

Meeting Date: 5/31/2016

Report Type: Consent

Report ID: 2016-00548

Title: Agreement: Combined Sewer Green Infrastructure Pilot Program

Location: Council Districts 3, 4, 5 & 6

Recommendation: Pass a Motion authorizing the City Manager or the City Manager's designee to execute an agreement for engineering services with AECOM Technology Corporation for a not-to-exceed amount of \$393,000.

Contact: Dan Sherry, Engineering & Water Resources Manager, (916) 808-1419; Brett Grant, Supervising Engineer (916) 808-1413; Richard Dalrymple, Senior Engineer, (916) 808-1446, Department of Utilities

Presenter: None

Department: Department Of Utilities

Division: Cip Engineering

Dept ID: 14001321

Attachments:

- 1-Description/Analysis
- 2-Background
- 3-Agreement

City Attorney Review

Approved as to Form
Joe Robinson
5/23/2016 5:50:21 PM

Approvals/Acknowledgements

Department Director or Designee: Bill Busath - 5/12/2016 10:02:06 AM

Description/Analysis

Issue Detail: Staff recommends Council approve an agreement for engineering services with AECOM Technology Corporation for the development of the Combined Sewer Green Infrastructure Pilot Program. This program was one of the recommendations of the Combined Sewer Improvement Plan Update. The objectives of this contract are to determine what type of green infrastructure is most likely to be effective for reducing runoff in the Combined Sewer System (CSS), and to develop and monitor the effectiveness of a CSS green infrastructure pilot project in reducing runoff. The work will include: evaluating the benefits of green stormwater infrastructure; identifying and ranking potential green pilot projects; developing a monitoring plan to evaluate the effectiveness of the green pilot projects; initiating a program for the rainfall dependent inflow and infiltration program; and developing a flow metering program for the upcoming rainy season to establish baseline flows on the green pilot projects, rainfall dependent inflow and infiltration, and recalibration of the hydraulic model.

Policy Considerations: City Council approval is required for professional services agreements of \$100,000 or more. The proposed action is consistent with the City's efforts to achieve sustainability by implementing strategies to improve overall operational efficiency and customer service.

Economic Impacts: None.

Environmental Considerations: The Community Development Department, Environmental Planning Services has determined that the proposed agreement is exempt from the California Environmental Quality Act (CEQA), pursuant to Section 15061(b)(3) of the CEQA Guidelines. Section 15061(b)(3) sets forth the general rule that CEQA applies only to projects which have the potential for causing a significant effect on the environment. Where it can be seen with certainty that there is no possibility that the activity in question may have a significant effect on an environmental resource, the activity is not subject to CEQA. Any future activities that would result in physical changes to the environment would be subject to appropriate CEQA analysis at that time.

Sustainability: By providing retention or detention of flows, and increasing infiltration and evaporation losses from the surface, Green Infrastructure technologies reduce runoff volume and attenuate the peak flows entering the system, which will reduce combined sewer outflows and overflows..

Commission/Committee Action: Not applicable.

Rationale for Recommendation: In December 2015, the DOU issued a Request for Qualifications (RFQ) to seek qualified consultants to prepare a Combined Sewer Green Infrastructure Pilot Program and rainfall dependent inflow and infiltration program. One proposal was received. AECOM is qualified to perform the work.

Financial Considerations: The proposed agreement for engineering services with AECOM Technology Corporation is for a not-to-exceed amount of \$ 393,000. The agreement budget was established based on negotiated fees and the type and amount of work necessary to complete the Combined Sewer Green Infrastructure Pilot Program and rainfall dependent inflow and infiltration program. Sufficient funding exists in the Combined Master Plan Program (I14610300) to enter into this agreement.

Local Business Enterprise (LBE): AECOM Technology Corporation is an LBE.

Background

In 2014, the Department of Utilities (DOU) completed the Combined Sewer Improvement Plan Update (CSIPU) which recommended an adaptive management strategy starting with implementation of the top 20% of prioritized projects, pilot testing of the programs, and additional refinement of the hydraulic model. Two of the programs were Green Infrastructure (GI) and rainfall dependent inflow and infiltration (RDII) reduction. Examples of GI are rain gardens, porous paving, and disconnected roof drains.

The planning-level analysis presented in this CSIPU showed that the cost benefit of GI is competitive with grey infrastructure (detention basins, pipe upsizing, etc) in providing flood reduction benefits. Additionally, GI would reduce the volume of treated discharges to the river. The GI program would be applicable in the entire Combined Sewer System, but would need to be customized for soil properties, surface slope, community interest, and other issues. The CSIPU recommended development of a pilot program to 1) evaluate different types of Green Infrastructure technologies and test their performance in different surface and sub-surface conditions, including soil type and slope; general public acceptability; maintenance issues; and other topics, 2) monitor the performance of the different technologies and establish the baseline performance of the different technologies, and 3) update the cost estimates based on the pilot programs.

Separated areas of the sewer system contribute sanitary flows to the CSS area, and, during wet weather, contribute flow due to RDII to the CSS area from these areas. The CSIPU showed that the eastern side of the CSS area has a higher contribution of RDII flows and these flows can be reduced by source control. Source control programs to reduce RDII can include disconnection of any identified storm water connections to eliminate inflow, lining of pipes and manholes to reduce infiltration, replacing cracked or old pipes, and other means. Reduction in RDII flows from these areas can augment grey infrastructure projects by reducing flooding in areas downstream of the separated system. The CSIPU recommended development of a pilot program to 1) evaluate the performance of RDII technologies, including detailed characterization of areas contributing to RDII by flow monitoring, smoke testing, and sewer inspections, 2) develop an RDII reduction pilot program for source control by disconnecting storm water connections and sewer/manhole relining, and 3) establish a baseline performance of the source control measures, and update the cost estimates based on pilot programs.

This project will also include development of a flow metering plan for the 2016/2017 wet season to 1) establish a baseline pre-project flow conditions for the green pilot project locations, 2) refine the RDII reduction analysis, and 3) refine the hydraulic model calibration.

PROJECT #: I14610303 & I14610304
PROJECT NAME: Combined Sewer Green Infrastructure Pilot Program
DEPARTMENT: Utilities
DIVISION: Engineering & Water Resources

CITY OF SACRAMENTO

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

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

*AECOM Technology Services, Inc.
300 California Street, Suite 400,
San Francisco, CA 94104
(415) 796 8100/ Fax (415) 796 8200*

("CONTRACTOR"), who agree as follows:

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

4. **General Provisions.** The General Provisions set forth in Exhibit D, that include indemnity and insurance requirements, are part of this Agreement. In the event of any conflict between the General Provisions and any terms or conditions of any document prepared or provided by CONTRACTOR and made a part of this Agreement, including without limitation any document relating to the scope of services or payment therefor, the General Provisions shall control over said terms or conditions.
5. **Non-Discrimination in Employee Benefits.** This Agreement is subject to the provisions of Sacramento City Code Chapter 3.54, Non-Discrimination in Employee Benefits by City Contractors. The requirements of Sacramento City Code Chapter 3.54 are summarized in Exhibit E. CONTRACTOR is required to sign the attached Declaration of Compliance (Equal Benefits Ordinance), to assure compliance with these requirements.
6. **Authority.** The person signing this Agreement for CONTRACTOR hereby represents and warrants that he/she is fully authorized to sign this Agreement on behalf of CONTRACTOR and to bind CONTRACTOR to the performance of its obligations hereunder.
7. **Exhibits.** All exhibits referred to herein are attached hereto and are by this reference incorporated as if set forth fully herein.

Executed as of the day and year first above stated.

CITY OF SACRAMENTO
A Municipal Corporation

By: _____

Print name: _____

Title: _____

For: John F. Shirey, City Manager

APPROVED 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:

AECOM Technology Services, Inc.

NAME OF FIRM

95-2661922

Federal I.D. No.

State I.D. No.

128376

City of Sacramento Business Op. Tax Cert. No.

TYPE OF BUSINESS ENTITY (check one):

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



Signature of Authorized Person

DAVID M WOOD

Print Name and Title

VICE PRESIDENT

Additional Signature (if required)

Print Name and Title

**DECLARATION OF COMPLIANCE
Equal Benefits Ordinance**

Name of Contractor: AECOM Technology Services, Inc.

Address: 300 California Street, Suite 400, San Francisco, CA 94104

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

17 APRIL 2016

Date

DAVID M WOOD

Print Name

VICE PRESIDENT

Title

EXHIBIT A

PROFESSIONAL SERVICES AGREEMENT FOR DESIGN PROFESSIONALS

SCOPE OF SERVICES

1. Representatives.

The CITY Representative for this Agreement is:

*Richard Dalrymple Senior Engineer
1395 35th Avenue Sacramento, CA 95822
916-808-1446/Fax916-808-1497/rdalrymple@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:

*David M. Wood, Vice President/Bryce Wilson, Project Manager
300 California Street, Suite 400
San Francisco, CA 94104
david.m.wood@aecom.com / Wilson, bryce.wilson@aecom.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. Insurance. Insurance requirements are specified in Exhibit D, Section 11.

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.

EXHIBIT B

PROFESSIONAL SERVICES AGREEMENT FOR DESIGN PROFESSIONALS

FEE SCHEDULE/MANNER OF PAYMENT

1. **CONTRACTOR's Compensation.** The total of all fees paid to the CONTRACTOR for the performance of all services set forth in Exhibit A, including normal revisions (hereafter the "Services"), and for all authorized Reimbursable Expenses, shall not exceed the total sum of \$ 393,000.00.
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.
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 above.

D. Requests for payment shall be sent to:

*City of Sacramento Department of Utilities
1395 35th Avenue Sacramento, CA 95822
916-808-1400/Fax916-808-1497*

Attn: Richard Dalrymple

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

EXHIBIT C

PROFESSIONAL SERVICES AGREEMENT FOR DESIGN PROFESSIONALS

FACILITIES AND EQUIPMENT TO BE PROVIDED BY CITY

CITY shall [check one]



Not furnish any facilities or equipment for this Agreement;

or



Furnish the following facilities or equipment for the Agreement
[list, if applicable]:

EXHIBIT D

PROFESSIONAL SERVICES AGREEMENT FOR DESIGN PROFESSIONALS

GENERAL PROVISIONS

1. Independent Contractor.

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

services for, or be employed by such additional persons or companies as CONTRACTOR sees fit provided that CONTRACTOR does not violate the provisions of Section 5, below.

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

technology systems, as set forth in applicable provisions of the City of Sacramento Administrative Policy Instructions # 30. A violation by CONTRACTOR of this Section 6 shall be a material violation of this Agreement and shall justify legal and/or equitable relief.

7. CONTRACTOR Information.

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

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

9. Term; Suspension; Termination.

A. This Agreement shall become effective on the date that it is approved by both parties, set forth on the first page of the Agreement, and shall continue in effect until both parties have fully performed their respective obligations under this Agreement, unless sooner terminated as provided herein.

B. CITY shall have the right at any time to temporarily suspend CONTRACTOR's performance hereunder, in whole or in part, by giving a written notice of suspension to CONTRACTOR. If CITY gives such notice of suspension, CONTRACTOR shall immediately suspend its activities under this Agreement, as specified in such notice.

C. CITY shall have the right to terminate this Agreement at any time by giving a written notice of termination to CONTRACTOR. If CITY gives such notice of termination, CONTRACTOR shall immediately cease rendering Services pursuant to this Agreement. If CITY terminates this Agreement:

(1) CONTRACTOR shall, not later than five days after such notice of termination, deliver to CITY copies of all information prepared pursuant to this Agreement.

(2) CITY shall pay CONTRACTOR the reasonable value of Services rendered by CONTRACTOR prior to termination; provided, however, CITY shall not in any manner be liable for lost profits that might have been made by CONTRACTOR had the Agreement not been terminated or had CONTRACTOR completed the Services required by this Agreement. In this regard, CONTRACTOR shall furnish to CITY such financial information as in the judgment of the CITY is necessary for CITY to determine the reasonable value of the Services rendered by CONTRACTOR. The foregoing is cumulative and does not affect any right or remedy that CITY may have in law or equity.

10. Indemnity.

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

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

Full compensation for all premiums that CONTRACTOR is required to pay for the insurance coverage described herein shall be included in the compensation specified for the Services provided by CONTRACTOR under this Agreement. No additional compensation will be provided for CONTRACTOR's insurance premiums. Any available insurance proceeds in excess of the specified minimum limits and coverages shall be available to the CITY.

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, arising out of activities performed by or on behalf of CONTRACTOR, its sub-consultants, and

subcontractors, products and completed operations of CONTRACTOR, its sub-consultants, and subcontractors, and premises owned, leased, or used by CONTRACTOR, its sub-consultants, and subcontractors, 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 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 accident. 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 Workers' Compensation policy shall include a waiver of subrogation in favor of the CITY. If no work or services will be performed on or at CITY facilities or CITY Property, the CITY Representative may waive this requirement by selecting the option below:

Workers' Compensation waiver of subrogation in favor of the CITY is not required. _____ (CITY Representative initials)

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. 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. The retroactive date must be prior to the date this Agreement is approved or any Services are performed.

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, its sub-consultants, and subcontractors; products and completed operations of CONTRACTOR, its sub-consultants, and subcontractors; and premises owned, leased, or used by CONTRACTOR, its sub-consultants, and subcontractors.
- (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, including excess insurance, 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:VI. 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 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) For all insurance policy renewals during the term of this Agreement, CONTRACTOR shall send insurance certificates reflecting the policy renewals directly to:

City of Sacramento

c/o Ebix RCS

Reference #: (This number will be provided by EBIX after Agreement approval.)

PO Box 257

Portland, MI 48875-0257

Insurance certificates also may be faxed to (770) 325-3340, or e-mailed to:
CertsOnly-Portland@ebix.com

- (3) 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 or cancel the Agreement if the insurance is canceled or CONTRACTOR otherwise ceases to be insured as required herein.

F. Subcontractors

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

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

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

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

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

- D. Information and Reports: CONTRACTOR shall provide all information and reports required by the Regulations, or by any orders or instructions issued pursuant thereto, and shall permit access to its books, records, accounts, other sources of information and its facilities as may be determined by the CITY to be pertinent to ascertain compliance with such Regulations, orders and instructions. Where any information required of CONTRACTOR is in the exclusive possession of another who fails or refuses to furnish this information, CONTRACTOR shall so certify to the CITY, and shall set forth what efforts it has made to obtain the information.
- E. Sanctions for Noncompliance: In the event of noncompliance by CONTRACTOR with the nondiscrimination provisions of this Agreement, the CITY shall impose such sanctions as it may determine to be appropriate including, but not limited to:
- (1) Withholding of payments to CONTRACTOR under this Agreement until CONTRACTOR complies;
 - (2) Cancellation, termination, or suspension of the Agreement, in whole or in part.
- F. Incorporation of Provisions: CONTRACTOR shall include the provisions of subsections A through E, above, in every subcontract, including procurement of materials and leases of equipment, unless exempted by the Regulations, or by any order or instructions issued pursuant thereto. CONTRACTOR shall take such action with respect to any subcontract or procurement as the CITY may direct as a means of enforcing such provisions including sanctions for noncompliance; provided, however, that in the event CONTRACTOR becomes involved in, or is threatened with, litigation with a subcontractor or supplier as a result of such direction, CONTRACTOR may request CITY to enter such litigation to protect the interests of CITY.
13. **Entire Agreement.** This document, including all Exhibits, contains the entire agreement between the parties and supersedes whatever oral or written understanding they may have had prior to the execution of this Agreement. No alteration to the terms of this Agreement shall be valid unless approved in writing by CONTRACTOR, and by CITY, in accordance with applicable provisions of the Sacramento City Code.
14. **Severability.** If any portion of this Agreement or the application thereof to any person or circumstance shall be held invalid or unenforceable, the remainder of this Agreement shall not be affected thereby and shall be enforced to the greatest extent permitted by law.
15. **Waiver.** Neither CITY acceptance of, or payment for, any Service or Additional Service performed by CONTRACTOR, nor any waiver by either party of any default, breach or condition precedent, shall be construed as a waiver of any provision of this Agreement, nor as a waiver of any other default, breach or condition precedent or any other right hereunder.
16. **Enforcement of Agreement.** This Agreement shall be governed, construed and enforced in accordance with the laws of the State of California. Venue of any litigation arising out of or connected with this Agreement shall lie exclusively in the state trial court or Federal District Court located in Sacramento County in the State of California, and the parties consent to

jurisdiction over their persons and over the subject matter of any such litigation in such courts, and consent to service of process issued by such courts.

17. **Assignment Prohibited.** The expertise and experience of CONTRACTOR are material considerations for this Agreement. CITY has a strong interest in the qualifications and capability of the persons and entities that will fulfill the obligations imposed on CONTRACTOR under this Agreement. In recognition of this interest, CONTRACTOR shall not assign any right or obligation pursuant to this Agreement without the written consent of the CITY. Any attempted or purported assignment without CITY's written consent shall be void and of no effect.
18. **Binding Effect.** This Agreement shall be binding on the heirs, executors, administrators, successors and assigns of the parties, subject to the provisions of Section 17, above.
19. **Use Tax Requirements.** During the performance of this Agreement, CONTRACTOR, for itself, its assignees and successors in interest, agrees as follows:
 - A. **Use Tax Direct Payment Permit:** For all leases and purchases of materials, equipment, supplies, or other tangible personal property used to perform the Agreement and shipped from outside California, the Contractor and any subcontractors leasing or purchasing such materials, equipment, supplies or other tangible personal property shall obtain a Use Tax Direct Payment Permit from the California State Board of Equalization ("SBE") in accordance with the applicable SBE criteria and requirements.
 - B. **Sellers Permit:** For any construction contract and any construction subcontract in the amount of \$5,000,000 or more, Contractor and the subcontractor(s) shall obtain sellers permits from the SBE and shall register the jobsite as the place of business for the purpose of allocating local sales and use tax to the City. Contractor and its subcontractors shall remit the self-accrued use tax to the SBE, and shall provide a copy of each remittance to the City.
 - C. The above provisions shall apply in all instances unless prohibited by the funding source for the Agreement.

EXHIBIT E

REQUIREMENTS OF THE NON-DISCRIMINATION IN EMPLOYEE BENEFITS CODE

INTRODUCTION

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

APPLICATION

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

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

DEFINITIONS

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

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

"Contract" shall not include: a revocable at-will use or encroachment permit for the use of or encroachment on City property regardless of the ultimate duration of such permit; excavation, street construction or street use permits; agreements for the use of City right-of-way where a contracting

utility has the power of eminent domain; or agreements governing the use of City property that constitute a public forum for activities that are primarily for the purpose of espousing or advocating causes or ideas and that are generally protected by the First Amendment to the United States Constitution or that are primarily recreational in nature.

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

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

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

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

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

EMPLOYER COMPLIANCE CERTIFICATE AND NOTICE REQUIREMENTS

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

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

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

Attachment A



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

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

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

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

The included employee benefits are:

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

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

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

You May . . .

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

**City of Sacramento
Procurement Services Division
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, Contract Services Unit, 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 reinstatement, injunctive relief, compensatory damages, punitive damages and reasonable attorney's fees and costs.

Discrimination and Retaliation Prohibited.

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

You May Also . . .

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

Attachment 1 to Exhibit A

Scope of Services

Task 1: Project Management

Project management will ensure that project targets for cost, schedule, and quality are achieved. Communication, schedule, budget adherence, and quality control/assurance will be driven by the consultant project manager in close coordination with the City project manager.

A key aspect of Task 1 will be the project kickoff, which will initiate the project and establish the framework for its successful execution. A meeting will be scheduled and conducted such that key individuals from both the Department as well the consultant team can participate. The kickoff meeting will establish the basis for project execution with clear understanding of responsibilities, duties, and accountability for the project team.

Maintain close communication with City project manager through ad-hoc meetings, emails, information transfer (e.g., through FTP), and phone calls. Prepare and transmit to City project manager, via email, bi-weekly (or at reasonable intervals based on project progress) project status reports to include at a minimum schedule, budget, and progress update. Meet live at least once per month in coordination with other scheduled meetings or specifically for project management purposes. Document all meetings with pre-meeting agenda and post-meeting minutes. Maintain schedule throughout course of project. Schedule and conduct quality assurance and control activities. Prepare monthly invoices.

Task 1 Deliverables

- Bi-weekly email progress update
- Monthly project coordination meetings
- Monthly invoice

Task 2: Prop 1 Storm Water Grant Program Coordination

The objective of this task is to align the Combined Sewer Green Infrastructure (GI) Pilot Program with the requirements of the State of California Proposition 1, Chapter 7 requirements, so that the resulting project(s) may be eligible for Storm Water Grant Program (SWGP) funding. The mission of the emerging GI program in the City of Sacramento is similar to that of the State's Prop 1 intent and therefore the project team will work to match capital planning efforts with grant funding requirements.

This task includes close coordination with the American River Basin Integrated Regional Water Management Plan (ARB IRWMP) stakeholders and CSU Sacramento Office of Water Programs to avoid duplication of efforts and ensure that the City of Sacramento and specifically the GI pilot program outputs meet the criteria of the SWGP. This will include review and input to the Storm Water Resource Plan (to be prepared by others) as necessary. Additionally, this task requires significant engagement

with ARB IRWMP stakeholders and the City of Sacramento grant staff to coordinate grant planning activities and optimize the City's grant application efforts.

The SWGP criteria also shall be considered by the project planning team throughout project conceptualization, modeling, and feasibility testing to identify project concepts that may qualify for grant funding and ensure their eligibility throughout the planning and design process.

Future tasks: Grant applications and grant administration

Task 2 Deliverables

- Memorandum documenting the status of the SRWP, potential for GI Pilot Projects to qualify, and next steps.
- Six (6) meetings/conference calls with ARB IRWMP stakeholders.

Task 3: Develop GI Goals and Methods

GI is a stormwater management strategy that takes advantage of natural ecological processes, such as infiltration and evapotranspiration, to manage stormwater runoff at its source. Examples of GI technology types include vegetated swales, bioretention planters, and rainwater harvesting systems. In addition to improving sewer system performance, GI can enhance recreational areas, beautify streets, improve pedestrian conditions, and create a more livable habitat for plants, animals, and residents.

A successful GI program must be cost effective to design, construct, and maintain; provide a clear benefit to sewer system needs; and contribute to the overall goals of the City and the Department. The development of GI pilot projects to guide the rollout of a more comprehensive program is a strategic first step in making GI an integral and important part of the City's CSS infrastructure.

Subtask 3a: Develop GI Pilot Program Goals - The GI Pilot Program will encompass a variety of GI technologies and site contexts, thereby providing an opportunity to gather a wide range of information on GI implementation in Sacramento, from public outreach and environmental permit requirements to localized H&H performance and maintenance requirements. Task 2 will lay the groundwork for the Pilot Program, starting with a meeting with key Department managers and pertinent staff to establish specific goals and objectives. Primary and potential secondary goals will frame the process of selecting project locations and developing design concepts. The primary goals are central to successfully demonstrating and evaluating a representative collection of performance-based GI technologies. Secondary goals may not directly link to a CSS need, but can provide ancillary benefits.

Subtask 3b: Identify GI Technologies to Pilot - With the overarching goals of the program defined, the AECOM team will identify the GI technology types considered for inclusion in the pilot projects. The team will evaluate technologies for their potential to provide multiple benefits and minimize constructability issues. We will review the technologies with Department staff to confirm those that should be prioritized in the Pilot Program.

Subtask 3c: Develop GI Unit Costs - The AECOM team will develop unit construction cost estimates for each GI technology type using cost data taken from multiple sources as available. Local data, typically in the form of contractor bid estimates for recent projects, will be given priority in order to provide the most accurate representation of Sacramento-specific conditions. For project types not covered by available local bid estimates, the team will use cost data from projects in other urban California settings as the primary data source and adjust as appropriate to capture the general market conditions in Sacramento. As a final quality assurance measure, the team will perform a literature review and use RSMMeans cost estimation software to provide additional data points to assess the estimated base costs. These base costs will have additional contingencies applied, as necessary, to represent the range of conditions found throughout the various areas of the City. For example, a bioretention project installed in a downtown area might encounter more utility conflicts or space constraints as compared to an installation in an underdeveloped area with minimal infrastructure.

Subtask 3d: Refine Procedures for Project Identification - Finally, the team will develop a procedure for locating GI pilot projects within the City and will secure consensus on the criteria used to prioritize projects. We will base the identification and prioritization of projects on both the suitability for construction of a GI technology and the need for stormwater management as provided through GI. We will determine suitability using geographical information system (GIS) datasets to identify and rank areas within the City.

Task 3 Deliverables

- Documentation of the GI Pilot Program goals and methods, to be incorporated into Task 4 TM.

Task 4: GI Opportunities Evaluation and Pilot Recommendation

Under this task, the AECOM team will use the goals and procedures established in Task 3 to locate and evaluate opportunities for GI pilot projects.

Subtask 4a: Identify Stormwater Needs - The team will review available information, including previous technical studies, H&H modeling results, and GIS data, to provide the basis for identifying stormwater management needs relative to the GI Pilot Program goals. We will use the InfoWorks Integrated Catchment Modeling H&H (InfoWorks) model of the CSS to identify challenges such as where there are undersized pipes and where outflows occur during design storm events.

Based on modeling and GIS analysis, the team will document how the stormwater potentially managed by GI can benefit CSS challenges. The team will then delineate tributary areas within which a project can efficiently address the downstream need in an impactful and measurable way. Efficiency can be measured as the percentage of stormwater removed from the system that would translate into downstream benefit such as reduction of surface flow, outflows, or CSO volume.

Subtask 4b: Preliminary Location Screening - The team will perform a preliminary assessment to determine the most suitable locations for GI implementation. This effort will involve an evaluation of the site characteristic criteria established in Task 3 to identify areas with physical and spatial features conducive to the implementation of GI (e.g., available space, low slope). Locations exhibiting

preferential physical criteria will be overlaid with potential project synergies and community/ ancillary goals to determine locations with multiple positive characteristics. The team will then assess this initial suite of potential project locations with respect to their ability to meet the overarching GI Pilot Program learning and evaluation goals (e.g., diverse urban contexts, physical conditions, and facility types).

Subtask 4c: Feasibility Analysis - To refine the list of potential pilot projects, the team will perform a feasibility analysis of the project locations emerging from the preliminary screening. This analysis will involve a more detailed study of the project locations and GI concepts, including:

- Assessing drainage management area potential
- Reviewing available site technical data (soil borings, land use info, utilities, past survey data, as-built drawings, etc.)
- Determining best fits between GI technologies and opportunity areas
- Determining possible location and alignments of technology
- Developing high-level construction cost estimates (using unit cost data generated in Task 3)

In addition to understanding feasibility, the team will consider and assess any potential barriers to project implementation. Barriers could include:

- Policy or legal hurdles (e.g., expected permitting requirements)
- Risks and liabilities (e.g., threats to public health)
- Constructability and operation and maintenance needs (e.g., encroachment/land acquisition needs)

Subtask 4d: Interagency Coordination - Following the feasibility analysis, the AECOM team will work with the Department to identify whether other agency projects can provide synergies and/or economies of scale. The AECOM team, along with Department representatives, will meet with potential agency partners to review the GI opportunity locations and refine the list of project sites and pilot technologies as appropriate.

Subtask 4e: Recommended GI Pilot Program - Following a thorough feasibility analysis, the team will develop a final list of pilot project opportunities that meet the GI Pilot Program goals and budget. The team will develop a preliminary project concept for each project site, showing the rough size and type of GI technologies the project will include and articulating the expected ancillary benefits. These conceptual level designs will provide a clear basis for more detailed construction cost estimating and performance modeling. The team will represent the concepts within the InfoWorks model to provide an estimate of CSO and outflow reductions as well as volume of stormwater managed.

Task 4 Deliverables

- Draft and Final TM documenting the process of identifying applicable stormwater needs and project opportunity locations, the feasibility analysis of potential projects, and a final prioritized list of GI pilot projects that have been ranked based on performance and cost benefit.
- Concept-level designs for the recommended GI pilot projects, including preliminary construction cost estimates and H&H modeling analysis.

Task 5: Develop Flow Monitoring Programs for 2016-2017 Wet Season

Subtask 5a: GI Monitoring Program - The AECOM team will develop a monitoring plan that enables efficient characterization of GI pilot project performance. A successful GI monitoring program entails many activities ranging from equipment selection through documentation.

Initially, the team will meet with Department staff and other stakeholders to ensure that all related GI Pilot Program monitoring goals are incorporated into the planning process. The primary goal will be to measure stormwater runoff under pre- and post-construction conditions to estimate volume and peak-flow reductions attributable to the GI facilities. The plan must consider the range of GI technologies implemented citywide and the site conditions of each project. A successful plan will identify each distinct combination of GI technology and catchment type and ensure complete coverage of each combination with sufficient redundancy to account for minor variations and potential downtime.

Additional objectives may include:

- Determining which GI technologies work best under particular site conditions
- Collaborating and sharing conclusions with stakeholders outside the Department
- Identifying key lessons learned and establishing a feedback loop back to design and maintenance stakeholders
- Adaptively managing the GI Pilot Program monitoring to migrate continually towards the most cost-effective strategies and methods
- Satisfying any applicable grant requirements

Based on the team's experience determining pre-construction hydrologic response to wet weather, we recommend monitoring by one of two methods after construction is complete: 1) concurrently monitoring an unimproved control block; or 2) monitoring facility inflow. This strategy allows a comparison of runoff during the same storms while limiting the overall monitoring period, thereby increasing confidence in the results at a lower cost. Post-construction monitoring will measure flows at the facility outlet or at the end of the block. The team can then calculate the reduction and/or attenuation of flows by the GI facility as the difference between pre-construction and post-construction flows.

A critical component of this effort will be determining the best monitoring equipment type and configuration. Monitoring every single GI facility is likely not feasible due to cost considerations. Strategic monitoring of select locations will allow for characterization of overall project performance. Once performance is characterized for each distinct combination of GI technology and watershed type, performance can then be extrapolated to the entire project area, or even to estimate benefits of wide-scale GI implementation.

The team will establish standard operation procedures for equipment installation and calibration, data quality assurance and quality control (QA/QC) and processing, and analysis/report writing to ensure transparency, replicability, and high confidence in monitoring results.

Subtask 5b: City-wide Flow Monitoring Program - Because the H&H model is a key tool for planning and evaluating components of the CSSIP, it is imperative that the Department has confidence in the model's ability to simulate dry- and wet-weather conditions both prior and after planned improvements and under a variety of system conditions. That confidence is developed by obtaining high-quality monitoring data, simulating the rainfall and conditions under which those data were measured, and finally calibrating/verifying the H&H model to rationally replicate observed conditions. AECOM previously worked closely with the Department and their flow monitoring consultant to plan and implement the 2008-2009 flow monitoring effort. The team will review that effort and use it as a basis to plan the next phase. Several meters installed in the 2008-2009 season poorly recorded velocity measurements or were influenced by the sump operations. The team will look closely at these locations, attempt to determine the reason for the poor results, and strive to ensure that all locations selected for the 2016-2017 monitoring season have a high likelihood of producing quality results. It is expected that the flow meters that provided good data in 2008-2009 season will be maintained at the same location for the 2016-2017 monitoring season.

AECOM will use the latest InfoWorks model to check for site hydraulics, such as the influence of downstream pumps or higher tail water conditions that may affect the quality of data collected at a site. We expect to propose additional flow meters to improve the model accuracy in the six CSS wet areas.

Subtask 5c: RDII Reduction Monitoring Program – The AECOM team will develop a monitoring plan that enables refinement of the H&H model and identifies which areas have the highest I&I. The flow monitoring in this subtask will support quantifying the RDII flow and help prioritize which areas to start I&I reduction based the greatest impact to reducing combined sewer outflows and overflows.

Task 5 Deliverables

- Draft and Final TM documenting:
 - GI Pilot Program performance monitoring methods and protocols including criteria for assessing and validating GI facility viability.
 - A map and table of proposed GI monitoring locations, proposed equipment configuration for each, and a schedule of activities for each project.
 - Proposed system-wide CSS monitoring locations and methods for the purpose of updating the H&H model validation along with a schedule of activities to facilitate planning and staffing by the Department.
 - A map and table of proposed RDII reduction monitoring locations for the RDII reduction programs.

Task 6: Develop RDII Reduction Goals and Methods

The City's CSS service area includes segments, mostly in the Northeast and Eastern sections, served by municipal separate stormwater sewer systems (MS4). These areas are still considered part of the CSS because dry-weather, sanitary flow from these areas flows by design into downstream portions of the

CSS. Furthermore, because portions of these separate areas were once combined, some remnant stormwater connections remain and the areas generally contribute relatively high RDII flow.

Under this task, the AECOM team will review and confirm areas contributing relatively high RDII, evaluate and assess technologies and costs to reduce RDII, determine the benefits of reducing RDII, and finally, recommend prioritized projects. This task will be completed subsequent to the 2016-2017 wet season CSS monitoring program (Task 5) as this information will aid the team in more accurately predicting RDII response to short and longer duration storm events.

Subtask 6a: Develop RDII Reduction Goals - Under this task, AECOM will review the City's current understanding and knowledge of RDII contributions to the CSS system and the effect on CSS performance in wet-weather events. The team will also review RDII reduction projects that have been recently implemented and what is known of performance outcomes, maintenance requirements, and costs. Based on that review, the team will develop RDII reduction goals.

Subtask 6b: Refine RDII Reduction Technology Feasibility - Upon establishing RDII reduction goals, AECOM will develop a catalog of different RDII reduction technologies for consideration. The team will use the InfoWorks model to characterize RDII for the different separate areas contributing to the CSS, and establish the performance and unit costs of all applicable RDII reduction technologies. If a certain area has a higher inflow, RDII reduction technologies, such as a roof/house storm drain or yard drain disconnection program, would be modeled to evaluate performance. Similarly, in the areas with higher infiltration into sewers, RDII reduction technologies that are more effective in reducing infiltration will be modeled to evaluate performance.

Subtask 6c: Develop, Prioritize, and Recommend RDII Projects - AECOM will apply the information developed in the previous subtasks to recommend the most promising RDII reduction projects. The projects will consider immediate, mid-term, and full buildout conditions. In general, the team will strive to achieve RDII reduction goals with the lowest cost, both capital and lifecycle, as well as minimize construction on both residents and businesses. Reducing RDII at its source will always be preferable than detention and conveyance if it can be accomplished at a reasonably comparable or lower cost and without greater inconvenience.

As with GI projects, the team will coordinate with other City agencies to seek synergy with RDII projects in areas such as planned paving projects, utility replacements, and traffic corridor designations to improve cost and schedule efficiencies and reduce impacts to the public.

Task 6 Deliverables

- Draft and Final TM documenting RDII reduction goals and methods, including performance and costs, and the prioritized, recommended RDII projects for implementation as part of the updated CSSIP.

Attachment 1 to Exhibit B

Proposed Cost Estimate

TASKS	AECOM Labor Hours												Lotus Labor Hours			MRPE Labor Hours			TOTALS								
	David Wood	Byrce Watson	Kerry Rubin	Make Amodeo	Project Engineer	Amy Kam	Engineer	Junior Engineer	Engineer	Architect	Lisa Bayer	RDI & Mira Chokshi	Marketing Sarah Reynolds	Support	Senior Reviewer	Various	Rob Dusenbury	Monitoring Specialist	Johan Sodergren	Eric Zickler	Senior Reviewer	Mill Rogers	Senior Reviewer	Richard Balha	Hours	ODCs	Cost
	Rate \$247 /hr	\$180 /hr	\$180 /hr	\$155 /hr	\$155 /hr	\$155 /hr	\$135 /hr	\$175 /hr	\$170 /hr	\$105 /hr	\$250 /hr	\$200 /hr	\$120 /hr	\$200 /hr	\$200 /hr	\$200 /hr	\$200 /hr	\$200 /hr	\$120 /hr	\$200 /hr	\$200 /hr	\$200 /hr	\$200 /hr	\$200 /hr			
Task 1 Project Management	30	108	0	12	0	0	0	0	0	0	24	4	0	0	0	0	28	0	0	8	12	0	0	0	232	\$ 1,200	\$ 46,614
Task 2 Prop 1 Storm Water Grant Program Coordination	2	20	0	28	0	0	0	0	0	0	2	0	0	0	0	0	0	0	0	40	0	0	0	0	92	\$ 200	\$ 17,534
Task 3 Develop GI Goals and Methods	10	36	14	80	0	40	0	26	16	0	16	0	10	0	10	12	0	0	10	8	8	4	4	286	\$ 200	\$ 46,588	
Task 4 GI Opportunities Evaluation & Pilot Recommendation	32	128	64	160	0	172	0	52	58	84	20	0	20	0	20	12	0	0	40	16	8	8	8	846	\$ 500	\$ 140,712	
Task 5 Develop Flow Monitoring Program (for 16/17 Wet Season)	12	48	0	0	0	0	0	0	0	0	56	140	16	0	0	64	112	0	0	0	0	0	0	0	448	\$ 300	\$ 88,428
Task 6 Develop RDIH Reduction Goals and Methods	28	88	0	48	0	0	0	0	88	144	40	0	0	0	0	0	0	0	0	0	4	4	4	4	444	\$ 100	\$ 72,856
2016 TOTAL	114	428	78	328	0	212	78	244	372	86	116	112	98	40	22	2328	\$ 2,500	\$ 392,742									

Proposed Schedule

TASKS	Months Post NTP								
	1	2	3	4	5	6	7	8	9
Task 1 Project Management									
Task 2 Prop 1 Grant Planning									
Task 3 Develop GI Goals and Methods									
Task 4 GI Opportunities Evaluation & Pilot Recommendation									
Task 5 Develop Flow Monitoring Program (for 16/17 Wet Season)									
Task 6 Develop RDIH Reduction Goals and Methods									