

RESOLUTION NO. 2020-0290

Adopted by the Sacramento City Council

September 1, 2020

City Council COVID-19 Response: CARES Act Framework and Funding Priorities; Small Business Recovery Technical Services Contracts

BACKGROUND

- A. On March 4, 2020, Governor Newsom proclaimed a State of Emergency as a result of the threat of the coronavirus disease (COVID-19) in the State of California.
- B. On March 5, 2020, the County of Sacramento proclaimed a public health emergency as a result of the threat of COVID-19 in the county.
- C. On March 13, 2020, the City Council adopted a resolution declaring a local emergency relating to the pandemic.
- D. On April 21, 2020, the City received \$89.6 million from the Coronavirus Aid, Relief and Economic Security (CARES) Act.
- E. On May 12, 2020, the City Council held a workshop to discuss a Coronavirus Relief Fund (CRF) framework and funding priorities for expenditure of the \$89.6 million. During the workshop, Council and stakeholders expressed overall interest in funding programs and projects that, among other things, provide small business assistance, get people back to work, offer opportunities for youth enrichment, address homelessness and housing issues, and support the arts and tourism industries that were directly impacted by this pandemic.
- F. On May 26, 2020, City Council committed \$28 million in CRF funding to support immediate local economic relief services and programs for residents and adopted a general framework proposed by the Mayor for funding priorities.
- G. On May 26, 2020, City Council also directed the City Manager to continue to identify and prepare CRF funding recommendations.
- H. On June 30, 2020, the City Council committed \$5 million in CRF funding for Small Business Recovery Program Technical Assistance to assist businesses that have been affected by the COVID-19 public health emergency.

- I. On July 16, 2020, a Request for Proposals was released for technical assistance providers to assist businesses that have suffered economic harm due to the COVID-19 public health emergency.
- J. On July 27, 2020, eleven proposals were received in response to the RFP.

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

- Section 1. The City Manager or the City Manager's designee is authorized to transfer \$2 million to the Small Business Technical Component Program (G02610100) from the allocation for the Economic Relief to Small Business Recovery Program (I0200pr3000) in the Federal CARES Act Fund (Fund 2704).
- Section 2. The City Manager or the City Manager's designee is authorized to execute professional services agreements for the Economic Relief to Small Business Recovery Technical Services Program with the following: a) Sacramento Metropolitan Chamber of Commerce for \$1,460,000; and b) Asian-Pacific Chamber of Commerce for \$3,700,000. The professional services agreements are attached as Exhibits A and B and are part of this Resolution.

Table of Contents:

Exhibit A - Professional Services Agreement with Sacramento Metropolitan Chamber of Commerce

Exhibit B - Professional Services Agreement with Asian-Pacific Chamber of Commerce

Adopted by the City of Sacramento City Council on September 1, 2020, by the following vote:

Ayes: Members Ashby, Carr, Guerra, Hansen, Harris, Jennings, Schenirer, Warren and Mayor Steinberg

Noes: None

Abstain: None

Absent: None

Attest: **Mindy Cuppy** Digitally signed by Mindy Cuppy
Date: 2020.09.15 15:03:33
-07'00'
Mindy Cuppy, City Clerk

The presence of an electronic signature certifies that the foregoing is a true and correct copy as approved by the Sacramento City Council.

CONTRACT #:
CONTRACT NAME: Technical Assistance for Small Business Impacted by COVID 19
CONTRACT PROJECT #:
DEPARTMENT: Office of Innovation and Economic Development
DIVISION:

CITY OF SACRAMENTO

PROFESSIONAL SERVICES AGREEMENT (COVID-19)

THIS CONTRACT is made at Sacramento, California, by and between the **CITY OF SACRAMENTO**, a charter city and municipal corporation ("CITY"), and

*Sacramento Metropolitan Chamber of Commerce
1 Capitol Mall, Suite 700
916-552-6800*

("Contractor"), as of the Effective Date, as defined below.

The City and Contractor agree as follows:

1. **Effective Date.** This Contract shall be effective beginning the date it is fully executed by the duly authorized parties.
2. **Contract Documents.** This Contract includes each of the following documents, which are attached or incorporated by this reference (referred to collectively as the "Contract Documents"):

Invitation to Bid, Request for Qualifications, or Request for Proposals, and any Addenda
Exhibit A – Scope of Work
Exhibit B – Payment
Exhibit C – Insurance
Exhibit D – General Conditions
Exhibit E – Federal Conditions
Purchase Orders

If there is a conflict between the terms and conditions of any document prepared or provided by the Contractor and made a part of this Contract and the other terms or conditions of the Contract, the other terms and conditions of the Contract control.

3. **Services.** Subject to the terms and conditions set forth in this Contract, Contractor shall provide to City the professional services described in Exhibit A ("Services").

Contractor will not be compensated for professional services outside the scope of Exhibit A ("Additional Services") unless, before providing Additional Services: (a) Contractor notifies City and City agrees that the Additional 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 Contract specifying the Additional Services and the amount of additional compensation to be paid Contractor.

City will have no obligations whatsoever under this Contract or any Supplemental Contract, unless and until this Contract or any Supplemental Contract is approved by the City as required by the Sacramento City Code. As used in this Contract, the term "Services" includes both Services and Additional Services as applicable.

4. **Payment.** City shall pay Contractor at the times and in the manner set forth in Exhibit B. Contractor shall submit all invoices to City in the manner specified in Exhibit B.
5. **Facilities and Equipment.** Except as set forth below, Contractor shall, at its sole cost and expense, furnish all facilities and equipment required for Contractor to perform this Contract. City shall furnish to Contractor only the facilities and equipment listed below, if any.
6. **Insurance.** Contractor shall, at its sole cost and expense, maintain the insurance coverage described in the attached Exhibit C.
7. **General Conditions.** Contractor shall comply with the terms and conditions set forth in the attached Exhibit D.
8. **Federal Conditions.** Contractor shall comply with the terms and conditions set forth in the attached Exhibit E.
9. **Non-Discrimination in Employee Benefits.** This Contract may be subject to Sacramento City Code chapter 3.54, Non-Discrimination in Employee Benefits by City Contractors. A summary of the requirements, entitled "Requirements of the Non-Discrimination in Employee Benefits Code (Equal Benefits Ordinance)," can be viewed at:

<https://www.cityofsacramento.org/Finance/Procurement/Contract-Ordinances>.

Contractor acknowledges and represents that Contractor has read and understands the requirements and shall fully comply with all applicable requirements of Sacramento City Code chapter 3.54. If requested by City, Contractor shall promptly provide any documents and information required by City to verify Contractor's compliance.

Contractor's violation of Sacramento City Code chapter 3.54 constitutes a material breach of this Contract, for which the City may terminate the Contract and pursue all available legal and equitable remedies.

10. **Considering Criminal Conviction Information in the Employment Application Process.** This Contract may be subject to the requirements of Sacramento City Code chapter 3.62, Procedures for Considering Criminal Conviction Information in the Employment Application Process. A summary of the requirements, entitled "Ban-The-Box Requirements," can be viewed at:

<https://www.cityofsacramento.org/Finance/Procurement/Contract-Ordinances>.

The Ban-The-Box Requirements are applicable to certain contracts with the City in an amount of \$250,000 or more (either initial value or total value after amendment) or if the total value of all Contractor's contracts with the City is \$250,000 or more over a 12-month period.

Contractor acknowledges and represents that Contractor has read and understands these requirements and shall fully comply with all applicable requirements of Sacramento City Code chapter 3.62. If requested by City, Contractor shall promptly provide any documents and information required by City to verify Contractor's compliance. Contractor shall require applicable subcontractors to fully comply with all applicable requirements of Sacramento City Code chapter 3.62 and include these requirements in all subcontracts covered by Sacramento City Code chapter 3.62.

Contractor's violation of Sacramento City Code chapter 3.62 constitutes a material breach of this Contract, for which the City may terminate the Contract and pursue all available legal and equitable remedies.

12. **Authority.** The person signing this Contract for Contractor represents and warrants that he or she has read, understands, and agrees to all the Contract terms and is fully authorized to sign this Contract on behalf of the Contractor and to bind the Contractor to the performance of the Contract's obligations.

[Signatures Page Following Exhibits]

EXHIBIT A

SCOPE OF SERVICES

1. Representatives.

The CITY Representative for this Agreement is:

*Leslie Fritzsche, Economic Investment Manager, City of Sacramento
915 H Street, Fourth Floor
Sacramento, CA. 95814
916 808-5450/lfritzsche@cityofsacramento.org*

The CONTRACTOR Representative for this Agreement is:

*Amanda Blackwood, President and CEO
Sacramento Metropolitan Chamber of Commerce
1 Capitol Mall, Suite 700
916-552-6800*

Unless otherwise provided in this Contract, all Contractor questions and correspondence pertaining to this Contract must be addressed to the City Representative. All City questions and correspondence must be addressed to the Contractor Representative.

2. **Scope of Services.** Contractor shall provide Services to City as set forth in Attachment 1 to this Exhibit A.
3. **Time of Performance.** The Services described in this Contract shall be provided for four months until Dec. 30, 2020 . Contractor shall provide the Services in accordance with any schedule in Attachment 1 to this Exhibit A. Contractor shall immediately notify the City if Contractor is unable to perform Services in compliance with this Contract.
4. **Conflict of Interest Requirements.** The individual(s) who will provide Services pursuant to this Contract are "Consultants" within the meaning of the Political Reform Act and the City's Conflict of Interest Code. ____ yes ☒ no [check one]

Contractor shall cause the following to occur within 30 days after execution of this Contract:

- (A) Identify the individuals who will provide Services or perform Work under this Contract as "Consultants"; and
- (B) 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 Contract, 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 Contract or impose fines on the individuals until all required statements are filed.

EXHIBIT B

PAYMENT

1. **Contractor's Compensation.** The total of all fees paid to the Contractor for the provision of Services as set forth in Exhibit A, including any authorized reimbursable expenses, shall not exceed the total sum of \$ 1,460,000. The payments specified in this Exhibit B shall be the only payments made to Contractor unless the City approves a Supplemental Contract.
2. **Pricing.** Contractor shall be paid as set forth in Exhibit A or Attachment 1 to this Exhibit B and any applicable special provisions included in the request for bids or proposals. If there is a conflict between Exhibit A or Exhibit B and the Special Provisions, Exhibit A or Exhibit B controls.
3. **Contractor's Reimbursable Expenses.** "Reimbursable Expenses" are limited to actual expenditures of Contractor for expenses that are necessary for the proper satisfaction of the Contract and are only payable if specifically authorized in advance in writing by the City.
4. **Miscellaneous Charges.** No additional charges will be allowed unless specified in the Contract, including charges for transportation, fuel, containers, packing, or disposal.
5. **Payments to Contractor.** Contractor is responsible for supplying all documentation necessary to verify invoices to the City's satisfaction.
 - A. Payment terms are NET 30 days, unless the Contractor offers a prompt payment discount that was accepted by the City or as otherwise stated in this Contract. Any prompt payment discounts will be computed from the date of acceptance by the City, or from the date an invoice is received, whichever occurs later.
 - B. Invoices must be submitted to either of the addresses specified below.
 - (1) Email. Submit email invoices and any attachments to:
apinvoices@cityofsacramento.org
 - (2) Postal Mail. If emailing is not an option, mail to:
A/P Processing Center
City of Sacramento
915 I Street, Floor 4
Sacramento, CA 95814-2608
 - C. All invoices submitted by CONTRACTOR must contain the following information:
 - (1) Job/Project Name
 - (2) CITY's current Purchase Order Number
 - (3) Contractor's Invoice Number
 - (4) Date of Invoice Issuance
 - (5) Work Order Number (if applicable)
 - (6) CITY representative identified on the Purchase Order
 - (7) Contractor's remit address

- (8) Itemized description of items billed under Invoice
- (9) Itemized description of all authorized Reimbursable Expenses
- (10) Itemized description of all applicable taxes (sales, use, excise, etc.)
- (11) Amount of Invoice (itemize all authorized Reimbursable Expenses)
- (12) Total Billed to Date under Contract (if applicable)

- D. Items must be separated into Goods, Services, and Reimbursable Expenses. All applicable sales, use, excise, or similar taxes, including federal excise tax, must be itemized separately on the invoice. Invoices that do not conform to the format outlined above will be returned to Contractor for correction. City is not responsible for delays in payment to Contractor resulting from Contractor's failure to comply with the invoice format described above.
- E. For Goods only, a bill of lading number and weight of shipment will be shown for shipments on the Government Bill of Lading.
- F. Unless otherwise specified in this Contract, partial payments will not be made by the City and payment will not be due until the completion of the Goods order. No payment precludes the City's right to inspect. Requests for payment status should be addressed to the City Representative for this Contract.

6. **Additional Services.** Additional Services shall be provided only when a Supplemental Contract authorizing the Additional Services is approved in writing by the City in accordance with the City's contract amendment procedures. The City reserves the right to perform any Additional Services with its own staff or to retain other contractors to perform the Additional Services.

7. **Tax Payments.** 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 the 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.

9. **Public Works Requirements.** *[To be completed by the City Representative:]*

The services provided under this Contract include ***[check one if applicable]:***

- _____ Construction work in an amount exceeding \$25,000;
- _____ Land Surveying, material testing, or inspection services provided for a City construction project during the design, pre-construction, construction, or post-construction phases of the project; or
- _____ Alteration, demolition, repair, or maintenance work in an amount exceeding \$15,000.

If any of the lines is checked above, this Contract includes "Public Work" under the California Labor Code and is subject to the following requirements:

- A. Payment of Prevailing Wages: Contractor and any subcontractor(s) performing any Public Work shall comply with the provisions of Sacramento City Code section 3.60.180 and applicable provisions of the California Labor Code, which require, among other things, that Contractor and all subcontractors pay not less than the prevailing rate of wages, as determined by the Director of the California Department of Industrial Relations (“DIR”) in accordance with California Labor Code section 1773. Contractor and every subcontractor shall maintain payroll records and submit certified payrolls and other labor compliance documentation electronically when and as required by CITY. In addition, Labor Code Section 1771.4 requires the Contractor and any subcontractor performing any Public Work to furnish electronic payroll records directly to the Labor Commissioner. Contractor shall include these requirements in every subcontract.

This Agreement is subject to compliance monitoring and enforcement by the DIR, as specified in California Labor Code section 1771.4. The Contractor and any subcontractor will be subject to withholding and penalties for violation of prevailing wage requirements in accordance with applicable law, including Labor Code Sections 1726, 1741, 1771.5, and 1775, and City Code Section 3.60.180. Questions regarding the City’s Labor Compliance Program should be directed to the City Representative.

- B. DIR Registration: California Labor Code Section 1725.5 requires the Contractor and all subcontractors performing Public Works services to be currently registered with the DIR, as specified in California Labor Code Section 1725.5. California Labor Code Section 1771.1 provides that a contractor or subcontractor shall not be qualified to bid on, be listed in a bid proposal (subject to the requirements of Section 4104 of the California Public Contract Code), or engage in the performance of any contract for Public Work, unless currently registered and qualified to perform Public Work in accordance with California Labor Code Section 1725.5.

Further information can be found on DIR’s website at <http://www.dir.ca.gov/Public-Works/Contractors.html>. The above summary is provided solely for informational purposes and does not in any way affect the Contractor’s and subcontractors’ obligation to comply in all respects with all other applicable laws and regulations. The Contractor shall disseminate these provisions to all subcontractors.

Before the performance of work by Contractor or any subcontractor(s) under this Contract, Contractor shall furnish Contractor’s and any subcontractors’ current DIR registration number(s). The Contractor’s current DIR registration number and the current DIR registration number of all subcontractors will be listed on the Subcontractor and LBE Participation Verification Form, incorporated herein.

- C. Workers’ Compensation Certification. In accordance with California Labor Code Section 1861, by signing this Contract, Contractor acknowledges and represents that Contractor is aware of the provisions of section 3700 of the California Labor Code which requires every employer to be insured against liability for workers' compensation or to undertake self-insurance in accordance with the provisions of that code, and that Contractor will

comply with the provisions of the Labor Code before commencing performance under this Contract.

- D. Apprentices. If this Contract is for the performance of any Public Work, and the amount of the Contract is \$30,000 or more, the Contractor and any subcontractors performing any Public Work under this Contract must comply with and be subject to enforcement under, the provisions of Sacramento City Code Section 3.60.190, Section 1777.5 et seq. of the California Labor Code, and implementing regulations set forth in Title 8 of the California Code of Regulations, governing the employment of apprentices. The Contractor and any subcontractors performing Public Work will be subject to penalties for apprenticeship violations in accordance with Labor Code Section 1777.7.
- E. Working Hours. If this Contract is for the performance of any Public Work, Contractor and any subcontractors performing any Public Work under this Contract must comply with and be subject to enforcement under, the provisions of Sacramento City Code Section 3.60.180 and California Labor Code Section 1810 et seq., governing the working hours of employees performing Public Work.
- F. Failure to Comply with Labor Compliance. If all applicable labor compliance requirements are not met, the City will have the right to withhold or reject a payment request and/or invoice, in whole or in part, without in any way relieving Contractor or its subcontractors of any obligations under this Contract.
- G. Subcontractors. The Contractor shall include these provisions A through F in every subcontract or sub-agreement for any subcontractors performing work under this Contract.

EXHIBIT C

INSURANCE

1. **Insurance Requirements.** During the entire term of this Contract, Contractor shall maintain the insurance coverage described in the Insurance Terms below. Full compensation for all premiums that Contractor is required to pay for the insurance coverage described herein shall be included in the compensation specified under this Contract. 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.

Contractor's liability to the City is not in any way limited to or affected by the amount of insurance coverage required or carried by the Contractor in connection with this Contract.

2. **General Liability Minimum Scope and Limits of Insurance Coverage.** Commercial General Liability Insurance is required 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 the Contractor and subcontractors, products and completed operations of Contractor and subcontractors, and premises owned, leased, or used by Contractor 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.

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 and subcontractors; products and completed operations of Contractor and subcontractors; and premises owned, leased, or used by Contractor and subcontractors.

3. **Automobile Liability Minimum Scope and Limits of Insurance Coverage.** *(Check the applicable provision.)*

 X Automobile Liability Insurance is required 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 occurrence. The policy shall provide coverage for owned, non-owned and/or hired autos as appropriate to the operations of the Contractor.

The City, its officials, employees and volunteers shall be covered by policy terms or endorsement as additional insureds as respects auto liability.

 No automobile liability insurance is required, and by signing this Contract, Contractor certifies as follows:

“Contractor certifies that a motor vehicle will not be used in the performance of any work or services under this agreement. If, however, Contractor does transport items under this Contract, or this Contract is amended to require any employees of Contractor to use a

vehicle to perform services under the Contract, Contractor understands that it must maintain and provide evidence of 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 occurrence. The policy shall provide coverage for owned, non-owned and/or hired autos as appropriate to the operations of the Contractor."

4. **Excess Insurance.** The minimum limits of insurance required above may be satisfied by a combination of primary and umbrella or excess insurance coverage, provided that any umbrella or excess insurance contains, or is endorsed to contain, a provision that it will apply on a primary basis for the benefit of the City, and any insurance or self-insurance maintained by City, its officials, employees, or volunteers will be in excess of Contractor's umbrella or excess coverage and will not contribute to it.

5. **Workers' Compensation Minimum Scope and Limits of Insurance Coverage.** *(Check the applicable provision.)*

 X Workers' Compensation Insurance is required 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.

 No work or services will be performed on or at CITY facilities or CITY Property, therefore Workers' Compensation waiver of subrogation in favor of the CITY is not required.

 No Workers' Compensation insurance is required, and by signing this Contract, Contractor certifies as follows:

"Contractor certifies that its business has no employees, and that it does not employ anyone, and is therefore exempt from the legal requirements to provide Workers' Compensation insurance. If, however, Contractor hires any employee during the term of this Contract, Contractor understands that Workers' Compensation with statutory limits and Employer's Liability Insurance with a limit of not less than one million dollars (\$1,000,000) is required. The Workers' Compensation policy will include a waiver of subrogation in favor of the City."

6. **Professional Liability Minimum Scope and Limits of Insurance Coverage.** Professional Liability Insurance providing coverage on a claims-made basis for errors and omissions, or malpractice with limits of not less than one million dollars (\$1,000,000):

Is Is not x *[check one]* required for this Agreement.

If required, such coverage must be continued for at least year(s) following the completion of all Services under this Contract. The retroactive date must be prior to the date this Contract is approved or any Services are performed.

6. **Other Insurance Provisions.** The policies must contain, or be endorsed to contain, the following provisions:

- A. Contractor's insurance coverage, including excess insurance, shall be primary insurance as respects the City, its officials, employees and volunteers. Any insurance or self-insurance maintained by the City, its officials, employees or volunteers will be in excess of Contractor's insurance and will not contribute with it.
- B. Any failure to comply with reporting provisions of the policies will not affect coverage provided to the City, its officials, employees or volunteers.
- C. Coverage shall state that Contractor's insurance applies separately to each insured against whom claim is made or suit is brought, except with respect to the limits of the insurer's liability.
- D. Contractor shall provide the City with 30 days written notice of cancellation or material change in the policy language or terms.

7. **Acceptability of Insurance.** Insurance must 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 Exhibit C must be declared to and approved by the City in writing before execution of this Contract.

8. **Verification of Coverage.**

- A. Contractor shall furnish City with certificates and required endorsements evidencing the insurance required. Certificates of insurance must be signed by an authorized representative of the insurance carrier. Copies of policies shall be delivered to the City Representative on demand.

- B. Contractor shall send all insurance certificates and endorsements, including policy renewals, during the term of this Contract directly to:

City of Sacramento
c/o Exigis LLC
PO Box 4668 ECM- #35050
New York, NY 10168-4668

- C. Certificate Holder must be listed as:

City of Sacramento
c/o Exigis LLC
PO Box 4668 ECM- #35050
New York, NY 10168-4668

- D. The City may withdraw its offer of Contract or cancel this Contract if the certificates of insurance and endorsements required have not been provided before execution of this Contract. The City may withhold payments to Contractor and/or cancel the Contract if the insurance is canceled or Contractor otherwise ceases to be insured as required herein.

9. **Subcontractor Insurance Coverage.** Contractor shall require and verify that all subcontractors maintain insurance coverage that meets the minimum scope and limits of insurance coverage specified in this Exhibit C.

EXHIBIT D

GENERAL CONDITIONS

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 will be entitled to any benefits payable to CITY employees. CITY is not required to make any deductions or withholdings from the compensation payable to Contractor under the provisions of this Contract, and Contractor will 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 any state or federal agency, that an employer-employee relationship or a substitute therefor exists for any purpose whatsoever by reason of this Contract or by reason of the nature and/or performance under this Contract.
- B. It is further understood and agreed by the parties that Contractor, in the performance of its obligations, is subject to the City's control and direction as to the designation of tasks to be performed and the results to be accomplished under this Contract, but not as to the means, methods, or sequence used by Contractor for accomplishing the results. To the extent that Contractor obtains permission to, and does, use CITY facilities, space, equipment or support services in the performance of this Contract, this use will be at the Contractor's sole discretion based on the Contractor's determination that the use will promote Contractor's efficiency and effectiveness. Except as may be specifically provided elsewhere in this Contract, the CITY does not require that Contractor use CITY facilities, equipment or support services or work in CITY locations in the performance of this Contract. As used in this Contract, "sole discretion" or "sole judgment" means that the party authorized to exercise its discretion or judgment may do so based on an unfettered assessment of its own interests, without considering how its decision affects the other party, and unconstrained by the implied covenant of good faith and fair dealing.
- C. If, in the performance of this Contract, any third persons are employed by Contractor, such persons will be entirely and exclusively under the direction, supervision, and control of Contractor. Except as otherwise provided in this Contract, 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 will issue W-2 or 1099 Forms for income and employment tax purposes for all Contractor's assigned personnel and subcontractors.
- D. The provisions of this section will survive any expiration or termination of this Contract. Nothing in this Contract creates an exclusive relationship between CITY and Contractor. Contractor may represent, perform services for, or be employed by any additional persons or companies so long as Contractor does not violate the provisions of Section 5, below.

2. **Licenses; Permits, Etc.** Contractor represents and warrants that Contractor has, and shall maintain at all times during the term of this Contract at its sole cost and expense, all licenses, permits, qualifications, certificates, and approvals of any nature that are legally required for Contractor to practice its profession or fulfill the terms of this Contract, including a City Business Operations Tax Certificate and any required certification issued by the California Secretary of State.
3. **Time.** Time is off the essence in the performance of this Contract. Contractor shall devote the necessary time and effort to its performance under this Contract. Neither party will be considered in default of this Contract, 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 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 will acquire any interest, directly or indirectly, that would conflict in any manner with the City's interests or that would in any way hinder Contractor's performance under this Contract. Contractor further covenants that in the performance of this Contract, no person having any such interest will be employed by it as an officer, employee, agent or subcontractor, without the City's written consent.

Contractor agrees to avoid conflicts of interest or the appearance of any conflicts of interest with the City's interests during the performance of this Contract. If Contractor is or employs a former officer or employee of the City, Contractor and any former City officer or employee 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. **Hazardous Substances.** "Hazardous Substances" means any substance, material, waste, or other pollutant or contaminant that is or becomes designated, classified, or regulated as hazardous or toxic under any law, regulation, rule, order, decree, or other governmental requirement now in effect or later enacted. If Contractor is shipping Hazardous Substances, Contractor must supply a Safety Data Sheet ("SDS") with the first shipment of Hazardous Substances to each City location receiving the Hazardous Substances. If the content of an SDS is revised, Contractor must provide a revised SDS to each City location receiving Hazardous Substances.
7. **Confidentiality of City Information.** During performance of this Contract, 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 City's prior written consent.

In addition, Contractor must 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 is a material violation of this Contract and shall justify legal and equitable relief.

8. Contractor Information.

- A. City shall have full ownership and control, including ownership of any copyrights, of all information prepared, produced, or provided by Contractor under this Contract. In this Contract, the term "information" means and includes: any and all work product, submittals, reports, plans, specifications, and other deliverables consisting of documents, writings, handwritings, typewriting, printing, photostatting, 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 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 under this Contract 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 days after City is served with any such claim, action, lawsuit or other proceeding. However, City's failure to provide notice within the ten-day period does not relieve Contractor of its obligations hereunder, which survive any termination or expiration of this Contract.
- 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 Contractor's performance, will be disclosed upon receipt of a request for disclosure, in accordance with 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 will then have five days from the date it receives notice to petition the court for a protective order to prevent the disclosure of the information. 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 seek a protective order, in accordance with the provisions of subsection C, above, constitutes a complete waiver by Contractor of any rights regarding the information designated "trade secret" by Contractor, and the information will be disclosed by City in accordance with the Public Records Act.

9. **Notification of Material Changes in Business.** Contractor agrees that if it experiences any material changes in its business, including a reorganization, refinancing, restructuring, leveraged buyout, bankruptcy, name change, or loss of key personnel, it will immediately notify the City of the changes. Contractor also agrees to immediately notify the City of any condition that may jeopardize the scheduled delivery or fulfillment of Contractor's obligations to the City under this Contract.
10. **Standard of Performance.** Contractor shall perform in the manner and according to the standards currently observed by a competent practitioner of Contractor's profession in California and in compliance with all requirements of this Contract. All products that Contractor delivers to City under this Contract must be prepared in a professional manner and conform to the standards of quality normally observed by a person currently practicing in Contractor's profession.
- Contractor shall assign only competent personnel to perform on its behalf under this Contract. Contractor must notify the City in writing of any changes in Contractor's staff assigned to perform under this Contract, before any performance by the new staff member. If the City, in its sole discretion, determines that any person assigned by the Contractor to perform under this Contract is not performing in accordance with the standards required herein, City shall provide notice to Contractor. Contractor shall immediately remove the assigned person upon receipt of the notice.
11. **Performance or Different Terms and Conditions.** The City's subsequent performance will not be construed as either acceptance of additional or different terms and conditions or a counteroffer by the Contractor, nor will the City's subsequent performance be viewed as acceptance of any provision of the Uniform Commercial Code, as adopted by any State, that is contrary to the terms and conditions contained herein. Contractor's performance shall conform to the applicable requirements of the Sacramento City Charter, Sacramento City Code, and all applicable State and Federal laws, and all the requirements of this Contract. The California Commercial Code will apply except as otherwise provided in the Contract.
12. **Emergency/Declared Disaster Requirements.** If an emergency is declared by the City Manager, or if any portion of the City is declared a disaster area by the county, state or federal government, this Contract may be subjected to increased usage. The Contractor shall serve the City during a declared emergency or disaster, subject to the same terms and conditions that apply during non-emergency / non-disaster conditions. The pricing set forth in this Contract will apply, without mark-up, regardless of the circumstances. If the Contractor is unable to fulfill the terms of the Contract because of a disruption in its chain of supply or service, then the Contractor shall provide proof of the disruption. Acceptable forms of proof will include a letter or notice from the Contractor's source stating the reason for the disruption
13. **Term; Suspension; Termination.**
- A. This Contract is effective on the Effective Date and continues in effect until both parties have fully performed their respective obligations under this Contract, unless sooner terminated as provided herein.
 - B. City shall have the right at any time to suspend Contractor's performance hereunder, in whole or in part, by giving a written notice of suspension to Contractor. Upon receipt of

such notice, Contractor shall immediately suspend its activities under this Contract, as specified in the notice.

- C. The City shall have the right to terminate this Contract at any time by giving a written notice of termination to Contractor. Upon receipt of such notice, Contractor shall immediately cease performance under this Contract as specified in the notice. If the City terminates this Contract:

- (1) Contractor shall, not later than five days after receipt of the notice, deliver all information prepared under this Contract to the City.
- (2) The City shall pay Contractor the reasonable value of Goods or Services provided by Contractor before termination; provided, however, City shall not in any manner be liable for lost profits that might have been made by Contractor had the Contract not been terminated or had Contractor completed performance required by this Contract. Contractor shall furnish to the City any financial information requested by the City to determine the reasonable value of the Goods or Services provided by Contractor. The foregoing is cumulative and does not affect any right or remedy that City may have in law or equity.

- 14. Default by Contractor.** In case of default by the Contractor, the City reserves the right to procure the Goods or Services from other sources and deduct from any monies due, or that may thereafter become due to the Contractor, the difference between the price named in this Contract and the actual cost to the City to procure from an alternate source. Prices paid by the City will be considered the prevailing market price at the time such purchase is made.

15. 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 all actions, damages, costs, liabilities, claims, demands, losses, judgments, penalties, and expenses of every type and description, whether arising on or off the site of the work or services performed under this Contract, including any fees and costs reasonably incurred by City's staff attorneys or outside attorneys and any fees and expenses incurred in enforcing this provision (hereafter collectively referred to as "Liabilities"), including Liabilities for personal injury or death, damage to personal, real, or intellectual property, damage to the environment, contractual or other economic damages, or regulatory penalties, arising out of or in any way connected with performance of or failure to perform this Contract by Contractor, any subcontractor (including lower-tier subcontractors) or agent of Contractor, their respective officers and employees, and anyone else for whose acts of omissions any of them may be liable, whether or not the Liabilities (i) are caused in part by a party indemnified hereunder, or (ii) 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 the active negligence or willful misconduct of, or defects in design furnished by, City, its agents, servants, or independent contractors who are directly responsible to City, except when such agents,

servants, or independent contractors are under the supervision and control of Contractor or any subcontractor (including lower-tier subcontractors) or agent of Contractor.

- B. Insurance Policies; Intellectual Property Claims: The existence or acceptance by City of any of the insurance policies or coverages described in this Contract will not affect or limit any of City's rights under this Section, nor will the limits of any insurance limit the liability of Contractor hereunder. This Section will not apply to any intellectual property claims, actions, lawsuits or other proceedings subject to the provisions of section 8.B., above.
- C. Survival. The provisions of this section will survive any expiration or termination of this Contract.

17. Funding Availability.

- A. This Contract is subject to the budget and fiscal provisions of the Charter and the Sacramento City Code.
- B. The City's payment obligation under this Contract will not exceed the amount of funds appropriated and approved for this Contract by the Sacramento City Council.
- C. This Section shall govern over any other contrary provision of the Contract.

18. Equal Employment Opportunity. During the performance of this Contract, Contractor, for itself, its assignees and successors in interest, agrees as follows:

- A. Compliance With Regulations: Contractor shall comply with all state, local, and federal anti-discrimination laws and regulations, including the Executive Order 11246 entitled "Equal Opportunity in Federal Employment," as amended by Executive Order 11375, 12086, and 13672, and as supplemented in Department of Labor regulations (41 CFR Chapter 60), referred to collectively as the "Regulations."
- B. Nondiscrimination: Contractor, with regards to the work performed by it after award and before completion of the work under this Contract, 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 Contract 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 the 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 Contract, the City shall impose any sanctions it determines are appropriate including:
- (1) Withholding of payments to Contractor under this Contract until Contractor complies;
 - (2) Cancellation, termination, or suspension of this Contract, 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. The City may direct Contractor to take specific actions to enforce these provisions, including sanctions for noncompliance; provided, however, that if Contractor becomes involved in, or is threatened with, litigation with a subcontractor or supplier as a result of such direction, Contractor may request that the City join such litigation to protect the City's interests.

19. **Entire Agreement.** This Contract, including all Exhibits and documents referenced herein, contains the entire agreement between the parties and supersedes whatever oral or written understanding they may have had before the execution of this Contract. No alteration to the terms of this Contract shall be valid unless approved in writing by Contractor, and by City, in accordance with applicable provisions of the Sacramento City Code.
20. **Modification of Contract.** The Contractor shall take no direction from any City employee that changes the executed terms and conditions of the Contract, including Exhibit A, or any change that impacts the cost, price, or schedule, before receiving a written, signed modification to the Contract.
21. **Severability.** If a court with jurisdiction rules that any portion of this Contract or its application to any person or circumstance is invalid or unenforceable, the remainder of this Contract will not be affected thereby and will remain valid and enforceable as written, to the greatest extent permitted by law.
22. **Waiver.** Neither the City's acceptance of, or payment for, any Goods or Services, nor any waiver by either party of any default, breach or condition precedent, will be construed as a waiver of any provision of this Contract, nor as a waiver of any other default, breach or condition precedent or any other right hereunder. No waiver will be effective unless it is in writing and signed by the waiving party.

- 23. Governing Law.** This Contract shall be governed, construed and enforced in accordance with the laws of the State of California, except that the rule of interpretation in California Civil Code section 1654 will not apply. Venue of any litigation arising out of this Contract will 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.
- 24. Assignment Prohibited.** The expertise and experience of Contractor are material considerations for this Contract. 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 Contract without the written consent of the City. Any attempted or purported assignment without City's written consent shall be void and of no effect.
- 25. Binding Effect.** This Contract is binding on the heirs, executors, administrators, successors and assigns of the parties, subject to the provisions of Section 24, above.
- 26. Compliance with Laws.** The Contractor shall be responsible for strict compliance with all applicable laws, regulations, court orders and other legal requirements applicable to the work to be accomplished under the Contract, including the California Occupational Safety and Health Act and all applicable safety orders issued by the Division of Occupational Safety and Health, Department of Industrial Relations, State of California, and all applicable requirements of Underwriters Laboratories and the Federal Communication Commission.

EXHIBIT E

FEDERAL CONDITIONS

1. DEBARMENT CERTIFICATION

A. Pursuant to 2 CFR, Part 200, and applicable Executive Orders, the City is restricted in its ability to contract with certain parties that are debarred, suspended, or otherwise excluded or ineligible for participating in Federal assistance programs or activities. By signing this Agreement, CONTRACTOR warrants and certifies under penalty of perjury under the laws of the State of California that Contractor, including any owner, partner, director, officer, or principal of the CONTRACTOR, or any person in a position with management responsibility or responsibility for the administration of federal funds:

(1) Is not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from covered transactions by any federal or state department/agency;

(2) Has not within a three-year period preceding this certification been convicted of or had a civil judgment rendered against it for: commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public transaction or contract (federal, state, or local); violation of federal or state antitrust statutes; or commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, receiving stolen property, or other criminal felony;

(3) Is not presently indicted for or otherwise criminally or civilly charged by a governmental entity (federal, state, or local) with commission of any of the offenses enumerated in paragraph (b) above; or

(4) Has not, within a three-year period preceding this certification, had one or more public contracts (federal, state, or local) or transactions terminated for cause or default.

(5) Has not been notified, within a three-year period preceding this certification, been notified of any delinquent Federal taxes in an amount that exceeds \$3,500 for which the liability remains unsatisfied. Federal taxes are considered delinquent if the tax liability has been finally determined and the taxpayer is delinquent in making payment, as defined in Section 52.209-5 of the Federal Acquisition Regulations.

B. CONTRACTOR further warrants and certifies that it shall not knowingly enter into any transaction with any subcontractor, material supplier, or vendor who is debarred, suspended, declared ineligible, or voluntarily excluded from covered transactions by any federal or state department/agency. Any exceptions to the warranties and certifications in this Section must be disclosed to the City.

C. Exceptions will not necessarily result in denial of recommendation for award, but will be considered in determining Contractor's responsibility. Disclosures must indicate to whom exceptions apply, the initiating agency, and dates of action.

D. City will review the Federal Government's System for Award Management Exclusions maintained by the General Services Administration for eligibility, prior to the execution of this Agreement. The CONTRACTOR shall provide immediate written notice to the City if, at any time prior to execution, the CONTRACTOR learns this certification is erroneous or has become erroneous by reason of changed

circumstances. If it is later determined that the Contractor's warranties and certification in this Section were erroneous, the City may terminate this Agreement for default.

2. NON-DISCRIMINATION

During the performance of this contract, the Contractor agrees:

- A. To comply with all Federal nondiscrimination laws and regulations, as may be amended from time to time;
- B. Not to participate directly or indirectly in the discrimination prohibited by any Federal non-discrimination law or regulation, as set forth in appendix B of 49 CFR part 21 and herein;
- C. To permit access to its books, records, accounts, other sources of information, and its facilities as required by the State highway safety office, US DOT or NHTSA;
- D. That, in the event Contractor fails to comply with any nondiscrimination provisions in this contract, the City and the State highway safety agency will have the right to impose such contract sanctions as they or NHTSA determine are appropriate, including but not limited to withholding payments to the contractor until the contractor complies, and/or cancelling, terminating, or suspending this contract, in whole or in part; and
- E. To insert this clause, including paragraphs (a) through (e), in every subcontract and in every solicitation for a subcontract.
- G. Compliance with Non-Discrimination and Equal Employment Opportunity Laws

(1) It is the City's policy to comply with state and federal laws and regulations including Title VI of the Civil Rights Act of 1964, Americans with Disabilities Act of 1990 (ADA) and other federal and state anti-discrimination laws and regulations. The City does not discriminate on the basis of race, color, sex, creed, religious creed, national origin, age, marital status, ancestry, medical condition, disability (including HIV and AIDS), sexual orientation or gender identity in conducting its business. The City prohibits discrimination by its employees, contractors and consultants.

(2) In addition to the equal employment opportunity laws listed in the General Conditions, Contractor assures the City that it complies with, and that Contractor will require that its subcontractors comply with, the following non-discrimination and equal opportunity laws:

- (a) Title VI of the Civil Rights Act of 1964, as amended, 42 U.S.C. §§ 2000d et seq. and with any applicable implementing federal directives that may be issued;
- (b) The Older Americans Act, as amended (42 U.S.C. 6101), Section 324 of title 23 U.S.C., prohibiting discrimination based on gender, and Section 504 of the Rehabilitation Act of 1973 (29 U.S.C. 794); and
- (c) The Americans with Disabilities Act (ADA) of 1990 (42 U.S.C. § 12101, et seq.), as well as all applicable regulations and guidelines issued pursuant to the ADA, including but not limited to those found within the Code of Federal Regulations, title 49, parts 27, 37, and 38.

(3) Any failure by Contractor to comply with these provisions shall constitute a material breach of this Agreement, which may result in the termination of this Agreement or such other remedy as the City may deem appropriate.

3. ALLOWABLE COSTS

Contractor agrees that the "Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards" (2 CFR, Part 200), 48 CFR, Part 31, Federal Acquisition Regulations System, and any applicable federal agencies implementation procedures, shall be used to determine the cost allowability of individual items. Any costs for which payment has been made to Contractor that are determined by subsequent audit to be unallowable under 2 CFR, Part 200, 48 CFR, Part 31, Federal Acquisition Regulations System or federal agency procedures implementing 2 CFR, Part 200 are subject to repayment by Contractor to the City. Disallowed costs must be reimbursed to the City within sixty (60) days unless the City approves in writing an alternative repayment plan.

4. PROHIBITION OF EXPENDING STATE OR FEDERAL FUNDS FOR LOBBYING (BYRD ANTI-LOBBYING AMENDMENT)

A. Contractors who apply or bid for an award of \$100,000 or more, and any subcontractors, must provide the certification below. Each tier must certify to the tier above that it will not and has not used Federal appropriated funds to pay any person or organization for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, officer or employee of Congress, or an employee of a member of Congress in connection with obtaining any Federal contract, grant, or any other award covered by 31 U.S.C. § 1352. Each tier shall also disclose any lobbying with non-Federal funds that takes place in connection with obtaining any Federal award. Such disclosures must be forwarded from tier to tier up to the City, who in turn will forward the certification(s) to the awarding agency.

B. By signing this Agreement, Contractor certifies, to the best of his or her knowledge or belief, that:

(1) No Federal appropriated funds have been paid or will be paid, by or on behalf of the Contractor, to any person for influencing or attempting to influence an officer or employee of any agency, a Member of the State Legislature or United States Congress, an officer or employee of the Legislature or Congress, or any employee of a Member of the Legislature or Congress in connection with the awarding of any Federal contract, the making of any Federal grant, the making of any Federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any State or Federal contract, grant, loan, or cooperative agreement.

(2) If any funds other than Federally appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any Federal agency, a Member of Congress, an officer or employee of Congress, or any employee of a Member of Congress in connection with this Federal contract, grant, loan, or cooperative agreement, the Contractor shall complete and submit Standard Form-LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions.

(3) None of the funds paid under this contract will be used for any activity specifically designed to urge or influence a State or local legislator to favor or oppose the adoption of any specific legislative proposal pending before any State or local legislative body. Such activities include both direct and indirect (e.g., "grassroots") lobbying activities, with one exception. This does not preclude a State official whose salary is supported with NHTSA funds from engaging in direct communications with State or local legislative officials, in accordance with customary State practice, even if such communications urge legislative officials to favor or oppose the adoption of a specific pending legislative proposal.

B. This certification is a material representation of fact upon which reliance was placed when this Agreement was executed. Submission of this certification is a prerequisite for making or entering into this Agreement imposed by Section 1352, Title 31, U.S. Code. Any person who fails to file the required certification shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.

C. Contractor also agrees by signing this Agreement that he or she shall require that the language of this certification be included in all lower tier subcontracts, which exceed \$100,000, and that all such subcontractors shall certify and disclose accordingly.

D. Contractor certifies or affirms the truthfulness and accuracy of each statement of its certification and disclosure, if any. In addition, Contractor understands and agrees that the provisions of 31 U.S.C. Chap. 38, Administrative Remedies for False Claims and Statements, apply to this certification and disclosure, if any.

5. REBATES, KICKBACKS, OR OTHER UNLAWFUL CONSIDERATION

Contractor warrants that this Agreement was not obtained or secured through rebates, kickbacks or other unlawful consideration, either promised or paid to any City employee. For breach or violation of this warranty, City shall have the right, in its discretion: to terminate this Agreement without liability; to pay only for the value of the work actually performed; or to deduct from the Agreement price, or otherwise recover the full amount of such rebate, kickback or other unlawful consideration.

6. BUY AMERICA ACT

The City and Contractor will comply with the Buy America requirement (23 U.S.C. 313). Buy America requires the City and Contractor to purchase only steel, iron, and manufactured products produced in the United States, unless the Secretary of Transportation determines that such domestically produced items would be inconsistent with the public interest, that such materials are not reasonably available and of a satisfactory quality, or that inclusion of domestic materials will increase the cost of the overall contract by more than 25 percent. In order to use foreign produced items, the Contractor must first submit a waiver request to the City that provides an adequate basis and justification for approval by the Secretary of Transportation.

7. DRUG-FREE CERTIFICATION

By signing this Agreement, Contractor hereby certifies under penalty of perjury under the laws of the State of California that Contractor will comply with the requirements of the Drug-Free Workplace Act of 1990 (Government Code § 8350, et seq.) and will provide a drug-free workplace by taking the following actions:

A. Publish a statement notifying employees that unlawful manufacture, distribution, dispensation, possession, or use of a controlled substance is prohibited, and specifying actions to be taken against employees for violations.

B. Establish a Drug-Free Awareness Program to inform employees about:

- (1) The dangers of drug abuse in the workplace;
- (2) The person's or the organization's policy of maintaining a drug-free workplace;
- (3) Any available counseling, rehabilitation, and employee assistance programs; and

- (4) Penalties that may be imposed upon employees for drug abuse violations.

C. Every employee of Contractor who works under this Agreement shall:

- (1) Receive a copy of Contractor's Drug-Free Workplace Policy Statement; and
- (2) Agree to abide by the terms of Contractor's Statement as a condition of employment on this Agreement.

8. ENVIRONMENTAL COMPLIANCE

Contractor agrees to comply with the Clean Air Act (42 U.S.C. §7401 *et seq.*), the Federal Water Pollution Control Act (33 U.S.C. §1251 *et seq.*), Executive Order 11738, all Environmental Protection Agency ("EPA") Regulations (40 CFR) and all applicable standards, orders or regulations issued pursuant thereto. Contractor agrees to report any violation of these statutes and regulations to the City and understands and agrees that the City will, in turn, report each violation, as required, to assure notification to the appropriate federal agency and EPA Regional Office.

9. RECORDS OF CONTRACTOR

A. During the performance of this Contract and for a period of five years after completion of performance, Contractor shall maintain all records related to this Contract, in accordance with generally accepted accounting practices, including records of Contractor's costs for performance under this Contract and records of Contractor's Reimbursable Expenses.

B. Contractor shall keep and make records available for inspection and audit by representatives of the City upon reasonable written notice.

C. Records to be retained include, but are not limited to:

- (1) General ledger and subsidiary ledgers used to account for the receipt of funds from the City and the disbursements of such funds for eligible expenses related to the provision of Services;
- (2) Budget records for 2019 and 2020; payroll, time records, and human resource records to support costs incurred for payroll expenses related to the provision of Services;
- (3) Receipts of purchases made relating to the Services;
- (4) Contracts and subcontracts entered into to provide the Services, and all documents related to such contracts;
- (5) All reports, auditors, or other monitoring of subcontractors;
- (6) All documents supporting the provision of Services;
- (7) All internal and external communications (including email) related to the Services; and
- (8) All investigative files and inquiry reports involving the Services.

10. SUBCONTRACTOR COMPLIANCE

Contractor agrees that all subcontracts shall contain the provisions of this Exhibit.

11. REMEDIES

Should Contractor violate any of the terms of this Contract, City may terminate the Contract and pursue all available legal and equitable remedies.

12. RECOVERED MATERIALS

- A. In the performance of this Contract, Contractor shall make maximum use of products containing recovered materials that are EPA-designated items unless the product cannot be acquired.
- B. Information about this requirement, along with the list of EPA- designated items, is available at EPA's Comprehensive Procurement Guidelines web site, <https://www.epa.gov/smm/comprehensive-procurement-guideline-cpg-program>.
- C. Contractor also agrees to comply with all other applicable requirements of Section 6002 of the Solid Waste Disposal Act: (1) Competitively within a timeframe providing for compliance with the contract performance schedule; (2) Meeting contract performance requirements; or (3) At a reasonable price.

13. DHS SEAL, LOGO, AND FLAGS

Contractor shall not use the U.S. Department of Homeland Security ("DHS") seal(s), logos, crests, or reproductions of flags or likenesses of DHS agency officials without specific pre-approval from the U.S. Federal Emergency Management Agency ("FEMA").

14. COMPLIANCE WITH FEDERAL LAW

Contractor acknowledges that FEMA financial assistance may be used to fund all or a portion of the contract. The contractor will comply with all applicable Federal law, regulations, executive orders, FEMA policies, procedures, and directives.

15. NO OBLIGATION BY FEDERAL GOVERNMENT

The Federal Government is not a party to this contract and is not subject to any obligations or liabilities to the City, Contractor, or any other party pertaining to any matter resulting from the Contract.

16. PROGRAM FRAUD AND FALSE OR FRAUDULENT STATEMENTS OR RELATED ACTS

Contractor acknowledges that 31 U.S.C. Chap. 38 (Administrative Remedies for False Claims and Statements) applies to the Contractor's actions pertaining to this contract.

17. COMPLIANCE WITH THE CONTRACT WORK HOURS AND SAFETY STANDARDS ACT

In the event that Contractor or any subcontractor is contracting for work requiring or involving the employment of laborers or mechanics, the following terms shall apply:

- A. Overtime requirements. No contractor or subcontractor contracting for any part of the contract work which may require or involve the employment of laborers or mechanics shall require or permit any such laborer or mechanic in any workweek in which he or she is employed on such work to work in excess of forty hours in such workweek unless such laborer or mechanic receives compensation at a rate not less than one and one-half times the basic rate of pay for all hours worked in excess of forty hours in such workweek.
- B. Violation; liability for unpaid wages; liquidated damages. In the event of any violation of the clause set forth in paragraph (b)(1) of this section the contractor and any subcontractor responsible therefor shall be liable for the unpaid wages. In addition, such contractor and subcontractor shall be liable to the United States (in the case of work done under contract for the District of Columbia or a territory, to such District or to such territory), for liquidated damages. Such liquidated damages shall

be computed with respect to each individual laborer or mechanic, including watchmen and guards, employed in violation of the clause set forth in paragraph (b)(1) of this section, in the sum of

\$27 for each calendar day on which such individual was required or permitted to work in excess of the standard workweek of forty hours without payment of the overtime wages required by the clause set forth in paragraph (b)(1) of this section.

C. Withholding for unpaid wages and liquidated damages. The City shall upon its own action or upon written request of an authorized representative of the Department of Labor withhold or cause to be withheld, from any moneys payable on account of work performed by the contractor or subcontractor under any such contract or any other Federal contract with the same prime contractor, or any other federally-assisted contract subject to the Contract Work Hours and Safety Standards Act, which is held by the same prime contractor, such sums as may be determined to be necessary to satisfy any liabilities of such contractor or subcontractor for unpaid wages and liquidated damages as provided in the clause set forth in paragraph (b)(2) of this section.

D. Subcontracts. The contractor or subcontractor shall insert in any subcontracts the clauses set forth in paragraph (b)(1) through (4) of this section and also a clause requiring the subcontractors to include these clauses in any lower tier subcontracts. The prime contractor shall be responsible for compliance by any subcontractor or lower tier subcontractor with the clauses set forth in paragraphs (b)(1) through (4) of this section.

Attachment 1 to Exhibit A

Scope of Services

Contractor, through its Capital Region SBDC program, shall provide free one-on-one consulting services and training to assist small businesses that have received CARES Act small business recovery loans from the City (each such business, a “**Client**”) to access and manage disaster funding options (e.g., EIDL, PPP, PUA, City relief funds), pivot business plans, and create adjusted operational models in response to the COVID-19 public health emergency. In performing these Services, Contractor shall do the following:

1. After the City provides Contractor with the name and contact information of a Client, Contractor shall contact the Client and onboard it into the intake process as follows:
 - (a) Contractor shall direct the Client to sign up through Contractor’s SBDC link (www.capitalregionsbdc.com) and shall assist the Client with any troubleshooting issues;
 - (b) Contractor shall provide the Client with the opportunity to self-schedule a phone intake appointment with Contractor’s intake staff after the Client signs up for services with Contractor and creates a business profile within Contractor’s online system;
 - (c) As part of the intake process, Contractor shall screen the Client to assess the areas of assistance the Client needs and to best match the Client with a qualified local or regional technical assistance consultant or consulting team (each such consultant and consulting team, a “**Consultant**”); and
 - (d) Upon completion of phone intake appointment with Contractor’s intake staff, Contractor shall assign the Client to a Consultant within two business days. For a Client who is not responsive to the initial onboarding attempt, Contractor shall conduct additional follow-up attempts via phone and/or email.
2. Contractor shall provide each Client with the following:
 - (a) Full intake assessment of the Client’s strengths and weaknesses;
 - (b) Up to ten hours of in-depth one-on-one consulting with experts in each area of need to assist the Client in re-opening and remaining open during the COVID-19 public health emergency;
 - (c) Assistance in developing a new or updated business plan to assist the Client to strengthen or pivot its operation for success during the COVID-19 public health emergency;
 - (d) Resources to improve the Client’s ability to access additional sources of capital through the updated business plan and reviewed financial statements to weather lower than average

revenues due to COVID-19, but also to protect the Client against committing to debts that may result in future bankruptcy or business loss;

- (e) Revised operational strategies to retain or create new positions during the COVID-19 public health emergency;
- (f) New insights on ways businesses can pivot as a result of the COVID-19 public health emergency, including e-commerce, customer development, marketing, and contract procurement; and
- (g) Up to 100 free hours of additional support through Contractor's network of workshops and training (these hours do not count toward the ten hours of direct consulting) to assist the Client in overcoming business interruption caused by COVID-19.

3. Contractor shall provide services under this contract to up to 1,400 Clients.

4. Contractor shall track and report the following information:

(a) For each Client:

- (1) Whether the Client completed a business plan (and whether it is a new or revised business plan);
- (2) If the Client completed a business plan, when it was completed;
- (3) Number of consulting hours provided;
- (4) Amount of capital placed;
- (5) Amount of increase or decrease in sales; and
- (6) Amount of increase or decrease in jobs.

(b) General demographic data:

- (1) Number of Clients signed up;
- (2) Number of consulting hours;
- (3) Zip code breakdown of Clients; and
- (4) Demographics (income, race/ethnicity(optional)) .

(c) The name of each Consultant utilized.

5. Contractor shall perform these services between the effective date of this Contract and December 30, 2020.

Attachment 1 to Exhibit B

Budget/Payment

The City shall make payments to Contractor within a reasonable time after receipt of Contractor's invoice. The payments will be made in proportion to services performed. Contractor may request payment on a monthly basis. In addition to the information required under Section 5 of Exhibit B, the invoice must include number of clients served, type of technical assistance provided, and specific expenses and staff and consultant costs incurred.

All Services under this Contract must be provided by, and all funds under this Contract must be expended by, December 30, 2020.

Attachment 1 to Exhibit A

Scope of Services

Contractor, through its Capital Region SBDC program, shall provide free one-on-one consulting services and training to assist small businesses that have received CARES Act small business recovery loans from the City (each such business, a “**Client**”) to access and manage disaster funding options (e.g., EIDL, PPP, PUA, City relief funds), pivot business plans, and create adjusted operational models in response to the COVID-19 public health emergency. In performing these Services, Contractor shall do the following:

1. After the City provides Contractor with the name and contact information of a Client, Contractor shall contact the Client and onboard it into the intake process as follows:
 - (a) Contractor shall direct the Client to sign up through Contractor’s SBDC link (www.capitalregionsbdc.com) and shall assist the Client with any troubleshooting issues;
 - (b) Contractor shall provide the Client with the opportunity to self-schedule a phone intake appointment with Contractor’s intake staff after the Client signs up for services with Contractor and creates a business profile within Contractor’s online system;
 - (c) As part of the intake process, Contractor shall screen the Client to assess the areas of assistance the Client needs and to best match the Client with a qualified local or regional technical assistance consultant or consulting team (each such consultant and consulting team, a “**Consultant**”); and
 - (d) Upon completion of phone intake appointment with Contractor’s intake staff, Contractor shall assign the Client to a Consultant within two business days. For a Client who is not responsive to the initial onboarding attempt, Contractor shall conduct additional follow-up attempts via phone and/or email.
2. Contractor shall provide each Client with the following:
 - (a) Full intake assessment of the Client’s strengths and weaknesses;
 - (b) Up to ten hours of in-depth one-on-one consulting with experts in each area of need to assist the Client in re-opening and remaining open during the COVID-19 public health emergency;
 - (c) Assistance in developing a new or updated business plan to assist the Client to strengthen or pivot its operation for success during the COVID-19 public health emergency;
 - (d) Resources to improve the Client’s ability to access additional sources of capital through the updated business plan and reviewed financial statements to weather lower than average

revenues due to COVID-19, but also to protect the Client against committing to debts that may result in future bankruptcy or business loss;

- (e) Revised operational strategies to retain or create new positions during the COVID-19 public health emergency;
- (f) New insights on ways businesses can pivot as a result of the COVID-19 public health emergency, including e-commerce, customer development, marketing, and contract procurement; and
- (g) Up to 100 free hours of additional support through Contractor's network of workshops and training (these hours do not count toward the ten hours of direct consulting) to assist the Client in overcoming business interruption caused by COVID-19.

3. Contractor shall provide services under this contract to up to 1,400 Clients.

4. Contractor shall track and report the following information:

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- (1) Whether the Client completed a business plan (and whether it is a new or revised business plan);
- (2) If the Client completed a business plan, when it was completed;
- (3) Number of consulting hours provided;
- (4) Amount of capital placed;
- (5) Amount of increase or decrease in sales; and
- (6) Amount of increase or decrease in jobs.

(b) General demographic data:

- (1) Number of Clients signed up;
- (2) Number of consulting hours;
- (3) Zip code breakdown of Clients; and
- (4) Demographics (income, race/ethnicity(optional)) .

(c) The name of each Consultant utilized.

5. Contractor shall perform these services between the effective date of this Contract and December 30, 2020.

Attachment 1 to Exhibit B

Budget/Payment

The City shall make payments to Contractor within a reasonable time after receipt of Contractor's invoice. The payments will be made in proportion to services performed. Contractor may request payment on a monthly basis. In addition to the information required under Section 5 of Exhibit B, the invoice must include number of clients served, type of technical assistance provided, and specific expenses and staff and consultant costs incurred.

All Services under this Contract must be provided by, and all funds under this Contract must be expended by, December 30, 2020.

Program Budget Description

Budget Assumptions

Total Forgivable Loan Fund	\$	15,000,000
Average anticipated amount received per applicant		
Total anticipated client load		1400 clients
(total funds / avg amount)		
Note - we have capacity to serve up to 1500+ clients should that be needed		

Program Budget

RFP Request

Direct Consulting Services - Up to 10hrs per client	\$	1,190,000	
Marketing & Outreach	\$	70,000	
Client intake administration cost	\$	70,000	
Fiscal management, documentation and reporting - 10%	\$	133,000	Can we make this
Total RFP Request	\$	1,463,000	\$130,000 so contract is
			\$1460,000?

In-Kind Support thru 12/31/2020

Marketing & Outreach	\$	50,000
Adtl Staff support	\$	55,000
Workshop + Training support	\$	35,000
Total In-Kind	\$	140,000

Total 2020 Project Cost	\$	1,603,000
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Note: the SBDC will be able to draw down state grant dollars in a matching amount to continue technical assistance services into Q1/Q2 of 2021.

In-Kind Support thru 6/30/2021

Grant Match funding	\$	650,000
Marketing & Outreach	\$	50,000
Adtl Staff support	\$	55,000
Workshop + Training support	\$	35,000
Total 2021 In-Kind Support	\$	790,000

Executed as of the day and year first above stated.

CITY OF SACRAMENTO

A Municipal Corporation

By: _____

Print Name: Michael Jasso, Assistant City Manager

Title: _Assistant City Manager

CONTRACTOR

Sacramento Metropolitan Chamber of
Commerce

By: Amanda Blackwood

Print Name: Amanda Blackwood

Title: President & CEO

Federal I.D. No. 94-0824600

State I.D. No. C2718409

City Business Op. Tax Cert. No. SRKH 28677023

APPROVED AS TO FORM:

City Attorney

TYPE OF BUSINESS ENTITY (check one):

_____ Individual/Sole Proprietor

_____ Corp. (may require 2 signatures)

_____ Limited Liability Company

_____ Partnership

Other

(specify C(6))

ATTEST:

City Clerk

CONTRACT #:
CONTRACT NAME: Technical Assistance for Small Business Impacted by COVID 19
CONTRACT PROJECT #:
DEPARTMENT: Office of Innovation and Economic Development
DIVISION:

CITY OF SACRAMENTO

PROFESSIONAL SERVICES AGREEMENT (COVID-19)

THIS CONTRACT is made at Sacramento, California, by and between the **CITY OF SACRAMENTO**, a charter city and municipal corporation ("CITY"), and

*Sacramento Asian Pacific Chamber of Commerce
2331 Alhambra, Suite 100
Sacramento, CA 95817
916-446-7883
Sacasiancc.org*

("Contractor"), as of the Effective Date, as defined below.

The City and Contractor agree as follows:

1. **Effective Date.** This Contract shall be effective beginning the date it is fully executed by the duly authorized parties.
2. **Contract Documents.** This Contract includes each of the following documents, which are attached or incorporated by this reference (referred to collectively as the "Contract Documents"):

Invitation to Bid, Request for Qualifications, or Request for Proposals, and any Addenda
Exhibit A – Scope of Work
Exhibit B – Payment
Exhibit C – Insurance
Exhibit D – General Conditions
Exhibit E – Federal Conditions
Purchase Orders

If there is a conflict between the terms and conditions of any document prepared or provided by the Contractor and made a part of this Contract and the other terms or conditions of the Contract, the other terms and conditions of the Contract control.

3. **Services.** Subject to the terms and conditions set forth in this Contract, Contractor shall provide to City the professional services described in Exhibit A ("Services").

Contractor will not be compensated for professional services outside the scope of Exhibit A ("Additional Services") unless, before providing Additional Services: (a) Contractor notifies City and City agrees that the Additional 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 Contract specifying the Additional Services and the amount of additional compensation to be paid Contractor.

City will have no obligations whatsoever under this Contract or any Supplemental Contract, unless and until this Contract or any Supplemental Contract is approved by the City as required by the Sacramento City Code. As used in this Contract, the term "Services" includes both Services and Additional Services as applicable.

4. **Payment.** City shall pay Contractor at the times and in the manner set forth in Exhibit B. Contractor shall submit all invoices to City in the manner specified in Exhibit B.
5. **Facilities and Equipment.** Except as set forth below, Contractor shall, at its sole cost and expense, furnish all facilities and equipment required for Contractor to perform this Contract. City shall furnish to Contractor only the facilities and equipment listed below, if any.
6. **Insurance.** Contractor shall, at its sole cost and expense, maintain the insurance coverage described in the attached Exhibit C.
7. **General Conditions.** Contractor shall comply with the terms and conditions set forth in the attached Exhibit D.
8. **Federal Conditions.** Contractor shall comply with the terms and conditions set forth in the attached Exhibit E.
9. **Non-Discrimination in Employee Benefits.** This Contract may be subject to Sacramento City Code chapter 3.54, Non-Discrimination in Employee Benefits by City Contractors. A summary of the requirements, entitled "Requirements of the Non-Discrimination in Employee Benefits Code (Equal Benefits Ordinance)," can be viewed at:

<https://www.cityofsacramento.org/Finance/Procurement/Contract-Ordinances>.

Contractor acknowledges and represents that Contractor has read and understands the requirements and shall fully comply with all applicable requirements of Sacramento City Code chapter 3.54. If requested by City, Contractor shall promptly provide any documents and information required by City to verify Contractor's compliance.

Contractor's violation of Sacramento City Code chapter 3.54 constitutes a material breach of this Contract, for which the City may terminate the Contract and pursue all available legal and equitable remedies.

10. **Considering Criminal Conviction Information in the Employment Application Process.** This Contract may be subject to the requirements of Sacramento City Code chapter 3.62, Procedures for Considering Criminal Conviction Information in the Employment Application Process. A summary of the requirements, entitled "Ban-The-Box Requirements," can be viewed at:

<https://www.cityofsacramento.org/Finance/Procurement/Contract-Ordinances>.

The Ban-The-Box Requirements are applicable to certain contracts with the City in an amount of \$250,000 or more (either initial value or total value after amendment) or if the total value of all Contractor's contracts with the City is \$250,000 or more over a 12-month period.

Contractor acknowledges and represents that Contractor has read and understands these requirements and shall fully comply with all applicable requirements of Sacramento City Code chapter 3.62. If requested by City, Contractor shall promptly provide any documents and information required by City to verify Contractor's compliance. Contractor shall require applicable subcontractors to fully comply with all applicable requirements of Sacramento City Code chapter 3.62 and include these requirements in all subcontracts covered by Sacramento City Code chapter 3.62.

Contractor's violation of Sacramento City Code chapter 3.62 constitutes a material breach of this Contract, for which the City may terminate the Contract and pursue all available legal and equitable remedies.

12. **Authority.** The person signing this Contract for Contractor represents and warrants that he or she has read, understands, and agrees to all the Contract terms and is fully authorized to sign this Contract on behalf of the Contractor and to bind the Contractor to the performance of the Contract's obligations.

[Signatures Page Following Exhibits]

EXHIBIT A

SCOPE OF SERVICES

1. Representatives.

The CITY Representative for this Agreement is:

*Leslie Fritzsche, Economic Investment Manager, City of Sacramento
915 H Street, Fourth Floor
Sacramento, CA. 95814
916 808-5450/lfritzsche@cityofsacramento.org*

The CONTRACTOR Representative for this Agreement is:

*Pat Fong-Kushida, President/CEO
Sacramento Asian Pacific Chamber of Commerce
2331 Alhambra, Suite 100
Sacramento, CA 95817
916-446-7883
Sacasiancc.org*

Unless otherwise provided in this Contract, all Contractor questions and correspondence pertaining to this Contract must be addressed to the City Representative. All City questions and correspondence must be addressed to the Contractor Representative.

2. **Scope of Services.** Contractor shall provide Services to City as set forth in Attachment 1 to this Exhibit A.
3. **Time of Performance.** The Services described in this Contract shall be provided for four months until Dec. 30, 2020 . Contractor shall provide the Services in accordance with any schedule in Attachment 1 to this Exhibit A. Contractor shall immediately notify the City if Contractor is unable to perform Services in compliance with this Contract.
4. **Conflict of Interest Requirements.** The individual(s) who will provide Services pursuant to this Contract are "Consultants" within the meaning of the Political Reform Act and the City's Conflict of Interest Code. ____ yes _x_ no [check one]

Contractor shall cause the following to occur within 30 days after execution of this Contract:

- (A) Identify the individuals who will provide Services or perform Work under this Contract as "Consultants"; and
- (B) 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 Contract, 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 Contract or impose fines on the individuals until all required statements are filed.

EXHIBIT B

PAYMENT

1. **Contractor's Compensation.** The total of all fees paid to the Contractor for the provision of Services as set forth in Exhibit A, including any authorized reimbursable expenses, shall not exceed the total sum of \$ 3,700,000. The payments specified in this Exhibit B shall be the only payments made to Contractor unless the City approves a Supplemental Contract.
2. **Pricing.** Contractor shall be paid as set forth in Exhibit A or Attachment 1 to this Exhibit B and any applicable special provisions included in the request for bids or proposals. If there is a conflict between Exhibit A or Exhibit B and the Special Provisions, Exhibit A or Exhibit B controls.
3. **Contractor's Reimbursable Expenses.** "Reimbursable Expenses" are limited to actual expenditures of Contractor for expenses that are necessary for the proper satisfaction of the Contract and are only payable if specifically authorized in advance in writing by the City.
4. **Miscellaneous Charges.** No additional charges will be allowed unless specified in the Contract, including charges for transportation, fuel, containers, packing, or disposal.
5. **Payments to Contractor.** Contractor is responsible for supplying all documentation necessary to verify invoices to the City's satisfaction.
 - A. Payment terms are NET 30 days, unless the Contractor offers a prompt payment discount that was accepted by the City or as otherwise stated in this Contract. Any prompt payment discounts will be computed from the date of acceptance by the City, or from the date an invoice is received, whichever occurs later.
 - B. Invoices must be submitted to either of the addresses specified below.
 - (1) Email. Submit email invoices and any attachments to:
apinvoices@cityofsacramento.org
 - (2) Postal Mail. If emailing is not an option, mail to:
A/P Processing Center
City of Sacramento
915 I Street, Floor 4
Sacramento, CA 95814-2608
 - C. All invoices submitted by CONTRACTOR must contain the following information:
 - (1) Job/Project Name
 - (2) CITY's current Purchase Order Number
 - (3) Contractor's Invoice Number
 - (4) Date of Invoice Issuance
 - (5) Work Order Number (if applicable)
 - (6) CITY representative identified on the Purchase Order
 - (7) Contractor's remit address

- (8) Itemized description of items billed under Invoice
- (9) Itemized description of all authorized Reimbursable Expenses
- (10) Itemized description of all applicable taxes (sales, use, excise, etc.)
- (11) Amount of Invoice (itemize all authorized Reimbursable Expenses)
- (12) Total Billed to Date under Contract (if applicable)

- D. Items must be separated into Goods, Services, and Reimbursable Expenses. All applicable sales, use, excise, or similar taxes, including federal excise tax, must be itemized separately on the invoice. Invoices that do not conform to the format outlined above will be returned to Contractor for correction. City is not responsible for delays in payment to Contractor resulting from Contractor's failure to comply with the invoice format described above.
- E. For Goods only, a bill of lading number and weight of shipment will be shown for shipments on the Government Bill of Lading.
- F. Unless otherwise specified in this Contract, partial payments will not be made by the City and payment will not be due until the completion of the Goods order. No payment precludes the City's right to inspect. Requests for payment status should be addressed to the City Representative for this Contract.

6. **Additional Services.** Additional Services shall be provided only when a Supplemental Contract authorizing the Additional Services is approved in writing by the City in accordance with the City's contract amendment procedures. The City reserves the right to perform any Additional Services with its own staff or to retain other contractors to perform the Additional Services.

7. **Tax Payments.** 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 the 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.

9. **Public Works Requirements.** *[To be completed by the City Representative:]*

The services provided under this Contract include ***[check one if applicable]:***

- _____ Construction work in an amount exceeding \$25,000;
- _____ Land Surveying, material testing, or inspection services provided for a City construction project during the design, pre-construction, construction, or post-construction phases of the project; or
- _____ Alteration, demolition, repair, or maintenance work in an amount exceeding \$15,000.

If any of the lines is checked above, this Contract includes "Public Work" under the California Labor Code and is subject to the following requirements:

- A. Payment of Prevailing Wages: Contractor and any subcontractor(s) performing any Public Work shall comply with the provisions of Sacramento City Code section 3.60.180 and applicable provisions of the California Labor Code, which require, among other things, that Contractor and all subcontractors pay not less than the prevailing rate of wages, as determined by the Director of the California Department of Industrial Relations (“DIR”) in accordance with California Labor Code section 1773. Contractor and every subcontractor shall maintain payroll records and submit certified payrolls and other labor compliance documentation electronically when and as required by CITY. In addition, Labor Code Section 1771.4 requires the Contractor and any subcontractor performing any Public Work to furnish electronic payroll records directly to the Labor Commissioner. Contractor shall include these requirements in every subcontract.

This Agreement is subject to compliance monitoring and enforcement by the DIR, as specified in California Labor Code section 1771.4. The Contractor and any subcontractor will be subject to withholding and penalties for violation of prevailing wage requirements in accordance with applicable law, including Labor Code Sections 1726, 1741, 1771.5, and 1775, and City Code Section 3.60.180. Questions regarding the City’s Labor Compliance Program should be directed to the City Representative.

- B. DIR Registration: California Labor Code Section 1725.5 requires the Contractor and all subcontractors performing Public Works services to be currently registered with the DIR, as specified in California Labor Code Section 1725.5. California Labor Code Section 1771.1 provides that a contractor or subcontractor shall not be qualified to bid on, be listed in a bid proposal (subject to the requirements of Section 4104 of the California Public Contract Code), or engage in the performance of any contract for Public Work, unless currently registered and qualified to perform Public Work in accordance with California Labor Code Section 1725.5.

Further information can be found on DIR’s website at <http://www.dir.ca.gov/Public-Works/Contractors.html>. The above summary is provided solely for informational purposes and does not in any way affect the Contractor’s and subcontractors’ obligation to comply in all respects with all other applicable laws and regulations. The Contractor shall disseminate these provisions to all subcontractors.

Before the performance of work by Contractor or any subcontractor(s) under this Contract, Contractor shall furnish Contractor’s and any subcontractors’ current DIR registration number(s). The Contractor’s current DIR registration number and the current DIR registration number of all subcontractors will be listed on the Subcontractor and LBE Participation Verification Form, incorporated herein.

- C. Workers’ Compensation Certification. In accordance with California Labor Code Section 1861, by signing this Contract, Contractor acknowledges and represents that Contractor is aware of the provisions of section 3700 of the California Labor Code which requires every employer to be insured against liability for workers' compensation or to undertake self-insurance in accordance with the provisions of that code, and that Contractor will

comply with the provisions of the Labor Code before commencing performance under this Contract.

- D. Apprentices. If this Contract is for the performance of any Public Work, and the amount of the Contract is \$30,000 or more, the Contractor and any subcontractors performing any Public Work under this Contract must comply with and be subject to enforcement under, the provisions of Sacramento City Code Section 3.60.190, Section 1777.5 et seq. of the California Labor Code, and implementing regulations set forth in Title 8 of the California Code of Regulations, governing the employment of apprentices. The Contractor and any subcontractors performing Public Work will be subject to penalties for apprenticeship violations in accordance with Labor Code Section 1777.7.
- E. Working Hours. If this Contract is for the performance of any Public Work, Contractor and any subcontractors performing any Public Work under this Contract must comply with and be subject to enforcement under, the provisions of Sacramento City Code Section 3.60.180 and California Labor Code Section 1810 et seq., governing the working hours of employees performing Public Work.
- F. Failure to Comply with Labor Compliance. If all applicable labor compliance requirements are not met, the City will have the right to withhold or reject a payment request and/or invoice, in whole or in part, without in any way relieving Contractor or its subcontractors of any obligations under this Contract.
- G. Subcontractors. The Contractor shall include these provisions A through F in every subcontract or sub-agreement for any subcontractors performing work under this Contract.

EXHIBIT C

INSURANCE

1. **Insurance Requirements.** During the entire term of this Contract, Contractor shall maintain the insurance coverage described in the Insurance Terms below. Full compensation for all premiums that Contractor is required to pay for the insurance coverage described herein shall be included in the compensation specified under this Contract. 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.

Contractor's liability to the City is not in any way limited to or affected by the amount of insurance coverage required or carried by the Contractor in connection with this Contract.

2. **General Liability Minimum Scope and Limits of Insurance Coverage.** Commercial General Liability Insurance is required 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 the Contractor and subcontractors, products and completed operations of Contractor and subcontractors, and premises owned, leased, or used by Contractor 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.

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 and subcontractors; products and completed operations of Contractor and subcontractors; and premises owned, leased, or used by Contractor and subcontractors.

3. **Automobile Liability Minimum Scope and Limits of Insurance Coverage.** *(Check the applicable provision.)*

 X Automobile Liability Insurance is required 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 occurrence. The policy shall provide coverage for owned, non-owned and/or hired autos as appropriate to the operations of the Contractor.

The City, its officials, employees and volunteers shall be covered by policy terms or endorsement as additional insureds as respects auto liability.

 No automobile liability insurance is required, and by signing this Contract, Contractor certifies as follows:

"Contractor certifies that a motor vehicle will not be used in the performance of any work or services under this agreement. If, however, Contractor does transport items under this Contract, or this Contract is amended to require any employees of Contractor to use a

vehicle to perform services under the Contract, Contractor understands that it must maintain and provide evidence of 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 occurrence. The policy shall provide coverage for owned, non-owned and/or hired autos as appropriate to the operations of the Contractor."

4. **Excess Insurance.** The minimum limits of insurance required above may be satisfied by a combination of primary and umbrella or excess insurance coverage, provided that any umbrella or excess insurance contains, or is endorsed to contain, a provision that it will apply on a primary basis for the benefit of the City, and any insurance or self-insurance maintained by City, its officials, employees, or volunteers will be in excess of Contractor's umbrella or excess coverage and will not contribute to it.

5. **Workers' Compensation Minimum Scope and Limits of Insurance Coverage.** *(Check the applicable provision.)*

 X Workers' Compensation Insurance is required 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.

 No work or services will be performed on or at CITY facilities or CITY Property, therefore Workers' Compensation waiver of subrogation in favor of the CITY is not required.

 No Workers' Compensation insurance is required, and by signing this Contract, Contractor certifies as follows:

"Contractor certifies that its business has no employees, and that it does not employ anyone, and is therefore exempt from the legal requirements to provide Workers' Compensation insurance. If, however, Contractor hires any employee during the term of this Contract, Contractor understands that Workers' Compensation with statutory limits and Employer's Liability Insurance with a limit of not less than one million dollars (\$1,000,000) is required. The Workers' Compensation policy will include a waiver of subrogation in favor of the City."

6. **Professional Liability Minimum Scope and Limits of Insurance Coverage.** Professional Liability Insurance providing coverage on a claims-made basis for errors and omissions, or malpractice with limits of not less than one million dollars (\$1,000,000):

Is Is not x *[check one]* required for this Agreement.

If required, such coverage must be continued for at least year(s) following the completion of all Services under this Contract. The retroactive date must be prior to the date this Contract is approved or any Services are performed.

6. **Other Insurance Provisions.** The policies must contain, or be endorsed to contain, the following provisions:

- A. Contractor's insurance coverage, including excess insurance, shall be primary insurance as respects the City, its officials, employees and volunteers. Any insurance or self-insurance maintained by the City, its officials, employees or volunteers will be in excess of Contractor's insurance and will not contribute with it.
- B. Any failure to comply with reporting provisions of the policies will not affect coverage provided to the City, its officials, employees or volunteers.
- C. Coverage shall state that Contractor's insurance applies separately to each insured against whom claim is made or suit is brought, except with respect to the limits of the insurer's liability.
- D. Contractor shall provide the City with 30 days written notice of cancellation or material change in the policy language or terms.

7. Acceptability of Insurance. Insurance must 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 Exhibit C must be declared to and approved by the City in writing before execution of this Contract.

8. Verification of Coverage.

- A. Contractor shall furnish City with certificates and required endorsements evidencing the insurance required. Certificates of insurance must be signed by an authorized representative of the insurance carrier. Copies of policies shall be delivered to the City Representative on demand.

- B. Contractor shall send all insurance certificates and endorsements, including policy renewals, during the term of this Contract directly to:

City of Sacramento
c/o Exigis LLC
PO Box 4668 ECM- #35050
New York, NY 10168-4668

- C. Certificate Holder must be listed as:

City of Sacramento
c/o Exigis LLC
PO Box 4668 ECM- #35050
New York, NY 10168-4668

- D. The City may withdraw its offer of Contract or cancel this Contract if the certificates of insurance and endorsements required have not been provided before execution of this Contract. The City may withhold payments to Contractor and/or cancel the Contract if the insurance is canceled or Contractor otherwise ceases to be insured as required herein.

9. Subcontractor Insurance Coverage. Contractor shall require and verify that all subcontractors maintain insurance coverage that meets the minimum scope and limits of insurance coverage specified in this Exhibit C.

EXHIBIT D

GENERAL CONDITIONS

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 will be entitled to any benefits payable to CITY employees. CITY is not required to make any deductions or withholdings from the compensation payable to Contractor under the provisions of this Contract, and Contractor will 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 any state or federal agency, that an employer-employee relationship or a substitute therefor exists for any purpose whatsoever by reason of this Contract or by reason of the nature and/or performance under this Contract.
- B. It is further understood and agreed by the parties that Contractor, in the performance of its obligations, is subject to the City's control and direction as to the designation of tasks to be performed and the results to be accomplished under this Contract, but not as to the means, methods, or sequence used by Contractor for accomplishing the results. To the extent that Contractor obtains permission to, and does, use CITY facilities, space, equipment or support services in the performance of this Contract, this use will be at the Contractor's sole discretion based on the Contractor's determination that the use will promote Contractor's efficiency and effectiveness. Except as may be specifically provided elsewhere in this Contract, the CITY does not require that Contractor use CITY facilities, equipment or support services or work in CITY locations in the performance of this Contract. As used in this Contract, "sole discretion" or "sole judgment" means that the party authorized to exercise its discretion or judgment may do so based on an unfettered assessment of its own interests, without considering how its decision affects the other party, and unconstrained by the implied covenant of good faith and fair dealing.
- C. If, in the performance of this Contract, any third persons are employed by Contractor, such persons will be entirely and exclusively under the direction, supervision, and control of Contractor. Except as otherwise provided in this Contract, 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 will issue W-2 or 1099 Forms for income and employment tax purposes for all Contractor's assigned personnel and subcontractors.
- D. The provisions of this section will survive any expiration or termination of this Contract. Nothing in this Contract creates an exclusive relationship between CITY and Contractor. Contractor may represent, perform services for, or be employed by any additional persons or companies so long as Contractor does not violate the provisions of Section 5, below.

2. **Licenses; Permits, Etc.** Contractor represents and warrants that Contractor has, and shall maintain at all times during the term of this Contract at its sole cost and expense, all licenses, permits, qualifications, certificates, and approvals of any nature that are legally required for Contractor to practice its profession or fulfill the terms of this Contract, including a City Business Operations Tax Certificate and any required certification issued by the California Secretary of State.
3. **Time.** Time is off the essence in the performance of this Contract. Contractor shall devote the necessary time and effort to its performance under this Contract. Neither party will be considered in default of this Contract, 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 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 will acquire any interest, directly or indirectly, that would conflict in any manner with the City's interests or that would in any way hinder Contractor's performance under this Contract. Contractor further covenants that in the performance of this Contract, no person having any such interest will be employed by it as an officer, employee, agent or subcontractor, without the City's written consent.

Contractor agrees to avoid conflicts of interest or the appearance of any conflicts of interest with the City's interests during the performance of this Contract. If Contractor is or employs a former officer or employee of the City, Contractor and any former City officer or employee 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. **Hazardous Substances.** "Hazardous Substances" means any substance, material, waste, or other pollutant or contaminant that is or becomes designated, classified, or regulated as hazardous or toxic under any law, regulation, rule, order, decree, or other governmental requirement now in effect or later enacted. If Contractor is shipping Hazardous Substances, Contractor must supply a Safety Data Sheet ("SDS") with the first shipment of Hazardous Substances to each City location receiving the Hazardous Substances. If the content of an SDS is revised, Contractor must provide a revised SDS to each City location receiving Hazardous Substances.
7. **Confidentiality of City Information.** During performance of this Contract, 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 City's prior written consent.

In addition, Contractor must 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 is a material violation of this Contract and shall justify legal and equitable relief.

8. Contractor Information.

- A. City shall have full ownership and control, including ownership of any copyrights, of all information prepared, produced, or provided by Contractor under this Contract. In this Contract, the term "information" means and includes: any and all work product, submittals, reports, plans, specifications, and other deliverables consisting of documents, writings, handwritings, typewriting, printing, photostatting, 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 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 under this Contract 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 days after City is served with any such claim, action, lawsuit or other proceeding. However, City's failure to provide notice within the ten-day period does not relieve Contractor of its obligations hereunder, which survive any termination or expiration of this Contract.
- 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 Contractor's performance, will be disclosed upon receipt of a request for disclosure, in accordance with 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 will then have five days from the date it receives notice to petition the court for a protective order to prevent the disclosure of the information. 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 seek a protective order, in accordance with the provisions of subsection C, above, constitutes a complete waiver by Contractor of any rights regarding the information designated "trade secret" by Contractor, and the information will be disclosed by City in accordance with the Public Records Act.

9. **Notification of Material Changes in Business.** Contractor agrees that if it experiences any material changes in its business, including a reorganization, refinancing, restructuring, leveraged buyout, bankruptcy, name change, or loss of key personnel, it will immediately notify the City of the changes. Contractor also agrees to immediately notify the City of any condition that may jeopardize the scheduled delivery or fulfillment of Contractor's obligations to the City under this Contract.
10. **Standard of Performance.** Contractor shall perform in the manner and according to the standards currently observed by a competent practitioner of Contractor's profession in California and in compliance with all requirements of this Contract. All products that Contractor delivers to City under this Contract must be prepared in a professional manner and conform to the standards of quality normally observed by a person currently practicing in Contractor's profession.
- Contractor shall assign only competent personnel to perform on its behalf under this Contract. Contractor must notify the City in writing of any changes in Contractor's staff assigned to perform under this Contract, before any performance by the new staff member. If the City, in its sole discretion, determines that any person assigned by the Contractor to perform under this Contract is not performing in accordance with the standards required herein, City shall provide notice to Contractor. Contractor shall immediately remove the assigned person upon receipt of the notice.
11. **Performance or Different Terms and Conditions.** The City's subsequent performance will not be construed as either acceptance of additional or different terms and conditions or a counteroffer by the Contractor, nor will the City's subsequent performance be viewed as acceptance of any provision of the Uniform Commercial Code, as adopted by any State, that is contrary to the terms and conditions contained herein. Contractor's performance shall conform to the applicable requirements of the Sacramento City Charter, Sacramento City Code, and all applicable State and Federal laws, and all the requirements of this Contract. The California Commercial Code will apply except as otherwise provided in the Contract.
12. **Emergency/Declared Disaster Requirements.** If an emergency is declared by the City Manager, or if any portion of the City is declared a disaster area by the county, state or federal government, this Contract may be subjected to increased usage. The Contractor shall serve the City during a declared emergency or disaster, subject to the same terms and conditions that apply during non-emergency / non-disaster conditions. The pricing set forth in this Contract will apply, without mark-up, regardless of the circumstances. If the Contractor is unable to fulfill the terms of the Contract because of a disruption in its chain of supply or service, then the Contractor shall provide proof of the disruption. Acceptable forms of proof will include a letter or notice from the Contractor's source stating the reason for the disruption
13. **Term; Suspension; Termination.**
- A. This Contract is effective on the Effective Date and continues in effect until both parties have fully performed their respective obligations under this Contract, unless sooner terminated as provided herein.
 - B. City shall have the right at any time to suspend Contractor's performance hereunder, in whole or in part, by giving a written notice of suspension to Contractor. Upon receipt of

such notice, Contractor shall immediately suspend its activities under this Contract, as specified in the notice.

- C. The City shall have the right to terminate this Contract at any time by giving a written notice of termination to Contractor. Upon receipt of such notice, Contractor shall immediately cease performance under this Contract as specified in the notice. If the City terminates this Contract:

- (1) Contractor shall, not later than five days after receipt of the notice, deliver all information prepared under this Contract to the City.
- (2) The City shall pay Contractor the reasonable value of Goods or Services provided by Contractor before termination; provided, however, City shall not in any manner be liable for lost profits that might have been made by Contractor had the Contract not been terminated or had Contractor completed performance required by this Contract. Contractor shall furnish to the City any financial information requested by the City to determine the reasonable value of the Goods or Services provided by Contractor. The foregoing is cumulative and does not affect any right or remedy that City may have in law or equity.

- 14. Default by Contractor.** In case of default by the Contractor, the City reserves the right to procure the Goods or Services from other sources and deduct from any monies due, or that may thereafter become due to the Contractor, the difference between the price named in this Contract and the actual cost to the City to procure from an alternate source. Prices paid by the City will be considered the prevailing market price at the time such purchase is made.

15. 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 all actions, damages, costs, liabilities, claims, demands, losses, judgments, penalties, and expenses of every type and description, whether arising on or off the site of the work or services performed under this Contract, including any fees and costs reasonably incurred by City's staff attorneys or outside attorneys and any fees and expenses incurred in enforcing this provision (hereafter collectively referred to as "Liabilities"), including Liabilities for personal injury or death, damage to personal, real, or intellectual property, damage to the environment, contractual or other economic damages, or regulatory penalties, arising out of or in any way connected with performance of or failure to perform this Contract by Contractor, any subcontractor (including lower-tier subcontractors) or agent of Contractor, their respective officers and employees, and anyone else for whose acts of omissions any of them may be liable, whether or not the Liabilities (i) are caused in part by a party indemnified hereunder, or (ii) 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 the active negligence or willful misconduct of, or defects in design furnished by, City, its agents, servants, or independent contractors who are directly responsible to City, except when such agents,

servants, or independent contractors are under the supervision and control of Contractor or any subcontractor (including lower-tier subcontractors) or agent of Contractor.

- B. Insurance Policies; Intellectual Property Claims: The existence or acceptance by City of any of the insurance policies or coverages described in this Contract will not affect or limit any of City's rights under this Section, nor will the limits of any insurance limit the liability of Contractor hereunder. This Section will not apply to any intellectual property claims, actions, lawsuits or other proceedings subject to the provisions of section 8.B., above.
- C. Survival. The provisions of this section will survive any expiration or termination of this Contract.

17. Funding Availability.

- A. This Contract is subject to the budget and fiscal provisions of the Charter and the Sacramento City Code.
- B. The City's payment obligation under this Contract will not exceed the amount of funds appropriated and approved for this Contract by the Sacramento City Council.
- C. This Section shall govern over any other contrary provision of the Contract.

18. Equal Employment Opportunity. During the performance of this Contract, Contractor, for itself, its assignees and successors in interest, agrees as follows:

- A. Compliance With Regulations: Contractor shall comply with all state, local, and federal anti-discrimination laws and regulations, including the Executive Order 11246 entitled "Equal Opportunity in Federal Employment," as amended by Executive Order 11375, 12086, and 13672, and as supplemented in Department of Labor regulations (41 CFR Chapter 60), referred to collectively as the "Regulations."
- B. Nondiscrimination: Contractor, with regards to the work performed by it after award and before completion of the work under this Contract, 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 Contract 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 the 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 Contract, the City shall impose any sanctions it determines are appropriate including:
- (1) Withholding of payments to Contractor under this Contract until Contractor complies;
 - (2) Cancellation, termination, or suspension of this Contract, 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. The City may direct Contractor to take specific actions to enforce these provisions, including sanctions for noncompliance; provided, however, that if Contractor becomes involved in, or is threatened with, litigation with a subcontractor or supplier as a result of such direction, Contractor may request that the City join such litigation to protect the City's interests.

19. Entire Agreement. This Contract, including all Exhibits and documents referenced herein, contains the entire agreement between the parties and supersedes whatever oral or written understanding they may have had before the execution of this Contract. No alteration to the terms of this Contract shall be valid unless approved in writing by Contractor, and by City, in accordance with applicable provisions of the Sacramento City Code.

20. Modification of Contract. The Contractor shall take no direction from any City employee that changes the executed terms and conditions of the Contract, including Exhibit A, or any change that impacts the cost, price, or schedule, before receiving a written, signed modification to the Contract.

21. Severability. If a court with jurisdiction rules that any portion of this Contract or its application to any person or circumstance is invalid or unenforceable, the remainder of this Contract will not be affected thereby and will remain valid and enforceable as written, to the greatest extent permitted by law.

22. Waiver. Neither the City's acceptance of, or payment for, any Goods or Services, nor any waiver by either party of any default, breach or condition precedent, will be construed as a waiver of any provision of this Contract, nor as a waiver of any other default, breach or condition precedent or any other right hereunder. No waiver will be effective unless it is in writing and signed by the waiving party.

- 23. Governing Law.** This Contract shall be governed, construed and enforced in accordance with the laws of the State of California, except that the rule of interpretation in California Civil Code section 1654 will not apply. Venue of any litigation arising out of this Contract will 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.
- 24. Assignment Prohibited.** The expertise and experience of Contractor are material considerations for this Contract. 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 Contract without the written consent of the City. Any attempted or purported assignment without City's written consent shall be void and of no effect.
- 25. Binding Effect.** This Contract is binding on the heirs, executors, administrators, successors and assigns of the parties, subject to the provisions of Section 24, above.
- 26. Compliance with Laws.** The Contractor shall be responsible for strict compliance with all applicable laws, regulations, court orders and other legal requirements applicable to the work to be accomplished under the Contract, including the California Occupational Safety and Health Act and all applicable safety orders issued by the Division of Occupational Safety and Health, Department of Industrial Relations, State of California, and all applicable requirements of Underwriters Laboratories and the Federal Communication Commission.

EXHIBIT E

FEDERAL CONDITIONS

1. DEBARMENT CERTIFICATION

A. Pursuant to 2 CFR, Part 200, and applicable Executive Orders, the City is restricted in its ability to contract with certain parties that are debarred, suspended, or otherwise excluded or ineligible for participating in Federal assistance programs or activities. By signing this Agreement, CONTRACTOR warrants and certifies under penalty of perjury under the laws of the State of California that Contractor, including any owner, partner, director, officer, or principal of the CONTRACTOR, or any person in a position with management responsibility or responsibility for the administration of federal funds:

(1) Is not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from covered transactions by any federal or state department/agency;

(2) Has not within a three-year period preceding this certification been convicted of or had a civil judgment rendered against it for: commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public transaction or contract (federal, state, or local); violation of federal or state antitrust statutes; or commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, receiving stolen property, or other criminal felony;

(3) Is not presently indicted for or otherwise criminally or civilly charged by a governmental entity (federal, state, or local) with commission of any of the offenses enumerated in paragraph (b) above; or

(4) Has not, within a three-year period preceding this certification, had one or more public contracts (federal, state, or local) or transactions terminated for cause or default.

(5) Has not been notified, within a three-year period preceding this certification, been notified of any delinquent Federal taxes in an amount that exceeds \$3,500 for which the liability remains unsatisfied. Federal taxes are considered delinquent if the tax liability has been finally determined and the taxpayer is delinquent in making payment, as defined in Section 52.209-5 of the Federal Acquisition Regulations.

B. CONTRACTOR further warrants and certifies that it shall not knowingly enter into any transaction with any subcontractor, material supplier, or vendor who is debarred, suspended, declared ineligible, or voluntarily excluded from covered transactions by any federal or state department/agency. Any exceptions to the warranties and certifications in this Section must be disclosed to the City.

C. Exceptions will not necessarily result in denial of recommendation for award, but will be considered in determining Contractor's responsibility. Disclosures must indicate to whom exceptions apply, the initiating agency, and dates of action.

D. City will review the Federal Government's System for Award Management Exclusions maintained by the General Services Administration for eligibility, prior to the execution of this Agreement. The CONTRACTOR shall provide immediate written notice to the City if, at any time prior to execution, the CONTRACTOR learns this certification is erroneous or has become erroneous by reason of changed

circumstances. If it is later determined that the Contractor's warranties and certification in this Section were erroneous, the City may terminate this Agreement for default.

2. NON-DISCRIMINATION

During the performance of this contract, the Contractor agrees:

- A. To comply with all Federal nondiscrimination laws and regulations, as may be amended from time to time;
- B. Not to participate directly or indirectly in the discrimination prohibited by any Federal non-discrimination law or regulation, as set forth in appendix B of 49 CFR part 21 and herein;
- C. To permit access to its books, records, accounts, other sources of information, and its facilities as required by the State highway safety office, US DOT or NHTSA;
- D. That, in the event Contractor fails to comply with any nondiscrimination provisions in this contract, the City and the State highway safety agency will have the right to impose such contract sanctions as they or NHTSA determine are appropriate, including but not limited to withholding payments to the contractor until the contractor complies, and/or cancelling, terminating, or suspending this contract, in whole or in part; and
- E. To insert this clause, including paragraphs (a) through (e), in every subcontract and in every solicitation for a subcontract.
- G. Compliance with Non-Discrimination and Equal Employment Opportunity Laws

(1) It is the City's policy to comply with state and federal laws and regulations including Title VI of the Civil Rights Act of 1964, Americans with Disabilities Act of 1990 (ADA) and other federal and state anti-discrimination laws and regulations. The City does not discriminate on the basis of race, color, sex, creed, religious creed, national origin, age, marital status, ancestry, medical condition, disability (including HIV and AIDS), sexual orientation or gender identity in conducting its business. The City prohibits discrimination by its employees, contractors and consultants.

(2) In addition to the equal employment opportunity laws listed in the General Conditions, Contractor assures the City that it complies with, and that Contractor will require that its subcontractors comply with, the following non-discrimination and equal opportunity laws:

- (a) Title VI of the Civil Rights Act of 1964, as amended, 42 U.S.C. §§ 2000d et seq. and with any applicable implementing federal directives that may be issued;
- (b) The Older Americans Act, as amended (42 U.S.C. 6101), Section 324 of title 23 U.S.C., prohibiting discrimination based on gender, and Section 504 of the Rehabilitation Act of 1973 (29 U.S.C. 794); and
- (c) The Americans with Disabilities Act (ADA) of 1990 (42 U.S.C. § 12101, et seq.), as well as all applicable regulations and guidelines issued pursuant to the ADA, including but not limited to those found within the Code of Federal Regulations, title 49, parts 27, 37, and 38.

(3) Any failure by Contractor to comply with these provisions shall constitute a material breach of this Agreement, which may result in the termination of this Agreement or such other remedy as the City may deem appropriate.

3. ALLOWABLE COSTS

Contractor agrees that the "Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards" (2 CFR, Part 200), 48 CFR, Part 31, Federal Acquisition Regulations System, and any applicable federal agencies implementation procedures, shall be used to determine the cost allowability of individual items. Any costs for which payment has been made to Contractor that are determined by subsequent audit to be unallowable under 2 CFR, Part 200, 48 CFR, Part 31, Federal Acquisition Regulations System or federal agency procedures implementing 2 CFR, Part 200 are subject to repayment by Contractor to the City. Disallowed costs must be reimbursed to the City within sixty (60) days unless the City approves in writing an alternative repayment plan.

4. PROHIBITION OF EXPENDING STATE OR FEDERAL FUNDS FOR LOBBYING (BYRD ANTI-LOBBYING AMENDMENT)

A. Contractors who apply or bid for an award of \$100,000 or more, and any subcontractors, must provide the certification below. Each tier must certify to the tier above that it will not and has not used Federal appropriated funds to pay any person or organization for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, officer or employee of Congress, or an employee of a member of Congress in connection with obtaining any Federal contract, grant, or any other award covered by 31 U.S.C. § 1352. Each tier shall also disclose any lobbying with non-Federal funds that takes place in connection with obtaining any Federal award. Such disclosures must be forwarded from tier to tier up to the City, who in turn will forward the certification(s) to the awarding agency.

B. By signing this Agreement, Contractor certifies, to the best of his or her knowledge or belief, that:

(1) No Federal appropriated funds have been paid or will be paid, by or on behalf of the Contractor, to any person for influencing or attempting to influence an officer or employee of any agency, a Member of the State Legislature or United States Congress, an officer or employee of the Legislature or Congress, or any employee of a Member of the Legislature or Congress in connection with the awarding of any Federal contract, the making of any Federal grant, the making of any Federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any State or Federal contract, grant, loan, or cooperative agreement.

(2) If any funds other than Federally appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any Federal agency, a Member of Congress, an officer or employee of Congress, or any employee of a Member of Congress in connection with this Federal contract, grant, loan, or cooperative agreement, the Contractor shall complete and submit Standard Form-LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions.

(3) None of the funds paid under this contract will be used for any activity specifically designed to urge or influence a State or local legislator to favor or oppose the adoption of any specific legislative proposal pending before any State or local legislative body. Such activities include both direct and indirect (e.g., "grassroots") lobbying activities, with one exception. This does not preclude a State official whose salary is supported with NHTSA funds from engaging in direct communications with State or local legislative officials, in accordance with customary State practice, even if such communications urge legislative officials to favor or oppose the adoption of a specific pending legislative proposal.

B. This certification is a material representation of fact upon which reliance was placed when this Agreement was executed. Submission of this certification is a prerequisite for making or entering into this Agreement imposed by Section 1352, Title 31, U.S. Code. Any person who fails to file the required certification shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.

C. Contractor also agrees by signing this Agreement that he or she shall require that the language of this certification be included in all lower tier subcontracts, which exceed \$100,000, and that all such subcontractors shall certify and disclose accordingly.

D. Contractor certifies or affirms the truthfulness and accuracy of each statement of its certification and disclosure, if any. In addition, Contractor understands and agrees that the provisions of 31 U.S.C. Chap. 38, Administrative Remedies for False Claims and Statements, apply to this certification and disclosure, if any.

5. REBATES, KICKBACKS, OR OTHER UNLAWFUL CONSIDERATION

Contractor warrants that this Agreement was not obtained or secured through rebates, kickbacks or other unlawful consideration, either promised or paid to any City employee. For breach or violation of this warranty, City shall have the right, in its discretion: to terminate this Agreement without liability; to pay only for the value of the work actually performed; or to deduct from the Agreement price, or otherwise recover the full amount of such rebate, kickback or other unlawful consideration.

6. BUY AMERICA ACT

The City and Contractor will comply with the Buy America requirement (23 U.S.C. 313). Buy America requires the City and Contractor to purchase only steel, iron, and manufactured products produced in the United States, unless the Secretary of Transportation determines that such domestically produced items would be inconsistent with the public interest, that such materials are not reasonably available and of a satisfactory quality, or that inclusion of domestic materials will increase the cost of the overall contract by more than 25 percent. In order to use foreign produced items, the Contractor must first submit a waiver request to the City that provides an adequate basis and justification for approval by the Secretary of Transportation.

7. DRUG-FREE CERTIFICATION

By signing this Agreement, Contractor hereby certifies under penalty of perjury under the laws of the State of California that Contractor will comply with the requirements of the Drug-Free Workplace Act of 1990 (Government Code § 8350, et seq.) and will provide a drug-free workplace by taking the following actions:

A. Publish a statement notifying employees that unlawful manufacture, distribution, dispensation, possession, or use of a controlled substance is prohibited, and specifying actions to be taken against employees for violations.

B. Establish a Drug-Free Awareness Program to inform employees about:

- (1) The dangers of drug abuse in the workplace;
- (2) The person's or the organization's policy of maintaining a drug-free workplace;
- (3) Any available counseling, rehabilitation, and employee assistance programs; and

- (4) Penalties that may be imposed upon employees for drug abuse violations.

C. Every employee of Contractor who works under this Agreement shall:

- (1) Receive a copy of Contractor's Drug-Free Workplace Policy Statement; and
- (2) Agree to abide by the terms of Contractor's Statement as a condition of employment on this Agreement.

8. ENVIRONMENTAL COMPLIANCE

Contractor agrees to comply with the Clean Air Act (42 U.S.C. §7401 *et seq.*), the Federal Water Pollution Control Act (33 U.S.C. §1251 *et seq.*), Executive Order 11738, all Environmental Protection Agency ("EPA") Regulations (40 CFR) and all applicable standards, orders or regulations issued pursuant thereto. Contractor agrees to report any violation of these statutes and regulations to the City and understands and agrees that the City will, in turn, report each violation, as required, to assure notification to the appropriate federal agency and EPA Regional Office.

9. RECORDS OF CONTRACTOR

A. During the performance of this Contract and for a period of five years after completion of performance, Contractor shall maintain all records related to this Contract, in accordance with generally accepted accounting practices, including records of Contractor's costs for performance under this Contract and records of Contractor's Reimbursable Expenses.

B. Contractor shall keep and make records available for inspection and audit by representatives of the City upon reasonable written notice.

C. Records to be retained include, but are not limited to:

- (1) General ledger and subsidiary ledgers used to account for the receipt of funds from the City and the disbursements of such funds for eligible expenses related to the provision of Services;
- (2) Budget records for 2019 and 2020; payroll, time records, and human resource records to support costs incurred for payroll expenses related to the provision of Services;
- (3) Receipts of purchases made relating to the Services;
- (4) Contracts and subcontracts entered into to provide the Services, and all documents related to such contracts;
- (5) All reports, auditors, or other monitoring of subcontractors;
- (6) All documents supporting the provision of Services;
- (7) All internal and external communications (including email) related to the Services; and
- (8) All investigative files and inquiry reports involving the Services.

10. SUBCONTRACTOR COMPLIANCE

Contractor agrees that all subcontracts shall contain the provisions of this Exhibit.

11. REMEDIES

Should Contractor violate any of the terms of this Contract, City may terminate the Contract and pursue all available legal and equitable remedies.

12. RECOVERED MATERIALS

- A. In the performance of this Contract, Contractor shall make maximum use of products containing recovered materials that are EPA-designated items unless the product cannot be acquired.
- B. Information about this requirement, along with the list of EPA- designated items, is available at EPA's Comprehensive Procurement Guidelines web site, <https://www.epa.gov/smm/comprehensive-procurement-guideline-cpg-program>.
- C. Contractor also agrees to comply with all other applicable requirements of Section 6002 of the Solid Waste Disposal Act: (1) Competitively within a timeframe providing for compliance with the contract performance schedule; (2) Meeting contract performance requirements; or (3) At a reasonable price.

13. DHS SEAL, LOGO, AND FLAGS

Contractor shall not use the U.S. Department of Homeland Security ("DHS") seal(s), logos, crests, or reproductions of flags or likenesses of DHS agency officials without specific pre-approval from the U.S. Federal Emergency Management Agency ("FEMA").

14. COMPLIANCE WITH FEDERAL LAW

Contractor acknowledges that FEMA financial assistance may be used to fund all or a portion of the contract. The contractor will comply with all applicable Federal law, regulations, executive orders, FEMA policies, procedures, and directives.

15. NO OBLIGATION BY FEDERAL GOVERNMENT

The Federal Government is not a party to this contract and is not subject to any obligations or liabilities to the City, Contractor, or any other party pertaining to any matter resulting from the Contract.

16. PROGRAM FRAUD AND FALSE OR FRAUDULENT STATEMENTS OR RELATED ACTS

Contractor acknowledges that 31 U.S.C. Chap. 38 (Administrative Remedies for False Claims and Statements) applies to the Contractor's actions pertaining to this contract.

17. COMPLIANCE WITH THE CONTRACT WORK HOURS AND SAFETY STANDARDS ACT

In the event that Contractor or any subcontractor is contracting for work requiring or involving the employment of laborers or mechanics, the following terms shall apply:

- A. Overtime requirements. No contractor or subcontractor contracting for any part of the contract work which may require or involve the employment of laborers or mechanics shall require or permit any such laborer or mechanic in any workweek in which he or she is employed on such work to work in excess of forty hours in such workweek unless such laborer or mechanic receives compensation at a rate not less than one and one-half times the basic rate of pay for all hours worked in excess of forty hours in such workweek.
- B. Violation; liability for unpaid wages; liquidated damages. In the event of any violation of the clause set forth in paragraph (b)(1) of this section the contractor and any subcontractor responsible therefor shall be liable for the unpaid wages. In addition, such contractor and subcontractor shall be liable to the United States (in the case of work done under contract for the District of Columbia or a territory, to such District or to such territory), for liquidated damages. Such liquidated damages shall

be computed with respect to each individual laborer or mechanic, including watchmen and guards, employed in violation of the clause set forth in paragraph (b)(1) of this section, in the sum of

\$27 for each calendar day on which such individual was required or permitted to work in excess of the standard workweek of forty hours without payment of the overtime wages required by the clause set forth in paragraph (b)(1) of this section.

C. Withholding for unpaid wages and liquidated damages. The City shall upon its own action or upon written request of an authorized representative of the Department of Labor withhold or cause to be withheld, from any moneys payable on account of work performed by the contractor or subcontractor under any such contract or any other Federal contract with the same prime contractor, or any other federally-assisted contract subject to the Contract Work Hours and Safety Standards Act, which is held by the same prime contractor, such sums as may be determined to be necessary to satisfy any liabilities of such contractor or subcontractor for unpaid wages and liquidated damages as provided in the clause set forth in paragraph (b)(2) of this section.

D. Subcontracts. The contractor or subcontractor shall insert in any subcontracts the clauses set forth in paragraph (b)(1) through (4) of this section and also a clause requiring the subcontractors to include these clauses in any lower tier subcontracts. The prime contractor shall be responsible for compliance by any subcontractor or lower tier subcontractor with the clauses set forth in paragraphs (b)(1) through (4) of this section.

Executed as of the day and year first above stated.

CITY OF SACRAMENTO

A Municipal Corporation

By: _____

Print Name: Michael Jasso, Assistant City Manager

Title: _Assistant City Manager

CONTRACTOR

Sacramento Asian Pacific Chamber of
Commerce

By: Pat Fong Kushida

Print Name: Pat Fong Kushida

Title: President & CEO

Federal I.D. No. 68-0306606

State I.D. No. 444-4022-0

City Business Op. Tax Cert. No. Exempt

APPROVED AS TO FORM:

City Attorney

TYPE OF BUSINESS ENTITY (check one):

_____ Individual/Sole Proprietor

X Corp. (may require 2 signatures)

_____ Limited Liability Company

_____ Partnership

Other

(specify _____)

ATTEST:

City Clerk

Attachment 1 to Exhibit A

Scope of Services

Contractor shall provide technical assistance to businesses impacted by the COVID-19 public health emergency. As used in this scope of services, the term “**Business**” means a business that has suffered economic harm because of the COVID-19 public health emergency. The City recognizes that in providing the Services, Contractor may subcontract some work to the organizations that comprise the Sacramento Inclusive Economic Development Collaborative. These organizations are identified in Attachment 2 to Exhibit A and are referred to as “**Partner Organizations**.” Contractor shall perform these specific tasks:

1. Data Gathering.

- (a) Contractor shall create and distribute a survey to help it and the City understand the services and technical assistance needed by Businesses along the commercial corridors represented by the Partner Organizations, and within the networks of the Partner Organizations to particularly address the impacts they have faced due to COVID-19. Contractor shall also endeavor to distribute the survey to other neighborhood commercial corridors, such as Northgate Boulevard, Folsom Boulevard, and those in the Natomas area.
- (b) The survey must solicit the following information:
 - (i) Business open/closed (temporary vs. permanent);
 - (ii) Business operations modified;
 - (iii) Business revenue loss;
 - (iv) Business employee loss;
 - (v) Business sentiments;
 - (vi) Business assistance programs needed; and
 - (vii) Geographic/demographic profile of businesses impacted.
- (c) Contractor shall ensure that the survey is available in multiple languages.
- (d) Contractor shall develop an electronic platform for capturing and analyzing data related to the survey. Contractor shall use the platform for capturing initial data, assessing that data, and analyzing it to gauge client success based on consultant and technical assistance outcomes. Contractor shall input all the data into the Contractor’s Salesforce CRM system for data sharing and report generation. The type of data to be included is outlined under the Tracking and Reporting section below. Contractor shall provide this information to the City upon request.
- (e) Contractor shall develop a video platform to provide Businesses with technical assistance in multiple languages (including English and Spanish) that can be accessed during non-traditional work hours.

2. Intake and Assessment. Contractor shall perform the following intake and assessment tasks:

- (a) Perform a marketing and outreach program designed to ensure broad distribution of survey information and access to technical assistance;
- (b) Conduct an intake and assessment process;
- (c) Have Businesses complete an intake form (said form developed in consultation with the City) when they register for the program's technical assistance webinars and consultancy services. The intake form should include the name of the Business, location, COVID-19 hardship it has experienced, and type of technical assistance requested;
- (d) Make intake and assessment services available in multiple languages; and
- (e) Provide the intake and assessment forms to Partner Organizations for follow-up with the Businesses.

3. Access to Capital. Contractor shall assist Business in accessing capital necessary to sustain their operations during the COVID-19 public health emergency by performing the following tasks:

- (a) Assist Businesses with loan applications by acting as a loan facilitator to help the Businesses find lenders and capital resources Contractor shall give priority to the Businesses that have been most impacted by COVID 19;
- (b) Assist Businesses navigate federal, state, and local disaster relief assistance programs;
- (c) Provide technical support and training to Businesses to aid them in transitioning their business operations and services to adapt to the challenges of operating during the COVID-19 pandemic;
- (d) Connect Businesses to trained business consultants to access capital programs centered on disaster relief products at the federal, state, and local levels. Contractor shall work with these Businesses to ensure they qualify and assist them to develop plans to help correct any business weaknesses that may prevent them from qualifying;
- (e) Develop and host technical assistance webinars for Businesses on topics related to business deficiencies which include: How to Write a Business Plan, Use of Financing, Types of Loans and Programs, Tips for Presenting your Request for Financing, and Current Federal, State and Local Funding Options; and
- (f) Implement a Promotoras program which will be a grass roots outreach and technical assistance program designed specifically for hard to reach Businesses to link these businesses to services.

4. Workplace Plan for COVID-19 Exposure Prevention, Preparedness, and Response Training.

Contractor shall assist Businesses in developing workplace plans for COVID-19 exposure prevention, preparedness, and response training by doing the following:

- (i) Provide small and minority-owned small Businesses with information on workplace modifications needed to address public health directives related to COVID-19, and assist them in developing a workplace plan for COVID-19 exposure prevention, preparedness, and response to ensure maximum safety for employers, employees, and customers;
- (ii) Develop a COVID-19 exposure prevention, preparedness, and response plan curricula for Businesses, and update the curricula periodically based on the related guidance from the U.S. Center for Disease Control and Prevention (“CDC”), Occupational Safety and Health Administration (“OSHA”), Sacramento County Public Health Office, and State of California. The curricula must be based on information available from the CDC and OSHA at the time of its development and is subject to change based on further information provided by the CDC, OSHA, and other public officials;
- (iii) Ensure that the curricula includes guidance for Businesses on performing a detailed risk assessment and implementing a site-specific protection plan, including information on the use of Personal Protection Equipment, daily cleaning requirements, and employee distancing procedures. The curricula must also include a process to investigate COVID-19 cases and identify and isolate close workplace contacts of infected employees until they are tested;
- (iv) Conduct COVID-19 exposure prevention, preparedness, and response training for Businesses and their employees with a focus on preparation of a business specific work site plan and on how to self-monitor for symptoms of, and mitigate the spread of, COVID-19;
- (v) Host webinars for Businesses regarding workplace preparedness with topics including Risk Assessment and Site-Specific Protection Plan, Develop Your COVID-19 Related Policies and Procedures, Confidentiality/Privacy and HR Laws, Employee Responsibility – Training Your Employees, and Employee Wellness/Resources;
- (vi) Provide 1000 hours of one-on-one technical assistance to Businesses; and
- (vii) Reach out to all Businesses participating in the webinars to further identify needs.

5. Digital Training. Contractor shall provide Businesses with technical assistance on how to effectively use new digital platforms for the delivery of products and services in light of COVID-19 public health orders. The technical assistance must include assisting the Businesses to develop a business continuity plan to continue business with minimal disruption by focusing on building a robust online presence to help market and sustain the sale of services and products. As part of the digital training, Contractor shall:

- (a) Host a webinar series for Businesses on digital technology and platforms that provide for online purchasing and service provision as well as online marketing; and
- (b) Provide 2250 hours of one-on-one technical assistance to Businesses on how to effectively use new digital platforms.

6. Recovery and Resiliency Plan Training. Contractor shall assist Businesses in developing a business recovery and resiliency continuity plan help businesses identify and respond to the internal and external risks that the Businesses face because of the COVID-19 public health emergency.

- (a) The plan must do all the following:
 - (i) Assess the risk level created by the COVID-19 public health emergency to the Businesses, their employees, and supply chains;
 - (ii) Assess the potential consequences of COVID-19 and the impact on business continuity;
 - (iii) Identify what measures have been put in place to prevent or minimize the risk of business interruption caused by COVID-19. For each risk scenario created by COVID-19, the plan must include an appropriate response.
 - (iv) Describe the actions to be taken, the people involved, and the resources required to restore and or pivot operations as a result of COVID-19. The plan must identify the source and location of facilities such as temporary office accommodation, telecommunications systems, and computing equipment so key employees can quickly resume work, if these are necessary for the Business to continue its operations.
- (b) Contractor shall do the following in carrying out the recovery and resiliency plan training:
 - (i) Conduct webinars regarding resiliency plan training and teaching essential strategies, technological offerings and tips on how Businesses can pivot their business to an online marketplace, generate online revenue, and effectively communicate with customers. These webinars must include: How to create your SMART ecosystem; Develop a Clear Definition of What Recovery Means to You; Evaluate your current Strategic/Business Plan; Create your Recover Plan/Scenario Building Exercises; and Aligning your Organization with your Resiliency Plan; Don't Panic, How to Pivot Online & Get Your Business Moving, Tell Your Story Successfully, Marketing and Communications In A Digital World, and Guides and Resources to An Effective Pivot; and

7. COVID-19 Effects on Entrepreneurs Training. Contractor shall develop a focused, phased program to provide technical assistance to entrepreneurs whose start-up activity was interrupted by COVID-19 to help them continue the evolution of their business cycle. The program must include the following components:

- (a) Virtual trainings focused on Jumpstart, business ideation and launch, and NextLevel;
- (b) A virtual bootcamp training and consultant program designed to quickly advance minority entrepreneurs and their business plans; and
- (c) Technical assistance.

8. Provision of Personal Protection Equipment. Contractor shall purchase 500 hands-free temperature scanners (or other type of Personal Protection Equipment as approved by the City) utilizing the federal procurement process required by the CARES Act funding utilized for this Contract, and distribute the scanners to Businesses.

9. Program Tracking and Reporting. Contractor shall track and report the following information on a monthly basis:

- (a) Number of Businesses served with a breakdown of type of services they received and delineation of COVID-19 impact the services addressed;
- (b) Number of consulting hours provided to the Businesses served by consulting type and who provided the service;
- (c) Number of participants in the webinars;
- (d) Amount of capital placed in the Businesses served;
- (e) Amount of increase or decrease in sales in the Businesses served;
- (f) Amount of increase or decrease in employees employed by the Businesses served;
- (g) Zip code breakdown of the Businesses served;
- (h) Demographic information on the Businesses served;
- (i) Breakdown of services provided by subcontractors and funding provided to each subcontractor;
- (j) List of businesses that received the hands-free scanners; and
- (k) Budget and expenses for each of the services provided by a subcontractor. For purposes of clarification, any party who provides Services under this Contract other than Contractor is a subcontractor. For example, Partner Organizations and consultants who provide Services are subcontractors.

10. Performance Metrics. In performing the Services, Contractor shall:

(a) Host a minimum of 20 webinars; and

(b) Provide at least 10,000 hours of 1:1 consulting services to a minimum of 1000 Businesses.

11. Subcontractor list. No more than 30 days after the effective date of this Contract, Contractor shall provide a breakdown of all subcontractors who will provide Services and the amount of each subcontract.

Contractor shall perform these Services between the effective date of this Contract and December 30, 2020. This timeline may be extended by agreement of the parties if the federal government provides that CRF funds can be used to cover costs that are incurred after December 30, 2020.

Attachment 2 to Exhibit A

Sacramento Asian Pacific Chamber of Commerce and Sacramento Inclusive Economic Development Collaborative Partner Organizations

Sacramento Black Chamber of Commerce – Established in 1985, the Sacramento Black Chamber of Commerce (SBCC) was organized to bring African American business owners and professionals together to create a solid economic structure within Sacramento's business community. The SBCC is a network of dedicated, high-energy professionals working together to improve the economic, cultural, and civic well-being of the African American community. **Azizza Goines Davis** has served as President/CEO since September 2007 and brings over 30 years' experience in Association Management. Her experience and expertise include fund development, program development, community relations, event planning, board development, public policy, strategic planning, collaboration building and strong facilitation skills. The common thread woven of her career is her commitment to finding parity for all people through economic development, healthcare, education, and social justice.

Sacramento Hispanic Chamber of Commerce – Established in 1972, the Sacramento Hispanic Chamber (SHCC) was established to ensure that Latino businesses had equal access to build and grow their business through education, advocacy, and connections. We serve as the gateway organization to foster Latino business and economic growth for members and provide access to the Hispanic market. The SHCC's core members are small businesses with 10 employees or less in service, hospitality, and retail businesses. Through our programming, we educate our businesses through individual consulting and workshops the steps needed to begin, build, and sustain a business to success. **Cathy Rodriguez Aguirre** has led the organization for the past 6 years. With a strong background in marketing, public affairs, and event management, she advocates on behalf of 550 members that span over four counties in the Sacramento region.

Sacramento Metropolitan Chamber of Commerce – The Sacramento Metropolitan Chamber of Commerce (Metro Chamber) advocates for and supports the inclusive economic prosperity of our Capital Region by leading efforts for business. Established in 1895, Metro Chamber is the largest, most prominent and established voice for business representing 1,400 members and their workforce in El Dorado, Placer, Sacramento, Sutter, Yolo, and Yuba counties. **Amanda Blackwood** has served as President/CEO since 2017. Her visionary approach for advancing the business centric agendas for all businesses located in the six-county region she serves has been a cornerstone of her tenure.

North Sacramento Chamber of Commerce – The North Sacramento Chamber since 1923 has been a valuable partnership for local businesses to expand their reach in the community. We believe our members' success rests in three key areas: networking, advocacy, and education. NSCC is comprised of business and property owners and non-profits working together to develop, advance, and promote a strong local economy. **Franklin Burris** has served in leadership positions in many Chambers and PBIDs in the Capitol Region. His background in marketing, communications, commercial real estate, and government provide a broad skill set to advocate for and advise small businesses. He currently serves as the Executive Director of the North Sacramento Chamber of Commerce and Chairman of the SMUD Business Advisory Committee.

Del Paso Boulevard Partnership – The Del Paso Boulevard Partnership (DPBP) leads the business and commercial corridor efforts, focusing on safety, cleanliness, marketing, and advocacy efforts. DPBP also works closely with transportation partners, such as Sacramento Area Council of Governments (SACOG) and the City of Sacramento’s Public Works Department. **Raef Porter** joined DPBP in August 2019. He is an experienced leader with a demonstrated history of impact making in smart mobility, sustainability, and public sector innovation who is skilled at leading teams and stakeholders through the design, planning, implementation, and evaluation of complex projects.

Florin Road Partnership – Established in 1997, Florin Road Partnership (FRP) is proud to be the oldest PBID on a commercial corridor in CA, and one of the oldest in the Sacramento area. Since the 1990’s, FRP has played a vital role in economic development and in maintaining the cleanliness and safety of the district which spans over 24 million square feet and encompasses more than 215 property owners and well over 400 merchants. Florin Road is extremely proud of its multicultural district. Due to the team efforts, crime, litter, and homelessness within the district has been drastically reduced and our businesses are enjoying a renewed sense of optimism. **Corey DeRoo** has served as Executive Director for FRP since July 2016. She is an enthusiastic leader with a demonstrated history of success in the non-profit organization management industry. Corey brings a wealth of expertise and is also a US Army Veteran.

Franklin Boulevard Partnership – The Franklin Boulevard Business District (FBBD), a collaborative effort of property and business owners, and its sister agency, Franklin Neighborhood Development Corporation (FNDC), a 501(c)3, work tirelessly to create a proactive business community through providing safe and clean services, economic development activities and marketing/outreach support. **Kendra Macias Reed** joined the Franklin Boulevard Business District as Deputy Director in April 2020, bringing with her over 10 years of experience in business banking, community development and city planning, and small business management and operations. She and her husband currently own and operate a residential construction company.

Greater Broadway Partnership –The Greater Broadway Partnership (GBP) is a non-profit organization that aims to foster new businesses and retain existing businesses in the Broadway corridor of Sacramento, CA. The GBP grew out of nearly two decades of collaboration between neighborhood associations, property owners, residents, and business owners within the Broadway Corridor. **Joan Borucki** has worked with GBP since July 2014 and brings substantial experience in state government, business management, and public policy, concentrating on issues such as transportation, business, infrastructure, and finance.

Mack Road Partnership – The Mack Road Partnership (MRP) provides activities and improvements to businesses along the corridor and is an agency of service with a commitment to excellence. MRP’s services, include security, maintenance, image enhancement, transportation improvements, advocacy services, and community development activities through our 501c3 non- profit sister organization, the ReIMAGINE Mack Road Foundation (RMRF). RMRF plays an integral role in the day-to-day operations of the Community Center, which is a youth-focused gathering place. **Bill Knowlton** has served as Executive Director since October of 2017. In this role, he leads both MRP and RMRF. With more than 25 years of private sector executive leadership experience, he has integrated his business expertise and commitment to service into the community development and civic leadership arena.

Oak Park Business District – The Oak Park Property & Business District (OPPBID) was established by

commercial property owners in 2004, and re-authorized by the Sacramento City Council for a ten-year term in 2016. The district supports marketing, special events, maintenance, security services, and general improvement projects in Oak Park. The annual assessment funds collected from the 107 property owners, representing 232 parcels, are directed towards public safety, maintenance, and economic development programs. The Oak Park Business District also supports marketing programs, special events, and general improvement projects the corridors. **Seann Rooney** brings 25+ years' experience and is recognized as an industry leader in the world of business districts.

Power Inn Alliance – Power Inn Alliance represented over 25 million square feet in the southeastern quadrant of the City of Sacramento. It creates and strengthens the physical, business and economic conditions of the Power Inn community. This is achieved through a collaborative approach to advocacy, beautification, civic partnership, security, transportation, marketing, and communication. Its mission is to serve as the corridor's "advocate for business, transportation and community". **Steve Blanton** began his tenure with the Alliance in January 2020 and brings over 30 years' experience in association management. He also served as Mayor and City Council of Los Gatos, CA.

The River District – The River District is a private, non-profit business association charged with managing and promoting programs to strengthen the economic and cultural well-being of the area. The District manages an 830-acre Property & Business Improvement District (PBID), a special assessment district designed to fund services and programs specifically benefiting the properties within the District. **Jenna Abbott** became Executive Director in August 2019. Jenna brings a wealth of PBID and non-profit experience to the District and is passionate about the revitalization of The River District location.

Stockton Boulevard Partnership – The Stockton Boulevard Partnership supports this corridor and works endlessly to advocate on behalf of property and business owners and their tenants to ensure proactive public policy and economic development activities; to implement programs that improve security, safety, cleanliness, and positively impact the public image of the Stockton Boulevard business corridor. **Frank Louie** owned and operated Louie's Restaurant and Catering from 1989-2017. In 2001, Frank joined the Stockton Boulevard Partnership and became the Board Chair in 2012. Four years later, he became the Executive Director, and his background helps is to provide equitable opportunities and helpful guidance for all members of the Stockton Boulevard community so they may thrive.

Hacker Lab – Hacker Lab is our region's first and largest maker space, serving thousands of people and hundreds of organizations annually through our unique public-private partnerships. Our mission is to strengthen the economic resilience of our community by providing the tools, mentorship, and resources needed for entrepreneurs to think big and realize their dreams. Over the past 7 years, we have successfully operated a number of high-impact entrepreneurship-focused programs including through partnerships with SETA, SBDC, SMUD, Sacramento City College, and City of Sacramento. **Gina Lujan** is a Social Entrepreneur, focusing on building community, business development, innovation, strategic planning, and regional economic development at Hacker Lab. Gina possesses 21 years' technology experience and 27 years in business.

Attachment 1 to Exhibit B

The City shall make payments to Contractor within a reasonable time after receipt of Contractor's invoice. The City will provide a 20% initial deposit for services to the Contractor within two weeks of execution of the contract. The balance of the payments will be made in proportion to services performed and expenses incurred. Contractor may request payment on a monthly basis. In addition to the information required under Section 5 of Exhibit B, the invoice must include number of clients served, type of technical assistance provided and by whom, and specific expenses and staff and consultant costs incurred. Reconciliation of all funds will be made at the end of the contract term.

All Services under this Contract must be provided by, and all funds under this Contract must be expended by, December 30, 2020.

Contract Budget

<u>Task</u>	<u>Budget</u>
Data Gathering and Capture	\$ 607,300
Marketing and Outreach Including Translation Services	\$ 127,000
Intake and Assessment	Costs incl. in Program Admin.
Access to Capital	General Cost incl. in Webinar/Consulting Lines
(viii) Promotoras Program	\$150,000
Workplace Planning	General Cost incl. In Webinar/Consulting Lines
Digital Training	\$ 225,000 in consulting costs; other Costs incl. in Webinar Line
Recovery and Resiliency Plan Development	General Cost incl. in Webinar and Consulting Lines
(ix) Financial Education and Management Component	\$ 50,000
COVID 19 Impacts on Entrepreneurs	\$ 250,000
PPE Purchasing	\$1,000,000
Tracking and Reporting	Costs incl. in Program Admin.
Webinars for Above Areas	\$ 156,300
Chatbot Development and needed website enhancements and video productions	\$ 55,000

Consultant Hours for Above Areas	\$775,000
Program Administration	
Program Management	\$287,400
Intake Coordinators	\$ 16,000
Software Subscriptions	\$ 1,000
TOTAL	\$3,700,000