

Meeting Date: 12/9/2014

Report Type: Consent

Report ID: 2014-00857

Title: Agreement: Westin Engineering for the Department of Utilities IT Masterplan

Location: Citywide

Recommendation: Pass a Motion authorizing the City Manager or the City Manager's designee to execute a professional services agreement with Westin Engineering for the Department of Utilities IT Masterplan, in an amount not-to-exceed \$200,000.

Contact: Dan Sherry, Interim Engineering & Water Resources Manager, (916) 808-1419; Dave Hansen, Supervising Engineer, (916) 808-1421, Department of Utilities

Presenter: None

Department: Department Of Utilities

Division: Electrical & Instrumentation

Dept ID: 14001361

Attachments:

1-Description/Analysis

2-Background

3-Agreement

City Attorney Review

Approved as to Form
Kourtney Burdick
12/2/2014 11:29:57 AM

Approvals/Acknowledgements

Department Director or Designee: Bill Busath - 11/21/2014 9:51:13 AM

Description/Analysis

Issue Detail: Approval of a professional services agreement with Westin Engineering is recommended to prepare an Information Technology (IT) Master Plan for the Department of Utilities (DOU). This IT Master Plan will evaluate existing systems and core business applications and analyze how these systems perform for the entire organization. It will also include recommendations on how these systems can better support DOU's goals, objectives, and service delivery requirements.

Policy Considerations: City Council Approval is required for agreements in an amount of \$100,000 or more.

Economic Impacts: None

Environmental Considerations: The Community Development Department, Environmental Planning Services has determined that the approval of a professional services agreement to produce an IT Master Plan is not considered a "project" under Section 15378 of the California Environmental Quality Act (CEQA) Guidelines. This action is an administrative government activity that will not result in physical changes in the environment.

Sustainability: Not applicable

Commission/Committee Action: Not applicable

Rationale for Recommendation: A Request for Proposals (RFP) was advertised on August 6, 2014. The City received proposals from eight firms: Brown & Caldwell, Westin Engineering, CGR Management Consultants, LBL Technology Partners, Third Wave Corporation, Mindboard Inc., NexLevel Information Technology, and Syska Hennessy Group. Proposals were evaluated by a panel composed of Information Technology Department staff and DOU staff. Interviews were conducted with the top two firms, and Westin Engineering was selected as the top-ranked firm. The selection was based on proposal approach and completeness, corporate experience, and staff expertise.

Financial Considerations: The proposed professional services agreement is for a not-to-exceed amount of \$200,000. There are sufficient resources available in the DOU IT Masterplan Project (Z14003608) to fund this agreement.

Local Business Enterprise (LBE): This agreement includes a minimum participation level of 5% for local business enterprises. Westin Engineering has met this requirement by including a subcontracted amount of \$10,075 (5.03%) to an LBE, Salient IT Inc..

BACKGROUND

The Department of Utilities (DOU) periodically prepares an IT Master Plan to align its business and operations processes with the IT systems and technology that support them. This IT Master Plan has the following objectives:

- Identify DOU's need for information management and the improvement of business/operation performance.
- Evaluate DOU's existing business and operations processes/practices – including financial, workforce, customer service and billing, water quality and regulatory, asset, maintenance, and operations management – with regard to current issues and future improvement requirements.
- Evaluate the major systems supporting DOU business/operations with regard to business value and positioning for future business requirements – including initiatives already being considered by the City and DOU.
- Evaluate the existing DOU/City technology infrastructure – servers, databases, networks, telecommunications, and mobility – with regard to effectiveness, reliability, security, efficiency, and positioning for future business requirements. Assess existing capabilities and future needs for systems integration technologies; and assess existing or planned technology initiatives to assure that any new technology projects do not duplicate outputs from any other initiatives.
- Evaluate opportunities for shared services – shared systems and technologies – between DOU and other City functions.
- Define a set of projects organized within a program framework (the DOU's Information Technology Program) for delivering the automation and information management capabilities needed to support future business/operations goals and objectives; and for each project in the Program, provide key objectives, scope elements, justifications, timeline, internal resource requirements, and budget estimates.

PROJECT #: Z14003608
PROJECT NAME: Information Technology Master Plan
DEPARTMENT: Utilities
DIVISION: Engineering and Water Resources

CITY OF SACRAMENTO

**PROFESSIONAL SERVICES AGREEMENT
FOR CONSTRUCTION-RELATED SERVICES
THAT ARE NOT PERFORMED BY ARCHITECTS,
LANDSCAPE ARCHITECTS, PROFESSIONAL
ENGINEERS, OR PROFESSIONAL LAND SURVEYORS**

THIS AGREEMENT is made at Sacramento, California, as of December 9, 2014, by and between the **CITY OF SACRAMENTO**, a municipal corporation ("CITY"), and

Westin Engineering, Inc.
3100 Zinfandel Drive, Suite 300, Rancho Cordova, CA 95670
Phone: (916) 889-8600; Fax: (916) 852-2311

("CONTRACTOR"), who agree as follows:

- 1. Services.** Subject to the terms and conditions set forth in this Agreement, CONTRACTOR shall provide to CITY the services described in Exhibit A. CONTRACTOR shall provide said services at the time, place, and in the manner specified in Exhibit A. CONTRACTOR shall not be compensated for services outside the scope of Exhibit A unless prior to the commencement of such services: (a) CONTRACTOR notifies CITY and CITY agrees that such services are outside the scope of Exhibit A; (b) CONTRACTOR estimates the additional compensation required for these additional services; and (c) CITY, after notice, approves in writing a Supplemental Agreement specifying the additional services and amount of compensation therefor. CITY shall have no obligations whatsoever under this Agreement and/or any Supplemental Agreement, unless and until this Agreement or any Supplemental Agreement is approved by the Sacramento City Manager or the City Manager's authorized designee, or by the Sacramento City Council, as required by the Sacramento City Code.
- 2. Payment.** CITY shall pay CONTRACTOR for services rendered pursuant to this Agreement at the times and in the manner set forth in Exhibit B. The payments specified in Exhibit B shall be the only payments to be made to CONTRACTOR for the services rendered pursuant to this Agreement unless pursuant to Section 1, above, CITY approves additional compensation for additional services. CONTRACTOR shall submit all billings for said services to CITY in the manner specified in Exhibit B, or, if not specified in Exhibit B, according to the usual and customary procedures and practices that CONTRACTOR uses for billing clients similar to CITY.
- 3. Facilities and Equipment.** Except as set forth in Exhibit C, CONTRACTOR shall, at its sole cost and expense, furnish all facilities and equipment that may be required for furnishing services pursuant to this Agreement. CITY shall furnish to CONTRACTOR only the facilities and equipment listed in Exhibit C according to any terms and conditions set forth in Exhibit C.
- 4. General Provisions.** The General Provisions set forth in Exhibit D, that include indemnity and insurance requirements, are part of this Agreement. In the event of any conflict between the General Provisions and any terms or conditions of any document prepared or provided by CONTRACTOR and made a part of

this Agreement, including without limitation any document relating to the scope of services or payment therefor, the General Provisions shall control over said terms or conditions.

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

Executed as of the day and year first above stated.

CITY OF SACRAMENTO
A Municipal Corporation

By: _____
Print name: William O. Busath
Title: Interim Director of Utilities
For: John F. Shirey, City Manager

APPROVED AS TO 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:

Westin Engineering, Inc.
NAME OF FIRM

94-2898709
Federal I.D. No.

1135828
State I.D. No.

121364
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:* _____)

 11/13/14
Signature of Authorized Person

Douglas A. Spiers, Vice President
Print Name and Title

Additional Signature (*if required*)

Print Name and Title

**DECLARATION OF COMPLIANCE
Equal Benefits Ordinance**

Name of Contractor: Westin Engineering, Inc.

Address: 3100 Zinfandel Drive, Suite 300, Rancho Cordova, CA 95670

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.

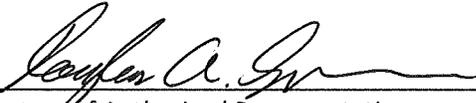
4. Contractor understands that Contractor will not be considered to be discriminating in the provision or application of employee benefits under the following conditions or circumstances:
 - a. If the actual cost of providing a benefit to a domestic partner or spouse exceeds the cost of providing the 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

November 10th, 2014

Date

Douglas A. Spiers

Print Name

Vice President

Title

EXHIBIT A

PROFESSIONAL SERVICES AGREEMENT FOR CONSTRUCTION-RELATED SERVICES

SCOPE OF SERVICES

1. Representatives.

The CITY Representative for this Agreement is:

Dave Hansen, Supervising Engineer
1395 35th Ave, Sacramento, CA 95822
(916) 808-1421, dhansen@cityofsacramento.org

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

The CONTRACTOR Representative for this Agreement is:

Rod van Buskirk, Principal Consultant
3100 Zinfandel Drive, Suite 300, Rancho Cordova, CA 95670
(916) 803-5132 Phone, (916) 852-2311 Fax, rod.van.buskirk@we-inc.com

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

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

3. Conflict of Interest Requirements.

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

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

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

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

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

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

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

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

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

4. Scope of Services.

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

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

Attachment #1 to Exhibit A
SCOPE OF WORK
Information Technology Master Plan

Project Objectives

The objectives to be achieved under this task release include:

- 1) Elicit and understand the DOU's (Department of Utilities) business needs for information management and the enablement of business/operations performance improvements; provide executive summary of the DOU's improvement opportunities for communication to Department and City stakeholders; provide support for ongoing communication of the master planning progress and outcomes to SAC-DOU Division Managers and the Department Director during the duration of this Task; utilize the SAC-DOU Director, Division Managers, and DOU's Project Manager as a Core IT Master Planning Team so as to ensure alignment with IT strategies and plans with business strategies and plans.
- 2) Evaluate the DOU's existing business and operations processes/practices – including financial, workforce, customer service and billing, water quality and regulatory, asset, maintenance, and operations management processes/practices – with regard to current issues and future improvement requirements; engage with Department and City IT personnel to evaluate existing systems and technologies.
- 3) Evaluate the major systems supporting DOU business/operations with regard to business value and positioning for future business requirements – including initiatives already being considered by DOU.
- 4) Evaluate the existing DOU/City technology infrastructure – servers, databases, networks, telecommunications, and mobility – with regard to effectiveness, reliability, security, efficiency, and positioning for future business requirements; assess existing capabilities and future needs for systems integration technologies; assess existing or planned technology initiatives to assure that any new technology projects do not duplicate outputs from those other initiatives.
- 5) Evaluate opportunities for shared services – shared systems and technologies – between the DOU and other City functions (IT, Finance, etc.).
- 6) Define a set of projects organized within a program framework – the Department's Information Technology Program – for delivering the automation and information management capabilities needed to support future business/operations goals and objectives; for each project in the Program, provide key objectives, scope elements, justifications, timeline, internal resource requirements and budget estimates.
- 7) Formulate recommendations for the development of DOU capabilities for successfully executing the Information Technology Master Plan and sustaining the solutions implemented via the planned projects – including capabilities for data governance, technology services delivery, and ongoing solutions support and maintenance.
- 8) Present an executive overview of the Information Technology Master Plan – including business value, costs by year, and a master schedule for the entire Program; review the next steps and required DOU readiness actions.

To achieve the Task Objectives listed above, Westin's Project Manager (Rod van Buskirk) will coordinate all activities directly with the DOU's Project Manager (Dave Hansen), conduct project progress review sessions at least once monthly, include percent complete estimates for the Task with each invoice, and communicate any immediate or expected risks to project success to DOU's Project Sponsor and DOU's Project Manager. Project activities are to be conducted primarily with two DOU groups: an Executive Steering Committee (consisting of DOU's Director, DOU's Division Managers, and City CIO) and a Core ITMP Team (consisting of 6-8 DOU business/operations personnel representing the Divisions); other DOU personnel will also be included on specific activities as mutually agreed upon by Westin and DOU.

Scope of Work

PHASE 100 – IMPROVEMENT OPPORTUNITIES IDENTIFICATION			
Activity	Deliverables	DOU Participants	Consultants
Business Assessment	<p>Conduct separate, 45-minute interviews with: DOU Director, Division Manager – Operations & Maintenance; Division Manager – Integrated Planning & Business Operations; Division Manager – Engineering & Water Resources.</p> <p>Conduct three 1 ½-hour working sessions, one with each DOU Division Manager and Direct Reports, to assess the business needs for information management and operations automation. The focus of these sessions is on the needs of business programs and services. The objectives of this session include:</p> <ul style="list-style-type: none"> ▪ Understand the strategic business goals and objectives of each functional business organization within the DOU and the programs and services offered by its functional units; ▪ Understand the data and data sources that are critical to managing the functional business units within the DOU as well as the programs and services performed by those functional units; ▪ Understand the role that technology currently plays within the DOU; ▪ Identify the strengths, weaknesses, opportunities, and threats/challenges with regard to the deployment of new systems and technologies. ▪ Understand expectations for technology-enabled business/operations solutions. <p>Validate the outcomes from these sessions with DOU’s Project Sponsor and Project Manager in a brief conference call.</p> <p>Client Responsibilities: Prior to these working sessions, DOU confirms the scheduling of all workshop participants; conference room reservations; and any needed audio/visual equipment provisioning.</p> <p>Consultant Deliverable(s): Westin will provide an Agenda for these working sessions, so that the Information Technology Master Planning Team can better prepare in advance for the discussion topics. [NOTE: Assessment findings will be summarized in an Improvement Opportunities Report that concludes Phase 100 of this Information Technology Master Plan Project.]</p>	<ul style="list-style-type: none"> ▪ Executive Steering Committee (includes DOU Director, DOU Division Managers, and DOU Project Manager) ▪ DOU Project Sponsor (Dan Sherry, Division Manager for Engineering & Water Resources) ▪ DOU Project Manager (Dave Hansen) 	<ul style="list-style-type: none"> ▪ Doug Spiers (Principal-In-Charge) ▪ Rod van Buskirk (Project Manager & Lead Consultant) ▪ Westin SMEs
Systems & Data Assessment	<p>Conduct four 1 ½-hour working sessions with DOU and City IT systems and data stewards to assess the flexibility, reliability, effectiveness, efficiency, ease of use, and ease of maintenance for the DOU’s major systems and data sources (i.e., Finance, Customer Information System, Metering, Computerized Maintenance Management Systems, SCADA, Laboratory Information Management System (LIMS), Pretreatment Management Information System (PIMS), GIS, Document Management, desktop databases, critical Excel worksheets).</p> <p>Validate the outcomes from these sessions with DOU’s Project Manager in a brief</p>	<ul style="list-style-type: none"> ▪ DOU Project Manager ▪ Select DOU IT staff ▪ Select City IT staff 	<ul style="list-style-type: none"> ▪ Doug Spiers (Principal-In-Charge) ▪ Rod van Buskirk (Project Manager & Lead Consultant) ▪ Westin SMEs



	<p>conference call.</p> <p>Client Responsibilities: Prior to the working sessions, DOU confirms the scheduling of all City participants, conference room reservations, and any needed audio/visual equipment provisioning.</p> <p>Consultant Deliverable(s): Westin will provide an Agenda for these working sessions, so that participants can prepare in advance for the discussion topics. [NOTE: Assessment findings will be summarized in an Improvement Opportunities Report that concludes Phase 100 of this Information Technology Master Plan Project.]</p>		<ul style="list-style-type: none"> ▪ Doug Spiers (Principal-In-Charge) ▪ Rod van Buskirk (Project Manager & Lead Consultant) ▪ Westin SMEs ▪ Salient IT SME (Westin's LBE Subcontractor)
<p>Technology Assessment</p>	<p>Conduct a 1-hour on-site walk-through of the existing DOU data center(s), reviewing answers provided by DOU to Westin's RFI.</p> <p>Conduct one 1 ½ hour working session with DOU technology stewards to assess the technologies being deployed and utilized – including networking, telecommunications, data centers, desktop software, workstations and mobile devices, server and database management systems, systems interfaces, cyber-security, disaster recovery, and operations continuity.</p> <p>Validate the outcomes from these sessions with DOU's Project Manager in a brief conference call.</p> <p>Client Responsibilities: Prior to this session, DOU confirms the scheduling of all participants, conference room reservations, and any needed audio/visual equipment provisioning.</p> <p>Consultant Deliverable(s): Westin will provide an Agenda for the working session, so that participants can prepare in advance for the discussion topics. [NOTE: Assessment findings will be summarized in an Improvement Opportunities Report that concludes Phase 100 of this Information Technology Master Plan Project.]</p>	<ul style="list-style-type: none"> ▪ DOU Project Manager ▪ Select DOU IT staff ▪ Select City IT staff 	<ul style="list-style-type: none"> ▪ Doug Spiers (Principal-In-Charge) ▪ Rod van Buskirk (Project Manager & Lead Consultant)
<p>Complete Improvement Opportunities Report – Draft</p>	<p>Develop a Draft Improvement Opportunities Report that documents the gaps and improvement opportunities in each DOU business process domain. The report also summarizes the recommended priority improvement ratings for its systems, applications and technologies.</p> <p>Review Preliminary Draft Report with DOU's Project Manager; revise per feedback and ready Draft for publication to DOU's Core ITMP Team.</p> <p>Client Responsibilities: DOU's Project Manager will need to help in resolving any issues or questions that arise during the development of the Improvement Opportunities Report.</p> <p>Consultant Deliverable(s): Draft Improvement Opportunities Report.</p>	<ul style="list-style-type: none"> ▪ DOU Project Manager 	<ul style="list-style-type: none"> ▪ Doug Spiers (Principal-In-Charge) ▪ Rod van Buskirk (Project Manager & Lead Consultant)



<p>Improvement Opportunities Review Workshop</p>	<p>Conduct two workshop sessions – one with the Core ITMP Team (2 ½ hours) and a second with the Executive Steering Committee (1 ½ hours) – to accomplish the following:</p> <ul style="list-style-type: none"> ▪ Review assessment findings from Phase 100 activities – with focus on the gap analysis between current state and industry best practices; ▪ Review the current state assessment of business processes (such as operations, asset management, capital program, maintenance, regulatory compliance, customer service, and financial/cost management) in comparison to industry best practices; ▪ Review the current state assessment of networking, telecommunications, data centers, business applications, data management, systems integration, management and regulatory reporting, data storage and protection, and business continuity – in comparison to best practices; ▪ Develop recommendations for improving systems/technologies, business processes, information management, integration capabilities, technology governance, and technology service management; ▪ Initiate discussion of the proven approaches to implementing improvements to close the gaps (discussions which will be more detailed in the next phase, Phase 200 – Strategy Formulation). <p>Meet with DOU's Project Manager to review comments and questions on the Improvement Opportunities Report, providing Westin with the feedback needed to revise and finalize the report.</p> <p>Client Responsibilities: Prior to the workshop, DOU confirms the scheduling of all workshop participants, conference room reservations, and any needed audio/visual equipment provisioning.</p> <p>Consultant Deliverable(s): Westin will provide an Agenda prior to the workshop and provide copies of the presentation slides during the workshop. Following the workshop, Westin will work with the DOU's Project Sponsor and Project Manager to revise and/or refine the review presentation for broader publication to the City Council and other municipal stakeholders.</p>	<ul style="list-style-type: none"> ▪ Core ITMP Team ▪ Executive Steering Committee ▪ DOU Project Sponsor ▪ DOU Project Manager 	<ul style="list-style-type: none"> ▪ Doug Spiers (Principal-In-Charge) ▪ Rod van Buskirk (Project Manager & Lead Consultant)
<p>Complete Improvement Opportunities Report – Final</p>	<p>Finalize the Improvement Opportunities Report, based on DOU feedback.</p> <p>Review the report with DOU's Project Sponsor and Project Manager to validate prior to broader publication.</p> <p>Client Responsibilities: DOU Project Manager will need to help in resolving any issues or questions that arise during the development of the Improvement Opportunities Report.</p> <p>Consultant Deliverable(s): Final Improvement Opportunities Report.</p>	<ul style="list-style-type: none"> ▪ DOU Project Sponsor ▪ DOU Project Manager 	<ul style="list-style-type: none"> ▪ Doug Spiers (Principal-In-Charge) ▪ Rod van Buskirk (Project Manager & Lead Consultant)



PHASE 200 – STRATEGY FORMULATION			
Activity	Deliverables	DOU Participants	Consultants
Strategic Options for Improvement Opportunities	<p>Based upon the opportunities identified during Phase 100, Westin will use a facilitated process to analyze strategic options for implementing technology-enabled business improvements. Technology, applications, integration, and implementation options will be considered; the focus will be on identifying the best-fit options for DOU. This process consists of three 1 ½-hour workshop sessions:</p> <ol style="list-style-type: none"> 1) Strategic Recommendations Workshop – reviewing the major strategic options for addressing the improvement opportunities; discuss the advantages and disadvantages of each strategic option; consider Westin’s initial recommendations regarding these options and the priorities. 2) Strategic Refinement Workshop – review refinements to Westin’s recommendations based on feedback from the previous Strategic Recommendations Workshop; discuss the organizational challenges to successfully executing on the best-fit strategies; refine the priorities for addressing the improvement opportunities. 3) Technology Governance and Management Workshop – review best practices for governing and managing technology; review DOU issues and challenges associated with technology governance and management; consider improvement recommendations and priorities in light of organizational readiness and required organizational changes. <p>Validate the outcomes from these sessions with DOU’s Project Sponsor and Project Manager in a brief conference call.</p> <p>Client Responsibilities: Prior to the workshop sessions, DOU confirms the scheduling of all workshop participants, conference room reservations, and any needed audio/visual equipment provisioning.</p> <p>Consultant Deliverable(s): Westin will provide an Agenda prior to each of the workshop sessions and provide copies of the presentation slides during the workshops. Westin will also publish meeting minutes from these strategy sessions to document decision items considered – and what remaining work needs to be completed in later sessions to refine or finalize any decisions.</p>	<ul style="list-style-type: none"> ▪ Executive Steering Committee ▪ DOU Project Sponsor ▪ DOU Project Manager 	<ul style="list-style-type: none"> ▪ Doug Spiers (Principal-In-Charge) ▪ Rod van Buskirk (Project Manager & Lead Consultant)
Establish Program Priorities & Master Schedule	<p>Westin will formulate and review a list of projects that implement the technology strategies. The list of projects will be refined in collaboration with DOU; new projects may be added, or the list may be trimmed with some projects consolidated with other projects. A Master Schedule for finalized list of projects will be constructed to help validate the priorities for implementation. These items will be reviewed in two 45-minute meetings and revised per feedback.</p> <p>Review preliminary draft of project list and master schedule with DOU’s Core ITMP Team, Project Sponsor and Project Manager; revise per feedback and ready items for delivery during the upcoming Strategic Options & Priorities Workshop.</p> <p>Client Responsibilities: Review the materials provided by Westin and participate in two</p>	<ul style="list-style-type: none"> ▪ Core ITMP Team ▪ DOU Project Sponsor ▪ DOU Project Manager 	<ul style="list-style-type: none"> ▪ Doug Spiers (Principal-In-Charge) ▪ Rod van Buskirk (Project Manager & Lead Consultant)



	<p>brief meetings.</p> <p>Consultant Deliverable(s): Draft List of Projects, Draft Master Schedule.</p>		
<p>Complete Option Analysis</p>	<p>Westin will analyze the list of projects to ensure that all improvement opportunities are being addressed. Any recommended revisions to the Master Schedule will be made – based on industry best practices and proven approaches to technology implementation and integration. Preliminary project budget estimates (high-low budgets) will be consolidated to evaluate year-by-year budget ranges corresponding to the List of Projects and the Master Schedule.</p> <p>Review preliminary budget estimates with DOU's Core ITMP Team, Project Sponsor and Project Manager in a 1-hour meeting; revise per feedback and ready items for delivery during the upcoming Strategic Options & Priorities Workshop.</p> <p>Client Responsibilities: DOU Project Manager will need to help in resolving any issues or questions that arise during the detailed formulation of the Option Analysis and for the remainder of this Phase.</p> <p>Consultant Deliverable(s): The revised List of Projects, the revised Master Schedule, and the preliminary budget ranges will be delivered to the DOU in advance of the next Phase activity (a Review Workshop).</p>	<ul style="list-style-type: none"> ▪ Core ITMP Team ▪ DOU Project Sponsor ▪ DOU Project Manager 	<ul style="list-style-type: none"> ▪ Doug Spiers (Principal-In-Charge) ▪ Rod van Buskirk (Project Manager & Lead Consultant)
<p>Conduct Strategic Options & Priorities Review Workshop</p>	<p>Conduct two 1-hour workshop sessions to accomplish the following:</p> <ul style="list-style-type: none"> ▪ Review the technology, applications, integration, and implementation options extending strategically over the next 5 years; ▪ Review the Master Schedule representing the implementation priorities and timeline; review the preliminary budget ranges matching the Master Schedule; ▪ Review the organizational initiatives – including improved technology governance and management, security, and the establishment of data standards – and consider DOU challenges with these initiatives. <p>Validate the outcomes from these sessions with DOU's Project Sponsor and Project Manager in a brief conference call.</p> <p>Client Responsibilities: Prior to the workshop, DOU confirms the scheduling of all workshop participants, conference room reservations, and any needed audio/visual equipment provisioning.</p> <p>Consultant Deliverable(s): Westin will provide an Agenda prior to the workshop and provide copies of the presentation slides during the workshop. Westin will also publish meeting minutes from this strategy session to document decision items considered – and note any remaining work that needs to be addressed either in this project or by the organization through one of its own initiatives.</p>	<ul style="list-style-type: none"> ▪ Executive Steering Committee ▪ DOU Project Sponsor ▪ DOU Project Manager 	<ul style="list-style-type: none"> ▪ Doug Spiers (Principal-In-Charge) ▪ Rod van Buskirk (Project Manager & Lead Consultant)
<p>Complete IT Strategies Report – Draft</p>	<p>Develop Draft of the IT Strategies Report, which documents the IT vision, strategic objectives, and specific strategies for achieving improvement objectives and realizing the value of improvement initiatives.</p> <p>Client Responsibilities: DOU Project Sponsor and Project Manager will need to help in resolving any issues or questions that arise during the detailed development of the IT</p>	<ul style="list-style-type: none"> ▪ DOU Project Sponsor ▪ DOU Project Manager 	<ul style="list-style-type: none"> ▪ Doug Spiers (Principal-In-Charge) ▪ Rod van Buskirk (Project Manager &



	Strategies Report.		Lead Consultant)
Conduct IT Strategies Report Review	<p>Consultant Deliverable(s): Draft IT Strategies Report.</p> <p>The Draft IT Strategies Report will be published to DOU, and DOU will have two weeks to review and comment on the Draft. DOU feedback will be reviewed during a 1-hour meeting.</p> <p>Client Responsibilities: DOU's Project Sponsor and Project Manager will collect all DOU feedback and review it with Westin.</p> <p>Consultant Deliverable(s): Westin will provide an Agenda prior to the meeting.</p>	<ul style="list-style-type: none"> ▪ DOU Project Sponsor ▪ DOU Project Manager ▪ Core ITMP Team 	<ul style="list-style-type: none"> ▪ Doug Spiers (Principal-In-Charge) ▪ Rod van Buskirk (Project Manager & Lead Consultant)
Complete IT Strategies Report – Final	<p>Complete the final version of the IT Strategies Report.</p> <p>Client Responsibilities: DOU Project Sponsor and Project Manager will need to help in resolving any issues or questions that arise during the completion of the report.</p> <p>Consultant Deliverable(s): Final IT Strategies Report – published to client.</p>	<ul style="list-style-type: none"> ▪ DOU Project Sponsor ▪ DOU Project Manager 	<ul style="list-style-type: none"> ▪ Doug Spiers (Principal-In-Charge) ▪ Rod van Buskirk (Project Manager & Lead Consultant)

PHASE 300 – PROGRAM DEVELOPMENT

Activity	Deliverables	DOU Participants	Consultants
Complete Project Definitions – Draft	<p>Develop definitions for all Information Technology Master Plan projects, including:</p> <ul style="list-style-type: none"> ✓ Project Objectives ✓ Project Cost & Resource Estimates ✓ Project Scope ✓ Project Timeline Estimates ✓ Project Business Case ✓ Project Dependencies ✓ Project Benefits ✓ Project Risks <p>Westin will review the Draft with DOU's Project Manager for preliminary feedback prior to broader publication.</p> <p>Client Responsibilities: DOU Project Manager will need to help in resolving any issues or questions that arise during the detailed formulation of the Project Definitions.</p> <p>Consultant Deliverable(s): Draft Project Definitions.</p>	<ul style="list-style-type: none"> ▪ DOU Project Manager 	<ul style="list-style-type: none"> ▪ Doug Spiers (Principal-In-Charge) ▪ Rod van Buskirk (Project Manager & Lead Consultant) ▪ Westin SMEs
Conduct Project Definitions Review	<p>The Draft Project Definitions will be published to DOU's Core ITMP Team, and the Team will have two weeks to review and comment on the Draft. DOU's Project Manager will collect and consolidate the feedback from the Core ITMP Team. Westin will review the feedback with DOU's Project Manager and prepare for the review session with the Core ITMP Team. Westin will conduct a 1-hour meeting with the Core ITMP Team to address their feedback and to discuss any additional questions or issues that surfaced during the review of the Draft.</p> <p>Following review and feedback from the Core ITMP, the Project Definitions will be presented in a 1-hour review session with the Executive Steering Committee.</p> <p>Client Responsibilities: Prior to the meeting, DOU confirms the scheduling of all</p>	<ul style="list-style-type: none"> ▪ Core ITMP Team ▪ Executive Steering Committee ▪ DOU Project Sponsor ▪ DOU Project Manager 	<ul style="list-style-type: none"> ▪ Doug Spiers (Principal-In-Charge) ▪ Rod van Buskirk (Project Manager & Lead Consultant)



	<p>workshop participants, conference room reservations, and any needed audio/visual equipment provisioning.</p> <p>Consultant Deliverable(s): Westin will provide an Agenda prior to the meetings with the Core ITMP Team and the Executive Steering Committee.</p>		
<p>Complete Project Definitions – Final</p>	<p>Complete the final version of the Project Definitions.</p> <p>Client Responsibilities: DOU Project Manager will need to help in resolving any issues or questions that arise during the detailed formulation of the Project Definitions.</p> <p>Consultant Deliverable(s): Final Project Definitions – published to client.</p>	<ul style="list-style-type: none"> ▪ DOU Project Sponsor ▪ DOU Project Manager 	<ul style="list-style-type: none"> ▪ Doug Spiers (Principal-In-Charge) ▪ Rod van Buskirk (Project Manager & Lead Consultant)
<p>Complete Draft Project Budget Estimates</p>	<p>Complete year-by-year budget estimates for each project in the Information Technology Master Plan (i.e., Master Schedule), including costs for:</p> <ul style="list-style-type: none"> ▪ Contracted Professional Services (Capital Implementation Costs); ▪ Technologies – hardware, software (Capital Procurements); ▪ Technologies – ongoing operating costs (Licenses); ▪ Internal Implementation Resources – DOU/City personnel required during the implementation of new technology solutions; ▪ Internal Sustainment Resources – DOU/City personnel required to support and maintain the implemented solutions; ▪ Contracted Sustainment Resources – professional services for technical solution and/or integration support; ▪ Other costs per City policies (e.g., Overhead percentages; Contingency). <p>Westin will conduct a preliminary review the Draft with DOU's Project Manager and revise per feedback.</p> <p>Client Responsibilities: DOU Project Manager will need to help in resolving any issues or questions that arise during the detailed formulation of the Project Budget Estimates.</p> <p>Consultant Deliverable(s): Draft Project Budget Estimates – published to client.</p>	<ul style="list-style-type: none"> ▪ DOU Project Sponsor ▪ DOU Project Manager 	<ul style="list-style-type: none"> ▪ Doug Spiers (Principal-In-Charge) ▪ Rod van Buskirk (Project Manager & Lead Consultant) ▪ Westin SMEs
<p>Conduct Project Budget Estimates Review Session</p>	<p>The Draft Project Budget Estimates will be published to DOU's Core ITMP Team, and the Team will have two weeks to review and comment on the Draft. DOU's Project Manager will collect and consolidate the feedback from the Core ITMP Team. Westin will review the feedback with DOU's Project Manager and prepare for the review session with the Core ITMP Team. Westin will conduct a 1-hour meeting with the Core ITMP Team to address their feedback and to discuss any additional questions or issues that surfaced during the review of the Project Budget Estimates.</p> <p>Following review and feedback from the ITMP, the Project Budget Estimates will be reviewed with the Executive Steering Committee in a 1 ½ hour meeting.</p> <p>Client Responsibilities: Prior to the meeting, DOU confirms the scheduling of all workshop participants, conference room reservations, and any needed audio/visual equipment provisioning.</p> <p>Consultant Deliverable(s): Westin will provide an Agenda prior to the meeting.</p>	<ul style="list-style-type: none"> ▪ DOU Project Manager ▪ Core ITMP Team ▪ Executive Steering Committee 	<ul style="list-style-type: none"> ▪ Doug Spiers (Principal-In-Charge) ▪ Rod van Buskirk (Project Manager & Lead Consultant)



Finalize Project Budget Estimates	Complete the final version of the Project Budget Estimates. Client Responsibilities: DOU Project Sponsor and Project Manager will need to help in resolving any issues or questions that arise during the detailed formulation of the Project Budget Estimates. Consultant Deliverable(s): Final Project Budget Estimates – published to client.	<ul style="list-style-type: none"> DOU Project Sponsor DOU Project Manager 	<ul style="list-style-type: none"> Doug Spiers (Principal-In-Charge) Rod van Buskirk (Project Manager & Lead Consultant)
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PHASE 400 – MASTER PLAN PRESENTATION

Activity	Deliverables	DOU Participants	Consultants
Develop Draft Executive Overview	Develop an Executive Overview for the Information Technology Master Plan of no more than 20 pages, which can be used for general publication throughout the DOU/City and which highlights the following: <ul style="list-style-type: none"> Background and Purpose of the Information Technology Master Plan; Strategies for the Information Technology Master Plan; Brief summary of each project in the Plan and business value of each project; Final Master Schedule Budget Summary (Capital Implementation Costs) Expected Benefits of the Information Technology Master Plan Organizational Readiness and Immediate Steps Client Responsibilities: DOU Project Sponsor and Project Manager will need to help in resolving any issues or questions that arise during the detailed formulation of the Project Budget Estimates. Consultant Deliverable(s): Draft Executive Overview for the Information Technology Master Plan.	<ul style="list-style-type: none"> DOU Project Sponsor DOU Project Manager 	<ul style="list-style-type: none"> Doug Spiers (Principal-In-Charge) Rod van Buskirk (Project Manager & Lead Consultant)
Develop Final Executive Overview	Complete the final version of the Executive Overview, based on DOU feedback. Client Responsibilities: Review and comment. Consultant Deliverable(s): Final Executive Overview.	<ul style="list-style-type: none"> DOU Project Sponsor DOU Project Manager 	<ul style="list-style-type: none"> Doug Spiers (Principal-In-Charge) Rod van Buskirk (Project Manager & Lead Consultant)
Conduct Final Presentation	Conduct a final presentation of the Information Technology Master Plan with focus on organizational readiness to execute the Plan and the immediate Next Steps that the DOU needs to undertake to achieve momentum. Client Responsibilities: Prior to the workshop, DOU confirms the scheduling of all workshop participants, conference room reservations, and any needed audio/visual equipment provisioning. Consultant Deliverable(s): Westin will provide an Agenda prior to the workshop and provide copies of the presentation slides during the workshop.	<ul style="list-style-type: none"> Core ITMP Team 	<ul style="list-style-type: none"> Doug Spiers (Principal-In-Charge) Rod van Buskirk (Project Manager & Lead Consultant)



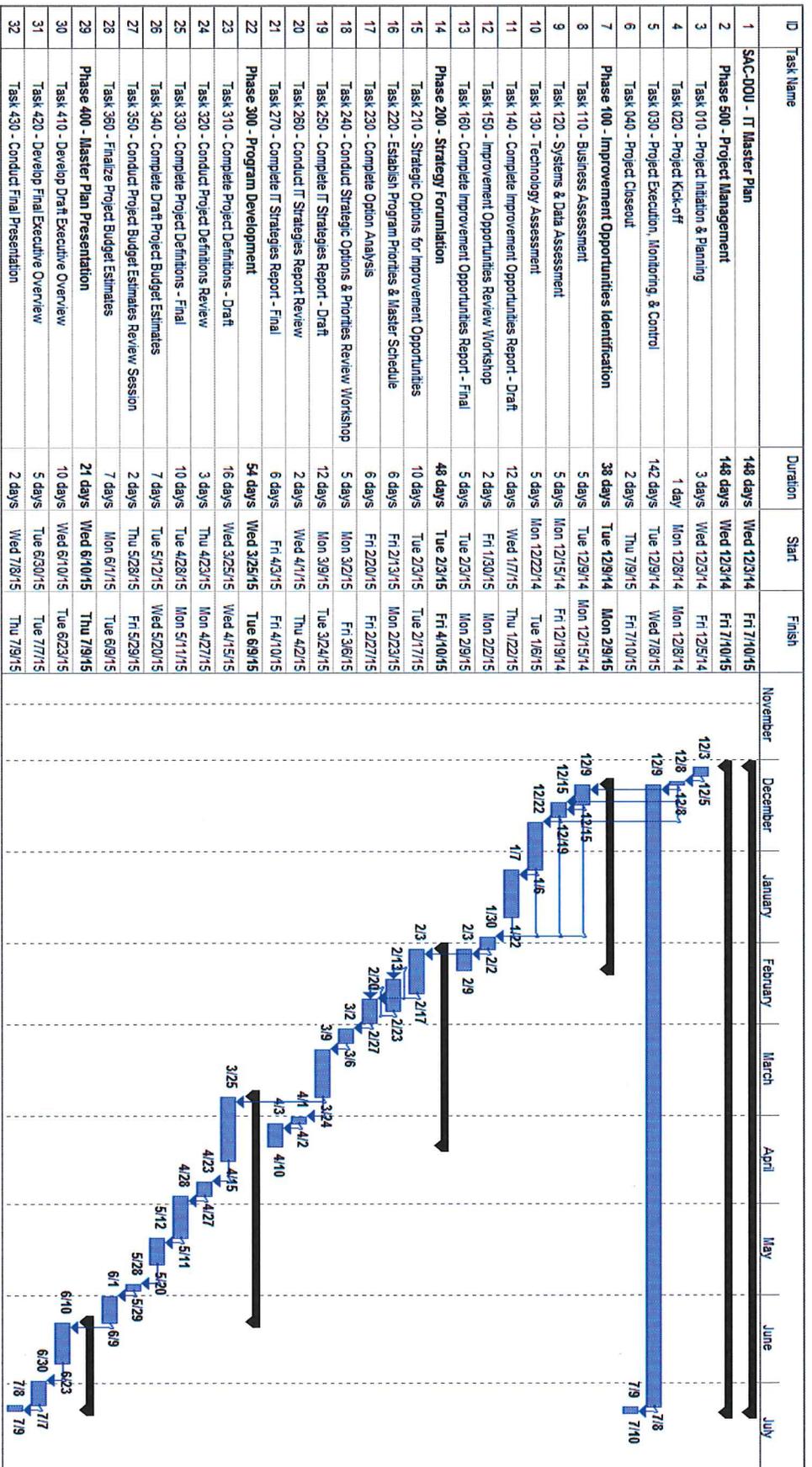
PHASE 500 – PROJECT MANAGEMENT			
Activity	Deliverables	DOU Participants	Consultants
Project Initiation & Planning	<p>Provide DOU with a Request for Information (RFI), which lists the documentation that Westin consultants would like to review in advance of the project start-up and the assessment interview sessions. (The requested information will include business, technology, systems, and data documentation.)</p> <p>Prepare drafts of the Project Charter and Project Management Plan for review with DOU's Project Sponsor and Project Manager.</p> <p>Conduct a 1-hour meeting with DOU's Project Sponsor and Project Manager to: (a) review and finalize the Project Charter – including confirmation of project outcomes, communications approach, risk mitigation approach, and identification of DOU managers and staff who need to be involved in the project; (b) review and finalize the Project Management Plan – including the schedule availability of the DOU's Project Sponsor, Project Manager, DOU's Director and Division Managers; (c) review the status of documentation requests by Westin.</p> <p>Client Responsibilities: Prior to the initial meeting, the DOU's Project Sponsor and Project Manager need to review the Request for Information, the draft Project Charter, and the draft Project Management Plan.</p> <p>Consultant Deliverable(s): Request for Information (RFI) – requesting business, systems, technology, and data; Project Charter; Project Mgmt. Plan.</p>	<ul style="list-style-type: none"> ▪ DOU Project Sponsor ▪ DOU Project Manager 	<ul style="list-style-type: none"> ▪ Doug Spiers (Principal-In-Charge) ▪ Rod van Buskirk (Project Manager & Lead Consultant)
Project Kick-Off	<p>Conduct a Project Kick-Off meeting for the Information Technology Master Planning Project and the initial phase of the project (Phase 100 – Improvement Opportunities Identification). The 1 ½ hour meeting will cover the following topics via both presentation and an open question and answer discussion:</p> <ul style="list-style-type: none"> ▪ Review the project objectives; ▪ Review project activities; ▪ Review project outcomes; ▪ Review schedule for upcoming activities. <p>Client Responsibilities: Prior to the initial meeting, DOU will need to schedule a conference room and publish the meeting agenda with all team members.</p> <p>Consultant Deliverable(s): Agenda will be provided in advance of the meeting; copies of any slides presented during the Project Kick-Off Meeting.</p>	<ul style="list-style-type: none"> ▪ DOU Project Sponsor ▪ DOU Project Manager ▪ Core ITMP Team ▪ Executive Steering Committee 	<ul style="list-style-type: none"> ▪ Doug Spiers (Principal-In-Charge) ▪ Rod van Buskirk (Project Manager & Lead Consultant)
Project Execution, Monitoring & Control	<p>Execute, monitor and control the project – including completion of the following:</p> <ul style="list-style-type: none"> ▪ Conduct project review meetings as needed with DOU's Project Manager to discuss project status, issues and recommended resolutions, risks and recommended risk mitigation, and scheduling; ▪ Provide DOU's Project Manager with a monthly Progress Report; ▪ Deliver monthly invoices to DOU's Project Manager. <p>Client Responsibilities: Review all Progress Reports and approve all Invoices in a timely manner.</p>	<ul style="list-style-type: none"> ▪ DOU Project Manager 	<ul style="list-style-type: none"> ▪ Doug Spiers (Principal-In-Charge) ▪ Rod van Buskirk (Project Manager & Lead Consultant)



	<p>Consultant Deliverable(s): Monthly progress reports and invoices.</p>		
<p>Project Close-Out</p>	<p>Conduct a 1-hour meeting with DOU's Project Manager to: (a) confirm finalization of all project deliverables; (b) review the status of Information Technology Master Plan implementation projects that are either already underway or are being initiated soon after this planning project is closed-out; (c) discuss organizational issues/risks that Westin has identified as needing to be addressed for the future realization of benefits from executing the Information Technology Master Plan.</p> <p>Client Responsibilities: Prior to this meeting, DOU's Project Manager need to review meeting Agenda (including meeting objectives).</p> <p>Consultant Deliverable(s): Agenda for the Project Close-Out Meeting.</p>	<ul style="list-style-type: none"> ▪ DOU Project Manager 	<ul style="list-style-type: none"> ▪ Doug Spiers (Principal-In-Charge) ▪ Rod van Buskirk (Project Manager & Lead Consultant)



Schedule



Compensation

Westin proposes to perform this task on a Time and Material Basis for a Not-To-Exceed amount of \$200,000, with monthly invoicing of Westin's time as well as other direct costs and subcontractor costs. Westin will invoice expenses and subcontractor services at cost plus 10% markup.

Description	Professional Fees
Phase 100 – Improvement Opportunities Identification	\$71,557
Phase 200 – Strategy Formulation	\$23,040
Phase 300 – Program Development	\$48,893
Phase 400 – Master Plan Presentation	\$13,420
Phase 500 – Project Management	\$23,015
Subtotal:	\$179,925
Subcontractor (LBE Certified)	\$10,075
5% Contingency	\$ 10,000
Total	\$200,000



EXHIBIT B

PROFESSIONAL SERVICES AGREEMENT FOR CONSTRUCTION-RELATED SERVICES

FEE SCHEDULE/MANNER OF PAYMENT

1. **CONTRACTOR's Compensation.** The total of all fees paid to the CONTRACTOR for the performance of all services set forth in Exhibit A, including normal revisions (hereafter the "Services"), and for all authorized Reimbursable Expenses, shall not exceed the total sum of \$ 200,000.00.
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:

City of Sacramento, Department of Utilities
1395 35th Ave.
Sacramento, CA 95822
(p) 916-808-1664 (f) 808-1497

Attn: Jennifer Chikasawa

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

EXHIBIT C

PROFESSIONAL SERVICES AGREEMENT FOR CONSTRUCTION-RELATED SERVICES

FACILITIES AND EQUIPMENT TO BE PROVIDED BY CITY

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

EXHIBIT D

PROFESSIONAL SERVICES AGREEMENT FOR CONSTRUCTION-RELATED SERVICES

GENERAL PROVISIONS

1. Independent Contractor.

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

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

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

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

7. CONTRACTOR Information.

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

any rights regarding the information designated "trade secret" by CONTRACTOR, and such information shall be disclosed by CITY pursuant to applicable procedures required by the Public Records Act.

8. **Standard of Performance.** CONTRACTOR shall perform all Services required pursuant to this Agreement in the manner and according to the standards currently observed by a competent practitioner of CONTRACTOR's profession in California. All products of whatsoever nature that CONTRACTOR delivers to CITY pursuant to this Agreement shall be prepared in a professional manner and conform to the standards of quality normally observed by a person currently practicing in CONTRACTOR's profession, and shall be provided in accordance with any schedule of performance specified in Exhibit A. CONTRACTOR shall assign only competent personnel to perform Services pursuant to this Agreement. CONTRACTOR shall notify CITY in writing of any changes in CONTRACTOR's staff assigned to perform the Services required under this Agreement, prior to any such performance. In the event that CITY, at any time during the term of this Agreement, desires the removal of any person assigned by CONTRACTOR to perform Services pursuant to this Agreement, because CITY, in its sole discretion, determines that such person is not performing in accordance with the standards required herein, CONTRACTOR shall remove such person immediately upon receiving notice from CITY of the desire of CITY for the removal of such person.
9. **Term; Suspension; Termination.**
- A. This Agreement shall become effective on the date that it is approved by both parties, set forth on the first page of the Agreement, and shall continue in effect until both parties have fully performed their respective obligations under this Agreement, unless sooner terminated as provided herein.
- B. CITY shall have the right at any time to temporarily suspend CONTRACTOR's performance hereunder, in whole or in part, by giving a written notice of suspension to CONTRACTOR. If CITY gives such notice of suspension, CONTRACTOR shall immediately suspend its activities under this Agreement, as specified in such notice.
- C. CITY shall have the right to terminate this Agreement at any time by giving a written notice of termination to CONTRACTOR. If CITY gives such notice of termination, CONTRACTOR shall immediately cease rendering Services pursuant to this Agreement. If CITY terminates this Agreement:
- (1) CONTRACTOR shall, not later than five days after such notice of termination, deliver to CITY copies of all information prepared pursuant to this Agreement.
 - (2) CITY shall pay CONTRACTOR the reasonable value of Services rendered by CONTRACTOR prior to termination; provided, however, CITY shall not in any manner be liable for lost profits that might have been made by CONTRACTOR had the Agreement not been terminated or had CONTRACTOR completed the Services required by this Agreement. In this regard, CONTRACTOR shall furnish to CITY such financial information as in the judgment of the CITY is necessary for CITY to determine the reasonable value of the Services rendered by CONTRACTOR. The foregoing is cumulative and does not affect

any right or remedy that CITY may have in law or equity.

10. Indemnity.

- A. Indemnity: CONTRACTOR shall defend, hold harmless and indemnify CITY, its officers and employees, and each and every one of them, from and against any and all actions, damages, costs, liabilities, claims, demands, losses, judgments, penalties, costs and expenses of every type and description, including, but not limited to, any fees and/or costs reasonably incurred by CITY's staff attorneys or outside attorneys and any fees and expenses incurred in enforcing this provision (hereafter collectively referred to as "Liabilities"), including but not limited to Liabilities arising from personal injury or death, damage to personal, real or intellectual property or the environment, contractual or other economic damages, or regulatory penalties, arising out of or in any way connected with performance of or failure to perform this Agreement by CONTRACTOR, any sub-consultant, subcontractor or agent, anyone directly or indirectly employed by any of them or anyone for whose acts any of them may be liable, whether or not (i) such Liabilities are caused in part by a party indemnified hereunder or (ii) such Liabilities are litigated, settled or reduced to judgment; provided that the foregoing indemnity does not apply to liability for 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 or corporation, company, or combination thereof, that enters into a Contract with the City. “Contractor” does not include a public entity.

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

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

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

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

EMPLOYER COMPLIANCE CERTIFICATE AND NOTICE REQUIREMENTS

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

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

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

Attachment A



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

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

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

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

The included employee benefits are:

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

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

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

You May . . .

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

City of Sacramento
Procurement Services Division
915 I Street, Second Floor
Sacramento, CA 95814

- 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, Procurement Services, containing the details of the alleged violation. The address is:

City of Sacramento
Procurement Services
915 I Street, Second Floor
Sacramento, CA 95814

- 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, Procurement Services, at the same address, containing the details of the alleged violation.