

PROFESSIONAL SERVICES AGREEMENT
BETWEEN
THE
CITY OF OAKLAND
AND
SCIENCE APPLICATIONS INTERNATIONAL CORPORATION

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PROFESSIONAL SERVICES AGREEMENT BETWEEN THE CITY OF OAKLAND AND SCIENCE APPLICATIONS INTERNATIONAL CORPORATION

RECITALS

This Agreement is made with reference to the following facts and objectives

- A WHEREAS, the City Council has authorized the City Administrator to enter into contracts for professional or specialized services if the mandates of Oakland City Charter Section 902(e) have been met, and 1
- B WHEREAS, Contractor is a provider of information technology-related services ("Services"), and
- C WHEREAS, City is part of and provides information technology services to the various City departments, offices, and programs, and
- D WHEREAS, City is interested in Contractor's Services, and specifically interested in [Science Applications International Corporation's Services], and
- E WHEREAS, City desires to obtain Contractor's Services from Contractor, and
- F WHEREAS, the following Exhibits and Schedules are attached to and incorporated by reference into this Agreement

- EXHIBIT 1---Scope/Statement of Work
- EXHIBIT 2---City of Oakland RFP
- EXHIBIT 3---Contractor's RFP Proposal
- EXHIBIT 4---Contractor's Project Proposal Presentation
- EXHIBIT 5---Contract Compliance Provisions
- EXHIBIT 6---City Schedules
- EXHIBIT 7---Project Change Control-Change Order (Template)
- EXHIBIT 8---Maintenance
- EXHIBIT 9---Software License
- EXHIBIT 10---City Travel Policies

NOW THEREFORE, THE PARTIES TO THIS AGREEMENT COVENANT AND AGREE AS FOLLOWS:

SECTION I

PROJECT TERMS AND CONDITIONS

1. Definitions

1.1 “Acceptance” means acceptance of Services by City in writing in accordance with Section 6 and Exhibit 1, confirming that the Services and Deliverables comply in all material respects with the Specifications

1.2 “Change Order” means a written modification to a Scope/Statement of Work (“SOW”) that documents agreed changes to the SOW, performance schedule, and/or responsibilities of the parties under a SOW. A Change Order will be effective only if signed by both parties in the template form described in Section 12 of this Agreement

1.3 “Confidential Information” means information and data relating to a party’s products, services, Specifications, business requirements, strategies and plans, requests for proposal and vendor responses, pricing, finances, product and other evaluations, data files and formats, databases, test results, computer system and network design, architecture and operations, proprietary software, inventions, trade secrets, methodologies, and other similar information which (i) is marked to indicate its confidential or proprietary status, or (ii) by its nature is known by the receiving party to be proprietary or non-public, even if not marked, and regardless how disclosed. For the avoidance of doubt, (a) all City and Port of Oakland security records and data, including (collectively, “City Security Data”) will always be deemed Confidential Information of City, and (b) City Confidential Information also includes Confidential Information, provided, however, Contractor’s Confidential Information will not be deemed City Confidential Information. Confidential Information does not include information which a party can demonstrate is (w) publicly available, (x) already in its possession without breach of a confidentiality obligation, (y) independently developed, or (z) rightfully received from a third party having the right to disclose such information

1.4 “Contractor Materials” means the pre-existing tools, utilities, methods, templates and materials owned by Contractor and used in the performance of Services hereunder

1 5 "Deliverable" means any reports, analyses, tools, software, or other tangible results of Services identified in a Scope/Statement of Work to be developed by Contractor and delivered to City as part of the Services

1 6 "Excusable Delay" means when the Contractor or City is delayed at any time during the performance of the work under this Agreement to include but not be limited to acts of God, fire, theft, vandalism, inclement weather, war, strikes, trade embargoes and any act, inaction, or omission of the Federal, State or City government(s) or other entities other than the City or other causes beyond the direct control of Contractor or the City that prevents the Contractor from providing its Services as set forth herein and in the Scope/Statement of Work Contractor will be entitled to an extension of additional time to the Schedule as "Excusable Delays" occur and are documented

1 7 "Intellectual Property Rights" means all rights in any inventions (whether or not patentable), works of authorship, trade secrets, techniques, know-how, ideas, concepts, algorithms, and other intellectual property incorporated into any Deliverable and first created or developed by Contractor in providing the services

1 8 "Pre-existing Intellectual Property Rights" means all Intellectual Property Rights that existed and which Contractor or City owned, had licenses to such intellectual property rights to prior to the effective date of this Agreement

1 9 "Rates" means Contractor's billing rates for Services under this Agreement as set forth in Exhibit A

1 10 "Schedule" means a schedule substantially in the form of Exhibit A which is signed by both parties and describes the Software, Maintenance and any Related Services to be provided by Contractor to City hereunder, including all applicable fees and Specifications A Schedule may also contain supplemental invoicing and delivery information, and/or other pertinent ordering information

1 11 "Services" means the services of Contractor specified and described in one or more Statements of Work entered into by the parties, including the production and delivery of all Deliverables

1 12 "Software" means the software program(s) listed and described in a Schedule Software includes Documentation, Error Corrections, Enhancements and, if specified in a Schedule or the Specifications, Source Code

1 13 "Source Code" means computer programming code displayed in a form that is readable and understandable by a programmer of ordinary skill, together with associated technical information and documentation

1 14 "Scope/Statement of Work" or "SOW" means one or more tasking documents executed by the parties substantially in the form of Exhibit 1 attached hereto, which describe(s) the Services to be performed The Scope/Statement of Work will be effective only if signed by both parties A Scope/Statement of Work includes all Change Orders to such SOW that are authorized by City and approved by Contractor in accord with Section 12 of this Agreement

1 15 "Specifications" means, in order of precedence (a) the description, technical specifications, functional requirements and/or testing or acceptance criteria for the Services and Deliverables identified in the applicable SOW, or (b) Contractor's proposal, response to a City request for proposal or other written documentation of the Services and/or Deliverables

1 16 "Time & Materials" means a Services engagement for which Contractor is compensated based on hours incurred in providing the Services (and materials used), rather than based on a fixed or milestone-based price for the Services

1 17 "Third Party Materials" means tangible or intangible materials, products or property, including open source software, which are owned by a person or entity that is not a party to this Agreement

2. Priority of Documents

In the event of conflicting provisions between the following documents, the provisions shall govern in the following order this Agreement, the latest Amendment, the Purchase Order, Change Order, or Change Notice, and Exhibits to this Agreement

3. Conditions Precedent

City and Contractor must agree to the following provisions and, as applicable, Contractor must comply with the following requirements before the Agreement will become ineffective

- a Performance bond
- b Business Tax License
- c City of Oakland Schedules
- d Scope/Statement of Work

4. Scope/Statement of Work

Contractor agrees to perform the services ("Services") specified in EXHIBIT 1, the Scope/Statement of Work ("SOW"), which is attached to this Agreement and incorporated herein by this reference

(a) Time & Materials Billing Subject to the provisions of subsection (b) below, all Time & Material Services provided under this Agreement will be billed at the Rates specified in Exhibit A. Rates will not be increased during the term of the Agreement unless modified by the parties pursuant to a duly executed amendment. Contractor may bill City only for time spent on productive work in performing Services and not for time spent traveling, or performing administrative functions, such as preparing invoices and expense reports. Unless otherwise agreed in a SOW, in no event will Contractor bill for more than eight (8) hours per day of work for each of Contractor's personnel. If requested by City, Contractor will use a time-entry system supplied by City to record all time billed to City under this Agreement. Contractor may bill for reasonable travel and other out of pocket expenses actually incurred in performing the Services only to the extent that such expenses are pre-approved by City and conform to the City Permanente Travel & Expense Policy attached hereto in Exhibit 10, as may be revised by City from time to time.

(b) Project Budget Limit City will not be liable for fees for Services exceeding the value of any monetary or "not to exceed" cap or other limitations on fees specified in the applicable Scope/Statement of Work ("Limit") and as was authorized by the Oakland City Council by duly adopted resolution. Throughout the Term of this Agreement, Contractor will provide reasonable prior written notice to the City project manager (and any other individual specified to receive notice under the applicable Scope/Statement of Work) if the fees for the Services will, or are likely to, exceed the Limit, together with an estimate of the cost to complete the Services. No charges in excess of the Limit will be payable by City unless specified in a Change Order.

executed by the parties, and the Contractor is not obligated to continue to provide services unless the Limit is increased

(c) Reserved

(d) Invoices Contractor may invoice City for accepted Services and approved expenses in accordance with the milestone or payment schedule reflected in the SOW or, in the absence of such a schedule, on a monthly basis, within thirty (30) days of the end of each month. Invoices must be submitted to (a) the address shown on the Purchase Order or (b) to City-IT Billing Compliance where no Purchase Order is issued. All invoices must (i) reference the Contract Reference Number and the name of the City project manager, (ii) contain a detailed description of Services performed that is sufficient for City to determine that the Services were provided in accordance with the applicable SOW, (iii) contain the required detail for all reimbursable expenses in accordance with the City Travel & Expense Policy, and (iv) for Time & Materials engagements, contain a list of the individuals providing Services under the SOW and their respective hourly rate in sufficient detail to reconcile to timesheets and itemized expense reports. City may reject invoices that do not contain all information described in this Section. Payment terms are net 30 days.

5. Initial Term

The Initial Term of this Agreement shall start when it is executed in full by all Parties and end upon the satisfactory completion of the provision of all Services and any other tasks set forth in the SOW, unless extended by the written Agreement of the Parties or sooner terminated as provided herein.

6. Project Deliverables/Acceptance

- (a) Acceptance Process Unless another period is specified in the applicable SOW, City will use commercially reasonable efforts to review, test or otherwise evaluate Deliverables and other Services for compliance with the Specifications and to provide a written notice of acceptance or rejection to Contractor within thirty (30) days after delivery by Supplier. With respect to any software Deliverable, payment of any maintenance, support, or other fees specified in the SOW will not be due until after Acceptance of the Deliverable as provided herein. Acceptance of any Deliverable or Services will in no way limit the warranty provisions of this Agreement.
- (b) Rejection/Liquidated Damages/Excusable Delay City may require Contractor to repair or replace, without charge and in a timely manner, any Deliverable rejected for non-conformance with the Specifications. Acceptance of such a Deliverable will not occur until Contractor has provided corrections or a replacement of the Deliverable such that it conforms to the Specifications as reasonably determined by City. Additionally, upon the second rejection of any Deliverable, City will have the right to return such rejected Deliverable and receive a full refund of all fees paid with respect thereto. If Services are rejected as nonconforming, City may require Contractor to promptly re-perform the Services or, if re-performance is not feasible, refund all fees paid for such non-conforming Services. Any delays in the schedule for delivery of Deliverables as set forth in the SOW due to rejection and non-conformance of Deliverables as set forth herein shall be subject to Liquidated Damages set forth in Section 13 of this Agreement, unless due to Excusable Delay.

7. No Disruption of City's Systems

Contractor acknowledges that City is a provider of public and municipal services to the public and residents of the City of Oakland and that City's use of its systems ("Systems") is vital to (x) the business operations of the City, (y) the orderly and efficient provision of public and municipal services by the City, and (z) the health and safety of City's residents, and therefore, that any unauthorized interruption of City's business and operations could result in substantial liability to City. In recognition of City's status as a provider of such public and municipal services, Contractor warrants and represents that Contractor shall not at any time during the term of this Agreement and thereafter, render the City's Systems unusable or inoperable. If Contractor takes any such actions, Contractor shall be liable for and indemnify City for all liabilities, claims, losses, damages and expenses, including without limitation, reasonable attorney's fees, arising from Contractor's actions.

8. Contractor Warranties

Contractor represents and warrants that

the Services and Deliverables (a) will be free from defects in design, workmanship and materials, delivered to City hereunder (b) will conform in all material respects to the Specifications, and (c) all COTS software provided under this agreement is provided in accordance with the software vendor's license agreement

- (a) it will use all reasonable efforts, including appropriate testing, to ensure that the Software does not contain viruses, contaminants, or other harmful code that may harm the Software, City systems or other City software
- (b) it owns or has the unencumbered right to license and/or assign to City, as provided in this Agreement, the Deliverables and all results of Services delivered to City hereunder, including all required Intellectual Property Rights therein
- (c) it has the requisite experience, certifications, skills and qualifications necessary to perform the Services in (i) a timely, competent, and professional manner, and (ii) accordance with applicable governmental requirements, statutes, regulations, rules and ordinances including, without limitation, applicable data privacy laws and regulations ("Law"),
- (d) all Services will be performed in a professional manner by qualified personnel using reasonable care and skill consistent with conform to the highest accepted industry standards and best practices exercised by recognized professional firms performing the same or substantially similar services, in order to meet the demanding challenges, Specifications and Deliverables as presented by the implementation of a DAC

It acknowledges that City is procuring Contractor's Services to develop, design, and implement a "state of the art" but very time-sensitive DAC project that Contractor to perform all the Services and Deliverables on a timely basis to meet the City's grant fund requirements and deadlines established by its grantors under the American Recovery and Reinvestment Act ("ARRA") and which DAC project will be fully integrated and have the fully functional features as set forth in the Scope/Statement of Work attached as Exhibit 1 to this Agreement

(e) Contractor will defend, indemnify and hold harmless each Indemnified Party from and against any Losses resulting from a claim that the Software furnished to City under this Agreement infringes any US Intellectual Property Rights of any third party or has become the subject of an injunction or settlement prohibiting the use of the Software. In such a case, provided City has delivered to Contractor timely notice of such breach as set forth below, Contractor shall, at its own expense, in its discretion either (a) procure for the City the right to continue using the Services or Deliverables, (b) replace the Deliverables with non-infringing one or re-perform the non-conforming Services and correct the non-conforming Deliverables to equivalent or better capacity and performance, or (c) if options (a) and (b) are not feasible, refund to City the compensation paid by City to Contractor for the Services and/or Deliverables

(f) *CONTRACTOR SPECIFICALLY DISCLAIMS ANY OTHER EXPRESS OR IMPLIED STANDARDS, GUARANTEES, OR WARRANTIES, INCLUDING ANY WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE OR NON-INFRINGEMENT, AND ANY WARRANTIES THAT MAY BE ALLEGED TO ARISE AS A RESULT OF CUSTOM OR USAGE, ANY WARRANTY OF ERROR FREE PERFORMANCE, OR ANY WARRANTY OF THIRD PARTY PRODUCTS, OR FUNCTIONALITY OF THE CITY'S HARDWARE, SOFTWARE, FIRMWARE, OR COMPUTER SYSTEMS*

(g) City represents and warrants to Contractor that City has the right to use and furnish to Contractor for Contractor's use in connection with this Agreement any information, specifications, data or Intellectual Property that Customer has provided or will provide to Contractor in order for Contractor to perform the Services and to create the Deliverables identified within the SOW under this Agreement

9. Proprietary or Confidential Information of the City

Contractor understands and agrees that, in its provision of the Services under this Agreement or in contemplation thereof, Contractor may have access to Confidential Information which may be owned or controlled by the City and that such information may contain proprietary or confidential details, the disclosure of which to third parties may be damaging to the City. Contractor agrees that all information disclosed by the City to Contractor shall be held in confidence and used only in performance of the Agreement. Contractor shall exercise the same standard of care to protect such information as a reasonably prudent contractor would use to protect its own proprietary data.

10. Ownership of Results/License

(a) City and Contractor shall each retain ownership of, and all right, title and interest in and to, their respective pre-existing Intellectual Property, and no license therein, whether express or implied, is granted by this Agreement or as a result of the services performed hereunder. To the extent the parties wish to grant to the other rights or interests in pre-existing Intellectual Property, separate license agreements on mutually acceptable terms will be executed. City and Contractor will enter into a License or Sub-License agreement

for the VIDSYS software to be used by Contractor for the DAC The VIDSYS software license includes up to the following

- 20 VidSys user/operator licenses
- 10 VidSys lite/mobile licenses
- 300 VidSys camera licenses
- 8 VidSys standard connector licenses
- 3 VidSys complex connector licenses

- (b) City shall take title to and ownership of all deliverable items listed in Exhibit 1 However, Contractor shall retain in such deliverable items a non-exclusive, royalty-free, paid up, worldwide, perpetual license (with the right to sublicense), for any and all purposes, provided that, to the extent such deliverable item incorporates the confidential or proprietary information of City, Contractor shall be bound by the confidentiality obligations of this agreement The Services performed and any deliverable items produced pursuant to this Agreement are not “works for hire ”

Except as provided in Paragraph (b) above, any invention (whether patentable or not), work of authorship, or other IP created by Contractor in connection with performing the Services hereunder shall be owned by Contractor, and all right, title and interest therein shall be retained by Contractor To the extent such non-deliverable IP is essential to the proper use and enjoyment of a deliverable item, Contractor grants to City a non-exclusive, non-transferable, royalty-free license to use such non-deliverable IP for its internal business purposes only

Nothing in this Agreement shall prevent Contractor from utilizing any general know-how, techniques, ideas, concepts, algorithms, or other knowledge acquired or developed during the performance of this Agreement, on behalf of itself and its future customers Contractor may perform the same or similar services for others, provided that any City confidential, proprietary or trade secret information is treated in accordance with this agreement

- (c) Contractor Materials Contractor warrants that it owns or has the right to sublicense all Contractor Materials included in any Deliverable By including any Contractor Materials in a Deliverable, Contractor irrevocably grants to City a nonexclusive, fully-paid, perpetual, world-wide license to use, modify, enhance and create derivative works of such Contractor Materials in conjunction with City’s use of such Deliverable
- (d) Third Party Materials Contractor will not include Third Party Materials, including open source software, in a Deliverable unless such materials are specifically identified in writing in the applicable SOW By including Third Party Materials in a Deliverable, Contractor warrants that it has the rights to sublicense the Third Party Materials to City in accordance with this Agreement and, unless expressly provided otherwise in the SOW, irrevocably grants to City a nonexclusive, fully-paid, perpetual, world-wide license to use such Third Party Materials in conjunction with City’s use of such Deliverable
- (e) Contractor grants to City a royalty-free, paid up, worldwide, perpetual, non-exclusive, non-transferable license to use any Contractor Intellectual Property incorporated into any Deliverable, solely for City’s use of that Deliverable for its internal business purposes Contractor shall retain ownership of and unrestricted right to use any Contractor

Intellectual Property The services performed and any Deliverable produced pursuant to this Agreement are not "works for hire"

- (f) City represents and warrants to Contractor that City has the right to use and furnish to Contractor for Contractor's use in connection with this Agreement any information, specifications, data or Intellectual Property that City has provided or will provide to Contractor in order for Contractor to perform the Services and to create the Deliverables identified within the SOW under this Agreement
- (g) Contractor grants to City, on behalf of City, a non-exclusive, worldwide, perpetual and irrevocable license or sublicense to install, load, display, access and use of the VIDSYS Software (including all Error Corrections and Enhancements) for the business purposes of City Such license will be for unlimited use, unless a Usage Limitation is expressly stated in the applicable Schedule This license grant includes, at no additional charge, the right to make and use a reasonable number of copies of the Software for testing, back-up, archival and disaster recovery purposes, and of the Documentation for internal training, support and deployment City may permit its consultants and contractors, including outsourcing providers ("Contractors"), to access and use the VIDSYS Software for the sole purpose of providing services to City, provided that such Contractors will comply with the license restrictions stated herein and are subject to a written non-disclosure agreement with City
- (h) Ordering City may order VIDSYS Software, Maintenance and/or Related Services from Contractor under this Agreement by signing a Schedule or issuing a valid Purchase Order The fees for the Software license and any services purchased hereunder will be as specified on the applicable Schedule City does not guarantee any minimum quantity or volume of business to Contractor beyond the quantity necessary stated above in section 10a
- (i) Delivery For each item of Software listed in a Schedule or Purchase Order, Contractor will deliver to City in accordance with the delivery schedule and instructions specified in the Schedule (1) at least one complete copy of the Software described in the relevant Schedule, and (2) at least one complete copy of the Documentation in electronic form
- (j) Electronic Delivery of Software Unless otherwise expressly stated in a Schedule, Contractor will deliver all Software and Documentation to City by electronic transfer or download in accordance with the electronic delivery procedures set forth in Exhibit C Where delivery is electronic, Contractor will not provide any media or hard copy Documentation to City
- (k) Software Installation If installation services are included as Related Services in the Schedule, Contractor will install the Software on the Machine(s) at the City location(s) designated in the Schedule
- (l) Invoicing Contractor will invoice City for the license fees for the Software and any fees for first year of Maintenance only after Acceptance of the Software by City Fees for Related Services may be invoiced only upon approval by City that such services have been completed in accordance with the Schedule If the Software is delivered by electronic transfer, the invoice must indicate the method of shipment as electronic transfer Invoices must be submitted to (a) the address shown on the Purchase Order or (b) to City IT Billing Compliance for all non-purchase order services and expenses Contractor will use all reasonable efforts to reference the City assigned Contract Reference Number ("CRN") and

Purchase Order ("P.O.") number on the face of each invoice. Payment may be delayed with respect to invoices that do not contain the correct CRN or P.O. number.

- (m) Payment City will pay Contractor within thirty (30) days of receipt of an accurate, complete and undisputed invoice. If City disputes an invoice in whole or in part, City will provide written notice to Contractor stating the amount and basis of City's objection within thirty (30) days of receipt of the invoice. Contractor may submit a separate invoice to City for the undisputed portion, which will be paid by City as provided in this Section.

11. Maintenance

- (a) At its option, City may purchase Maintenance on an annual basis for each item of Software licensed hereunder for the fees set forth on the applicable Schedule or Purchase Order. For Maintenance renewals, Contractor will issue a renewal notice and price quotation no less than ninety (90) days prior to the annual renewal date. City may elect to renew Maintenance by issuance of a Purchase Order. Contractor will make Maintenance available for all Software supplied hereunder for at least five (5) years from the date of delivery of the Software and will provide at least one year's written notice prior to discontinuing Maintenance for any Software licensed by City hereunder. If Maintenance lapses, City may reinstate it without penalty by paying for Maintenance retroactively to the expiration date.
- (b) Maintenance will include Contractor's use of all reasonable efforts to correct or circumvent Errors and prompt delivery of all Error Corrections and available Enhancements to the Software at no additional charge. To the extent that the Software runs on or operates in conjunction with operating systems, web browsers or other infrastructure made available by third party Contractors, Contractor's Maintenance obligations shall include periodically providing Enhancements to the Software to support new versions of such infrastructure promptly after they are first commercially released by their respective Contractors. All Maintenance shall be provided consistent with the terms and conditions set forth in Exhibit 7.

12. Change Notices

- (a) Upon fifteen (15) days' written notice to Contractor, City shall have the right to request changes in the provision of any future Services under this Agreement by delivering to Contractor a change notice ("Change Notice"), provided that any and all such changes shall be subject to Contractor's written consent. Each Change Notice may specify changes to the Work, including without limitation, designs, specifications, time and place of delivery and the nature, time and place of the provision of Services. If any Change Notice causes an increase or decrease in the price or the time required for performance of this Agreement, an equitable adjustment jointly agreed upon by City and Contractor shall be made and the Agreement shall be modified in writing accordingly.
- (b) Change Notices issued under this Agreement must be in the template form attached as Exhibit 8, and accepted or rejected in writing by Contractor within ten (10) days of Contractor's receipt of its issuance.

13. Liquidated Damages for Contractor's Unexcused, Untimely Performance

Contractor's failure to complete the Work within the time allowed will result in the City sustaining damages and the assessment by City of Liquidated Damages

(a) Excusable Delays (Force Majeure)

If Contractor or City experiences an Excusable Delay Event, Contractor or City shall, within ten (10) days after first becoming aware of each such event, give written notice of the delay to the other party and describe any impact the "Excusable Delay" may have upon the Schedule. If the foregoing Notice(s) are issued, or in the absence thereof from the City, then Contractor shall be entitled to a day for day extension to the Schedule corresponding to the number of days of delay directly caused by the Excusable Delay Event.

(b) Schedule of Liquidated Damages

City and Contractor recognize that time is of the essence in the performance of this Agreement and that City will suffer financial loss in the form of contract administration expenses (including project management and consultancy expenses), delay and loss of public use, if Contractor does not complete its Services and the Deliverables associated therewith within the respective times specified in this Agreement and in the SOW, plus any extensions that are allowed in accordance with this Agreement. Contractor and City agree that because of the nature of the Services as provided by this Agreement, it would be impractical or extremely difficult to fix the amount of actual damages incurred by City because of the delay in completion or timely delivery of the Services. Accordingly, City and Contractor agree that liquidated damages shall be assessed. For each consecutive calendar week in excess of the time specified for the completion of a Deliverable, Contractor shall pay to the City or the City may deduct from monies due the Contractor, the liquidated damages in the amount of \$250.00 per day for the items not delivered in accordance with the schedule set forth in the SOW. The maximum amount to be deducted shall not exceed \$60,000 between March 1, 2013 and June 30, 2013. After July 1, 2013 through June 30, 2014, liquidated damages will be calculated at \$250 per week, not to exceed \$12,000. The contractor shall not be liable for liquidated damages for delays caused by the City, or circumstances beyond its control and without its fault or negligence.

14. Limitation on Liability

(a) Either party's liability to the other party for any and all liabilities, claims or damages arising out of or relating to this Agreement, howsoever caused and regardless of the legal theory asserted, including breach of contract or warranty, tort, strict liability, statutory liability or otherwise, shall not, in the aggregate, exceed \$5 million dollars or the amount actually paid to Contractor under this Agreement or whichever is greater.

(b) In no event shall either party be liable to the other for any punitive, exemplary, special, indirect, incidental or consequential damages (including, but not limited to, lost profits, lost business opportunities, loss of use or equipment down time, and loss of or corruption to data) arising out of or relating to this Agreement, regardless of the legal

theory under which such damages are sought, and even if the parties have been advised of the possibility of such damages or loss

(c) This limitation of liability shall not apply to all actions, demands, or claims by any third party for death, bodily injury, damage to tangible property in connection with or arising under this Agreement, nor to any intentional misconduct, recklessness, or gross negligence or to Contractor's Confidentiality and indemnification obligations as set forth in Section 9, Section 16 (a)(2) and 16 (a)(3) , respectively of this Agreement

15. Performance Bond

Contractor shall provide 100% payment and performance bonds for the Services and work to be performed by Contractor and Contractor's employees, contractors, subcontractors, consultants, servants, and agents under this Agreement Contractor proposes to comply with these requirements to provide a Payment and Performance Bond for the Service Agreement if selected and pending contract negotiations with the following proposed conditions,

- (a) the Performance Bond may be segregated into two components, where each component is associated with the two major work SOW PART-B Existing Building Improvements (EBI) and the PART-A Technology Linkage System completion
- (b) Acceptance criteria proposed by SAIC for the separate asynchronous time delivery of the design-build and implemented PART-B Existing Building Improvements (EBI) and the PART-A Technology Linkage System
- (c) PART-A TLS completion may occur when the TLS TASK 2 implementation, system integration and quality assurance testing efforts are completed by SAIC (anticipated around June 30, 2014) where at which point a separate TASK 3 24 Month Service Agreement shall commence and the SAIC will transition ownership of the delivered product software licensing and maintenance service agreement directly over to the City
- (d) The Payment Bond shall be limited to the amount of the subcontract value for the construction portion of Part B

16. Indemnification

(a) General Indemnification Contractor shall indemnify, hold harmless, and (at City's request with Counsel acceptable to City), defend City, its Council members, directors, officers, and employees (each of which persons and entities are collectively referred to herein as "Indemnitees") from any and all actions, causes of actions, claims, injuries (including, without limitation, injury to or death of an employee of Contractor or any of its structures), liabilities (of every kind, nature and description), losses, demands, debts, liens, obligations, judgments, administrative fines, damages, (incidental or consequential) costs, expenses, and attorneys' fees (collectively referred to herein as "Actions") to the extent resulting from caused by or arising out of

- (1) Any negligent (passive or active) or willful acts or omissions in the course of performance by Contractor under this Agreement

- (2) Any claim for personal injury (including death) or property damage to the extent based on the strict liability or caused by any negligent act, error or omission of Contractor
 - (3) hold harmless Indemnitees from any and all Actions arising out of claims that the Services Contractor shall provide infringe upon or violate the US Intellectual Property Rights of others to the extent that Contractor's Services alter the manner in which the City uses its systems or have become the subject of an injunction or settlement prohibiting the use of any Deliverable or other results of the Services
 - (4) Provided, with respect to infringement claims only, the City (1) gives prompt notice of any such claim to Contractor, (2) Gives Contractor sole control of the defense and settlement of the claim, (3) provides Contractor all reasonably available information, assistance, and authority to defend, and (4) has not compromised or settled such claim without Contractor's prior written consent Contractor's infringement indemnity obligation shall not extend to any claims arising out of (1) Services performed in accordance with Specifications or a Scope/Statement of Work (SOW) provided by the City and that does not have Contractor's prior review and concurrence, (2) any City modification of a Service or Deliverable provided by Contractor under this Agreement done without the Contractor's prior review and concurrence, (3) City use of any Deliverable or Service provided under this Agreement in a manner for which such Deliverable or Service was not designed and without Contractor's prior review and concurrence, or (5) combination of an Deliverable or Service provided under this Agreement with any item prior review and concurrence, or (5) combination of a Deliverable or Service provided under this Agreement with any item without Contractor's prior review and concurrence, or not provided by Contractor in a manner not intended for its use and without Contractor's prior review and concurrence In the event of any claim of infringement, Contractor may at his option, (1) modify the item or service so that it is no longer infringing but which has equal or better functionality, capacity and performance, (2) obtain for the City the rights necessary to use such Service or Deliverable at Contractor's sole expense,, or (3) if none of the foregoing is commercially practicable, terminate this Agreement and refund the amounts paid by the City for such infringing item or service
- (b) For the purposes of the indemnification obligations set forth herein, the term "Contractor" includes, without limitation, Contractor, its officers, directors, employees, representatives, agents, servants, subconsultants, and subcontractors
 - (c) Contractor acknowledges and agrees that it has an immediate and independent obligation to indemnify and defend Indemnitees from any Action which falls within this indemnification provision, which obligation shall arise at the time an Action is tendered to Contractor by City and continues at all times thereafter of any Indemnitee Notwithstanding anything to the contrary contained herein, Contractor's liability under this Agreement shall not apply to any Action arising from the sole negligence, active negligence or willful misconduct of an Indemnitee
 - (d) City shall give Contractor prompt written notice of any Action and shall fully cooperate with Contractor in the defense and all related settlement negotiations to the extent that cooperation does not conflict with City's interests
 - (e) Notwithstanding the foregoing, City shall have the right, if Contractor fails or refuses to defend City with Counsel acceptable to City, to engage its own counsel for the purposes of participating in the defense In addition, City shall have the right to withhold payments due Contractor in the amount of reasonable defense costs actually

incurred In no event shall Contractor agree to the settlement of any claim described herein without the prior written consent of City

- (f) All of Contractor's indemnification obligations hereunder are intended to apply to the fullest extent permitted by law (including, without limitation, California Civil Code Section 2782) and shall survive the expiration or sooner termination of this Agreement
- (g) Contractor's indemnification obligations hereunder shall not be limited by the City's insurance requirements contained in Schedule Q hereof, or by any other provision of this Agreement

17 **Termination**

- (a) **Termination for Breach** If Contractor breaches any material obligation under, this Agreement and fails to cure the breach within 30 days of receipt of written notice from City of said breach, City may terminate the Agreement and, at its option (i) require that Contractor repay City all monies City has paid Contractor under this Agreement except for Services delivered and accepted or (ii) retain the portion of Contractor's deliverables that the City has accepted and paid the Contractor for and complete performance of the Agreement with another vendor In the event City elects to complete performance of the Agreement with another vendor, Contractor shall remain liable for any increase in costs to City of completing the Agreement in excess of the price City would have paid Contractor for completing the Agreement
- (b) Contractor may terminate this Agreement if City breaches a material provision of the Agreement and does not cure the breach within 30 days of written notice from Contractor of said breach In such event, Contractor will be entitled to payment for deliverables which City has accepted in accordance with the testing and acceptance provisions of this Agreement
- (c) **Bankruptcy** Either party may immediately terminate this Agreement if (i) the other party files a petition for bankruptcy or has filed against it an involuntary petition for bankruptcy which is not dismissed within 60 days of its filing, (ii) a court has appointed a receiver, trustee, liquidator or custodian of it or of all or a substantial part of the other party's property, (iii) the other party becomes unable, or admits in writing its inability, to pay its debts generally as they mature, or (iv) the other party makes a general assignment for the benefit of its or any of its creditors
- (d) **Termination for Convenience by City** City may terminate this Agreement for any reason at any time upon not less than ninety (90) days prior written notice to Contractor After the date of such termination notice, Contractor shall not perform any further services or incur any further costs claimed to be reimbursable under this Agreement, any Purchase Order, Change Order, or Change Notice without the express prior written approval of City As of the date of termination, City shall pay to Contractor all undisputed amounts then due and payable under this Agreement

- (e) Transition Services after termination In connection with the expiration or other termination of this Agreement or the expiration of this Agreement, Contractor may provide transition services as requested by City. Such transition services shall be subject to the pricing provided in this Agreement or any amendment thereto.

18. Abandonment of Project

The City may abandon or indefinitely postpone the project or the services for any or all of the project at any time. In such event, the City shall give thirty (30) days written notice of such abandonment. Upon City's approval, Contractor may expend a reasonable amount of additional time to assemble work in progress for the purpose of proper filing and closing the job. Prior to expending said time, Contractor shall present to the City a complete report of said proposed job closure and its costs, and the City may approve all or any part of said expense. Such additional time shall not exceed ten percent (10%) of the total time expended to the date of notice of termination. All charges thus incurred and approved by the City, together with any other undisputed charges outstanding at the time of termination, shall be payable by the City within thirty (30) days following submission of a final statement by Contractor.

19. Commencement, Completion and Close-out

It shall be the responsibility of the Contractor to coordinate and schedule the work to be performed so that commencement and completion take place in accordance with the provisions of this Agreement.

Any time extension granted to Contractor to enable Contractor to complete the work must be in writing and shall not constitute a waiver of rights the City may have under this Agreement.

Should the Contractor not complete the work by the scheduled date or by an extended date, the City shall be released from all of its obligations under this Agreement.

Within thirty (30) days of completion of the performance under this Agreement, the Contractor shall make a determination of any and all final costs due under this Agreement and shall submit a requisition for such final and complete payment (including without limitations any and all claims relating to or arising from this Agreement) to the City. Failure of the Contractor to timely submit a complete and accurate requisition for final payment shall relieve the City of any further obligations under this Agreement, including without limitation any obligation for payment of work performed or payment of claims by Contractor.

20. Bankruptcy

All rights granted to City pursuant to this Agreement are, and shall be deemed to be, for purposes of Section 265(n) of the U.S. Bankruptcy Code, licenses of rights to "intellectual property" as defined under Section 101 of the U.S. Bankruptcy Code. In a bankruptcy or insolvency proceeding involving Contractor, the parties agree that City, as licensee of such rights, shall retain and fully exercise all of its rights and elections under the U.S. Bankruptcy Code, and the provisions thereof shall apply notwithstanding conflict of law principles. The parties further agree that, in the event of

the commencement of a bankruptcy or insolvency proceeding by or against Contractor under the U S Bankruptcy Code, City shall be entitled to a complete duplicate of any such intellectual property and all embodiments of such intellectual property, to which City would otherwise be entitled under this Agreement, and the same, if not already in City's possession, shall be promptly delivered to City (a) upon any such commencement of a bankruptcy proceeding upon written request therefore by City, unless Contractor elects to continue to perform all of its obligations under this Agreement, or (b) if not delivered under (a) above, upon rejection of this Agreement by or on behalf of Contractor upon written request therefore by City. If, in a bankruptcy or insolvency proceeding involving Contractor, the provisions of the U S Bankruptcy Code referenced above are determined not to apply, City shall nevertheless be entitled to no less than the protection offered by the provisions of the U S Bankruptcy Code with respect to its entitlement to and rights to the use and possession of all intellectual property to which City has been granted rights under this Agreement notwithstanding the bankruptcy or insolvency of Contractor.

21. Assignment

Contractor shall not assign or otherwise transfer any rights, duties, obligations or interest in this Agreement or arising hereunder to any person, persons, entity or entities whatsoever without the prior written consent of the City, such consent not to be unreasonably withheld, delayed or conditioned, and any attempt to assign or transfer without such prior written consent shall be void. Consent to any single assignment or transfer shall not constitute consent to any further assignment or transfer. In the event that Contractor assigns this Agreement in compliance with this provision, this Agreement and all of its provisions shall inure to the benefit of and become binding upon the parties and the successors and permitted assigns of the respective parties.

22. Agents/Brokers

Contractor warrants that Contractor has not employed or retained any subcontractor, agent, company or person other than bona fide, full-time employees of Contractor working solely for Contractor, to solicit or secure this Agreement, and that Contractor has not paid or agreed to pay any subcontractor, agent, company or persons other than bona fide employees any fee, commission, percentage, gifts or any other consideration, contingent upon or resulting from the award of this Agreement. For breach or violation of this warranty, the City shall have the right to rescind this Agreement without liability or, in its discretion, to deduct from the Agreement price or consideration, or otherwise recover, the full amount of such fee, commission, percentage or gift.

23. Publicity

Any publicity generated by Contractor for the project funded pursuant to this Agreement, during the term of this Agreement or for one year thereafter, will make reference to the contribution of the City of Oakland in making the project possible. The words "City of Oakland" will be explicitly stated in all pieces of publicity, including but not limited to flyers, press releases, posters, brochures, public service announcements, interviews and newspaper articles.

City staff will be available whenever possible at the request of Contractor to assist Contractor in generating publicity for the project funded pursuant to this Agreement. Contractor further agrees to cooperate with authorized City officials and staff in any City-generated publicity or promotional activities undertaken with respect to this project.

24. Conflict of Interest

(a) Contractor

The following protections against conflict of interest will be upheld

- (1) Contractor certifies that no member of, or delegate to the Congress of the United States shall be permitted to share or take part in this Agreement or in any benefit arising therefrom
- (2) Contractor certifies that no member, officer, or employee of the City or its designees or agents, and no other public official of the City who exercises any functions or responsibilities with respect to the programs or projects covered by this Agreement, shall have any interest, direct or indirect in this Agreement, or in its proceeds during his/her tenure or for one year thereafter
- (3) Contractor shall immediately notify the City of any real or possible conflict of interest between work performed for the City and for other clients served by Contractor
- (4) Contractor warrants and represents, to the best of its present knowledge, that no public official or employee of City who has been involved in the making of this Agreement, or who is a member of a City board or commission which has been involved in the making of this Agreement whether in an advisory or decision-making capacity, has or will receive a direct or indirect financial interest in this Agreement in violation of the rules contained in California Government Code Section 1090 et seq, pertaining to conflicts of interest in public contracting Contractor shall exercise due diligence to ensure that no such official will receive such an interest
- (5) Contractor further warrants and represents, to the best of its present knowledge and excepting any written disclosures as to these matter already made by Contractor to City, that (1) no public official of City who has participated in decision-making concerning this Agreement or has used his or her official position to influence decisions regarding this Agreement, has an economic interest in Contractor or this Agreement, and (2) this Agreement will not have a direct or indirect financial effect on said official, the official's spouse or dependent children, or any of the official's economic interests For purposes of this paragraph, an official is deemed to have an "economic interest" in any (a) for-profit business entity in which the official has a direct or indirect investment worth \$2,000 or more, (b) any real property in which the official has a direct or indirect interest worth \$2,000 or more, (c) any for-profit business entity in which the official is a director, officer, partner, trustee, employee or manager, or (d) any source of income or donors of gifts to the official (including nonprofit entities) if the income totaled more than \$500 in the previous 12 months, or value of the gift totaled more than \$350 the previous year Contractor agrees to promptly disclose to City in writing any information it may receive concerning any such potential conflict of interest Contractor's attention is directed to the conflict of interest rules applicable to governmental decision-making contained in the Political Reform Act (California Government Code Section 87100 et seq) and its implementing regulations (California Code of Regulations, Title 2, Section 18700 et seq)

- (6) Contractor understands that in some cases Contractor or persons associated with Contractor may be deemed a "City officer" or "public official" for purposes of the conflict of interest provisions of Government Code Section 1090 and/or the Political Reform Act. Contractor further understands that, as a public officer or official, Contractor or persons associated with Contractor may be disqualified from future City contracts to the extent that Contractor is involved in any aspect of the making of that future contract (including preparing plans and specifications or performing design work or feasibility studies for that contract) through its work under this Agreement.
- (7) Contractor shall incorporate or cause to be incorporated into all subcontracts for work to be performed under this Agreement a provision governing conflict of interest in substantially the same form set forth herein.

(b) No Waiver

Nothing herein is intended to waive any applicable federal, state or local conflict of interest law or regulation.

(c) Remedies and Sanctions

In addition to the rights and remedies otherwise available to the City under this Agreement and under federal, state and local law, Contractor understands and agrees that, if the City reasonably determines that Contractor has failed to make a good faith effort to avoid an improper conflict of interest situation or is responsible for the conflict situation, the City may (1) suspend payments under this Agreement, (2) terminate this Agreement, (3) require reimbursement by Contractor to the City of any amounts disbursed under this Agreement. In addition, the City may suspend payments or terminate this Agreement whether or not Contractor is responsible for the conflict of interest situation.

25. Validity of Contracts

The Oakland City Council must approve all Agreements greater than \$15,000. This Agreement shall not be binding or of any force or effect until signed by the City Manager or his or her designee and approved as to form and legality by the City Attorney or his or her designee.

26. Governing Law

This Agreement shall be governed and construed in accordance with the laws of the State of California, without reference to its conflicts of laws principles. Any action or proceeding to enforce the terms of this Agreement shall be brought in the courts of Alameda County, Oakland, California and each party agrees to waive any objections to personal jurisdiction and venue in the courts of Alameda County, Oakland, California.

27. Headings

Headings and captions used to introduce Sections and paragraphs of this Agreement are for convenience, only, and have no legal significance.

28. Construction

- (a) Except as provided in Section 12 (b) above, acceptance or acquiescence in a prior course of dealing or a course of performance rendered under this Agreement or under any Change Order, or Change Notice, shall not be relevant in determining the meaning of this Agreement even though the accepting or acquiescing party has knowledge of the nature of the performance and opportunity for objection
- (b) The language in all parts of this Agreement and any Purchase Order, Change Order, or Change Notice, shall in all cases be construed in whole, according to its fair meaning, and not strictly for or against, either Contractor, City regardless of the drafter of such part

29. Waiver

No covenant, term, or condition of this Agreement may be waived except by written consent of the party against whom the waiver is claimed and the waiver of any term, covenant or condition of this Agreement shall not be deemed a waiver of any subsequent breach of the same or any other term, covenant or condition of this Agreement

30. Independent Contractor

(a) Rights and Responsibilities

It is expressly agreed that in the performance of the services necessary to carry out this Agreement, Contractor shall be, and is, an independent contractor, and is not an employee of the City Contractor acknowledges and agrees that all of Contractor's employees and subcontractors are under the sole direction and control of Contractor and City shall have no authority over or responsibility for such employees and subcontractors of Contractor Contractor has and shall retain the right to exercise sole direction and supervision of the services, and full control over the employment, direction, compensation and discharge of all persons assisting Contractor in the performance of Contractor's services hereunder Contractor shall be solely responsible for all matters relating to the payment of his/her employees, including compliance with social security, withholding and all other regulations governing such matters, and shall be solely responsible for Contractor's own acts and those of Contractor's subordinates and employees Contractor will determine the method, details and means of performing the services described in the SOW [Exhibit 1]

(b) Contractor's Qualifications

Contractor has represented that Contractor has the qualifications and skills necessary to perform the services under this Agreement in a competent and professional manner without the advice or direction of the City This means Contractor is able to fulfill the requirements of this Agreement Failure to perform all of the services required under this Agreement will constitute a material breach of the Agreement and may be cause for termination of the Agreement Contractor has complete and sole discretion for the manner in which the work under this Agreement is performed Contractor shall complete and submit to City, Schedule M-Independent Contractor Questionnaire, prior to the execution of this Agreement

(c) Payment of Income Taxes

Contractor is responsible for paying, when due, all income taxes, including estimated taxes, incurred as a result of the compensation paid by the City to Contractor for services under this Agreement. On request, Contractor will provide the City with proof of timely payment. Contractor agrees to indemnify the City for any claims, costs, losses, fees, penalties, interest or damages suffered by the City resulting from Contractor's failure to comply with this provision.

(d) Non-Exclusive Relationship

Contractor may perform services for, and contract with, as many additional clients, persons or companies as Contractor, in his or her sole discretion, sees fit.

(e) Tools, Materials and Equipment

Contractor will supply all tools, except those tools, materials, equipment specified herein, if any, required to perform the services under this Agreement.

(f) Cooperation of the City

The City agrees to comply with all reasonable requests of Contractor necessary to the performance of Contractor's duties under this Agreement.

(g) Extra Work

Contractor will do no extra work under this Agreement without first receiving prior written authorization from the City.

31. Attorneys' Fees

If either party commences an action or proceeding to determine or enforce its rights hereunder, the prevailing party shall be entitled to recover from the losing party all expenses reasonably incurred, including court costs, reasonable attorneys' fees and costs of suit as determined by the court.

32. Counterparts

This Agreement may be executed in any number of identical counterparts, any set of which signed by both parties shall be deemed to constitute a complete, executed original for all purposes.

33. Remedies Cumulative

The rights and remedies of City provided in this Agreement are the exclusive rights and remedies for the subject matter of this contract.

34. Severability/Partial Invalidity

If any term or provision of this Agreement, or the application of any term or provision of this Agreement to a particular situation, shall be finally found to be void, invalid, illegal or unenforceable by a court of competent jurisdiction, then notwithstanding such determination, such term or provision shall remain in force and effect to the extent allowed by such ruling and all other

terms and provisions of this Agreement or the application of this Agreement to other situation shall remain in full force and effect

Notwithstanding the foregoing, if any material term or provision of this Agreement or the application of such material term or condition to a particular situation is finally found to be void, invalid, illegal or unenforceable by a court of competent jurisdiction, then the Parties hereto agree to work in good faith and fully cooperate with each other to amend this Agreement to carry out its intent

35. Access

Access to City's premises by Contractor shall be subject to the reasonable security and operational requirements of City. To the extent that Contractor's obligations under this Agreement or any Purchase Order, Change Order, or Change Notice, require the performance of Services or Work by Contractor on City's property or property under City's control, Contractor agrees

- (1) to accept full responsibility for performing all Services or work in a safe manner so as not to jeopardize the safety of City's personnel, property, or members of the general public, and
- (11) to comply with and enforce all of City's regulations, policies, and procedures including, without limitation, those with respect to security, access, safety and fire protection, City's policy against sexual harassment, and all applicable state and municipal safety regulations, building codes or ordinances provided that the City delivers such policies to the Contractor in writing and in advance of any purported enforcement of the policies

36. Entire Agreement of the Parties

This Agreement supersedes any and all Agreements, either oral or written, between the parties with respect to the rendering of services by Contractor for the City and contains all of the representations, covenants and Agreements between the parties with respect to the rendering of those services. Each party to this Agreement acknowledges that no representations, inducements, promises or Agreements, orally or otherwise, have been made by any party, or anyone acting on behalf of any party, which are not contained in this Agreement, and that no other Agreement, statement or promise not contained in this Agreement will be valid or binding.

37. Modification

Any modification of this Agreement will be effective only if it is in a writing signed by all parties to this Agreement.

38. Notices

If either party shall desire or be required to give notice to the other, such notice shall be given in writing, via facsimile and concurrently by prepaid U S certified or registered postage, addressed to recipient as follows

(City of Oakland) _____

cc: (name) _____

Deputy City Attorney

1 Frank Ogawa Plaza, 6th Fl.

Oakland, CA 94612

(Contractor)

Thomas A Elliott

4449 Easton Way, Suite 130

Columbus, OH 43219

Telephone 614 975 9155

Email thomas a elliott@saic com

Any party to this Agreement may change the name or address of representatives for purpose of this Notice paragraph by providing written notice to all other parties ten (10) business days before the change is effective

39. Right to Offset

All claims for money or to become due from City shall be subject to deduction or offset by City from any monies due Contractor by reason of any claim or counterclaim arising out of this Agreement or any Purchase Order, Change Order, or Change Notice or any other transaction with Contractor To the extent that there are amounts due to the City and to a state or federal funding agency, and the amount of the offset is insufficient to pay such amount in full, the amount of the offset shall be prorated between the City and such state or federal funding agency in proportion to the amounts due them This right to offset is limited to the Contractor's Business Unit who is performing the Services under this Agreement

40. Survival

Sections 2, 6, 7, 8, 9, 13, 14, 15, 16, 30, 31, 33, 32, 39 and 41 of this Agreement, along with any other provisions which by their terms survive, shall survive the expiration or termination of this Agreement

41. No Third Party Beneficiary

This Agreement shall not be construed to be an agreement for the benefit of any third party or parties, and no third party or parties shall have any claim or right of action under this Agreement

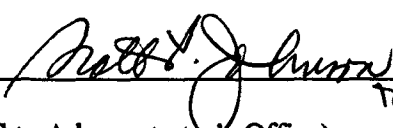
42. Authority

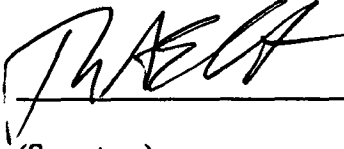
The parties represent and warrant that each individual executing this Agreement or any Purchase Order, Change Order or Change Notice, has been properly authorized by such party and granted the full power and authority to execute this Agreement or such Purchase Order, Change Order or Change Notice, on behalf of the named party


SO AGREED:

City of Oakland, A municipal corporation

Science Applications International
Corporation

 3/15/13
(City Administrator's Office) (Date)

 27 Feb 2013
(Signature) (Date)

 3/14/2013
(Department Head Signature) (Date)

2233118
Business Tax Certificate No
2233118

Resolution Number 82933

Approved as to form and legality

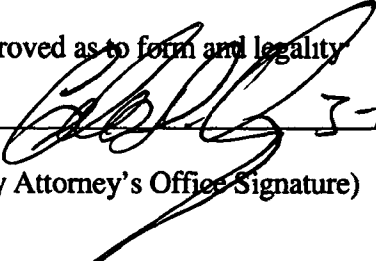
 3-8-13
(City Attorney's Office Signature) (Date)

Exhibit A – SAIC Billing Rates

Labor Category	Base Period	OY1
	Rate	Rate
Project Manager OT11A	\$226 29	\$233 18
System Engineer 09A	\$160 20	\$165 09
System Engineer 08A	\$128 14	\$132 03
System Engineer 06A	\$86 44	\$89 09
IT Technologist 08A	\$129 59	\$133 51
Ops Administrative 05A	\$72 32	\$74 52
IT Technologist 08B	\$114 45	\$117 84
SME 1	\$374 92	\$386 30
Business Finance 08A	\$130 47	\$134 40
Business Finance 07A	\$83 05	\$85 59
IT Technologist 09A	\$124 93	\$128 77
Ops Technologist 10A	\$144 43	\$148 85
Project Manager 10B	\$148 65	\$153 23
System Engineer 10B	\$144 84	\$149 29
SME 2	\$336 54	
SME 3	\$280 45	
SME 4	\$178 79	
SME 5	\$207 53	
SME 6	\$212 02	
SME 7	\$180 61	
SME 8	\$308 49	
SME 9	\$190 71	
SME 10	\$168 26	
SME 11	\$133 28	
SME 12	\$132 80	
SME 13	\$158 52	
SME 14	\$139 11	
SME 15	\$118 91	

*Please note that all travel and other direct costs will subject to a handling charge of 18%

Total Time and Material Estimate Price - \$2,658,688

CITY & PORT OF OAKLAND
JOINT DOMAIN AWARENESS CENTER

PROPOSAL EXHIBIT 1

TECHNICAL SCOPE/STATEMENT OF WORK (SOW)


TASO FIXED VERSION 3

Dated: 14FEB2013

Contract SOW Only

Exhibit 2--- City of Oakland RFQ

Exhibit 3--- Contractor's RFQ Proposal

Exhibit 4 - Contractor's Project Proposal Presentation

Exhibit 5 - Contract Compliance Provisions/Federal Regulatory/Contracting Requirements

1. Business Tax Certificate

Contractor shall obtain and provide proof of a valid City business tax certificate prior to the Agreement taking effect. Said certificate must remain valid during the duration of this Agreement.

2. Inspection of Books and Records/Right to Audit

- (a) During the term of this Agreement, and for a period of four (4) years after the termination of this Agreement, or two (2) years after the closure of any disputed matter, whichever occurs later, (the "Audit Period"), Contractor shall maintain financial and operational records related to this Agreement or to any other Agreement with City. Contractor shall make all books and records open to inspection by the governing agency, City Auditor or their individually assigned designee during normal business hours at a location within a twenty-five (25) mile radius of the City of Oakland for the period of this contract and for a period of four years after the close of each contract year.
- (b) During the Audit Period, Contractor hereby grants to City or its designee(s), upon one (1) day's prior notice to Contractor, access to and the right to make copies of any of Contractor's books, statements, documents, papers or records ("Financial Information") which arise from or relate to the terms and conditions of this Agreement and the performance of any services pursuant to this Agreement, or any other Agreement between the parties, in order to permit City to conduct audits, examinations, excerpts and transition audits (collectively hereafter referred to as "Audit or Audits"). Contractor authorizes the City Auditor or his designee to obtain such information directly from these sources. City's right to Audit and to make copies shall apply whether such Financial Information is located at Contractor's offices or at Contractor's banks, financial institutions or lenders, or at the offices of Contractor's financial consultants, accountants or bookkeepers. For the purposes of such Audit, Contractor waives its right to the confidentiality of all Financial Information and Contractor authorizes the City or its designee(s) to access, obtain and make copies of Financial Information directly from Contractor's banks, financial institutions or lenders, or from Contractor's financial consultants, accountants or bookkeepers.
- (c) Such Audits may be performed by City through its employees or by its designees including, without limitation, a third party auditor retained by City. City's right to Audit under this Section 2 of Exhibit 4 is independent, separate and distinct from any right to audit such books and records reserved by law or contract, or as a condition of funding, by the county, state or federal government.
- (d) If any Audit of Contractor's invoices or other records reveals any variance from any invoice to City, or of any amount of funds provided to Contractor

by City which is in excess of the amount actually due to Contractor by City, then Contractor shall immediately refund any excess payment or funds received from City. In addition, if any Audit reveals any variance from any invoice or funds received from City in excess of one-half percent (5%) of the amount shown on such invoice or the amount of funds actually due to or granted to Contractor by City, Contractor shall immediately reimburse City for all costs and expenses incurred in conducting such Audit. Failure to pay such variance and the cost of the Audit as required herein shall constitute and be deemed a material breach of the Agreement by Contractor and will subject Contractor to termination of the Agreement by City and to a breach of contract claim for damages by City. Any such audits conducted under an agreement between the City of Oakland and Contractor will not be conducted by a competitor of the Contractor. Any such auditor shall be subject to a non-disclosure agreement acceptable to Contractor, and such approval shall not be unreasonably withheld by Contractor. Contractor agrees to the scope of the audit including any and all documents developed and maintained as part of the project. Contractor acknowledges that it will be subject to the American Recovery and Reinvestment Act ("ARRA") reporting and audit requirements to which the limitations set forth above shall be superseded by any contrary or conflicting requirements of the ARRA and any such compliance by City shall not constitute a breach of these limitations if so superseded.

3. Non-Discrimination/Equal Employment Practices

Contractor shall not discriminate or permit discrimination against any person or group of persons in any manner prohibited by federal, state or local laws. During the performance of this Agreement, Contractor agrees as follows:

- (a) Contractor and Contractor's subcontractors, if any, shall not discriminate against any employee or applicant for employment because of age, marital status, religion, gender, sexual preference, race, creed, color, national origin, Acquired-Immune Deficiency Syndrome (AIDS), AIDS-Related Complex (ARC) or disability. This nondiscrimination policy shall include, but not be limited to, the following: employment, upgrading, failure to promote, demotion or transfer, recruitment advertising, layoffs, termination, rates of pay or other forms of compensation, and selection for training, including apprenticeship.
- (b) Contractor and Contractor's Subcontractors shall state in all solicitations or advertisements for employees placed by or on behalf of Contractor that all qualified applicants will receive consideration for employment without regard to age, marital status, religion, gender, sexual preference, race, creed, color, national origin, Acquired-Immune Deficiency Syndrome (AIDS), AIDS-Related Complex (ARC) or disability.
- (c) If applicable, Contractor will send to each labor union or representative of workers with whom Contractor has a collective bargaining Agreement or

contract or understanding, a notice advising the labor union or workers' representative of Contractor's commitments under this nondiscrimination clause and shall post copies of the notice in conspicuous places available to employees and applicants for employment

4. Americans With Disabilities

The Americans with Disabilities Act (ADA) requires that private organizations serving the public make their goods, services and facilities accessible to people with disabilities. Furthermore, the City of Oakland requires that all of its contractors comply with their ADA obligations and verify such compliance by signing the Declaration of Compliance incorporated herein as **Schedule C-1**

5. Local and Small Local Business Enterprise Program (L/SLBE)

- a *Requirement-* There is a fifty percent (50%) minimum participation requirement for all professional services contracts \$50,000 or more. Contractors shall comply with the fifty percent (50%) local business participation requirement at a rate of twenty-five percent (25%) local and 25% small local business participation. The requirement may be satisfied by a certified prime consultant and/or sub-consultant (s) or a small local certified firm may meet the twenty percent requirement. A business must be certified by the City of Oakland in order to earn credit toward meeting the twenty percent requirement.
- b *Good Faith Effort-* In light of the fifty percent requirement, good faith effort documentation is not necessary.
- c *Preference Points* – Preference points are earned based on the level of participation proposed prior to the award of a contract. Upon satisfying the minimum fifty percent requirement, a consultant will earn two (2) preference points. Three additional preference points may be earned at a rate of one point for every additional ten percent participation up to eighty percent participation of the total contract dollars spent with local Oakland certified firms.
- d A firm may earn up to five (5) preference points for local Oakland business participation and additional preference points for being a long term certified business in Oakland regardless of size and for having an Oakland workforce.
- e In those instances where VSLBE participation is evident, the level of participation will be double-counted towards meeting the requirement.
- f *Additional Preference Points* For Request for Proposal (RFP) and Request for Qualifications (RFQ), additional Preference Points may be earned for having an Oakland workforce on Non-Construction Contracts.
- g Earning extra preference points for having an existing work force that includes Oakland residents is considered added value. The Request for Proposal "evaluation" process allows for additional preference points over and above the number of points earned for technical expertise. Typically 100 points may be

earned for the technical elements of the RFP Preference points are awarded over and above the potential 100 points

- h The **Exit Report and Affidavit (ERA)** – This report declares the level of participation achieved and will be used to calculate banked credits. The prime consultant must complete the **Schedule F, Exit Report and Affidavit** for, and have it executed by, each L/SLBE sub consultant and submitted to the Office of the City Administrator, Contracts and Compliance Unit, along with a *copy* of the final progress payment application
- i **Joint Venture and Mentor Protégé Agreements** If a prime contractor or prime consultant is able to develop a Joint Venture or “Mentor-Protégé” relationship with a certified LBE or SLBE, the mentor or Joint Venture partners will enjoy the benefit of credits against the participation requirement. In order to earn credit for Joint Venture or Mentor-Protégé relationships, the Agreement must be submitted for approval to Contract Compliance and Employment Services prior to the project bid date for construction, and by proposal due date for professional services contracts. Joint Venture Applications and elements of City approved Mentor Protégé relation are available upon request
- j Contractor shall submit information concerning the ownership and workforce composition of Contractor’s firm as well as its subcontractors and suppliers, by completing **Schedule D** (“Professional Services Questionnaire”), **Schedule E** (“Project Consultant Team”), and **Schedule F** (“Employment Questionnaire”), attached and incorporated herein and made a part of this Agreement
- k All affirmative action efforts of Contractor are subject to tracking by the City. This information or data shall be used for statistical purposes only. All contractors are required to provide data regarding the make-up of their subcontractors and agents who will perform City contracts, including the race and gender of each employee and/or contractor and his or her job title or function and the methodology used by Contractor to hire and/or contract with the individual or entity in question
- l In the recruitment of subcontractors, the City of Oakland requires all contractors to undertake nondiscriminatory and equal outreach efforts, which include outreach to minorities and women-owned businesses as well as other segments of Oakland’s business community. The City Manager will track the City’s MBE/WBE utilization to ensure the absence of unlawful discrimination on the basis of age, marital status, religion, gender, sexual preference, race, creed, color, national origin, Acquired-Immune Deficiency Syndrome (AIDS), AIDS-Related Complex (ARC) or disability
- m In the use of such recruitment, hiring and retention of employees or subcontractors, the City of Oakland requires all contractors to undertake nondiscriminatory and equal outreach efforts which include outreach to minorities and women as well as other segments of Oakland’s business community

6. Other Applicable Ordinances:

- (a) Living Wage Ordinance

This Agreement is subject to the Living Wage Ordinance of Chapter 2 28 of the Oakland Municipal Code and its implementing regulations if it is for an amount of \$25,000 00 or more, or if it is amended to increase the contract amount by \$25,000 00 in any twelve-month period thereafter. The Ordinance requires among other things, submission of the Declaration of Compliance attached and incorporated herein as **Schedule N** and made part of this Agreement, and, unless specific exemptions apply or a waiver is granted that Contractor provide the following to its employees who perform services under or related to this Agreement

- (1) Minimum compensation – Said employees shall be paid an initial hourly wage rate of \$[INSERT] with health benefits or \$[INSERT] without health benefits. These initial rates shall be upwardly adjusted each year no later than April 1 in proportion to the increase at the immediately preceding December 31 over the year earlier level of the Bay Region Consumer Price Index as published by the Bureau of Labor Statistics, U S Department of Labor. (Effective July 1, 2001 the hourly wages will be \$[INSERT] per hour with health benefits and \$[INSERT] per hour without)
- (2) Health benefits – Said full-time and part-time employees paid at the lower living wage rate shall be provided health benefits of at least \$1 65 per hour. Contractor shall provide proof that health benefits are in effect for those employees no later than 30 days after execution of the contract or receipt of City financial assistance.
- (3) Compensated days off – Said employees shall be entitled to twelve compensated days off per year for sick leave, vacation or personal necessity at the employee's request, and ten uncompensated days off per year for sick leave. Employees shall accrue one compensated day off per month of full time employment. Part-time employees shall accrue compensated days off in increments proportional to that accrued by full-time employees. The employees shall be eligible to use accrued days off after the first six months of employment or consistent with company policy, whichever is sooner. Paid holidays, consistent with established employer policy, may be counted toward provision of the required 12 compensated days off. Ten uncompensated days off shall be made available, as needed, for personal or immediate family illness after the employee has exhausted his or her accrued compensated days off for that year.
- (4) Federal Earned Income Credit (EIC) – Contractor shall inform said employees who earn less than \$12 00 per hour that he or she may be eligible for EIC and shall provide forms to apply for advance EIC payments to eligible employees.
- (5) Contractor shall provide to all employees and to the Office of Contract Compliance, written notice of its obligation to eligible employees under the City's Living Wage requirements. Said notice shall be posted

prominently in communal areas of the work site(s) and shall include the above-referenced information

- (6) Contractor shall provide all written notices and forms required above in English, Spanish or other languages spoken by a significant number of employees within 30 days of employment under this Agreement
- (7) Reporting – Contractor shall maintain a listing of the name, address, hire date, occupation classification, rate of pay and benefits for each of its employees Contractor shall provide a copy of said list to the Office of Contract Compliance, on a quarterly basis, by March 31, June 30, September 30 and December 31 for the applicable compliance period Failure to provide said list within five days of the due date will result in liquidated damages of five hundred dollars (\$500 00) for each day that the list remains outstanding Contractor shall maintain employee payroll and related records for a period of four (4) years after expiration of the compliance period Due to the nature and scope of technical services, for purposes of this agreement only, the City will accept a statement of compliance on the company's official letter head declaring that all services provided for this contract will be compensated above the City's Living Wage rate applicable for the life of this agreement
- (8) Contractor shall require subcontractors that provide services under or related to this Agreement to comply with the above Living Wage provisions Contractor shall include the above-referenced sections in its subcontracts Copies of said subcontracts shall be submitted to the Office of Contract Compliance

(b) Equal Benefits Ordinance

- (1) This Agreement is subject to the Equal Benefits Ordinance of Chapter 2 232 010 of the Oakland Municipal Code and its implementing regulations
- (2) Entities which enter into a "contract" with the City for an amount of twenty-five thousand dollars (\$25,000 00) or more for public works or improvements to be performed, or for goods or services to be purchased or grants to be provided at the expense of the City or to be paid out of moneys deposited in the treasury or out of trust moneys under the control of or collected by the City, and Entities which enter into a "property contract" pursuant to Section 2 32 020(D) with the City in an amount of twenty-five thousand dollars (\$25,000 00) or more for the exclusive use of or occupancy (1) of real property owned or controlled by the City or (2) of real property owned by others for the City's use or occupancy, for a term exceeding twenty-nine (29) days in any calendar year
- (3) The Ordinance shall only apply to those portions of a contractor's operations that occur (A) within the City, (B) on real property outside the City if the property is owned by the City or if the City has a right to

occupy the property, and if the contract's presence at that location is connected to a contract with the City, and (C) elsewhere in the United States where work related to a City contract is being performed. The requirements of this chapter shall not apply to subcontracts or subcontractors of any contract or contractor.

- (4) The equal Benefits Ordinance requires among other things, submission of the attached and incorporated herein as **Schedule N-1 – Equal Benefits-Declaration of Nondiscrimination**.

(c) **Nuclear Free Zone**

Contractor represents, pursuant to **Schedule P** ("Nuclear Free Zone Disclosure Form") that Contractor is in compliance with the City of Oakland's restrictions on doing business with service providers considered nuclear weapons makers. Prior to execution of this Agreement, Contractor shall complete **Schedule P**, attached hereto.

7. City of Oakland Campaign Contribution Limits

This Agreement is subject to the City of Oakland Campaign Reform Act of Chapter 3 12 of the Oakland Municipal Code and its implementing regulations if it requires Council approval. The City of Oakland Campaign Reform Act prohibits contractors that are doing business or seeking to do business with the City of Oakland from making campaign contributions to Oakland candidates between commencement of negotiations and either 180 days after completion of, or termination of, contract negotiations.

If this Agreement requires Council approval, Contractor must sign and date an Acknowledgment of Campaign Contribution Limits Form attached hereto and incorporated herein as **Schedule O**.

8. Insurance

Unless a written waiver is obtained from the City's Risk Manager, Contractor must provide the insurance listed in **Schedule Q**. **Schedule Q** is attached hereto and incorporated herein by reference.

9. Political Prohibition

Subject to applicable State and Federal laws, moneys paid pursuant to this Agreement shall not be used for political purposes, sponsoring or conducting candidate's meetings, engaging in voter registration activity, nor for publicity or propaganda purposes designed to support or defeat legislation pending before federal, state or local government.

10. Religious Prohibition

There shall be no religious worship, instruction, or proselytization as part of, or in connection with the performance of the Agreement.

11 **Prompt Payment Ordinance**

This contract is subject to the Prompt Payment Ordinance of Oakland Municipal Code, Title 2, Chapter 2 06 (Ordinance 12857 C M S, passed January 15, 2008 and effective February 1, 2008) The Ordinance requires that, unless specific exemptions apply, the Contractor and its subcontractors shall pay undisputed invoices of their subcontractors for goods and/or services within twenty (20) business days of submission of invoices unless the Contractor or its subcontractors notify the Liaison in writing within five (5) business days that there is a bona fide dispute between the Contractor or its subcontractor and claimant, in which case the Contractor or its subcontractor may withhold the disputed amount but shall pay the undisputed amount

Disputed late payments are subject to investigation by the City of Oakland Liaison, Division of Contracts and Compliance upon the filing of a complaint Contractor or its subcontractors opposing payment shall provide security in the form of cash, certified check or bond to cover the disputed amount and penalty during the investigation If Contractor or its subcontractor fails or refuses to deposit security, the City will withhold an amount sufficient to cover the claim from the next Contractor progress payment The City, upon a determination that an undisputed invoice or payment is late, will release security deposits or withholds directly to claimants for valid claims

Contractor and its subcontractors shall not be allowed to retain monies from subcontractor payments for goods as project retention, and are required to release subcontractor project retention in proportion to the subcontractor services rendered, for which payment is due and undisputed, within five (5) business days of payment Contractor and its subcontractors shall be required to pass on to and pay subcontractors mobilization fees within five (5) business days of being paid such fees by the City For the purpose of posting on the City's website, Contractor and its subcontractors, are required to file notice with the City of release of retention and payment of mobilization fees, within five (5) business days of such payment or release, and, Contractor is required to file an affidavit, under penalty of perjury, that he or she has paid all subcontractors, within five (5) business days following receipt of payment from the City The affidavit shall provide the names and address of all subcontractors and the amount paid to each

If any amount due by a prime contractor or subcontractor to any claimant for goods and/or services rendered in connection with a purchase contract is not timely paid in accordance the Prompt Payment ordinance, the prime Contractor or subcontractor shall owe and pay to the claimant interest penalty in the amount often percent (10%) of the improperly withheld amount per year for every month that payment is not made, provided the claimant agrees to release the prime contractor or subcontractor from any and all further interest penalty that may be claimed or collected on the amount paid Claimants that receive interest payments for late payment Prompt Payment ordinance may not seek further interest penalties on the same late payment in law or equity

Contractor and its subcontractors shall include the same or similar provisions as those set forth above in this section in any contract with another contractor or subcontractor that delivers goods and/or services pursuant to or in connection with this City of Oakland purchase contract.

Prompt Payment invoice and claim forms are available at the following City of Oakland website

<http://www2.oaklandnet.com/Government/o/CityAdministration/d/CP/s/FormsSchedule/s/index.htm> or at Contracts and Compliance, 250 Frank H. Ogawa Plaza, Suite 3341, Oakland, CA 94612. Invoice and claim inquiries should be directed to Vivian Inman, City of Oakland Prompt Payment Liaison, 510-238-6261 or email vinman@oaklandnet.com

12. **Arizona and Arizona-Based Businesses**

Contractor agrees that in accordance with Resolution No. 82727 C M S, neither it nor any of its subsidiaries, affiliates or agents that will provide services under this agreement is currently headquartered in, in the State of Arizona, and shall not establish an Arizona business headquarters for the duration of this agreement with the City of Oakland or until Arizona rescinds SB 1070.

Contractor acknowledges its duty to notify the Purchasing Department if its Business Entity or any of its subsidiaries, affiliates or agents subsequently relocates its headquarters to the State of Arizona. Such relocation shall be a basis for termination of this agreement.

13. **Dispute Disclosure**

Contractors are required to disclose pending disputes with the City of Oakland when they are involved in submitting bids, proposals or applications for a City or Agency contract or transaction involving professional services. This includes contract amendments. Contractor agrees to disclose, and has disclosed, any and all pending disputes to the City prior to execution of this agreement. The City will provide a form for such disclosure upon Contractor's request. Failure to disclose pending disputes prior to execution of this amendment shall be a basis for termination of this agreement.

14. **Federal Regulatory/Contracting Requirements**

Contractor shall comply with all Federal Contracting and Regulatory laws, regulations, rules and policies and contracting requirements including, without limitation

- (a) American Recovery and Reinvestment Act ("ARRA") Contractor represents and warrants that this Agreement is subject to the laws, rules and regulations of the ARRA with which Contractor shall abide and comply therewith
- (b) Equal Opportunity Contractor will provide Services to City without discrimination on account of race, color, religion, national origin, ancestry, age, gender, genetic information, physical or mental disability, medical condition, marital status or veteran's status As a government Contractor, City is subject to various federal laws, executive orders and regulations regarding equal opportunity and affirmative action This Section constitutes notice to Contractor that Contractor may be required to comply, if applicable, with the following Federal Acquisition Regulations (each a "FAR") at 48 CFR Part 52, which are incorporated herein by reference (a) Equal Opportunity (April 2002) at FAR 52 222-26, (b) Equal Opportunity for Special Disabled Veterans, Veterans of the Vietnam Era, and Other Eligible Veterans (Sept 2006) at FAR 52 222-35, (c) Affirmative Action for Workers with Disabilities (June 1998) at FAR 52 222-36, and (d) Utilization of Small Business Concerns (May 2004) at FAR 52 219, (e) Title VII of the Civil Rights Act, as amended, (f) Americans with Disabilities Act, and (g) Age Discrimination in Employment Act Contractor shall be required to comply with all other applicable Law related to harassment, retaliation or discrimination in employment
- (c) ARRA reporting and audit requirements If this Agreement is subject to the reporting and audit provisions of the ARRA, which governs access to books and records of subcontractors of services, then Contractor, or its consultants, subcontractors, Contractors, materialmen, servants and/or agents will permit representatives of the Secretary of the Department of Health and Human Services and of the Comptroller General to have access to the contract and books, documents and records of Contractor, as necessary to verify the costs of the contract, in accordance with criteria and procedures contained in applicable Federal regulations
- (d) Notice of Employee Rights under National Labor Relations Act If applicable, 29 CFR Part 471, Appendix A to Subpart A is hereby incorporated by this reference
- (e) Federal Program Participation Contractor is not and shall not be debarred, suspended, excluded or have otherwise opted out from receiving a contract or subcontract funded in whole or in part by federal or State funds, including without limitation Medicare and Medicaid funds Contractor is not and shall not be identified on a "watch list" maintained pursuant to law or by any federal agency, such as the Office of Foreign Assets Control or the USA Patriot Act Contractor shall ensure that no persons or entities employed by or contracted with Contractor to provide services under the Agreement are sanctioned by or debarred, suspended, excluded or have opted out from,

participation in the ARRA program or any other federal or state program and if Contractor becomes aware that it has employed or contracted with such a person or entity, Contractor will take prompt and appropriate remedial action to remove the employee or Contractor from providing services under this Agreement. The requirements of this clause will apply to any subcontractors or independent contractors retained by Contractor to perform Services, as permitted by this Agreement, and will be included in any subcontracts entered into by Contractor for such Services.

EXHIBIT 6-SCHEDULES

- 1 Schedule B-2 -Arizona Resolution
- 2 Schedule C-1_P_U_V - Combined Form
 - a Schedule C-1 - Compliance With The Americans With Disabilities Act
 - b Schedule P - Nuclear Weapons Proliferation Ordinance
 - c Schedule U - Compliance Commitment Agreement
 - d Schedule V - Affidavit Of Non-Disciplinary Or Investigatory Action
- 3 Schedule D - Ownership, Ethnicity and Gender Questionnaire
- 4 Schedule E - Project Consultant Team Form
- 5 Schedule K – Pending Dispute Disclosure Form
- 6 Schedule M -
 - a Part A - Independent Employer Questionnaire – Vendor completed
 - b Part B - Independent Employer Questionnaire -- Requesting Department completed
- 7 Schedule N - Declaration Of Compliance With Living Wage Ordinance (Professional Services and Design Build Projects only)
- 8 Schedule N-1 - Equal Benefits Declaration Of Nondiscrimination
- 9 Schedule O - Disclosure of Campaign Contributions Form
- 10 Schedule Q - Professional & Specialized Services Insurance Requirements

EXHIBIT 7

Terms and Conditions for Maintenance

This document is an exhibit to the Agreement between City and Contractor and further specifies Maintenance services to be provided by Contractor to City regarding Software licensed by City from Contractor

1. Definitions.

Capitalized terms used herein will have the same meaning as set forth in the Agreement unless otherwise defined herein. The following terms will have the meanings set forth below

"Severity Levels" means the four severity levels defined below

"Severity 1" A type of Error that (1) renders the entire or any part of the Software inoperative, or (2) causes the Software to fail catastrophically. No workaround exists or the available workaround is unacceptable due to its operational impact on City's business

"Severity 2" A type of Error that significantly degrades performance of the Software or materially restricts City's use of the Software

"Severity 3" A type of Error that causes only minor impact on the use of the Software

"Severity 4" Proposed enhancements or usage questions

"Workaround" means a change in the procedures followed or data supplied to avoid an Error without materially impairing performance of the Software

2. Maintenance. Maintenance services are as defined in the Agreement, Maintenance Agreement, and this Exhibit 6

2.1 Supported versions. Contractor will provide Maintenance for the then current Major Release of the Software and the two prior Major Releases, or for two (2) years after Contractor discontinues licensing/distributing a Major Release, whichever is longer. Contractor will provide the same level of telephone support and Error Correction services for all of supported versions of the Software

2.2 Enhancements and Error Correction. Contractor will notify City of all Errors in the Software or Documentation of which Contractor becomes aware and will provide available information bulletins and access to any Internet data files or information relating to such Errors. Maintenance includes provision of all available Error Corrections and Enhancements to the Software at no additional charge to City. All Enhancements will be backward compatible as provided in the Agreement

2.3 City Technical Support Contacts. City will designate support contacts (which may include City contractors) who may communicate with Contractor's support organization regarding

maintenance and support issues City may change these support contacts from time to time upon written notice to Contractor Contractor will provide Contractor's support contacts with any user IDs, passwords, access procedures, and other such information to enable the support contacts to access Contractor's telephone and electronic support systems

2.4 Web-based support Contractor will provide City with access to any on-line support information and tools it makes available to other customers This will include access to any available Contractor knowledge database, on-line technical library or on-line Documentation

2.5 Telephone Support Services Contractor will provide telephone and email technical support services during the hours of **6:00 a.m. U.S. Eastern time to 8:00 p.m. U.S. Pacific time, Monday through Friday** and will provide telephone assistance on a 24 hour per day/7 day per week basis for Severity 1 errors Contractor will provide via a toll-free number to Contractor's technical support center Contractor will respond to City's requests for support and work to resolve the problems indicated within the following time frames

Error	Response Time	Contractor Action
Severity Level 1	15-30 minutes Verbal acknowledgment of Error report and identification of individual assigned to resolve Error	Work 24 x 7 until Error Correction is achieved Escalate if Error not corrected within 24 hours If a Workaround is provided, Supplier will continue to work 24 x 7 to correct the Error
Severity Level 2	15-30 minutes Verbal acknowledgment of Error report and identification of individual assigned to resolve Error	Work 24x7 until Error Correction or acceptable Workaround is achieved Escalate if neither achieved within 24 hours If acceptable Workaround provided, continue working during business hours to provide Error Correction
Severity Level 3	24 hours Verbal acknowledgment of Error report and identification of individual assigned to resolve Error	Error Correction or acceptable Workaround provided within 1 week Error Correction included in next release of Software if Workaround is initially provided to address problem
Severity Level 4	48 hours Verbal acknowledgment of Error report and identification of individual assigned to respond	Question answered or minor Enhancement considered for next release

2.6 Escalation procedure If an Error Correction for a Severity Level 1 Error or a Workaround for a Severity Level 2 Error is not supplied within 24 hours after the Error is reported to Contractor, the issue will be escalated to a senior Contractor support manager who will update City's senior Information Technology contact at the applicable City site(s) twice a day until the problem is resolved If not resolved within 48 hours, the issue will be escalated to the next higher level of management in both organizations If not resolved within 72 hours, the issue will be escalated to Contractor's and City's Senior Management (e.g., Finance Director or Deputy City Administrator)

3. Support Exclusions

Contractor will have no obligation to provide Maintenance with respect to (i) Software used on any computer system running other than the specified operating system software listed in the applicable Schedule or in the Specifications, and (ii) Errors resulting from any unauthorized

modification of the Software made by City provided that such Errors do not occur in the unmodified Software

EXHIBIT 8

PROJECT CHANGE CONTROL

CHANGE ORDER (TEMPLATE)

**[THIS CHANGE ORDER MUST BE DRAFTED BY A CITY OF OAKLAND DAC PROJECT
MANAGER.]**

Name of Agreement	Change Order Number
Contract Reference Number	Requester
SOW Name/Reference Number	Requester's Title
CITY Project Manager _____ Title _____	Contractor Project Manager _____ Title _____
Cost Change: <input type="checkbox"/> Yes <input type="checkbox"/> No If Yes, how much \$	Priority: High <input type="checkbox"/> Med. <input type="checkbox"/> Low <input type="checkbox"/>

Upon execution by the Parties, this change order ("Change Order") will become part of the Scope/Statement of Work referenced above ("SOW") pursuant to the agreement referenced above ("Agreement") All Services and Deliverables provided pursuant to this Change Order will be subject to the terms and conditions of the SOW and the Agreement All undefined terms will have the meanings set forth in the SOW and Agreement

Change Type [check all that apply]:

- ☐ SOW/Deliverables
- ☐ Price or Estimated Budget
- ☐ Schedule
- ☐ Contract Change
- ☐ Other

Detail Description of Change					
Reason for Change					
New or Changed Resources					
				Impact on Schedule	

ACCEPTED AND AGREED TO THIS ____ day of _____, 200__

CITY OF OAKLAND

By _____

Name _____

Title _____

Date _____

CONTRACTOR

By _____

Name _____

Title _____

Date _____

EXHIBIT 9

Software License

EXHIBIT 10

City Travel Policies



Schedule B-2 – Arizona Resolution

To be completed by Business Owner

Declaration of Compliance with the Arizona Resolution #82727

(1) Business Name Science Applications International Corporation

(2) Business Contact Person (Name/Title) Thomas A Elliott / Contracts Manager

(3) Business Contact Person (Phone/E-mail) 614 975 9155 / thomas a elliott@saic.com

(4) Business Headquarters Address 1710 SAIC Drive, McLean, VA 22102

(5) Existing contracts with the City? ☐ Yes ☒ No If Yes, please list title and agency below

(6) The above named company is currently responding to the following contract opportunity

Title Joint Domain Awareness Center

Project Number 20710-1

Name of City Contact/Project Manager/Agency/Department Ahsan Baig

Phone/ e-mail 510 238 3010/abaig@oaklandnet.com

A

☒ I declare under penalty of perjury that my company is **NOT** headquartered in Arizona

Signed (Business Owner) Thomas A Elliott Date 6 Feb 2013

Digitally signed by Thomas A Elliott
DN: cn=Thomas A Elliott, o=SAIC ou
email=thomas.a.elliott@saic.com c=US
Date: 2013.02.06 22:49:32 -0500

B

☐ * I declare under penalty of perjury that my company **is** headquartered in Arizona and my proposal/bid should be considered because

(Please use attachments if additional space is needed)

Signed (Business Owner) _____ Date _____

* Excerpt (Resolution #82727) RESOLVED That unless and until Arizona rescinds SB 1070 the City of Oakland urges City departments (1) to the extent where practicable, and in instances where there is no significant additional cost to the city or conflict with law, to refrain from entering into any new or amended contracts to purchase goods or services from any company that is headquartered in Arizona (2) to not send City officials or employees to conferences in Arizona, and (3) to review existing contracts for the purchase of goods and services with companies headquartered in Arizona and explore opportunities to discontinue those contracts consistent with the terms of those contracts and principles of fiscal responsibility, and



Schedule C-1

"DECLARATION OF COMPLIANCE WITH THE AMERICANS WITH DISABILITIES ACT"

(For use by all city departments on construction contracts)
(To be completed by the prime)

The Americans with Disabilities Act (ADA) requires that private organizations serving the public make their goods, services and facilities accessible to people with disabilities. Furthermore, the City of Oakland requires that all of its Contractors comply with their ADA obligations and verify such compliance by signing this Declaration of Compliance.

I certify that I will comply with the Americans with Disabilities Act by

- A Adopting policies, practices and procedures that ensure non-discrimination and equal access to Contractor's goods, services and facilities for people with disabilities,
- B Providing goods, services and facilities to individuals with disabilities in an integrated setting, except when separate programs are required to ensure equal access,
- C Making reasonable modifications in programs, activities and services when necessary to ensure equal access to individuals with disabilities, unless fundamental alteration in the nature of the Contractor's program would result,
- D Removing architectural barriers in existing facilities or providing alternative means of delivering goods and services when removal of barriers is cost-prohibitive,
- E Furnishing auxiliary aids to ensure equally effective communication with persons with disabilities, and
- F If contractor provides transportation to the public, by providing equivalent accessible transportation to people with disabilities

Schedule P

"NUCLEAR FREE ZONE DISCLOSURE FORM"

I certify that

- A) Neither this Business Entity nor any of its subsidiaries, affiliates or agents engages in nuclear weapons work or anticipates entering into such work for the duration of its contract(s) with the City of Oakland, and
- B) The appropriate individuals of authority are cognizant of their responsibility to notify the Office of Finance of the City of Oakland if the Business Entity or any of its subsidiaries, affiliates or agents subsequently engages in nuclear weapons work



Schedule U
"COMPLIANCE COMMITMENT AGREEMENT"

I have read the City of Oakland's Local/Small Local Business Enterprise Program (L/SLBE) and that for the pertinent project, I have achieved the requirement of 50% L/SLBE participation as described in the L/SLBE program and that 50% of the total trucking dollars have been allotted to certified Oakland Local Truckers (trucking dollars applicable only to Construction Services projects) In the event that these requirements have not been achieved, I understand that my bid will be deemed non responsive

As prime contractor for this project, I agree to use the City of Oakland's electronic payroll system to input ALL certified payrolls reports including all tiers of subcontractors for this project (certified payroll applicable only to Construction Services projects)

As prime, I agree to submit with the final payment request a completed "Exit Report and Affidavit form" The Exit Report and Affidavit Form may be located on the City's website at <http://www2.oaklandnet.com/Government/o/CityAdministration/d/CP/s/FormsSchedules/index.htm>

Schedule V
"AFFIDAVIT OF NON-DISCIPLINARY OR INVESTIGATORY ACTION"

I certify that the Equal Employment Opportunity Commission (EEOC), Department of Fair Employment & Housing (DFEH) or the Office of Federal Contract Compliance Programs (OFCCP) has not taken disciplinary or investigatory action against the Firm If such action has been taken, attached hereto is a detailed explanation of the reason for such action, the party instituting such action and the status or outcome of such action

I declare under penalty of perjury that the foregoing is true and correct to the best of my knowledge.

By signing and submitting this form the prospective primary participant's authorized representative hereby obligates the proposer(s) to the Schedule C-1, Schedule P, Schedule U and Schedule V's stated conditions.

8/29/2012

Date

Science Applications International Corporation

Company Name

2301 Lucien Way, Suite 120

Address

Maitland

City

FL

State

32751

Zip

Signature of Authorized Representative

Betty Kamara

Type or Print Name

Contracts Administrator

Type or Print Title

321 441 8518 | betty.v.kamara@saic.com

Phone/Email



DEPARTMENT OF CONTRACTING AND
PURCHASING
Social Equity Division
Phone 510-238-3970 Fax 510-238-3363

SCHEDULE D
OWNERSHIP, ETHNICITY and GENDER
QUESTIONNAIRE

Part I OWNERSHIP & ETHNICITY of PRIME

Firm or Individual Name Science Applications International Corporation Phone (614) 975 9155
Street Address 1710 SAIC Drive City McLean State VA Zip 22102 Federal ID # 95-3630868
City of Oakland Business License Number 2233118 Completed by Thomas A Elliott Phone if different from above (614) 975-9155

(Please check one and explain below)

- ☐ Self Employed, Name of Owner _____ ☒ Corporation, State of Incorporation Delaware
☐ Partnership, General or Limited _____ Names of Partners _____
☐ Joint Venture, Names of Participants _____

Ownership Interests

All owners must be listed
in this information

Ethnicity	African American	American Indian/ Alaskan Native	Asian or Pacific Islander	Caucasian	Filipino	Hispanic	Other
Number of Owners							
% Of Total Ownership							
Women							
Joint Venture Ownership							

Part II CERTIFICATIONS

Please attach a copy of the
certification letter or provide the
certification number and expiration
date

- ☐ Minority-owned Business Enterprise (MBE)? Cert # _____ Expiration Date _____
☐ Woman-Owned Business Enterprise (WBE) Cert # _____ Expiration Date _____
☐ Disadvantaged Business Enterprise (DBE) Cert # _____ Expiration Date _____
☒ Oakland Certified Local Business Enterprise Cert # 217203 Expiration Date 05/31/2014
☐ Other _____ Cert # _____ Expiration Date _____

Part III Ethnicity and Gender of Employees

Employment Category	Total Employees	Oakland Residents	Male						Female					
			African American	American Indian/Alaskan Native	Asian/ Pacific Islander	Caucasian	Hispanic	Other	African American	American Indian/Alaskan Native	Asian/ Pacific Islander	Caucasian	Hispanic	Other
Project Management														
Professional														
Technical														
Clerical														
Trades														

AFFIRMATIVE ACTION INFORMATION I certify that I/we shall not discriminate against any employee or applicant for employment because of race, color, creed, sex, sexual orientation, national origin, age, disability, Acquired Immune Deficiency Syndrome (AIDS) AIDS related complex, or any other arbitrary basis and shall insure compliance with all provisions of Executive Order No 11246 (as amended by Executive Order No 11375) I certify that I/we shall not discriminate against any employee or applicant for employment because they are disabled veteran of the Viet Nam era and shall insure compliance with all provisions of 41CFR60-250.4 where applicable

I declare under penalty of perjury that the foregoing is true and correct

Thomas A Elliott

Digitally signed by Thomas A Elliott
DN: cn=Thomas A Elliott, o=SAC, ou,
email=thomas.a.elliott@sac.com, c=US
Date: 2013.02.06 23:54:17 -0500

Print Name Thomas A Elliott

Title Contracts Manager

Date 02/06/2013

Please be advised that the ethnicity and gender information contained in this Schedule D will be used for reporting and tracking purposes ONLY

Pending Dispute Disclosure Form

Policy – All entities are required to disclose pending disputes with the City of Oakland when they submit bids, proposals or applications for a City contract or transaction involving

- The purchase of products, construction, non-professional or professional services,
- Contracts with concessionaires, facility or program operators or managers,
- Contracts with project developers, including Disposition and Development Agreements, lease Disposition and Development Agreements and other participation agreements
- Loans and grants, or acquisition, sale, lease or other conveyance of real property, excluding licenses for rights of entry or use of city facilities for a term less than thirty (30) consecutive calendar days

Disclosure is required at the time bids, proposals or applications are due for any of the above-described contracts or transactions when an entity is responding to a competitive solicitation and at the commencement of negotiations when bids, proposals or applications are solicited by or submitted to the City in a non-bid or otherwise non-competitive process

The disclosure requirement applies to pending disputes on other City and Agency contracts or projects that (1) have resulted in a claim or lawsuit against the City of Oakland (2) could result in a new claim or new lawsuit against the City of Oakland or (3) could result in a cross-complaint or any other action to make the City of Oakland a party to an existing lawsuit. “Claim” includes, but is not limited to, a pending administrative claim or a claim or demand for additional compensation

Entities required to disclose under this Disclosure Policy include (1) any principal owner or partner, (2) any business entity with principal owners or partners that are owners or partners in a business entity, or any affiliate of such a business entity, that is involved in a pending dispute against the City of Oakland or Agency

Failure to timely disclose pending disputes required by this policy may result in (1) a determination that a bid is non-responsive and non-responsible for price-based awards, or (2) non-consideration of a bid or proposal for a professional service contract or other qualification-based award. The City may elect to terminate contracts with entities that failed to timely disclose pending disputes and/or initiate debarment proceedings against such entities

Individuals, Businesses or other entities should respond below.

1 Are you or your firm involved in a pending dispute or claim Against the City of Oakland?

No ☒ Yes ☐ (check one)

2 If you answered "Yes", list existing and pending lawsuit(s) and claim(s) with the title and date of the contract, a brief description of the issues, officials or staff persons involved in the matter and the City or Agency department/division administering the contract

Contract Title: _____

Date _____ Official(s), Staff person(s) involved _____

Administering Department/Division _____

Issues _____

Contract Title: _____

Date _____ Official(s), Staff person(s) involved _____

Administering Department/Division _____

Issues _____

(check) ☐ Additional Disputes listed on Attachment

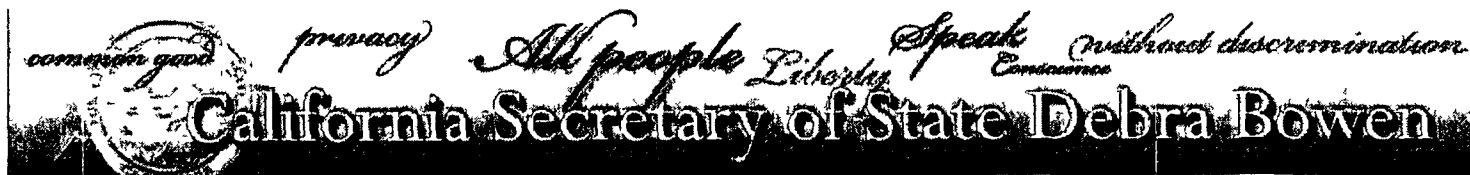
By signing below, I certify that all representations and disclosures made herein are true, correct and complete

Signature _____

Digitally signed by Thomas A Elliott
DN cn=Thomas A Elliott, o=SAIC, ou,
email=thomas a elliot@saic.com, c=US
Date 2013 02 06 23 26 08 -05'00'

Print Name Thomas A Elliott _____

Title Contracts Manager _____ Date 2/6/2013 _____

[Secretary of State](#)[Administration](#)[Elections](#)[Business Programs](#)[Political Reform](#)[Archives](#)[Registries](#)**Business Entities (BE)****Online Services**

- [E-File Statements of Information for Corporations](#)
- [Business Search](#)
- [Processing Times](#)
- [Disclosure Search](#)

Main Page**Service Options****Name Availability****Forms, Samples & Fees****Statements of Information**
(annual/biennial reports)**Filing Tips****Information Requests**
(certificates, copies & status reports)**Service of Process****FAQs****Contact Information****Resources**

- [Business Resources](#)
- [Tax Information](#)
- [Starting A Business](#)

Customer Alerts

- [Business Identity Theft](#)
- [Misleading Business Solicitations](#)

Business Entity Detail

Data is updated to the California Business Search on Wednesday and Saturday mornings. Results reflect work processed through Friday, February 22, 2013. Please refer to [Processing Times](#) for the received dates of filings currently being processed. The data provided is not a complete or certified record of an entity.

Entity Name	SCIENCE APPLICATIONS INTERNATIONAL CORPORATION
Entity Number	C1090309
Date Filed	09/16/1981
Status	ACTIVE
Jurisdiction	DELAWARE
Entity Address	10260 CAMPUS POINT DRIVE
Entity City, State, Zip	SAN DIEGO CA 92121
Agent for Service of Process	C T CORPORATION SYSTEM
Agent Address	818 W SEVENTH ST
Agent City, State, Zip	LOS ANGELES CA 90017

* Indicates the information is not contained in the California Secretary of State's database

- If the status of the corporation is "Surrender," the agent for service of process is automatically revoked. Please refer to California Corporations Code [section 2114](#) for information relating to service upon corporations that have surrendered.
- For information on checking or reserving a name, refer to [Name Availability](#).
- For information on ordering certificates, copies of documents and/or status reports or to request a more extensive search, refer to [Information Requests](#).
- For help with searching an entity name, refer to [Search Tips](#).
- For descriptions of the various fields and status types, refer to [Field Descriptions and Status Definitions](#).

[Modify Search](#) [New Search](#) [Printer Friendly](#) [Back to Search Results](#)

[Privacy Statement](#) | [Free Document Readers](#)

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Schedule M

FOR CITY USE ONLY

Based upon a review of this questionnaire and any other factors I have cited below, I have determined that this person (is) (is not) an independent contractor

Date _____

City Attorney/Assistant City Attorney/
Deputy City Attorney

PART A INDEPENDENT CONTRACTOR QUESTIONNAIRE TO BE COMPLETED BY PROPOSED CONTRACTOR

Name of Contractor Science Applications International CorporationSSN or Corporate Taxpayer ID No of Contractor 95-3630868

Please answer questions "yes" or "no" whenever possible. When a more extensive explanation is required and there is no space on this form, please attach a separate sheet.

The word contract refers to the agreement the City is contemplating entering into with you.

NOTE. IF YOU ARE A CORPORATION, YOU NEED NOT COMPLETE THE REMAINDER OF THIS QUESTIONNAIRE IF YOU RETURN IT SHOWING, ABOVE, YOUR CORPORATE FEDERAL TAXPAYER NUMBER AND ATTACHING A COPY OF YOUR CERTIFICATE OF CORPORATE GOOD STANDING ISSUED BY THE STATE OF CALIFORNIA.

	Yes	No
1 Have you performed services for the City in any year(s) prior to 199__? If yes, please indicate which years		
2 Have you received any training, guidance, or direction from the City as to how the City expects the job (for which your services are contemplated) to be done? If yes, please describe what you are expecting (or have received) in the way of training or direction		
3 Will your services under the contract be performed on City property? If no, please describe where the services are to be performed		
4 Do you expect to devote any full days (6 or more hours) or full weeks (30 or more hours) towards performing the services under the contract? If yes, please indicate approximately how many full days and/or full weeks you expect to devote during the life of the contract		
5 Are there any set or fixed hours or days of the week during which the City is expecting you to perform services under the contract? If yes, please indicate the days and hours during which you will be performing services		

	Yes	No
6 Please provide the date on which you expect to complete your services under the contract		
7 In order to perform services under the contract, do you intend to provide your own supplies or equipment? If yes, briefly describe the equipment/supplies _____		
8 If your response to No 7 is yes, has the City promised to or will you be expecting the City to reimburse you in any way for the cost of the supplies or equipment?		
9 Other than the above-referenced supplies and equipment, do you anticipate incurring any <u>unreimbursable</u> out-of-pocket expenses in the performance of the contract with the City? If yes please describe _____		
10 Do you have federal and state employer identification numbers? If so, please provide these numbers _____		
11 <u>Within the past two years</u> have you performed the same type services (as called for in the contract) for any client or customer <u>other than</u> the City? If yes, please identify the client or customer and briefly describe the services performed _____		
12 Do you <u>currently</u> have clients or customers other than the City for whom you are or will perform services during the duration of the contract? If yes, please identify client or customer by name and briefly describe the nature of services performed _____		
13 In the past two years have you notified any insurance company in conjunction with obtaining a business-related insurance policy that you are self-employed? If yes, please indicate the insurance company and the nature of the business-related policy _____ _____		
14 Do you have your own <u>employees</u> to help you perform the services called for by your contract? (Do not refer to independent contractors you may use to assist you) _____		
15 Within the <u>past two years</u> have you been the <u>employee</u> of any employer (received a W-2)? If yes, state the employer(s), the date(s) of employment, and the nature of the services performed _____ _____		
16 Do you have an office or business address other than your own home address, a City of Oakland office or your employer's business address? If yes, please state the address _____ _____		

Schedule M

	Yes	No
17 With regard to the following, please indicate whether you have		
a an existing business letterhead? (please attach)		
b an existing business phone number other than your home number? (please indicate #)		
c filed for a fictitious business name? If yes, please attach a certified copy of the County issued certificate and an affidavit of publication		
d done public advertising for your business? If yes, please attach the ad copy or briefly describe your advertising efforts		
18 If you have answered parts or all of No 17 with "Yes," are the services represented in your answers the same type of services you will be performing for the City?		
19 Do you have a license from any governmental agency to perform the services under the contract? If yes, please state the type of license and name of the licensing agency _____		
20 Please describe the extent of any personal financial investment you have made in order to be self-employed You may either choose to indicate the actual dollar amount of investment or, without disclosing any dollar amount, briefly describe any purchases, leases or other types of financial commitments made by you for self employment purposes _____ _____ _____ _____		

I VERIFY THAT THE RESPONSES ABOVE ARE TRUE AND CORRECT

2/6/2013

Date

Thomas A. Elliott

Contractor

Digitally signed by Thomas A Elliott
DN: cn=Thomas A Elliott, o=SAC ou
email=thomas.a.elliott@sac.com, c=US
Date 2013.02.06 23:34:27 -0500

PLEASE INDICATE WHETHER YOU OBJECT IF THE CITY DECIDES TO TREAT YOU AS
A SHORT-TIME CONTRACT EMPLOYEE RATHER THAN AN INDEPENDENT CONTRACTOR
AND THE REASON FOR YOUR OBJECTION _____



Schedule N

DECLARATION OF COMPLIANCE – LIVING WAGE ORDINANCE

The Oakland Living Wage Ordinance (the "Ordinance") Codified as Oakland Municipal Code provides that certain employers under contracts for the furnishing of services to or for the City that involve an expenditure equal to or greater than \$25,000 and certain recipients of City financial assistance that involve receipt of financial assistance equal to or greater than \$100,000 shall pay a prescribed minimum level of compensation to their employees for the time their employees work on City of Oakland contracts

The contractor or city financial assistance recipient (CFAR) agree as described in Section 3-C "Health Benefits" of the Ordinance, to pay employees a wage no less than the minimum compensation of \$11 70 per hour with health benefits, or \$13 45 per hour without benefits and to provide for annual increases pursuant to Section 3-A "Wages" of the Ordinance **Note: Effective July 1, of each year, Contractor shall pay the adjusted wage rates.**

- To provide at least twelve compensated days off per year for sick leave, vacation or personal necessity at the employees request, and, at least ten additional days per year of uncompensated time off pursuant to Section 3- B "Compensated Days Off" of the Ordinance
- To inform employees that he or she may be eligible for Earned Income Credit (EIC) and shall provide forms to apply for advance EIC payments to eligible employees There are several websites and other sources available to assist you Web sites include but are not limited to (1) [http //www.irs.gov](http://www.irs.gov) for current guidelines as prescribed by the Internal Revenue Service and (2) the Earned Income Tax Outreach Kit at 222 cbpp or/eic/2010
- To permit access to work sites for authorized City representatives to review the operation, payroll and related documents, and to provide certified copies of the relevant records upon request by the City, and
- Not to retaliate against any employee claiming non-compliance with the provisions of this Ordinance and to comply with federal law prohibiting retaliation for union organizing

Employment Questionnaire Please respond to the following questions		
Questions	Responses	Comments
(1) How many permanent employees are employed with your company? (If less than 5, stop here)	40,000	
(2) How many of your permanent employees are paid above the Living Wage rate?	40,000	
(3) How many of your permanent employees are paid below the Living Wage rate?	0	
(4) Number of compensated days off per employee ?(Refer to item "a" above)	varies	
(5) Number of trainees in your company ?	unknown	
(6) Number of employees under 21 years of age, employed by a nonprofit corporation for after school or summer employment for a period not longer than 90 days	0	

The undersigned authorized representative hereby obligates the proposer to the above stated conditions under penalty of perjury

Project Name Joint Domain Awareness Center

Science Applications International Corporation

Company Name

1710 SAIC Drive, McLean, VA 22102

Address

614 975-9155 02/06/13
Area Code Phone Date

Thomas Elliott

Digitally signed by Thomas A Elliott
 DN: cn=Thomas A Elliott, o=SAIC, ou, email=thomas.a.elliott@saic.com,
 c=US
 Date: 2013.02.06 23:42:56 -0500

Signature of Authorized Representative

Thomas A Elliott

Type or Print Name

Contracts Manager

Type or Print Title



City of Oakland

Equal Benefits Ordinance
Certificate of Compliance
is hereby awarded to
Science Applications International Corporation

For satisfying all requirements necessary for compliance with the Equal Benefits Ordinance

Shelley Darenburg
Shelley Darenburg
Senior Contract Compliance Officer

5-13-11
Date



**Equal Benefits – Declaration of
Nondiscrimination/Equal Access**
(Completed by the Prime Contractor ONLY)

Section A Vendor/Contractor/Consultant/CFAR¹ Information

Name of Company Science Application International Corporation
Name of Company Contact Thomas A Elliott
Address 1710 SAIC Drive
City McLean State VA Zip 22102
Phone Number 614 975 9155 Fax Number 614 573 6396
Vendor Number _____ Federal ID or Social Security Number 95-3630868
Approximate Number of Employees in the U S 40,000

Are any of your employees covered by a collective bargaining agreement or union trust fund? ☐ Yes ☒ No

Union Name(s) _____

Section B Compliance

Does your company provide or offer access to any benefits to employees with spouses or to spouses of employees? (Please check one) ☒ Yes ☐ No

Does your company provide or offer access to any benefits to employees with domestic partners²? (Please check one) ☒ Yes ☐ No

Section C Compliance

Please check each benefit that applies

Benefits	Offered to Employees only	Offered to Employees and their spouses	Offered to Employees and their Domestic Partners	Not Offered at all	Documentation attached
Health	X	X	X		
Dental	X	X	X		
Vision	X	X	X		
Retirement (Pension, 401K, etc)	X				
Bereavement	X				
Family Leave	X				
Parental Leave	X				
Employee Assistance Program	X				
Relocation & Travel	X				
Company Discount, Facilities & Events	X				
Credit Union				X	
Child Care				X	
Other					

Signature Thomas A Elliott

Digitally signed by Thomas A Elliott
DN: cn=Thomas A Elliott, o=SAIC, ou=equal-opportunity, email=thomas.a.elliott@saic.com, c=US
Date: 2013.02.06 22:51:09 -0500

Date Feb 6, 2013

¹ CFAR is a City Financial Recipient

² Domestic Partner is defined as a same sex couples or opposite sex couples registered as such with a state or local government domestic partnership registry



April 9, 2012

Certification Number

217203

Ms Kathryn Purcell
Science Applications International Corp (SAIC)
1000 Broadway, Suite 675
Oakland, CA 94607

Dear Ms Purcell

I am pleased to notify you that the Port of Oakland has certified your firm as an **LIABE (Local Impact Area Business Enterprise)** operating in the City of Oakland. Please note that your certification expires on **5/31/2014**. To renew your certification, please contact the Social Responsibility Division to request the list of necessary updated documents that need to be submitted. Please contact our office no sooner than three months prior to the expiration date.

At any time should your office have any changes in ownership, structure, location, or focus of your business, you are required to notify our office immediately. Failure to do so may result in decertification.

Your business will be included in the Port Certification Database using the information submitted in the Database Questionnaire and other supporting documents. This database provides businesses with free advertisement. A wide range of businesses, such as community based organizations, variety of vendors and construction contractors are listed. The database also includes a listing of professional services and a host of other important information to assist you with your outreach process. Projects and a list of certified companies are listed on the Port's website, www.portofoakland.com, and projects are advertised regularly in the legal notices in the Oakland Tribune. If you have any questions, please do not hesitate to call (510) 627-1419.

Sincerely,

Lila Zinn
Contract Compliance Supervisor

cc pj
 file

CITY OF OAKLAND



250 FRANK H OGAWA PLAZA, SUITE 1320 • OAKLAND, CALIFORNIA 94612

Finance & Management Agency
Business Tax Section

(510) 238-3704
FAX (510) 238-7128
TDD (510) 839-6451

February 14, 2013

To Whom It May Concern

The Business named below has been issued a Business Tax Certificate by this office

Business Name SCIENCE APPLICATIONS INTERNATIONAL CORP

Business Address 1000 BROADWAY STE 675

Owner(s) KENNETH C DALHBERG (CEO)

Business Tax Certificate Account No 2233118

✓ Expiration Date of Certificate December 31, 2013

Business Classification F Professional/Semi-Professional

The City of Oakland issues a Business Tax Certificate in lieu of a Business License and it is not regulatory
Information concerning ownership is that given by certificate holder

By

Sarina Baldwin

(510) 238-2001

CITY OF OAKLAND



250 FRANK H OGAWA PLAZA, SUITE 1320 • OAKLAND, CALIFORNIA 94612

(510) 238-3704
FAX (510) 238-7128
TDD (510) 238-3254

Acknowledgement of Payment Received

April 05, 2012

The City of Oakland Business Tax Section acknowledges receipt of the following payment on the date printed above

Payment Type: CHECK #30554068

Business Tax \$15,773.08

Total \$15,773.08

This payment will be tendered against the following account(s):

Account	Account Name	Business Address
2233118	SCIENCE APPLICATIONS INTERNATIONAL	1000 BROADWAY STE 675
Total number of Accounts 1		

Business Tax certificates are issued for accounts that are paid in full after your payment has been processed and accepted by our bank. Please keep this acknowledgement for your records. Thank you.

Payment received by Kenneth Standley



CERTIFICATE OF LIABILITY INSURANCE

DATE (MM/DD/YYYY)
03/12/2013

THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AFFIRMATIVELY OR NEGATIVELY AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW. THIS CERTIFICATE OF INSURANCE DOES NOT CONSTITUTE A CONTRACT BETWEEN THE ISSUING INSURER(S), AUTHORIZED REPRESENTATIVE OR PRODUCER, AND THE CERTIFICATE HOLDER.

IMPORTANT If the certificate holder is an ADDITIONAL INSURED, the policy(ies) must be endorsed. If SUBROGATION IS WAIVED, subject to the terms and conditions of the policy, certain policies may require an endorsement. A statement on this certificate does not confer rights to the certificate holder in lieu of such endorsement(s).

PRODUCER Marsh Risk & Insurance Services Attn: Barbara Llewellyn (213 346 5102) California Insurance License 0437153 777 South Figueroa Street Los Angeles, CA 90017 075588-SAIC-ALL-2012	CONTACT NAME	
	PHONE (A/C, No, Ext.)	FAX (A/C, No)
INSURED Science Applications International Corp 10260 Campus Point Drive M/S A3-G San Diego CA 92121	E-MAIL ADDRESS	
	INSURER(S) AFFORDING COVERAGE	
	INSURER A	National Union Fire Ins Co of Pittsburgh PA
	INSURER B	New Hampshire Insurance Company
	INSURER C	Insurance Company Of The State Of PA
	INSURER D	N/A
INSURER E	N/A	
INSURER F		

COVERAGES	CERTIFICATE NUMBER	LOS-001548155-01	REVISION NUMBER	
------------------	---------------------------	------------------	------------------------	--

THIS IS TO CERTIFY THAT THE POLICIES OF INSURANCE LISTED BELOW HAVE BEEN ISSUED TO THE INSURED NAMED ABOVE FOR THE POLICY PERIOD INDICATED. NOTWITHSTANDING ANY REQUIREMENT, TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THIS CERTIFICATE MAY BE ISSUED OR MAY PERTAIN, THE INSURANCE AFFORDED BY THE POLICIES DESCRIBED HEREIN IS SUBJECT TO ALL THE TERMS, EXCLUSIONS AND CONDITIONS OF SUCH POLICIES. LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS.

INSR LTR	TYPE OF INSURANCE	ADDITIONAL SUBROGATION	POLICY NUMBER	POLICY EFF (MM/DD/YYYY)	POLICY EXP (MM/DD/YYYY)	LIMITS
A	GENERAL LIABILITY		GL 4406364	04/01/2012	04/01/2013	EACH OCCURRENCE \$ 1,000,000
X	COMMERCIAL GENERAL LIABILITY					DAMAGE TO RENTED PREMISES (Ea occurrence) \$ 1,000,000
	CLAIMS-MADE <input checked="" type="checkbox"/> OCCUR					MED EXP (Any one person) \$ 10,000
						PERSONAL & ADV INJURY \$ 1,000,000
						GENERAL AGGREGATE \$ 2,000,000
	GEN'L AGGREGATE LIMIT APPLIES PER					PRODUCTS - COMP/OP AGG \$ 1,000,000
X	POLICY <input type="checkbox"/> PROJECT <input type="checkbox"/> LOC <input type="checkbox"/>					\$
A	AUTOMOBILE LIABILITY		CA 4982717 (AOS)	04/01/2012	04/01/2013	COMBINED SINGLE LIMIT (Ea accident) \$ 1,000,000
A	X ANY AUTO		CA 4982719 (MA)	04/01/2012	04/01/2013	BODILY INJURY (Per person) \$
A	ALL OWNED AUTOS		CA 4982718 (VA)	04/01/2012	04/01/2013	BODILY INJURY (Per accident) \$
	X HIRED AUTOS					PROPERTY DAMAGE (Per accident) \$
						\$
A	X UMBRELLA LIAB	X OCCUR	13273113	04/01/2012	04/01/2013	EACH OCCURRENCE \$ 1,000,000
	EXCESS LIAB	CLAIMS-MADE				AGGREGATE \$ 1,000,000
	DED <input type="checkbox"/> RETENTION \$ <input type="checkbox"/>					\$
B	WORKERS COMPENSATION AND EMPLOYERS LIABILITY		WC 033464518 (AOS)	04/01/2012	04/01/2013	X WC STATUTORY LIMITS <input type="checkbox"/> OTHER <input type="checkbox"/>
C	ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? (Mandatory in NH)	Y/N <input checked="" type="checkbox"/> N	WC 033464519 (CA)	04/01/2012	04/01/2013	E L EACH ACCIDENT \$ 1,000,000
C	If yes describe under DESCRIPTION OF OPERATIONS below	N/A	WC 033464521 (WI MA WY)	04/01/2012	04/01/2013	E L DISEASE - EA EMPLOYEE \$ 1,000,000
B			WC 033464520 (FL)	04/01/2012	04/01/2013	E L DISEASE POLICY LIMIT \$ 1,000,000

DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES (Attach ACORD 101, Additional Remarks Schedule, if more space is required)

RE City Project Number 20710-1 City of Oakland / Port of Oakland Joint Domain Awareness Center

City of Oakland, its Councilmembers, directors, officers, agents and employees are included as an additional insured as respects the General Liability but only with respect to liability arising out of the services provided by and on behalf of the Named Insured for the certificate holder as required by written contract. Such insurance is primary and non-contributory to any other insurance that may be available to the additional insured where required by contract as respects General Liability. The insurers agree to waive their rights of subrogation against Certificate Holder to the extent required under written contract for Workers' Compensation.

CERTIFICATE HOLDER

City of Oakland
Attn: Paula Peav Contracts and Compliance Division
250 Frank H Ogawa Plaza Suite 3341
Oakland, CA 94612

CANCELLATION

SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, NOTICE WILL BE DELIVERED IN ACCORDANCE WITH THE POLICY PROVISIONS.

AUTHORIZED REPRESENTATIVE
of Marsh Risk & Insurance Services

James L. Vogel

THIS ENDORSEMENT CHANGES THE POLICY PLEASE READ IT CAREFULLY.

ADDITIONAL INSURED – OWNERS, LESSEES OR CONTRACTORS – SCHEDULED PERSON OR ORGANIZATION

This endorsement modifies insurance provided under the following

COMMERCIAL GENERAL LIABILITY COVERAGE PART

SCHEDULE

Name Of Additional Insured Person(s) Or Organization(s)	Location(s) Of Covered Operations
City of Oakland, Its Councilmembers, directors, officers, agents and employees and volunteers	Any location(s) where required by written contract
Information required to complete this Schedule, if not shown above, will be shown in the Declarations	

A. Section II – Who Is An Insured is amended to include as an additional insured the person(s) or organization(s) shown in the Schedule, but only with respect to liability for "bodily injury", "property damage" or "personal and advertising injury" caused, in whole or in part, by.

- 1 Your acts or omissions, or
 - 2 The acts or omissions of those acting on your behalf,
- in the performance of your ongoing operations for the additional insured(s) at the location(s) designated above

B With respect to the insurance afforded to these additional insureds, the following additional exclusions apply

This insurance does not apply to "bodily injury" or "property damage" occurring after

- 1 All work, including materials, parts or equipment furnished in connection with such work, on the project (other than service, maintenance or repairs) to be performed by or on behalf of the additional insured(s) at the location of the covered operations has been completed, or
- 2 That portion of "your work" out of which the injury or damage arises has been put to its intended use by any person or organization other than another contractor or subcontractor engaged in performing operations for a principal as a part of the same project

ENDORSEMENT #

This endorsement, effective 12 01 A M 04/01/2012 forms a part of

Policy No GL 440-63-64 issued to SAIC, INC

By NATIONAL UNION FIRE INSURANCE COMPANY OF PITTSBURGH, PA

THIS ENDORSEMENT CHANGES THE POLICY PLEASE READ IT CAREFULLY.

LIMITED ADVICE OF CANCELLATION TO SCHEDULED ENTITIES

SCHEDULE

NAME OF PERSON OR ORGANIZATION

CITY OF OAKLAND, ITS
COUNCILMEMBERS, DIRECTORS,
OFFICERS, AGENTS AND EMPLOYEES AND
VOLUNTEERS

**E-MAIL OR U S POSTAL SERVICE
ADDRESS**



CERTIFICATE OF LIABILITY INSURANCE

DATE (MM/DD/YYYY)
03/12/2013

THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AFFIRMATIVELY OR NEGATIVELY AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW. THIS CERTIFICATE OF INSURANCE DOES NOT CONSTITUTE A CONTRACT BETWEEN THE ISSUING INSURER(S), AUTHORIZED REPRESENTATIVE OR PRODUCER, AND THE CERTIFICATE HOLDER.

IMPORTANT: If the certificate holder is an ADDITIONAL INSURED, the policy(ies) must be endorsed. If SUBROGATION IS WAIVED, subject to the terms and conditions of the policy, certain policies may require an endorsement. A statement on this certificate does not confer rights to the certificate holder in lieu of such endorsement(s).

PRODUCER Marsh Risk & Insurance Services Attn: Barbara Llewellyn (213-346-5102) CA License #0437153 777 South Figueroa Street Los Angeles, CA 90017 075988-SAIC-PROF-2013	CONTACT NAME: PHONE (A/C, No., Ext.): FAX (A/C, No.): E-MAIL: ADDRESS:	
	INSURER(S) AFFORDING COVERAGE INSURER A: Lloyd's of London (A F Beazley #623 & 2623) INSURER B: INSURER C: INSURER D: INSURER E: INSURER F:	
INSURED SCIENCE APPLICATIONS INTERNATIONAL CORPORATION 10260 CAMPUS POINT DRIVE M/S A3-G SAN DIEGO, CA 92121	NAIC # EC145	

COVERAGES **CERTIFICATE NUMBER** LOS-001548158-01 **REVISION NUMBER**

THIS IS TO CERTIFY THAT THE POLICIES OF INSURANCE LISTED BELOW HAVE BEEN ISSUED TO THE INSURED NAMED ABOVE FOR THE POLICY PERIOD INDICATED. NOTWITHSTANDING ANY REQUIREMENT, TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THIS CERTIFICATE MAY BE ISSUED OR MAY PERTAIN, THE INSURANCE AFFORDED BY THE POLICIES DESCRIBED HEREIN IS SUBJECT TO ALL THE TERMS, EXCLUSIONS AND CONDITIONS OF SUCH POLICIES. LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS.

INSR LTR	TYPE OF INSURANCE	ADDL INSR	SUBR WVD	POLICY NUMBER	POLICY EFF (MM/DD/YYYY)	POLICY EXP (MM/DD/YYYY)	LIMITS
	GENERAL LIABILITY <input type="checkbox"/> COMMERCIAL GENERAL LIABILITY <input type="checkbox"/> CLAIMS-MADE <input type="checkbox"/> OCCUR GEN'L AGGREGATE LIMIT APPLIES PER <input type="checkbox"/> POLICY <input type="checkbox"/> PRO-JECT <input type="checkbox"/> LOC						EACH OCCURRENCE \$ DAMAGE TO RENTED PREMISES (Ea occurrence) \$ MED EXP (Any one person) \$ PERSONAL & ADV INJURY \$ GENERAL AGGREGATE \$ PRODUCTS - COM/OP AGG \$ \$
	AUTOMOBILE LIABILITY <input type="checkbox"/> ANY AUTO <input type="checkbox"/> ALL OWNED AUTOS <input type="checkbox"/> HIRED AUTOS <input type="checkbox"/> SCHEDULED AUTOS <input type="checkbox"/> NON-OWNED AUTOS						COMBINED SINGLE LIMIT (Ea accident) \$ BODILY INJURY (Per person) \$ BODILY INJURY (Per accident) \$ PROPERTY DAMAGE (Per accident) \$ \$
	UMBRELLA LIAB <input type="checkbox"/> OCCUR EXCESS LIAB <input type="checkbox"/> CLAIMS-MADE DED \$ RETENTION \$						EACH OCCURRENCE \$ AGGREGATE \$ \$
	WORKERS COMPENSATION AND EMPLOYERS LIABILITY ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? (Mandatory in NH) If yes, describe under DESCRIPTION OF OPERATIONS below Y/N <input type="checkbox"/> N/A						WC STATUTORY LIMITS OTHER E L EACH ACCIDENT \$ E L DISEASE EA EMPLOYEE \$ E L DISEASE POLICY LIMIT \$
A	Professional Liability***			QF035912 (Claims Made)	06/30/2012	06/30/2013	Each Claim \$2,000,000 Aggregate \$2,000,000

DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES (Attach ACORD 101, Additional Remarks Schedule, if more space is required)

RE City Project Number 20710-1 City of Oakland / Port of Oakland Joint Domain Awareness Center

*** Including Contractors Pollution Legal Liability and Information Security and Privacy Liability

CERTIFICATE HOLDER

City of Oakland
Attn: Paula Peav Contracts and Compliance Division
250 Frank H. Ogawa Plaza Suite 3341
Oakland, CA 94612

CANCELLATION

SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, NOTICE WILL BE DELIVERED IN ACCORDANCE WITH THE POLICY PROVISIONS.

AUTHORIZED REPRESENTATIVE
of Marsh Risk & Insurance Services

James L. Vogel



ADDITIONAL REMARKS SCHEDULE

Page 2 of 2

AGENCY Marsh Risk & Insurance Services		NAMED INSURED SCIENCE APPLICATIONS INTERNATIONAL CORPORATION 10260 CAMPUS POINT DRIVE M/S A3-G SAN DIEGO CA 92121	
POLICY NUMBER		EFFECTIVE DATE	
CARRIER	NAIC CODE		

ADDITIONAL REMARKS

THIS ADDITIONAL REMARKS FORM IS A SCHEDULE TO ACORD FORM,

FORM NUMBER 25 FORM TITLE Certificate of Liability Insurance

Note

The above Professional Liability policy limits are inclusive of an aggregate sublimit of \$3,000,000 for Privacy Notification Costs. In addition, an excess aggregate sublimit of \$3,000,000 for Privacy Notification Costs is provided within the limits of the following excess policy:

Excess Professional Liability (including Contractors Pollution Legal Liability and Information Security & Privacy Liability)

Policy Number: 02-306-31 71

Insurer: National Union Fire Insurance Co. of Pittsburgh, PA

Effective: 06/30/2012-06/30/2013

FILED
OFFICE OF THE CITY CLERK
OAKLAND

2010 JUN 30 AM 11:00

Approved as to Form and Legality


City Attorney

OAKLAND CITY COUNCIL

RESOLUTION No. 82933 C.M.S.

**RESOLUTION AUTHORIZING THE CITY ADMINISTRATOR OR HIS DESIGNEE
TO:**

- 1) **ENTER INTO A MEMORANDUM OF UNDERSTANDING/GRANT ADMINISTRATION AGREEMENT WITH THE PORT OF OAKLAND UNDER WHICH THE CITY WILL RECEIVE FISCAL YEAR 2009 AMERICAN RECOVERY AND REINVESTMENT ACT (ARRA) PORT SECURITY GRANT PROGRAM (PSGP) FUNDING IN THE AMOUNT OF TWO MILLION NINE HUNDRED TWENTY ONE THOUSAND SEVEN HUNDRED DOLLARS (\$2,921,700) TO JOINTLY DEVELOP, ESTABLISH AND OPERATE A PORT/CITY DOMAIN AWARENESS CENTER (DAC), , AND**
- 2) **ACCEPT, APPROPRIATE AND ADMINISTER SAID ARRA PSGP GRANT FUNDS, AND**
- 3) **APPROVE THE PRELIMINARY SPENDING PLAN FOR THE CITY OF OAKLAND ASSOCIATED WITH SAID GRANT AND WAIVE CITY OF OAKLAND CENTRAL SERVICES OVERHEAD OF \$87,000, AND**
- 4) **EXPEND FUNDS IN ACCORDANCE WITH THE PRELIMINARY SPENDING PLAN WITHOUT FURTHER COUNCIL AUTHORIZATION, INCLUDING PURCHASES IN EXCESS OF THE CITY ADMINISTRATOR'S PURCHASING AUTHORITY FOR EQUIPMENT ON THE FEDERALLY AUTHORIZED EQUIPMENT LIST (AEL) AND SERVICES REQUIRED BY THE GRANT, PROVIDED CITY COMPETITIVE SOLICITATION AND PURCHASING PROGRAM/POLICIES ARE FOLLOWED**

WHEREAS, the American Recovery and Reinvestment Act of 2009 (ARRA) (Public Law 111-5) set aside approximately \$150 million of the stimulus funds for the Port Security Grant Program (PSG Program), and

WHEREAS, Congress and the Administration intended the PSG Program to be one of the tools in a comprehensive set of measures to strengthen the Nation's critical infrastructure against risks associated with potential terrorist attacks, and

WHEREAS, the Port of Oakland and City of Oakland submitted a ARRA PSG grant proposal to jointly develop, establish and operate a City/Port Domain Awareness Center (DAC) utilizing the City of Oakland Emergency Operations Center (EOC) to consolidate a network of existing surveillance and security sensor data to actively monitor critical Port facilities, utility infrastructure, City facilities and roadways, and

WHEREAS, on September 23, 2009, the Federal Emergency Management Agency's (FEMA) Grants Program Directorate announced that the Port of Oakland would receive \$2,921,700 to fund the joint development, establishment and operation of a City/Port Domain Awareness Center (DAC),

WHEREAS, the City Administrator recommends that the City Council authorize waiver of the central services overhead (CSO) fees of approximately \$87,000 for this project, in relation to contract assessments or other project related costs, to ensure that there is adequate funding for the project, and

WHEREAS, the grant funding includes up to 3% for grant maintenance and administration costs that will be utilized by the Oakland Fire Department, Office of Emergency Services, and

WHEREAS, Oakland Municipal Code Section 2 04 030 A requires Council approval for any purchase of goods and/or services over \$100,000.00, and

WHEREAS, the City Administrator recommends that he be authorized to expend ARRA PSG grant funds in connection with the establishment and operation of the City/Port Domain Awareness Center in excess of \$100,000 00 without further Council review or action because this project has a short, time sensitive grant performance deadline of January 2012, provided competitive solicitation and other City purchasing policies and programs are followed, and

WHEREAS, the City Administrator has determined that services that may be provided under contracts authorized hereunder would be of a professional, scientific or technical and temporary nature and not result in the loss of employment or salary by any person having permanent status in the competitive service, now, therefore be it

RESOLVED: That the City Council Authorizes the City Administrator or his designee to enter into a Memorandum of Understanding/Grant Administration Agreement with the Port of Oakland for Fiscal Year 2009 American Recovery and Reinvestment Act (ARRA) Port Security Grant Program (PSGP) funding in the amount of two million and nine hundred twenty one thousand and seven hundred dollars (\$2,921,700), to jointly develop, establish and operate a City/Port Domain Awareness Center (DAC), and be it

FURTHER RESOLVED: That the City Administrator or his designee is authorized to accept and appropriate said FY 2009 ARRA PSG Program Grants funds into U S Department of Homeland Security Fund (2123), Office of Emergency Services (20711) a grant project to be determined, and Office Emergency Services/Homeland Security Program (PS21), the full grant funds will be appreciated to the Miscellaneous Federal Grants Accounts 46129, and be it

FURTHER RESOLVED: That the City Administrator is authorized to award all contracts for purchases paid for with FY 2009 ARRA PSG Program Grant funds for any amount, even those purchases in excess of the City Administrator's authority in Oakland Municipal Code Section 2 04 020 or that otherwise require Council approval under Oakland Municipal Code Section 2 04 030, without further City Council review or action, including contracts involving the purchase of goods, material, equipment, services or combination thereof on the Federally

Authorized Equipment List (AEL) and services required by the grant, provided such purchases are in accord with the approved spending plan, the City's bidding or request for proposal requirements and purchasing programs/policies, and be it

FURTHER RESOLVED: That the City Administrator or his designee is authorized to approve preliminary spending plan, and be it

FURTHER RESOLVED: That the City Administrator or his designee is authorized to waive the central services overhead (CSO) fees of approximately \$87,000 for this project in relation to contract assessments or other project related costs, and be it

FURTHER RESOLVED: That all contracts authorized hereunder shall be approved for form and legality by the Office of the City Attorney and placed on file in the Office of the City Clerk

IN COUNCIL, OAKLAND, CALIFORNIA, JUL 20 2010, 20

PASSED BY THE FOLLOWING VOTE:

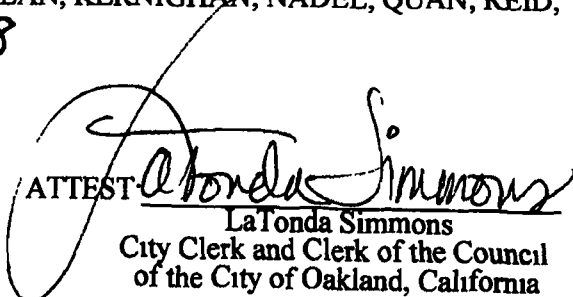
AYES - BROOKS, DE LA FUENTE, KAPLAN, KERNIGHAN, NADEL, QUAN, REID,
and PRESIDENT BRUNNER - 8

NOES - 0

ABSENT - 0

ABSTENTION - 0

ATTEST


LaTonda Simmons
City Clerk and Clerk of the Council
of the City of Oakland, California



CITY OF OAKLAND

Deanna Santana, City Administrator

REQUEST FOR PROPOSAL

RFP

For

CITY OF OAKLAND/PORT OF OAKLAND JOINT DOMAIN AWARENESS CENTER

**PROVIDE PROFESSIONAL SERVICES TO
DESIGN/BUILD/MAINTAIN CITY OF OAKLAND/PORT OF
OAKLAND JOINT DOMAIN AWARENESS CENTER**

CITY PROJECT NUMBER 20710-1

**DEPARTMENT OF INFORMATION TECHNOLOGY
150 FRANK H. OGAWA PLAZA, 8TH FLOOR
OAKLAND, CA 94612**

October 2012

Oakland Ranked #5 Place to Visit in the World!



- New York Times 2012



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<p>The following standard schedules will be collected from the successful proposer prior to full contract execution and may be viewed at: http://www2.oaklandnet.com/Government/o/CityAdministration/d/CP/s/FormsSchedules/index.htm or at 250 Frank H. Ogawa Plaza Suite 3341, Oakland, CA Contracts and Compliance Division. Also request a copy by email supplier@oaklandnet.com</p>		
	• <u>Combined Schedules C-1, P, U, V</u>	
	Declaration of Compliance with Americans with Disabilities Act	
	Nuclear Free Zone Disclosure	
	Compliance Commitment Agreement	
	Affidavit of Non-Disciplinary or Investigatory Action	
	• <u>Single Schedules</u>	
	Schedule R - Subcontractor, Supplier, Trucking Listing Form	
	Schedule B-2 - Arizona Resolution Declaration of Compliance	
	Schedule D - Ownership, Ethnicity and Gender of Prime and Employees	
	Schedule K - Pending Dispute Disclosure	
	Schedule M - Independent Consultant Questionnaire, Part A	
	Schedule N - Declaration of Compliance - Living Wage Ordinance	
	Schedule N-1 Equal Benefits Declaration of Non-Discrimination	
	Schedule Q - Insurance Requirement	

I INTRODUCTION

The City of Oakland (City) is soliciting proposals from qualified System Integrators and Turn-Key Information Technology (IT) Solution Providers for Professional Services to Design/Build/Maintain City of Oakland/Port of Oakland Joint Domain Awareness Center. The Domain Awareness Center (DAC) will reside in a City owned facility and consolidate a network of existing surveillance and security sensor data to actively monitor critical City/Port facilities, utility infrastructure, roadways, and other areas. New information management software will be utilized jointly by City of Oakland/Port of Oakland to streamline information gathering, aid in situation assessment, and enhance information dissemination. The information management software shall include situation awareness and response capabilities, linking monitoring data with dispatch and multiple other City/Port systems. This Request for Proposals (RFP) is being issued by the City of Oakland, Department of Information Technology.

The City of Oakland/Port of Oakland Joint Domain Awareness Center is being implemented in two (2) phases. The first of the two phases, the Conceptual Design Phase, is complete. The City/Port utilized a FY08 Federal Port Security Grant in the amount of \$438,740 to complete the work. The deliverables/documents of Phase 1 include: A) Concept of Operations, B) Technology Linkage, and C) Architectural Programming, all of which are incorporated into this RFP for services related to the development of Phase 2 of the project.

This RFP document is one of two document sets needed to successfully bid this project. Document set two, or the "Restricted Documents", includes highly Sensitive Security Information (SSI) and will only be made available to proposers complying with the "Sensitive Security Information (SSI)" section of this document.

American Recovery and Reinvestment Act (ARRA): The work under this Request for Proposal (RFP) is funded using ARRA funding in the amount of \$2.6 Million.

The minimum 50% Local and Small Local Business Enterprise Program (L/SLBE) has been waived for the professional services portion of this project. The 50% minimum participation requirement for all construction contracts at or over \$100,000 is applicable to the construction services portion of this project.

City Issues RFP: Sunday, October 14, 2012

Mandatory Pre-proposal Date and Time: Wednesday, November 7, 2012, 11:00 am
Dimond Conference Room at 250 Frank H. Ogawa Plaza, 3rd Floor, Oakland, CA 94612. Please note this meeting will not include discussion regarding contents of Restricted Documents.

REQUEST FOR PROPOSAL (RFP)
CITY OF OAKLAND/PORT OF OAKLAND JOINT DOMAIN AWARENESS CENTER

Deadline For Questions: Tuesday, November 13, 2012 at Noon Questions shall be emailed to the Project Manager, Ahsan Baig abaig@oaklandnet.com

City Response to Proposer's Questions: Friday, November 16, 2012

Proposal Due Date and Time: Tuesday, November 27, 2012 at 2:00 P.M

Proposals Shall Be Delivered To: Office of the City Administrator, Contracts and Compliance Division, 250 Frank H. Ogawa Plaza 3rd Floor, Suite 3341, Oakland, CA 94612, Attention: Paula Peav

Proposals must be received and time stamped by City of Oakland Contracts and Compliance staff no later than – 2:00 P.M Proposals received after 2:00pm will be disqualified.

Short List of Qualified Proposers: Tuesday, December 4, 5:00 P M

Proposer Interviews (at discretion of City): Monday, December 10, 2012

City Selection: Friday, December 14

The successful Contractor must comply with all applicable City programs and policies Details are provided in the RFP document, online at <http://www2.oaklandnet.com/Government/o/CityAdministration/d/CP/index.htm> and will be discussed at the Pre-Proposal Meeting For copies of the forms and schedules, please go to <http://www2.oaklandnet.com/Government/o/CityAdministration/d/CP/s/FormsSchedule/index.htm>. Discussion topics will include for example (a) Appropriate forms and schedules relative to applicable programs, (b) DUNS Number For the purpose of complying with the American Recovery and Reinvestment Act of 2009, the successful consultant must provide a D-U-N-S number with the proposal. To obtain a number, go to Dun & Bradstreet at: <http://smallbusiness.dnb.com/establish-your-business/12334338-1.html>, and (c) The Contractor shall be required to comply with **applicable programs:** ♦ Equal Benefits ♦ 50% L/SLBE ♦ Living Wage ♦ Campaign Contribution ♦ Buy American Program ♦ Post-project Consultant Evaluation ♦ Prompt Payment ♦ Arizona Boycott ♦ Dispute Disclosure

Contractors that wish to participate in the RFP process are required to register in iSupplier Free copies of the RFP documents and Addenda (includes "Non-Restricted Documents" only) are available in iSupplier Hard copies will NOT be available for purchase from the City Consult the City website for the Plan Holder list.

1. iSupplier Registration/Login

<http://www2.oaklandnet.com/Government/o/CityAdministration/d/CP/index.htm>

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2 1Supplier Plan Holders List

<http://www2.oaklandnet.com/Government/o/CityAdministration/d/CP/s/Construction/index.htm>

Contact Information: The following City staffs are available to answer questions regarding this RFP.

- 1 Project Manager Ahsan Baig at abaig@oaklandnet.com or (510) 238-3010
- 2 Contract Admin Paula Peav at ppeav@oaklandnet.com or (510) 238-3190
- 3 Contract Compliance Officer Vivian Inman at vinman@oaklandnet.com or (510) 238-6261

The City of Oakland (City) is home to a strong and diverse business community, located at the geographical center of the San Francisco Bay Area. Oakland is the largest and most established of the East Bay cities. The Gross Metropolitan Product (GMP) for San Francisco-Oakland-Fremont, estimated at \$298.7 billion for 2007, ranks in the top 10 metropolitan economies in the United States, reported in the United States Conference of Mayors, 2008. The City of Oakland plays an important role in this economy by establishing public safety, promoting economic development, sponsoring and stimulating innovative social and educational programs within its diverse neighborhoods, and improving the quality and efficiency of City services.

The Port of Oakland (Port) is an independent department of the City. The Port area is situated along approximately 20 miles of waterfront. The City has operated a public harbor to serve waterborne commerce since its incorporation in 1852 and has operated an airport since 1927. The Port currently has seven (7) marine terminals and 36 gantry cranes that support more than 25 domestic and international shipping lines linking the Bay Area with direct all-water service routes to most of the world's major producing, consuming, and trading economies. The Port is ranked as the fifth busiest cargo container port in North America and has adequate capacity to accommodate future growth.

The Joint Domain Awareness Center (DAC) is the result of a City of Oakland and Port of Oakland Memorandum of Agreement to share information and resources to enhance Maritime Domain Awareness and improve safety and security of the Port of Oakland area and of the City's first responder agencies. As a result of this agreement, the City and Port obtained grant funds to design and build the DAC.

The post September 11, 2001 environment demands the development and deployment of a comprehensive technology interface that integrates key City of Oakland, Port of Oakland, and third party stakeholder systems. The automation of primary safety and security related tasks and identification of specific countermeasures to various threat scenarios are essential to enhanced safety and security of the City/Port environments. The Domain Awareness Center is envisioned to include the integrated use of electronic security systems, monitoring systems, advanced communications systems, and information routing and sharing, to be utilized for day-to-day operations and in elevated scenarios that require utilization of the National Incident Management System (NIMS),

REQUEST FOR PROPOSAL (RFP)
CITY OF OAKLAND/PORT OF OAKLAND JOINT DOMAIN AWARENESS CENTER

the National Response Framework and/or the Standardized Emergency Management System (SEMS).

Operational capabilities in the City and Port will be improved by creating a platform for interagency coordination. A joint coordination center that can allow for participation of Oakland Police Department (OPD), Oakland Fire Department (OFD), Office of Emergency Services (OES), and the Port (and facilities within the Port), with the potential for expansion of participation to include other regional partners, will improve operational coordination and mission execution by providing a common operational platform and single focus for prevention, preparedness, response, recovery and mitigation. To enhance and further facilitate safety and security City/Port of Oakland, a Domain Awareness Center will be constructed to facilitate the operation of this integrated system and provide for real-time incident level information sharing between partnering entities and agencies.

Sensitive Security Information (SSI) Certain, pertinent sections of this RFP, and attachments of, are considered Restricted Documents. **Only Proposers who intend to act as the Prime Contractor may obtain the Restricted Documents; the documents can be obtained at:**

**Port of Oakland
Engineering Services Counter, 2nd Floor
530 Water Street
Oakland, CA 94607**

To make arrangements to obtain copies of the Restricted Documents, please contact Bill Russell, at the Port of Oakland, at brussell@portoakland.com or (510) 627-1439.

To obtain Restricted Documents, the Proposer must submit a \$5,000 refundable deposit in the form of a company check made payable to "Port of Oakland". Said check shall contain Proposer's pre-printed company name, address, and phone number. Personal checks, temporary checks, and money orders will not be accepted. The full amount of \$5,000 will be refunded approximately twenty (20) days after Proposer has returned to the Port all copies of Restricted Documents, including any Addenda, containing Sensitive Security Information and distributed by the Port of Oakland, issued to Proposer during this bid period.

The Restricted Documents contain sensitive security information as defined in 49 CFR §1520. Distribution of the Restricted Documents is therefore controlled, as mandated by Federal and State regulations and as specified in the Port's "Document Control Affidavit", Attachment D. The person who picks up the Restricted Documents must submit the affidavit signed by the Chairman, President, or Vice President of the firm requesting the Restricted Documents. If the recipient of the Restricted Documents is not the person who signed the Document Control Affidavit, recipient must also submit the Port's "Authorization Letter", signed by the signatory of the Document Control Affidavit and authorizing recipient to pick up Restricted Documents on behalf of said

REQUEST FOR PROPOSAL (RFP)
CITY OF OAKLAND/PORT OF OAKLAND JOINT DOMAIN AWARENESS CENTER

person Recipient must establish his/her identity by presenting a government-issued photo identification card Any Addenda modifying the Restricted Documents, and deemed to contain sensitive security information, will be distributed in hard-copy format to the recipient of the Restricted Documents

Sub-consultants or subcontractors will not be allowed to pick up any Restricted Documents It shall be the responsibility of the Proposer to distribute the Restricted Documents to their intended sub-consultants and subcontractors, subject to Federal and State regulations and the City's Document Control Affidavit

II. SCOPE OF SERVICES

General: Based on the findings contained in Phase 1, or, Conceptual Design of Port of Oakland/City of Oakland Joint Domain Awareness Center findings/deliverables (Concept of Operations, Technology Linkage, and Architectural Programming), the scope of work in this RFP or Phase 2 is defined via two parts

Part A - Design-Build-Maintain Technology Linkage System, based on the findings/deliverables of Phase 1, includes all labor, tools, materials, appliances, equipment, transportation, and services for the integration, enhancement, development, configuration, and maintenance of the specified systems (existing and new) relative to the DAC Part A, for the purposes of this project, will be referred to as "DAC-TLS" ("Domain Awareness Center-Technology Linkage System" or "Technology Linkage System") The Domain Awareness Center is envisioned to function as defined in the Phase 1 - Concept of Operations document The DAC-TLS must support the CONOPS and also follow a similar technology model (integration architecture and desired system functionality) as defined in the Phase 1 - Technology Linkage document.

Part B - Design-Build Existing Building Improvements, based on the findings/deliverables of Phase 1, includes all labor, tools, materials, appliances, equipment, transportation and services for completing the scope of work, for the purposes of this project referred to as "DAC-EBI" ("Domain Awareness Center - Existing Building Improvements" or "Existing Building Improvements") These improvements, and procedures to follow for the purposes of implementation of the improvements, are defined in the plans and specifications, the plans and specifications are the Architectural Programming documents of Phase 1

This RFP solicitation requires a Systems Integrator for the Hardware/Software Design-Build-Maintain Project, or, Part A mentioned above The Systems Hardware/Software Integrator will also be responsible for implementation of Part B and shall obtain the services of a contractor to perform the work, a) Final Design/Engineering - Professional Engineer Registered in the State of California and b) Construction - Contractor is responsible to possess all applicable classifications of California Contractors License(s), and license(s) must be in good standing per <http://www.cslb.ca.gov/> prior to, and during, completion of any work.

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Proposers may partner or subcontract for services as needed, however, the successful Proposer will be responsible for the entire Scope as set forth in this Scope of Services. Subsequently, the selected Proposer as the Consultant will be solely responsible for coordinating the activities of all team members, and ensuring that the scope is fulfilled to the City's satisfaction in accordance with the agreement.

Project Overview: The project is designed to enhance prevention, response, and recovery for security/emergency response operations (day-to-day and emergency tempos) in the maritime area of the City/Port of Oakland, surrounding areas, and the supporting transportation and utility networks. Part A, mentioned above, shall deliver a comprehensive DAC-TLS that consists of configuration data, hardware, process documentation, training and support designed specifically for day-to-day public safety operations, security, emergency responses, and business recovery uses and applications tailored to the specific needs of the City/Port. The DAC-TLS is expected to support City and Port systems identified in the Phase 1 Technology Linkage Document and systems which are to be further defined, inventoried, and classified in this scope of work. The DAC-TLS solution is expected to be capable of providing long term support to the systems chosen for integration in this project and include flexibility to allow integration of additional systems in the future. This part of the project focuses on the specification, procurement, deployment, integration and support of the identified systems in the DAC. This project will include timely propagation of event/alarm data back to the DAC as well as being inclusive of the hardware and software that will store, serve, display, and allow sharing of that data.

This project is envisioned to produce a secure, web-accessible DAC-TLS that will provide information on critical infrastructure assets and will consolidate, migrate and integrate DAC-TLS' event and alarm information from the City/Port systems, and allow for that information to either be viewed and controlled via the individual systems' native application at the DAC or to be integrated into a Common Operational Platform (COP) manner at the DAC. All systems within the scope of this work shall be specified to provide "openness" in architecture to seamlessly integrate all systems information data into this COP environment. Information viewed by the DAC as a result of these systems will be done in conjunction with DAC viewing of separate, existing systems, such as City GIS, Port CCTV systems, and various communications/dispatching systems. The DAC-TLS will provide tools for focused response to mitigate security threats by providing the DAC and subsequent responders with the information they need to immediately respond to or revisit situational threats.

The core project goals of Part A/DAC-TLS, include, but are not limited to

- 1 Based on review of the CONOPS and Technology Linkage Documents, validate City and Port Systems to be accessed in the DAC.
- 2 Based on review of the Technology Linkage document, and additional necessary investigation, assess existing network infrastructure requirements and identify additional requirements.

REQUEST FOR PROPOSAL (RFP)
CITY OF OAKLAND/PORT OF OAKLAND JOINT DOMAIN AWARENESS CENTER

- 3 Make necessary network infrastructure improvements and make the identified City and Port systems available, on a single user interface, in the DAC
 - Provide a complete project plan to implement each system identified
 - Provide an implementation timeline for each system identified
- 4 Provide the deployment and integration of a Physical Security Information Management (PSIM) software system "most" conducive to all DAC-TLS integration expectations that best provide for a common operating picture between City and Port.
 - City and Port systems identified to be accessible in the DAC shall be prioritized for the purposes of system integration into PSIM. The systems integrator shall identify what City and Port systems can be integrated into the PSIM based on system importance, project budget, and timeline.
 - Provide a complete project plan to integrate each system identified into the PSIM.
 - Provide a PSIM implementation timeline for each system identified
5. Provide standardization of DAC related network access and mediums
- 6 Create a standardized process and change management support function to ensure that all newly created images, cameras and applicable security assets are implemented within the DAC's viewing layer(s)
- 7 Provide a robust Records / Case Management System to allow for the integration of all DAC-TLS systems and provide for the encapsulation of multiple, digital information assets relative to individual incidents or events.
8. Provide a communications dispatch solution, (software application and hardware components) compatible with the current CAD System that will allow the DAC to offer bi-directional communication to first responders as well as other Emergency Operations Centers within the City (e.g. OPD, OFD, EOC, etc)
- 9 Provide a robust, integrated and work-flow oriented Ticket Management System to allow for the DAC to capture, respond and investigate any incident within their prevue
- 10 Design accurate, timely and complete information propagation of each DAC-TLS system into the DAC
- 11 Another core component of the implementation of the DAC-TLS solution is the development and delivery of management and user training resources, including change management with respect to changes to workflow and business processes

The City/Port recognizes that it has limited staff and resources to support the deployment of the DAC-TLS solution. Thus, an essential component is the provision of an ongoing maintenance, support, management, and monitoring on two distinct levels, for two (2) years.

- 1 Support and Maintenance of the deployed DAC-TLS solution products. Include hardware, software, database, and any other necessary components for the fully functional DAC-TLS solution – minimum service level is "business day"

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service level only (8 hours x 5 days a week, excluding public holidays) by either remote or on-site staff. Additionally, emergency support and maintenance (issues occurring beyond 8 hours x 5 days a week, including public holidays) must be supported

2. Enhancements and Upgrades of the deployed DAC-TLS solution. Include future integration and development of the DAC-TLS to support City/Port system growth and needs

The successful, selected respondent shall develop and support PSIM workflows, to meet needs of DAC operations, for the duration of the maintenance/service agreement mentioned above. The contractor shall also ensure system integrations in the PSIM for five (5) years; provide all manufacturer(s) issued system, firmware, and software application version updates.

Additional information regarding the Part A/DAC-TLS Scope of Work can be found in the "Restricted Documents".

The core project goals of Part B/DAC-EBI, include, but are not limited to

1. Review and validate, in coordination with City/Port of Oakland, DAC build out plans and specifications. In consultation with the City/Port of Oakland, make any adjustments necessary
2. Implement Part B – Provide complete, 100% Design plans and specifications and build - Existing Building Improvements. Design and construction must meet all requirements of City/Port of Oakland. Contractor performing the work is responsible for obtaining all permits required to perform this scope of work.

Additional information regarding the Part B/DAC-EBI Scope of Work can be found in the "Restricted Documents".

III. THE PROPOSAL

A. GENERAL INFORMATION

1. The successful proposer selected for this service shall obtain or provide proof of having a current City of Oakland Business tax Certificate
2. The City Council reserves the right to reject any and all proposals
3. Local and Small Local Business Enterprise Program (L/SLBE)
 - a. *Requirement* –The minimum 50% Local and Small Local Business Enterprise Program (L/SLBE) has been waived for the professional services portion of this project. The 50% minimum participation requirement for all construction contracts at or over \$100,000 is applicable to the construction services portion of this project. There is a 50% minimum participation requirement for all

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service level only (8 hours x 5 days a week, excluding public holidays) by either remote or on-site staff. Additionally, emergency support and maintenance (issues occurring beyond 8 hours x 5 days a week, including public holidays) must be supported.

- 2 Enhancements and Upgrades of the deployed DAC-TLS solution. Include future integration and development of the DAC-TLS to support City/Port system growth and needs.

The successful, selected respondent shall develop and support PSIM workflows, to meet needs of DAC operations, for the duration of the maintenance/service agreement mentioned above. The contractor shall also ensure system integrations in the PSIM for five (5) years, provide all manufacturer(s) issued system, firmware, and software application version updates.

Additional information regarding the Part A/DAC-TLS Scope of Work can be found in the "Restricted Documents".

The core project goals of Part B/DAC-EBI, include, but are not limited to

- 1 Review and validate, in coordination with City/Port of Oakland, DAC build out plans and specifications. In consultation with the City/Port of Oakland, make any adjustments necessary.
- 2 Implement Part B – Provide complete, 100% Design plans and specifications and build - Existing Building Improvements. Design and construction must meet all requirements of City/Port of Oakland. Contractor performing the work is responsible for obtaining all permits required to perform this scope of work.

Additional information regarding the Part B/DAC-EBI Scope of Work can be found in the "Restricted Documents".

III. THE PROPOSAL

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construction contracts at or over \$100,000, all professional services contracts over \$50,000, and all purchases of commodities, goods and associated services over \$50,000 Bidder/consultant status as an **Oakland certified local or small local firm and subcontractor/subconsultant** status as an Oakland certified local or small local firm are taken into account in the calculation

The City has waived small local business enterprise (SLBE) subcontracting requirements for Oakland certified local businesses that apply for professional services contracts as the prime contractor with the City. The SLBE requirements still apply for non-certified LBEs and non-local business enterprises

There is also a 50% L/SLBE trucking participation requirement to enhance the participation of locally based trucking firms in city funded public works projects. In the case of construction projects where trucking is warranted, 50% of the total trucking dollars must be allotted to certified (Oakland) Local Truckers. The City will identify in bid specifications when the 50% local trucking requirement is applicable. It is important to note that failure to comply with the 50% trucking requirement will result in a non-responsive bid.

- b **Requirement – For Construction Services, 50% Local Employment Program (LEP):** For any construction contract or development agreement with the City this policy establishes a goal for Oakland-resident employment on public works projects (as such projects are defined in this policy). Specifically, for work performed at the construction site, this policy establishes a goal of 50% of the work hours, which must be performed by Oakland residents on a craft-by-craft basis. In addition, a minimum of 50% of all new hires on the project (on a craft-by-craft basis) must be Oakland residents, and the first new hire must be an Oakland resident. A contractor or developer must achieve the goals or secure an exemption from the City.
- c Oakland's Local Employment Program applies to this contract. This program requires contractors to hire local residents for public works contracts.
- d **Requirement – For Construction Services, 15% Apprenticeship Program:** Oakland's Apprenticeship Program applies to this contract. This program requires contractors to provide employment to Oakland apprentices equal to 15% of the total project work hours on a craft-by-craft basis, or demonstrate through good faith efforts that at the time of the contract there were insufficient Oakland apprentices available to perform contracted work on a craft-by-craft basis equal to fifteen percent (15%) of the total hours. Contractors will have either provided

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employment to Oakland apprentices equal to 15% of project hours on a craft-by-craft basis or secured waiver(s) from the City. Specific details of the L/SLBE, LEP and Apprenticeship Program are addressed in the Local and Small Business Program which can be viewed on our website

<http://www2.oaklandnet.com/Government/o/CityAdministration/d/CP/index.htm> under the heading "Local and Small Local Business Program" or at 250 Frank H. Ogawa Plaza, Room 3341 City Administrator's Office, Division of Contracts and Compliance

- e. *Requirement* – For Construction Services, Prevailing Wages - City of Oakland contracts for public works of improvement (construction) are subject to all California Labor laws, including, but not limited to, prevailing wage and apprentice wage laws. The City and Agency have adopted State of California Prevailing Wage rates for their public works of improvement (construction) projects. City Council Resolution No 57103 C.M.S., passed March 28, 1978, covering this matter are available for inspection at the Office of the City Clerk, One Frank H. Ogawa Plaza Oakland, CA 94612. The Prevailing Wages Ordinance can be viewed at our website <http://www2.oaklandnet.com/Government/o/CityAdministration/d/CP/s/PoliciesOrdinances/index.htm> Policies and Ordinances or at 250 Frank H. Ogawa Plaza, Room 3341 City Administrator's Office, Division of Contracts and Compliance. The California Department of Industrial Relations (DIR), Divisions of Labor Statistics and Research, annually determines prevailing wages and may be found at www.dir.ca.gov/DLSR/PWD
- f. *Requirement* – For Construction Services, contractors are required to submit weekly certified payroll documents five days after each pay period to the City and will be monitored/audited for compliance. The City will investigate discrepancies in the audit as well as prevailing wage claims, and may request further documentation or proof of compliance. In the event that the City or Agency determines that Contractor has failed to pay any of its employees in accordance with the appropriate prevailing wage rate, findings will be reported to the Department of Labor and/or the difference between the amount paid and amount owed for prevailing wages from any amount owed contractor will be withheld until such time as the payment dispute is fully and finally resolved.
- g. *Requirement* – For Construction Services, Electronic Payroll Submittals - The prime contractor and all subcontractors must submit all certified payrolls via the LCPTracker System, in accordance with the City of Oakland's Local and Small Local Business Enterprise

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Program The monthly service charge for Prime contractors is \$160 00 per month for contracts less than 5 million dollars and \$320 00 for contracts greater than 5 million dollars, subcontractors will not be charged for this service

- h Good Faith Effort - In light of the fifty (50%) percent requirement, good faith effort documentation is not necessary.
- i Preference Points - Preference points are earned based on the level of participation proposed prior to the award of a contract Upon satisfying the minimum fifty percent requirement, a consultant will earn two (2) preference points Three additional preference points may be earned at a rate of one point for every additional ten percent participation up to eighty percent participation of the total contract dollars spent with local Oakland certified firms
- j. A firm may earn up to five (5) preference points for local Oakland business participation and additional preference points for being a long term certified business in Oakland regardless of size and for having an Oakland workforce.
- k In those instances where VSLBE participation is evident, the level of participation will be double-counted towards meeting the requirement
- l. Additional Preference Points. For Request for Proposal (RFP) and Request for Qualifications (RFQ), additional Preference Points may be earned for having an Oakland workforce on Non-Construction Contracts
- m Earning extra preference points for having an existing work force that includes Oakland residents is considered added value The Request for Proposal "evaluation" process allows for additional preference points over and above the number of points earned for technical expertise Typically 100 points may be earned for the technical elements of the RFP Preference points are awarded over and above the potential 100 points
- n The Exit Report and Affidavit (ERA) - This report declares the level of participation achieved and will be used to calculate banked credits The prime consultant must complete the Schedule F, Exit Report and Affidavit for, and have it executed by, each L/SLBE sub consultant and submitted to the Office of the City Administrator, Contracts and Compliance Unit, along with a copy of the final progress payment application
- o Joint Venture and Mentor Protégé Agreements If a prime contractor

or prime consultant is able to develop a Joint Venture or "Mentor-Protégé" relationship with a certified LBE or SLBE, the mentor or Joint Venture partners will enjoy the benefit of credits against the participation requirement. In order to earn credit for Joint Venture or Mentor-Protégé relationships, the Agreement must be submitted for approval to the Office of the City Administrator, Contracts and Compliance Unit, prior to the project bid date for construction, and by proposal due date for professional services contracts. Joint Venture Applications and elements of City approved Mentor Protégé relation are available upon request.

- p Contractor shall submit information concerning the ownership and workforce composition of Contractor's firm as well as its subcontractors and suppliers, by completing Schedule D, Ownership, Ethnicity, and Gender Questionnaire, and Schedule E, Project Consultant Team attached and incorporated herein and made a part of this Agreement.
 - q All affirmative action efforts of Contractor are subject to tracking by the City. This information or data shall be used for statistical purposes only. All contractors are required to provide data regarding the make-up of their subcontractors and agents who will perform City contracts, including the race and gender of each employee and/or contractor and his or her job title or function and the methodology used by Contractor to hire and/or contract with the individual or entity in question.
 - r In the recruitment of subcontractors, the City of Oakland requires all contractors to undertake nondiscriminatory and equal outreach efforts, which include outreach to minorities and women-owned businesses as well as other segments of Oakland's business community. The City Administrator will track the City's MBE/WBE utilization to ensure the absence of unlawful discrimination on the basis of age, marital status, religion, gender, sexual preference, race, creed, color, national origin, Acquired-Immune Deficiency Syndrome (AIDS), AIDS-Related Complex (ARC) or disability.
 - s In the use of such recruitment, hiring and retention of employees or subcontractors, the City of Oakland requires all contractors to undertake nondiscriminatory and equal outreach efforts which include outreach to minorities and women as well as other segments of Oakland's business community.
4. The City's Living Wage Ordinance

This Agreement is subject to the Oakland Living Wage Ordinance. The Living Wage Ordinance requires that nothing less than a prescribed

minimum level of compensation (a living wage) be paid to employees of service Contractors (contractors) of the City and employees of CFARs (Ord 12050 § 1, 1998) The Ordinance also requires submission of the Declaration of Compliance attached and incorporated herein as Declaration of Compliance – Living Wage Form, and made part of this Agreement, and, unless specific exemptions apply or a waiver is granted, the contractor must provide the following to its employees who perform services under or related to this Agreement:

- a. Minimum compensation – Said employees shall be paid an initial hourly wage rate of \$11.70 with health benefits or \$13.45 without health benefits. These initial rates shall be upwardly adjusted each year no later than April 1 in proportion to the increase at the immediately preceding December 31 over the year earlier level of the Bay Region Consumer Price Index as published by the Bureau of Labor Statistics, U.S. Department of Labor. **Effective July 1st of each year, Contractor shall pay adjusted wage rates.**
- b. Health benefits – Said full-time and part-time employees paid at the lower living wage rate shall be provided health benefits of at least \$1.75 per hour. Contractor shall provide proof that health benefits are in effect for those employees no later than 30 days after execution of the contract or receipt of City financial assistance.
- c. Compensated days off – Said employees shall be entitled to twelve compensated days off per year for sick leave, vacation or personal necessity at the employee's request, and ten uncompensated days off per year for sick leave. Employees shall accrue one compensated day off per month of full time employment. Part-time employees shall accrue compensated days off in increments proportional to that accrued by full-time employees. The employees shall be eligible to use accrued days off after the first six months of employment or consistent with company policy, whichever is sooner. Paid holidays, consistent with established employer policy, may be counted toward provision of the required 12 compensated days off. Ten uncompensated days off shall be made available, as needed, for personal or immediate family illness after the employee has exhausted his or her accrued compensated days off for that year.
- d. Federal Earned Income Credit (EIC) - To inform employees that he or she may be eligible for Earned Income Credit (EIC) and shall provide forms to apply for advance EIC payments to eligible employees. For more information, web sites include but are not limited to: (1) <http://www.irs.gov> and <http://www.irs.gov/individuals/article/0,,id=96466,00.html>
- e. Contractor shall provide to all employees and to the Office of

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Contracts and Compliance, written notice of its obligation to eligible employees under the City's Living Wage requirements. Said notice shall be posted prominently in communal areas of the work site(s) and shall include the above-referenced information.

- f. Contractor shall provide all written notices and forms required above in English, Spanish or other languages spoken by a significant number of employees within 30 days of employment under this Agreement.
- g. Reporting – Contractor shall maintain a listing of the name, address, hire date, occupation classification, rate of pay and benefits for each of its employees. Contractor shall provide a copy of said list to the Office of Contract Compliance, on a quarterly basis, by March 31, June 30, September 30 and December 31 for the applicable compliance period. Failure to provide said list within five days of the due date will result in liquidated damages of five hundred dollars (\$500.00) for each day that the list remains outstanding. Contractor shall maintain employee payroll and related records for a period of four (4) years after expiration of the compliance period.
- h. Contractor shall require sub-contractors that provide services under or related to this Agreement to comply with the above Living Wage provisions. Contractor shall include the above-referenced sections in its subcontracts. Copies of said subcontracts shall be submitted to the Office of the City Administrator, Contract Compliance & Employment Services Division. For more information, see http://library.municode.com/HTML/16308/level2/TIT2ADPE_CH2.28_LIWAOR.html#TOPTITLE

5 Equal Benefits Ordinance

This Agreement is subject to the Equal Benefits Ordinance of Chapter 2 32 of the Oakland Municipal Code and its implementing regulations. The purpose of this Ordinance is to protect and further the public, health, safety, convenience, comfort, property and general welfare by requiring that public funds be expended in a manner so as to prohibit discrimination in the provision of employee benefits by City Contractors (contractors) between employees with spouses and employees with domestic partners, and/or between domestic partners and spouses of such employees (Ord 12394 (part), 2001).

The following contractors are subject to the Equal Benefits Ordinance: Entities which enter into a "contract" with the City for an amount of twenty-five thousand dollars (\$25,000.00) or more for public works or improvements to be performed, or for goods or services to be purchased or grants to be provided at the expense of the City or to be paid out of

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moneys deposited in the treasury or out of trust moneys under the control of or collected by the city, and Entities which enter into a "property contract" pursuant to Section 2 32 020(D) with the City in an amount of twenty-five thousand dollars (\$25,000 00) or more for the exclusive use of or occupancy (1) of real property owned or controlled by the city or (2) of real property owned by others for the city's use or occupancy, for a term exceeding twenty-nine (29) days in any calendar year

The Ordinance shall only apply to those portions of a Contractor's operations that occur (1) within the City, (2) on real property outside the City if the property is owned by the City or if the City has a right to occupy the property, and if the contract's presence at that location is connected to a contract with the City, and (3) elsewhere in the United States where work related to a City contract is being performed. The requirements of this chapter shall not apply to subcontracts or sub-contractors.

The Equal Benefits Ordinance requires among other things, submission of the attached and incorporated herein as Equal Benefits-Declaration of Nondiscrimination form. For more information, see http://library.municode.com/HTML/16308/level2/TIT2ADPE_CH2_32EQ_BEOR.html#TOPTITLE

6 Prompt Payment Ordinance OMC Section 2.06.070 Prompt Payment Terms Required in Notices Inviting Bids, Requests for Proposals/Qualifications and Purchase Contracts

This Agreement is subject to the Prompt Payment Ordinance of Oakland Municipal Code, Title 2, Chapter 2 06. The Ordinance requires that, unless specific exemptions apply, Contractor and its subcontractors shall pay undisputed invoices of their subcontractors for goods and/or services within twenty (20) business days of submission of invoices unless the Contractor or its subcontractors notify the Liaison in writing within five (5) business days that there is a bona fide dispute between the Contractor or its subcontractor and claimant, in which case the Contractor or its subcontractor may withhold the disputed amount but shall pay the undisputed amount.

Disputed payments are subject to investigation by the City of Oakland Liaison upon the filing of a complaint. Contractor or its subcontractors opposing payment shall provide security in the form of cash, certified check or bond to cover the disputed amount and penalty during the investigation. If Contractor or its subcontractor fails or refuses to deposit security, the City will withhold an amount sufficient to cover the claim from the next Contractor progress payment. The City, upon a

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determination that an undisputed invoice or payment is late, will release security deposits or withholds directly to claimants for valid claims

Contractor and its subcontractors shall not be allowed to retain monies from subcontractor payments for goods as project retention, and are required to release subcontractor project retention in proportion to the subcontractor services rendered, for which payment is due and undisputed, within five (5) business days of payment. Contractor and its subcontractors shall be required to pass on to and pay subcontractors mobilization fees within five (5) business days of being paid such fees by the City. For the purpose of posting on the City's website, Contractor and its subcontractors, are required to file notice with the City of release of retention and payment of mobilization fees, within five (5) business days of such payment or release; and, Contractors are required to file an affidavit, under penalty of perjury, that he or she has paid all subcontractors, within five (5) business days following receipt of payment from the City. The affidavit shall provide the names and address of all subcontractors and the amount paid to each.

Contractor and its subcontractors shall include the same or similar provisions as those set forth above in this section in any contract with a contractor or subcontractor that delivers goods and/or services pursuant to or in connection with a City of Oakland purchase contract.

Prompt Payment invoice and claim forms are available at the following City of Oakland website <http://www2.oaklandnet.com/Government/o/CityAdministration/d/CP/s/FormsSchedules/index.htm> or at Contracts and Compliance, 250 Frank H. Ogawa Plaza, Suite 3341, Oakland, CA 94612. Invoice and claim inquiries should be directed to Vivian Inman, City of Oakland Prompt Payment Liaison, 510-238-6261 or email vinman@oaklandnet.com

7 Non-Discrimination/Equal Employment Practices

Contractor shall not discriminate or permit discrimination against any person or group of persons in any manner prohibited by federal, state or local laws. During the performance of this Agreement, Contractor agrees as follows:

- a. Contractor and Contractor's sub-contractors, if any, shall not discriminate against any employee or applicant for employment because of age, marital status, religion, gender, sexual preference, race, creed, color, national origin, Acquired-Immune Deficiency Syndrome (AIDS), AIDS-Related Complex (ARC) or disability. This nondiscrimination policy shall include, but not be limited to, the following: employment, upgrading, failure to promote, demotion or transfer, recruitment

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advertising, layoffs, termination, rates of pay or other forms of compensation, and selection for training, including apprenticeship

- b Contractor and Contractor's Sub-contractors shall state in all solicitations or advertisements for employees placed by or on behalf of Contractor that all qualified applicants will receive consideration for employment without regard to age, marital status, religion, gender, sexual preference, race, creed, color, national origin, Acquired-Immune Deficiency Syndrome (AIDS), AIDS-Related Complex (ARC) or disability
- c Contractor shall make its goods, services, and facilities accessible to people with disabilities and shall verify compliance with the Americans with Disabilities Act by executing Declaration of Compliance with the Americans with Disabilities Act, attached hereto and incorporated herein.
- d. If applicable, Contractor will send to each labor union or representative of workers with whom Contractor has a collective bargaining agreement or contract or understanding, a notice advising the labor union or workers' representative of Contractor's commitments under this nondiscrimination clause and shall post copies of the notice in conspicuous places available to employees and applicants for employment.
- e. Contractor shall submit information concerning the ownership and workforce composition of Contractor's firm as well as its sub Contractors and suppliers, by completing the Ownership, Ethnicity and Gender Questionnaire
- f The Project Contractor Team attached and incorporated herein and made a part of this Agreement, Exit Report and Affidavit, attached and incorporated herein and made a part of this Agreement.
- g All affirmative action efforts of Contractors are subject to tracking by the City This information or data shall be used for statistical purposes only All Contractors are required to provide data regarding the make-up of their sub Contractors and agents who will perform City contracts, including the race and gender of each employee and/or Contractor and his or her job title or function and the methodology used by Contractor to hire and/or contract with the individual or entity in question
- h The City will immediately report evidence or instances of apparent discrimination in City contracts to the appropriate State and Federal agencies, and will take action against Contractors who are found to be engaging in discriminatory acts or practices by an appropriate State or Federal agency or court of law, up to and including termination or

debarment.

- 1 In the recruitment of sub Contractors, the City of Oakland requires all Contractors to undertake nondiscriminatory and equal outreach efforts, which include outreach to minorities and women-owned businesses as well as other segments of Oakland's business community. The City Administrator will track the City's MBE/WBE utilization to ensure the absence of unlawful discrimination on the basis of age, marital status, religion, gender, sexual preference, race, creed, color, national origin, Acquired-Immune Deficiency Syndrome (AIDS), AIDS-Related Complex (ARC) or disability.
- J In the use of such recruitment, hiring and retention of employees or sub Contractors, the City of Oakland requires all Contractors to undertake nondiscriminatory and equal outreach efforts which include outreach to minorities and women as well as other segments of Oakland's business community.

8 Arizona and Arizona-Based Businesses

Contractor agrees that in accordance with Resolution No. 82727 C.M.S., neither it nor any of its subsidiaries, affiliates or agents that will provide services under this agreement is currently headquartered in the State of Arizona, and shall not establish an Arizona business headquarters for the duration of this agreement with the City of Oakland or until Arizona rescinds SB 1070.

Contractor acknowledges its duty to notify Contracts and Compliance Division, Office of the City Administrator if its Business Entity or any of its subsidiaries, affiliates or agents subsequently relocates its headquarters to the State of Arizona. Such relocation shall be a basis for termination of this agreement.

9 Pending Dispute Disclosure Policy

Contractors are required to disclose pending disputes with the City of Oakland when they are involved in submitting bids, proposals or applications for a City contract or transaction involving professional services. This includes contract amendments. Contractor agrees to disclose, and has disclosed, any and all pending disputes to the City prior to execution of this agreement. The City will provide a form for such disclosure upon Contractor's request. Failure to disclose pending disputes prior to execution of this amendment shall be a basis for termination of this agreement.

10 City of Oakland Campaign Contribution Limits

This Agreement is subject to the City of Oakland Campaign Reform Act of Chapter 3 12 of the Oakland Municipal Code and its implementing regulations if it requires Council approval. The City of Oakland Campaign Reform Act prohibits Contractors that are doing business or seeking to do business with the City of Oakland from making campaign contributions to Oakland candidates between commencement of negotiations and either 180 days after completion of, or termination of, contract negotiations. If this Agreement requires Council approval, Contractor must sign and date an Acknowledgment of Campaign Contribution Limits Form.

11 Nuclear Free Zone Disclosure

Contractor represents, pursuant to the combined form Nuclear Free Zone Disclosure Form that Contractor is in compliance with the City of Oakland's restrictions on doing business with service providers considered nuclear weapons makers. Prior to execution of this agreement, Contractor shall complete the combined form, attached hereto.

12 Sample Professional Service Agreement

This Agreement is subject to the attached Sample Professional Service Agreement.

13 Insurance Requirements

The Contractor will be required to provide proof of all insurance required for the work prior to execution of the contract, including copies of the Contractor's insurance policies if and when requested. Failure to provide the insurance proof requested or failure to do so in a timely manner shall constitute grounds for rescission of the contract award.

The Contractor shall name the City of Oakland, its Council members, directors, officers, agents, employees and volunteers as additional insured in its Comprehensive Commercial General Liability and Automobile Liability policies. If Contractor submits the ACORD Insurance Certificate, the additional insured endorsement must be set forth on a CG20 10 11 85 form and/or CA 20 48 - Designated Insured Form (for business auto insurance).

Please Note: A statement of additional insured endorsement on the ACORD insurance certificate is insufficient and will be rejected as proof of the additional insured requirement.

Unless a written waiver is obtained from the City's Risk Manager, Contractors must provide the insurance as found at <http://www2.oaklandnet.com/Government/o/CityAdministration/d/CP/s/FormsSchedules/index.htm> (Schedule Q). A copy of the requirements are

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attached and incorporated herein by reference. Liability insurance shall be provided in accordance with the requirements specified

When providing the insurance, include the Project Name and Project Number on the ACORD form in the section marked Description of Operations/Locations

When providing the insurance, the "Certificate Holder" should be listed as City of Oakland, Contracts and Compliance, 250 Frank H. Ogawa Plaza, Suite 3341, Oakland, CA 94612

14. City Contractor Performance Evaluation

At the end of the project, the Project Manager will evaluate the Contractor's Performance in accordance with the City Contractor Performance Evaluation program.

15. Violation Of Federal, State, City/ Laws, Programs Or Policies

The City may, in their sole discretion, consider violations of any programs and policies described or referenced in this Request for Proposal, a material breach and may take enforcement action provided under the law, programs or policies, and/or terminate the contract, debar contractors from further contracts with City and/or take any other action or invoke any other remedy available under law or equity

16. Contractor's Qualifications

Contractor represents that Contractor has the qualifications and skills necessary to perform the services under this Agreement in a competent and professional manner without the advice or direction of the City. Contractor's services will be performed in accordance with the generally accepted principles and practices applicable to Contractor's trade or profession. The Contractor warrants that the Contractor, and the Contractor's employees and sub-contractors are properly licensed, registered, and/or certified as may be required under any applicable federal, state and local laws, statutes, ordinances, rules and regulations relating to Contractor's performance of the Services. All Services provided pursuant to this Agreement shall comply with all applicable laws and regulations. Contractor will promptly advise City of any change in the applicable laws, regulations, or other conditions that may affect City's program. This means Contractor is able to fulfill the requirements of this Agreement. Failure to perform all of the services required under this Agreement will constitute a material breach of the Agreement and may be cause for termination of the Agreement. Contractor has complete and sole discretion for the manner in which the work under this Agreement is performed. Prior to execution of this agreement, Contractor shall complete the Independent Contractor Questionnaire, Part A, attached hereto.

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- 17 All responses to the RFP become the property of the City
- 18 The RFP does not commit the City to award a contract or to pay any cost incurred in the preparation of the proposal
- 19 The City reserves the sole right to evaluate each proposal and to accept or reject any or all proposals received as a result of the RFP process.
- 20 The City reserves the unqualified right to modify, suspend, or terminate at its sole discretion any and all aspects of the RFP and/or RFP process, to obtain further information from any and all Contractor teams and to waive any defects as to form or content of the RFP or any responses by any contractor teams
- 21 The City may require a service provider to participate in negotiations and submit technical information or other revisions to the service provider's qualifications as may result from negotiations
- 22 Once a final award is made, all RFP responses, except financial and proprietary information, become a matter of public record and shall be regarded by the City as public records. The City shall not in any way be liable or responsible for the disclosure of any such records or portions thereof if the disclosure is made pursuant to a request under the Public Records Act or the City of Oakland Sunshine Ordinance
- 23 The Fair Political Practices Act and/or California Government Code Section 1090, among other statutes and regulations may prohibit the City from contracting with a service provider if the service provider or an employee, officer or director of the service providers' firm, or any immediate family of the preceding, or any sub Contractor or contractor of the service provider, is serving as a public official, elected official, employee, board or commission member of the City who will award or influence the awarding of the contract or otherwise participate in the making of the contract. The making of a contract includes actions that are preliminary or preparatory to the selection of a Contractor such as, but not limited to, involvement in the reasoning, planning and/or drafting of solicitations for bids and RFPs, feasibility studies, master plans or preliminary discussions or negotiations
- 24 Correction Period If within one (1) year after the date of Final Acceptance or such longer period of time as may be prescribed by laws or regulations or by the terms of any applicable special warranty or guarantee required by the Contract Documents or supplied with regard to the Work or required by any specific provision of the Contract Documents, any Work is found to be defective, Contractor shall promptly, without cost to the City and in accordance with the City's written instructions, (1) correct such

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defective Work or, if it has been rejected by the City, remove it from the Site and replace it with Work that is not defective, and (11) satisfactorily correct or remove and replace any damage to other Work or the work of others resulting therefrom. If Contractor does not promptly comply with the terms of such instructions, or in an emergency where delay would cause serious risk of loss or damage, the City may have the defective Work corrected or the rejected Work removed and replaced, and all claims, costs, losses and damages caused by or resulting therefrom (including but not limited to all costs of repair or replacement of work of others) shall be paid by Contractor.

25 Performance Bond: The successful, selected respondent will issue a Performance Bond to the City of Oakland in the amount of the cost of the Services Agreement. The Performance Bond is to be maintained for the duration of the Services Agreement.

B. SUBMITTAL REQUIREMENTS

Submit ten (10) copies of proposal. The proposals are due at the Department of Contracts and Compliance, Office of the City Administrator, 250 Frank H. Ogawa Plaza, Suite 3341, Oakland, CA 94612 time stamped by no later than 2:00 P.M. Tuesday, November 27, 2012.

- Proposal submitted to the above address after 2:00 P.M. will not be accepted.
- Proposal submitted to another location by 2:00 P.M. will not be accepted.

All proposals submitted via US Mail or common carrier must be delivered in a sealed package with the project name, submittal date, time and location of the proposals on the outside of the package or the documents.

C. REQUIRED PROPOSAL ELEMENTS AND FORMAT

1 Transmittal Letter

- a. Addressed to Deanna Santana, City Administrator, Office of the City Administrator, City Hall, 1 Frank Ogawa Plaza, 3rd Floor, Oakland, California, 94612 (Please do not submit proposals to this address)
- b. Signed by an officer of the consultant. In case of joint venture or other joint-prime relationship, an officer of each venture partner shall sign

2 Project Team

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- a In response to this RFP, the prime contractor shall be qualified consulting firm For LBEs/SLBEs, submit a copy of current business license and date established in Oakland
- b Sub-Consultants (if used) list addresses, telephone numbers and areas of expertise of each Briefly describe the project responsibility of each team member Identify which contractors are MBE, WBE, Local Business Enterprises (LBE) and Small Local Business Enterprise (SLBE) Additionally, for LBEs/SLBEs, submit a copy of current business license and date established in Oakland

3 Project Personnel

- a Prime(s) Provide a detailed resume of the proposed principal-in-charge, 1 and the project manager(s) The Project Manager(s) shall be a full-time employee of the prime(s) Clearly identify experience
- b Sub-Contractors Provide a detailed resume of the proposed project manager, who shall be a full-time employee of each sub-contractor for this project Clearly identify relevant experience. He/she shall be a professional currently licensed in the State of California

4 Relevant Experience

- a Describe experiences performing similar functions in three local government operations to include a brief description of recommendations and outcomes
- b If the team has worked together collaboratively, please include a description of this work
- c Describe experiences and ability to work effectively with City staff, community groups, and other stakeholders

5 Project Approach and Organization

- a Present your concept of the approach and organization required for this project Indicate your understanding of the critical project elements.
- b Provide a proof-of-concept design framework for the DAC-TLS, shall include, but is not limited to, architecture outlining how City/Port systems identified in the Technology Linkage Document are to be accessed in the DAC and descriptions of

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anticipated infrastructure/hardware/software improvements
necessary

- c Provide a proof-of-concept framework for PSIM implementation based on functionality requirements identified in the CONOPS and Technology Linkage Documents, identify (conceptually) what systems proposer anticipates integrating into the PSIM solution based on allotted project implementation timeline and budget.
- d Provide a project schedule and identify ability to complete the project within the specified timeframe
- e Describe how you intend to interface with City staff and the community

6 References

- a Prime Consultant(s) Three business related references, giving name, company, address, telephone number and business relationship
- b Proposed Project Manager(s). Two business related references, giving name, company, address, telephone number and business relationship to project manager
- c Describe pertinent past related projects completed within the past five (5) years (maximum of 3 projects per team member, not to exceed 10 per proposal)

7 Fee Proposal and Billing Rates

- a Provide a detailed man-hour breakdown of all work described in the project approach with a summary of fee by task and total for the project
- b Provide a complete list of all staff hourly rates by category, i.e., Principal, Project Manager, Project Professional, Technician, Clerical, etc. Hourly rates shall be all-inclusive, i.e., base salary, fringe benefits, overhead, profit, etc
- c Provide all anticipated direct and reimbursable costs

8 Submittals are validated using the following RFP Checklist

- a Schedules (Required with submission)

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- 1 Schedule E - Project Consultant Team
- 2 Schedule O - Campaign Contribution Limits

- 9 Other schedules must be submitted prior to full contract execution and are available at
<http://www2.oaklandnet.com/Government/o/CityAdministration/d/CP/s/FormsSchedules/index.htm>

- 10 Addenda - Proposal and Acknowledgment of all Addenda -- if issued, please provide signed addenda and submit with proposal

- 11 Sensitive Security Information (SSI)/Restricted Document References All pages in proposals with references to City/Port Restricted Documents must be labeled as SSI

12. Proprietary Information All responses to the RFP become the property of the City To withhold financial and proprietary information, please label each page as "confidential" or "proprietary"

- 13 Public Records Act or Sunshine Ordinance Although a document may be labeled "confidential" or "proprietary", information is still subject to disclosure under the Public Records Act or Sunshine Ordinance, and is, at the City's discretion, based on the potential impact of the public's interests whether or not to disclose "confidential" or "proprietary" information.

- 14 Performance Bond -- Submit a written statement indicating the Proposer will comply with the requirement to provide a Performance Bond for the Service Agreement, as referenced in Section III

D. REJECTION OF PROPOSAL ELEMENTS

The City reserves the right to reject any or all proposals, whether or not minimum qualifications are met, and to modify, postpone, or cancel this RFP without liability, obligation, or commitment to any party, firm, or organization. The City reserves the right to request and obtain additional information from any candidate submitting a proposal. A proposal may be rejected for any of the following reasons:

- Proposal received after designated time and date
- Proposal not in compliance with the City of Oakland Local/Small Local Business Enterprise Program
- Proposal not containing the required elements, exhibits, nor organized in the required format

- Proposal considered not fully responsive to this RFP

E. EVALUATION OF PROPOSALS (The City Reserves the Right to revise the Evaluation Process)

The following sample of criteria and the points for each criterion, for a total of 110 points, may be used in evaluating and rating the proposals

- 1) Relevant Experience 30 points
 - Past, recently completed, or on-going local government projects to substantiate experience.
 - Experience on at least three (3) projects providing services similar to those described in this RFP.
 - Prior experience and ability to work with City staff, community groups, and other stakeholders
- 2) Qualifications 25 points
 - Professional background and qualifications of team members and firms comprising the team.
- 3) Organization 20 points
 - Current workload, available staff and resources
 - Capacity and flexibility to meet schedules, including any unexpected work.
 - Ability to perform on short notice and under time constraints
 - Cost control procedures in design and construction
 - Ability to perform numerous projects at the same time.
- 4) Approach 20 points
 - Understanding of the nature and extent of the services required
 - A specific outline of how the work will be performed
 - Proof-of-Concept Content
 - Awareness of potential problems and providing possible solutions
 - Special resources the team offers that are relevant to the successful completion of the project
- 5) L/SLBE Certified Business Participation 2-5 Points
- 6) Other Factors 10 points
 - Presentation, completeness, clarity, organization, and responsiveness of proposal

F. INTERVIEWS OF SHORT-LISTED FIRMS

Interviews of short-listed qualified candidates may be held if a selection is not made from the evaluation phase Evaluation criteria for Interviews of Short-

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Listed Firms will be similar in nature as to what is outlined in "E-Sample Evaluation Process" though the City reserves the right to revise the evaluation process

- 1) The selected teams will be notified in writing, and will be required to submit a detailed work scope, work schedule, and labor distribution spreadsheet (estimated hours by task by staff) the day before the interview
- 2) The interviews will last approximately 60 minutes, with the time allocated equally between the team's presentation and a question-and-answer period. The teams should be prepared to discuss at the interview their specific experience providing services similar to those described in the RFP, project approach, estimated work effort, available resources, and other pertinent areas that would distinguish them. Interviews will be held at a City of Oakland office (exact location to be determined)
- 3) Overall Rating Criteria: The following specific criteria and the points for each criterion, for a total of 100 points, will be used in evaluating and rating the short-listed firms:
 - a) Presentation 40 points
(Scoring criteria is similar to that of the proposal criteria.)
 - Relevant Experience
 - Qualifications
 - Organization
 - Approach
 - Proof of Concept
 - b) Request for Proposal Submittal 25 points
 - Total points from the initial review of proposals will be allocated proportionally based on a maximum allowance of 20 points
 - c) Interview / Questions 35 points

Overall Rating Criteria. The following specific criteria and the points for each criterion, for a total of 100 points, will be used in evaluating and rating the short-listed firms. The City anticipates the tentative schedule of events to be as follows

Only those contractors meeting the relevant experience and submit the SOQ will be invited for interviews

G. CONTRACT NEGOTIATIONS AND AWARD

- 1 The completion of this evaluation process will result in the contractor being numerically ranked. The contractor ranked first will be invited to participate in contract negotiations. Should the City and the first ranked contractor not

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be able to reach an agreement as to the contract terms within a reasonable timeframe, the City may terminate the negotiations and begin negotiations with the contractor that is next in line

- 2 The contract amount (including reimbursements) shall be a not to exceed amount, to be established based upon a mutually agreeable Scope of Services and fee schedule
- 3 The City will withhold the final 10% of contract amount pending successful completion of work
- 4 Upon successful completion of the negotiations, the City Administrator will award of the contract to the selected contractor
- 5 A sample City standard professional services agreement is included in the RFP as referenced as Attachment A "Sample Agreement" The selected contractor will be required to enter into a contract that contains similar terms and conditions as in the standard agreement. Please note that the City Attorney's Office is typically not inclined to make any modifications to the standard agreement terms and provisions
6. Upon award the City will issue a Notice to proceed.
7. The selected contractor and its other members will be required to maintain auditable records, documents, and papers for inspection by authorized local, state and federal representatives Therefore, the contractor and its other members may be required to undergo an evaluation to demonstrate that the contractor uses recognized accounting and financial procedures
- 8 The City reserves the right to revise the negotiations and award process

END OF RFP

ATTACHMENT A
SAMPLE PROFESSIONAL SERVICE AGREEMENT

**SAMPLE PROFESSIONAL SERVICES
AGREEMENT
BETWEEN THE CITY OF OAKLAND
AND _____**

This contract serves as a sample only and is subject to amendments pending negotiations

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EXHIBITS

Exhibit 1---[RESERVED]

Exhibit 2--- *Statement of Work (as negotiated by the parties)*

Exhibit 3--- [RESERVED]

Exhibit 4--- **Contract Compliance Provisions**

- 1 Business Tax Certificate
- 2 Inspection of Books and Records/Right to Audit
- 3 Non-Discrimination/Equal Employment Practices
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Exhibit Five---**Schedules**

- **Combined Schedules C-1, P, U, V**
 - Declaration of Compliance with Americans with Disabilities Act
 - Nuclear Free Zone Disclosure
 - Compliance Commitment Agreement
 - Affidavit of Non-Disciplinary or Investigatory Action
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 - Schedule N-1 Equal Benefits Declaration of Non-Discrimination
 - Schedule Q - Insurance Requirement

**PROFESSIONAL SERVICES AGREEMENT
BETWEEN THE CITY OF OAKLAND
AND _____**

This Agreement is entered into as of the date when fully executed below between _____, a _____ corporation ("Contractor") and the City of Oakland ("City"), a municipal corporation, One Frank H. Ogawa Plaza, Oakland, California 94612, who agree as follows

RECITALS

This Agreement is made with reference to the following facts and objectives

- A. **WHEREAS**, the City Council has authorized the City Administrator to enter into contracts for professional or specialized services if the mandates of Oakland City Charter Section 902(e) have been met, and
- B. **WHEREAS**, Contractor is a provider of information technology-related services ("Services"), and
- C. **WHEREAS**, City is part of and provides information technology services to the various City departments, offices, and programs, and
- D. **WHEREAS**, City is interested in Contractor's Services, and specifically interested in [NAME OF CONTRACTOR'S SERVICES], and
- E. **WHEREAS**, City desires to obtain Contractor's Services from Contractor; and
- F. **WHEREAS**, the following Exhibits and Schedules are attached to and incorporated by reference into this Agreement

EXHIBIT 1---[RESERVED]

EXHIBIT 2---Scope of Work

EXHIBIT 3---[RESERVED]

EXHIBIT 4---Contract Compliance Provisions

EXHIBIT 5 City Schedules

NOW THEREFORE, THE PARTIES TO THIS AGREEMENT COVENANT AND
AGREE AS FOLLOWS.

SECTION I

PROJECT TERMS AND CONDITIONS

1. Definitions *[AS THE PARTIES DEEM APPROPRIATE]*

2. Priority of Documents

In the event of conflicting provisions between the following documents, the provisions shall govern in the following order: this Agreement, the latest Amendment, the Purchase Order, Change Order, or Change Notice, and Exhibits to this Agreement

3. Conditions Precedent

City and Contractor must agree to the following provisions and, as applicable, Contractor must comply with the following requirements before the Agreement will become ineffective.

- a. Performance bond *(optional, depending upon the magnitude of the risk of non-completion of the project)*
- b. Business Tax License
- c. City of Oakland Schedules
- d. Scope of Work
- e. [RESERVED]

4. Scope of Work

Contractor agrees to perform the services ("Services") specified in EXHIBIT 2, the Statement of Work, which is attached to this Agreement and incorporated herein by this reference

[City and Contractor shall negotiate and agree upon a Statement of Work prior to signing the Agreement. The SOW must include at least

- a. *A detailed statement of and delivery schedule for the Services* *Contractor will provide for the project*
- b. *Contractor's plan for managing the project ("Project Management Plan"),*
- c. *Either an agreed upon plan for determining the acceptability of the project deliverables ("Acceptance Test Plan") or an agreed upon process for how the Acceptance Test Plan will be developed which includes the process for*

- (1) *testing according to agreed-upon benchmarks;*
- (2) *the process for contractor to cure any deficiencies which result from the testing;*
- (3) *the process for City to accept those deliverables once the tests have been completed successfully;]*

- d. *The Schedule of Payments and terms for payment,*
- e. *Contractor's and City's Contract/Project Managers ,)*

5. **Initial Term**

The Initial Term of this Agreement shall start when it is executed in full by all Parties and end upon the satisfactory completion of the provision of all Services and any other tasks set forth in the SOW, unless extended by the written Agreement of the Parties or sooner terminated as provided herein.

6. **Project Deliverables**

[City and Contractor will negotiate the terms for Contractor's provision of its Services to City. The City invites Contractors to submit their standard Professional Services Agreement. The terms the City seeks include the following:

- a. Contractor's assurance that it shall perform its Project obligations in a professional and workmanlike manner,*
- b. An agreed upon itemization of the Services Contractor shall provide to City and the terms under which Contractor shall provide its Services.*

7. **No Disruption of City's Systems**

Contractor acknowledges that City is a provider of public and municipal services to the public and residents of the City of Oakland and that City's use of its systems ("Systems") is vital to (a) the business operations of the City, (b) the orderly and efficient provision of public and municipal services by the City, and (c) the health and safety of City's residents, and therefore, that any unauthorized interruption of City's business and operations could result in substantial liability to City. In recognition of City's status as a provider of such public and municipal services, Contractor warrants and represents that Contractor shall not at any time during the term of this

Agreement and thereafter render the City's Systems unusable or inoperable. If Contractor takes any such actions, Contractor shall be liable for and indemnify City for all liabilities, claims, losses, damages and expenses, including without limitation, reasonable attorney's fees, arising from Contractor's actions.

8. **[RESERVED]**

9. **Proprietary or Confidential Information of the City**

Contractor understands and agrees that, in its provision of the Services under this Agreement or in contemplation thereof, Contractor may have access to private or confidential information which may be owned or controlled by the City and that such information may contain proprietary or confidential details, the disclosure of which to third parties may be damaging to the City. Contractor agrees that all information disclosed by the City to Contractor shall be held in confidence and used only in performance of the Agreement. Contractor shall exercise the same standard of care to protect such information as a reasonably prudent contractor would use to protect its own proprietary data.

10. **Ownership of Results**

Any interest of Contractor or its Subcontractors, in specifications, studies, reports, memoranda, computation documents in drawings, plans, sheets prepared by Contractor or its Subcontractors under this Agreement shall be assigned and transmitted to the City. However, Contractor may retain and use copies for reference and as documentation of its experience and capabilities.

11. **Change Notices**

- (a) Upon fifteen (15) days' written notice to Contractor, City shall have the right to request changes in the provision of any future Services under this Agreement by delivering to Contractor a change notice ("Change Notice"), provided that any and all such changes shall be subject to Contractor's written consent. Each Change Notice may specify changes to the Work, including without limitation, designs, specifications, time and place of delivery and the nature, time and place of the provision of Services. If any Change Notice causes an increase or decrease in the price or the time required for performance under this Agreement,

an equitable adjustment jointly agreed upon by City and Contractor shall be made and the Agreement shall be modified in writing accordingly

- (b) Change Notices issued under this Agreement must be accepted or rejected in writing by Contractor within ten (10) days of Contractor's receipt of its issuance Notwithstanding as may be otherwise provided here in, if for any reason Contractor should fail to timely accept or reject a Change Notice in writing, such Change Notice shall be deemed accepted.

12 **Liquidated Damages for Contractor's Unexcused, Untimely Performance**

[For those projects where time is of the essence such that City will suffer financial loss in the form of contract and business administration expenses that cannot be determined with certainty, City and Contractor will negotiate a Liquidated Damages provision that will set the amount to be assessed for each day of delay in the project schedule caused by Contractor's unexcused, untimely performance.]

13. **Limitation on Liability**

[City and Contractor shall negotiate a Limitation on Liability that is reasonable for the risks involved, including, but not limited to, the amount of the contract. City seeks Limitation of Liability which does not prevent it from recovering the monies expended under the Agreement in the event of Contractor's breach. In addition, Limitation on Liability cannot apply to Contractors indemnification obligations hereunder.]

14. **Performance Bond**

[For each project, the City will assess the risk of the project not being successfully completed including the likelihood that the City will be able to recover from Contractor the monies it has paid Contractor at the time Contractor ceases to perform. For those projects where the City determines from this assessment that the risk factors so indicate, the City will require a Performance Bond from Contractor in the amount of the total contract value to guarantee that the City will be able to complete the project using the Bond proceeds.]

15 **Indemnification**

- (a) **General Indemnification** Contractor shall indemnify, hold harmless, and (at City's request with Counsel acceptable to City), defend City, its Council members, directors, officers, employees, agents, servants, and independent contractors (each of which persons and entities are collectively referred to herein as "Indemnitees") from any and all actions, causes of actions, claims, injuries (including, without limitation, injury to or death of an employee of Contractor or any of its structures), liabilities (of every kind, nature and description), losses, demands, debts, liens, obligations, judgments, administrative fines, damages, (incidental or consequential) costs, expenses, and attorneys' fees (collectively referred to herein as "Actions") caused by or arising out of

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- (1) a breach of Contractor's obligations, representations or warranties under this Agreement,
 - (2) any act or failure to act in the course of performance by Contractor under this Agreement,
 - (3) any negligent (passive or active) or willful acts or omissions in the course of performance by Contractor under this Agreement,
 - (4) any claim for personal injury (including death) or property damage to the extent based on the strict liability or caused by any negligent act, error or omission of Contractor,
- (b) Proprietary Rights Indemnity Contractor shall indemnify, defend, save and hold harmless Indemnitees from any and all Actions arising out of claims that the Services Contractor shall provide infringe upon or violate the Intellectual Property Rights of others either directly or, indirectly to the extent that Contractor's Services alter the manner in which the City uses its systems. If the Services Contractor shall provide will become the subject of an Action or claim of infringement or violation of the Intellectual Property Rights of a third party, City, at its option shall require Contractor, at Contractor's sole expense to (1) procure for City the right to continue using the Services, or (2) replace or modify the Services so that no infringement or other violation of Intellectual Property Rights occurs, if City determines that. (A) such replaced or modified Services will operate in all material respects in conformity with the then-current specifications for the Services, and (B) City's use of the Services is not impaired thereby. Contractor's obligations under this Agreement will continue uninterrupted with respect to the replaced or modified Services as if they were the original Services
- (c) For the purposes of the indemnification obligations set forth herein, the term "Contractor" includes, without limitation, Contractor, its officers, directors, employees, representatives, agents, servants, sub consultants, and subcontractors
- (d) Contractor acknowledges and agrees that it has an immediate and independent obligation to indemnify and defend Indemnitees from any Action which potentially falls within this indemnification provision, which obligation shall arise at the time an Action is tendered to Contractor by City and continues at all times thereafter, without regard to any alleged or actual contributory negligence of any Indemnitee. Notwithstanding anything to the contrary contained herein, Contractor's liability under this Agreement shall not apply to any Action arising from the sole negligence, active negligence or willful misconduct of an Indemnitee
- (e) City shall give Contractor prompt written notice of any Action and shall fully cooperate with Contractor in the defense and all related settlement negotiations to the extent that cooperation does not conflict with City's interests

Notwithstanding the foregoing, City shall have the right, if Contractor fails or refuses to defend City with Counsel acceptable to City, to engage its own counsel for the purposes of participating in the defense. In addition, City shall have the right to withhold payments due Contractor in the amount of reasonable defense costs actually incurred. In no event shall Contractor agree to the settlement of any claim described herein without the prior written consent of City.

- (f) All of Contractor's indemnification obligations hereunder are intended to apply to the fullest extent permitted by law (including, without limitation, California Civil Code Section 2782) and shall survive the expiration or sooner termination of this Agreement.
- (g) Contractor's indemnification obligations hereunder shall not be limited by the City's insurance requirements contained in Schedule B hereof, or by any other provision of this Agreement.

16. Termination

- (a) Termination for Breach. If Contractor breaches any material obligation under this Agreement and fails to cure the breach within 30 days of receipt of written notice from City of said breach, City may terminate the Agreement and, at its option (i) require that Contractor repay City all monies City has paid Contractor under this Agreement or (ii) retain the portion of Contractor's deliverables that the City has accepted and paid the Contractor for and complete performance of the Agreement with another vendor. In the event City elects to complete performance of the Agreement with another vendor, Contractor shall remain liable for any increase in costs to City of completing the Agreement in excess of the price City would have paid Contractor for completing the Agreement.
- (b) Contractor may terminate this Agreement if City breaches a material provision of the Agreement and does not cure the breach within 30 days of written notice from Contractor of said breach. In such event, Contractor will be entitled to payment for deliverables which City has accepted in accordance with the testing and acceptance provisions of this Agreement.
- (c) Bankruptcy. Either party may immediately terminate this Agreement if (i) the other party files a petition for bankruptcy or has filed against it an involuntary petition for bankruptcy which is not dismissed within 60 days of its filing, (ii) a court has appointed a receiver, trustee, liquidator or custodian of it or of all or a substantial part of the other party's property, (iii) the other party becomes unable, or admits in writing its inability, to pay its debts generally as they

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mature, or (iv) the other party makes a general assignment for the benefit of its or any of its creditors

- (d) Termination for Convenience by City City may terminate this Agreement for any reason at any time upon not less than ninety (90) days' prior written notice to Contractor. After the date of such termination notice, Contractor shall not perform any further services or incur any further costs claimed to be reimbursable under this Agreement, any Purchase Order, Change Order, or Change Notice without the express prior written approval of City. As of the date of termination, City shall pay to Contractor all undisputed amounts then due and payable under this Agreement.
- (e) Transition Services after termination In connection with the expiration or other termination of this Agreement or the expiration of this Agreement, Contractor may provide transition services as requested by City. Such transition services shall be subject to the pricing provided in this Agreement or any amendment thereto.

17. Abandonment of Project

The City may abandon or indefinitely postpone the project or the services for any or all of the project at any time. In such event, the City shall give thirty (30) days written notice of such abandonment. Upon City's approval, Contractor may expend a reasonable amount of additional time to assemble work in progress for the purpose of proper filing and closing the job. Prior to expending said time, Contractor shall present to the City a complete report of said proposed job closure and its costs, and the City may approve all or any part of said expense. Such additional time shall not exceed ten percent (10%) of the total time expended to the date of notice of termination. All charges thus incurred and approved by the City, together with any other undisputed charges outstanding at the time of termination, shall be payable by the City within thirty (30) days following submission of a final statement by Contractor.

18. Commencement, Completion and Close-out

It shall be the responsibility of the Contractor to coordinate and schedule the work to be performed so that commencement and completion take place in accordance with the provisions of this Agreement.

Any time extension granted to Contractor to enable Contractor to complete the work must be in writing and shall not constitute a waiver of rights the City may have under this Agreement.

Should the Contractor not complete the work by the scheduled date or by an extended date, the City shall be released from all of its obligations under this Agreement.

Within thirty (30) days of completion of the performance under this Agreement, the Contractor shall make a determination of any and all final costs due under this Agreement and shall submit a requisition for such final and complete payment (including without limitations any and all claims relating to or arising from this Agreement) to the City. Failure of the Contractor to timely submit a complete and accurate requisition for final payment shall relieve the City of any further obligations under this Agreement, including without limitation any obligation for payment of work performed or payment of claims by Contractor.

19. **Bankruptcy.**

All rights granted to City pursuant to this Agreement are, and shall be deemed to be, for purposes of Section 265(n) of the U S Bankruptcy Code, licenses of rights to "intellectual property" as defined under Section 101 of the U.S Bankruptcy Code. In a bankruptcy or insolvency proceeding involving Contractor, the parties agree that City, as licensee of such rights, shall retain and fully exercise all of its rights and elections under the U S Bankruptcy Code, and the provisions thereof shall apply notwithstanding conflict of law principles. The parties further agree that, in the event of the commencement of a bankruptcy or insolvency proceeding by or against Contractor under the U.S. Bankruptcy Code, City shall be entitled to a complete duplicate of any such intellectual property and all embodiments of such intellectual property, to which City would otherwise be entitled under this Agreement, and the same, if not already in City's possession, shall be promptly delivered to City (a) upon any such commencement of a bankruptcy proceeding upon written request therefore by City, unless Contractor elects to continue to perform all of its obligations under this Agreement, or (b) if not delivered under (a) above, upon rejection of this Agreement by or on behalf of Contractor upon written request therefore by City. If, in a bankruptcy or insolvency proceeding involving Contractor, the provisions of the U.S Bankruptcy Code referenced above are determined not to apply, City shall nevertheless be entitled to no less than the protection offered by the provisions of the U.S Bankruptcy Code with respect to its entitlement to and rights to the use and possession of all intellectual property to which City has been granted rights under this Agreement notwithstanding the bankruptcy or insolvency of Contractor.

20. Assignment

Contractor shall not assign or otherwise transfer any rights, duties, obligations or interest in this Agreement or arising hereunder to any person, persons, entity or entities whatsoever without the prior written consent of the City and any attempt to assign or transfer without such prior written consent shall be void. Consent to any single assignment or transfer shall not constitute consent to any further assignment or transfer. In the event that Contractor assigns this Agreement in compliance with this provision, this Agreement and all of its provisions shall inure to the benefit of and become binding upon the parties and the successors and permitted assigns of the respective parties.

21. Agents/Brokers

Contractor warrants that Contractor has not employed or retained any subcontractor, agent, company or person other than bona fide, full-time employees of Contractor working solely for Contractor, to solicit or secure this Agreement, and that Contractor has not paid or agreed to pay any subcontractor, agent, company or persons other than bona fide employees any fee, commission, percentage, gifts or any other consideration, contingent upon or resulting from the award of this Agreement. For breach or violation of this warranty, the City shall have the right to rescind this Agreement without liability or, in its discretion, to deduct from the Agreement price or consideration, or otherwise recover, the full amount of such fee, commission, percentage or gift.

22. Publicity

Any publicity generated by Contractor for the project funded pursuant to this Agreement, during the term of this Agreement or for one year thereafter, will make reference to the contribution of the City of Oakland in making the project possible. The words "City of Oakland" will be explicitly stated in all pieces of publicity, including but not limited to flyers, press releases, posters, brochures, public service announcements, interviews and newspaper articles.

City staff will be available whenever possible at the request of Contractor to assist Contractor in generating publicity for the project funded pursuant to this Agreement. Contractor further agrees to cooperate with authorized City officials and staff in any City-generated publicity or promotional activities undertaken with respect to this project.

23. Conflict of Interest

(a) Contractor

The following protections against conflict of interest will be upheld:

- (1) Contractor certifies that no member of, or delegate to the Congress of the United States shall be permitted to share or take part in this Agreement or in any benefit arising therefrom.

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- (2) Contractor certifies that no member, officer, or employee of the City or its designees or agents, and no other public official of the City who exercises any functions or responsibilities with respect to the programs or projects covered by this Agreement, shall have any interest, direct or indirect in this Agreement, or in its proceeds during his/her tenure or for one year thereafter
- (3) Contractor shall immediately notify the City of any real or possible conflict of interest between work performed for the City and for other clients served by Contractor
- (4) Contractor warrants and represents, to the best of its present knowledge, that no public official or employee of City who has been involved in the making of this Agreement, or who is a member of a City board or commission which has been involved in the making of this Agreement whether in an advisory or decision-making capacity, has or will receive a direct or indirect financial interest in this Agreement in violation of the rules contained in California Government Code Section 1090 et seq, pertaining to conflicts of interest in public contracting Contractor shall exercise due diligence to ensure that no such official will receive such an interest
- (5) Contractor further warrants and represents, to the best of its present knowledge and excepting any written disclosures as to these matter already made by Contractor to City, that (1) no public official of City who has participated in decision-making concerning this Agreement or has used his or her official position to influence decisions regarding this Agreement, has an economic interest in Contractor or this Agreement, and (2) this Agreement will not have a direct or indirect financial effect on said official, the official's spouse or dependent children, or any of the official's economic interests For purposes of this paragraph, an official is deemed to have an "economic interest" in any (a) for-profit business entity in which the official has a direct or indirect investment worth \$2,000 or more, (b) any real property in which the official has a direct or indirect interest worth \$2,000 or more, (c) any for-profit business entity in which the official is a director, officer, partner, trustee, employee or manager, or (d) any source of income or donors of gifts to the official (including nonprofit entities) if the income totaled more than \$500 in the previous 12 months, or value of the gift totaled more than \$350 the previous year Contractor agrees to promptly disclose to City in writing any information it may receive concerning any such potential conflict of interest. Contractor's attention is directed to the conflict of interest rules applicable to governmental decision-making contained in the Political Reform Act (California Government Code Section 87100 et seq) and its implementing regulations (California Code of Regulations, Title 2, Section 18700 et seq)

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- (6) Contractor understands that in some cases Contractor or persons associated with Contractor may be deemed a "City officer" or "public official" for purposes of the conflict of interest provisions of Government Code Section 1090 and/or the Political Reform Act. Contractor further understands that, as a public officer or official, Contractor or persons associated with Contractor may be disqualified from future City contracts to the extent that Contractor is involved in any aspect of the making of that future contract (including preparing plans and specifications or performing design work or feasibility studies for that contract) through its work under this Agreement.
- (7) Contractor shall incorporate or cause to be incorporated into all subcontracts for work to be performed under this Agreement a provision governing conflict of interest in substantially the same form set forth herein.

(b) No Warver

Nothing herein is intended to waive any applicable federal, state or local conflict of interest law or regulation

(c) Remedies and Sanctions

In addition to the rights and remedies otherwise available to the City under this Agreement and under federal, state and local law, Contractor understands and agrees that, if the City reasonably determines that Contractor has failed to make a good faith effort to avoid an improper conflict of interest situation or is responsible for the conflict situation, the City may (1) suspend payments under this Agreement, (2) terminate this Agreement, (3) require reimbursement by Contractor to the City of any amounts disbursed under this Agreement. In addition, the City may suspend payments or terminate this Agreement whether or not Contractor is responsible for the conflict of interest situation.

24 Validity of Contracts

The Oakland City Council must approve all Agreements greater than \$15,000. This Agreement shall not be binding or of any force or effect until signed by the City Manager or his or her designee and approved as to form and legality by the City Attorney or his or her designee.

25. Governing Law

This Agreement shall be governed and construed in accordance with the laws of the State of California, without reference to its conflicts of laws principles. Any action or proceeding to enforce the terms of this Agreement shall be brought in the courts of Alameda County, Oakland, California and each party agrees to waive any objections to personal jurisdiction and venue in the courts of Alameda County, Oakland, California.

26. Headings

Headings and captions used to introduce Sections and paragraphs of this Agreement are for convenience, only, and have no legal significance

27. Construction

- (a) Except as provided in Section 15-(b) above, acceptance or acquiescence in a prior course of dealing or a course of performance rendered under this Agreement or under any Change Order, or Change Notice, shall not be relevant in determining the meaning of this Agreement even though the accepting or acquiescing party has knowledge of the nature of the performance and opportunity for objection.
- (b) The language in all parts of this Agreement and any Purchase Order, Change Order, or Change Notice, shall in all cases be construed in whole, according to its fair meaning, and not strictly for or against, either Contractor, City regardless of the drafter of such part

28. Waiver

No covenant, term, or condition of this Agreement may be waived except by written consent of the party against whom the waiver is claimed and the waiver of any term, covenant or condition of this Agreement shall not be deemed a waiver of any subsequent breach of the same or any other term, covenant or condition of this Agreement.

29. Independent Contractor

(a) Rights and Responsibilities

It is expressly agreed that in the performance of the services necessary to carry out this Agreement, Contractor shall be, and is, an independent contractor, and is not an employee of the City. Contractor acknowledges and agrees that all of Contractor's employees and subcontractors are under the sole direction and control of Contractor and City shall have no authority over or responsibility for such employees and subcontractors of Contractor. Contractor has and shall retain the right to exercise sole direction and supervision of the services, and full control over the employment, direction, compensation and discharge of all persons assisting Contractor in the performance of Contractor's services hereunder. Contractor shall be solely responsible for all matters relating to the payment of his/her employees, including compliance with social security, withholding and all other regulations governing such matters, and shall be solely responsible for Contractor's own acts and those of Contractor's subordinates and employees. Contractor will determine the method, details and means of performing the services described in **EXHIBIT 2**

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(b) Contractor's Qualifications

Contractor represents that Contractor has the qualifications and skills necessary to perform the services under this Agreement in a competent and professional manner without the advice or direction of the City. This means Contractor is able to fulfill the requirements of this Agreement. Failure to perform all of the services required under this Agreement will constitute a material breach of the Agreement and may be cause for termination of the Agreement. Contractor has complete and sole discretion for the manner in which the work under this Agreement is performed. Contractor shall complete and submit to City, Schedule M-Independent Contractor Questionnaire, prior to the execution of this Agreement.

(c) Payment of Income Taxes

Contractor is responsible for paying, when due, all income taxes, including estimated taxes, incurred as a result of the compensation paid by the City to Contractor for services under this Agreement. On request, Contractor will provide the City with proof of timely payment. Contractor agrees to indemnify the City for any claims, costs, losses, fees, penalties, interest or damages suffered by the City resulting from Contractor's failure to comply with this provision.

(d) Non-Exclusive Relationship

Contractor may perform services for, and contract with, as many additional clients, persons or companies as Contractor, in his or her sole discretion, sees fit.

(e) Tools, Materials and Equipment

Contractor will supply all tools, except those tools, materials, equipment specified herein, if any, required to perform the services under this Agreement.

(f) Cooperation of the City

The City agrees to comply with all reasonable requests of Contractor necessary to the performance of Contractor's duties under this Agreement.

(g) Extra Work

Contractor will do no extra work under this Agreement without first receiving prior written authorization from the City.

30. Attorneys' Fees

If either party commences an action or proceeding to determine or enforce its rights hereunder, the prevailing party shall be entitled to recover from the losing party all expenses reasonably incurred, including court costs, reasonable attorneys' fees and costs of suit as determined by the court.

31. Counterparts

This Agreement may be executed in any number of identical counterparts, any set of which signed by both parties shall be deemed to constitute a complete, executed original for all purposes

32. Remedies Cumulative

The rights and remedies of City provided in this Agreement shall not be exclusive and are in addition to any other rights and remedies provided by law, including the California Uniform Commercial Code

33. Severability/Partial Invalidity

If any term or provision of this Agreement, or the application of any term or provision of this Agreement to a particular situation, shall be finally found to be void, invalid, illegal or unenforceable by a court of competent jurisdiction, then notwithstanding such determination, such term or provision shall remain in force and effect to the extent allowed by such ruling and all other terms and provisions of this Agreement or the application of this Agreement to other situation shall remain in full force and effect.

Notwithstanding the foregoing, if any material term or provision of this Agreement or the application of such material term or condition to a particular situation is finally found to be void, invalid, illegal or unenforceable by a court of competent jurisdiction, then the Parties hereto agree to work in good faith and fully cooperate with each other to amend this Agreement to carry out its intent.

34. Access

Access to City's premises by Contractor shall be subject to the reasonable security and operational requirements of City To the extent that Contractor's obligations under this Agreement or any Purchase Order, Change Order, or Change Notice, require the performance of Services or Work by Contractor on City's property or property under City's control, Contractor agrees

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- (i) to accept full responsibility for performing all Services or work in a safe manner so as not to jeopardize the safety of City's personnel, property, or members of the general public, and
- (ii) to comply with and enforce all of City's regulations, policies, and procedures including, without limitation, those with respect to security, access, safety and fire protection, City's policy against sexual harassment, and all applicable state and municipal safety regulations, building codes or ordinances

35. Entire Agreement of the Parties

This Agreement supersedes any and all Agreements, either oral or written, between the parties with respect to the rendering of services by Contractor for the City and contains all of the representations, covenants and Agreements between the parties with respect to the rendering of those services. Each party to this Agreement acknowledges that no representations, inducements, promises or Agreements, orally or otherwise, have been made by any party, or anyone acting on behalf of any party, which are not contained in this Agreement, and that no other Agreement, statement or promise not contained in this Agreement will be valid or binding.

36. Modification

Any modification of this Agreement will be effective only if it is in a writing signed by all parties to this Agreement.

37. Notices

If either party shall desire or be required to give notice to the other, such notice shall be given in writing, via facsimile and concurrently by prepaid US certified or registered postage, addressed to recipient as follows:

(City of Oakland)

cc:

(name)
Deputy City Attorney
1 Frank Ogawa Plaza, 6th Fl.
Oakland, CA 94612

(Contractor)

Any party to this Agreement may change the name or address of representatives for purpose of this Notice paragraph by providing written notice to all other parties ten (10) business days before the change is effective

38. Right to Offset

All claims for money or to become due from City shall be subject to deduction or offset by City from any monies due Contractor by reason of any claim or counterclaim arising out of this Agreement or any Purchase Order, Change Order, or Change Notice or any other transaction with Contractor. To the extent that there are amounts due to the City and to a state or federal funding agency, and the amount of the offset is insufficient to pay such amount in full, the amount of the offset shall be prorated between the City and such state or federal funding agency in proportion to the amounts due them.

39. Survival

Sections [FINAL SECTIONS YET TO BE DETERMINED BUT PROBABLY WILL BE 7, 10, 11, 12, 15, 16, 18, 21, 23, 25, 27 32 and 35] of this Agreement, along with any other provisions which by their terms survive, shall survive the expiration or termination of this Agreement.

40. Authority

Each individual executing this Agreement or any Purchase Order, Change Order or Change Notice, hereby represents and warrants that he or she has the full power and authority to execute this Agreement or such Purchase Order, Change Order or Change Notice, on behalf of the named party such individual purports to bind

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SO AGREED.

City of Oakland,
A municipal corporation

Contractor

(City Administrator's Office)

(Date)

(Signature)

(Date)

(Department Head Signature)

(Date)

Business Tax Certificate No.

Approved as to form and legality

Resolution Number

(City Attorney's Office Signature)

(Date)

Exhibit 1--Software License Agreement

Exhibit 2--- Statement of Work

Exhibit 3— Maintenance and Support Agreement

Exhibit 4--- Contract Compliance Provisions

1. **Business Tax Certificate**

Contractor shall obtain and provide proof of a valid City business tax certificate. Said certificate must remain valid during the duration of this Agreement.

2. **Inspection of Books and Records/Right to Audit**

- (a) During the term of this Agreement, and for a period of four (4) years after the termination of this Agreement, or two (2) years after the closure of any disputed matter, whichever occurs later, (the "Audit Period"), Contractor shall maintain financial and operational records related to this Agreement or to any other Agreement with City. Contractor shall make all books and records open to inspection by the governing agency, City Auditor or their individually assigned designee during normal business hours at a location within a twenty-five (25) mile radius of the City of Oakland for the period of this contract and for a period of four years after the close of each contract year.
- (b) During the Audit Period, Contractor hereby grants to City or its designee(s), upon one (1) days prior notice to Contractor, access to and the right to make copies of any of Contractor's books, statements, documents, papers or records ("Financial Information") which arise from or relate to the terms and conditions of this Agreement and the performance of any services pursuant to this Agreement, or any other Agreement between the parties, in order to permit City to conduct audits, examinations, excerpts and transition audits (collectively hereafter referred to as "Audit or Audits"). Contractor authorizes the City Auditor or his designee to obtain such information directly from these sources. City's right to Audit and to make copies shall apply whether such Financial Information is located at Contractor's offices or at Contractor's banks, financial institutions or lenders, or at the offices of Contractor's financial consultants, accountants or bookkeepers. For the purposes of such Audit, Contractor waives its right to the confidentiality of all Financial Information and Contractor authorizes the City or its designee(s) to access, obtain and make copies of Financial Information directly from Contractor's banks, financial institutions or lenders, or from Contractor's financial consultants, accountants or bookkeepers.
- (c) Such Audits may be performed by City through its employees or by its designees including, without limitation, a third party auditor retained by City. City's right to Audit under this Section 21 is independent, separate and distinct from any right to audit such books and records reserved by law or contract, or as a condition of funding, by the county, state or federal government.
- (d) If any Audit of Contractor's invoices or other records reveals any variance from any invoice to City, or of any amount of funds provided to Contractor by City which is in excess of the amount actually due to Contractor by City, then

Contractor shall immediately refund any excess payment or funds received from City. In addition, if any Audit reveals any variance from any invoice or funds received from City in excess of one-half percent (5%) of the amount shown on such invoice or the amount of funds actually due to or granted to Contractor by City, Contractor shall immediately reimburse City for all costs and expenses incurred in conducting such Audit. Failure to pay such variance and the cost of the Audit as required herein shall constitute and be deemed a material breach of the Agreement by Contractor and will subject Contractor to termination of the Agreement by City and to a breach of contract claim for damages by City.

3. Non-Discrimination/Equal Employment Practices

Contractor shall not discriminate or permit discrimination against any person or group of persons in any manner prohibited by federal, state or local laws. During the performance of this Agreement, Contractor agrees as follows:

- (a) Contractor and Contractor's subcontractors, if any, shall not discriminate against any employee or applicant for employment because of age, marital status, religion, gender, sexual preference, race, creed, color, national origin, Acquired-Immune Deficiency Syndrome (AIDS), AIDS-Related Complex (ARC) or disability. This nondiscrimination policy shall include, but not be limited to, the following: employment, upgrading, failure to promote, demotion or transfer, recruitment advertising, layoffs, termination, rates of pay or other forms of compensation, and selection for training, including apprenticeship.
- (b) Contractor and Contractor's Subcontractors shall state in all solicitations or advertisements for employees placed by or on behalf of Contractor that all qualified applicants will receive consideration for employment without regard to age, marital status, religion, gender, sexual preference, race, creed, color, national origin, Acquired-Immune Deficiency Syndrome (AIDS), AIDS-Related Complex (ARC) or disability.
- (c) If applicable, Contractor will send to each labor union or representative of workers with whom Contractor has a collective bargaining Agreement or contract or understanding, a notice advising the labor union or workers' representative of Contractor's commitments under this nondiscrimination clause and shall post copies of the notice in conspicuous places available to employees and applicants for employment.

4. Americans With Disabilities

The Americans with Disabilities Act (ADA) requires that private organizations serving the public make their goods, services and facilities accessible to people with disabilities. Furthermore, the City of Oakland requires that all of its contractors comply with their ADA obligations and verify such compliance by signing the Declaration of Compliance incorporated herein as **Schedule C-1**.

5. **Local and Small Local Business Enterprise Program (L/SLBE)**

- a. *Requirement* - There is a fifty percent (50%) minimum participation requirement for all professional services contracts \$50,000 or more. Contractors shall comply with the fifty percent (50%) local business participation requirement at a rate of twenty-five percent (25%) local and 25% small local business participation. The requirement may be satisfied by a certified prime consultant and/or sub-consultant (s) or a small local certified firm may meet the twenty percent requirement. A business must be certified by the City of Oakland in order to earn credit toward meeting the twenty percent requirement.
- b. *Good Faith Effort* - In light of the fifty percent requirement, good faith effort documentation is not necessary.
- a. *Preference Points* - Preference points are earned based on the level of participation proposed prior to the award of a contract. Upon satisfying the minimum fifty percent requirement, a consultant will earn two (2) preference points. Three additional preference points may be earned at a rate of one point for every additional ten percent participation up to eighty percent participation of the total contract dollars spent with local Oakland certified firms.
- b. A firm may earn up to five (5) preference points for local Oakland business participation and additional preference points for being a long term certified business in Oakland regardless of size and for having an Oakland workforce.
- c. In those instances where VSLBE participation is evident, the level of participation will be double-counted towards meeting the requirement.
- d. *Additional Preference Points* For Request for Proposal (RFP) and Request for Qualifications (RFQ), additional Preference Points may be earned for having an Oakland workforce on Non-Construction Contracts.
- e. Earning extra preference points for having an existing work force that includes Oakland residents is considered added value. The Request for Proposal "evaluation" process allows for additional preference points over and above the number of points earned for technical expertise. Typically 100 points may be earned for the technical elements of the RFP. Preference points are awarded over and above the potential 100 points.
- f. *The Exit Report and Affidavit (ERA)* - This report declares the level of participation achieved and will be used to calculate banked credits. The prime consultant must complete the Schedule F, Exit Report and Affidavit for, and have it executed by, each L/SLBE sub consultant and submitted to the Office of the City Administrator, Contracts and Compliance Unit, along with a *copy* of the final progress payment application.

- g. Joint Venture and Mentor Protégé Agreements. If a prime contractor or prime consultant is able to develop a Joint Venture or "Mentor-Protégé" relationship with a certified LBE or SLBE, the mentor or Joint Venture partners will enjoy the benefit of credits against the participation requirement. In order to earn credit for Joint Venture or Mentor-Protégé relationships, the Agreement must be submitted for approval to the Office of the City Administrator, Contracts and Compliance Unit, prior to the project bid date for construction, and by proposal due date for professional services contracts. Joint Venture Applications and elements of City approved Mentor Protégé relation are available upon request.
- h. Contractor shall submit information concerning the ownership and workforce composition of Contractor's firm as well as its subcontractors and suppliers, by completing Schedule D, Ownership, Ethnicity, and Gender Questionnaire, and Schedule E, Project Consultant Team, attached and incorporated herein and made a part of this Agreement.
- i. All affirmative action efforts of Contractor are subject to tracking by the City. This information or data shall be used for statistical purposes only. All contractors are required to provide data regarding the make-up of their subcontractors and agents who will perform City contracts, including the race and gender of each employee and/or contractor and his or her job title or function and the methodology used by Contractor to hire and/or contract with the individual or entity in question.
- j. In the recruitment of subcontractors, the City of Oakland requires all contractors to undertake nondiscriminatory and equal outreach efforts, which include outreach to minorities and women-owned businesses as well as other segments of Oakland's business community. The City Administrator will track the City's MBE/WBE utilization to ensure the absence of unlawful discrimination on the basis of age, marital status, religion, gender, sexual preference, race, creed, color, national origin, Acquired-Immune Deficiency Syndrome (AIDS), AIDS-Related Complex (ARC) or disability.
- k. In the use of such recruitment, hiring and retention of employees or subcontractors, the City of Oakland requires all contractors to undertake nondiscriminatory and equal outreach efforts which include outreach to minorities and women as well as other segments of Oakland's business community.

6. Other Applicable Ordinances:

(a) Living Wage Ordinance

If the contract amount of this Agreement is equal to or greater than \$25,000 annually, then Contractor must comply with the Oakland Living Wage Ordinance. The Living Wage Ordinance requires that nothing less than a

prescribed minimum level of compensation (a living wage) be paid to employees of service contractors (consultants) of the City and employees of CFARs (Ord 12050 § 1, 1998) The Ordinance also requires submission of the Declaration of Compliance attached and incorporated herein as **Schedule N** and made part of this Agreement, and, unless specific exemptions apply or a waiver is granted, the consultant must provide the following to its employees who perform services under or related to this Agreement

- (1) Minimum compensation – Said employees shall be paid an initial hourly wage rate of \$11.70 with health benefits or \$13.45 without health benefits. These initial rates shall be upwardly adjusted each year no later than April 1 in proportion to the increase at the immediately preceding December 31 over the year earlier level of the Bay Region Consumer Price Index as published by the Bureau of Labor Statistics, U.S. Department of Labor. (Effective July 1st of each year, Contractor shall pay adjusted wage rates)
- (2) Health benefits – Said full-time and part-time employees paid at the lower living wage rate shall be provided health benefits of at least \$1.75 per hour. Contractor shall provide proof that health benefits are in effect for those employees no later than 30 days after execution of the contract or receipt of City financial assistance.
- (3) Compensated days off – Said employees shall be entitled to twelve compensated days off per year for sick leave, vacation or personal necessity at the employee's request, and ten uncompensated days off per year for sick leave. Employees shall accrue one compensated day off per month of full time employment. Part-time employees shall accrue compensated days off in increments proportional to that accrued by full-time employees. The employees shall be eligible to use accrued days off after the first six months of employment or consistent with company policy, whichever is sooner. Paid holidays, consistent with established employer policy, may be counted toward provision of the required 12 compensated days off. Ten uncompensated days off shall be made available, as needed, for personal or immediate family illness after the employee has exhausted his or her accrued compensated days off for that year.
- (4) Federal Earned Income Credit (EIC) – Contractor shall inform said employees who earn less than \$12.00 per hour that he or she may be eligible for EIC and shall provide forms to apply for advance EIC payments to eligible employees.
- (5) Contractor shall provide to all employees and to the Office of Contract Compliance, written notice of its obligation to eligible employees under

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the City's Living Wage requirements. Said notice shall be posted prominently in communal areas of the work site(s) and shall include the above-referenced information.

- (6) Contractor shall provide all written notices and forms required above in English, Spanish or other languages spoken by a significant number of employees within 30 days of employment under this Agreement.
- (7) Reporting – Contractor shall maintain a listing of the name, address, hire date, occupation classification, rate of pay and benefits for each of its employees. Contractor shall provide a copy of said list to the Office of Contract Compliance, on a quarterly basis, by March 31, June 30, September 30 and December 31 for the applicable compliance period. Failure to provide said list within five days of the due date will result in liquidated damages of five hundred dollars (\$500.00) for each day that the list remains outstanding. Contractor shall maintain employee payroll and related records for a period of four (4) years after expiration of the compliance period.
- (8) Contractor shall require subcontractors that provide services under or related to this Agreement to comply with the above Living Wage provisions. Contractor shall include the above-referenced sections in its subcontracts. Copies of said subcontracts shall be submitted to the Office of Contract Compliance.

(b) Equal Benefits Ordinance

- (1) This Agreement is subject to the Equal Benefits Ordinance of Chapter 2.32.010 of the Oakland Municipal Code and its implementing regulations.
- (2) Entities which enter into a "contract" with the City for an amount of twenty-five thousand dollars (\$25,000.00) or more for public works or improvements to be performed, or for goods or services to be purchased or grants to be provided at the expense of the City or to be paid out of moneys deposited in the treasury or out of trust moneys under the control of or collected by the City, and Entities which enter into a "property contract" pursuant to Section 2.32.020(D) with the City in an amount of twenty-five thousand dollars (\$25,000.00) or more for the exclusive use of or occupancy (1) of real property owned or controlled by the City or (2) of real property owned by others for the City's use or occupancy, for a term exceeding twenty-nine (29) days in any calendar year.
- (3) The Ordinance shall only apply to those portions of a contractor's operations that occur (A) within the City, (B) on real property outside

the City if the property is owned by the City or if the City has a right to occupy the property, and if the contract's presence at that location is connected to a contract with the City, and (C) elsewhere in the United States where work related to a City contract is being performed. The requirements of this chapter shall not apply to subcontracts or subcontractors of any contract or contractor.

- (4) The equal Benefits Ordinance requires among other things, submission of the attached and incorporated herein as **Schedule N-1 – Equal Benefits-Declaration of Nondiscrimination.**

(c) Nuclear Free Zone

Contractor represents, pursuant to **Schedule P** ("Nuclear Free Zone Disclosure Form") that Contractor is in compliance with the City of Oakland's restrictions on doing business with service providers considered nuclear weapons makers. Prior to execution of this Agreement, Contractor shall complete **Schedule P**, attached hereto.

7. City of Oakland Campaign Contribution Limits

This Agreement is subject to the City of Oakland Campaign Reform Act of Chapter 3 12 of the Oakland Municipal Code and its implementing regulations if it requires Council approval. The City of Oakland Campaign Reform Act prohibits contractors that are doing business or seeking to do business with the City of Oakland from making campaign contributions to Oakland candidates between commencement of negotiations and either 180 days after completion of, or termination of, contract negotiations.

If this Agreement requires Council approval, Contractor must sign and date an Acknowledgment of Campaign Contribution Limits Form attached hereto and incorporated herein as **Schedule O**.

8. Insurance

Unless a written waiver is obtained from the City's Risk Manager, Contractor must provide the insurance listed in **Schedule Q**. **Schedule Q** is attached hereto and incorporated herein by reference.

9. Political Prohibition

Subject to applicable State and Federal laws, moneys paid pursuant to this Agreement shall not be used for political purposes, sponsoring or conducting candidate's meetings, engaging in voter registration activity, nor for publicity or propaganda purposes designed to support or defeat legislation pending before federal, state or local government.

10. Religious Prohibition

There shall be no religious worship, instruction, or proselytization as part of, or in connection with the performance of the Agreement

11 **Prompt Payment Ordinance**

This contract is subject to the Prompt Payment Ordinance of Oakland Municipal Code, Title 2, Chapter 2 06 (Ordinance 12857 C.M.S., passed January 15, 2008 and effective February 1, 2008). The Ordinance requires that, unless specific exemptions apply, the Contractor and its subcontractors shall pay undisputed invoices of their subcontractors for goods and/or services within twenty (20) business days of submission of invoices unless the Contractor or its subcontractors notify the Liaison in writing within five (5) business days that there is a bona fide dispute between the Contractor or its subcontractor and claimant, in which case the Contractor or its subcontractor may withhold the disputed amount but shall pay the undisputed amount.

Disputed late payments are subject to investigation by the City of Oakland Liaison, Division of Contracts and Compliance upon the filing of a complaint. Contractor or its subcontractors opposing payment shall provide security in the form of cash, certified check or bond to cover the disputed amount and penalty during the investigation. If Contractor or its subcontractor fails or refuses to deposit security, the City will withhold an amount sufficient to cover the claim from the next Contractor progress payment. The City, upon a determination that an undisputed invoice or payment is late, will release security deposits or withholds directly to claimants for valid claims.

Contractor and its subcontractors shall not be allowed to retain monies from subcontractor payments for goods as project retention, and are required to release subcontractor project retention in proportion to the subcontractor services rendered, for which payment is due and undisputed, within five (5) business days of payment. Contractor and its subcontractors shall be required to pass on to and pay subcontractors mobilization fees within five (5) business days of being paid such fees by the City. For the purpose of posting on the City's website, Contractor and its subcontractors, are required to file notice with the City of release of retention and payment of mobilization fees, within five (5) business days of such payment or release, and, Contractor is required to file an affidavit, under penalty of perjury, that he or she has paid all subcontractors, within five (5) business days following receipt of payment from the City. The affidavit shall provide the names and address of all subcontractors and the amount paid to each.

If any amount due by a prime contractor or subcontractor to any claimant for goods and/or services rendered in connection with a purchase contract is not timely paid in accordance with the Prompt Payment ordinance, the prime Contractor or subcontractor shall owe and pay to the claimant interest penalty in the amount of ten percent (10%) of the improperly withheld amount per year for every month that payment is not made, provided the claimant agrees to release the prime contractor or subcontractor from any and all further interest penalty that may be claimed or collected on the amount paid. Claimants that receive interest payments for late payment Prompt Payment ordinance may not seek further interest penalties on the same late payment in law or equity.

Contractor and its subcontractors shall include the same or similar provisions as those set forth above in this section in any contract with another contractor or subcontractor that delivers goods and/or services pursuant to or in connection with this City of Oakland purchase contract

Prompt Payment invoice and claim forms are available at the following City of Oakland website

<http://www2.oaklandnet.com/Government/o/CityAdministration/d/CP/s/FormsSchedule/s/index.htm> or at Contracts and Compliance, 250 Frank H. Ogawa Plaza, Suite 3341, Oakland, CA 94612. Invoice and claim inquiries should be directed to Vivian Inman, City of Oakland Prompt Payment Liaison, 510-238-6261 or email vinman@oaklandnet.com

11 **Arizona and Arizona-Based Businesses**

Contractor agrees that in accordance with Resolution No 82727 C.M.S., neither it nor any of its subsidiaries, affiliates or agents that will provide services under this agreement is currently headquartered in the State of Arizona, and shall not establish an Arizona business headquarters for the duration of this agreement with the City of Oakland or until Arizona rescinds SB 1070

Contractor acknowledges its duty to notify the Purchasing Department if it's Business Entity or any of its subsidiaries affiliates or agents subsequently relocates its headquarters to the State of Arizona. Such relocation shall be a basis for termination of this agreement.

12 **Dispute Disclosure**

Contractors are required to disclose pending disputes with the City of Oakland when they are involved in submitting bids, proposals or applications for a City or Agency contract or transaction involving professional services. This includes contract amendments. Contractor agrees to disclose, and has disclosed, any and all pending disputes to the City prior to execution of this agreement. The City will provide a form for such disclosure upon Contractor's request. Failure to disclose pending disputes prior to execution of this amendment shall be a basis for termination of this agreement.

END OF SAMPLE PROFESSIONAL SERVICE AGREEMENT

ATTACHMENT B

Schedule Q

INSURANCE REQUIREMENTS

(Revised 08/01/11)

a. General Liability, Automobile, Workers' Compensation and Professional Liability

Contractor shall procure, prior to commencement of service, and keep in force for the term of this contract, at Contractor's own cost and expense, the following policies of insurance or certificates or binders as necessary to represent that coverage as specified below is in place with companies doing business in California and acceptable to the City. If requested, Contractor shall provide the City with copies of all insurance policies. The insurance shall at a minimum include

1. **Commercial General Liability insurance**, shall cover bodily injury, property damage and personal injury liability arising from premises operations, independent contractors, products-completed operations personal & advertising injury and contractual liability. Coverage shall be at least as broad as Insurance Services Office Commercial General Liability coverage (occurrence Form CG 00 01)
 - A. Coverage afforded on behalf of the City, Councilmembers, directors, officers, agents and employees and volunteers shall be primary insurance. Any other insurance available to the City Councilmembers, directors, officers, agents and employees and volunteers under any other policies shall be excess insurance (over the insurance required by this Agreement).
 - B. Limits of liability. Contractor shall maintain commercial general liability (CGL) and, if necessary, commercial umbrella insurance with a limit of not less than \$2,000,000 each occurrence. If such CGL insurance contains a general aggregate limit, either the general aggregate limit shall apply separately to this project/location or the general aggregate limit shall be twice the required occurrence limit.
11. **Automobile Liability Insurance**. Contractor shall maintain automobile liability insurance for bodily injury and property damage liability with a limit of not less than \$1,000,000 each accident. Such insurance shall cover liability arising out of any auto (including owned, hired, and non-owned autos). Coverage shall be at least as broad as Insurance Services Office Form Number CA 0001.
111. **Worker's Compensation insurance** as required by the laws of the State of California. Statutory coverage may include Employers Liability coverage with limits not less than \$1,000,000 each accident, \$1,000,000 policy limit bodily injury by disease, \$1,000,000 each employee bodily injury by disease. The Contractor

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certifies that he/she is aware of the provisions of section 3700 of the California Labor Code, which requires every employer to provide Workers' Compensation coverage, or to undertake self-insurance in accordance with the provisions of that Code. The Contractor shall comply with the provisions of section 3700 of the California Labor Code before commencing performance of the work under this Agreement and thereafter as required by that code.

- IV **Professional Liability/Errors and Omissions insurance** appropriate to the contractor's profession with limits not less than \$2,000,000 each claim and \$2,000,000 aggregate. If the professional liability/errors and omissions insurance is written on a claims made form:
- a. The retroactive date must be shown and must be before the date of the contract or the beginning of work.
 - b. Insurance must be maintained and evidence of insurance must be provided for at least three (3) years after completion of the contract work.
 - c. If coverage is cancelled or non-renewed and not replaced with another claims made policy form with a retroactive date prior to the contract effective date, the contractor must purchase extended period coverage for a minimum of three (3) years after completion of work.

b Terms Conditions and Endorsements

The aforementioned insurance shall be endorsed and have all the following conditions

- I Insured Status (Additional Insured): Contractor shall provide insured status using ISO endorsement CG 20 10 or its equivalent naming the City of Oakland, its Councilmembers, directors, officers, agents and employees and volunteers as insured's in the Comprehensive Commercial General Liability policy. If Contractor submits the ACORD Insurance Certificate, the insured status endorsement must be set forth on a CG 20 10 (or equivalent). A STATEMENT OF ADDITIONAL INSURED STATUS ON THE ACORD INSURANCE CERTIFICATE FORM IS INSUFFICIENT AND WILL BE REJECTED AS PROOF OF MEETING THIS REQUIREMENT, and
- II Cancellation Notice: 30-day prior written notice of termination or material change in coverage and 10-day prior written notice of cancellation for non-payment,
- III The Workers Compensation policy shall be endorsed with a waiver of subrogation in favor of the City for all work performed by the contractor, its employees, agents and subcontractors.
- IV. Certificate holder is to be the same person and address as indicated in the "Notices" section of this Agreement, and

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- v Insurer shall carry insurance from admitted companies with a Best Rating of A VII or better

c Replacement of Coverage

In the case of the breach of any of the insurance provisions of this Agreement, the City may, at the City's option, take out and maintain at the expense of Contractor, such insurance in the name of Contractor as is required pursuant to this Agreement, and may deduct the cost of taking out and maintaining such insurance from any sums which may be found or become due to Contractor under this Agreement

d Insurance Interpretation

All endorsements, certificates, forms, coverage and limits of liability referred to herein shall have the meaning given such terms by the Insurance Services Office as of the date of this Agreement

e Proof of Insurance

Contractor will be required to provide proof of all insurance required for the work prior to execution of the contract, including copies of Contractor's insurance policies if and when requested. Failure to provide the insurance proof requested or failure to do so in a timely manner shall constitute ground for rescission of the contract award

f Subcontractors

Should the Contractor subcontract out the work required under this agreement, they shall include all subcontractors as insured's under its policies or shall maintain separate certificates and endorsements for each subcontractor. As an alternative, the Contractor may require all subcontractors to provide at their own expense evidence of all the required coverages listed in this Schedule. If this option is exercised, both the City of Oakland and the Contractor shall be named as additional insured under the subcontractor's General Liability policy. All coverages for subcontractors shall be subject to all the requirements stated herein. The City reserves the right to perform an insurance audit during the course of the project to verify compliance with requirements

g Deductibles and Self-Insured Retentions

Any deductible or self-insured retention must be declared to and approved by the City. At the option of the City, either the insurer shall reduce or eliminate such deductible or self-insured retentions as respects the City, its Councilmembers, directors, officers, agents, employees and volunteers, or the Contractor shall provide a financial guarantee satisfactory to the City guaranteeing payment of losses and related investigations, claim administration and defense expenses

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h Waiver of Subrogation

Contractor waives all rights against the City of Oakland and its Councilmembers, officers, directors and employees for recovery of damages to the extent these damages are covered by the forms of insurance coverage required above.

i Evaluation of Adequacy of Coverage

The City of Oakland maintains the right to modify, delete, alter or change these requirements, with reasonable notice, upon not-less than ninety (90) days prior written notice

J Higher Limits of Insurance

If the contractor maintains higher limits than the minimums shown above, The City shall be entitled to coverage for the higher limits maintained by the contractor.

END OF SCHEDULE Q – INSURANCE REQUIREMENT

ATTACHMENT C

Schedule E - Project Consultant Team

Schedule O - Campaign Contribution Limits

DUNS NUMBER REPORTING FORM

To be completed by prime consultants only

Date _____

Note:

Note: The consultant herewith must list all subconsultants regardless of tier and their respective percentages of the project work. No other subconsultants, other than those listed below shall be used without prior written approval by the City of Oakland. Provide all information listed and check the appropriate boxes Firms must be certified with the City of Oakland in order to receive Local/Small Local Business Enterprise credits

Company Name

Signed

[illegible]

Attach additional page(s) if necessary

Contractors are required to identify the ethnicity and gender of all listed firms majority owner. This information will be used for tracking purposes only.

* (AA=African American) (AI=Asian Indian) (AP=Asian Pacific) (C=Caucasian) (H=Hispanic) (NA=Native American) (O=Other) (NL=Not Listed)

** (M = Male) (F = Female)

(Revised as of 6/06)



**CONTRACTOR ACKNOWLEDGEMENT OF CITY OF OAKLAND CAMPAIGN CONTRIBUTION LIMITS
FOR CONSTRUCTION, PROFESSIONAL SERVICE & PROCUREMENT CONTRACTS**

To be completed by City Representative prior to distribution to Contractor

City Representative Ahsan Baig Phone (510) 238-3010 Project Spec No 20710-1

Department Information Technology Contract/Proposal Name Professional Services to Design/Build/Maintain City of Oakland/Port of Oakland Domain Awareness Center

This is an Original Revised form (check one) If Original, complete all that applies If Revised, complete Contractor name and any changed data

Contractor Name _____ Phone _____

Street Address _____ City _____ State _____ Zip _____

Type of Submission (check one) ☐ Bid ☐ Proposal ☐ Qualification ☐ Amendment

Majority Owner (if any) A majority owner is a person or entity who owns more than 50% of the contracting firm or entity

Individual or Business Name _____ Phone _____

Street Address _____ City _____ State _____ Zip _____

The undersigned Contractor's Representative acknowledges by his or her signature the following

The Oakland Campaign Reform Act limits campaign contributions and prohibits contributions from contractors doing business with the City of Oakland and the Oakland Redevelopment Agency during specified time periods Violators are subject to civil and criminal penalties

I have read Oakland Municipal Code Chapter 3 12, including section 3 12 140, the contractor provisions of the Oakland Campaign Reform Act and certify that I/we have not knowingly, nor will I /we make contributions during the period specified in the Act

I understand that the contribution restrictions also apply to entities/persons affiliated with the contractor as indicated in the Oakland Municipal Code Chapter 3 12 080

If there are any changes to the information on this form during the contribution-restricted time period, I will file an amended form with the City of Oakland

Signature _____

Date _____

Print Name of Signer _____

Position _____

To be Completed by City of Oakland after completion of the form

Date Received by City _____

By _____

Date Entered on Contractor Database _____

By _____



DATA UNIVERSAL NUMBERING SYSTEM (D-U-N-S) NUMBER

**PROFESSIONAL SERVICES TO DESIGN/BUILD/MAINTAIN CITY OF
OAKLAND/PORT OF OAKLAND JOINT DOMAIN AWARENESS CENTER**

Funded under the American Recovery and Reinvestment Act of 2009 (ARRA)

- Complete and submit this form with your Bid or Proposal
- Your failure to submit your D-U-N-S Number may result in your submission being deemed non-responsive See Project Documents for further details

CONTRACTOR NAME: _____

BUSINESS ADDRESS (D-U-N-S Number Location):

Street: _____

City: _____

State _____

ZIP Code _____

D-U-N-S Number: _____

Contact Name _____

Telephone Number _____

DUNS Number Reporting Form