

**AGREEMENT FOR CONTRACT SERVICES
BETWEEN THE CITY OF CARSON AND
STREAM KIM HICKS WRAGE & ALFARO, P.C.**

THIS AGREEMENT FOR CONTRACT SERVICES (herein "Agreement") is made and entered into this ____ day of _____, 2021 by and between the CITY OF CARSON, a California municipal corporation ("City") and STREAM KIM HICKS WRAGE AND ALFARO, P.C., a California professional corporation ("Consultant"). City and Consultant are sometimes hereinafter individually referred to as "Party" and hereinafter collectively referred to as the "Parties."

NOW, THEREFORE, the Parties hereto agree as follows:

1. SERVICES OF CONSULTANT

1.1 Scope of Services. In compliance with all terms and conditions of this Agreement, Consultant shall provide the work and services specified in the "Scope of Services" attached hereto as Exhibit "A" and incorporated herein by this reference. Consultant warrants that all work or services set forth in the Scope of Services will be performed in a competent, professional and satisfactory manner.

1.2 Consultant's Proposal. The Scope of Services shall include the Consultant's proposal or bid, if applicable, which shall be incorporated herein by this reference as though fully set forth herein. In the event of any inconsistency between the terms of such proposal and this Agreement, the terms of this Agreement shall govern.

1.3 Compliance with Law. All work and services rendered hereunder shall be provided in accordance with all ordinances, resolutions, statutes, rules, and regulations of the City and any Federal, State or local governmental agency having jurisdiction.

1.4 Licenses, Permits, Fees and Assessments. Consultant shall obtain at its sole cost and expense, such licenses, permits and approvals as may be required by law for the performance of the services required by this Agreement. Consultant shall have the sole obligation to pay for any fees, assessments, taxes, including applicable penalties and interest, which may be imposed by law and arise from or are necessary for the Consultant's performance of the services required by this Agreement; and shall indemnify, defend and hold harmless City against any claim for such fees, assessments, taxes, penalties or interest levied, assessed or imposed against City hereunder.

1.5 Familiarity with Work. By executing this Agreement, Consultant warrants that Consultant (a) has thoroughly investigated and considered the scope of services to be performed, (b) has carefully considered how the work and services should be performed, and (c) fully understands the facilities, difficulties and restrictions attending performance of the services under this Agreement.

1.6 Additional Services. City shall have the right at any time during the performance of the services, without invalidating this Agreement, to order extra work beyond that specified in the Scope of Services or make changes by altering, adding to or deducting from

said work. No such extra work may be undertaken unless a written order is first given by the Contract Officer to the Consultant, incorporating therein any adjustment in (i) the Contract Sum, and/or (ii) the time to perform this Agreement, which said adjustments are subject to the written approval of the Consultant. Any increases must be approved by the City Council. It is expressly understood by Consultant that the provisions of this Section shall not apply to services specifically set forth in the Scope of Services or reasonably contemplated therein. Consultant hereby acknowledges that it accepts the risk that the services to be provided pursuant to the Scope of Services may be more costly or time consuming than Consultant anticipates and that Consultant shall not be entitled to additional compensation therefor.

1.7 Special Requirements. Additional terms and conditions of this Agreement, if any, which are made a part hereof are set forth in the "Special Requirements" attached hereto as Exhibit "B" and incorporated herein by this reference. In the event of a conflict between the provisions of Exhibit "B" and any other provisions of this Agreement, the provisions of Exhibit "B" shall govern.

1.8 Environmental Laws. Consultant shall comply with all applicable environmental laws, ordinances, codes and regulations of Federal, State, and local governments. Consultant shall also comply with all applicable mandatory standards and policies relating to energy efficiency.

2. COMPENSATION

2.1 Contract Sum. For the services rendered pursuant to this Agreement, Consultant shall be compensated in accordance with the "Schedule of Compensation" attached hereto as Exhibit "C" and incorporated herein by this reference, but not exceeding the maximum contract amount of **Twenty-Four Thousand Nine Hundred Ninety-Nine Dollars (\$24,999.00)** ("Contract Sum"), except as provided in Section 1.6.

The method of compensation may include: (i) a lump sum payment upon completion, (ii) payment in accordance with the percentage of completion of the services, (iii) payment for time and materials based upon the Consultant's rates as specified in the Schedule of Compensation, but not exceeding the Contract Sum or (iv) such other methods as may be specified in the Schedule of Compensation. Compensation may include reimbursement for actual and necessary expenditures approved by the Contract Officer in advance if specified in the Schedule of Compensation. The Contract Sum shall include the attendance of Consultant at all project meetings reasonably deemed necessary by the City.

Consultant agrees that if Consultant becomes aware of any facts, circumstances, techniques, or events that may or will materially increase or decrease the cost of the work or services or, if Consultant is providing design services, the cost of the project being designed, Consultant shall promptly notify the Contract Officer of said fact, circumstance, technique or event and the estimated increased or decreased cost related thereto and, if Consultant is providing design services, the estimated increased or decreased cost estimate for the project being designed.

2.2 Method of Payment. Unless some other method of payment is specified in the Schedule of Compensation, in any month in which Consultant wishes to receive payment, no later than the first (1st) working day of such month, Consultant shall submit to the City, in a form approved by the City's Director of Finance, an invoice for services rendered prior to the date of the invoice. Except as provided in Section 7.2, City shall pay Consultant for all expenses stated thereon which are approved by City pursuant to this Agreement generally within thirty (30) days, and no later than forty-five (45) days, from the submission of an invoice in an approved form.

2.3 Availability of Funds. It is mutually understood between the Parties that this Agreement is valid and enforceable only if sufficient funds are made available by the City Council of the City for the purposes of this Agreement. The availability of funding is affected by matters outside the City's control, including other governmental entities. Accordingly, the City has the option to void the whole Agreement or to amend the Agreement to reflect unanticipated reduction in funding for any reason.

3. PERFORMANCE SCHEDULE

3.1 Time of Essence. Time is of the essence in the performance of this Agreement.

3.2 Schedule of Performance. Consultant shall commence the services pursuant to this Agreement as soon as this agreement is fully executed and shall perform all services within the time period(s) established in the "Schedule of Performance" attached hereto as Exhibit "D", if any, and incorporated herein by this reference. When requested by the Consultant, extensions to the time period(s) specified in the Schedule of Performance may be approved in writing by the Contract Officer, but not exceeding one hundred twenty (120) days cumulatively.

3.3 Force Majeure. The time period(s) specified in the Schedule of Performance for performance of the services rendered pursuant to this Agreement shall be extended because of any delays due to unforeseeable causes beyond the control and without the fault or negligence of the Consultant, including, but not restricted to, acts of God or of the public enemy, unusually severe weather, fires, earthquakes, floods, epidemics, quarantine restrictions, riots, strikes, freight embargoes, wars, litigation, and/or acts of any governmental agency, including the City, if the Consultant shall, within ten (10) days of the commencement of such delay, notify the Contract Officer in writing of the causes of the delay. The Contract Officer shall ascertain the facts and the extent of delay and extend the time for performing the services for the period of the enforced delay when and if, in the judgment of the Contract Officer, such delay is justified. The Contract Officer's determination shall be final and conclusive upon the Parties to this Agreement. In no event shall Consultant be entitled to recover damages against the City for any delay in the performance of this Agreement, however caused; Consultant's sole remedy being extension of the Agreement pursuant to this Section.

3.4 Term. Unless earlier terminated in accordance with Section 7.4 below, this Agreement shall continue in full force and effect until completion of the services no later than six (6) months from the Effective Date of the Agreement ("Term").

4. COORDINATION OF WORK

4.1 Consultant. It is expressly understood that the experience, knowledge, capability and reputation of Consultant, with **Amy J. Osborne** as the main representative of Consultant for the purposes of this Agreement, was a substantial inducement for City to enter into this Agreement. Therefore, Consultant shall be responsible during the term of this Agreement for performing all activities and services hereunder.

4.2 Contract Officer. **Sunny K. Soltani, City Attorney**, is hereby designated as the representative of the City authorized to act in its behalf with respect to the work and services and to make all decisions in connection therewith ("Contract Officer"). It shall be the Consultant's responsibility to assure that the Contract Officer is kept informed of the progress of the performance of the services and the Consultant shall refer any decisions which must be made by City to the Contract Officer. The City may designate another Contract Officer by providing written notice to Consultant.

4.3 Prohibition Against Subcontracting or Assignment. The experience, knowledge, capability and reputation of Consultant, were a substantial inducement for the City to enter into this Agreement. Therefore, Consultant shall not contract with any other entity to perform in whole or in part the services required hereunder without the express written approval of the City. In addition, neither this Agreement nor any interest herein may be transferred or assigned without the prior written approval of City.

4.4 Independent Contractor. Neither the City nor any of its employees shall have any control over the manner or means by which Consultant, its agents or employees, perform the services required herein, except as otherwise set forth herein. Consultant shall perform all services required herein as an independent contractor of City and shall remain under only such obligations as are consistent with that role. Consultant shall not at any time or in any manner represent that it or any of its agents or employees are agents or employees of City. City shall not in any way or for any purpose become or be deemed to be a partner of Consultant in its business or otherwise or a joint venturer or a member of any joint enterprise with Consultant.

5. INSURANCE AND INDEMNIFICATION

5.1 Insurance. Consultant shall procure and maintain, at its sole cost and expense, in a form and content satisfactory to City, during the entire term of this Agreement including any extension thereof, the following policies of insurance:

a. Commercial General Liability Insurance. A policy of commercial general liability insurance using Insurance Services Office "Commercial General Liability" policy form CG 00 01, with an edition date prior to 2004, or the exact equivalent. Coverage for an additional insured shall not be limited to its vicarious liability. Defense costs must be paid in addition to limits. Limits shall be no less than \$1,000,000.00 per occurrence for all covered losses and no less than \$2,000,000.00 general aggregate.

b. Workers' Compensation Insurance. A policy of workers' compensation insurance on a state-approved policy form providing statutory benefits as required

by law with employer's liability limits no less than \$1,000,000.00 per accident for all covered losses.

c. Automotive Insurance. A policy of comprehensive automobile liability insurance written on a per occurrence basis in an amount not less than \$1,000,000.00 per accident, combined single limit. Said policy shall include coverage for owned, non owned, leased and hired cars.

d. Professional Liability or Error and Omissions Insurance. A policy of professional liability insurance in an amount not less than \$1,000,000.00 per claim with respect to loss arising from the actions of Consultant performing professional services hereunder on behalf of the City.

e. All of the above policies of insurance shall be primary insurance. The general liability policy shall name the City, its officers, employees and agents ("City Parties") as additional insureds and shall waive all rights of subrogation and contribution it may have against the City and the City's Parties and their respective insurers. Moreover, where the primary insured does not satisfy the self-insured retention, the insurance policy must specify that any additional insured may satisfy the self-insured retention. All of said policies of insurance shall also provide that said insurance may be not cancelled without providing ten (10) days prior written notice by registered mail to the City. In the event any of said policies of insurance are cancelled or amended, Consultant shall, prior to the cancellation or amendment date, submit new evidence of insurance in conformance with this Section 5.1 to the Contract Officer. No work or services under this Agreement shall commence until Consultant has provided City with Certificates of Insurance or appropriate insurance binders evidencing the above insurance coverages and said Certificates of Insurance or binders are approved by City.

f. Consultant agrees that the provisions of this Section 5.1 shall not be construed as limiting in any way the extent to which Consultant may be held responsible for the payment of damages to any persons or property resulting from Consultant's activities or the activities of any person or persons for which Consultant is otherwise responsible.

g. The insurance required by this Agreement shall be satisfactory only if issued by companies qualified to do business in California, rated "A" or better in the most recent edition of Best Rating Guide or The Key Rating Guide, and only if they are of a financial category Class VII or better, unless such requirements are waived by the Risk Manager of the City due to unique circumstances.

h. In the event that the Consultant is authorized to subcontract any portion of the work or services provided pursuant to this Agreement, the contract between the Consultant and such subcontractor shall require the subcontractor to maintain the same policies of insurance that the Consultant is required to maintain pursuant to this Section 5.1.

5.2 Indemnification.

a. Indemnity for Professional Liability. When the law establishes a professional standard of care for Consultant's services, to the fullest extent permitted by law, Consultant shall indemnify, defend and hold harmless City and the City's Parties from and

against any and all losses, liabilities, damages, costs and expenses, including attorneys' fees and costs to the extent same are caused in whole or in part by any negligent or wrongful act, error or omission of Consultant, its officers, agents, employees or subcontractors (or any entity or individual for which Consultant shall bear legal liability) in the performance of professional services under this Agreement.

b. **Indemnity for Other Than Professional Liability.** Other than in the performance of professional services and to the full extent permitted by law, Consultant shall indemnify, defend and hold harmless City and City's Parties from and against any liability (including liability for claims, suits, actions, losses, expenses or costs of any kind, whether actual, alleged or threatened, including attorneys' fees and costs, court costs, defense costs and expert witness fees), where the same arise out of, are a consequence of, or are in any way attributable to, in whole or in part, the performance of this Agreement by Consultant or by any individual or entity for which Consultant is legally liable, including but not limited to officers, agents, employees or subcontractors of Consultant.

6. RECORDS AND REPORTS

6.1 **Reports.** Consultant shall periodically prepare and submit to the Contract Officer such reports concerning the performance of the services required by this Agreement as the Contract Officer shall require.

6.2 **Records.** Consultant shall keep, and require subcontractors to keep, such books and records as shall be necessary to perform the services required by this Agreement and enable the Contract Officer to evaluate the performance of such services. The Contract Officer shall have full and free access to such books and records at all times during normal business hours of City, including the right to inspect, copy, audit and make records and transcripts from such records. Such records shall be maintained for a period of three (3) years following completion of the services hereunder, and the City shall have access to such records in the event any audit is required.

6.3 **Ownership of Documents.** All drawings, specifications, reports, records, documents and other materials prepared by Consultant, its employees, subcontractors and agents in the performance of this Agreement shall be the property of City and shall be delivered to City upon request of the Contract Officer or upon the termination of this Agreement and Consultant shall have no claim for further employment or additional compensation as a result of the exercise by City of its full rights of ownership of such documents and materials. Consultant may retain copies of such documents for its own use and Consultant shall have an unrestricted right to use the concepts embodied therein. Any use of such completed documents by City for other projects and/or use of uncompleted documents without specific written authorization by the Consultant will be at the City's sole risk and without liability to Consultant and the City shall indemnify the Consultant for all damages resulting therefrom. All subcontractors shall provide for assignment to City of any documents or materials prepared by them, and in the event Consultant fails to secure such assignment, Consultant shall indemnify City for all damages resulting therefrom.

7. ENFORCEMENT OF AGREEMENT

7.1 California Law. This Agreement shall be construed and interpreted both as to validity and to performance of the Parties in accordance with the laws of the State of California. Legal actions concerning any dispute, claim or matter arising out of or in relation to this Agreement shall be instituted in the Superior Court of the County of Los Angeles, State of California, or any other appropriate court in such county, and Consultant agrees to submit to the personal jurisdiction of such court in the event of such action.

7.2 Retention of Funds. Consultant hereby authorizes City to deduct from any amount payable to Consultant (whether or not arising out of this Agreement) (i) any amounts the payment of which may be in dispute hereunder or which are necessary to compensate City for any losses, costs, liabilities, or damages suffered by City, and (ii) all amounts for which City may be liable to third parties, by reason of Consultant's acts or omissions in performing or failing to perform Consultant's obligation under this Agreement. In the event that any claim is made by a third party, the amount or validity of which is disputed by Consultant, City may withhold from any payment due, without liability for interest because of such withholding, an amount sufficient to cover such claim. The failure of City to exercise such right to deduct or to withhold shall not, however, affect the obligations of the Consultant to insure, indemnify, and protect City as elsewhere provided herein.

7.3 Waiver. No delay or omission in the exercise of any right or remedy by a non-defaulting Party on any default shall impair such right or remedy or be construed as a waiver. A Party's consent to or approval of any act by the other Party requiring the Party's consent or approval shall not be deemed to waive or render unnecessary the other Party's consent to or approval of any subsequent act. Any waiver by either Party of any default must be in writing and shall not be a waiver of any other default concerning the same or any other provision of this Agreement.

7.4 Termination Prior to Expiration of Term. Either Party may terminate this Agreement at any time, with or without cause, upon thirty (30) days' written notice to the other Party. Upon receipt of any notice of termination, Consultant shall immediately cease all work or services hereunder except such as may be specifically approved by the Contract Officer. Consultant shall be entitled to compensation for the reasonable value of the work product actually produced prior to the effective date of the notice of termination and for any services authorized by the Contract Officer thereafter in accordance with the Schedule of Compensation and City shall be entitled to reimbursement for any compensation paid in excess of the services rendered.

7.5 Completion of Work After Termination for Default of Consultant. If termination is due to the failure of the Consultant to fulfill its obligations under this Agreement, City may, after compliance with the provisions of Section 7.2, take over the work and prosecute the same to completion by contract or otherwise, and the Consultant shall be liable to the extent that the total cost for completion of the services required hereunder exceeds the compensation herein stipulated (provided that the City shall use reasonable efforts to mitigate such damages), and City may withhold any payments to the Consultant for the purpose of set-off or partial payment of the amounts owed the City as previously stated.

7.6 Attorneys' Fees. If either Party to this Agreement is required to initiate or defend or made a party to any action or proceeding in any way connected with this Agreement, the prevailing Party in such action or proceeding, in addition to any other relief which may be granted, shall be entitled to reasonable attorneys' fees, whether or not the matter proceeds to judgment, and to all other reasonable costs for investigating such action, taking depositions and discovery, including all other necessary costs the court allows which are incurred in such litigation.

8. CITY OFFICERS AND EMPLOYEES: NON-DISCRIMINATION

8.1 Non-liability of City Officers and Employees. No officer or employee of the City shall be personally liable to the Consultant, or any successor in interest, in the event of any default or breach by the City or for any amount which may become due to the Consultant or to its successor, or for breach of any obligation of the terms of this Agreement.

8.2 Conflict of Interest; City. No officer or employee of the City shall have any financial interest in this Agreement nor shall any such officer or employee participate in any decision relating to the Agreement which affects his financial interest or the financial interest of any corporation, partnership or association in which he is interested, in violation of any State statute or regulation.

8.3 Conflicts of Interest; Consultant. Consultant agrees that it will not engage in any transaction, activity or conduct that would result in a conflict of interest under this Agreement. During the term of this Agreement, Consultant shall not hire personnel currently employed by City to perform any work under this Agreement. Consultant shall promptly inform City of any contract, arrangement, or interest that Consultant may enter into or have during the performance of this Agreement that might appear to conflict with City's interests. This includes contracts and arrangements with manufacturers, suppliers, contractors or other clients whose interests might be served by the work performed under this Agreement. Consultant shall take such measures as are necessary in the performance of this Agreement to prevent actual conflicts of interest. City, in its sole discretion, shall determine the existence of a conflict of interest and may terminate this Agreement in the event such a conflict of interest exists upon sending Consultant written notice describing the conflict.

For conflict of interest purposes, Consultant clarifies, and the City understands, that the sole client is the City and that the Consultant will not be representing any other person or entity, including employees or political representatives of the City.

Consultant maintains a conflict of interest index which lists all of its clients and matters in which they were represented. Representation of any party with an interest that may be adverse to an indexed client will not be accepted by us without an examination to determine if a professional conflict of interest would be created. This matter is indexed under "City of Carson" and has determined that no potential conflict of interest exists. The City has reviewed this listing and agrees these entries are adequate and complete.

The City is entitled to require that any fee dispute be resolved by binding arbitration pursuant to the arbitration rules for fee disputes of the Riverside and/or San Bernardino County Bar Associations.

The City has the right to terminate Consultant's representation at any time. Consultant has the same right, subject to an obligation to give the City reasonable notice to arrange alternative representation. Notwithstanding the termination of representation, the City will remain obligated to pay all fees and costs incurred prior thereto.

Unless directed otherwise in writing, Consultant may dispose of copies of documents sent from the City after the fifth anniversary of the closing of the file on the matter.

8.4 Covenant Against Discrimination. Consultant covenants that, by and for itself, its executors, assigns, and all persons claiming under or through them, that there shall be no discrimination against or segregation of, any person or group of persons on account of race, religious creed, color, national origin, ancestry, physical disability, mental disability, medical condition, genetic information, marital status, sex, gender, gender identity, gender expression, age, sexual orientation, or veteran or military status of any person in the performance of this Agreement. Consultant shall take affirmative action to ensure that applicants are employed and that employees are treated during employment without regard to their race, religious creed, color, national origin, ancestry, physical disability, mental disability, medical condition, genetic information, marital status, sex, gender, gender identity, gender expression, age, sexual orientation, or veteran or military status of any person.

9. MISCELLANEOUS PROVISIONS

9.1 Notice. Any notice or other communication either Party desires or is required to give to the other Party or any other person shall be in writing and either served personally or sent by prepaid, first-class mail, in the case of the City, to the attention of the Contract Officer, Sunny Soltani, City Attorney, 18881 Von Karman Avenue, Suite 1700, Irvine, California 92612, and in the case of the Consultant, to the person at the address designated on the execution page of this Agreement. Either Party may change its address by notifying the other Party of the change of address in writing. Notice shall be deemed communicated at the time personally delivered or in seventy-two (72) hours from the time of mailing if mailed as provided in this Section.

9.2 Interpretation. The terms of this Agreement shall be construed in accordance with the meaning of the language used and shall not be construed for or against either Party by reason of the authorship of this Agreement or any other rule of construction which might otherwise apply.

9.3 Integration; Amendment. It is understood that there are no oral agreements between the Parties hereto affecting this Agreement and this Agreement supersedes and cancels any and all previous negotiations, agreements and understandings, if any, between the Parties, and none shall be used to interpret this Agreement. This Agreement may be amended at any time by an instrument in writing signed by both Parties.

9.4 Severability. Should a portion of this Agreement be declared invalid or unenforceable by a judgment or decree of a court of competent jurisdiction, such invalidity or unenforceability shall not affect any of the remaining portions of this Agreement which are hereby declared as severable and shall be interpreted to carry out the intent of the Parties unless the invalid provision is so material that its invalidity deprives either Party of the basic benefit of their bargain or renders this Agreement meaningless.

9.5 Corporate Authority. The persons executing this Agreement on behalf of the Parties hereto warrant that (i) such Party is duly organized and existing, (ii) they are duly authorized to execute and deliver this Agreement on behalf of said Party, (iii) by so executing this Agreement, such Party is formally bound to the provisions of this Agreement, and (iv) the entering into this Agreement does not violate any provision of any other Agreement to which said Party is bound.

9.6 Counterparts. This Agreement may be executed in counterparts, each of which shall be deemed to be an original, whether the signatures are originals, facsimiles, or electronic. All such counterparts shall constitute but one and the same instrument.

[remainder of this page intentionally left blank]

IN WITNESS WHEREOF, the Parties have executed and entered into this Agreement as of the date first written above.

CITY:

City of Carson, a municipal corporation

Lula Davis-Holmes, Mayor

ATTEST:

_____, City Clerk

APPROVED AS TO FORM:

ALESHIRE & WYNDER, LLP

Sunny K. Soltani, City Attorney

CONSULTANT:

Stream Kim Hicks Wrage & Alfaro, P.C.

Jamie Wrage

EXHIBIT “A”

SCOPE OF SERVICES

I. Consultant will perform the following Services:

- A.** Consultant shall investigate ongoing employee complaints of any alleged violation of the City’s Discrimination and Harassment Prevention Policy made against certain executive personnel (“Allegations”).
- B.** Consultant is being retained to provide limited legal services in the form of workplace investigations.
 - 1. Consultant is being retained to conduct a privileged and impartial, independent investigation into certain confidential personnel matters raised by the City’s employees regarding the Allegations.
 - 2. These services are being provided to facilitate the rendering of legal advice by the City’s in-house or outside counsel.
 - 3. Consultant personnel are hired as independent consultants for the City.
 - 4. Consultant will investigate the circumstances prior to and surrounding the certain confidential personnel matters raised by City employees (current and/or former) regarding the Allegations.
- C.** Consultant must obtain written approval from the Contract Officer to investigate any additional allegations that may arise from the assigned investigation that are directly associated with the stated scope of this investigation.
- D.** Work elements include:
 - 1. Start Date: Consultant shall commence work under this Agreement as soon as this agreement is fully executed.
 - 2. Work Plan: Develop an investigation plan and budget for approval by the Contract Officer to include an estimate of the time period required to perform the investigations (unless agreed to before Agreement execution).
 - 3. Investigation: Investigate the circumstances prior to and surrounding the Allegations by:
 - a. Reviewing applicable federal and state laws and City rules, regulations, and policies;
 - b. Interviewing participants and witnesses;

- c. Reviewing applicable email correspondence, memos, said City Council Meeting video recording and other documents;
 - d. Following up on other evidentiary leads; and
 - e. Providing additional services as may be requested by the Contract Officer.
- 4. Administrative and/or civil proceedings: Participate in administrative and/or civil proceedings related to the investigation or disciplinary actions or civil litigation resulting therefrom, including but not limited to depositions, hearings, and/or courtroom testimony.

II. As part of the Services, Consultant will prepare and deliver the following tangible work products to the City:

- A. Investigation Report: Prepare and deliver to the Contract Officer a written report summarizing relevant information collected and detailing the conclusion of the investigation, including but not limited to factual findings.

III. In addition to the requirements of Section 6.2, during performance of the Services, Consultant will keep the City updated of the status of performance by delivering the following status reports:

- A. Updates: Update the Contract Officer on the status of any pending investigations and as may be required by the Contract Officer from time to time.

IV. All work product is subject to review and acceptance by the City, and must be revised by the Consultant without additional charge to the City until found satisfactory and accepted by City.

EXHIBIT “B”

SPECIAL REQUIREMENTS (Superseding Contract Boilerplate)

I. Section 9.6, Attorney Client Privilege / Attorney Work Product, is added to the Agreement in full as provided below:

“9.6 Attorney Client Privilege / Attorney Work Product.

A. Attorney Client Privilege Created.

Amy J. Osborne (“Investigator”), a licensed California attorney, is being retained by the City as a Consultant under this Agreement to provide professional legal services to the City so that the City Attorney can thereafter advise the City on an appropriate course of action in developing a response to employment-related Allegations. Specifically, Investigator is expected to use her skills and expertise in investigation services and employment law to assist the City in this personnel matter by arriving at findings, through conducting an investigation and preparing an Investigation Report, based upon her professional evaluation of the evidence. Accordingly, this Agreement creates an attorney-client relationship between Consultant and the City. All communications between Investigator and the City, as well as the Investigation Report prepared by Investigator pursuant to the Agreement, are protected by attorney-client privilege.

B. Attorney Work Product.

All work product created pursuant to this Agreement by Investigator, including but not limited to the Investigation Report, is considered attorney work product and is entitled to the protections of the attorney work product doctrine. (Cal. Code Civ. Proc., § 2018.030).

II. Subsection (e) of Section 5.1, Insurance, shall be amended as follows (deleted text identified in ~~strike through~~):

“e. All of the above policies of insurance shall be primary insurance. The general liability policy shall name the City, its officers, employees and agents ("City Parties") as additional insureds ~~and shall waive all rights of subrogation and contribution it may have against the City and the City's Parties and their respective insurers.~~ Moreover, where the primary insured does not satisfy the self-insured retention, the insurance policy must specify that any additional insured may satisfy the self-insured retention. All of said policies of insurance shall also provide that said insurance may be not cancelled without providing ten (10) days prior written notice by registered mail to the City. In the event any of said policies of insurance are cancelled or amended, Consultant shall, prior to the cancellation or amendment date, submit new evidence of insurance in conformance with this Section 5.1 to the Contract Officer. No work or services under this Agreement shall commence until Consultant has provided City with Certificates of Insurance or appropriate insurance binders evidencing the above insurance coverages and said Certificates of Insurance or binders are approved by City.”

III. Subsection b of Section 5.2, Indemnification, shall be amended as follows (new text identified in *bold and italics*):

“b. Indemnity for Other Than Professional Liability. Other than in the performance of professional services and to the full extent permitted by law, Consultant shall indemnify, defend and hold harmless City and City's Parties from and against any liability (including liability for claims, suits, actions, losses, expenses or costs of any kind, whether actual, alleged or threatened, including attorneys' fees and costs, court costs, defense costs and expert witness fees), where the same arise out of, are a consequence of, or are in any way attributable to, in whole or in part, the *negligent* performance of this Agreement by Consultant or by any individual or entity for which Consultant is legally liable, including but not limited to officers, agents, employees or subcontractors of Consultant.”

EXHIBIT “C”

SCHEDULE OF COMPENSATION

- I. In connection with the services provided pursuant to the terms of this Agreement City shall compensate Consultant at the rates set forth below. Consultant shall bill in increments of 6 minutes (0.1 hour) for services provided and shall not be compensated for travel time. Consultant shall be paid for actual time worked, pursuant to the following fee schedule:

General Investigative Services	\$250 per hour
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II. Expenses

Consultant shall seek prior written approval from the Contract Officer for any expenses related to the services provided pursuant to this Agreement that the Consultant seeks to have reimbursed, including but not limited to the actual cost of materials, equipment, and supplies. Such expenses shall not be reimbursed by the City without prior written approval. Reimbursement, if approved, will not exceed cost plus ten percent (10%).

III. Contract Sum

Consultant shall inform the Contract Officer, in writing, before the total amount of services and/or expenses reaches the Contract Sum described in Section 2.1 of this Agreement. The total compensation for the Services for the initial term shall not exceed \$24,999, as provided in Section 2.1 of this Agreement.

- IV. The City will compensate Consultant for the Services performed upon submission of a valid invoice, in accordance with Section 2.2. Each invoice is to include:
- A. Line items for all the work performed, the number of hours worked, and the agreed upon hourly rate of \$250.
 - B. Line items for all materials and equipment properly charged to the Services.
 - C. Line items for all other approved reimbursable expenses claimed (i.e. mileage) with supporting documentation.
 - D. Line items for all approved subcontractor labor, supplies, equipment, materials, and pre-approved travel, if applicable, properly charged to the Services.

EXHIBIT “D”

SCHEDULE OF PERFORMANCE

- I. Consultant shall perform all Services timely in accordance with the following schedule:**

		<u>Days to Perform</u>	<u>Deadline Date</u>
A.	Task A	Interview Complainants	Per Work Plan (see Exh. A, §I.D.2)
B.	Task B	Interview Witnesses & View Research Material	Per Work Plan (see Exh. A, §I.D.2)
C.	Task C	Interview Subject	Per Work Plan (see Exh. A, §I.D.2)
D.	Task D	Prepare and Provide Written Summary Report	Per Work Plan (see Exh. A, §I.D.2)

- II. Consultant shall deliver the following tangible work products to the City by the following dates.**

- A.** Investigation Report (pursuant to Section II(A) of Exhibit A of this Agreement) by the time set forth in the work plan approved pursuant to Section I.D.2 of Exhibit “A.” Time is of the essence.

- III. The Contract Officer may approve extensions for performance of the Services in accordance with Section 3.2.**