

Attachment B: Sample Services Contract

CITY OF ELK GROVE



CONTRACT FOR SERVICES

SERVICE PROVIDER

Title of Contract

CONTRACT FOR SERVICES

THIS CONTRACT is made on _____, 20__, by and between City of Elk Grove, a municipal corporation (the “City”) and _____, a _____ (the “Service Provider”), collectively referred to as the “Parties.”

WITNESSETH

WHEREAS, Service Provider has presented a proposal to provide services, which services are identified in the Scope of Work attached hereto and incorporated herein by this reference as **Exhibit A**, and by reason of its qualifications, experience, and facilities, is duly authorized to perform the type of services contemplated herein; and,

WHEREAS, City desires to hire Service Provider to perform the Scope of Work pursuant to the terms and conditions set forth herein;

NOW, THEREFORE, in consideration of the mutual promises set forth herein, City and Service Provider agree to as follows:

1. SCOPE OF SERVICES

A. Service Provider shall do all work, attend all meetings, produce all reports and carry out all activities necessary to complete the services described in the Scope of Work. This Contract and its exhibits shall be known as the “Contract Documents.” Terms set forth in any exhibits shall be deemed to be incorporated in all Contract Documents as if set forth in full therein. In the event of conflict between terms contained in these Contract Documents, the more specific term shall control.

B. Service Provider agrees it has satisfied itself by its own investigation and research regarding the conditions affecting the work to be done and labor and materials needed, and that its decision to execute this Contract is based on such independent investigation and research.

2. TERM OF CONTRACT

A. This Contract shall be effective as of the date executed by the Parties and approved as to form by the City Attorney and shall terminate at 11:59 p.m. on _____, unless earlier terminated pursuant to Section 11 of this Contract. Notwithstanding any other provision of this Contract, the City Manager shall be authorized to extend the termination date of this Contract (including, as necessary, modification of the Scope of Work and/or Schedule of Performance as to time of performance) by a writing signed by the City Manager and the Consultant prior to the initial termination or any extended termination date.

3. SCHEDULE FOR PERFORMANCE

City and Service Provider agree that time is of the essence and Service Provider agrees that services shall be undertaken and completed in accordance with the schedule of performance (the “Schedule of Performance”), attached hereto and incorporated herein by reference as **Exhibit B**. Deviations from the time schedule stated in the Schedule of Performance may be made with the written approval of City Manager, or his/her authorized representative. Service Provider’s failure to complete work in accordance with the Schedule of Performance may result in delayed compensation as described in Section 4.

4. COMPENSATION

A. Service Provider shall be paid monthly as set forth in **Exhibit C**, "Compensation and Method of Payment," attached hereto and incorporated herein by reference, for the actual fees, costs and expenses for the time and materials required and expended, and approved by City, but in no event shall total compensation under this Contract exceed _____ (\$_____), without City's prior written approval. Said amount shall be paid upon submittal of a monthly invoice showing completion of the tasks that month, including the services rendered, the costs incurred for materials, the person(s) rendering performed services, the amount of time spent by such person(s), and the applicable hourly rate.

B. If Service Provider's performance is not in conformity with the Scope of Work or Schedule of Performance, payments may be delayed or denied, unless otherwise agreed to by City in writing.

C. If the work is halted at the request of City, compensation shall be based upon the proportion that the work performed bears to the total work required by this Contract, subject to Section 11.

5. NOTICES

A. Service Provider shall transmit invoices and any notices to City, with copy (excepting invoices) to City Attorney, as follows:

City of Elk Grove
Attn: Finance Department
8401 Laguna Palms Way
Elk Grove, California 95758

City of Elk Grove
Attn: City Attorney's Office
8401 Laguna Palms Way
Elk Grove, California 95758

B. City shall transmit payments on invoiced amounts, and any notices required by this Contract to Service Provider as follows

6. PROFESSIONAL SERVICES

Service Provider agrees that services shall be performed and completed in the manner and according to the professional standards observed by a competent practitioner of the profession in which Service Provider and its subcontractors or agents are engaged. Service Provider shall not, either during or after the term of this Contract, make public any reports or articles, or disclose to any third party any information, confidential or otherwise, relative to the work of City or the operations or procedures of City without the prior written consent of City.

Service Provider further agrees that it shall not, during the term of this Contract, take any action that would affect its impartiality or professionalism due to City whether perceived or actual.

7. INDEPENDENT CONTRACTOR

A. It is understood and agreed that Service Provider (including Service Provider's employees) is an independent contractor and that no relationship of employer-employee exists between the Parties hereto.

B. Service Provider's assigned personnel shall not be entitled to any benefits payable to employees of City.

C. City is not required to make any deductions or withholdings from the compensation payable to Service Provider under the provisions of the Contract and is not required to issue W-2 Forms for income and employment tax purposes for any of Service Provider's assigned personnel.

D. Service Provider, in the performance of its obligation hereunder, is only subject to the control or direction of City as to the designation of tasks to be performed and the results to be accomplished.

E. Any third-party person(s) employed by Service Provider shall be entirely and exclusively under the direction, supervision, and control of Service Provider.

F. Service Provider hereby indemnifies and holds City harmless from any and all claims that may be made against City based upon any contention by any third party that an employer-employee relationship exists by reason of this Contract.

8. AUTHORITY OF SERVICE PROVIDER

Service Provider shall possess no authority with respect to any City decision and no right to act on behalf of City in any capacity whatsoever as agent, or to bind City to any obligations whatsoever.

9. CONFLICT OF INTEREST

Service Provider certifies that it has disclosed to City any actual, apparent, or potential conflicts of interest that may exist relative to the services to be provided pursuant to this Contract. Service Provider agrees to advise City of any actual, apparent or potential conflicts of interest that may develop subsequent to the date of execution of this Contract. Service Provider further agrees to complete any statements of economic interest if required by either City ordinance or State law.

10. AMENDMENTS, CHANGES OR MODIFICATIONS

Amendments, changes or modifications in the terms of this Contract may be made at any time by mutual written agreement between the Parties hereto and shall be signed by the persons authorized to bind the Parties.

11. TERMINATION

A. This Contract may be terminated by City, provided that City gives not less than thirty (30) calendar days' written notice (delivered by certified mail, return receipt requested) of intent to terminate. Upon termination, City shall be entitled to all work, including but not limited to, reports, investigations, appraisals, inventories, studies, analyses, drawings and data estimates performed to that date, whether completed or not, and in accordance with Section 15, Property of City.

B. City may temporarily suspend this Contract, at no additional cost to City, provided that Service Provider is given written notice (delivered by certified mail, return receipt requested) of temporary suspension. If City gives such notice of temporary suspension, Service Provider

shall immediately suspend its activities under this Contract. A temporary suspension may be issued concurrent with the notice of termination provided for in subsection A of this section.

C. Notwithstanding any provisions of this Contract, Service Provider shall not be relieved of liability to City for damages sustained by City by virtue of any breach of this Contract by Service Provider, and City may withhold any payments due to Service Provider until such time as the exact amount of damages, if any, due City from Service Provider is determined.

D. In the event of termination, Service Provider shall be compensated as provided for in this Contract, except as provided in Section 11C . Upon termination, City shall be entitled to all work, including but not limited to, reports, investigations, appraisals, inventories, studies, analyses, drawings and data estimates performed to that date, whether completed or not, and in accordance with Section 15, Property of City.

12. FUNDING

Service Provider agrees and understands that renewal of this Contract in subsequent years is contingent upon action by City Council consistent with the appropriations limits of Article XIII B of the California Constitution and that the City Council may determine not to fund this Contract in subsequent years.

13. NOTICE TO PROCEED

Prior to commencing work under this Contract, Service Provider shall receive a written “Notice to Proceed” from City. A Notice to Proceed shall not be issued until all necessary bonds and insurances have been received. City shall not be obligated to pay Service Provider for any services prior to issuance of the Notice to Proceed.

14. EXTENSIONS OF TIME

Service Provider may, for good cause, request extensions of time to perform the services required hereunder. Such extensions must be authorized in advance by City, in writing, and at City’s sole discretion. Such extensions, if authorized, shall be incorporated in written amendments to this Contract or the attached Scope of Work in the manner provided in Section 10.

15. PROPERTY OF CITY

A. It is mutually agreed that all materials prepared by Service Provider under this Contract shall become the property of City, and Service Provider shall have no property right therein whatsoever. Immediately upon termination, City shall be entitled to, and Service Provider shall deliver to City, reports, investigations, appraisals, inventories, studies, analyses, drawings and data estimates performed to that date, whether completed or not, and other such materials as may have been prepared or accumulated to date by Service Provider in performing this Contract which is not Service Provider’s privileged information, as defined by law, or Service Provider’s personnel information, along with all other property belonging exclusively to City which is in Service Provider’s possession. Publication of the information derived from work performed or data obtained in connection with services rendered under this Contract must be approved in writing by City.

B. Additionally, it is agreed that the Parties intend this to be a contract for services and each considers the products and results of the services to be rendered by Service Provider hereunder to be work made for hire. Service Provider acknowledges and agrees that the work (and all rights therein, including, without limitation, copyright) belongs to and shall be the sole and exclusive property of City without restriction or limitation upon its use or dissemination by City.

C. Nothing herein shall constitute or be construed to be any representation by Service Provider that the work product is suitable in any way for any other project except the one detailed in this Contract. Any reuse by City for another project or project location shall be at City's sole risk.

16. COMPLIANCE WITH LAW

Service Provider shall comply with all applicable laws, ordinances, and codes of federal, State and local governments, and shall commit no trespass on any public or private property in performing any of the work authorized by this Contract.

17. REPRESENTATIONS

A. Service Provider agrees and represents that it is qualified to properly provide the services set forth herein, in a manner which is consistent with the generally accepted standards of Service Provider's profession.

B. Service Provider agrees and represents that the work performed under this Contract shall be in accordance with applicable federal, State and local law.

C. Service Provider shall designate a project manager who at all times shall represent Service Provider before City on all matters relating to this Contract. The project manager shall continue in such capacity unless and until he or she is removed at the request of City, is no longer employed by Service Provider, or is replaced with the written approval of City, which approval shall not be unreasonably withheld.

D. Service Provider shall provide corrective services without charge to City for services which fail to meet the above professional and legal standards and which are reported to Service Provider in writing within sixty (60) calendar days of discovery. Should Service Provider fail or refuse to perform promptly its obligations, City may render or undertake performance thereof and Service Provider shall be liable for any expenses thereby incurred.

18. APPROVAL OF STAFF MEMBERS

A. Service Provider shall make every reasonable effort to maintain the stability and continuity of Service Provider's staff assigned to perform the services required under this Contract. Service Provider shall notify City of any changes in Service Provider's staff to be assigned to perform the services required under this Contract and shall obtain the approval of the City Manager of a list of all proposed staff members who are to be assigned to perform services under this Contract prior to any such performance.

19. ASSIGNMENT AND SUBCONTRACTING:

A. Except as expressly authorized herein, Service Provider's obligations under this Contract are not assignable or transferable, and Service Provider shall not subcontract any work, without the prior written approval of City. However, claims for money due or which become due to Service Provider from City under this Contract may be assigned to a financial institution or to a trustee in bankruptcy, without such approval. Notice of any assignment or transfer whether voluntary or involuntary shall be furnished promptly to City.

B. Service Provider shall be as fully responsible to City for the negligent acts and omissions of its contractors and subcontractors, and of persons either directly or indirectly employed by them, in the same manner as persons directly employed by Service Provider.

20. MATERIALS CONFIDENTIAL

All of the materials prepared or assembled by Service Provider pursuant to performance of this Contract are confidential and Service Provider agrees that they shall not be made available to any individual or organization without the prior written approval of City or except by court order. If Service Provider or any of its officers, employees, or subcontractors does voluntarily provide information in violation of this Contract, City has the right to reimbursement and indemnity from Service Provider for any damages caused by Service Provider releasing the information, including, but not limited to, City's attorney's fees and disbursements, including without limitation experts' fees and disbursements.

21. LIABILITY OF SERVICE PROVIDER—NEGLIGENCE

Service Provider shall be responsible for performing the work under this Contract in a manner which is consistent with the generally accepted standards of Service Provider's profession and shall be liable for its own negligence and the negligent acts of its employees, agents, contractors and subcontractors. City shall have no right of control over the manner in which the work is to be done but only as to its outcome and shall not be charged with the responsibility of preventing risk to Service Provider or its employees, agents, contractors or subcontractors.

22. INDEMNITY AND LITIGATION COSTS

To the fullest extent permitted by law, Service Provider shall indemnify, protect, defend, and hold harmless City, its officers, officials, agents, employees and volunteers from and against any and all claims, damages, demands, liability, costs, losses and expenses, including without limitation, court costs and reasonable attorneys' and expert witness fees, arising out of any failure to comply with applicable law, any injury to or death of any person(s), damage to property, loss of use of property, economic loss or otherwise arising out of the performance of the work described herein, to the extent caused by a negligent act or negligent failure to act, errors, omissions, recklessness or willful misconduct incident to the performance of this Contract on the part of Service Provider, except such loss or damage which was caused by the sole negligence, or willful misconduct of City, as determined by a Court of competent jurisdiction. Unless and until such judicial determination is made, or as otherwise agreed by the parties, Contractor shall remain obligated to defend, indemnify, and hold harmless City, its officers, officials, employees, volunteers, and agents pursuant to this Contract. The provisions of this section shall survive termination or suspension of this Contract.

In any contract that Service Provider enters into with any subcontractor in any capacity

related to any and all duties under this Contract, there must be an indemnification provision identical to the one provided in this Section applicable to the subcontractor requiring the subcontractor to assume the defense, indemnify and save harmless City to the same extent as Service Provider. Service Provider’s failure to include such an indemnification provision in any contract with a subcontractor shall constitute a material breach of this Contract. In the event Service Provider fails to obtain such indemnity obligations from others as required herein, Service Provider agrees to be fully responsible and indemnify, and save harmless City as prescribed under this Section.

23. EVIDENCE OF INSURANCE COVERAGE

Prior to commencement of any work under this Contract, Service Provider shall provide and maintain in effect during the term of this Contract evidence of insurance coverage as set forth in **Exhibit D**, attached hereto and incorporated herein by reference. These insurance requirements are summarized as follows:

TYPE	SINGLE LIMIT / OCCURRENCE	AGGREGATE	ENDORSEMENTS***
General Liability	\$1,000,000	\$1,000,000	Additional Insured Waiver of Subrogation Primary Non-Contributory
Auto Liability	Non-Commercial Acceptable		
Work Comp Employer’s Liability	Statutory \$1,000,000 each		Waiver of Subrogation

***Must be actual endorsements. Typed statements on Certificates of Liability are unacceptable.

This is a summary only. Please refer to the insurance section and/or exhibit of this contract for specific requirements.

Furthermore, Service Provider shall certify its compliance with Labor Code Section 3700 in the form attached hereto and incorporated by reference, as **Exhibit E**.

24. EVIDENCE OF INSURANCE COMPLIANCE

Service Provider or its insurance broker shall deliver the required proof of insurance compliance, consisting of Insurance Services Office (ISO) endorsement forms or their equivalent and the ACORD form 25-S certificate of insurance (or its equivalent), evidencing all required coverage to City. City may designate an insurance certificate processor (“Processor”) to accept and process Service Provider’s proof of insurance. Service Provider shall deliver copies of the actual insurance policies, renewals, or replacements directly to City or Processor upon their request.

25. EMPLOYMENT PRACTICES

Service Provider, by execution of this Contract, certifies that it does not discriminate against any person upon the basis of race, color, creed, national origin, age, sex, disability or

marital status in its employment practices.

26. SECURITY ACCESS POLICY.

Service Provider, its employers, agents, and anyone working on their behalf, shall at all times strictly comply with City's Security Access Policy, a copy of which is attached hereto and incorporated herein by reference as **Exhibit F**. Service Provider's failure to comply with this Security Access Policy shall constitute a material breach of this Contract.

27. UNAUTHORIZED ALIENS

Service Provider hereby promises and agrees to comply with all of the provisions of the federal immigration and nationality act (8 U.S.C.A. § 1101 et seq.), as amended; and in connection therewith, shall not employ unauthorized aliens as defined therein. Should Service Provider so employ such unauthorized aliens for the performance of work and/or services covered by this Contract, and should the federal government impose sanctions against City for such use of unauthorized aliens, Service Provider hereby agrees to, and shall, reimburse City for the cost of all such sanctions imposed, together with any and all costs, including attorneys' fees, incurred by City in connection therewith.

28. LICENSES, PERMITS, AND OTHER APPROVALS

Service Provider represents and warrants to City that it has all licenses, permits, qualifications and approvals of whatsoever nature legally required for Service Provider to practice its profession and perform the work described herein. Service Provider represents and warrants to City that Service Provider shall, at its sole cost and expense, obtain and/or keep in effect at all times during the term of this Contract any licenses, permits, and approvals which are legally required for Service Provider to practice its profession at the time the services are performed.

29. RECORDS AND INSPECTION

Service Provider shall maintain records, books, documents and other evidence directly pertinent to the performance of work under this Contract in accordance with generally accepted accounting principles and practices. City shall have the right to access and examine such records, without charge, during normal business hours. City shall further have the right to audit such records, to make transcripts therefrom and to inspect all program data, documents, proceedings, and activities.

30. MISCELLANEOUS PROVISIONS

A. Attorneys' Fees: In the event an action or proceeding is instituted by either party for the breach or enforcement of any provision of this Contract, the prevailing party shall be entitled to reasonable attorneys' fees and all litigation expenses, including, but not limited to expert's fees and disbursements.

B. Venue: This Contract shall be deemed to be made in, and the rights and liabilities of the Parties, and the interpretation and construction of the Contract governed by and construed in accordance with the laws of the State of California. Any legal action arising out of this Contract

shall be filed in and adjudicated by a court of competent jurisdiction in the County of Sacramento, State of California.

C. Enforceability: If any term or provision of this Contract is found to be void, voidable, invalid or unenforceable by a court of competent jurisdiction under the laws of the State of California, any and all of the remaining terms and provisions of this Contract shall remain binding.

D. Time: All times stated herein or in any other Contract Documents are of the essence.

E. Binding: This Contract shall bind and inure to the heirs, devisees, assignees and successors in interest of Service Provider and to the successors in interest of City in the same manner as if such parties had been expressly named herein.

F. Survivorship: Any responsibility of Service Provider for warranties, insurance, indemnity, record-keeping or compliance with laws with respect to this Contract shall not be invalidated due to the expiration, termination or cancellation of this Contract.

G. Construction and Interpretation: Service Provider and City agree and acknowledge that the provisions of this Contract have been arrived at through negotiation and that each party has had a full and fair opportunity to revise the provisions of this Contract and to have such provisions reviewed by legal counsel. Therefore, any ambiguities in construing or interpreting this Contract shall not be resolved against the drafting party. The titles of the various sections are merely informational and shall not be construed as a substantive portion of this Contract.

H. Waiver: The waiver at any time by any party of any of its rights with respect to a default or other matter arising in connection with this Contract shall not be deemed a waiver with respect to any subsequent default or other matter.

I. Severability: The invalidity, illegality or unenforceability, of any provision of this Contract shall not render the other provisions invalid, illegal or unenforceable.

J. No Third Party Beneficiary: It is expressly understood and agreed that the enforcement of these terms and conditions shall be reserved to City and Service Provider. Nothing contained in the agreement shall give or allow any claim or right of action whatsoever by any third party. It is the express intent of City and Service Provider that any such person or entity, other than City or Service Provider, receiving benefits or services under this agreement shall be deemed as incidental beneficiary.

K. Non-Discrimination/Non-Preferential Treatment Statement: In performing this Contract, the parties shall not discriminate or grant preferential treatment on the basis of race, sex, color, age, religion, sexual orientation, disability, ethnicity, or national origin, and shall comply to the fullest extent allowed by law, with all applicable local, state, and federal laws relating to nondiscrimination.

L. Authority to Execute: The person or persons executing this Contract on behalf of Service Provider warrant and represent that they have the authority to execute this Contract on

behalf of their agency and further warrant and represent that they have the authority to bind Service Provider to the performance of its obligations hereunder.

M. Dispute Resolution: Prior to either party commencing any legal action under this Contract, the parties agree to try in good faith, to settle any dispute amicably between them. If a dispute has not been settled after forty-five (45) days of good-faith negotiations and as may be otherwise provided herein, then either party may pursue available legal and equitable remedies the other.

N. Force Majeure: Neither party shall be in default by reason of any failure in the performance of this Contract if such failure arises out of causes beyond its reasonable control. Such causes may include, but are not limited to, acts of God, acts of the public enemy, acts of government in either its sovereign or contractual capacity, acts of the party whose performance is not sought to be excused, fires, flood, weather, epidemics, quarantine restrictions, strikes, freight embargoes, failure of transmission or power supply, mechanical difficulties with equipment which could not have been reasonably forecasted or provided for, or other causes beyond its sole control. The party so affected will resume performance as soon as practicable after the force majeure event terminates.

31. ENTIRE AGREEMENT

This instrument and any attachments hereto constitute the entire Contract between City and Service Provider concerning the subject matter hereof and supersedes any and all prior oral and written communications between the Parties regarding the subject matter hereof.

AGREED to this _____ day of _____, 20___, by the Parties as follows:

Approved to as form:

SERVICE PROVIDER

By: _____ By: _____
Attorney for Service Provider

Approved as to form:

CITY OF ELK GROVE

By: _____ By: _____
Jonathan P. Hobbs, City Attorney Jason Behrmann, City Manager

Attest to:

By: _____
Jason Lindgren, City Clerk

Dated: _____

EXHIBIT A
Scope of Work

EXHIBIT B

Schedule of Performance

EXHIBIT C
Compensation and Method of Payment

Under no circumstances shall the aggregate amount paid under this Contract exceed the amount specified in Section 4A above and if the Contract is approved by the City Manager, all compensation paid to Service Provider each year shall meet the cost limitation set forth in City of Elk Grove Municipal Code Chapter 3.42.

EXHIBIT D

Insurance Requirements

Prior to commencement of any work under this Contract, Consultant shall provide to the City proof of, and maintain in full force and effect at all times during the term of the Contract, at its sole cost and expense, policies of insurance as set forth herein. Consultant shall comply with all reporting and other provisions of the policies of insurance as set forth herein including, but not limited to, timely reporting of claims and suits. Further, should Consultant maintain any programs of self-insurance, Consultant shall comply with the applicable fulfillment of any self-insured retentions.

1. General Liability:
 - a. Comprehensive general liability insurance including, but not limited to, protection for claims of bodily injury and property damage.
 - b. Coverage shall be at least as broad as Insurance Services Office Commercial General Liability coverage form CG 0001 (occurrence).
 - c. Claims-made coverage is not acceptable.
 - d. The limits of liability shall not be less than:

Each occurrence:	One Million Dollars (\$1,000,000)
Aggregate:	One Million Dollars (\$1,000,000)
 - e. The City, its officials, employees, agents and authorized volunteers shall be covered and specifically named as additional insured as respects liability arising out of activities performed by or on behalf of Consultant, products and completed operations of Consultant, premises owned, occupied, or used by Consultant, or automobiles leased, hired, or borrowed by Consultant on a separate endorsement acceptable to the City.
 - f. The insurer shall agree to waive all rights of subrogation against the City, its officials, employees, agents, and authorized volunteers for losses arising from work performed by Consultant.
 - g. The policy shall contain no special limitations on the scope of coverage afforded to the City, its officials, employees, agents, or authorized volunteers.
 - h. Provision or endorsement stating that for any claims related to this contract, Consultant's insurance coverage shall be primary insurance as respects the City, its officials, employees, agents, and authorized volunteers to the extent the City is an additional insured. Any insurance or self-insurance maintained by the City, its officials, employees, agents, or authorized volunteers shall be in excess of Consultant's insurance and shall not contribute with it, to the payment or satisfaction of any defense expenses, loss or judgment.

2. Automobile Liability:
 - a. Automobile liability insurance providing protection against claims of bodily injury and property damage arising out of ownership, operation, maintenance, or use of automobiles.
 - b. Non-commercial policies are acceptable.

3. Worker's Compensation:
 - a. Worker's Compensation Insurance, with coverage as required by the State of California (unless Consultant is a qualified self-insurer with the State of California or is not required by California law to carry workers' compensation coverage), and Employers Liability coverage. Consultant shall execute a certificate in compliance with Labor Code Section 1861, on the form provided in Exhibit E.
 - b. Employer's Liability Coverage minimum limits shall be no less than \$1,000,000.
 - c. If an injury occurs to any employee of Consultant for which the employee or his dependents, in the event of his death, may be entitled to compensation from the City under the provisions of the Acts, for which compensation is claimed from the City, there will be retained out of the sums due Consultant under this Contract, an amount sufficient to cover such compensation as fixed by the Acts, until such compensation is paid or it is determined that no compensation is due. If the City is required to pay such compensation, the amount so paid will be deducted and retained from such sums due, or to become due to Consultant.
 - d. The insurer shall agree to waive all rights of subrogation against the City, its officials, employees, agents, and authorized volunteers for losses arising from work performed by Consultant.

4. Acceptability of Insurers: Insurance is to be placed with insurers with a **Bests' rating of no less than A:VII.**

5. Any deductibles, aggregate limits, pending claims or lawsuits that may diminish the aggregate limits, or self-insured retention(s), must be declared to, and approved by, the City.

6. Consultant shall furnish the City with certificates of insurance and original endorsements or insurance binders, signed by a person authorized by the insurer to bind coverage on its behalf, evidencing the coverage required by this Contract. At the written request of the City, Consultant agrees to furnish a duplicate original or certified copy of each required policy including the declaration pages, conditions, provisions, endorsements, and exclusions.

7. The City, due to unforeseen risk or exhaustion, failure, or dilution of Consultant's insurance coverage, at its discretion, may increase the

amounts and types of insurance coverage required hereunder at any time during the term of the contract by giving 30 days written notice.

8. Consultant shall serve the City notice, in writing by certified mail, within 2 days of any notices received from any insurance carriers providing insurance coverage under this Agreement that concern the suspension, voidance, cancellation, termination, reduction in coverage or limits, non-renewal, or material changes of coverage proposed or otherwise.
9. If Consultant fails to procure or maintain insurance as required by this section, and any Supplementary Conditions, or fails to furnish the City with proof of such insurance, the City, at its discretion, may procure any or all such insurance. Premiums for such insurance procured by the City shall be deducted and retained from any sums due Consultant under the contract.
10. Failure of the City to obtain such insurance shall in no way relieve Consultant from any of its responsibilities under the contract.
11. The making of progress payments to Consultant shall not be construed as relieving Consultant or its Sub-Consultants or agents of responsibility for loss or direct physical loss, damage, or destruction occurring prior to final acceptance by the City.
12. The failure of the City to enforce in a timely manner any of the provisions of this section shall not act as a waiver to enforcement of any of these provisions at any time during the term of the contract.
13. The requirement as to types, limits, and the City's approval of insurance coverage to be maintained by Consultant are not intended to, and shall not in any manner, limit or qualify the liabilities and obligations assumed by Consultant under the Contract.

EXHIBIT E

Certificate of Compliance With Labor Code § 3700, Release and Indemnification

The undersigned, on behalf of and as the duly certified representative of Service Provider, certifies as follows:

1. Service Provider is aware of the provisions of Section 3700 of the Labor Code which require every employer to be insured against liability for workers' compensation or to undertake self-insurance in accordance with the provisions of that code, and Service Provider has complied or will comply with such provisions before commencing the performance of the work of this contract. (Cal. Labor Code §§1860, 1861.)

2. Should Service Provider fail to secure Workers' Compensation coverage as required by the State of California, Service Provider shall release, hold harmless, defend and indemnify City of Elk Grove from and against any damage, liability, claim, cause of action and any other loss, including without limitation, court costs, reasonable attorney's fees and costs resulting from any failure to take and/or maintain Workers' Compensation insurance as required by law. The provisions of this Exhibit shall survive termination, suspension and/or completion of this Contract. It is further understood and agreed that this release and assumption of risk is to be binding on Service Provider's successors, heirs and assigns.

SERVICE PROVIDER

By:

Date:

Name:

Title:

EXHIBIT F: SECURITY ACCESS POLICY

Service Provider and all their employees or subcontractors who shall undertake work to be performed under this Contract shall be required to complete a security and criminal history check. The Elk Grove Police Department (“EGPD”) will conduct two “Live Scan” fingerprint checks, free of charge, on a Service Provider that will access City Facilities. “Live Scan” is a system that completes a criminal history inquiry by checking local, state and national databases. The EGPD will be provided with a list of any arrests and convictions that have been made. From that date forward the EGPD will be notified of any subsequent arrests. Any individual with a felony arrest cannot be granted unescorted access to City Facilities; other arrest history shall be evaluated. Security privileges associated with the access to City Facilities is dependent upon which area(s) of the building Service Provider requires access to relative to the type of work or service being completed. An access card will be issued and this card will allow unescorted access. In addition to the completing the Live Scan criminal history check, Service Provider shall be required to agree to the following:

- a) Service Provider agrees to assign a primary employee(s) to complete job tasks at City Facilities whenever possible.
- b) Service Provider and their employees and/or subcontractors agree to wear the assigned visitor lanyard attached to access card whenever on the premise.
- c) Service Provider agrees that access card shall not be used as a form of identification or for any purpose other than access into City Facilities.
- d) Employees may be Live Scanned at the expense of Service Provider at the rate charged to the EGPD. The current rate is \$54.00 but is subject to change.
- e) Service Provider agrees to monitor Access Key Card(s) issued to them and only allow those employees that have been Live Scanned to have access to the card.
- f) Service Provider agrees to notify the City within 24 hours of when an employee has severed employment. Service Provider shall retrieve the key card from that employee’s possession and return it to the City within 48 hours.
- g) Service Provider shall follow the directions provided by City staff while on the premises.
- h) Service Provider agrees that employees shall be instructed to access only the areas necessary for the service provided, and to leave the premise immediately upon completion of duties.
- i) Service Provider agrees access cards are the property of the City of Elk Grove and must immediately surrendered upon request by a City of Elk Grove Employee.
- j) Service Provider agrees to reassign any employee that becomes involved in any criminal activity and retrieve the access card should the department be notified of criminal activity.
- k) Access to City Facilities will occur **FILL IN ACCESS DATES AND TIMES** except for City holidays.

Service Provider shall contact the EGPD Analyst within 10 days of receiving notification of Contract award to set an appointment for Live Scan testing. Test results are typically returned in 3-5 business days. Service Provider and their employees shall be required to bring photo identification. A photograph for the access card will be taken. Service Provider will be contacted when to pick up access cards.

Until the process outlined has been completed, Service Provider and their employees shall not be allowed to begin work at City Facilities and payment for service may be delayed until Service Provider has fully complied with this procedure.