$74,005 from the Community Development Department's operating budget and appropriating \$37,755 from the Development Services Fund (Fund 2016) fund balance to the Mixed-Income Housing Ordinance Update Project (I21005000).
- Section 3. The City Manager or his designee is authorized to execute an agreement for professional services with Keyser Marston Associates for \$111,760.

Exhibit A – Professional Services Agreement with Keyser Marston Associates

PROJECT #: I21005000
PROJECT NAME: Mixed-Income Housing Ordinance Update
DEPARTMENT: Community Development
DIVISION: Planning

CITY OF SACRAMENTO

PROFESSIONAL SERVICES AGREEMENT

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

Keyser Marston Associates, Inc.
55 Pacific Avenue Mall, San Francisco, CA 94111
Phone: (415) 398-3050/Fax: (415) 397-5065

("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.
- General Provisions.** The General Provisions set forth in Exhibit D, that include indemnity and insurance requirements, are part of this Agreement. In the event of any conflict between the General Provisions and any terms or conditions of any document prepared or provided by CONTRACTOR and made a part of this Agreement, including without limitation any document relating to the scope of services or payment therefor, the General Provisions shall control over said terms or conditions.
- Non-Discrimination in Employee Benefits.** This Agreement is subject to the provisions of

Sacramento City Code Chapter 3.54, Non-Discrimination in Employee Benefits by City Contractors. The requirements of Sacramento City Code Chapter 3.54 are summarized in Exhibit E. CONTRACTOR is required to sign the attached Declaration of Compliance (Equal Benefits Ordinance), to assure compliance with these requirements.

- 6. **Authority.** The person signing this Agreement for CONTRACTOR hereby represents and warrants that he/she is fully authorized to sign this Agreement on behalf of CONTRACTOR and to bind CONTRACTOR to the performance of its obligations hereunder.
- 7. **Exhibits.** All exhibits referred to herein are attached hereto and are by this reference incorporated as if set forth fully herein.

Executed as of the day and year first above stated.

CITY OF SACRAMENTO
A Municipal Corporation

By: _____

Print name: _____

Title: _____

For: John F. Shirey, City Manager

APPROVED TO AS FORM:



City Attorney

ATTEST:

City Clerk

Attachments

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

CONTRACTOR:

Keyser Marston Associates, Inc.
NAME OF FIRM

94-2363741
Federal I.D. No.

221-0281-8
State I.D. No.

117500
City of Sacramento Business Op. Tax Cert. No.

TYPE OF BUSINESS ENTITY (*check one*):

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



Signature of Authorized Person

Kate E. Funk, Vice President
Print Name and Title



Additional Signature (*if required*)

Diane M. Chambers, Secretary
Print Name and Title

DECLARATION OF COMPLIANCE

Equal Benefits Ordinance

Name of Contractor: Keyser Marston Associates, Inc.

Address: 55 Pacific Avenue Mall, San Francisco, CA 94111

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

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

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

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

policies may not exceed one (1) year from the date this Agreement is executed by the City, and applies only to those employee benefits for which an open enrollment process is applicable.

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

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

Signature of Authorized Representative

Date

Print Name

Title

EXHIBIT A
PROFESSIONAL SERVICES AGREEMENT
SCOPE OF SERVICES

1. Representatives.

The CITY Representative for this Agreement is:

*Desmond Parrington, Infill Coordinator
City of Sacramento, Community Development Dept.
300 Richards Blvd., 3rd Floor, Sacramento, CA 95811
Phone: (916) 808-5044/Fax: (916) 808-5786/E-mail: dparrington@cityofsacramento.org*

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

The CONTRACTOR Representative for this Agreement is:

*Kate E. Funk, Vice President
Keyser Marston Associates, Inc.
55 Pacific Avenue Mall, San Francisco, CA 94111
Phone: (415) 398-3050/Fax: (415) 397-5065/Email: kfunk@keysermarston.com*

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

2. Professional Liability Insurance. Professional Liability (Errors and Omissions) insurance is X required for this Agreement. If required, such coverage must be continued for at least 3 years following the completion of all Services and Additional Services under this Agreement. (See Exhibit D, Section 11, for complete insurance requirements.)

3. Conflict of Interest Requirements.

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

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

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

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

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

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

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

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

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

4. **Scope of Services.** The services provided shall be as set forth in Attachment 1 to Exhibit A, attached hereto and incorporated herein.
5. **Time of Performance.** The services described herein are expected to be completed within approximately 18 months of contract execution and no later than June 30, 2014.

**Attachment 1 to
Exhibit A**

Scope of Services

Task 1. Project Initiation

The Project Initiation task includes several subtasks:

- a. Review of all materials on the City of Sacramento's Mixed Income Housing Program, going back to the original adoption and the products of the 2007 to 2009 work program. In addition, other items provided or recommended to us by the City will be reviewed, such as the Housing Element, portions of the General Plan, any reports on the Mixed Income Program production to date, and other materials.
- b. Kick off Meeting with City Staff. Meet with a group of City staff to understand more clearly the history of the Mixed Income program, City policy objectives and priorities, and other related topics. KMA will prepare a suggested agenda for the meeting. In addition, KMA will prepare a data request list noting all materials that would be helpful for reasons of consistency or cost savings.
- c. Initial identification of development prototypes for the analysis. Based on the prior BAE work and review of other materials, KMA will prepare an initial list of suggested prototypes. The BAE list of five for-sale prototypes will be used as a starting place and KMA will suggest two or three rental prototypes.

Task 2. Market Evaluation

Market Survey – KMA will assemble data on new market ownership and rental housing projects that have recently been built or in the planning stages throughout the City of Sacramento. The objective of the survey is to obtain a representation of products that are relevant to the different community plan areas of Sacramento. The survey will be used to determine prototypical product types, including density, construction type, number of units and bedrooms, square footage, market rate prices and rental rates. Specific attention will be placed on examining the extent to which the marketplace is attempting to deliver moderately priced housing through design elements, such as smaller unit sizes. Input from the development community will also be sought to understand market trends.

Development Prototypes – The findings of the survey will be used to establish the set of prototypes to be used in the financial feasibility testing and will become the starting place for the Residential Nexus Analysis. The survey will determine to what extent the five ownership prototypes analyzed by BAE in 2008 are still relevant, what adjustments should be made to reflect market trends, what additional prototypes are relevant, and what rental prototypes are appropriate for the analysis.

Construction Trends – KMA will assemble historic residential building permit, housing vacancy/available supply, and home price data. These data will be useful in determining threshold market conditions for activating a range of affordable housing obligations.

Affordability Gap – The “affordability gap” is the financial burden associated with developing each affordable unit. To calculate the affordability gaps, KMA will apply the City’s affordable rent and sales price formula to the identified prototypes to establish maximum rents and sales prices at extremely low, very low, low, and moderate-income affordability levels. For ownership units, the affordability gap is the difference between the market rate price and the price of the unit with an affordable income restriction. For rental units, the affordability gap is the difference between the capitalized income of affordable rents and market rents. The affordability gap calculations will be used in the financial feasibility testing (Task 4) and mixed income requirement levels (on site or fee).

Product: The findings of the market evaluation will be presented in a technical memorandum. It will feature the identification of the residential prototypes that will be analyzed and shape the updates to the City’s inclusionary program.

Task 3. Residential Nexus Analysis

KMA will prepare a residential nexus analysis that demonstrates and quantifies the relationship between the development of new market rate units in the City of Sacramento to the need for additional affordable housing at various lower income levels. The analysis will start with the residential prototypes identified in Task 1 and modified in the Market Evaluation task. These prototypes will each have a unit size and sales price or rent level that becomes the starting place of the nexus analysis. From there the analysis will track and quantify a series of steps from the prices/rent levels to household income, to the consumption of goods and services, new jobs and the numbers of new jobs that pay at compensation levels resulting in lower income households.

To conduct the analysis, KMA will use two models: the IMPLAN model, which is purchased, and KMA’s proprietary jobs-housing nexus model.

Starting with the price/rent level of the new unit, gross household income will be computed, the starting point of the IMPLAN model. The output of the IMPLAN model is the number of jobs in various industry categories in considerable detail that are associated with the consumer spending of new households.

The next portion of the nexus analysis will use the KMA jobs housing nexus model, developed over 20 years ago for jobs housing impact fee programs and refined over the years. The model analyzes compensation levels using detailed local data by occupation for new jobs serving households in new market rate residential units. All jobs serving these new residents from restaurants, to retail, to schools, to healthcare are included. Compensation levels for these jobs are then converted to a distribution of household income that accounts for multiple-earner

households. The KMA model imports local wage and salary data from the California Employment Development Department (EDD). The output of the KMA model is the number of employee households at various income affordability levels.

The last step in the analysis establishes a mitigation cost, or cost to deliver housing to the lower income affordability levels, using the affordability gaps developed earlier. The mitigation cost establishes the maximum affordable housing fee level supported by the nexus analysis.

At the conclusion of the draft at this stage, supportable mixed income requirements and/or impact fee levels will be presented. The conclusions at this point will not be recommendations. .

Product: The residential nexus analysis report will be drafted as a stand-alone document, suitable for use as an appendix to a summary report and/or an exhibit to a staff report with recommendations for Ordinance revisions. The nexus analysis will reference other materials, such as the market surveys, which may be contained in separate documents. KMA's proprietary computer models used for the residential nexus analysis report are not included in the product deliverable and are the exclusive property of KMA.

Task 4. Financial Feasibility

The findings of the financial feasibility analysis will be a key factor in formulating recommendations for the City's inclusionary program regarding: The analysis will focus on:

- levels of affordability;
- inclusionary percentage obligations;
- market performance triggers for the application of inclusionary requirements;
- varying requirements by geographic area;
- varying requirements by product type; and
- magnitude of in-lieu or impact type fees.

KMA will evaluate the development economics of residential prototypes identified in Task 1 (project initiation) and Task 2 (market evaluation). The prototypes will include both ownership and rental products and represent a range of product types that are relevant to infill and new growth areas in Sacramento. The analysis will involve examining development costs, home prices/rents, and warranted profit margins for the prototypes, assuming 100% market rate projects. The financial impact of a range of inclusionary obligations and in-lieu fees will then be tested.

Pro formas modeling the development economics of each prototype will be prepared and used as a tool to evaluate and test the ability of new residential developments to absorb the cost of alternative affordable housing inclusionary/fee requirements. For cost efficiency, this analysis will build on the pro forma analyses undertaken by BAE to the maximum extent possible.

Development Costs – KMA will estimate the cost to develop each prototype. Key cost components include: land acquisition, on-site land improvements, vertical construction costs, parking costs, architectural and engineering fees, impact and planning fees, financing costs, and overhead costs. These estimates will be based on available information that KMA has on similar projects as well as data provided by members of the development community. We note that we have seen significant cost changes, mostly downward, over the past eighteen months.

Home Prices and Apartment Values – KMA will use the data gathered in the market survey of Task 2 to estimate current price points for each ownership prototype and rental rates for rental apartment prototypes. Additionally, KMA will collect and evaluate the prices of recently sold apartment complexes and the capitalization rates reflected in the prices.

Warranted Investment and Financial Feasibility – KMA will compare the value of the prototypes to construction costs to estimate the financial return to a developer supported by current economic conditions. KMA will then compare those returns to what levels are being required in the marketplace to determine if the market rate prototypes are generally feasible. KMA will then test the viability of a range of inclusionary obligations, including building on-site, paying fees at different levels of replacement costs, building off-site, etc. If the analysis indicates that the inclusionary options are not currently viable, KMA will estimate the degree to which prices and rents would need to increase in order to render the range of inclusionary requirements feasible.

Product: The findings of the financial feasibility analysis will be presented in a technical memorandum. The memorandum will summarize the feasibility of 100% market rate projects as well as the impact on feasibility of a range of inclusionary options for a range of product types within the various growth and in-fill areas of the City, for both ownership and rental units. The memorandum will also highlight required rental rates and prices to meet feasibility threshold return requirements. This analysis will be used to inform recommendations for modifications to the Mixed-Income Housing program.

Task 5. Potential Overlap: Residential and Non-Residential Nexus Analyses

There is a degree of overlap between jobs counted for purposes of a residential nexus and jobs counted in a non-residential jobs-housing nexus. The extreme example is a mixed-use retail / residential project where the retail almost exclusively serves the new residents in the project. In this instance, residential and non-residential nexus analyses would each be counting the same jobs. While there is some overlap that needs to be addressed, the non-residential nexus analysis counts many jobs that are not included in the residential nexus, for example, manufacturing jobs. The analysis will demonstrate that combined fees do not exceed the amount supported by the nexus after accounting for potential overlap.

KMA will complete an initial analysis to address the overlap issue in the first two months. The initial overlap analysis will be based upon existing non-residential fees. The purpose of the initial

analysis is to address the issue prior to evaluating alternatives for potential new fees on residential. A final version will be produced for the Final Report.

Product: A short report or addendum to the Residential Nexus Analysis report.

Task 6. Formulation of Options for Ordinance Revisions

This task will be undertaken after the base information tasks 1 through 5 have been completed. The findings of Tasks 1 through 5 will inform the identification of alternatives for modifying the current Mixed Income Housing Ordinance and program. Topics to be explored will include, but not be limited to, the items listed below. The sequence does not imply priority or importance.

- Evaluate alternative affordability targets (income levels) and percentages for on-site provision of units. Based on the findings of the market evaluation and the financial feasibility particularly, evaluate alternative targets. While one objective might be to reduce the financial burden on residential projects, it will also be important to avoid affordability targets where the calculated pricing is close to market.

Another related topic could be to identify choices for percentages and targets. (For example fewer units at lower affordability level as an alternative to more units at higher levels.)

- Identify fee options for all major residential types, rental and for sale. In addition to differentiated fees for rentals v. for sale units, fees could differ attached v. detached. Or alternatively per square foot fees could be considered as a means of achieving the same objective, while easier to administer.
- Identify alternative means of compliance with the Ordinance requirements. The 2007/2009 work program explored a number of options that should be kept under consideration. KMA will add to the menu based on experience elsewhere.
- Address the single Citywide program question. Should the City have a single set of requirements and options for everywhere in the City or should there be differentiated requirements for new growth areas v. infill. Do any Community Plan Areas warrant special treatment, including exemption?
- Test fee revenue implications of various alternatives. Using historical construction activity levels (or some modification thereof) potential revenue generation of various fee options will be estimated on a rough order-of-magnitude basis.
- Identify possible mechanisms for adjusting the program to market recovery (or future downturns) or “market synchronization” per the RFP. While the market and financial feasibility analyses will inform much about the level of recovery in late 2012, KMA believes mechanisms and triggers must be kept simple to be widely accepted.

Once a list of options has been identified, the options will be evaluated using a range of criteria, such as ability to meet policy priorities, feasibility in light of market and financial feasibility conditions, administrative efficiencies, and revenue generating capacity.

KMA will meet with staff at this juncture to narrow the choices. KMA and staff will discuss use of the materials for the Planning Commission Workshop in January for their input and deliberation.

Product: Written summary of options for modifying the Mixed Income Ordinance and program.

Task 7. Mixed Income Ordinance Revision Recommendations and Draft Report

Based on the results of Task 6 and the meetings with staff and workshop with the Planning Commission, draft a set of recommended revisions.

KMA will assemble all the materials into a report. A summary report will present a concise version of the key findings of the major task products (which will have been previously submitted in draft form), and a summary of the recommendations. Appendix sections will include the task materials including the nexus report.

Task 8. Meetings and Public Outreach

Consultant will meet with staff at key junctures during the work program. Two work sessions with staff are anticipated as indicated in the schedule; a third work session is budgeted if needed during the options/recommendations phase of the work program. Consultant will also attend two Planning Commission meetings/workshops/two Council Law and Legislation Committee hearings, and two City Council hearings.

Task 9. Confirmation of 2006 Nexus Analysis

KMA will draft a letter to the City that makes the case that the 2006 Housing Trust Fund Analysis is still valid. The letter will describe why conditions and changes since the 2006 analysis which demonstrated the linkages between new commercial and industrial buildings, the jobs within them, and the need for additional affordable housing in Sacramento, have not been so significantly altered as to invalidate the conclusions of the analysis. The 2006 analysis conclusions will be restated and paired with the new affordability gaps used in the Residential Nexus to indicated update supportable fee levels.

Product: Letter of three to five pages plus tables.

Task 10. Housing Trust Fund Program: Review and Recommendations

KMA will review the Housing Trust Fund code sections and other materials provided by the City on the Trust Fund. KMA will meet with City staff to discuss policy issues with respect to the Trust Fund fee (on commercial and industrial development), possible modifications to the program. KMA will advise as requested on revisions and related matters.

Task 11. Materials for Community Outreach

KMA will prepare materials on the Mixed Income Housing analysis and recommendations, and Trust Fund review if requested, for City staff use in a Community Outreach effort. KMA will prepare a power point presentation for this purpose and will draft an accompanying outline or narrative to assist in presenting the materials. For this task, it may be necessary for one or more cycles of revisions to get the package of materials to the point that all parties of comfortable with it before initiating Community Outreach.

EXHIBIT B

PROFESSIONAL SERVICES AGREEMENT

FEE SCHEDULE/MANNER OF PAYMENT

1. **CONTRACTOR's Compensation.** The total of all fees paid to the CONTRACTOR for the performance of all services set forth in Exhibit A, including normal revisions (hereafter the "Services"), and for all authorized Reimbursable Expenses, shall not exceed the total sum of \$111,760.
2. **Billable Rates.** CONTRACTOR shall be paid for the performance of Services as set forth in Attachment 1 to Exhibit B, attached hereto and incorporated herein.
3. **CONTRACTOR's Reimbursable Expenses.** Reimbursable Expenses shall be limited to actual expenditures of CONTRACTOR for expenses that are necessary for the proper completion of the Services and shall only be payable if specifically authorized in advance by CITY.
4. **Payments to CONTRACTOR.**
 - A. Payments to CONTRACTOR shall be made within a reasonable time after receipt of CONTRACTOR's invoice, said payments to be made in proportion to services performed or as otherwise specified in Attachment 1 to Exhibit B. CONTRACTOR may request payment on a monthly basis. CONTRACTOR shall be responsible for the cost of supplying all documentation necessary to verify the monthly billings to the satisfaction of CITY.
 - B. All invoices submitted by CONTRACTOR shall contain the following information:
 - (1) Job Name
 - (2) Description of services billed under this invoice, and overall status of project
 - (3) Date of Invoice Issuance
 - (4) Sequential Invoice Number
 - (5) CITY's Purchase Order Number
 - (6) Total Contract Amount
 - (7) Amount of this Invoice (Itemize all Reimbursable Expenses)
 - (8) Total Billed to Date
 - (9) Total Remaining on Contract
 - (10) Updated project schedule. This shall identify those steps that shall be taken to bring the project back on schedule if it is behind schedule.
 - C. Items shall be separated into Services and Reimbursable Expenses. Billings that do not conform to the format outlined above shall be returned to CONTRACTOR for correction. CITY shall not be responsible for delays in payment to CONTRACTOR resulting from CONTRACTOR's failure to comply with the invoice format described below.
 - D. Requests for payment shall be sent to:

*City of Sacramento
Community Development Department
300 Richards Blvd., 3rd Floor, Sacramento, CA 95811
Phone: (916) 808-5044/Fax: (916) 808-5786
Attn: Desmond Parrington, Infill Coordinator*

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

Attachment 1 to Exhibit B

KEYSER MARSTON ASSOCIATES.

City of Sacramento Update to the City's Mixed-Income Housing Ordinance Proposed Budget

Task 1. Project Initiation	\$6,000
Task 2. Market Evaluation	\$8,000
Task 3. Residential Nexus Analysis	\$17,000
Task 4. Financial Feasibility	\$15,000
Assumes up to 8 prototype projects Note: This material will likely be highly controversial so thorough due diligence is recommended.	
Task 5. Overlap Nexus Task	\$4,000
Task 6. Formulation of Options	\$9,000
Task 7. Recommendations/Reports	\$11,000
Task includes draft of summary report and full report with appendices, such as technical memoranda and nexus report. Includes allowance for revisions following staff review.	
Task 8. Meeting and Public Outreach	\$26,760
3 work sessions with staff in addition to kick-off; 2 scheduled, one contingency; 6 public hearings (1.5 principals in attendance)	
Task 9. Confirmation of 2006 Nexus Analysis	\$3,500
Task 10. Housing Trust Fund Program: Review and Recommendations	\$3,500
Task 11. Materials for Community Outreach	\$5,000
Expenses Allowance	\$3,000
For purchase of data for market surveys, nexus model data set, travel related.	
TOTAL	\$111,760

KEYSER MARSTON ASSOCIATES, INC.
PUBLIC SECTOR HOURLY RATES

	<u>2012/2013</u>
A. JERRY KEYSER*	\$280.00
MANAGING PRINCIPALS*	\$280.00
SENIOR PRINCIPALS*	\$270.00
PRINCIPALS*	\$250.00
MANAGERS*	\$225.00
SENIOR ASSOCIATES	\$187.50
ASSOCIATES	\$167.50
SENIOR ANALYSTS	\$150.00
ANALYSTS	\$130.00
TECHNICAL STAFF	\$95.00
ADMINISTRATIVE STAFF	\$80.00

Directly related job expenses not included in the above rates are: auto mileage, parking, air fares, hotels and motels, meals, car rentals, taxies, telephone calls, delivery, electronic data processing, graphics and printing. Directly related job expenses will be billed at 110% of cost.

Monthly billings for staff time and expenses incurred during the period will be payable within thirty (30) days of invoice date.

* Rates for individuals in these categories will be increased by 50% for time spent in court testimony.

EXHIBIT C

PROFESSIONAL SERVICES AGREEMENT

FACILITIES AND EQUIPMENT TO BE PROVIDED BY CITY

CITY shall [*check one*]

 X

Not furnish any facilities or equipment for this Agreement; or

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

**EXHIBIT D
PROFESSIONAL SERVICES AGREEMENT**

GENERAL PROVISIONS

1. Independent Contractor.

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

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

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

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

7. CONTRACTOR Information.

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

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

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

9. Term; Suspension; Termination.

A. This Agreement shall become effective on the date that it is approved by both parties, set forth on the first page of the Agreement, and shall continue in effect until both parties have fully performed their respective obligations under this Agreement, unless sooner terminated as provided herein.

B. CITY shall have the right at any time to temporarily suspend CONTRACTOR's performance hereunder, in whole or in part, by giving a written notice of suspension to CONTRACTOR. If CITY gives such notice of suspension, CONTRACTOR shall immediately suspend its activities under this Agreement, as specified in such notice.

C. CITY shall have the right to terminate this Agreement at any time by giving a written notice of termination to CONTRACTOR. If CITY gives such notice of termination, CONTRACTOR shall immediately cease rendering Services pursuant to this Agreement. If CITY terminates this Agreement:

(1) CONTRACTOR shall, not later than five days after such notice of termination, deliver to CITY copies of all information prepared pursuant to this Agreement.

(2) CITY shall pay CONTRACTOR the reasonable value of Services rendered by CONTRACTOR prior to termination; provided, however, CITY shall not in any manner be liable for lost profits that might have been made by CONTRACTOR had the Agreement not been terminated or had CONTRACTOR completed the Services required by this Agreement. In this regard, CONTRACTOR shall furnish to CITY such financial information as in the judgment of the CITY is necessary for CITY to determine the reasonable value of the Services rendered by CONTRACTOR. The foregoing is cumulative and does not affect any right or

remedy that CITY may have in law or equity.

10. Indemnity.

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

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

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

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

A. Minimum Scope & Limits of Insurance Coverage

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

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

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

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

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

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

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

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

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

- (4) Professional Liability Insurance providing coverage on 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 that 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 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 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 \$100,000.00. 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 directly on a City contract, and (at the time of hire), each new employee, a copy of the notification provided as Attachment “A.”

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

Attachment A



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

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

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

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

The included employee benefits are:

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

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

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

You May . . .

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

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

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

Attachment B



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

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

The included employee benefits are:

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

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

You May . . .

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

City of Sacramento
Procurement Services Division
5730 24th Street, Bldg. 1
Sacramento, CA 95822
- Bring an action in the appropriate division of the Superior Court of the State of California against the employer and obtain reinstatement, injunctive relief, compensatory damages, punitive damages and reasonable attorney's fees and costs.

Discrimination and Retaliation Prohibited.

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

You May Also . . .

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

Insurance Certificates



CERTIFICATE OF LIABILITY INSURANCE

DATE (MM/DD/YYYY)
12/16/2011

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

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

PRODUCER MOC Insurance Services License No. 0589960 44 Montgomery St., 17th Fl. San Francisco CA 94104	CONTACT NAME: Donna de Fabio	
	PHONE (A/C, No, Ext): (415) 957-0600 FAX (A/C, No): (415) 957-0577 E-MAIL ADDRESS: ddefabio@maroevich.com	
INSURED Keyser Marston Associates, Inc. 55 Pacific Avenue Mall San Francisco CA 94111	INSURER(S) AFFORDING COVERAGE	NAIC #
	INSURER A: Hartford Casualty Ins. Co.	29424
	INSURER B: Hartford	21822
	INSURER C: Republic Indemnity Company of	22179
	INSURER D: Mt. Hawley Insurance Co.	
	INSURER E: INSURER F:	

COVERAGES

CERTIFICATE NUMBER: CL11111721985

REVISION NUMBER:

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

INSR LTR	TYPE OF INSURANCE	ADDL INSR	SUBR WVD	POLICY NUMBER	POLICY EFF (MM/DD/YYYY)	POLICY EXP (MM/DD/YYYY)	LIMITS	
A	GENERAL LIABILITY			57UUNPV0563 No Deductible applies	12/1/2011	12/1/2012	EACH OCCURRENCE \$ 1,000,000	
	<input checked="" type="checkbox"/> COMMERCIAL GENERAL LIABILITY	X					DAMAGE TO RENTED PREMISES (Ea occurrence) \$ 300,000	
	<input type="checkbox"/> CLAIMS-MADE <input checked="" type="checkbox"/> OCCUR						MED EXP (Any one person) \$ 10,000	
	GEN'L AGGREGATE LIMIT APPLIES PER: <input checked="" type="checkbox"/> POLICY <input type="checkbox"/> PROJECT <input type="checkbox"/> LOC						PERSONAL & ADV INJURY \$ 1,000,000 GENERAL AGGREGATE \$ 2,000,000 PRODUCTS - COMP/OP AGG \$ 1,000,000	
A	AUTOMOBILE LIABILITY			57UUNPV0563	12/1/2011	12/1/2012	COMBINED SINGLE LIMIT (Ea accident) \$ 1,000,000	
	<input checked="" type="checkbox"/> ANY AUTO	X					BODILY INJURY (Per person) \$	
	<input type="checkbox"/> ALL OWNED AUTOS						<input type="checkbox"/> SCHEDULED AUTOS	BODILY INJURY (Per accident) \$
	<input checked="" type="checkbox"/> HIRED AUTOS						<input checked="" type="checkbox"/> NON-OWNED AUTOS	PROPERTY DAMAGE (Per accident) \$
<input checked="" type="checkbox"/> COMP \$500	<input checked="" type="checkbox"/> Coll \$500		Uninsured motorist combined \$ 1,000,000					
B	UMBRELLA LIAB			57RHUPV0506	12/1/2011	12/1/2012	EACH OCCURRENCE \$ 4,000,000	
	EXCESS LIAB						AGGREGATE \$ 4,000,000	
	DED <input checked="" type="checkbox"/> RETENTION \$ 10,000		X					
C	WORKERS COMPENSATION AND EMPLOYERS' LIABILITY			395461617	12/1/2011	12/1/2012	<input checked="" type="checkbox"/> WC STATUTORY LIMITS <input type="checkbox"/> OTHER	
	ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? (Mandatory in NH)	Y/N <input type="checkbox"/>	N/A				E.L. EACH ACCIDENT \$ 1,000,000	
	If yes, describe under DESCRIPTION OF OPERATIONS below						E.L. DISEASE - EA EMPLOYEE \$ 1,000,000 E.L. DISEASE - POLICY LIMIT \$ 1,000,000	
D	Professional Liability			EO-848728 Retro Date 10/05/1976	12/1/2011	12/1/2012	EACH WRONGFUL ACT \$1,000,000	
	Retention: \$50,000						AGGREGATE LIMIT \$1,000,000	

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

The City of Sacramento, It's officials, employees and volunteers are Additional Insured as respects their interest appears.

CG 2010 07 04 and TE 9911 attached

30 day notice of cancellaion/10 day for non-payment of premium.

CERTIFICATE HOLDER

CANCELLATION

CERTSONLY@PERICULUM.COM

City of Sacramento
c/o EBIX BPO
P.O. Box 257,
Ref. # 106-Z344775
Portland, MI 48875-0257

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

AUTHORIZED REPRESENTATIVE

Donna de Fabio/DDF

POLICY NUMBER: 57UUNPV0563

Effective Date: 12/01/2011

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

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

This endorsement modifies insurance provided under the following:

COMMERCIAL GENERAL LIABILITY COVERAGE PART

SCHEDULE

Name of Additional Insured Person(s) or Organization(s):	Location(s) of Covered Operations
<p>CITY OF SACRAMENTO, it's officials, employees and volunteers</p> <p>It is understood and agreed that this insurance is primary and any other insurance maintained by the Additional Insured shall be excess only and not contributing with this insurance in regards to all operations as pertains to the named insured.</p>	
<p>Information required to complete this Schedule, if not shown above, will be shown in the Declarations.</p>	

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

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

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

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

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

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

**INSURANCE INDUSTRIE CHANGE; COMMERCIAL GENERAL LIABILITY
ADDITIONAL INSURED ENDORSEMENT**

Please be advised that the CG 20 10 10 01 Endorsement has been replaced with the CG 20 10 07 04 Additional Insured Endorsement. The city of Sacramento, It's officials, employees and volunteers is/are named as Additional Insured(s) on the Commercial General Liability policy.

Keyser Marston Associates, Inc. provides professional services to; The City of Sacramento, It's officials, employees, volunteers therefore 'completed operations' coverage would be addressed under the Professional Liability policy shown as "Insurer D" on the attached Certificate of Insurance.

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

DESIGNATED INSURED

This endorsement modifies insurance provided under the following:

- BUSINESS AUTO COVERAGE FORM
- GARAGE COVERAGE FORM
- MOTOR CARRIER COVERAGE FORM
- TRUCKERS COVERAGE FORM

With respect to coverage provided by this endorsement, the provisions of the Coverage Form apply unless modified by this endorsement.

This endorsement identifies person(s) or organization(s) who are "insureds" under the Who Is An Insured Provision of the Coverage Form. This endorsement does not alter coverage provided in the Coverage Form.

This endorsement changes the policy effective on the inception date of the policy unless another date is indicated below.

Endorsement effective 12/01/11	
Named Insured KEYSER MARSTON ASSOCIATES, INC.	Countersigned by

(Authorized Representative)

SCHEDULE

Name of Person(s) or Organization(s):

CITY OF sacramento
It's officials, employees and
volunteers

(If no entry appears above, information required to complete this endorsement will be shown in the Declarations as applicable to the endorsement.)

Each person or organization shown in the Schedule is an "insured" for Liability Coverage, but only to the extent that person or organization qualifies as an "insured" under the Who Is An Insured Provision contained in **Section II** of the Coverage Form.