

Meeting Date: 9/3/2013

Report Type: Consent

Report ID: 2013-00656

Title: Agreement: Larry Walker Associates for Combined Sewer System Regulatory Compliance Support (I14120600)

Location: Districts 3, 4, 5 and 6

Issue: A professional services agreement is needed for regulatory compliance support for the City-owned and maintained combined sewer system. City Council approval is required for agreements of \$100,000 or more.

Recommendation: Pass a Motion authorizing the City Manager or the City Manager's designee to execute a professional services agreement with Larry Walker Associates, Inc. (LWA), to provide Combined Sewer System Regulatory Support for FY2013/14, for an amount not to exceed \$371,927.

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

Presenter: None

Department: Department Of Utilities

Division: Environmental & Regulatory Com

Dept ID: 14001331

Attachments:

- 1-Description/Analysis
- 2-Background
- 3-Location Map
- 4-Agreement

City Attorney Review

Approved as to Form
Joe Robinson
8/21/2013 1:28:45 PM

City Treasurer Review

Reviewed for Impact on Cash and Debt
Russell Fehr
8/13/2013 1:15:44 PM

Approvals/Acknowledgements

Department Director or Designee: Dave Brent - 8/20/2013 12:05:35 PM

Description/Analysis

Issue Detail: The Department of Utilities recommends approval of a professional service agreement with Larry Walker and Associates, Inc. (LWA), to assist with ongoing regulatory compliance for the City's Combined Sewer System (CSS).

Policy Considerations: The City has coverage for the City's CSS under the National Pollutant Discharge Elimination System (NPDES) Permit, Order No. CA0079111. This report's recommendations are consistent with the following goals and policies of the City's 2030 General Plan:

1. The City shall continue to rehabilitate the CSS to provide adequate wastewater collection, treatment, and disposal in areas served by this system.
2. Protect local watersheds, water bodies, and groundwater resources, including creeks, reservoirs, the Sacramento and American rivers, and their shorelines.
3. Protect life and property from flooding.
4. The City shall continue to identify, construct, and maintain infrastructure systems and facilities required to promote and sustain a positive economic climate.

Economic Impacts: None

Environmental Considerations: The Community Development Department, Environmental Services Manager has reviewed the project and has determined that the proposed project is exempt from the California Environmental Quality Act (CEQA) under Section Number 15061(b)(3) of the CEQA Guidelines. The activity is covered by the general rule that CEQA applies only to projects that 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 professional service agreement is consistent with the goals and targets of the City's Sustainability Master Plan. Implementation of NPDES Permit requirements provides for proper operation and management of the City's CSS while complying with applicable water quality standards and protecting the designated uses of the receiving water downstream of the CSS discharge.

Commission/Committee Action: Not applicable

Rationale for Recommendation: Approval of the agreement with LWA is recommended to obtain professional services needed to comply with the NPDES Permit issued for the City's CSS. The agreement has an initial one-year term, with the option to extend for up to two additional one-year terms.

Financial Considerations: The cost for the agreement's initial term is \$371,927; there is sufficient funding in the Multi-Year Operating Project, CSS Regulatory Compliance Support (I14120600). The cost will be split between the Wastewater (Fund 6006) and Storm Drainage (Fund 6011), with 25% from the Wastewater Fund in the amount of

\$92,982 and 75% from the Storm Drainage Fund in the amount of \$278,945. Staff will return to the City Council for the approval of any term extensions for subsequent fiscal years.

Emerging Small Business Development (ESBD): Larry Walker Associates, Inc., is not certified as an Emerging or Small Business Enterprise.

Background

The Combined Sewer System (CSS) infrastructure dates back to the late 1800s and is one of only two such systems in the state. The area of the City served by the CSS comprises approximately 7,000 acres, including downtown, midtown, East Sacramento, and Land Park, as shown on the location map for this report. Unlike more common systems that carry sanitary sewage and storm drainage in separate pipes, the CSS consists of a single pipe system that collects sanitary sewage from residents and businesses as well as runoff from city streets and urban land uses. During large storm events, those pipes can overflow causing combined sewage to back up onto streets, yards, and, in extreme events, even buildings.

In June 1990, the Central Valley Regional Water Quality Control Board (CVRWQCB) issued a Cease and Desist Order requiring the City to eliminate outflows from the CSS into City streets and properties. In 1995, City Council adopted a Combined Sewer System Improvement Plan (Improvement Plan) intended to reduce outflows as well as discharges to the river. That same year, the CVRWQCB approved the Improvement Plan, rescinded the Cease and Desist Order, and issued a National Pollutant Discharge Elimination System (NPDES) Permit that mandated implementation of Nine Minimum Controls and the City's Improvement Plan (Long Term Control Plan).

Since 1995, in accordance with the Improvement Plan, the City has constructed over \$132 million in improvements to the CSS. Major projects included upgrades to Sump 2 and Pioneer Reservoir to significantly improve the performance of the CSS and to provide primary treatment for higher volumes of CSS discharges to the river. These improvements have significantly reduced street and structure flooding and untreated discharges to the Sacramento River. The City works diligently towards meeting the mandated goals of minimizing street flooding during the 10-year storm and preventing structure flooding during the 100-year storm.

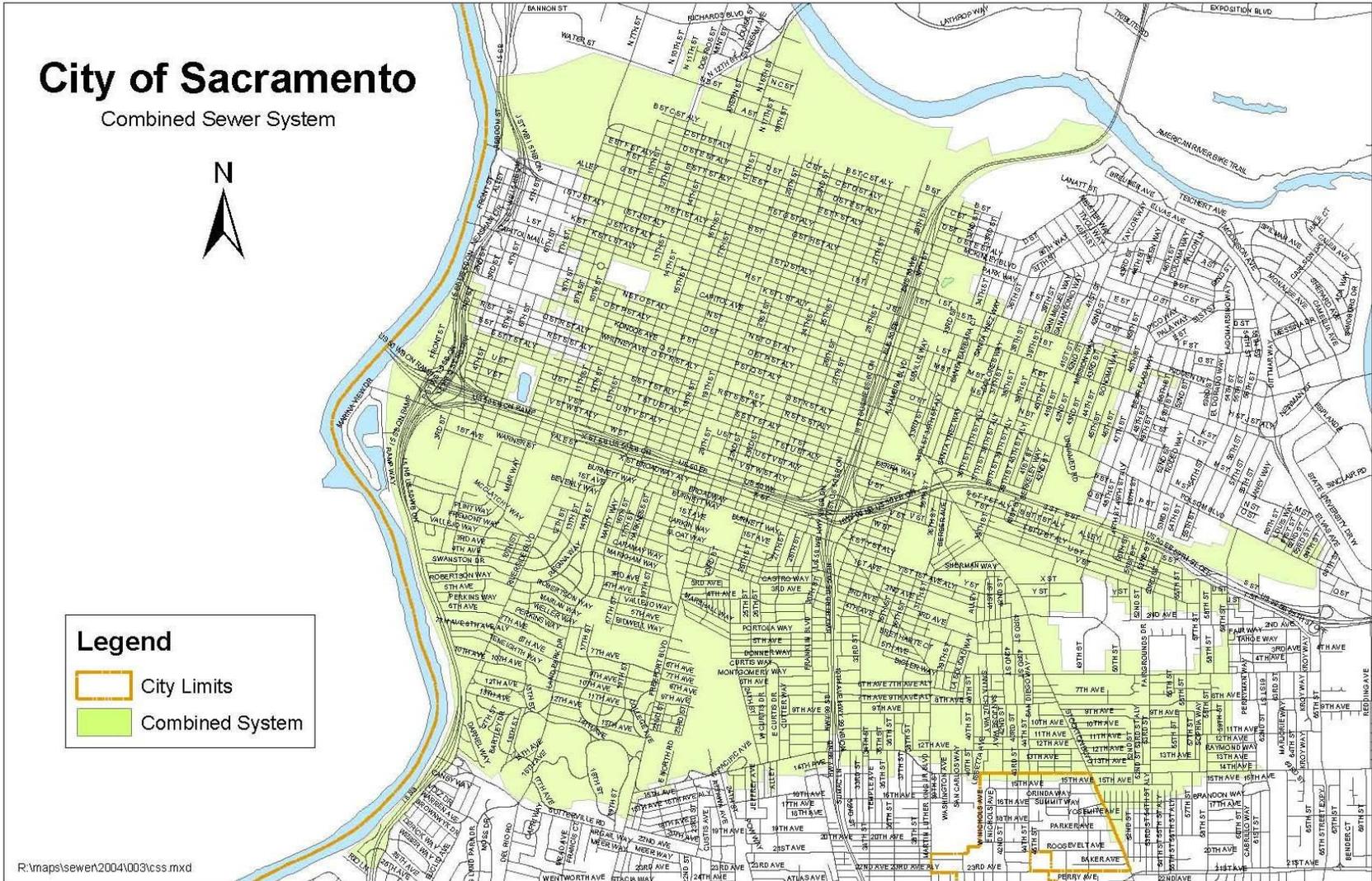
The CVRWQCB renewed the CSS NPDES Permit on January 28, 2010. The revised NPDES Permit mandates the continued implementation of the Improvement Plan and requires further studies to determine if the current operational practices and configurations of the CSS adequately protect the Sacramento River during the episodic discharges to the river. The new permit requires extensive water quality and toxicity sampling of effluent and

river water; comprehensive reporting of Nine Minimum Controls applicable to the CSS, including operations and maintenance activities and various feasibility studies; comprehensive reporting of infrastructure annual budgets, long term funding, and actual expenditures; annual analysis and reporting of untreated discharges to the river and state on-line reporting of CSS outflows; and extensive regulatory reporting and public notification including notification of downstream municipal water users.

Completion of the tasks required by the NPDES Permit is accomplished by City staff and through professional services agreements or construction contracts when staff expertise or equipment is not available. Contracted services have included flow measurement and modeling, long term capital improvement evaluation and prioritizations, infrastructure condition assessments inspections and specialized maintenance, capital improvement construction, and compliance monitoring.

The Request for Qualifications (RFQ) process for this project was conducted in May 2013, and it included various NPDES Permit required tasks to be performed over a period of up to three years. Only one Statement of Qualifications was received in response to the RFQ, from Larry Walker Associates, Inc. (LWA). LWA has provided professional water quality services under multiple contracts for the City, and the Utilities Department has been highly satisfied with the services performed by LWA under prior agreements.

The FY2013/14 Combined Sewer System Regulatory compliance support services agreement includes: follow-up, technical analysis and addendum to the Water Quality Assessment report; coordination, implementation, and data quality evaluation for water quality and toxicity sampling activities; pollutant load estimations; analysis of CSS performance; and regulatory reporting. The scope of work for this agreement covers one fiscal year with a potential maximum of two successive one-year extensions, upon the City Council's approval of a supplemental agreement specifying the scope of services and payment provisions for each extended term.



PROJECT #:
PROJECT NAME:
DEPARTMENT:
DIVISION:

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

("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:

NAME OF FIRM

Federal I.D. No.

State I.D. No.

City of Sacramento Business Op. Tax Cert. No.

TYPE OF BUSINESS ENTITY (*check one*):

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

Signature of Authorized Person

Print Name and Title

Additional Signature (*if required*)

Print Name and Title

**DECLARATION OF COMPLIANCE
Equal Benefits Ordinance**

Name of Contractor: _____

Address: _____

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

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

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

4. Contractor understands that Contractor will not be considered to be discriminating in the provision or application of employee benefits under the following conditions or circumstances:
 - a. If the actual cost of providing a benefit to a domestic partner or spouse exceeds the cost of providing the same benefit to a spouse or domestic partner of an employee, Contractor will not be required to provide the benefit, nor shall it be deemed discriminatory, if Contractor requires the employee to pay the monetary difference in order to provide the benefit to the domestic partner or to the spouse.

- b. If Contractor is unable to provide a certain benefit, despite taking reasonable measures to do so, if Contractor provides the employee with a cash equivalent Contractor will not be deemed to be discriminating in the application of that benefit.
 - c. If Contractor provides employee benefits neither to employee's spouses nor to employee's domestic partners.
 - d. If Contractor provides employee benefits to employees on a basis unrelated to marital or domestic partner status.
 - e. If Contractor submits written evidence of making reasonable efforts to end discrimination in employee benefits by implementing policies that will be enacted before the first effective date after the first open enrollment process following the date this Agreement is executed by the City of Sacramento ("City"). Contractor understands that any delay in the implementation of such policies may not exceed one (1) year from the date this Agreement is executed by the City, and applies only to those employee benefits for which an open enrollment process is applicable.
 - f. Until administrative steps can be taken to incorporate nondiscrimination in employee benefits. The time allotted for these administrative steps will apply only to those employee benefits for which administrative steps are necessary and may not exceed three (3) months from the date this Agreement is executed by the City.
 - g. Until the expiration of a current collective bargaining agreement(s) if employee benefits are governed by such collective bargaining agreement(s).
 - h. Contractor takes all reasonable measures to end discrimination in employee benefits by either requesting that the union(s) involved agree to reopen the agreement(s) in order for Contractor to take whatever steps are necessary to end discrimination in employee benefits or by ending discrimination in employee benefits without reopening the collective bargaining agreement(s).
 - i. In the event Contractor cannot end discrimination in employee benefits despite taking all reasonable measures to do so, Contractor provides a cash equivalent to eligible employees for whom employee benefits are not available. Unless otherwise authorized in writing by the City Manager, Contractor understands this cash equivalent must begin at the time the union(s) refuse to allow the collective bargaining agreement(s) to be reopened or not longer than three (3) months after the date this Agreement is executed by the City.
5. Contractor understands that failure to comply with the provisions of Section 4(a) through 4(i), above, will subject Contractor to possible suspension and/or termination of this Agreement for cause; repayment of any or all of the Agreement amount disbursed by the City; debarment for future agreements until all penalties and restitution have been paid in full and/or for up to two (2) years; and/or the imposition of a penalty, payable to the City, in the sum of \$50.00 for each employee, for each calendar day during which the employee was discriminated against in violation of the provisions of the Ordinance.
6. Contractor understands and agrees to provide notice to each current employee and, within ten (10) days of hire, to each new employee, of their rights under the Ordinance. Contractor further agrees to

maintain a copy of each such letter provided, in an appropriate file for inspection by authorized representatives of the City. Contractor also agrees to prominently display a poster informing each employee of these rights.

7. Contractor understands that Contractor has the right to request a waiver of, or exemption from, the provisions of the Ordinance by submitting a written request to the City's Procurement Services Division prior to Agreement award, which request shall identify the provision(s) of the Ordinance authorizing such waiver or exemption and the factual basis for such waiver or exemption. The City shall determine in its sole discretion whether to approve any such request.
8. Contractor agrees to defend, indemnify and hold harmless, the City, its officers and employees, against any claims, actions, damages, costs (including reasonable attorney fees), or other liabilities of any kind arising from any violation of the Requirements or of the Ordinance by Contractor.

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

Signature of Authorized Representative

Date

Print Name

Title

EXHIBIT A

PROFESSIONAL SERVICES AGREEMENT FOR DESIGN PROFESSIONALS

SCOPE OF SERVICES

1. Representatives.

The CITY Representative for this Agreement is:

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:

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 ___ 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.** *[Describe services to be provided here, or, if scope of services is described in an attachment, label the attachment “Attachment 1 to Exhibit A” and include the following sentence:]*

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

CITY OF SACRAMENTO COMBINED SEWER SYSTEM REGULATORY AND MONITORING SUPPORT

2013-2014 LARRY WALKER ASSOCIATES SCOPE OF SERVICES

Overview

This Scope of Services describes the consulting services to be provided by Larry Walker Associates, Inc. (LWA) and its subcontractors to the City of Sacramento Department of Utilities (City) from July 2013 through January 2015.

LWA will provide services in support of the combined sewer system (CSS) National Pollutant Discharge Elimination System (NPDES) permit compliance (Order No. R5-2010-0004). These services include monitoring, reporting, system analysis and general regulatory support.

The following tasks will be completed under a new contract for the 2013-2014 monitoring year.

TASK 1 WATER QUALITY MONITORING SUPPORT

LWA will provide as-needed monitoring support to the City for all CSS river discharge events and facilitate all contract laboratory services. It is assumed that LWA will provide field staff responsible for receiving water monitoring and available to support other monitoring (influent and effluent). The schedule of deliverables for all tasks is shown below:

Sub-Task No.	LWA Deliverable	Deliverable Date to City
1.1	Update Sampling and Analysis Plan	October 1, 2013
1.2	Sampling Event Follow-up Email, Chain of Custody forms, and sample tracking table	Within 3 calendar days of event completion
1.3	Laboratory reports for 'routine' data	Within 20 calendar days of event completion

Sub-Task 1.1 Sampling Preparations

LWA will review and revise the 2013-2014 Sampling and Analysis Plan (SAP) to include laboratory analyses and specific sampling protocols, including toxicity. The review will consider permit compliance, logistics, safety, quality control samples, and industry-standard sampling protocols. The estimate assumes use of the same laboratories as in previous years, though changes in laboratories may occur with prior notification to the City. Additional analyses requested or for other programs may be added to the sampling program as funding is available.

Following review and update of the SAP, LWA will provide a field training session for the LWA and City sample collection staff and other City staff.

Sub-Task 1.2 Inter-Event Preparations

LWA will provide logistical support for all sampling events at all sites, including the receiving water locations, effluent locations and influent locations. LWA will prepare all sample bottles, bottle labels, and field log sheets for permit sample collection at all locations. LWA will regularly check with Operations and Maintenance Division staff to determine if additional bottles are necessary. Sample coolers for City staff will be delivered to the appropriate mobilization area specified by field staff. LWA and City field crews will provide their own properly calibrated field measurement instrumentation. LWA and City field crews will prepare their own chain-of-custody forms that will be reviewed by the LWA Water Quality Monitoring Task Manager. LWA will subcontract with a forecast service to provide daily weekday forecasts and as-needed weekend and phone forecasting for up to three months; other months may be covered through participation in the Sacramento Stormwater Quality Partnership agreement.

Sub-Task 1.3 Sample Collection

LWA will collect samples at the receiving water locations for up to four discharge events and provide as-needed assistance at all other locations. The SAP outlines roles and responsibilities of the designated consultant and City for sample collection. The Supervising Plant Operator (SPO) will notify the LWA Water Quality Monitoring Task Manager of imminent discharge events including a pre-storm estimate based on forecasted rain events. During the storm event, the City will provide a two-hour lead-time notification to the LWA Water Quality Monitoring Task Manager prior to the discharge event.

LWA field staff will mobilize to CWTP when notified by the SPO. Receiving water samples will be collected as side-bank grab samples at the locations specified in the SAP. Crews will be able to mobilize initially for discharges at Pioneer and CWTP. Additional samples may also be collected at Sump 2/2A. Because Sump 2/2A discharges are infrequent and short in duration, LWA field teams will need to be on site and notified prior to such discharges.

For budgeting purposes, it is assumed that: 1) two false starts will occur where field crews are mobilized but discharges and receiving water sampling do not actually occur; 2) one LWA field crew staff will be available to team with City staff for receiving water monitoring for each routine discharge monitoring event, 3) three LWA field crew staff will be available for each “annual” discharge monitoring event and 4) one LWA staff will provide office-based logistical support for each discharge event.

LWA will arrange for delivery of all samples to the appropriate laboratories from a sample mobilization location at the City facilities or LWA office. LWA will contract directly with commercial analytical laboratories according to specifications in the SAP, which are based on the NPDES permit. These services include analysis of acute toxicity samples at certain locations. The City will provide bacteriological analytical services directly through the City Water Treatment Laboratory.

Within three calendar days of the end of an event sample collection, LWA will send a summary of field activities to the designated City staff. The summary will include all relevant field sheets, operational log sheets, chain of custody forms, and a summary table of samples submitted. City staff will review these materials and provide comments or changes to requested analyses.

The budget estimate includes aquatic toxicity analysis, but does not include any required follow-up monitoring (e.g., dilution series or toxicity identification evaluations are not included). The

NPDES permit does not currently require follow-up toxicity assessments such as a toxicity identification evaluation (TIE) or toxicity reduction evaluation (TRE). However, such evaluations should be considered as part of this monitoring program to ensure that the nature of any observed toxicity is understood. It is expected that observed effluent toxicity would be due to chlorine or ammonia. The toxicity laboratory will screen for these constituents. Plant operations staff monitor chlorine residual hourly in all effluent discharges. Additionally, for the annual monitoring event, sufficient sample should be collected at all sites to allow for follow-up ammonia screening using zeolite to reduce ammonia related aquatic toxicity. It is assumed that one additional effluent sample per year will be required for this assessment. This scope of work does not specifically include additional TIE support or TRE preparation, however, if funds from other tasks can be reallocated, the LWA team can provide support and lab analyses for these follow-up analyses.

Sub-Task 1.4 Receiving Water Continuous Data Probes [Optional]

LWA will deploy self-contained, continuous data sondes near river monitoring locations RSW-001 (Delta King) and RSW-002 (Miller Park). A third sonde may be added at a discharge or receiving water location, as budget can be reallocated from other tasks. Such installation would allow collection of continuous data for ammonia, turbidity, dissolved oxygen, temperature, conductivity, and pH. The sensors will be deployed early in the wet season (assuming for six months), targeting the season’s first CSO.

TASK 2 REGULATORY REPORTING

The NPDES permit requires monthly and annual reporting. LWA will provide data processing support for months in which CSS overflow discharges occur and the annual reporting. Annual reporting for the 2012-2013 monitoring year (as defined in NPDES permit) is included in this scope of services. Annual reporting for the 2013-2014 monitoring year may be added to this scope of services if funds are available.

The following is a summary of expected reporting activity deliverables for the 2013-2014 scope of services.

Sub-Task No.	LWA Deliverable	Deliverable Date to City
2.1	Data assessment memorandum, CIWQS upload	Within 24 calendar days of event completion
2.2	2012-13 Annual Report Sections Assigned by City	December 20, 2013
2.2	Annual data DMR drafted hard copies or CIWQS upload, if allowed	January 15, 2014
2.3	2013-14 Annual Report Sections Assigned by City as funding is available	December 22, 2014

Sub-Task 2.1 Data Compilation and Reporting

LWA will coordinate all follow-up and corrective actions with analytical laboratories to resolve any identified analytical or sample problems. LWA will request electronic data deliverables (EDD) from the laboratories and apply an EDD processing tool to expedite the compilation of data into a format compatible with the Surface Water Ambient Monitoring Program (SWAMP)

database for receiving water data. Data will be maintained in a spreadsheet or database format and available upon request by the City. LWA will perform a data quality evaluation assessment and evaluate the appropriateness of data for future uses by adding necessary data qualifiers.

LWA will process the data and upload it for review in the California Integrated Water Quality System (CIWQS). LWA will review data and provide a summary table of qualified data and a narrative discussion of known significant problems affecting the data. LWA will target complete data compilation and review prior to the reporting deadline (first business day of the second calendar month following the monitoring event). In some cases, events late in the month coupled with laboratory delays may not allow significant City review time. The 2013-2014 Sampling and Analysis Plan (SAP) will detail the recommended roles and schedules for CIWQS reporting. The City Legally Responsible Officer (LRO) or their City designee will submit the CIWQS reports for routine (monthly) and annual reporting as well as all required Discharge Monitoring Reports (DMR).

Sub-Task 2.2 FY12/13 Annual Report Assistance

LWA will prepare specifically assigned sections of the 2012-2013 Annual Report including monitoring data and loading summaries for the Nine Minimum Controls Report and preparation of the Untreated Discharge Report. LWA will provide as-needed support services to the City to complete other sections of the annual report.

LWA will assist the City with preparation of the Nine Minimum Controls Annual Progress Report as required in permit section E.X.D.3. The LWA-led team will provide as-needed technical support to the City in reviewing any changes to the report format based on the forthcoming Report of Waste Discharge or comments from the Regional Board, and then compiling and reviewing the draft report as an attachment to the annual report.

The City is required to submit as part of its Nine Minimum Controls Annual Progress Report that is due on January 30th of each year, a summary of existing monitoring data and an evaluation of the efficacy of CSO controls (including pollution prevention efforts) to minimize and/or prevent impacts from CSOs. LWA will prepare a summary of existing monitoring data and estimate the load of key constituents removed by CSO controls. If necessary, the City is required to propose revisions to the CSO control program (including the Nine Minimum Controls) to improve the efficiency and effectiveness of controls.

LWA will prepare the following report sections by December 20, 2013:

- C. Review and modify the pretreatment program
- D. Maximize flow to the POTW Treatment Plant
- I. Monitoring to characterize CSO impacts and efficacy of CSO controls

LWA will review all existing sections or items prepared by the City and provide comments on suggested language or additional analysis.

LWA will assist the City in preparation of the annual report due annually on January 30, 2014. LWA will provide technical and coordination support to assist in the preparation of the report. LWA duties may include but not limited to the following: review of any report language or analysis and suggested edits, as-needed assistance in preparation of materials not covered under

other Scope-of-Services items, attendance at meetings specific to the annual report preparation, and preparation of responses to comments from the Regional Board.

The City had one untreated discharge in 2012-2013, which then requires submittal of an “Untreated Discharge Evaluation Report” as described in Section IV.D.2 of the NPDES permit. LWA will prepare this report with information provided by the City.

LWA will prepare the required hard copy format of the annual datasheets (EPA forms) for the Discharge Monitoring Report (DMR) by January 15, 2014 if they are still required. If electronic (CIWQS) reporting is made available, LWA will instead provide the draft upload of annual data to CIWQS by January 15, 2014. “Annual” data refers to the samples collected once per year when a discharge occurs

Sub-Task 2.3 FY13/14 Annual Report Assistance

If funds are leftover from other completed tasks, LWA will prepare specifically assigned sections of the 2013-2014 Annual Report including monitoring data and loading summaries for the Nine Minimum Controls Report, preparation of the Untreated Discharge Report, and preparation of annual sample DMR (hard copy or electronic forms). LWA will provide as-needed support services to the City to complete other sections of the annual report as described in Sub-Task 2.4.

Sub-Task 2.4 As-needed Regulatory Reporting and Compliance

LWA will provide as-needed support to respond to regulatory reporting requests or other evaluations including but not limited to responses to notices of violation, data requests from regulators and other parties, interpretation and assessment of modeling performed by others, and as-needed review of online reports in CIWQS, Total Maximum Daily Load (TMDL) data requests or other.

TASK 3. CSS PERFORMANCE

LWA has previously prepared the Plan of Operations and the Water Quality Assessment report. These documents may require updates or supplements based on comments from the Regional Board or City staff in preparation for the NPDES permit renewal. The LWA team will provide engineering and technical support as requested by the City to prepare necessary updates which may include but are not limited to the following – evaluation of disinfection systems, technical revisions to Water Quality Assessment, updates to the Plan of Operations, and others.

Sub-Task 3.1 Water Quality Assessment Follow-up

This task will compliment Task 4 (Report of Waste Discharge) and Task 5 (Delta Methylmercury TMDL Support) by providing the as-needed engineering and operational support to the technical assessments. The City met with the Regional Board in July 2013 to discuss the Water Quality Assessment Report and upcoming Report of Waste Discharge (ROWD). As requested by the City the, LWA team will perform operations and engineering assessments to consider identified issues such as solids and floatables removal optimization and chlorination, dechlorination, and chemical dosing.

Sub-Task 3.2 Plan of Operations Updates

LWA prepared a Plan of Operations in 2012 under direction of City staff. Updates to the Plan of Operations may be necessary to incorporate City reorganization of staffing, changes in operations, and other changes requested by the City. The City may also request, with available funding recommendations and implementation of an electronic compilation of the Plan of Operations and related documents.

TASK 4.0 REPORT OF WASTE DISCHARGE

The City must submit a Report of Waste Discharge (ROWD) to the Regional Board by July 2014 to ensure continued NPDES permit coverage for Sacramento River discharges. LWA will provide as-needed support for completion of the materials as led by the City. The following timelines are expected for the ROWD materials:

Sub-Task No.	Task	Timeline
4	ROWD submitted by City	July 5, 2014 or following Monday
4.1	Coordinate ROWD Approach	Fall 2013
4.2 and 4.3	Draft ROWD Materials	Spring 2014
4.4	Water Quality Assessments Updates	Fall 2013 through Spring 2014

Sub-Task 4.1 Prepare ROWD Strategy

LWA will meet with the City to discuss an overall preparation and approach strategy for the ROWD due to the Regional Board in July 2014. Based on the Water Quality Assessment Report and follow-up communications with the Regional Board and City staff and management, LWA will assist the City in developing key points for inclusion in the ROWD.

Sub-Task 4.2 EPA Forms and Cover Letter Assistance

If requested, LWA will prepare or assist with preparation of the EPA 200 form with information provided by the City and any other supplemental forms that are identified or requested. If requested, LWA will draft a cover letter that discusses the City's key points and findings from the Water Quality Assessment Report and the Long Term Control Plan or CSS Improvement Plans.

Sub-Task 4.3 Electronic data preparation

LWA will prepare a comprehensive spreadsheet of monitoring data collected at the influent, effluent, and receiving water locations since the current NPDES permit adoption in January 2010. These data will be available for possible submittal to the Regional Board and for general use by the City.

Sub-Task 4.4 Technical Analysis and Addendum to Water Quality Assessment

Based on discussions with Regional Board permit writers and management and with direction from the City, LWA will update or supplement the Water Quality Assessment analyses and/or findings. This may include, but is not limited to recalculation of loadings based on new or

revised data, evaluation of pathogen data and risk assessments, engineering evaluation of chlorination systems, and incorporation of hydrologic and hydraulic (H&H) modeling by others.

TASK 5 DELTA METHYLMERCURY TMDL SUPPORT

The City CSS has a wasteload allocation for all discharges in the final Delta Methylmercury Total Maximum Daily Load (TMDL). While the City can meet the wasteload allocation in years with a low to average number discharge events, compliance in years with larger discharge volumes may require development of methylmercury control measures. The TMDL Phase 1 assessment is currently underway and the City submitted a Control Study Work Plan to the Regional Board in April 2013. The proposed study includes collection of influent samples, solids bench testing, and assessments of collection system “hot spots”. The following timeline is expected for the TMDL support work:

Sub-Task No.	Task	Timeline
5.1	Update Work Plan	2 months from receiving comments or specified compliance data
5.2	Develop sampling plan	Summer - Fall 2013

Sub-Task 5.1 Work Plan Updates and Response to TAC Comments

LWA will review all TAC and Regional Board comments and update the Work Plan. It is expected that the essential components of the study will be the same and that changes will provide additional clarification of methods.

Sub-Task 5.2 Sample Collection and Analysis

LWA will prepare more detailed sampling and analysis planning documents to provide additional detail to sampling crews. LWA will collect or coordinate collection with City staff of influent and effluent samples if collection of other NPDES permit requirements can already be assured. LWA will also collect solids samples, with assistance from the City operations staff, to perform the bench “bucket tests” to assess methylation potential due to system solids. Bench test sampling from 2013 will be confirmed and further developed with 2014 testing to better understand contributing factors or to test pilot control measures. LWA will also coordinate collection of any collection system sediment samples if the City identifies hot-spots. A more precise schedule of activities will be developed in the sampling plan.

Sub-Task 5.3 Prepare Data Summaries for Annual Reporting

LWA will prepare a summary of activities and annual results for review by the City. A progress report is due to the Regional Board on October 20, 2015, and this summary would be used as the basis for that report and to guide additional activities.

Sub-Task 5.4 Meetings and Follow-up with CVCWA and Regional Board

LWA will coordinate necessary meetings with and information request fulfillment by the Regional Board and the Central Valley Clean Water Association (CVCWA). This includes compilation of results, methods, and technical details of the study.

TASK 6 DELTA AND REGULATORY EXPERTISE

Delta water quality is a critical resource to California as a major drinking water supply, agricultural supply, and wildlife habitat. This level of interest is expected to increase in the coming years with increasing resource demands, major proposed infrastructure changes such as the Bay Delta Conservation Plan (BDCP), and land use and “conservation project” planning as described in the Delta Plan. Sacramento and San Joaquin River Delta dischargers face increasing regulatory pressures, even in cases where those discharges may not cause significant impacts or are a benefit to the community and receiving water. LWA will provide general tracking support for a wide range of Sacramento and San Joaquin River Delta policy, planning, and implementation activities.

Sub-Task 6.1 Attend CVCWA Delta meetings and prepare summary notes

LWA will attend CVCWA Delta meetings on behalf of the City to gather information and coordinate commenting on issues related to the City CSS. This includes up to six of the monthly meetings in person or via teleconference. Additional meetings may be attended if time is combined with other client representation (e.g., Sacramento Stormwater Quality Partnership).

Sub-Task 6.2 Prepare comments on BDCP, Delta initiatives, and Statewide Policy

LWA will prepare coordinate or comments specific to the City CSS for the Delta initiatives expected to be drafted for public review in 2013-2014, including the Bay Delta Conservation Plan (BDCP), and TMDLs. LWA will provide technical as-needed review of City-prepared or other partner (e.g., Regional Water Agency) comments or contribute comments on water quality related items.

LWA tracks all statewide activities and prepares summaries for clients of issues that may affect them (e.g., State Toxicity Policy, TMDLs, State Trash Policy, etc.). LWA will prepare at least a quarterly summary of the issues potentially affecting the City CSS and will also provide as-needed information to the City or as-needed representation at policy development or stakeholder meetings.

Sub-Task 6.3 Participate in CVDWPWG Pathogen study development

The Central Valley Drinking Water Policy is expected to be adopted in July 2013 and the workgroup that developed the policy technical documents included a study of sources, fate and transport, and general pathogen assessments. The objective of the study is to develop baseline information that can be used if future conditions trigger follow-up action by the Regional Board. The workgroup is attempting to coordinate this work through the Delta Regional Monitoring Program. LWA will participate on behalf of the City and in coordination with the Sacramento Stormwater Quality Partnership to represent the City’s “wet weather” discharge interests in developing this study plan. Participation in the study could also become a requirement of the upcoming NPDES permit renewal.

TASK 7 PROJECT COORDINATION

Sub-Task 3.1 Coordination and Project Management

LWA will coordinate staff and subcontracted laboratories to ensure timely delivery of high quality work products. LWA will provide project status reporting and track budget and deliverable submittals.

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

The LWA Project Manager and task leads, as necessary, will lead and attend progress meetings every other month or as requested by the City. LWA will prepare an agenda and distribute to City in advance of each scheduled progress meeting.

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

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

NOTES TO SCOPE OF WORK

1. The period during which the Larry Walker Associates services described herein will be performed will extend from approximately July 2013 through approximately January 2015. However, upon mutual consent of City and Larry Walker Associates, some activities may extend beyond this time period.
2. Remaining budget from FY2013/2014 may be utilized for assignments continuing in FY2014/2015.

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 \$_____.
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. *[Attach list of billable rates that apply, labeled "Attachment 1 to Exhibit B".]*
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:

Attn: _____

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
City of Sacramento – Combined Sewer System
Monitoring and Reporting Support FY2013-14 Budget Estimate

TASK	DESCRIPTION	LABOR HOURS				LAB COSTS [1]	OTHER DIRECT COSTS [1]	TOTALS [1]
		SENIOR ADVISOR	SENIOR ENG./SCL.	STAFF ENG./SCL. II	STAFF ENG./ SCL.			
1.0 WATER QUALITY MONITORING SUPPORT								
1.1	<i>Pre-season planning, preparations, and training</i>	4	0	24	48	\$ -	\$ 600	\$ 12,780
	<i>Sampling Plan Preparation & Training</i>	4	0	20	24	\$ -	\$ 100	
	<i>Equipment Preparation</i>	0	0	4	24	\$ -	\$ 500	
1.2	<i>Inter-event preparations</i>	4	0	64	100	\$ -	\$ 3,450	\$ 30,030
	<i>Weather Tracking</i>	4	0	40	0	\$ -	\$ 2,700	
	<i>Equipment Preparation</i>	0	0	24	100	\$ -	\$ 750	
1.3	<i>Sample Collection</i>	16	0	56	82	\$ 85,877	\$ 1,000	\$ 112,497
	<i>Collect Annual Receiving Water and Effluent Samples</i>	12	0	32	58	\$ -	\$ 500	
	<i>Sample Disposition and Processing</i>	4	0	24	24	\$ 85,877	\$ 500	
1.4	<i>Receiving Water Continuous Data Probes</i>	2	0	24	48	\$ 750	\$ 9,600	\$ 22,020
	Sub TOTAL LABOR HOURS	22	0	104	178			
	Sub TOTAL COSTS					\$ 86,627	\$ 11,200	\$ 177,327
2.0 REGULATORY REPORTING								
2.1	<i>Data Compilation and Reporting</i>	24	0	36	128	\$ -	\$ -	\$ 31,260
2.2	<i>FY1213 Annual Report Assistance</i>	16	0	32	64	\$ -	\$ 100	\$ 19,060
2.3	<i>FY1314 Annual Report Assistance</i>	0	0	0	0	\$ -	\$ -	\$ -
2.4	<i>As-needed Regulatory Reporting and Compliance</i>	32	0	0	0	\$ -	\$ -	\$ 8,160
	Sub TOTAL LABOR HOURS	72	0	68	192			
	Sub TOTAL COSTS					\$ -	\$ 100	\$ 58,480
3.0 CSS PERFORMANCE AND PERMIT COMPLIANCE REPORTING								
3.1	<i>Water Quality Assessment Follow-up</i>	4	0	16	0	\$ -	\$ 7,500	\$ 11,160
3.2	<i>Plan of Operations Updates</i>	8	0	30	12	\$ -	\$ 5,000	\$ 13,790
	Sub TOTAL LABOR HOURS	12	0	46	12			
	Sub TOTAL COSTS					\$ -	\$ 12,500	\$ 24,950
4.0 REPORT OF WASTE DISCHARGE								
4.1	<i>Prepare ROWD Strategy</i>	12	0	4	0	\$ -	\$ 50	\$ 3,770
4.2	<i>EPA Forms and Cover Letter Assistance</i>	16	0	32	8	\$ -	\$ -	\$ 10,560
4.3	<i>Electronic data preparation</i>	0	0	4	24	\$ -	\$ 100	\$ 4,360
4.4	<i>Technical Analysis and Addendum to Water Quality Assessment</i>	24	0	36	24	\$ -	\$ -	\$ 15,660
	Sub TOTAL LABOR HOURS	52	0	76	56			
	Sub TOTAL COSTS					\$ -	\$ 150	\$ 34,350
5.0 DELTA METHYLMERCURY TMDL SUPPORT								
5.1	<i>Work Plan Updates and Response to TAC Comments</i>	8	0	0	16	\$ -	\$ 50	\$ 4,490
5.2	<i>Sample Collection and Analysis</i>	8	0	0	40	\$ 9,700	\$ -	\$ 17,740
5.3	<i>Prepare Data Summaries for Annual Reporting</i>	2	0	0	16	\$ -	\$ -	\$ 2,910
5.4	<i>Meetings and Follow-up with CVCWA and Regional Board</i>	12	0	0	12	\$ -	\$ -	\$ 4,860
	Sub TOTAL LABOR HOURS	30	0	0	84			
	Sub TOTAL COSTS					\$ 9,700	\$ 50	\$ 30,000
6.0 DELTA AND REGULATORY EXPERTISE								
6.1	<i>Attend CVCWA Delta meetings and prepare summary notes</i>	24	0	0	0	\$ -	\$ 200	\$ 6,320
6.2	<i>Prepare comments on BDCP and other Delta initiatives</i>	48	0	8	0	\$ -	\$ -	\$ 13,560
6.3	<i>Participate in CVDWPWG Pathogen study development</i>	16	0	8	0	\$ -	\$ -	\$ 5,400
	Sub TOTAL LABOR HOURS	88	0	16	0			
	Sub TOTAL COSTS					\$ -	\$ 200	\$ 25,280
7.0 PROJECT COORDINATION								
7.1	<i>Coordination and Project Management</i>	48	0	20	40	\$ -	\$ -	\$ 21,540
	Sub TOTAL LABOR HOURS	48	0	20	40			
	Sub TOTAL COSTS					\$ -	\$ -	\$ 21,540
	TOTAL LABOR HOURS	324	0	330	562			
	TOTAL COSTS					\$ 86,627	\$ 23,700	\$ 371,927

Notes:

[1] Includes 10% LWA markup for lab costs and subcontractor labor.

EXHIBIT C

PROFESSIONAL SERVICES AGREEMENT FOR DESIGN PROFESSIONALS

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*]:

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.