



**City of Sacramento
City Council**

5

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

Meeting Date: 12/11/2012

Report Type: Consent

Title: Agreements: Design Services for Tahoe Park and Little Pocket Water Main Replacement Project and Land Park Water Main Replacement Project Phase 1

Report ID: 2012-00910

Location: District 4 and District 6

Recommendation: Pass a Motion authorizing the City Manager or the City Manager's designee to: 1) execute a Professional Services Agreement with Peterson Brustad, Inc. for the design of the Tahoe Park and Little Pocket Water Main Replacement Project (Z14010065), in an amount not-to-exceed \$468,450.00; and 2) execute a Professional Services Agreement with West Yost Associates for the design of the Land Park Water Main Replacement Project - Phase 1 (Z14010063), in an amount not-to-exceed \$561,965.00.

Contact: Dan Sherry, Supervising Engineer, (916) 808-1419; Michelle Carrey, Senior Engineer, (916) 808-1438 - Department of Utilities

Presenter: None

Department: Department Of Utilities

Division: Cip Engineering

Dept ID: 14001321

Attachments:

- 1-Description/Analysis
- 2-Background
- 3-Location Map - Tahoe Park and Little Pocket Water Main Replacement Project
- 4-Location Map - Land Park Water Main Replacement Project Phase 1
- 5-Agreement - Design Services for Tahoe Park and Little Pocket Water Main Replacement Project
- 6-Agreement - Design Services for Land Park Water Main Replacement Phase 1

City Attorney Review

Approved as to Form
Joe Robinson
12/5/2012; 9:59:39 AM

City Treasurer Review

Reviewed for Impact on Cash and Debt
Russell Fehr
11/26/2012 10:19:24 AM

Approvals/Acknowledgements

Department Director or Designee: Dave Brent - 12/3/2012 10:43:35 AM

Description/Analysis:

Issues: The Tahoe Park and Little Pocket Water Main Replacement Project, and the Land Park Water Main Replacement Project – Phase 1, will replace existing water distribution mains within the project areas that are located in backyards, have exceeded their useful life, and are deteriorating and in need of frequent repair. These projects will replace approximately 100,000 lineal feet of water distribution mains, install individual water services and approximately 2400 water meters, and provide new fire hydrants.

A Request for Qualifications was issued for these services and fourteen firms submitted Statements of Qualifications. Peterson Brustad, Inc. and West Yost Associates have been selected as the two firms most qualified to provide engineering design services for these two projects. Peterson Brustad, Inc. will provide design services for the Tahoe Park and Little Pocket Water Main Replacement Project. West Yost Associates will provide services for the Land Park Water Main Replacement Project – Phase 1.

Policy Considerations: This report's recommendations are consistent with the City's Strategic Plan Goals of enhancing and preserving the neighborhoods and supporting the economic vitality of the area.

This action advances the City's obligation to meet the requirements of Assembly Bill 2572 and City Ordinance 2005-090, which require the installation of water meters on all service connections by the year 2025.

Committee/Commission Action: N/A.

Environmental Considerations:

California Environmental Quality Act (CEQA): The Community Development Department, Environmental Planning Services Division has reviewed the projects and has determined that approving contracts for firms to design the water main replacements and meter retrofits are exempt from CEQA under Section 15061(b)(3) of the CEQA Guidelines. This activity is covered by the general rule that CEQA applies only to projects which have the potential for causing a significant effect on the environment. Where it can be shown with certainty that there is no possibility that the activity in question may have a significant effect on the environment, the activity is not subject to CEQA. The water main replacements and meter retrofits will be evaluated for CEQA compliance after design.

Sustainability Considerations: These projects have been reviewed for consistency with the goals, policies, and targets of the Sustainability Master Plan and the 2030 General Plan. The projects will advance these goals, policies, and targets by ensuring that the City continues to provide an adequate and safe water supply to its customers.

Rationale for Recommendation: Approval of the Professional Services Agreements with Peterson Brustad, Inc. and West Yost Associates will allow the City to proceed with the design for replacing the deteriorating water mains, installing individual water services and water meters, and improving fire protection, thereby enhancing the City’s ability to provide a safe and reliable water supply to City customers today and into the future.

Financial Considerations: The total amount of these two agreements will not exceed \$1,030,415. This cost will be shared among the Land Park Water Main Replacement Project – Phase 1 (Z14010063), and the Tahoe Park and Little Pocket Water Main Replacement Project (Z14010065). The not-to-exceed amount of each agreement is as follows:

Contract	Amount
West Yost Associates	\$561,965
Peterson Brustad, Inc.	\$468,450
Total	\$1,030,415

There are sufficient funds in Z14010063 and Z14010065 to approve the agreements.

Emerging Small Business Development (ESBD): Peterson Brustad, Inc. is certified as a SBE. West Yost Associates is not an ESBE firm.

Background

On September 24, 2004, Governor Arnold Schwarzenegger signed Assembly Bill 2572 into law. The law set a deadline of 100% metering of all residential and commercial accounts by 2025.

On May 24, 2005, the City Council adopted Resolution 2005-347, directing that water meters be installed according to a plan developed using the following implementation criteria: 1) spreading meter installation projects throughout the City, 2) coordinating water meter installation with the replacement of old water mains at the end of their useful life, and 3) continuing to add new meter installation projects that are adjacent to completed projects.

The projects described in this report are necessary to meet the requirements of the Assembly Bill by installing water meters at residential and commercial properties within the City of Sacramento, in coordination with replacement of the old water mains serving the project areas. The projects are part of the five year plan developed in 2011 by the Department of Utilities based on the implementation guidelines approved by Council.

The design of the Tahoe Park and Little Pocket Water Main Replacement Project, and the Land Park Water Main Replacement Project – Phase 1, will be performed by two engineering design firms specializing in this discipline. A Request for Qualifications was issued for these services and fourteen firms submitted Statements of Qualifications. Peterson Brustad, Inc., and West Yost Associates, have been selected as the two firms most qualified to provide engineering design services for these two areas.

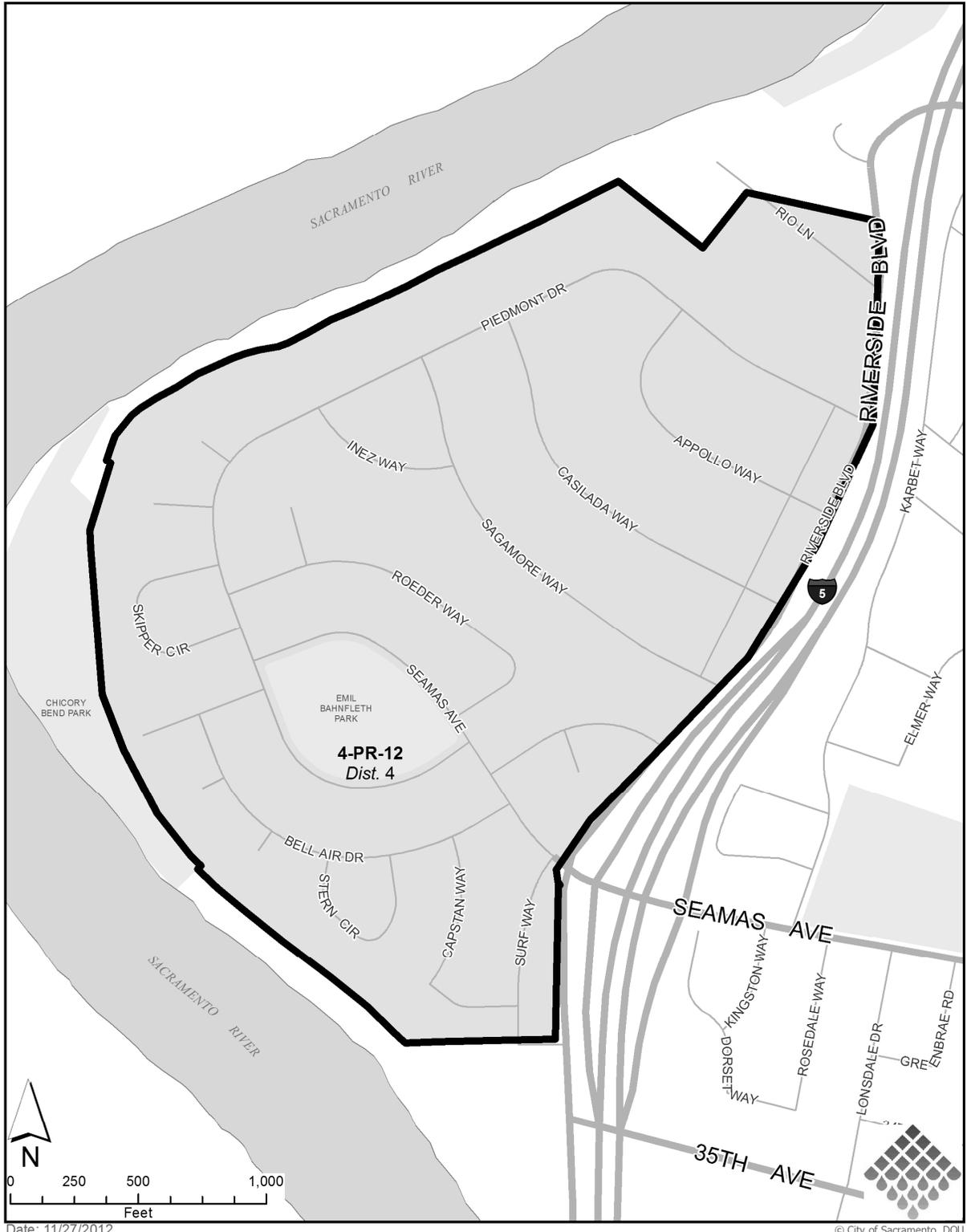
A scope of work for the design of the Tahoe Park and Little Pocket Water Main Replacement Project has been negotiated with Peterson Brustad, Inc., for an amount not to exceed \$468,450. A scope of work for the design of the Land Park Water Main Replacement Project – Phase 1, has been negotiated with West Yost Associates, for an amount not to exceed \$561,965.

The scope of work will include the following major tasks:

- Task 1–Project Management
- Task 2–Surveying and Mapping
- Task 3–Preliminary Design
- Task 4–Prepare 60% Design Level Plans, Specifications & Estimate (PS&E)
- Task 5–Prepare 90/100% Design Level PS&E
- Task 6–Coordination with Property Owners

(Map 2 of 2)

Little Pocket Water Main Replacement Project



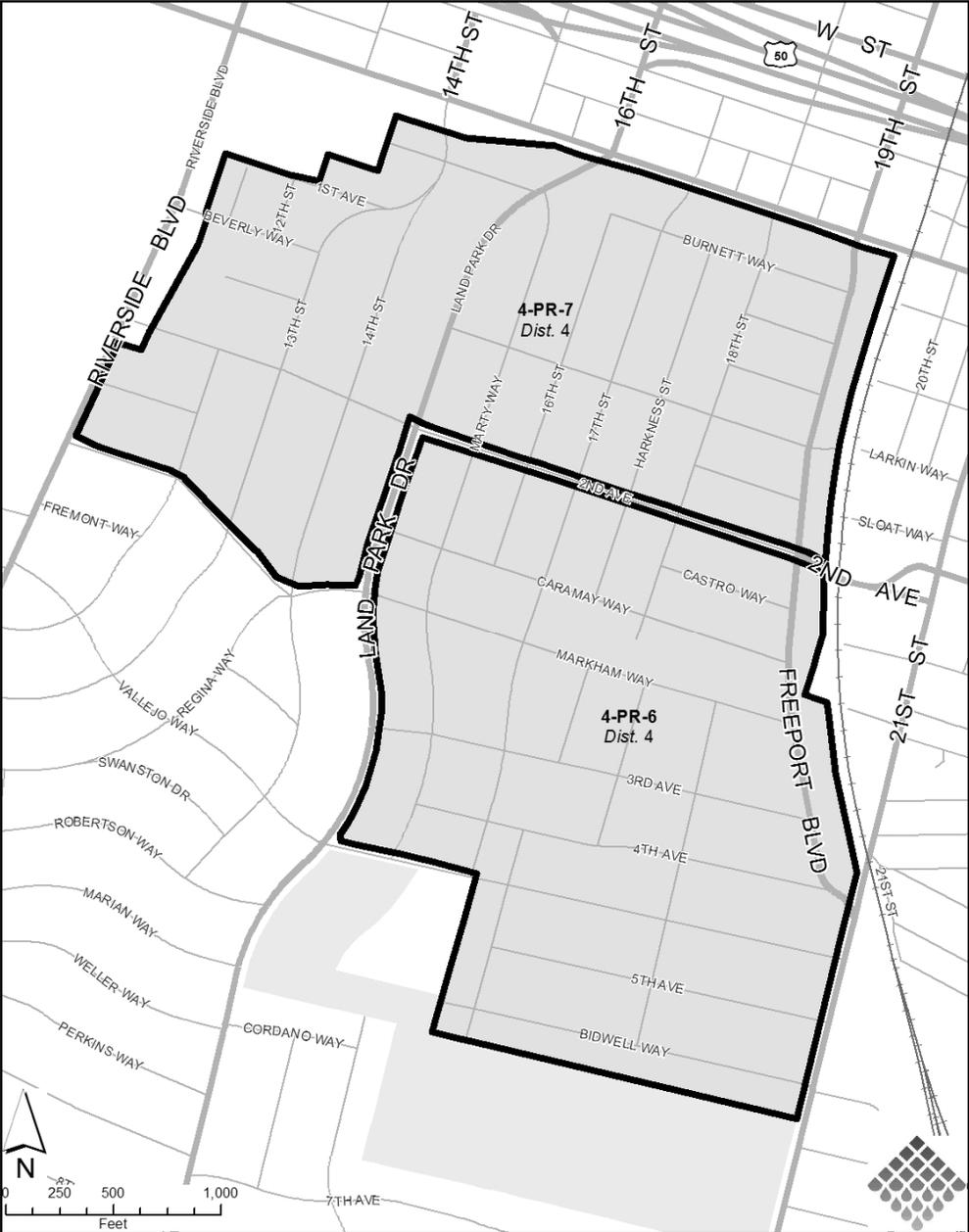
Date: 11/27/2012

© City of Sacramento, DOU

Location Map

Land Park Water Main Replacement Project-Phase 1

Land Park Water Main Rpl Ph1





PROJECT #: Z14010065
PROJECT NAME: Tahoe Park and South Land Park Water Main Replacement Project
DEPARTMENT: UTILITIES
DIVISION: ENGINEERING SERVICES
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

Peterson.Brustad Inc.
1180 Iron Point Rd. Suite 260
Folsom, CA 95630
916-608-2212 Fax: 916-608-2232

(“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.

- 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:

Peter.Brustad Inc.
NAME OF FIRM

20-331-0005
Federal I.D. No.

257-6334-3
State I.D. No.

1012482
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

Karl Brustad, PE, MBA, Principal
Print Name and Title

Additional Signature (*if required*)

Print Name and Title

**DECLARATION OF COMPLIANCE
Equal Benefits Ordinance**

Name of Contractor: Peter.Brustad Inc.

Address: 1180 Iron Point Rd, Suite 260, Folsom CA 95630

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

Karl Brustad, PE, MBA
Print Name

Principal
Title

EXHIBIT A

PROFESSIONAL SERVICES AGREEMENT FOR DESIGN PROFESSIONALS

SCOPE OF SERVICES

1. Representatives.

The CITY Representative for this Agreement is:

*Jesus Reyes, Assistant Engineer
1395 35th Avenue
Sacramento, CA 95822
916-808-1721/Fax: 916-808-1497
E-mail: jreyes@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:

*Karl Brustad, PE
1180 Iron Point Rd, Suite 260
Folsom, CA
916-608-2212
E-mail: kbrustad@pbieng.com*

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

2. Professional Liability Insurance. Professional Liability (Errors and Omissions) insurance is X is not ___ [*check one*] required for this Agreement. If required, such coverage must be continued for at least 3 year(s) following the completion of all Services and Additional Services under this Agreement. (See Exhibit D, Section 11, for complete insurance requirements.)

3. Conflict of Interest Requirements.

A. **Generally.** Under the California Political Reform Act, Government Code §§ 81000 et seq., designated employees of the CITY are required to comply with the CITY's Conflict of Interest Code. The term "designated employees" is a term of art and includes individuals who are working for contractors who are providing services or performing work for the CITY and who are considered to be "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 X 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 SERVICES

CITY OF SACRAMENTO TAHOE PARK AND SOUTH LAND PARK WATER MAIN REPLACEMENT PROJECT

OVERVIEW

The project consists of two separate project areas; Project Area A (6-PR-8)-Tahoe Park and Project Area B (4-PR-12)-South Land Park. The project areas are identified in figures 1 & 2. Project Area A includes approximately 392 water service connections and Project Area B includes approximately 600 water service connections. The projects combined include approximately 50,000 linear feet of new water mains and 992 water service connections.

The scope of work includes items included in the anticipated scope of work provided by the City of Sacramento (City) supplemented with additional task items as appropriate.

The tasks and subtasks correspond to those shown in the project schedule and fee estimate.

Our scope of work is detailed herein and is broken into four main tasks: Project Management, Preliminary Design, Design, and Permitting.

Task 1 - Project Management

This task includes general management of the project from initial kick-off through design:

1.1 General Project Management

- Karl Brustad, project manager, will prepare and continuously review the project schedule and budget – if any deviations are identified Karl will immediately notify the City and develop a corrective action plan to get the project back on schedule and within budget
- Communication with City staff – Karl Brustad will act as the primary point of contact and will facilitate weekly conference calls with the City's Project Manager
- Written and timely requests for information

1.2 Quality Assurance/Control – This task includes all quality assurance/control activities throughout the project design. All deliverables will be reviewed by Karl Brustad and Joe Domenichelli prior to delivery to the City. Cross quality control will be provided for this project such that design documents prepared by PBI will be reviewed by Joe Domenichelli and those prepared by D&A will be reviewed by Karl Brustad.

1.3 Project Meetings – Project meetings with City staff and other entities as determined necessary during the design process. PBI will coordinate the meetings, issue meeting notices and invite attendees, develop meeting agenda and meeting minutes. This task includes up to 4

project meetings and includes the following: Kick-off meeting, Preliminary Design Review Meeting, 60% Client Forum Review Meeting, and 90% Client Forum Review Meeting.

1.4 Monthly Invoices and Progress Reports – This task includes the development of monthly invoices that will be accompanied with monthly progress reports. The monthly invoices will detail hours by staff and include all expenses including subconsultant invoices. The monthly progress reports will summarize the services provided during the month, identify any outstanding issues, include monthly cost by task and identify the remaining budget.

1.5 Project Schedule – This task includes the development of a baseline project schedule. The project progress will be monitored and the actual schedule updated for comparison to the baseline schedule along with the monthly progress reports.

Task 1 Deliverables: Meeting agendas and minutes (transmitted electronically), monthly invoices and monthly progress reports. Baseline Project Schedule, monthly project progress schedule updates.

Task 1 Assumptions:

- Design to be completed within 9 months of NTP
- Includes up to 4 project meetings

Task 2 – Preliminary Design

This task includes preliminary design tasks to coordinate and support the project design:

2.1 Review of available information – This task includes reviewing all existing utility information provided by the City as included with the RFQ along with any additional information identified and or provided by the City.

2.2 Right-of-Way Requirements – Identify right-of-way requirements anticipated for the proposed improvements and provide City with figures to support their efforts to acquire easements.

2.3 Surveying

Subtask 2.3.1 - Aerial Base Mapping:

Provide all field and office work to establish control, obtain stereo photography and create photogrammetric mapping of the entire area within the 2 project areas. The photogrammetric mapping shall be at a scale of 1"=40 feet complete with 1 foot contours. All mapping will be based on the horizontal datum of NAD 83, current epoch, California State Plane Coordinate System, Zone 2. The vertical datum shall be NGVD29 based on the nearest published County, City or NGS benchmarks. The deliverable for this task will be a an AutoCAD digital file with the photogrammetric mapping showing all visible planimetry and 1 foot contours along with the Digital Terrain Model (DTM) in XML format and to City of Sacramento CAD

standards for layering, font and symbology. In addition a fully rectified color digital aerial ortho-photo image, at a pixel resolution of 0.25 ft., of the 2 sites will be provided in TIFF format. The work and deliverables under this task will be the basis, background and base mapping onto which all future design and boundary surveys can be accurately overlaid. The coverage area for the aerial mapping and imagery shall include all the bounding streets within the 2 project areas.

Subtask 2.3.2 - Design Topographic Field Surveys:

Provide field and office work for design level topographic mapping to augment the base mapping. The field survey design mapping limits shall include the entire right of way of the streets and roadways within the 2 project areas. Provide field survey that shall include the following:

- Location of right-of-way/property lines
- Face of curb/back of curb/lip of gutter
- Existing USA markings within the roadways
- Sewer MH rim elevation & inverts and pipe sizes within the roadways – excludes manholes in high/dangerous traffic areas
- Storm MH and catch basin rim, inverts and pipe sizes within the roadways
- Include USA markings from potholing. Provide as AutoCAD drawing layer identified as “USA Markings” suitable to overlay onto the base mapping.
- Water valve covers & top of nut elevations within the roadways
- Above ground utilities not visible in the aerial photography such as:
 - Overhead utilities & power poles
 - Electrical transformers, streetlights, pull boxes
 - Traffic signal cabinets, pullboxes, traffic loops
 - Street signs and street furniture
 - Traffic Striping

Process the field survey data and incorporate the data as separate appropriate layers suitable for overlay onto the aerial mapping from Task 2.3.1 above. The DTM will be adjusted, if necessary, from the more accurate field data and incorporated into the Task 2.3.1 base mapping. Deliverables shall be all field data files and notes and AutoCAD files of the processed data in their appropriate layers in both digital and hardcopy formats.

2.4 Potholing

Provide utility potholing services to locate critical utility conflicts. Potholing services to be provided on a daily work effort basis. It is assumed that a minimum of four utilities can be located per day. This task assumes that up to three days of potholing services will be provided. Potholing activities include; call in USA ticket, core drill 8” hole in asphalt, vacuum excavate and positively identify each requested utility, record findings, dispose of excavated material, and restoration of all surfaces to like or better conditions.

2.5 Prepare Base Map Drawings

Prepare project base map drawings based on the City's drafting standards. Plans will locate major pipeline elements (i.e. valves, fire hydrants, connections to existing mains, etc.) and include existing utility information received from responses to the City's Utility "A" letter.

2.6 Preliminary Design

The preliminary design will include a schematic design of the proposed water mains, including size, proposed alignments, and proposed connection points. The schematic design will be utilized by the City in their hydraulic model to confirm sizing. The preliminary design will also include design criteria, proposed drawing list, typical standard details from comparable projects, City standard details to be used, drafting standards, and construction cost estimate.

Task 2 Deliverables: Parcel descriptions (as required), draft Preliminary Design, and Final Preliminary Design

Task 2 Assumptions:

- Aerial base mapping to be provided for the entire project area
- Design topographic field surveys, Subtask 2.3.2, includes the cost to perform field surveys for all of the roadways within the project area.
- Up to 3 full days of potholing services will be provided for the Project
- City to perform hydraulic modeling to confirm pipeline sizing
- Legal descriptions for right-of-way not included

Task 3 – Design Services

This task includes the development of comprehensive plans, specifications and cost estimates for the construction of the proposed improvements. The design documents will identify phasing requirements for the construction. It is anticipated that the project area will be divided into smaller areas for construction, such that the work will be completed in each sub-area including asphalt repair prior to beginning work in additional areas.

3.1 Utility Coordination

Subtask 3.1.1 - Contact utilities to request "as-built" information in advance of preparing the Utility "B" letters. Prepare and send Utility "B" letters to utilities responding to the City's Utility "A" letter request. Letters to include updated base maps (60% design plans), project construction schedule, and all planned utility relocations.

Subtask 3.1.2 - Prepare and send Utility "C" letters to utilities responding to the City's Utility "A" letter request. Letters to include updated base maps (final design plans), project bidding and construction schedule, and any changes to planned utility relocations.

3.2 Site Service Surveys

A plot plan (8-1/2" x 11") for each property will be provided. A binder containing all of the plot plans will be assembled for the project. We propose using our staff to make door to door contact with residents to go over the plot plan/questionnaire to fill out the information including obtaining a signature from the homeowner for concurrence. We will make three attempts to contact each property before the property is considered nonresponsive. A door hanger will be left for each failed attempt, with the opportunity to setup an appointment. Photographs of each site will also be provided. Final plot plans will identify meter location, service alignment and location for reconnection. Sufficient detail will be provided on the survey sheets to allow the contractor to develop costs for the project. This task includes a meeting with City staff to discuss public outreach approach and methods prior to contacting individual homeowners. City staff may accompany PBI during the first two days of homeowner outreach efforts.

3.3 60% Design Submittal – The 60% submittal will include the following:

- Potholing information
- Plans – including cover sheet with drawing index and vicinity map, overall site plan and sheet index, pipeline site plans, horizontal and vertical control, and standard details
- Specifications – consisting of draft Special Provisions for use with the City’s Standard Specifications for Public Construction
- Engineer's cost estimate

3.4 90% Design Submittal – The 90% submittal will include the following:

- Responses to comments regarding 60% submittal
- Plans – all required plans
- Specifications – all required Special Provisions modifications
- Engineer's cost estimate – including quantity takeoffs for bid schedule

3.5 100% Design Submittal – The 100% submittal will include the following:

- Responses to comments regarding 90% submittal
- Plans – all required plans, signed and stamped
- Specifications – all required Special Provisions with signed and stamped cover
- Engineer's cost estimate and quantity takeoffs – updated as necessary per comment on the 90% submittal

Task 3 Deliverables: *Interim design submittals (60%, and 90%), shall be submitted in hard copy; three (3) copies each, plans provided in full-size. Final documents shall be provided in reproducible hard copy format, plans in full-size and half-size with original signatures, and digital format.*

Task 3 Assumptions:

- City to prepare and send Utility “A” letters
- City to provide mailing list of homeowners
- City to provide utility contact list

- Three attempts will be made to contact each homeowner for field site service surveys
- Assume approximately 15% of the homeowners will not respond with 3 attempts – for these homes, the engineer will recommend the locations for the meter and service reconnection
- Completed site service surveys will be incorporated into the Contract Documents – 1 page per service
- Site service survey field work will be initiated during the development of the 60% design documents
- Up to 992 site service surveys will be provided; 392 for 6-PR-8 and 600 for 4-PR-12
- Design plans to be provided in accordance with the list of drawings included herein

List of Drawings

No.	Sheet No.	Drawing Description
General		
1	G1	Title Sheet and Vicinity Map
2	G2	Sheet List, Abbreviations and Symbol Legend
3	G3	Survey Control Map
Civil		
4	C1	Project Area A, Site Plan and Key Map
5	C2	Project Area B, Site Plan and Key Map
6	C3	Meter Schedule I, Project Area A
7	C4	Meter Schedule II, Project Area A
8	C5	Meter Schedule III, Project Area B
9	C6	Meter Schedule IV, Project Area B
10	C7	Meter Schedule V, Project Area B
11-18	C10x	Project Area A Plans (typ of 8)
19-35	C20x	Project Area B Plans (typ of 17)
36	C301	Project Details I
37	C302	Project Details II
38	C303	Standard Details I
39	C304	Standard Details II

FIGURE 1
Project Area A (6-PR-8)-Tahoe Park

LOCATION MAP
Tahoe Park Water Main Replacement Project

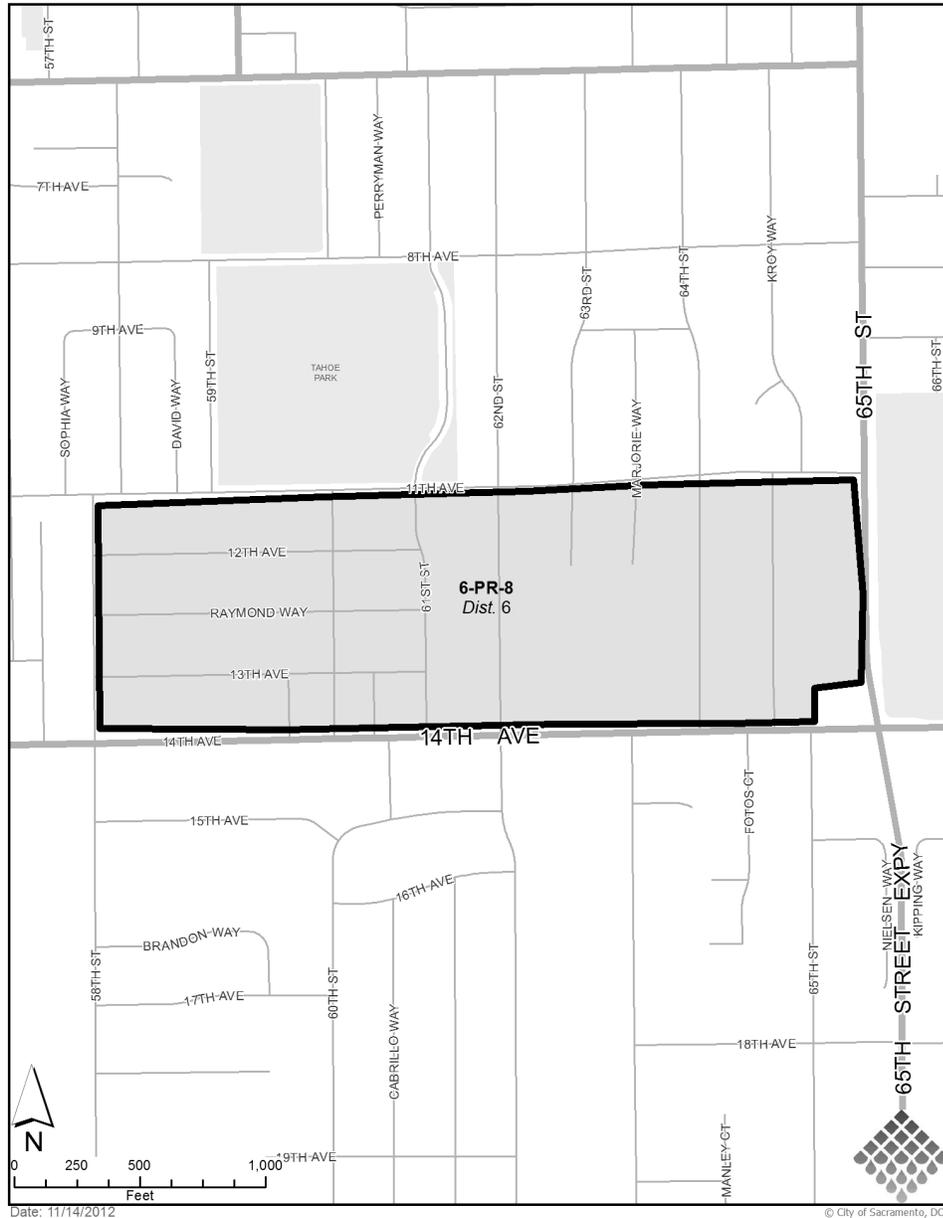


FIGURE 2
Project Area B (4-PR-12)-South Land Park

LOCATION MAP
South Land Park Water Main Replacement Project

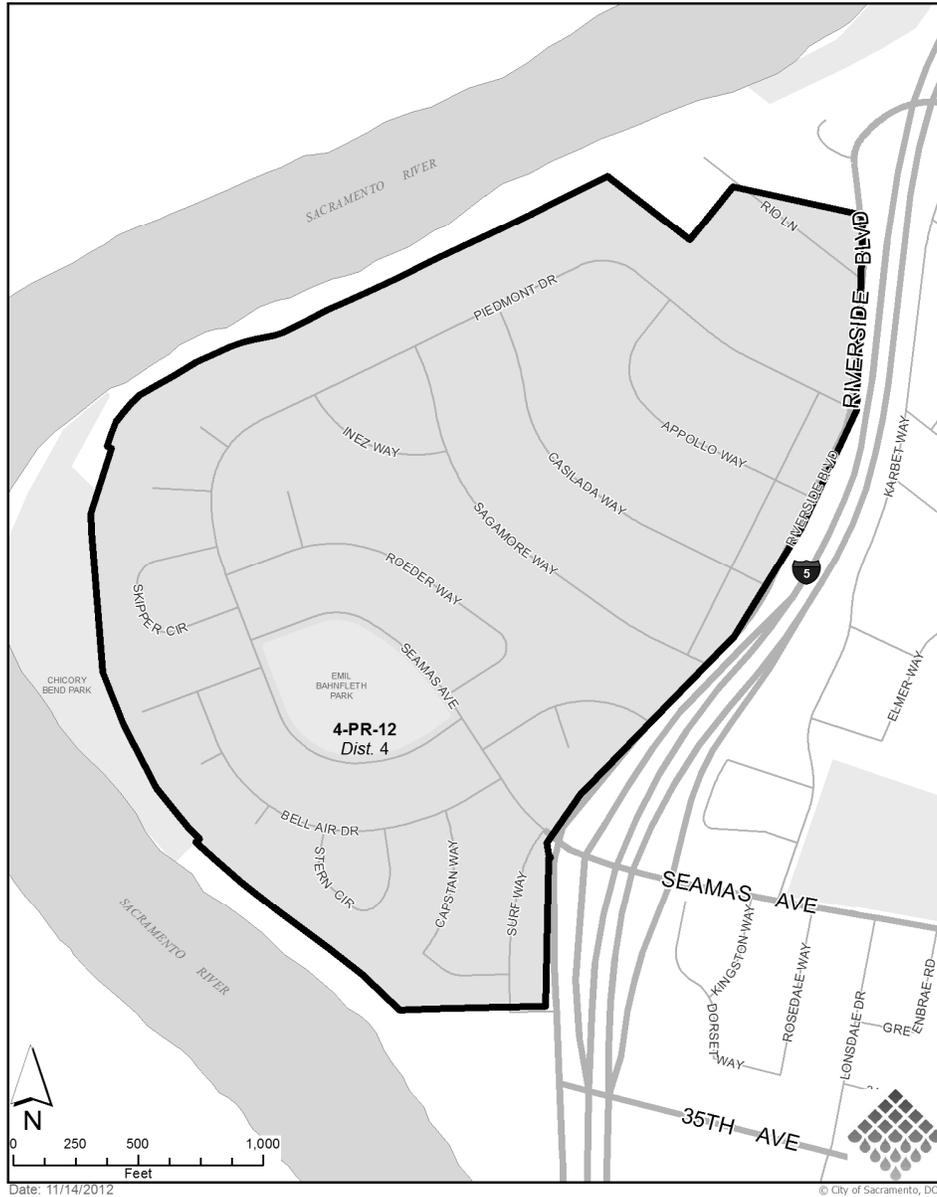


EXHIBIT B

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 \$ 468,450.
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)808-1721
jreyes@cityofsacramento.org
Attn: Jesus Reyes, Assistant Engineer*

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

ATTACHMENT 1 TO EXHIBIT B

LIST OF BILLABLE RATES

PETERSON . BRUSTAD . INC
ENGINEERING . CONSULTING



2012 - 2014 STANDARD RATE SCHEDULE *

Position	Description	2012 Rate	2013 Rate	2014 Rate
E9	Principal (Eng)	\$210	\$215	\$220
E8	Project Manager (Eng)	\$190	\$195	\$200
E7	Senior Engineer 2	\$180	\$185	\$190
E6	Senior Engineer 1	\$165	\$170	\$175
E5	Project Engineer 3	\$150	\$155	\$160
E4	Project Engineer 2	\$140	\$145	\$150
E3	Project Engineer 1	\$130	\$135	\$140
E2	Staff Engineer 2	\$115	\$120	\$125
E1	Staff Engineer 1	\$100	\$105	\$110
T4	Technician 4	\$110	\$110	\$110
T3	Technician 3	\$100	\$100	\$100
T2	Technician 2	\$85	\$85	\$85
T1	Technician 1	\$75	\$75	\$75
A4	Administrative 4	\$80	\$80	\$80
A3	Administrative 3	\$70	\$70	\$70
A2	Administrative 2	\$60	\$60	\$60
A1	Administrative 1	\$50	\$50	\$50

Expenses

- At cost plus 10% for outside printing, plotting, copying, travel, subconsultants, and outside services and charges
- At 5% of Labor for in-house expenses including telephone, computer, and incidental copying and printing
- Auto mileage per current Federal Rates

Note: Subconsultant rates are included as attachments:

- Domenichelli & Associates
- Andregg Geomatics
- Golden State Utility Company

1180 Iron Point Rd, Suite 260, Folsom, CA 95630
916-608-2212 Fax: 916-608-2232
www.pblengineering.com

**ATTACHMENT 1 TO EXHIBIT B
LIST OF BILLABLE RATES (Continued)**



DOMENICHELLI AND ASSOCIATES, INC.
CIVIL ENGINEERING

Domenichelli and Associates, Inc. Rates

Staff Member	Type of Service	Rates
Joe Domenichelli	Project Management and QC / Principal	\$165/hr
Sara Rogers	Project Engineer/Project Manager	\$135/hr
Daryl Heigher	Structural Engineer	\$135/hr
Katie Cooper/ Brian Hammer	Associate Engineer	\$110/hr
Stephanie Bolce	Staff Engineer	\$95/hr

These rates will be effective through December 2012. Rates are negotiable on a project basis.

**ATTACHMENT 1 TO EXHIBIT B
LIST OF BILLABLE RATES (Continued)**



We take your position precisely.

**STANDARD HOURLY RATES – A RATE
EFFECTIVE JANUARY 1, 2012**

SURVEYING SERVICES

Principal in Charge	180.00
Planning Manager	150.00
Project Manager	140.00
GIS / Remote Sensing Analyst	115.00
Project Surveyor	110.00
Survey Technician	90.00
CAD Technician	85.00
Technician	70.00
Clerical / Word Processing	60.00
1-Person Crew	135.00
2-Person Crew	220.00
3-Person Crew	290.00
1-Person RTK Crew	165.00
2-Person HDS Crew	330.00

Auburn | Sacramento | Fairfield | Oakland | Los Angeles | Truckee

Corporate
11661 Blocker Drive #200, Auburn, CA 95603 | 800.400.7072 | 530.885.5798 Fax

www.andregg.com

ATTACHMENT 1 TO EXHIBIT B LIST OF BILLABLE RATES (Continued)



Golden State Utility Co.

ATTACHMENT "A"

EFFECTIVE: 1/1/12 thru 12/31/12

Prevailing Wage Labor & Equipment Rate Schedule

LABOR			
Classification	Hourly Rate	Overtime Rate	Double Time Rate
1 Engineer	\$ 94.00	\$ 125.00	\$ 165.00
2 Superintendent	\$ 92.00	\$ 120.00	\$ 162.00
3 Foreman	\$ 90.00	\$ 115.00	\$ 160.00
4 Operator	\$ 90.00	\$ 115.00	\$ 160.00
5 Boring Operator	\$ 82.00	\$ 110.00	\$ 150.00
6 Comm System Tech	\$ 60.00	\$ 85.00	\$ 115.00
7 Comm System Installer	\$ 54.00	\$ 75.00	\$ 100.00
8 Truck Driver	\$ 70.50	\$ 100.00	\$ 128.50
9 Laborer	\$ 61.00	\$ 87.50	\$ 120.00
10 Subsistence/Day	\$ 100.00		
EQUIPMENT			
Classification	Hourly Rate	Classification	Hourly Rate
1 Pickup 3/4 ton / 1/2 ton	\$ 14.50	27 Rockwheel 8020 Class	\$ 130.00
2 Truck 1 ton	\$ 17.50	28 Trencher 8020 Class	\$ 119.00
3 Truck 2 ton	\$ 24.00	29 Trencher Vermeer 758	\$ 300.00
4 Van Truck 20 ft	\$ 35.00	30 Teeth-Trencher & Rockwheel	\$ 9.75
5 Service Truck 1 ton	\$ 21.50	31 Vac Trailer - 500 Gallon	\$ 30.00
6 Water Truck (2000 Gal)	\$ 41.00	32 Vac Trailer - 800 Gallon	\$ 35.00
7 Dump Truck 5 yd	\$ 25.50	33 Arrow Board	\$ 20.00
8 Dump Truck 10 yd	\$ 45.00	34 Changeable Message Sign	\$ 25.00
9 Telsta T-40 Aerial Lift	\$ 38.00	35 Equipment Trailer	\$ 11.00
10 Digger Truck	\$ 38.00	36 3 Reel Trailer	\$ 18.00
11 Transport	\$ 75.00	37 Reel or Pole Trailer	\$ 8.00
12 Cable Pulling Truck	\$ 34.50	38 Dump Trailer	\$ 15.00
13 Fiber Splicing Vehicle	\$ 19.00	39 End Puller/Mid Assist	\$ 15.00
14 Copper Splicing Vehicle	\$ 19.00	40 Super Cable Jet	\$ 60.00
15 Power Rodding Truck	\$ 50.00	41 OTDR	\$ 17.00
16 Boom Truck 14 Ton	\$ 45.00	42 Fusion Machine	\$ 20.00
17 Trk Mount Pothole Unit - 1200 Gal.	\$ 55.00	43 Mass Fusion Machine	\$ 26.00
18 Traffic Control Truck	\$ 20.00	44 Power Meter/Light Source	\$ 7.00
19 Backhoe 590SL	\$ 39.00	45 Forklift 8000 lb	\$ 22.00
20 Bobcat	\$ 37.00	46 Concrete Saw	\$ 21.00
21 Mini Excavator	\$ 37.00	47 Generator 6000 watt	\$ 5.50
22 Air Compressor 185 w/tools	\$ 20.00	48 Generator 25 kv	\$ 11.00
23 Compressor 375H	\$ 35.00	49 Smooth Drum Roller A/C 2-Ton	\$ 30.00
24 Directional Bore 520	\$ 137.50	50 Vermeer Compactor	\$ 21.50
25 Directional Bore 1720	\$ 175.00	51 Wacker	\$ 15.00
26 Directional Bore 2020 / 2070	\$ 225.00	52 Water Pump 2"	\$ 10.00

Notes:

- | | |
|---|---|
| <p>1. Eighteen percent (18%) markup on rentals, subcontractors and materials</p> <p>2. Overtime paid after eight (8) hours per day and on Saturdays.</p> <p>3. Double time paid after twelve (12) hours per day, on Sundays and legal holidays.</p> | <p>4. Standby time for equipment will be charged at a rate of fifty percent (50%) of the normal hourly rate.</p> <p>5. A mobilization charge of \$750.00 applies for an emergency restoration call-out.</p> <p>6. The minimum call-out time for emergency restoration work will be four (4) crew hours.</p> |
|---|---|

P.O. BOX 2810 CERES, CA 95307 209 579-3400 209 579-3497 FAX CA LIC. 401136

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

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

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

9. Term; Suspension; Termination.

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

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

10. Indemnity.

- A. Indemnity: CONTRACTOR shall defend, hold harmless and indemnify CITY, its officers and employees, and each and every one of them, from and against any and all claims, actions, damages, costs, liabilities, demands, losses, judgments, penalties and expenses of every type and description, including, but not limited to, any fees and/or costs reasonably incurred by CITY's staff attorneys or outside attorneys and any fees and expenses incurred in enforcing this provision (hereafter collectively referred to as "Claims"), including but not limited to Claims arising from personal injury or death, damage to personal, real, or intellectual property, or the environment, contractual or other economic damages, or regulatory penalties, that arise out of, pertain to, or relate to any negligent act or omission, recklessness, or willful misconduct of CONTRACTOR, its sub-consultants, subcontractors, or agents, and their respective officers and employees, in connection with performance of or failure to perform this Agreement, whether or not such Claims are litigated, settled, or reduced to judgment; provided that the foregoing indemnity does not apply to liability for damages for death or bodily injury to persons, injury to property, or other loss, damage, or expense to the extent arising from (i) the sole negligence or willful misconduct of, or defects in design furnished by, CITY, its agents, servants, or independent contractors who are directly responsible to CITY, or (ii) the active negligence of CITY.

- B. Insurance Policies; Intellectual Property Claims: The existence or acceptance by CITY of any of the insurance policies or coverages described in this Agreement shall not affect or limit any of CITY's rights under this Section 10, nor shall the limits of such insurance limit the liability of CONTRACTOR hereunder. This Section 10 shall not apply to any intellectual property claims, actions, lawsuits, or other proceedings subject to the provisions of Section 7.B., above. The provisions of this Section 10 shall survive any expiration or termination of this Agreement.

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

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

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

A. Minimum Scope & Limits of Insurance Coverage

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

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

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

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

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

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

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

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

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

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

B. Additional Insured Coverage

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

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

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

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

C. Other Insurance Provisions

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

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

D. Acceptability of Insurance

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

E. Verification of Coverage

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

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

F. Subcontractors

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

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

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

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

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

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

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

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

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

17. **Assignment Prohibited.** The expertise and experience of CONTRACTOR are material considerations for this Agreement. CITY has a strong interest in the qualifications and capability of the persons and entities 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.



PROJECT #: Z14010063
PROJECT NAME: Land Park Water Main Replacement Project – Phase 1
DEPARTMENT: UTILITIES
DIVISION: ENGINEERING SERVICES
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

*West Yost Associates
2020 Research Park Drive, Suite 100
Davis, CA 95628*

(“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.

- 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

CONTRACTOR:

West Yost Associates
NAME OF FIRM

68-0370826
Federal I.D. No.

1956281
State I.D. No.

87522
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

Steven R. Dalrymple, Principal
Print Name and Title

Additional Signature (*if required*)

Print Name and Title

**DECLARATION OF COMPLIANCE
Equal Benefits Ordinance**

Name of Contractor: West Yost Associates

Address: 2020 Research Park Dr, Suite 100, Davis, CA 95628

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

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

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

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

- e. If Contractor submits written evidence of making reasonable efforts to end discrimination in employee benefits by implementing policies that will be enacted before the first effective date after the first open enrollment process following the date this Agreement is executed by the City of Sacramento ("City"). Contractor understands that any delay in the implementation of such policies may not exceed one (1) year from the date this Agreement is executed by the City, and applies only to those employee benefits for which an open enrollment process is applicable.
 - f. Until administrative steps can be taken to incorporate nondiscrimination in employee benefits. The time allotted for these administrative steps will apply only to those employee benefits for which administrative steps are necessary and may not exceed three (3) months from the date this Agreement is executed by the City.
 - g. Until the expiration of a current collective bargaining agreement(s) if employee benefits are governed by such collective bargaining agreement(s).
 - h. Contractor takes all reasonable measures to end discrimination in employee benefits by either requesting that the union(s) involved agree to reopen the agreement(s) in order for Contractor to take whatever steps are necessary to end discrimination in employee benefits or by ending discrimination in employee benefits without reopening the collective bargaining agreement(s).
 - i. In the event Contractor cannot end discrimination in employee benefits despite taking all reasonable measures to do so, Contractor provides a cash equivalent to eligible employees for whom employee benefits are not available. Unless otherwise authorized in writing by the City Manager, Contractor understands this cash equivalent must begin at the time the union(s) refuse to allow the collective bargaining agreement(s) to be reopened or not longer than three (3) months after the date this Agreement is executed by the City.
5. Contractor understands that failure to comply with the provisions of Section 4(a) through 4(i), above, will subject Contractor to possible suspension and/or termination of this Agreement for cause; repayment of any or all of the Agreement amount disbursed by the City; debarment for future agreements until all penalties and restitution have been paid in full and/or for up to two (2) years; and/or the imposition of a penalty, payable to the City, in the sum of \$50.00 for each employee, for each calendar day during which the employee was discriminated against in violation of the provisions of the Ordinance.
6. Contractor understands and agrees to provide notice to each current employee and, within ten (10) days of hire, to each new employee, of their rights under the Ordinance. Contractor further agrees to maintain a copy of each such letter provided, in an appropriate file for inspection by authorized representatives of the City. Contractor also agrees to prominently display a poster informing each employee of these rights.
7. Contractor understands that Contractor has the right to request a waiver of, or exemption from, the provisions of the Ordinance by submitting a written request to the City's Procurement Services Division prior to Agreement award, which request shall identify the provision(s) of the Ordinance authorizing such waiver or exemption and the factual basis for such waiver or exemption. The City shall determine in its sole discretion whether to approve any such request.
8. Contractor agrees to defend, indemnify and hold harmless, the City, its officers and employees, against any claims, actions, damages, costs (including reasonable attorney fees), or other liabilities of any kind arising from any violation of the Requirements or of the Ordinance by Contractor.

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

Signature of Authorized Representative

Date

Steven R. Dalrymple
Print Name

Principal
Title

EXHIBIT A

PROFESSIONAL SERVICES AGREEMENT FOR DESIGN PROFESSIONALS

SCOPE OF SERVICES

1. Representatives.

The CITY Representative for this Agreement is:

*Melissa Marshall, Associate Engineer
1395 35th Avenue
Sacramento, CA 95822
(916)808-1437/Fax 916-808-1497
Email: mmarshall@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:

*Frank Helmick, PE
2020 Research Park Drive, Suite 100, Davis, CA 95695
Ph 530-792-3256
Email: fhelmick@westyost.com*

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

2. Professional Liability Insurance. Professional Liability (Errors and Omissions) insurance is X is not ___ [check one] required for this Agreement. If required, such coverage must be continued for at least 3 year(s) following the completion of all Services and Additional Services under this Agreement. (See Exhibit D, Section 11, for complete insurance requirements.)

3. Conflict of Interest Requirements.

A. **Generally.** Under the California Political Reform Act, Government Code §§ 81000 et seq., designated employees of the CITY are required to comply with the CITY's Conflict of Interest Code. The term "designated employees" is a term of art and includes individuals who are working for contractors who are providing services or performing work for the CITY and who are considered to be "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 SERVICES

CITY OF SACRAMENTO LAND PARK WATER MAIN REPLACEMENT AND METER RETROFIT PROJECT – PHASE 1

OVERVIEW

The scope of work for completing the Water Main Replacement and Meter Retrofit Project is detailed below. The scope of work includes items included in the anticipated scope of work provided by the City of Sacramento (City) supplemented with additional task items as appropriate.

The tasks and subtasks correspond to those shown in the project schedule and fee estimate.

Task 1. Project Management

This task will include project management activities, including day-to-day administration, progress meetings and technical reviews.

Subtask 1.1—Project Administration

Monitor progress of individual tasks and coordinate completion of work products. Monitor task budgets and project schedule. West Yost will provide project status reports identifying the status of the project and budget on a monthly basis. West Yost will prepare and maintain an action item tracking log and decision log.

Subtask 1.2—Kickoff Meeting

Attend one kickoff meeting. Design review meetings are included below in the design tasks. West Yost will prepare and submit meeting agendas and minutes.

Subtask 1.3—Technical Reviews

Technical reviews will be conducted by principal level engineers who are not directly involved in the day-to-day project work and design process.

Subtask 1.4—Project Schedule

West Yost will prepare a project schedule outlining the primary project design tasks and schedule for City review. Schedule updates will be provided as necessary to reflect any changes in the project schedule. Prepare a project schedule at the beginning of the project for review and approval by the City.

Deliverables:

- Project status reports, meeting agendas, meeting minutes, action item tracking log, decision log, and project schedule updates.

Task 2. Surveying and Mapping

This task includes surveying and mapping of the existing streets within the project limits. The survey will be performed utilizing aerial photogrammetry with field surveys as necessary to obtain additional surface features such as manholes, drain inlets, and valve boxes.

Subtask 2.1—Topographic Survey

The topographic survey will be limited to the project area shown on Figure 1 below.

Figure 1: Project Area 1



The topographic survey will include the following:

- Prepare survey compiled in AutoCAD at a scale of 1"=40' based on a photogrammetric base map compiled to provide basic planimetric data. Ground control points will be set using approximately 15 aerial panels. Black and white ortho imagery will be provided. The survey will show the location of paving, curb and gutter, sidewalks, utility boxes, manholes and other surface features that are visible in the streets. Underground utility lines will be shown in a schematic manner to the extent that base utility mapping or existing improvement plans provided by the City can be related to surface features such as manholes and valve boxes, etc.
- Supplemental field survey information will be added to the photogrammetric survey to provide coverage in those areas under tree canopy or not visible in the aerial coverage, the budget includes up to 15 days of supplemental field survey.
- Vertical information such as contour lines or spot elevations will not be provided.

Subtask 2.2—Parcel Information

Approximate property lines of parcels within the project area will be shown on drawings. Property lines shown will not represent a resolved boundary survey for each of the parcels involved and will be based on information obtained from the City's Geographical Information System. Each parcel will be labeled with the respective assessor parcel number and street address.

Subtask 2.3—Identify Right-of-Way Requirements

Where it becomes necessary to route the water lines across private property, West Yost will prepare easement documents (plat maps and descriptions) for use by the City Real Estate Services for easement acquisition. We have provided a budget assuming two easement acquisitions would be made. It is also assumed that current title reports for the affected properties will be provided by the City.

Assumptions

- Property lines and easements will be plotted based on the City's GIS. Property line and boundary surveys are not included.
- Two plat maps and descriptions will be provided for the City's use in acquiring easements.
- Title reports will be provided by the City.
- An electronic copy of the base map of the project area in AutoCAD Release 2013 format including survey control data and parcel data.
- An electronic copy of the aerial photography.
- A copy of the draft and a copy of the final plat maps and descriptions for up to two easement acquisitions.

Task 3. Preliminary Design

Subtask 3.1—Preliminary Design

Develop the concepts and criteria to be used for the design of the project including design criteria, drafting standards, location and sizing of new water mains, tie-in locations, existing water mains to be abandoned, identification of City standard details to be incorporated into the project, list of drawings to be produced, and additional details that may be necessary to support the project.

Subtask 3.2—Prepare Project Base Map

Prepare base map of project area to include topographic information from Task 2. Prepare base map in compliance with City Drafting Standards. Plot ‘A’ Letter utility information provided by the City.

Subtask 3.3—Identify Pothole Locations

Following completion of the preliminary design and base map, areas of potential conflict between existing and proposed utilities will be identified for pothole confirmation of the vertical and horizontal location of the existing utility.

Subtask 3.4—Conduct Pothole Investigations

Following approval of the proposed pothole locations by the City, West Yost through Exaro will vacuum excavate up to 20 pothole locations identified on the approved pothole location map. Potholes will be backfilled with class II aggregate and the asphalt surface repaired with hot-mix asphalt paving. Following completion of the pothole investigations, West Yost will survey the pothole locations for inclusion on the base drawings.

- USA paint marking removal is not included
- No potholes will be required within concrete sidewalks
- Traffic control flaggers will not be required; potholes will be on residential streets with no traffic arrow boards required.
- Five copies of the project area base map at 200 scale, in general, the proposed water main alignments, water main sizes, valve locations, fire hydrant locations, connection points, and existing waterlines and fire hydrants to be abandoned.
- Five copies of the project area base map indicating proposed pothole locations.

Task 4. Prepare 60% Design Level Plans, Specifications & Estimate (PS&E)

Subtask 4.1—60% Design Level Plans

Under this task, the design will be developed to the 60% design level of completion and include pothole information obtained in the previous task. The table below identifies the preliminary list of drawings anticipated for the project and identifies the drawing to be submitted under 60% design level submittal.

Drawing No.	Title	60% Submittal	Notes
1	Cover Sheet with Drawing Index and Vicinity Map	X	
2	Note Sheet		
3	Key Map	X	Scale 1" = 200'
4-26	Water Main Replacement Drawings	X	Scale 1" = 40'
27	Phasing Drawing		Scale 1" = 200'
28-32	Details	X	

Subtask 4.2—Utility Letter ‘B’

Send ‘B’ Letters to the utility companies with facilities in the project area. Include copies of the

60% design level plans including the existing utility information gathered during the previous tasks. Identify the anticipated project bidding and construction schedule and any anticipated utility relocations. The schedule will be updated to include the necessary time for any utility company relocations (60 days from receipt of the 'B' Letter for planning and engineering and a total of 120 days to complete the relocations).

Subtask 4.3—Prepare Quantity Take-off and Opinion of Estimated Construction Cost

A quantity take-off and opinion of estimated construction costs will be prepared based on the 60% design level plans. Construction cost contingencies will be estimated based on the design level and included in the cost estimate.

Subtask 4.4—Draft Special Provisions

The project specifications will be prepared in 'Special Provision' format similar to previous City water main replacement projects. The information included in the Special Provisions will describe the work to be performed relative to the City's Standard Specifications for Public Construction. The City will provide a template of the master Special Provisions. Recommended revisions to the Special Provisions relative to the project will be provided for the City's consideration.

Subtask 4.5—60% PS&E Design Level Review Meeting

Following submittal of the 60% design level PS&E, West Yost will conduct a design review meeting to go over City comments on the 60% design level submittal.

- Three copies of full size (22"x34") 60% design level plans identified in the above table.
- One copy of the 'B' Letter format for review and approval by the City.
- Three copies of the quantity takeoff and opinion of estimated construction cost.
- Three paper copies and one electronic copy of the draft special provisions in Word format with revisions indicated in track changes.

Task 5. Prepare 90/100% Design Level PS&E

Subtask 5.1—Address City Comments

Incorporate the comments from the City's 60% design level review. Provide a table identifying each comment and how the comment was addressed.

Subtask 5.2—Prepare 90% Plans

The plans will be further developed to the 90% design level under this task. All plans listed in the table under Task 4 will be provided.

Subtask 5.3—Prepare Final Special Provisions

The contract Special Provisions will be updated to reflect 60% design level comments and fully developed under this task.

Subtask 5.4—Prepare Final Quantity Takeoff and Opinion of Estimated Construction Cost

The contract quantities will be finalized and the opinion of estimated construction cost updated to reflect the final anticipated construction cost.

Subtask 5.5—90% PS&E Design Review Meeting

Following submittal of the 90% PS&E, West Yost will conduct a design review meeting to go over City comments on the 90% design level submittal.

Subtask 5.6—Prepare 100% Plans

Following the completion of the 90% design level review meeting, the plans will be revised to incorporate the City’s final comments. A table of comments with how each of the comments was addressed will be prepared and submitted with the 100% design level submittal. After confirmation by the City that the final revisions have been completed, a final set of design level plans will be prepared. The final set will include the seal and signature of the professional engineer responsible for the design. Obtain City signature on the plan cover sheet.

Subtask 5.7—Utility Letter ‘C’

Send ‘C’ Letters to the relevant utility companies along with copies of the final plans. Describe any changes that have occurred since the submittal of the ‘B’ Letters. Update any revised information regarding the bid date and anticipated construction schedule. For any existing utility relocations, confirm receipt of the ‘C’ Letter confirming their relocation schedule.

- Three copies of full size (22”x34”) 90% design level plans.
- One electronic copy of the final special provisions in Word format with revisions indicated in track changes.
- Three copies of the 60% comment response table.
- Three copies of the final quantity takeoff and opinion of estimated construction cost.
- One copy of the 100% comment response table (if necessary)
- One copy of half size 100% design level plans for final check by the City
- One full size sealed and signed set of the final plans in Adobe PDF format on CD.
- One copy of each of the ‘C’ Letters sent to utilities.

Task 6. Coordination with Property Owners

Subtask 6.1—Newsletters/Flyer

West Yost will assist the City with initial property owner notification by preparing a draft of a City letter (City letterhead) and development of a project flyer describing the proposed project. The flyer will identify the project boundaries, purpose and reason for the project, description of the proposed pre-construction efforts including surveying and backyard data collection, and anticipated construction activities, and impacts and benefits to the property owner/resident. The notification letter and flyer will be mailed to both the property owner and resident (if different) by the City.

Subtask 6.2—Private Service Transfer Construction Figures

West Yost will prepare base figures (8-1/2" x 11") for each parcel generally showing an outline of the residence, hardscape features (fences, driveways, sidewalks, patios) and vegetation based on the information obtained under Task 2.

Subtask 6.3—Coordination with Property Owners

West Yost will attempt to meet with each property owner/resident within the project area for a total of 1,400 residents. The purpose of these meetings will be to review the project, discuss the location of the proposed meter, identify the route of the private service transfer between the meter and the house and secure written acknowledgement. The figures will include "hand-sketched" information including the proposed piping route and any special considerations such as the location of existing features to be protected or times of access. West Yost will make up to three separate visits to each property to contact the residents. West Yost will not enter backyards without receiving the permission of the resident. Following three failed attempts to meet with the resident, the figure will be so noted with only information available from the front and or accessible side yards will be shown on the figures. The service transfer figures will be included as supplemental information to the Bid Documents.

- One copy of draft and final initial property owner notification letter for insertion by City on City letterhead
- One copy of the draft and final project flyer.
- Three copies of five random private service transfer construction figures for review by the City prior to completion of the full set of 1,400 figures.
- One copy of the completed private service transfer construction figures in three 3-inch binders. One CD with electronic (Adobe PDF) copies of the completed private service transfer construction figures.

Services not Included

The following services are not included in this scope of work:

- Preparation of 'A' Letters
- Geotechnical evaluation
- Permitting
- Hydraulic analysis

- Property and boundary line surveys
- Vertical topographical data (no spot elevations or contours)
- Waterline profile drawings
- Bid period services
- Engineering services during construction

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 \$ 561,965 .
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)808-1437
mmarshall@cityofsacramento.org
Attn: Melissa Marshall, Associate Engineer*

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

ATTACHMENT 1 TO EXHIBIT B

LIST OF BILLABLE RATES



WEST YOST ASSOCIATES, INC.
2012 Billing Rate Schedule

(Effective January 1, 2012 through December 31, 2012)*

Position	Labor Charges (dollars per hr)
Principal/Vice President	212
Engineering Manager	202
Principal Engineer/Scientist	184
Senior Engineer/Scientist/GIS Analyst	166
Associate Engineer/Scientist	148
GIS Analyst	148
Engineer II/Scientist II	131
Engineer I/Scientist I	113
Construction Manager III	160
Construction Manager II	148
Construction Manager I	137
Resident Inspector III	124
Resident Inspector II	115
Resident Inspector I	101
Sr. Designer/Sr. CAD Operator	107
Designer/CAD Operator	95
Technical Specialist II	93
Technical Specialist I	80
Engineering Aide	67
Administrative IV	95
Administrative III	84
Administrative II	71
Administrative I	60

Outside Services such as vendor reproductions, prints, shipping, and major West Yost reproduction efforts, as well as Engineering Supplies, Travel, etc. will be billed at actual cost plus 15%.

Direct Costs including general computers, system charges, telephone, fax, routine in-house copies/prints, postage, miscellaneous supplies, and other incidental project expenses will be billed at 5% of West Yost labor charges.

Mileage will be billed at the current Federal Rate.

Subconsultants will be billed at actual cost plus 10%.

Computers are billed at \$25 per hour for specialty models and AutoCAD.

Expert witness, research, technical review, analysis, preparation and meetings billed at 150% of standard hourly rates. Expert witness testimony and depositions billed at 200% of standard hourly rates.

A Finance Charge of 1.5% per month (an Annual Rate of 18%) on the unpaid balance will be added to invoice amounts if not paid within 45 days from the date of the invoice.

*This schedule will be updated annually

CA



WEST YOST ASSOCIATES, INC.
2012 Billing Rate Schedule
(Cont'd.)

(Effective January 1, 2012 through December 31, 2012)*

SURVEYING AND EQUIPMENT CHARGES

Position	Labor Charges (dollars per hr)
GPS, 3-Person	327
GPS, 2-Person	279
GPS, 1-Person	219
Survey Crew, 2-Person	237
Survey Crew, 1-Person	179

EQUIPMENT CHARGES

Equipment	Billing Rate (dollars per day)	Billing Rate (dollars per week)
DO Meter	16	79
pH Meter	5	25
Automatic Sampler	124	678
Transducer/Data Logger	39	196
Hydrant Pressure Gage	11	48
Hydrant Pressure Recorder (HPR)	—	196
Hydrant Wrench	5	31
Pitot Diffuser	28	128
Well Sounder	28	128
Ultrasonic Flow Meter	—	256
Vehicle	84	424
Velocity Meter	11	62
Water Quality Multimeter	168	918
Thickness Gage	—	68

*This schedule will be updated annually

EXHIBIT C

PROFESSIONAL SERVICES AGREEMENT FOR DESIGN PROFESSIONALS

FACILITIES AND EQUIPMENT TO BE PROVIDED BY CITY

CITY shall [*check one*] X Not furnish any facilities or equipment for this Agreement; or
 _____ furnish the following facilities or equipment for the Agreement; [*list, if applicable*]

EXHIBIT D

PROFESSIONAL SERVICES AGREEMENT FOR DESIGN 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 subject to City’s payment obligations hereunder. 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 instruments of service 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 "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, 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 and two million dollars (\$2,000,000) in the aggregate. 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 per claim and in the aggregate 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 of the policy.

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.