



City of Sacramento City Council

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

Meeting Date: 12/4/2012

Report Type: Consent

Title: Agreement: American River Watershed Sanitary Survey 2013 Update

Report ID: 2012-00919

Location: Citywide

Recommendation: Pass 1) a Motion authorizing the City Manager or City Manager's designee to execute a professional services agreement with Starr Consulting to prepare the Sanitary Survey 2013 Update for an amount not to exceed \$113,860, and 2) a Resolution amending the FY 2012/13 American River Source Water Protection Project (I14010400) to add \$101,484 (Fund 6205) for the reimbursement of allocated costs from the other participating water utilities.

Contact: Bill Busath, Interim Engineer Manager, (916) 808-1434; Sherill Huun, Supervising Engineer, (916) 808-1455 - Department of Utilities

Presenter: None

Department: Department Of Utilities

Division: Water Quality Engineering

Dept ID: 14001331

Attachments:

- 1- Description/Analysis
- 2 - Background
- 3 - Resolution
- 4- Exhibit A - Agreement

City Attorney Review

Approved as to Form
Joe Robinson
11/26/2012 3:39:09 PM

City Treasurer Review

Reviewed for Impact on Cash and Debt
John Colville
11/16/2012 7:59:43 AM

Approvals/Acknowledgements

Department Director or Designee: Dave Brent - 11/26/2012 9:56:23 AM



Description/Analysis

Issue: Starr Consulting was selected through a Request For Proposal (RFP) process to conduct the American River Watershed Sanitary Survey 2013 Update for the City of Sacramento and ten water utility partners. This project analyzes the quality of the American River drinking water supply, evaluates the capabilities of American River water treatment facilities to meet current and future drinking water regulations, and provides recommendations to ensure protection of water quality.

Policy Considerations: Approval of this agreement will provide an opportunity for the City and other water purveyors to work together in a cooperative manner and share the costs of this study, which otherwise would need to be performed individually. Completion of the American River Watershed Sanitary Survey 2013 Update supports the following utilities and environmental resources goals of the City's 2030 General Plan:

1. Provide water supply facilities to meet future growth within the City's Place of Use and assure a high-quality and reliable supply of water to existing and future residents.
2. Protect local watersheds, water bodies and groundwater resources, including creeks, reservoirs, the Sacramento and American rivers, and their shorelines.

Economic Impacts: None

Environmental Considerations: The City's Environmental Planning Services Manager has reviewed the Agreement and determined that this action is exempt from the California Environmental Quality Act (CEQA) pursuant to CEQA Guidelines Section 15308. Conducting the watershed sanitary survey is an action directed by the State that will help assure the maintenance and protection of the environment.

Sustainability: Conducting the watershed sanitary survey update is consistent with the City's Sustainability Master Plan in advancing the goals of conserving the use and protection of sources of water.

Commission/Committee Action: Not applicable

Rationale for Recommendation: The City is required by the State of California Department of Public Health, Drinking Water Program to comply with regulations passed in June 1991, requiring all water suppliers using surface water sources to complete a sanitary survey of their respective watershed(s) and to provide an update report every five years. By partnering with other water utilities with this same requirement and geographical area of interest, the City can cost effectively meet this regulatory requirement.

Financial Considerations: The agreement provides services to conduct the American River Sanitary Survey 2013 Update. The agreement costs will be shared with the water utility partners per the terms of the Memorandum of Understanding (MOU) (City Agreement No. 2012-0813), approved by the City Council on August 9, 2012. The cost for this agreement is not-to-exceed \$113,860, which includes the water utility partners' cost share in the amount of \$101,484 and the City's cost share of \$12,376. The Multi-Year Operating Project (I14010400, Water Fund 6005) has sufficient funding for the City's share.

The MOU provides for a cost sharing arrangement in which the cost of the watershed sanitary survey is split into equal share portions, compliance evaluations based on the number of water treatment intakes per partner, and supplemental tasks. Supplemental tasks in the contract scope include a small contingency task for the watershed sanitary survey, and agency specific tasks to provide related services for the City of Sacramento and Placer County Water Agency.

Staff recommends that the revenue and expenditure budget for the FY 2012/13 American River Source Water Protection Project (I14010400, Water Fund Reimbursable Fund 6205) be amended by \$101,484 (Fund 6205) to recognize the cost share to be provided by the partner agencies.

The following table summarizes the costs for the City and cost share partners.

Agency	Project	Fund	Multi-Year Operating Project (MYOP)	Total
City of Sacramento	American River Source Water Project	6005	I14010400	\$12,376
Cost Share Partners:	American River Source Water Reimbursable Project	6205	I14010400	\$101,484
Total				\$113,860

Emerging Small Business Development (ESBD): Starr Consulting is a City certified Small Business Enterprise.



Background

The California Code of Regulations, Title 22, Chapter 17, establishes the California Surface Water Treatment Rule (SWTR) which requires that all surface water suppliers conduct a sanitary survey of their watershed(s) at least once every five years. The first of these studies was required to be completed prior to January 1, 1996, or prior to issuance of a Department of Public Health (DPH) permit for a new or expanded surface water treatment facility, whichever comes first. In August 1993, the City and ten other water purveyors in the American River watershed submitted a sanitary survey of the American River watershed to DPH. In December 1998 and 2003, the City and eleven other water purveyors submitted the required updates of the watershed sanitary survey to DPH. The City and ten other water purveyors submitted the latest update to DPH in December 2008. The next update to the watershed sanitary survey is due to DPH by December 2013.

The main purpose of the watershed sanitary survey requirement is to determine the degree of treatment required to assure to the greatest degree possible that water supplies are free of microbial and other types of contamination. To comply with this requirement and obtain the necessary information to determine required levels of treatment, sanitary surveys must provide a description of the watershed, identify potential sources of contamination within the watershed, describe watershed management practices, and assess the microbial contaminant load at the point where the raw water is diverted to the treatment plant.

On August 9, 2012, City Council approved the Memorandum of Understanding (MOU) Regarding Contracting and Apportionment of Costs for a Sanitary Survey Update of the American River Watershed and Follow-up Activities. On September 11, 2012, the City advertised a Request for Proposal (RFP) for the American River Watershed Sanitary Survey 2013 Update. Proposals were due on October 8, 2012. The following two firms submitted proposals:

- Starr Consulting
- Water Quality & Treatment Systems, Inc.

The Consultant Selection Committee selected Starr Consulting based on the proposal rating criteria. Starr consulting met all of the RFP requirements and was the highest ranked firm. The proposal rating criteria included: approach to project; quality of proposed scope; expertise, knowledge and experience of team in watershed sanitary surveys, drinking water regulations, and source water protection programs; knowledge of the participating agencies' water supply systems and the American River watershed; proposal quality and completeness; references; and City certified Emerging and Small Business Enterprise (ESBE) and Local Business Enterprise (LBE) point preferences. The selection committee included a representative from the City of Sacramento and five representatives from the partner agencies, including City of Roseville, East Bay Municipal Utility District (EBMUD), El Dorado Irrigation District (EID), Golden State Water Company, and San Juan Water District (SJWD). Starr Consulting is

headquartered in California and is a City certified Small Business Enterprise. Starr Consulting is not an LBE.

The scope of services includes collecting information from the water utilities on their water supply system, water quality data, and source water protection efforts; from ambient monitoring programs for additional water quality data; and from various sources on changes in watershed conditions and in regulation and management for selected contaminant sources. Starr Consulting will assess the water treatment plants for the required levels of treatment based on the information collected and current and upcoming regulations. The project includes evaluating the watershed to understand changes in water quality from activities upstream of the water treatment plant intakes, and providing an updated set of recommendations for water treatment plant operations, monitoring, and source water protection. The study area for the American River Watershed Sanitary Survey will be the upper watershed upstream of Folsom Lake and the lower watershed from Folsom Lake to the confluence of the American and Sacramento rivers. The period of study of the watershed sanitary survey is 2008-2012. The City's additional task provides for assistance on the report specific to the City's needs and other services, such as a presentation to water treatment plant technical staff and additional copies of the final report.

Cost sharing this project with the participating water utilities results in a significantly lower cost for this regulatory requirement for the City and the water utility partners. The cost of the Agreement will be shared by the City and participating water utilities according to the MOU as follows:

California State Prison at Folsom	\$10,094.44
Carmichael Water District	\$10,094.44
City of Folsom	\$10,094.44
City of Roseville	\$10,094.44
City of Sacramento	\$12,375.59
EBMUD	\$ 8,351.89
EID	\$13,579.55
Golden State Water Company	\$10,094.44
Placer County Water Agency	\$10,634.44
Sacramento County Water Agency	\$ 8,351.89
SJWD	\$10,094.44
Total	\$113,860.00



RESOLUTION NO.

Adopted by the Sacramento City Council

AMENDMENT TO THE REVENUE AND EXPENDITURE BUDGET FOR THE FY 2012/13 AMERICAN RIVER SOURCE WATER REIMBURSIBLE PROJECT

BACKGROUND

- A. An American River Watershed Sanitary Survey Update report is due to the California Department of Public Health by December 2013, to provide compliance with the California Surface Water Treatment Rule.
- B. The City is partnering with several water utilities to conduct the American River Watershed Sanitary Survey 2013 Update.
- C. Based on the results of a Request for Proposal process, City staff has negotiated a professional services agreement with Starr Consulting to provide engineering services to prepare the watershed sanitary survey update report.
- D. The cost of the agreement is not-to-exceed \$113,860 and will be shared according to the Memorandum of Understanding (City Agreement No. 2012-0813) with the participating water utilities. The City's cost share is \$12,376, and the participating water utilities' cost share is \$101,484.

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

- 1. The revenue and expenditure budget for FY 2012/13 American River Source Water Protection Project (I14010400) is amended to add \$101,484 (Fund 6205) for the reimbursement of the cost share from the other utilities participating in the American River Watershed Sanitary Survey 2013 Update.



PROJECT #: I14010400/I14010402
PROJECT NAME: American River Watershed Sanitary Survey 2013 Update
DEPARTMENT: Utilities
DIVISION: Engineering

CITY OF SACRAMENTO

**PROFESSIONAL SERVICES AGREEMENT
FOR ARCHITECTS, LANDSCAPE
ARCHITECTS, PROFESSIONAL ENGINEERS,
AND PROFESSIONAL LAND SURVEYORS**

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

**Starr Consulting
20897 Victoria Lane Colfax, CA 95713
530-637-5090/530-637-5732 fax**

("CONTRACTOR"), who agree as follows:

- 1. Services.** Subject to the terms and conditions set forth in this Agreement, CONTRACTOR shall provide to CITY the services described in Exhibit A. CONTRACTOR shall provide said services at the time, place, and in the manner specified in Exhibit A. CONTRACTOR shall not be compensated for services outside the scope of Exhibit A unless prior to the commencement of such services: (a) CONTRACTOR notifies CITY and CITY agrees that such services are outside the scope of Exhibit A; (b) CONTRACTOR estimates the additional compensation required for these additional services; and (c) CITY, after notice, approves in writing a Supplemental Agreement specifying the additional services and amount of compensation therefor. CITY shall have no obligations whatsoever under this Agreement and/or any Supplemental Agreement, unless and until this Agreement or any Supplemental Agreement is approved by the Sacramento City Manager or the City Manager's authorized designee, or by the Sacramento City Council, as required by the Sacramento City Code.
- 2. Payment.** CITY shall pay CONTRACTOR for services rendered pursuant to this Agreement at the times and in the manner set forth in Exhibit B. The payments specified in Exhibit B shall be the only payments to be made to CONTRACTOR for the services rendered pursuant to this Agreement unless pursuant to Section 1, above, CITY approves additional compensation for additional services. CONTRACTOR shall submit all billings for said services to CITY in the manner specified in Exhibit B, or, if not specified in Exhibit B, according to the usual and customary procedures and practices that CONTRACTOR uses for billing clients similar to CITY.
- 3. Facilities and Equipment.** Except as set forth in Exhibit C, CONTRACTOR shall, at its sole cost and expense, furnish all facilities and equipment that may be required for furnishing services pursuant to this Agreement. CITY shall furnish to CONTRACTOR only the facilities and equipment listed in Exhibit C according to any terms and conditions set forth in Exhibit C.
- 4. General Provisions.** The General Provisions set forth in Exhibit D, that include indemnity and insurance requirements, are part of this Agreement. In the event of any conflict between the General Provisions and any terms or conditions of any document prepared or provided by CONTRACTOR and made a part of this Agreement, including without limitation any document

relating to the scope of services or payment therefor, the General Provisions shall control over said terms or conditions.

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

Executed as of the day and year first above stated.

CITY OF SACRAMENTO
A Municipal Corporation

By: _____
Print name: _____
Title: _____

For: 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:

NAME OF FIRM

Federal I.D. No.

State I.D. No.

City of Sacramento Business Op. Tax Cert. No.

TYPE OF BUSINESS ENTITY (*check one*):

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

Signature of Authorized Person

Print Name and Title

Additional Signature (*if required*)

Print Name and Title

**DECLARATION OF COMPLIANCE
Equal Benefits Ordinance**

Name of Contractor: _____

Address: _____

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

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

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

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

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

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

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

Signature of Authorized Representative

Date

Print Name

Title

EXHIBIT A

PROFESSIONAL SERVICES AGREEMENT FOR DESIGN PROFESSIONALS

SCOPE OF SERVICES

1. Representatives.

The CITY Representative for this Agreement is:

Elissa Callman, Senior Engineer
1395 35th Avenue Sacramento, CA 95822
916-808-1424/916-808-1497 fax/ecallman@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:

Bonny Starr, Principal Owner
20897 Victoria Lane Colfax, CA 95713
530-637-5090/530-637-5732 fax/bstarr@usamedia.tv

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

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

3. Conflict of Interest Requirements.

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

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

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

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

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

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

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

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

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

4. Scope of Services.

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

5. Time of Performance. The services described herein shall be provided during the period, or in accordance with the schedule, set forth in the scope of services.

**ATTACHMENT 1 to EXHIBIT A
SCOPE OF WORK FOR
AMERICAN RIVER WATERSHED SANITARY SURVEY 2013 UPDATE**

TASKS

This Scope of Work is for preparation of the American River Watershed Sanitary Survey 2013 Update. The following tasks will be performed by Contractor.

Task 1. Information Collection

Collect information and develop/input information into usable format to be incorporated into the watershed sanitary survey update report.

1A. Utility Information

Develop Utility Survey forms to obtain data from each of the participating water utilities. The objectives are to collect data from the period of interest (2008 –2012) as efficiently as possible by utilizing a survey form and data request package. The utilities will have a month to prepare the information. The survey form will collect various types of information including selected intake and treated water data (for constituents of interest including turbidity, coliforms, *Giardia*, *Cryptosporidium*, total organic carbon, alkalinity, trihalomethanes, and haloacetic acids), Consumer Confidence Reports (for evaluation of inorganic [including perchlorate] and volatile and synthetic organic chemicals), specialty monitoring programs for unregulated constituents (such as hexavalent chromium, NDMA, and 1,4-dioxane), description of water supply system and changes, identification of any treatability issues, source water spill notification efforts and records, and source water protection efforts related to previous recommendations. If a facility has had substantial change, then a site visit may be warranted. This scope assumes up to two site visits.

1B. Ambient Water Quality Data

Collect selected data for the constituents of interest from existing ambient monitoring programs for sites located in the American River watershed, from the confluence with the Sacramento River to the headwaters. Programs contacted will include the Sacramento Coordinated Monitoring Program, Sacramento Valley Water Quality Coalition and other Central Valley Regional Water Quality Control Board monitoring programs, and California Department of Water Resources.

1C. Contaminant Sources Information

Collect information on changes in watershed conditions and changes in regulation and management for selected contaminant sources. The study area will include the American River watershed identified in the previous watershed sanitary surveys, downstream to the confluence with the Sacramento River. The sources identified in the Request for Proposals are listed on the table below along with the key conditions or changes that will be investigated.

Potential Contaminating Activity	Watershed Conditions and/or Management Changes
Agriculture	<ul style="list-style-type: none"> - Placer/El Dorado County Agricultural Commissioner Annual Reports – Vineyards, Orchards - Regional Board Irrigated Lands Regulatory Program (ILRP) - To be included in report if significant findings
Forest Activities	<ul style="list-style-type: none"> - Update on federal/state timber harvesting permits and programs - Update on significant wildfires in watershed and fire management activities - Update on off-road vehicle management in Tahoe National Forest - Update on USFS Handbook Update and Coordination with State Water Resources Control Board
Recreation	<ul style="list-style-type: none"> - Cover both body contact and non-body contact activities (such as off-road vehicles, marinas, boating, fishing) - Role of management and operations
River Corridor	<ul style="list-style-type: none"> - Selected wildlife impacts (including Goose Mgmt at Lake Natoma) - Pet Waste Management - Illegal camping - Illegal dumping
Urban Runoff	<ul style="list-style-type: none"> - Phase I Sacramento Permit - Phase II Stormwater Permits for Auburn, Placerville
Wastewater Facilities	<ul style="list-style-type: none"> - Major modifications to upstream/local NPDES treatment plants and collection systems - Compliance status /discharge summary for significant facilities and systems - Review of California Integrated Water Quality System (CIWQS) for large spill events - Presence and status on selected septic systems (focused on Strawberry WTP)
Industrial Facilities	<ul style="list-style-type: none"> - Aerojet discharges to the American River (including those via Alder and Buffalo creeks)
Source Water Spills	<ul style="list-style-type: none"> - Develop summary on significant hazardous and non-hazardous spills - Update on Highway and Railroad Incidents - Update on Hazardous Materials Releases - Update on statewide/regional reporting and notification programs, identify opportunities for early notification - Status of spill notification and response procedures for utilities
Special Topics	<ul style="list-style-type: none"> - Growth - Watershed stewardship programs – Cosumnes, American, Bear and Yuba Rivers Program - Central Valley Regional Board Drinking Water Policy

1D. Future Considerations

In addition to the above specified potential contaminating activities, information will also be collected, evaluated, and summarized on several watershed-wide topics, including:

- i. Climate Change
- ii. Potential Changes in Reservoir Operations (Due to Climate Change or Delta Operations at small and large facilities)
- iii. Invasive Species (Quagga and Zebra mussels)

The assessments of these items will be brief in nature and will focus on summarizing the current status and understanding of these activities, the potential implication for impacting American River source water quality, and general impacts at the water treatment facilities.

1E. Updated Drinking Water Quality Regulations Summary

Develop an updated drinking water quality regulations summary, including existing, recent and expected upcoming federal and state regulations. This will include currently regulated constituents and constituents on the five year drinking water regulatory horizon from USEPA and DPH. This will be provided as an appendix to the final report and will serve as the compliance evaluation basis.

Task 2. Information Analysis

Identify trends, connect cause and effect (where possible), and describe major changes since the last update.

2A. Water Quality/Treatment Review

Identify source water quality occurrence characteristics (statistical evaluation), temporal (historical and seasonal) and geographic trends, relationships between source water quality and contaminant sources, and relationship of source water quality to treatability issues. The evaluation will include a comparison of recent data (2008 – 2012) to historic data (2003 – 2007) for turbidity, *E. coli*, total organic carbon/alkalinity, trihalomethanes, and haloacetic acids. An evaluation of detectable regulated and selected non-regulated inorganic and organic compounds (such as perchlorate, NDMA, 1,4-dioxane, and hexavalent chromium. Prepare evaluation and discussion of required level of treatment for *Giardia*, viruses, and *Cryptosporidium* based on source water quality. In keeping with current DPH recommendations, this evaluation will focus on actual protozoa data, if available, and supplemented by the levels of either fecal coliform or *E. coli*. Water treatment plant evaluations will be conducted for the following facilities:

- Placer County Water Agency (Foothill 1 WTP, Foothill 2 WTP)
- El Dorado Irrigation District (Strawberry WTP, Reservoir 1 WTP,
- El Dorado Hills WTP)
- San Juan Water District (Sidney N. Peterson WTP)
- City of Folsom (City of Folsom WTP)
- City of Roseville (City of Roseville WTP)
- Folsom State Prison (Folsom State Prison WTP)

- Golden State Water Company (Coloma WTP, Pyrites WTP)
- Carmichael Water District (Bajamont WTP)
- City of Sacramento (Fairbairn WTP)

(Brief note will be included to state that the Freeport Regional Water Authority (FRWA) Intake and its associated facilities are evaluated in the Sacramento River Watershed Sanitary Survey)

An evaluation of the impact of the Temperature Control Device at Folsom Lake will be included to compare recent disinfection by-product levels (2008 – 2012) to historic levels (2003 – 2007), with consideration for temperature and organic carbon levels.

2B. Watershed Review

The use of previously defined protection zones will be implemented to focus data evaluation on the areas in closest proximity to the existing water treatment plants, where there is the least ability to attenuate contaminants prior to diversion and treatment. Describe current watershed conditions and management activities, discuss implementation and effectiveness of utility source water protection efforts, and discuss significance of changes in watershed conditions and other management efforts. Population growth in the watershed will be presented and its potential impact on the various contaminating activities will be discussed.

If any activities are determined to have changed significantly since the 2008 Update then the data will be looked at consecutively between the two study periods to be sure that the analysis is comprehensive.

Task 3. Evaluation and Recommendations

3A. Evaluation

Outline overall findings as they relate to the following topics:

- Water quality data trends from the monitoring data
- Relationships between contaminant sources and water quality
- Treatability issues
- Drinking water regulatory compliance
- Significant watershed changes
- Current utility source water protection efforts related to previous recommendations
- Future issues and opportunities
- Outline individual water treatment plant findings related to specific issues and actions (monitoring, operations, etc.) needed for regulatory compliance.

3B. Source Water Protection Recommendations

Review the 2008 Update Recommendations and evaluate their current relevance, including water utilities' participation in local watershed groups. Develop recommendations that are practical, implementable within the resources of the utilities, and leverage utility action as stakeholders in other existing efforts.

Task 4. Report

4A. Annotated Outline

Develop an annotated outline, including up to two revisions.

4B. Draft Report

Develop a draft report that reflects consultant work described herein as well as the utility input from discussions at Technical Committee meetings. Twelve hard and electronic copies will be provided. This may require development of minor modifications to the 2008 Update Watershed Map or new graphics to display changes in watershed conditions. The City will coordinate all comments from the water utilities and provide a consolidated set of comments.

4C. Revised Draft Sections

After comments are reviewed, revised draft sections of the report may be required for client review to ensure that comments have been addressed successfully.

4D. Final Proof Copy

Develop a final proof copy of the report, including all comments received on the draft and any changes in the revised draft sections. One copy will be provided to the City, with additional sections as requested for other participating water utilities.

4E. Final Report

Develop a final report that reflects utility review comments on draft report and all revisions on the revised draft and final proof copies. Twenty-eight hardcopies and fourteen CDs of the report shall be provided to the client.

Task 5. Project Management

5A. Project Management

Controlling quality of the work, budget and schedule, prepare agenda for and lead meetings, prepare meeting summaries and action items, and insure good communication between the project team and the client project manager and Technical Committee. Develop a monthly work progress report to accompany invoices.

5B. Meetings

Meetings to discuss the work in progress at key points and to advise the participating water utilities' group and solicit input:

- Technical Committee – Project kickoff and data request
- Technical Committee - Presentation and discussion of information review

- Technical Committee - Presentation of evaluation and source water protection recommendations
- Technical Committee - Presentation of draft report
- Technical Committee - Presentation of final report
- Department of Public Health – Presentation of final report

Deliverables

- Meeting materials/agendas prior to each meeting. Meeting materials will include outlines, graphs, etc. of the work in progress, as needed to facilitate the meeting discussion. Meeting summaries and action items following each meeting.
- Hardcopy and electronic copies of draft report (12)
- Hardcopy (28) and electronic copies (14) of final report
- Electronic copies of utility water quality data collected for 2008 and 2013 Watershed Sanitary Surveys
- PowerPoint presentation to the agencies and Department of Public Health

Task 6. Contingency

The budget will include a contingency to cover potential out of scope items, such as addressing comments from the Department of Public Health or creating an addendum. Funds for this task would only be utilized upon written authorization of the City's contract manager.

Task 7. City of Sacramento Tasks Only

Provide assistance to the City on tasks related to the American River Watershed Sanitary Survey 20013 Update. This will include tasks such as assistance with utility information collection, two additional hardcopy draft report, eight additional hardcopy final reports and eight additional electronic final reports, operator presentation/training, and other tasks authorized by the City Project Manager, as budget allows.

Task 8. Placer County Water Agency Task Only

Provide a presentation to the Placer County Water Agency Board of Directors on the final report.

SCHEDULE

The period during which the consultant services described herein will be performed will extend from approximately December 2012 through approximately June 2014. The report will be delivered to the Department of Public Health in December 2013. Additional time is required after that date to conduct presentations and provide assistance with possible response/follow-up with the Department of Public Health.

SPECIAL REQUIREMENTS

- Contractor shall provide the City with electronic copies of all work products and data files.

- Contractor shall not make public information releases or otherwise publish/release any information obtained or produced by it as a result of, or in connection with, the performance of services under this Scope of Work without the prior written authorization from City's contract manager.

KEY PERSONNEL

Bonny Starr will represent Starr Consulting, Leslie Palencia will represent Palencia Consulting Engineers, and Robert Talavera will represent Talavera & Richardson. Bonny and Leslie are sole proprietors, as well as principal engineers, of their respective firms. Robert is a partner, as well as principal engineer, of his firm. Bonny will serve as the Project Manager and will lead a majority of the projects outlined in this scope and assigned by City staff. Leslie will serve as a technical specialist and will support and lead projects as decided by City staff and Bonny. Leslie will also be available to support City staff in the event of unavailability of Bonny. Robert will serve as the mapping and graphics specialist. All consulting firms can be available to advise and support other projects related to the American River Watershed Sanitary Survey 2013 Update. No work is planned to be subcontracted to other entities. If any services need to be subcontracted to specific entities, prior approval of the City's contract manager will be obtained.

EXHIBIT B

PROFESSIONAL SERVICES AGREEMENT FOR DESIGN PROFESSIONALS

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 \$113,860.
2. **Billable Rates.** CONTRACTOR shall be paid for the performance of Services on an hourly rate, daily rate, flat fee, lump sum or other basis, as set forth in Attachment 1 to Exhibit B, attached hereto and incorporated herein.
3. **CONTRACTOR's Reimbursable Expenses.** Reimbursable Expenses shall be limited to actual expenditures of CONTRACTOR for expenses that are necessary for the proper completion of the Services and shall only be payable if specifically authorized in advance by CITY.
4. **Payments to CONTRACTOR.**
 - A. Payments to CONTRACTOR shall be made within a reasonable time after receipt of CONTRACTOR's invoice, said payments to be made in proportion to services performed or as otherwise specified in Attachment 1 to Exhibit B. CONTRACTOR may request payment on a monthly basis. CONTRACTOR shall be responsible for the cost of supplying all documentation necessary to verify the monthly billings to the satisfaction of CITY.
 - B. All invoices submitted by CONTRACTOR shall contain the following information:
 - (1) Job Name
 - (2) Description of services billed under this invoice, and overall status of project
 - (3) Date of Invoice Issuance
 - (4) Sequential Invoice Number
 - (5) CITY's Purchase Order Number
 - (6) Total Contract Amount
 - (7) Amount of this Invoice (Itemize all Reimbursable Expenses)
 - (8) Total Billed to Date
 - (9) Total Remaining on Contract
 - (10) Updated project schedule. This shall identify those steps that shall be taken to bring the project back on schedule if it is behind schedule.
 - C. Items shall be separated into Services and Reimbursable Expenses. Billings that do not conform to the format outlined above shall be returned to CONTRACTOR for correction. CITY shall not be responsible for delays in payment to CONTRACTOR resulting from CONTRACTOR's failure to comply with the invoice format described below.

D. Requests for payment shall be sent to:

City of Sacramento Department of Utilities
1395 35th Avenue Sacramento, CA 95822
916-808-1424/916-808-1497 fax
Attn: Elissa Callman

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

BUDGET - AMERICAN RIVER WATERSHED SANITARY SURVEY 2013 UPDATE

	Starr Consulting	Palencia Consulting Engineers	Talavera & Richardson *	ODCs	TOTAL
	Starr	Palencia	Talavera		
Task 1. Information Collection					
1A. Agency Information	18	6			\$ 3,240
1B. Ambient Water Quality Data	2	52			\$ 7,290
1C. Contaminant Sources Information	120				\$ 16,200
1D. Future Considerations - OPTIONAL					
i. Climate Change	2	8			\$ 1,350
ii. Potential Changes in Reservoir Operations	2	8			\$ 1,350
iii. Invasive Species	2	12			\$ 1,890
1E. Updated Drinking Water Regulations Summary	8	2			\$ 1,350
Task 2. Information Analysis					
2A. Water Quality/Treatment Review	12	120			\$ 17,820
2B. Watershed Review	40				\$ 5,400
Task 3. Evaluation and Recommendations					
3A. Evaluation	24	24			\$ 6,480
3B. Source Water Protection Recommendations	8	8			\$ 2,160
Task 4. Report					
4A. Annotated Outline	4	2			\$ 810
4B. Draft Report	64	40	16	\$ 960	\$ 17,160
4C. Revised Draft Sections	16	8		\$ 100	\$ 3,340
4D. Final Proof Copy	16	8		\$ 100	\$ 3,340
4E. Final Report	4	2		\$ 2,250	\$ 3,060
Task 5. Project Management					
5A. Project Management	26	16			\$ 5,670
5B. Technical Committee Meetings	30	24		\$ 850	\$ 8,140
Task 6. Contingency					\$ 5,000
SUBTOTAL FOR ARWSSU 2013 Update					\$ 111,050
Task 7. City of Sacramento Tasks Only	12			\$ 650	\$ 2,270
Task 8. PCWA Tasks Only	4				\$ 540
TOTAL HOURS	414	340	16		
HOURLY RATE	\$ 135	\$ 135	\$ 135		
TOTAL	\$ 55,890	\$ 45,900	\$ 2,160	\$ 4,910	\$ 113,860

* GIS support is shown in case needed for update of the 2008 watershed map or new graphics. Contractor will confirm with the City's Representative before utilizing these hours.

Other direct charges (ODCs), such as extensive copying, shipping, or travel out of the Sacramento Metropolitan area would be billed out to the City at their actual costs, with no markup. Travel outside of the Sacramento Metropolitan area would be charged at the prevailing IRS rates at the time of billing. As of January 1, 2012, the IRS rate was set at \$0.555 per mile. In the following years, the mileage rate will be updated to the new IRS rate, if any.

The City Representative can approve reallocations of the above budget amounts from one task to another, provided that the not-to-exceed amount specified in Exhibit B is not exceeded.

EXHIBIT D

PROFESSIONAL SERVICES AGREEMENT FOR DESIGN PROFESSIONALS

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

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

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

9. Term; Suspension; Termination.

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

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

10. Indemnity.

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

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

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

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

A. Minimum Scope & Limits of Insurance Coverage

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

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

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

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

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

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

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

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

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

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

B. Additional Insured Coverage

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

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

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

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

C. Other Insurance Provisions

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

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

D. Acceptability of Insurance

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

E. Verification of Coverage

- (1) CONTRACTOR shall furnish CITY with certificates and required endorsements evidencing the insurance required. The certificates and endorsements shall be forwarded to the CITY representative named in Exhibit A. Copies of policies shall be delivered to the CITY on demand. Certificates of insurance shall be signed by an authorized representative of the insurance carrier.
- (2) The CITY may withdraw its offer of contract or cancel this Agreement if the certificates of insurance and endorsements required have not been provided

prior to execution of this Agreement. The CITY may withhold payments to CONTRACTOR and/or cancel the Agreement if the insurance is canceled or CONTRACTOR otherwise ceases to be insured as required herein.

F. Subcontractors

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

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

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

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

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

13. **Entire Agreement.** This document, including all Exhibits, contains the entire agreement between the parties and supersedes whatever oral or written understanding they may have had prior to the execution of this Agreement. No alteration to the terms of this Agreement shall be valid unless approved in writing by CONTRACTOR, and by CITY, in accordance with applicable provisions of the Sacramento City Code.

14. **Severability.** If any portion of this Agreement or the application thereof to any person or circumstance shall be held invalid or unenforceable, the remainder of this Agreement shall not be affected thereby and shall be enforced to the greatest extent permitted by law.

15. **Waiver.** Neither CITY acceptance of, or payment for, any Service or Additional Service performed by CONTRACTOR, nor any waiver by either party of any default, breach or condition precedent, shall be construed as a waiver of any provision of this Agreement, nor as a waiver of any other default, breach or condition precedent or any other right hereunder.

16. **Enforcement of Agreement.** This Agreement shall be governed, construed and enforced in accordance with the laws of the State of California. Venue of any litigation arising out of or connected with this Agreement shall lie exclusively in the state trial court or Federal District Court located in Sacramento County in the State of California, and the parties consent to jurisdiction over their persons and over the subject matter of any such litigation in such courts, and consent to service of process issued by such courts.

17. **Assignment Prohibited.** The expertise and experience of CONTRACTOR are material considerations for this Agreement. CITY has a strong interest in the qualifications and capability of the persons and entities 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, 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
- Disability, life and other types of insurance
- Family medical leave
- Health benefits
- Membership or membership discounts
- Moving expenses
- Pension and retirement benefits
- Vacation
- Travel benefits
- Any other benefits given to employees

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

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

You May . . .

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

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

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

Attachment B



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

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

The included employee benefits are:

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

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

You May . . .

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

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

Discrimination and Retaliation Prohibited.

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

You May Also . . .

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