

**Meeting Date:** 5/31/2016

**Report Type:** Consent

**Report ID:** 2016-00549

**Title: Agreement: Green Stormwater Infrastructure Incentive Program**

**Location:** Citywide

**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 \$120,000.

**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

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**City Attorney Review**

Approved as to Form  
Joe Robinson  
5/23/2016 5:54:23 PM

**Approvals/Acknowledgements**

Department Director or Designee: Bill Busath - 5/12/2016 10:14:33 AM

## Description/Analysis

**Issue Detail:** Staff recommends Council approve an agreement for engineering services with AECOM Technology Corporation to develop and evaluate the feasibility of a Green Stormwater Incentive Program. Green stormwater infrastructure, such as rain gardens and pervious pavement, reduces stormwater runoff. This project will quantify the benefits of green stormwater infrastructure on existing City drainage systems using hydrologic and hydraulic models and recommend ways to encourage the implementation of green infrastructure through a drainage rate reduction and/or rebate program for the installation of low impact development (LID) or green stormwater infrastructure on private or commercial properties.

**Policy Considerations:** City Council approval is required for professional service 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:** Green Infrastructure technologies support sustainability by reducing runoff volume and attenuating the peak flows entering the City's drainage and combined sewer systems.

**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 Green Stormwater Incentive Program. Four proposals were received from the following firms: AECOM Technology Corporation, Environmental Incentives LLC, Wood Rodgers, Inc., and Watearth Company.

A selection committee comprised of four staff from the DOU and one participant from the State Department of Water Resources evaluated the four proposals using a standard rating

system. AECOM was the top-ranked firm based on its scores during the evaluation process.

**Financial Considerations:** The proposed agreement for engineering services with AECOM Technology Corporation is for a not-to-exceed amount of \$120,000. The agreement budget was established based on negotiated fees and the type and amount of work necessary to complete the Green Stormwater Incentive Program. Sufficient funding exists in the Drainage Master Plan Program (I14710100) to enter into this agreement.

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

## Background

Green stormwater infrastructure, such as rain gardens and pervious pavement, reduces stormwater runoff. Reducing runoff from private property decreases burdens on the city stormwater system. A reduction in service demands can be the basis for fee or rate reductions for drainage service customers.

The City Of Sacramento has 145 drainage basins. Much of this infrastructure was constructed before current storm drainage design guidelines were in place. In many areas the system is sized based on outdated hydrology and land use data and does not have capacity to drain a 10-year storm event under existing land use conditions. Green stormwater infrastructure may provide more benefits to an older substandard basin than a newer basin built to the current guidelines. Hydrologic and hydraulic models have been developed for approximately 40% of the basins. These hydraulic models of the City's drainage basin can quantify the runoff and flood reduction benefits of green stormwater infrastructure. In addition, many of the 145 drainage basins are pumped. Reducing demands on these pump stations will reduce operations and maintenance costs.

The Department of Utilities would like offer a program to the rate payers that provides a reduction in storm drainage fees either through rebates or reduced monthly fees as an incentive to increase the use of green infrastructure on private property. Many other Cities have implemented similar incentive programs and could provide valuable input on program administration costs and annual participation estimations.

This project will 1) research/review existing incentives programs and lessons learned from other cities, 2) quantify the benefits of green stormwater infrastructure on existing City drainage systems using hydrologic and hydraulic models, 3) develop examples and estimate installation costs, 4) review the existing fees, summarize potential funding, and develop estimated participation rates, and 5) recommend a drainage rate reduction and/or rebate program to encourage the implementation of green infrastructure.

PROJECT #: I14710105  
PROJECT NAME: Green Stormwater Infrastructure Incentive Program  
DEPARTMENT: Utilities  
DIVISION: Engineering & Water Resources

CITY OF SACRAMENTO

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

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**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](mailto: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/Lisa Beyer, Project Manager*  
300 California Street, Suite 400  
San Francisco, CA 94104  
[david.m.wood@aecom.com](mailto:david.m.wood@aecom.com) / [lisa.beyer@aecom.com](mailto:lisa.beyer@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 \$ 120,000.00.
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: Establish Goals**

Goal setting will set the stage for the overall effort. AECOM will work closely with the Department to tailor the GSI incentive program to the specific stormwater infrastructure needs and goals of Sacramento. GSI incentive program goals may include GSI implementation elements, partnering with ratepayers to achieve stormwater management on private property, or educating the public about the stormwater collection system and how property owners can participate in stormwater management.

#### *Subtask 1a: Meeting 1 with Key Managers and Staff*

The AECOM team will facilitate a meeting with key Department managers and pertinent staff, identified by the Department project manager, to define specific goals and metrics for the incentive program. We will also establish potential challenges, constraints, and limitations. We will work with the Department to review and establish stormwater management priorities, performance, costs, and ratepayer engagement.

#### *Subtask 1b: Meeting 2 with Finance and Legal Team*

With feedback and direction on the GSI Incentive Program goals, the AECOM team will facilitate a second meeting with the Department project manager and Department legal and financial teams to discuss the feasibility of potential GSI incentive program frameworks. The AECOM team will utilize guidance and direction from the City's finance and legal team about any restrictions on the use of ratepayer dollars to implement stormwater management projects using rate reductions, rebates, or grants, and considerations for using the Department operating and capital dollars, based on bond requirements, or external grant monies.

#### *Task 1 Deliverables*

- Summary of the consensus goals and objectives for the Department's GSI incentive program.

#### **Task 2: Research/Review Existing Incentives Programs and Lessons Learned from Other Cities**

There is much to be learned from the experiences, challenges, mistakes, and successes of other cities' existing incentive programs. Task 2 will focus on two categories of incentive programs. The first will be all types of incentive programs considered and implemented within the City of Sacramento, not limited to stormwater related incentives. The second will be experiences and lessons-learned from GSI incentive programs in other U.S. cities. Other city comparisons will consider the conditions, goals, and objectives relevant for the Department.

#### *Subtask 2a: Existing Sacramento Programs Review and Interviews*

AECOM will work with the Department to identify and research existing or previous incentive programs within the Department and across the City. The list of existing programs will be

reviewed, and with direction from the Department, the AECOM team will select a focused set of program managers to be interviewed. Applying experience from interviews AECOM has conducted in other cities, the team will develop a set of questions for these meetings to gather program data and gain an understanding of goals, budget, staffing, eligibility, interface with stormwater quality development regulations, participation, results, and challenges encountered in implementation.

#### *Subtask 2b: GSI Incentive Programs in Other Cities*

Several cities across the country have programs to incentivize stormwater management projects, including San Francisco, Los Angeles, Portland, Washington D.C., New York City, Philadelphia, Chicago, Minneapolis, Kansas City, and Louisville. The AECOM team has been involved with and is familiar with several of these programs. To further help frame the Sacramento GSI incentive program, the team will reach out to managers of applicable programs in other cities to gather more detailed information and better understand the challenges and successes of those experiences, best practices, profiles of participants, and how they are relevant for Sacramento.

#### *Subtask 2c: Best Practices and Lessons Learned*

The team will draw on the feedback from Sacramento incentive programs as well as GSI incentive programs in other cities to identify best practices from long-standing programs, as well as aspects to avoid. The case study research will cover a broad set of potential program types that address different land use types, such as residential, commercial and institutional, as well as different objectives, such as low cost performance or education and outreach. The team will use this work to identify the motivations for people to participate in an incentive program and the best mechanism for encouraging this participation.

#### *Task 2 Deliverables*

- Summary of experience, lessons learned, and best practices in Sacramento and other cities. The TM will describe how these influence the process for developing GSI incentive programs and document consensus direction from the Department on initial preferences for program types and mechanisms.

#### **Task 3: Analyze GSI Opportunities and Effectiveness**

The AECOM team will utilize its extensive experience in planning, designing, and modeling GSI to delineate private parcels that are most amenable to the implementation of GSI projects based on opportunity for incentives and system needs. The team will then model applicable GSI technologies to estimate performance across a range of representative City conditions.

#### *Subtask 3a: Identify Suitable Areas for Incentives (Partially covered in GSI Pilot Scope)*

AECOM will perform analyses using geographical information system (GIS) datasets including parcel lot size, ownership, new or re-development areas, and general census and demographics, etc., to identify and rank areas within the City that are most suitable for GSI incentives. This subtask will deliver maps and tables indicating spatial extents or areas and a ranking for each area's suitability for consideration in the GSI incentive program.

***Subtask 3b: Identify Areas with Stormwater Management Needs (Partially covered in GSI Pilot Scope)***

AECOM will evaluate the citywide drainage system to identify areas with stormwater management needs that could benefit from GSI. This effort will focus on the following areas for analysis:

- Within the combined sewer system (CSS), AECOM will use the InfoWorks Integrated Catchment Modeling (ICM) model of the CSS to identify challenge areas such as where there are undersized pipes and where outflows occur during design storm events.
- Outside the CSS, AECOM will work with the Department to select and utilize other available hydrologic and hydraulic (H&H) models including one or more of the latest version of the United States Environmental Protection Agency (EPA) Stormwater Management Model (SWMM) (incorporating intellectual capital embedded in the historical SAC-SWMM), XPSWMM, and the Sacramento Area Hydrology Model (SAHM) to identify areas with drainage deficiencies.
- For the portions of the City for which H&H models are not developed, AECOM will process GIS datasets including percent impervious and soil types (Figure 2), and use these layers in a simplified H&H model to generate the drainage system response for design storms.
- AECOM will also focus on the drainage needs of newly developed or development projects in planning, design, or under construction.

Based on modeling and GIS analysis, AECOM will map areas of the City that have drainage challenges and document how the stormwater potentially managed by GSI under the incentive program can benefit the drainage challenges.

***Subtask 3c: Evaluate GSI Performance (Partially covered in GSI Pilot Scope)***

In this subtask, the AECOM team will identify the GSI technologies most suitable for the GSI incentive program, and develop an H&H model representation for each technology. AECOM will use a range of site and soil properties for each technology to develop the H&H model representation and quantify the performance of each technology for peak flow and volume reduction under different design storms.

Using identified areas suitable for incentives and system stormwater management needs, the team will analyze specific GSI technologies in different areas to develop the GSI incentive program project type and performance by:

1. Within the CSS
2. Outside the CSS
3. Newly developed areas or in process development projects

***Task 3 Deliverables***

- GSI Suitability maps
- Drainage Challenge maps
- Matrix of four analyzed areas: site/soil characteristics & recommended GSI technologies

- Summary of stormwater related challenge areas and the potential benefit of GSI incentive program technologies, and considerations for the interface between GSI incentives and current stormwater regulations for new and re-development projects.

**Task 4: Evaluate GSI Project Costs and Develop Incentive Project Examples**

In order to determine the potential for a rebate or discount, AECOM will develop project costs and examples that can be used to determine cost sharing scenarios and long term return on investment in Task 5.

*Subtask 4a: GSI Project Costs (Partially covered in GSI Pilot Scope)*

The AECOM team will develop construction cost estimates for each GSI project type from unit cost data taken from multiple sources as available. Local data will be given priority in order to provide the most accurate representation of Sacramento specific conditions, typically in the form of contractor bid estimates for recent projects. 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 adjustments will be made 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 RSMMeans1 cost estimation software to provide additional data points to assess the estimated 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 being installed in a downtown area might encounter more space constraints as compared to an installation in an underdeveloped area.

*Subtask 4b: GSI Incentive Project Examples*

The team will then, in conjunction with results from Task 3, develop a series of GSI site context sensitive project examples that could be implemented through incentive programs, including type, configuration, cost, and benefits. The team will develop a simplified concept plan and graphic visualization for up to five examples to help illustrate the potential opportunities for Sacramento properties.

*Task 4 Deliverables*

- Cost estimate algorithms for all GSI technologies to be considered for implementation through the GSI Incentive Program.
- Summary of relevant GSI examples for consideration in the GSI incentives program recommendation and correlating project costs.

**Task 5: Financial Analysis**

AECOM will review the existing fees, summarize potential funding, and develop estimated participation rates.

*Subtask 5a: Existing Rate and Fee Structure*

DOA will provide AECOM with current rates and fees for water, wastewater, and storm drainage services, aggregate ratepayer revenue, and evaluate capital expenditures associated

with CSS and separate stormwater infrastructure. This will be used to assess benefit/cost characteristics as a point of comparison and reference for the incentive program.

*Subtask 5b: Funding Sources and Finance Mechanisms for Incentives*

AECOM will identify additional sources available to the City that would supplement, if not fully fund, the incentive program, thereby reducing the cost to ratepayers. AECOM will identify the source, eligibility requirements, eligible uses of funds, timing, contact, monitoring requirements, and competitiveness of the program. The desktop research will include a review of available state funding, such as the Clean Water State Revolving Funds (CWSRF), Department of Water Resources (DWR) grants and funds stemming from the Proposition 1 Water Bond. It will also review available federal funding opportunities, including from HUD and EPA.

In addition, AECOM will identify other program finance mechanisms that could help pay for the incentive program. These may include performance bonds where a third party pays for the initial investment and is paid back based on the actual performance of that infrastructure. This public private partnership model is under consideration in Baltimore and other localities that do not necessarily have the capital nor want to incur the risks associated with the GSI investments.

*Subtask 5c: Annual Ratepayer Participation Rates*

In consultation with the Department, AECOM will identify the pool of ratepayers more likely to be incentivized to engage in an incentive program due to their monthly storm drainage or wastewater bills. AECOM will create a profile of City residents and businesses and estimate a range of expected GSI incentive program participants. The team will draw on participation rates and motivations from case studies of other cities with GSI incentive programs (see Task 2); best practice rationales for public incentive programs; and utility billing records and data about ratepayers provided by the City. In this subtask, AECOM will apply local characteristics of Sacramento ratepayers to develop a planning level estimate of the number of GSI incentive program participants, rationale for participation, potential barriers, and range of potential stormwater management benefits.

In addition, the analysis will also focus on proposed developments that may be further incentivized to go above and beyond the regulatory requirements (e.g. Railyards Development). Incentive programs targeting new development often have higher participation rates as they are already undertaking major earth and infrastructure work as part of the project.

*Task 5 Deliverables*

- Funding Sources and Finance Mechanisms Matrix
- Planning level estimate of the number of GSI incentive program participants, rationale for participation, and potential barriers

**Task 6: Develop Recommendations for Potential GSI Incentive Programs**

The AECOM team will synthesize the Department’s input and preferences on the GSI incentive program goals with the results from the analyses performed in Tasks 2 through 5 to develop a matrix of prospective GSI Incentive Programs for the City of Sacramento. The AECOM team will

also work with the Department to develop a clear path to implementation in prioritized sequential steps.

With a clear matrix of opportunities for a GSI incentive program in hand, the Department will be prepared to decide on an appropriate plan for Sacramento to partner with private property owners to achieve stormwater management objectives.

**Task 6 Deliverables**

- Recommended Program Types: Matrix listing all prospective GSI incentives compliant with funding, policy, law, and program goals that could be considered by the Department. Attributes will include expected participants, gallons of stormwater reduced, costs per gallon reduced, benefits per gallon reduced, compliance with performance goals, and funding sources.

**Task 7: Project Management and Coordination**

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 AECOM project manager in close coordination with City project manager.

In addition, AECOM will enlist experts as needed in the field of water resource engineering, H&H modeling and LID techniques to provide technical review of deliverables.

**Task 7 Deliverables**

- Monthly Progress Reports
- Monthly Invoice

Proposed Cost Estimate

Task	AECOM STAFF												LOTUS STAFF		TOTAL
	David Wood	Lisa Bayer	Bryon Wilson	Mira Chokshi	Mike Amadio	Sarah Reynolds	Alexander Quinn	Rucker Aker	Manfred/ Nair	Various	Senior Reviewer	Scott Durbin	Total Hours	Total Billed Labor	
	PKC	PM	Senior Engineer	Project Engineer	Project Engineer	Staff Engineer	Economics Director	Economic Analyst	Economic Analyst	Senior Reviewer	Senior Reviewer				
	\$ 247	\$ 175	\$ 180	\$ 170	\$ 155	\$ 105	\$ 250	\$ 180	\$ 110	\$ 250	\$ 220				
	hrs	hrs	hrs	hrs	hrs	hrs	hrs	hrs	hrs	hrs	hrs	hrs			
<b>Task 1 Establish Goals</b>	9	26	0	0	0	0	0	0	0	0	0	0	35	\$ 6,773	
Meeting with key managers and staff to define program goals	4	8													
Meeting with finance and legal team for guidance on implementing rate reductions/grants	4	8													
Summary of goals and objectives	1	10													
<b>Task 2 Existing Incentives and Lessons Learned</b>	8	81	0	12	0	0	4	8	0	0	0	0	113	\$ 20,631	
Identify and review existing Incentive Programs in DOU and other agencies	1	30	4				1								
Interview selected program managers (Up to 5 Mtps)	5	15	8				1								
Lessons Learned Considerations from Sac and other cities	2	20					2	8							
Summary of existing programs and lessons learned	2	16													
<b>Task 3 GSI Opportunities and Effectiveness</b>	6	32	28	28	20	60	2	0	0	0	0	0	176	\$ 27,062	
Suitability and Needs Analysis (Partially covered in GSI Pilot Scope)	2	8	4	4	4	12	2								
GI Performance per Area (5 areas) (Types and Costs) (Partially covered in GSI Pilot Scope)	2	12	8	16	16	32									
GSI Matrix by Areas	2	12	16	8	16										
<b>Task 4 GSI Project Costs and Incentive Project Examples</b>	4	36	24	8	32	0	2	8	0	0	0	0	114	\$ 20,188	
GSI Project Costing Algorithms (Partially covered in GSI Pilot Scope)	2	8	4	16	16		2	8							
GI Project Examples and Summary of Relevant Ones for Sacramento	2	28	20	8	16										
Financial Analysis	3	40	0	0	8	10	5	28	36	0	0	0	130	\$ 20,281	
DOU to provide summary of current billing															
Funding Sources and Mechanisms	1	20					3	20	24						
Participation Rates	2	20			8	10	2	8	12						
Removed Program Cost Estimates - no formal summary or analysis															
Removed finance plan - no formal summary or analysis															
<b>Task 6 Recommended Programs</b>	2	24	4	4	4	0	0	8		0	0	0	46	\$ 8,194	
Recommended Program Types Matrix	2	24	4	4	4			8							
Removed draft and final reports - no formal summary or analysis															
<b>Task 7 Project Management and Coordination</b>	14	22	6	6	4	4	8	4	2	4	8	8	82	\$ 16,208	
Scope, Schedule, Budget	4	12					4	4	2	4	4	4			
Team Meetings (reduced team meetings due to reduced length 6-7 months, rather than 9)	6	6	6	6	4	4	4	4	4	4	4	4			
Technical Review (reduced technical review)	4	4					4				8	8			
<b>Total</b>	46	261	62	58	68	74	21	56	38	4	4	8	696	\$ 119,957	

# Proposed Schedule

<i>Months Post NTP</i>	NTP	1	2	3	4	5	6	7
Task 1 Establish Goals								
Task 2 Existing Incentives and Lessons Learned								
Task 3 GSI Opportunities and Effectiveness								
Task 4 GSI Project Costs and Incentive Project Examples								
Task 5 Financial Analysis								
Task 6 Recommended Programs								
Task 7 Project Management and Coordination								