



City of Sacramento City Council

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

Meeting Date: 3/5/2013

Report Type: Consent

Title: Agreement: Security Master Planning for Utility Facilities

Report ID: 2013-00199

Location: Citywide

Recommendation: Pass a Resolution authorizing the City Manager or the City Manager's designee to sign a professional services agreement with CH2MHill to prepare a Security Master Plan, for an amount not to exceed \$243,528, and to amend the budget by transferring \$50,000 wastewater funds (Fund 6006) and \$50,000 drainage funds (Fund 6011) to the project.

Contact: Bill Busath, Engineering Manager, (916) 808-1434; Dan Sherry, Supervising Engineer, (916) 808-1419, Department of Utilities.

Presenter: None.

Department: Department Of Utilities

Division: Engineering Administration

Dept ID: 14001311

Attachments:

1-Description/Analysis

2-Background

3-Resolution

4-Exhibit A - Agreement

City Attorney Review

Approved as to Form
Joe Robinson
2/26/2013 10:57:52 AM

City Treasurer Review

Reviewed for Impact on Cash and Debt
Russell Fehr
2/20/2013 4:25:19 PM

Approvals/Acknowledgements

Department Director or Designee: Dave Brent - 2/25/2013 2:52:14 PM

Description/Analysis

Issue: A core mission of the Department of Utilities (DOU) is to provide safe reliable water, wastewater, and storm drainage services to its customers. Consistent with this mission, DOU desires to develop a Security Master Plan for the City's water, wastewater, and storm drainage facilities, thereby enhancing the City's ability to ensure safe and reliable systems for its customers. Staff recommends CH2M Hill be retained to conduct an existing security status assessment and prepare a Security Master Plan for an amount not to exceed \$243,528.

Policy Considerations: This report's recommendations are consistent with the Department's commitment to security and emergency preparation.

Economic Impacts: None.

Environmental Considerations: The Community Development Department, Environmental Planning Services Division has determined that this project is exempt under Section 15061(b)(3) of the California Environmental Quality Act (CEQA) Guidelines. The activity of approval of the agreement 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 seen 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.

Sustainability: This project has been reviewed for consistency with the goals, policies, and targets of the Sustainability Master Plan and the 2030 General Plan. This project will advance these goals, policies, and targets by ensuring that the City continues to provide a safe water supply, wastewater collection, and storm drainage system to its customers.

Commission/Committee Action: N/A

Rationale for Recommendation: Approval of this Professional Services Agreement with CH2M Hill will allow DOU to proceed with developing a Security Master Plan for the City's water, wastewater, and storm drainage facilities, thereby enhancing the City's ability to provide a safe and reliable water supply, storm drainage, and wastewater collection system to City customers today and in the future.

Financial Considerations: The proposed agreement with CH2M Hill is for an amount not-to-exceed \$243,528, which will be funded by the Water Facilities Security Project (Z14007900). The current unobligated balance in the Water Facilities Security Project is \$143,787. To fund the agreement, the Department proposes to transfer \$50,000 from the Drainage Plant Regulatory Improvement Program (W14130800, fund 6011), and to transfer \$50,000 from the Wastewater Plant Regulatory Improvement Program (X14131600, fund 6006), into the Water Facilities Security Project (Z14007900) as summarized in the following table:

| Transfer from: | | | | | |
|--|--------------------------|-------------|---------------|--|--|
| Project | Description | Fund | Amount | | |
| W14130800 | Drain Plant Reg. Program | 6011 | \$ 50,000 | | |
| X14131600 | Plant Regulatory | 6006 | \$ 50,000 | | |
| | | Total | \$ 100,000 | | |
| Transfer total amount of \$100,000 to Water Facilities Security (Z14007900) | | | | | |

Upon completion of these transfers, there will be sufficient funds in the Water Facilities Security project (Z14007900) for the proposed service agreement with CH2M Hill.

Emerging Small Business Development (ESBD): CH2M Hill is not an ESBE firm, but was one of three firms that received a 2% local business enterprise (LBE) scoring preference in the evaluation process.

Background

On July 18, 2012, DOU advertised a Request for Qualifications for Security Master Planning in accordance with City procurement policy. Eight firms submitted their qualifications. Following consultant interviews, CH2M Hill was selected as the firm most qualified to provide Security Master Planning services.

A scope of work and fee for the Master Planning was negotiated with CH2M Hill, for an amount not to exceed \$243,528.

The scope of work will include the following major tasks:

- Task 1 – Kick-off Meeting
- Task 2 – Security Benchmarking Analysis
- Task 3 – Field Assessment
- Task 4 – Prepare Security Masterplan
- Task 5 – Project management, chartering & Quality Assurance
- Task 6 – Complete RAMCAP Analyses per ASSI/AWWA J-100 (Optional)
- Task 7 – Prepare Security Policies (Optional)

The benchmarking analysis will compare security programs at several similarly sized utilities around the nation plus two agencies in the Sacramento region. It will also include review of vulnerability assessment (VA) documents prepared by DOU staff. The primary outcome is to establish security protection levels appropriate to DOU based on industry standards and the practices of peer utilities in this region.

The field assessment will be consistent with Risk Analysis Management for Critical Asset Protection (RAMCAP™) principles, in the event that optional task 6 is conducted in the future. The field assessment will focus on critical DOU assets, such as treatment plants; representative assets, such as pump stations and lift stations; and associated facilities such as administrative buildings. An important aspect of the field assessment will be information derived from staff interviews regarding current security practices, history of security incidents, etc.

Results from the benchmarking and field assessment, along with interview results from DOU staff, will be compiled into a Security Masterplan, which will contain actionable recommendations for appropriate security protection levels and practices by facility type.

RESOLUTION NO.

Adopted by the Sacramento City Council

AUTHORIZING BUDGET AMENDMENT FOR THE WATER FACILITIES SECURITY PROJECT (Z14007900)

BACKGROUND

- A. In order to further protect public health and safety, the City's Department of Utilities is developing a security program for Department-maintained facilities.
- B. As part of the Water Facilities Security Project (CIP Z14007900), CH2M Hill, a consultant with expertise in municipal security planning, was selected to conduct an existing security status assessment and to prepare a Security Masterplan for Department of Utilities facilities.
- C. A budget augmentation of \$100,000 is required to fund the proposed agreement with CH2M Hill.

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

- Section 1. The City Manager or City Manager's designee is authorized to transfer \$100,000 to the Water Facilities Security Project (Z14007900), by transferring \$50,000 from the Drainage Plant Regulatory Improvement Program (W14130800, fund 6011), and by transferring \$50,000 from the Wastewater Plant Regulatory Improvement Program (X14131600, fund 6006).

PROJECT #:Z14007900
PROJECT NAME: Security Masterplanning
DEPARTMENT: UTILITIES
DIVISION: ENGINEERING SERVICES

CITY OF SACRAMENTO

PROFESSIONAL SERVICES AGREEMENT FOR DESIGN SERVICES

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

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

CH2M Hill Engineers, Inc.
2485 Natomas Park Dr., Suite 600, Sacramento CA 95833
Phone: 916.920-0300/Fax: 916.920-8463

("CONTRACTOR"), who agree as follows:

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

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

Executed as of the day and year first above stated.

CITY OF SACRAMENTO
A Municipal Corporation

By: _____

Print name: _____

Title: _____

For: John F. Shirey, City Manager

APPROVED TO AS FORM:

City Attorney

ATTEST:

City Clerk

Attachments

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

CONTRACTOR

CH2M Hill Engineers, Inc., Inc.

NAME OF FIRM

Federal I.D. No.

State I.D. No.

#161488

City of Sacramento Business Op. Tax Cert. No.

TYPE OF BUSINESS ENTITY (*check one*):

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

Signature of Authorized Person

Print Name and Title

Additional Signature (*if required*)

Print Name and Title

DECLARATION OF COMPLIANCE
Equal Benefits Ordinance

Name of Contractor: _____

Address: _____

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

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

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

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

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

8. Contractor agrees to defend, indemnify and hold harmless, the City, its officers and employees, against any claims, actions, damages, costs (including reasonable attorney fees), or other liabilities of any kind arising from any violation of the Requirements or of the Ordinance by Contractor.

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

Signature of Authorized Representative

Date

Print Name

Title

EXHIBIT A

PROFESSIONAL SERVICES AGREEMENT FOR DESIGN SERVICES

SCOPE OF SERVICES

1. Representatives.

The CITY Representative for this Agreement is:

*Stu Williams
1395 35th Avenue
Sacramento, CA 95822
(916)808-1410
sswilliams@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:

*Ken Thompson
c/o CH2M Hill Engineers, Inc., 2485 Natomas Park Dr., Suite 600, Sacramento CA 95833
Phone: 916.920-0300/Fax: 916.920-8463/e-mail:*

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

2. Professional Liability Insurance. Professional Liability (Errors and Omissions) insurance is ✓ 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 Adesignated 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 Aconsultants@ under the Political Reform Act. The term Aconsultant@ 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

This scope outlines how Contractor will conduct a security status analysis, execute a field assessment, and prepare a Security Masterplan document for the Sacramento Utilities Department (DOU).

TASK 1 — Kick-Off Meeting

- 1.1 Conduct a 2 hour project kickoff conference call. Confirm project scope, schedule, budget and deliverables. Initiate planning for on-site activities. Projected attendees; (Ken Thompson, Stacey Black, Forrest Gist, Rex Hesner, and Ben Romero). Meeting estimated at 2 hours duration.
- 1.2 Establish secure methods of transmitting electronic and paper documents (e.g., SharePoint site)
- 1.3 Discuss how to protect this work from any public record act information requests (PRAs). Deliverables must be classified as PCI (Protected Critical Information).
- 1.4 Review Carollo's WTP Perimeter Security video and thermal imaging alarm system design recommendations and City's selections for archiving, storage, resolution, compression, monitoring, and video management. (This was moved to Task 1 since the work has already been performed. Refinement of these recommendations and review comments into a formal Video Surveillance Standards document occurs within Task 2.).

Deliverables:

- Kickoff Meeting Notes - Submit notes from Kickoff meeting to Utilities project manager within 3 business days.

TASK 2 — Security Practices Benchmarking Analysis

- 2.1 Review existing DOU security policies, practices, protocols, and procedures. DOU will provide existing security documents requested by the consultant for review. Develop a gap analysis for missing or undeveloped policies. Prioritize a top 10 list of security policies. The findings from this research will be incorporated into the Security Master Plan deliverable of Task 4.
- 2.2 Assess DOU resources dedicated to security. The findings from this research will be incorporated into the Security Master Plan deliverable of Task 4.
- 2.3 Identify and summarize national guidelines for security practices for water and wastewater utilities. Identify recommended methods and approaches for security at typical utility facilities, including; water treatment plants, wastewater treatment plants, intake facilities, tanks, reservoirs, pump stations, wells, and lift stations, as well as associated structures and administrative buildings.
- 2.4 Research similarly sized water and wastewater utilities both nationally and regionally (approx. 250,000 served) to identify security best practices and common themes. Include Sacramento Municipal Utility District and the Regional Wastewater Treatment Plant among the utilities surveyed. Identify and explore such topics as access control, video surveillance, security sensors and alarms, central alarm response, guard forces used, security staffing, equipment maintenance, existence and use of security master plan(s), existence and use of department wide physical security standards (i.e. perimeter gates and fencing standards, etc.), use of background screening for employees (considering Live Scan for DOU), and emergency preparedness and response capabilities. Review of existing training and exercise plans will also be conducted. The findings from this research will be incorporated into the Security Master Plan deliverable of Task 4.
- 2.5 Obtain and review existing VA's for water and wastewater facilities, including both 2003 VA's and more recent 2012 ones prepared w/ assistance from Cal EMA staff. Identify issues, gaps or comments, if any, regarding the existing VA's. Review assumptions made, actual practice, relevance of assessment, completeness of document, current technology, cost estimating basis, organizational

recommendations, threat assumptions, consequence analysis basis, facilities evaluated, and other key factors. The findings from this research will be incorporated into the Security Master Plan deliverable of Task 4.

- 2.6 Include information on security budgeting; i.e. what benchmark agencies typically spend yearly as a percentage of their annual operating budget. Identify the physical security protection elements that might be included within a security master plan for three tiers of utility security maturity; very well prepared, average preparedness, and not prepared. The findings from this research will be incorporated into the Security Master Plan deliverable of Task 4.
- 2.7 Refine review comments and recommendations from the completed review of Carollo's WTP Perimeter Security video and thermal imaging alarm system design to develop a formal Video Surveillance Standards document for DOU. Include recommendations for standards on such topics as centralized or local video storage, archiving, video resolution, camera spacing and fields of view, video compression and bandwidth consumption, suggested monitoring, and video management. (Note – review of Carollo's video and thermal imaging design was previously completed within Task 1). The findings from this research will be incorporated into the Security Master Plan deliverable of Task 4.

Deliverables:

- None – the results from Task 2 activities are included within the Security Master Plan deliverable of Task 4.

TASK 3 – Task 3: Field Assessment

- 3.1 Plan and conduct threat discussion meeting, Up to (4) in person meetings with key stakeholders, relevant state, local law enforcement and selected staff regarding local threats and potential natural disaster likelihood. The goal of this task is to develop information to establish a baseline level of malevolent threat and natural disaster for Sacramento area facilities. Estimated at 8-hours total. The information gathered during this task will be consistent with RAMCAP™ principles in the event optional task 6, "Complete RAMCAP™ Analysis per ANSI/AWWA J100-10" is conducted in the future.
- 3.2 Plan and conduct cyber security discussion meeting. Estimated to consist of up to (4) in person interviews with key City stakeholders. Estimated at 8-hours in total.
- 3.3 Plan and conduct site visits for three person teams. Provide (2) escorts to be available, so that the CH2MHILL team may split into 2 groups, if necessary, in order to visit all sites within 1 week. Anticipated facilities to be visited:
 - Both Water treatment plants (4-6 hrs ea),
 - Pioneer Reservoir and the Combined Wastewater Treatment Plant (4-6 hrs ea),
 - Both (2) Intake facilities (2-4 hrs ea)
 - (2) Tanks or reservoirs (2 hrs ea)
 - (2) Stormwater Pump Stations (2 hrs ea)
 - (2) Sanitary Sewer Lift stations (2 hrs ea)
 - Sumps 1 and 2 (the primary combined system sumps, 2-4 hrs ea)
 - (2) Well sites (2 hrs ea)
 - The 24th St. Corp Yard (2-4 hrs)
 - DOU's Administration building (4-6 hrs)

The information gathered during this task will be consistent with RAMCAP™ principles in the event optional task 6, "Complete RAMCAP™ Analysis per ANSI/AWWA J100-10" is conducted in the future.

- 3.4 Plan and conduct a nominal 4 hour webinar to discuss findings and initial recommendations regarding the benchmarking comparisons and review of DOU policies, practices, protocols, and VAs. At least the first 1.5 hours of the webinar shall be planned to coincide with one of DOU's regular bi-monthly security committee meeting which typically has 20+ attendees. The intent is

to brief the full security committee on what's been performed to date, summarize the major observations, and identify missing information that would preclude proceeding with drafting a Masterplan. This may require adoption by executive decree what the appropriate RAMCAP™ threat characterization is for DOU facilities.

Deliverables:

- Webinar held within five (5) weeks of Kick-off meeting. Notes summarizing the webinar.

TASK 4 — Prepare Security Masterplan

- 4.1 Prepare a Security Masterplan document based on the results of Tasks 1-3. Consultant shall prepare a document of up to 50 pages that:
- Summarizes the benchmarking analysis.
 - Analyzes current DOU practices and resource allocations gaps.
 - Assesses partnership/interagency agreements for enhancements that would increase DOU resilience.
 - Provides recommendations for security improvements, emergency response planning and exercise programs. Includes specific actions and next-step items, as appropriate.
 - Provides recommendations as appropriate to complete the VAs per ANSI/AWWA J100-10 standard. Identify VAs to be completed for other critical DOU facilities.
 - Identifies recommended security policies for DOU, providing a gap analysis between existing and recommended policies, and develops at top 10 security policies list.
 - Includes the newly created Video Surveillance Standards document as an appendix. The masterplan should serve as a strategic guide for DOU to meet ANSI/AWWA G430 minimum requirements, enhance current security measures, and prioritize implementation of additional security program features so as to increase DOU's ability to deter criminal actions, protect critical infrastructure, and increase resilience to recover from attacks.
- 4.2 Submit the draft masterplan document to DOU for review five (5) weeks following the Task 3 webinar. Allow one week for DOU review.
- 4.3 Submit the final masterplan document to DOU within two (2) weeks following receipt of DOU's draft document comments.

Deliverables:

- Draft and final copies of the Security Masterplan Document. Each submittal shall consist of three (3) paper copies, plus an electronic version of the documents.

TASK 5 — Project Management, Chartering, and Quality

- 5.1 This task shall be performed continuously throughout the duration of the contract.
- 5.2 Conduct biweekly status update conference calls with client representative. Discuss progress and any potential changes to the project scope, schedule, budget and deliverables
- 5.3 Send monthly status updates to City of Sacramento project manager.
- 5.4 Send monthly invoices to City of Sacramento project manager.
- 5.5 Perform quality assurance review of all deliverables prior to submission.

Deliverables:

- Biweekly calls, monthly Invoices & monthly Status Reports.

TASK 6 — OPTIONAL - Complete RAMCAP™ Analysis per ANSI/AWWA J100-10

- 6.1 This is an optional Task. Approval to proceed, if authorized by DOU, will be issued separately following completion of Task 2. DOU prefers to complete the VAs internally, but may opt to have this work performed by the consultant.
- 6.2 Hold RAMCAP™ Workshop 1, identifying assumptions made, processes, and initial findings. Incorporate comments from workshop into the RAMCAP™ analysis.
- 6.3 Submit draft RAMCAP™ analysis for client review at least 2 weeks prior to Workshop 2.
- 6.4 Hold RAMCAP™ Workshop 2 as a webinar. Discuss analysis and findings. Review vulnerabilities and projected costs for mitigation.
- 6.5 Incorporate review comments from RAMCAP™ workshops into RAMCAP™ analysis.
- 6.6 Submit final RAMCAP™ analysis to client
- 6.7 Perform quality assurance review of all RAMCAP™ deliverables prior to submission.

Deliverables:

- Workshop 1 and 2 summary notes, and final RAMCAP™ analysis report.

TASK 7 — OPTIONAL – Prepare Security Policies

- 7.1 This is an optional Task. Approval to proceed, if authorized by DOU, will be issued separately following completion of Task 2. Building on the results of Task 2.1 (Review DOU security policies), create and edit new security policies for DOU use. A maximum of 10 security policies will be developed; the subjects to be identified by DOU.
- 7.2 Submit draft DOU security policies for review.
- 7.3 Incorporate review comments from DOU into updated security policies.
- 7.4 Submit final security policies to client
- 7.5 Perform quality assurance review of all security policy deliverables prior to submission.

Deliverables:

- Draft and final copies of DOU security policies. Each submittal shall consist of three (3) paper copies, plus an electronic version of the documents.

EXHIBIT 1: Project Deliverables

| Task Number | Description | Pages (Estimated) |
|-----------------|---|---|
| 1.1 | Kickoff Meeting Notes | 3-4 pages |
| 1.4 | Review of Carollo’s WTP Video Surveillance Design | (already submitted) |
| 3.4 | Webinar meeting notes | 4-5 pages |
| 4.1 | Draft Security Masterplan; including <ul style="list-style-type: none"> - Analysis of DOU security policies - Assessment of DOU security resources - Identification and discussion of water utility national guidelines - Security Security Benchmarking analysis - VA review and discussion - Security budgeting guidelines and analysis - Video standards document | TBD - 50 pages or less |
| 4.3 | Final Security Masterplan | TBD – 50 |
| 5.3, 5.4 | Monthly Status Updates and Invoices (estimated 4) | 1 page (email) |
| OPTION 6.1, 6.4 | RAMCAP™ Workshop 1, 2 summary notes | 3-4 pages |
| OPTION 6.6 | RAMCAP™ Analysis report | 15 pages |
| OPTION 7.2, 7.4 | New DOU security policies | (10) policies, each 3-7 pages in length |

EXHIBIT 2: Project Schedule

| Task Number | Task Description | Schedule |
|-------------|--|------------|
| 1 | Kick-Off Meeting | Month 1 |
| 2 | Security Practices Benchmarking Analysis | Month 1,2 |
| 3 | Field Assessment | Month 3 |
| 4 | Prepare Security Masterplan | Month 3,4 |
| 5 | Project Management | Months 1–4 |
| OPTION 6 | RAMCAP™ Analysis | TBD |
| OPTION 7 | Security Policies | TBD |

Assumptions

- DOU will provide escorts to their facilities. Depending upon the timing, there may be a need to conduct site visits in parallel, so that all facilities may be visited by the CH2MHILL team within (1) week. Therefore, (2) DOU escorts are requested to accommodate parallel visits, should that be necessary.
- Cyber discussion meetings will either be held in separate one-on-one interviews, or in small group (3-4 person) settings, depending upon what appears to work best for the participants and the project.
- Threat discussion meetings with local law enforcement and other key stakeholders will be either be held in separate one-on-one interviews, or in a workshop setting, depending upon what appears to work best for the participants and the project.

EXHIBIT B

PROFESSIONAL SERVICES AGREEMENT FOR DESIGN SERVICES

FEE SCHEDULE/MANNER OF PAYMENT

1. **CONTRACTOR's Compensation.** The total of all fees paid to the CONTRACTOR for the performance of all services set forth in Exhibit A, including normal revisions (hereafter the "Services"), and for all authorized Reimbursable Expenses, shall not exceed the total sum of \$243,528.
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:

*Department of Utilities, Attn: Stu Williams
1395 35th Avenue
Sacramento, CA 95822*

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

Table 1 – Fee by Task

| Task | Description | Hours | Labor Fee | Travel | Subtotal |
|--|--|-------|-----------|---------|------------------|
| 1 | Kick-off Meeting | 41 | \$7,868 | \$0 | \$7,868 |
| 2 | Security Practices Benchmarking Analysis | 360 | \$72,432 | \$0 | \$72,432 |
| 3 | Field Assessment | 210 | \$45,388 | \$6,040 | \$51,428 |
| 4 | Prepare Security Masterplan | 242 | \$49,648 | \$0 | \$49,648 |
| 5 | Project Management, Chartering and Quality | 56 | \$11,728 | \$0 | \$11,728 |
| TOTAL – Excluding Optional Tasks 6, 7 | | | \$187,064 | | \$193,104 |
| OPTIONAL - 6 | Complete RAMCAP™ Analysis | 152 | \$32,936 | \$2,000 | \$34,936 |
| OPTIONAL - 7 | Prepare Security Policies | 77 | \$15,488 | \$0 | \$15,488 |
| TOTAL – All Tasks | | | \$235,488 | | \$243,528 |

Labor Rate Schedule Professionals and Technicians* 2013 Hourly Billing Rates**

| Classification | Rate |
|------------------------|-------|
| Principal-In-Charge | \$268 |
| Principal Professional | \$242 |
| Sr. Professional 2 | \$202 |
| Sr. Professional 1 | \$196 |
| Project Professional | \$144 |
| Staff Professional | \$113 |
| Sr. Technician | \$144 |
| Technician | \$103 |
| office/Clerical | \$88 |

Notes:

* includes engineering, consulting, planner and scientist disciplines.

**These rates are effective January 1, 2013 through December 31, 2013.

A markup of 5% shall be applied to Subcontractors and Outside Services.

An additional premium of 25% will be added to the above rates for Expert Witness and Testimony Services.

EXHIBIT C

PROFESSIONAL SERVICES AGREEMENT FOR DESIGN SERVICES

FACILITIES AND EQUIPMENT TO BE PROVIDED BY CITY

CITY shall [*check one*]

Not furnish any facilities or equipment for this Agreement; or

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

- Available As-built plans, CADD files, and security documents
- Access to DOU facilities to perform reconnaissance and surveys

EXHIBIT D

PROFESSIONAL SERVICES AGREEMENT FOR DESIGN SERVICES

GENERAL PROVISIONS

1. Independent Contractor.

- A. It is understood and agreed that CONTRACTOR (including CONTRACTOR's employees) is an independent contractor and that no relationship of employer-employee exists between the parties hereto for any purpose whatsoever. Neither CONTRACTOR nor CONTRACTOR's assigned personnel shall be entitled to any benefits payable to employees of CITY. CITY is not required to make any deductions or withholdings from the compensation payable to CONTRACTOR under the provisions of this Agreement, and CONTRACTOR shall be issued a Form 1099 for its services hereunder. As an independent contractor, CONTRACTOR hereby agrees to indemnify and hold CITY harmless from any and all claims that may be made against CITY based upon any contention by any of CONTRACTOR's employees or by any third party, including but not limited to any state or federal agency, that an employer-employee relationship or a substitute therefor exists for any purpose whatsoever by reason of this Agreement or by reason of the nature and/or performance of any Services under this Agreement. (As used in this Exhibit D, the term "Services" shall include both Services and Additional Services as such terms are defined elsewhere in this Agreement.)
- B. It is further understood and agreed by the parties hereto that CONTRACTOR, in the performance of its obligations hereunder, is subject to the control and direction of CITY as to the designation of tasks to be performed and the results to be accomplished under this Agreement, but not as to the means, methods, or sequence used by CONTRACTOR for accomplishing such results. To the extent that CONTRACTOR obtains permission to, and does, use CITY facilities, space, equipment or support services in the performance of this Agreement, this use shall be at the CONTRACTOR's sole discretion based on the CONTRACTOR's determination that such use will promote CONTRACTOR's efficiency and effectiveness. Except as may be specifically provided elsewhere in this Agreement, the CITY does not require that CONTRACTOR use CITY facilities, equipment or support services or work in CITY locations in the performance of this Agreement.
- C. If, in the performance of this Agreement, any third persons are employed by CONTRACTOR, such persons shall be entirely and exclusively under the direction, supervision, and control of CONTRACTOR. Except as may be specifically provided elsewhere in this Agreement, all terms of employment, including hours, wages, working conditions, discipline, hiring, and discharging, or any other terms of employment or requirements of law, shall be determined by CONTRACTOR. It is further understood and agreed that CONTRACTOR shall issue W-2 or 1099 Forms for income and employment tax purposes, for all of CONTRACTOR's assigned personnel and subcontractors.
- D. The provisions of this Section 1 shall survive any expiration or termination of this Agreement. Nothing in this Agreement shall be construed to create an exclusive relationship between CITY and CONTRACTOR. CONTRACTOR may represent, perform services for, or be employed by such additional persons or companies as CONTRACTOR sees fit provided that CONTRACTOR does not violate the provisions of Section 5, below.

2. **Licenses; Permits, Etc.** CONTRACTOR represents and warrants that CONTRACTOR has all licenses, permits, City Business Operations Tax Certificate, qualifications, and approvals of whatsoever nature that are legally required for CONTRACTOR to practice its profession or provide any services under the Agreement. CONTRACTOR represents and warrants that CONTRACTOR shall, at its sole cost and expense, keep in effect or obtain at all times during the term of this Agreement any licenses, permits, and approvals that are legally required for CONTRACTOR to practice its profession or provide such Services. Without limiting the generality of the foregoing, if CONTRACTOR is an out-of-state corporation, CONTRACTOR warrants and represents that it possesses a valid certificate of qualification to transact business in the State of California issued by the California Secretary of State pursuant to Section 2105 of the California Corporations Code.
3. **Time.** CONTRACTOR shall devote such time and effort to the performance of Services pursuant to this Agreement as is necessary for the satisfactory and timely performance of CONTRACTOR's obligations under this Agreement. Neither party shall be considered in default of this Agreement, to the extent that party's performance is prevented or delayed by any cause, present or future, that is beyond the reasonable control of that party.
4. **CONTRACTOR Not Agent.** Except as CITY may specify in writing, CONTRACTOR and CONTRACTOR's personnel shall have no authority, express or implied, to act on behalf of CITY in any capacity whatsoever as an agent. CONTRACTOR and CONTRACTOR's personnel shall have no authority, express or implied, to bind CITY to any obligations whatsoever.
5. **Conflicts of Interest.** CONTRACTOR covenants that neither it, nor any officer or principal of its firm, has or shall acquire any interest, directly or indirectly, that would conflict in any manner with the interests of CITY or that would in any way hinder CONTRACTOR's performance of Services under this Agreement. CONTRACTOR further covenants that in the performance of this Agreement, no person having any such interest shall be employed by it as an officer, employee, agent or subcontractor, without the written consent of CITY. CONTRACTOR agrees to avoid conflicts of interest or the appearance of any conflicts of interest with the interests of CITY at all times during the performance of this Agreement. If CONTRACTOR is or employs a former officer or employee of the CITY, CONTRACTOR and any such employee(s) shall comply with the provisions of Sacramento City Code Section 2.16.090 pertaining to appearances before the City Council or any CITY department, board, commission or committee.
6. **Confidentiality of CITY Information.** During performance of this Agreement, CONTRACTOR may gain access to and use CITY information regarding inventions, machinery, products, prices, apparatus, costs, discounts, future plans, business affairs, governmental affairs, processes, trade secrets, technical matters, systems, facilities, customer lists, product design, copyright, data, and other vital information (hereafter collectively referred to as "City Information") that are valuable, special and unique assets of the CITY. CONTRACTOR agrees to protect all City Information and treat it as strictly confidential and further agrees that CONTRACTOR shall not at any time, either directly or indirectly, divulge, disclose or communicate in any manner any City Information to any third party without the prior written consent of CITY. In addition, CONTRACTOR shall comply with all CITY policies governing the use of the CITY network and technology systems, as set forth in applicable provisions of the City of Sacramento Administrative Policy Instructions # 30. A violation by CONTRACTOR of this Section 6 shall be a material violation of this Agreement and shall justify legal and/or equitable relief.
7. **CONTRACTOR Information.**
 - A. CITY shall have full ownership and control, including ownership of any copyrights, of all information prepared, produced, or provided by CONTRACTOR pursuant to this Agreement. In this Agreement, the term "information" shall be construed to mean and

include: any and all work product, submittals, reports, plans, specifications, and other deliverables consisting of documents, writings, handwritings, typewriting, printing, photostating, photographing, computer models, and any other computerized data and every other means of recording any form of information, communications, or representation, including letters, works, pictures, drawings, sounds, or symbols, or any combination thereof. CONTRACTOR shall not be responsible for any unauthorized modification or use of such information for other than its intended purpose by CITY.

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

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

desire of CITY for the removal of such person.

9. Term; Suspension; Termination.

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

10. Indemnity.

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

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

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

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

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

A. Minimum Scope & Limits of Insurance Coverage

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

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

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

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

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

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

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

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

B. Additional Insured Coverage

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

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

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

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

C. Other Insurance Provisions

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

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

D. Acceptability of Insurance

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

E. Verification of Coverage

(1) CONTRACTOR shall furnish CITY with certificates and required endorsements evidencing the insurance required. The certificates and endorsements shall be forwarded to the CITY representative named in Exhibit A. Copies of policies shall be delivered to the CITY on demand. Certificates of insurance shall be signed by an authorized representative of the insurance carrier.

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

F. Subcontractors

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

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

A. Compliance With Regulations: CONTRACTOR shall comply with the Executive Order 11246 entitled "Equal Opportunity in Federal Employment", as amended by Executive Order 11375 and 12086, and as supplemented in Department of Labor regulations (41 CFR Chapter 60), hereinafter collectively referred to as the "Regulations".

B. Nondiscrimination: CONTRACTOR, with regards to the work performed by it after award and prior to completion of the work pursuant to this Agreement, shall not discriminate on the ground of race, color, religion, sex, national origin, age, marital status, physical handicap or sexual orientation in selection and retention of subcontractors, including procurement of materials and leases of equipment. CONTRACTOR shall not participate either directly or indirectly in discrimination prohibited by the Regulations.

C. Solicitations for Subcontractors, Including Procurement of Materials and Equipment: In all solicitations either by competitive bidding or negotiations made by CONTRACTOR for work to be performed under any subcontract, including all procurement of materials or equipment, each potential subcontractor or supplier shall be notified by CONTRACTOR of CONTRACTOR's obligation under this Agreement and the Regulations relative to nondiscrimination on the ground of race, color, religion, sex, national origin, age, marital status, physical handicap or sexual orientation.

D. Information and Reports: CONTRACTOR shall provide all information and reports required by the Regulations, or by any orders or instructions issued pursuant thereto, and shall permit access to its books, records, accounts, other sources of information and its facilities as may be determined by the CITY to be pertinent to ascertain compliance

with such Regulations, orders and instructions. Where any information required of CONTRACTOR is in the exclusive possession of another who fails or refuses to furnish this information, CONTRACTOR shall so certify to the CITY, and shall set forth what efforts it has made to obtain the information.

- E. Sanctions for Noncompliance: In the event of noncompliance by CONTRACTOR with the nondiscrimination provisions of this Agreement, the CITY shall impose such sanctions as it may determine to be appropriate including, but not limited to:
- (1) Withholding of payments to CONTRACTOR under this Agreement until CONTRACTOR complies;
 - (2) Cancellation, termination, or suspension of the Agreement, in whole or in part.
- F. Incorporation of Provisions: CONTRACTOR shall include the provisions of subsections A through E, above, in every subcontract, including procurement of materials and leases of equipment, unless exempted by the Regulations, or by any order or instructions issued pursuant thereto. CONTRACTOR shall take such action with respect to any subcontract or procurement as the CITY may direct as a means of enforcing such provisions including sanctions for noncompliance; provided, however, that in the event CONTRACTOR becomes involved in, or is threatened with, litigation with a subcontractor or supplier as a result of such direction, CONTRACTOR may request CITY to enter such litigation to protect the interests of CITY.

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

18. **Binding Effect.** This Agreement shall be binding on the heirs, executors, administrators, successors and assigns of the parties, subject to the provisions of Section 17, above.
19. **Use Tax Requirements.** During the performance of this Agreement, CONTRACTOR, for itself, its assignees and successors in interest, agrees as follows:
- A. Use Tax Direct Payment Permit: For all leases and purchases of materials, equipment, supplies, or other tangible personal property used to perform the Contract or Agreement and shipped from outside California, the Contractor and any subcontractors leasing or purchasing such materials, equipment, supplies or other tangible personal property shall obtain a Use Tax Direct Payment Permit from the California State Board of Equalization ("SBE") in accordance with the applicable SBE criteria and requirements.
 - B. Sellers Permit: For any construction contract and any construction subcontract in the amount of \$5,000,000 or more, Contractor and the subcontractor(s) shall obtain sellers permits from the SBE and shall register the jobsite as the place of business for the purpose of allocating local sales and use tax to the City. Contractor and its subcontractors shall remit the self-accrued use tax to the SBE, and shall provide a copy of each remittance to the City.
 - C. The above provisions shall apply in all instances unless prohibited by the funding source for the Contract or Agreement.

EXHIBIT E

REQUIREMENTS OF THE NON-DISCRIMINATION IN EMPLOYEE BENEFITS CODE

INTRODUCTION

The Sacramento Non-Discrimination In Employee Benefits Code (the "Ordinance"), codified as Sacramento City Code Chapter 3.54, prohibits City contractors from discriminating in the provision of employee benefits between employees with spouses and employees with domestic partners, and between the spouses and domestic partners of employees.

APPLICATION

The provisions of the Ordinance apply to any contract or agreement (as defined below), between a Contractor and the City of Sacramento, in an amount exceeding \$100,000.00. The Ordinance applies to that portion of a contractor's operations that occur: (i) within the City of Sacramento; (ii) on real property outside the City of Sacramento if the property is owned by the City or if the City has a right to occupy the property; or (iii) at any location where a significant amount of work related to a City contract is being performed.

The Ordinance does not apply: to subcontractors or subcontracts of any Contractor or contractors; to transactions entered into pursuant to cooperative purchasing agreements approved by the Sacramento City Council; to legal contracts of other governmental jurisdictions or public agencies without separate competitive bidding by the City; where the requirements of the ordinance will violate or are inconsistent with the terms or conditions of a grant, subvention or agreement with a public agency or the instructions of an authorized representative of any such agency with respect to any such grant, subvention or agreement; to permits for excavation or street construction; or to agreements for the use of City right-of-way where a contracting utility has the power of eminent domain.

DEFINITIONS

As set forth in the Ordinance, the following definitions apply:

"Contract" means an agreement for public works or improvements to be performed, or for goods or services to be purchased or grants to be provided, at the expense of the City or to be paid out of moneys deposited in the treasury or out of the trust money under the control or collected by the City. "Contract" also means a written agreement for the exclusive use ("exclusive use" means the right to use or occupy real property to the exclusion of others, other than the right reserved by the fee owner) or occupancy of real property for a term exceeding 29 days in any calendar year, whether by singular or cumulative instrument, (i) for the operation or use by others of real property owned or controlled by the City for the operation of a business, social, or other establishment or organization, including leases, concessions, franchises and easements, or (ii) for the City's use or occupancy of real property owned by others, including leases, concessions, franchises and easements.

"Contract" shall not include: a revocable at-will use or encroachment permit for the use of or encroachment on City property regardless of the ultimate duration of such permit; excavation, street construction or street use permits; agreements for the use of City right-of-way where a contracting utility has the power of eminent domain; or agreements governing the use of City property that constitute a public forum for activities that are primarily for the purpose of espousing or advocating causes or ideas and that are generally protected by the First Amendment to the United States Constitution or that are primarily recreational in nature.

"Contractor" means any person or persons, firm partnership or corporation, company, or combination thereof, that enters into a Contract with the City. "Contractor" does not include a public entity.

“Domestic Partner” means any person who has a currently registered domestic partnership with a governmental entity pursuant to state or local law authorizing the registration.

“Employee Benefits” means bereavement leave; disability, life, and other types of insurance; family medical leave; health benefits; membership or membership discounts; moving expenses; pension and retirement benefits; vacation; travel benefits; and any other benefit given to employees. “Employee benefits” shall not include benefits to the extent that the application of the requirements of this chapter to such benefits may be preempted by federal or state.

CONTRACTOR’S OBLIGATION TO PROVIDE THE CITY WITH DOCUMENTATION AND INFORMATION

Contractor shall provide the City with documentation and information verifying its compliance with the requirements of the Ordinance within ten (10) days of receipt of a request from the City. Contractors shall keep accurate payroll records, showing, for each City Contract, the employee’s name, address, Social Security number, work classification, straight time pay rate, overtime pay rate, overtime hours worked, status and exemptions, and benefits for each day and pay period that the employee works on the City Contract. Each request for payroll records shall be accompanied by an affidavit to be completed and returned by the Contractor, as stated, attesting that the information contained in the payroll records is true and correct, and that the Contractor has complied with the requirements of the Ordinance. A violation of the Ordinance or noncompliance with the requirements of the Ordinance shall constitute a breach of contract.

EMPLOYER COMPLIANCE CERTIFICATE AND NOTICE REQUIREMENTS

(a) All contractors seeking a Contract subject to the Ordinance shall submit a completed Declaration of Compliance Form, signed by an authorized representative, with each proposal, bid or application. The Declaration of Compliance shall be made a part of the executed contract, and will be made available for public inspection and copying during regular business hours.

(b) The Contractor shall give each existing employee working directing on a City contract and (at the time of hire), each new employee, a copy of the notification provided as Attachment “A.”

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

Attachment A



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

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

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

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

The included employee benefits are:

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

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

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

You May . . .

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