



## **Request for Proposals**

for

### **A Fund Manager to Manage a Double Bottom Line Investment Fund**

Distribution/Advertisement: November 14, 2017

Deadline for Submittal of Questions: January 24, 2018 by 5:00  
p.m.

Submittal Deadline: January 31, 2018 by 4:30 p.m.

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# Advertisement

## REQUEST FOR PROPOSALS FOR A FUND MANAGER TO MANAGE A DOUBLE BOTTOM LINE INVESTMENT FUND

Civic San Diego ("CivicSD"), an equal opportunity contractor is seeking one or more consultants to be a fund manager to manage the Civic San Diego Smart Growth Fund ("Smart Growth Fund" or the "Fund"). The \$30-50 million private capital real estate equity fund will make equity, debt, and/or mezzanine investments in urban infill residential and select mixed income and mixed use projects to support middle income residents. The primary focus will be on targeted underserved low and moderate income communities whom fall within the 80-150% Area Median Income ("AMI") range within San Diego County.

Proposals from small businesses, disabled veteran-owned businesses, women-owned businesses, firms owned by underrepresented ethnic groups and local firms are especially encouraged.

Deadline to submit a response is January 31, 2018 at 4:30 p.m. Solicitation text and attachments can be downloaded from CivicSD's website at [www.civicsd.com](http://www.civicsd.com) (click on Doing Business, RFPs & RFQs).. For questions, please contact Michael Lengyel at (619) 533-7158 or [lengyel@civicsd.com](mailto:lengyel@civicsd.com).

*Incomplete submittals, incorrect information, or late submittals shall be cause for disqualification. Copies received by email and/or fax shall **not** be deemed as received.*

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## **1.0 INTRODUCTION**

CivicSD is a non-profit public benefit corporation created by the City of San Diego (“City”) to engage in economic development, affordable housing, land use planning, permitting and services, and project management services, which, under California law, can be done by contract with or delegated by the City. CivicSD is authorized to enter into contracts pursuant to the California Nonprofit Public Benefit Corporation Law (Corp. Code § 5110 et seq.), its Articles of Incorporation and its Bylaws. Additionally, CivicSD is authorized to enter into contracts for and on behalf of the City and the Successor Agency to the Redevelopment Agency of the City of San Diego (“Successor Agency”) pursuant to its Operating Agreement, Agency Agreement, or other agreements with the City. CivicSD is also the agent of the City for the Downtown Community Parking District (“DCPD”) and as such is permitted to enter into agreements in that capacity.

### **1.1 Purpose of Solicitation**

This Request for Proposals (RFP) is to retain the services of one or more highly qualified consultants (herein referred to as “Contractor”, “Consultant”, or “Fund Manager”) to manage the Fund. The purpose of the Fund is to facilitate the development of middle income housing and contribute to the revitalization and stabilization of the region’s low and moderate income communities by making equity, debt, and/or mezzanine investments in urban infill residential and select mixed income and mixed use projects within San Diego County.

CivicSD intends to select one or more firms to enter into agreements to provide consulting services under this RFP. In addition, CivicSD may contract for some or all of these services.

The terms “Contractor”, “Fund Manager” and “Consultant” are used interchangeably in this RFP and shall have the same meaning throughout the RFP.

### **1.2 Overview of Solicitation**

The respondent is advised to review the entire solicitation before preparing a submittal. This solicitation is composed of the following parts:

#### **INTRODUCTION (Section 1.0)**

This section introduces information about CivicSD. It also introduces the purpose of this solicitation with pertinent details. Relevant rules and regulations follow in subsequent sections and appendices.

#### **SUBMITTAL REQUIREMENTS (Section 2.0)**

This section introduces detailed instructions on how to prepare a submittal. Additional details may be contained in subsequent sections and appendices. Questions arising during preparation of a submittal should be addressed to the designated CivicSD project manager, whose contact information appears on the title page of this solicitation.

#### **SELECTION PROCESS AND EVALUATION CRITERIA (Section 3.0)**

This section explains how proposals will be evaluated, ranked, and selected.

**DECLARATIONS AND ADDITIONAL INFORMATION (Section 4.0)**

This section contains important declarations and additional information the respondent must carefully review. Items include, but are not limited to, prerequisites, special conditions, policies, guidelines and requirements that will be incorporated into the Scope of Services and/or contract.

**APPENDICES (Section 5.0)**

This section contains appendices which include, but are not limited to, the Scope of Services, sample contract, equal opportunity program requirements, and guidance on project specifics necessary to compile a complete submittal. Again –the respondent is encouraged to review the entire solicitation prior to preparing a submittal.

**1.3 Disclosure Requirements**

Disclosure of any actual or potential conflicts of interest relative to this engagement is of paramount importance to CivicSD. Respondents should take special note of the Disclosure Statement included as Attachment D.2 and take extra care to ensure that any actual or potential conflicts of interest are fully disclosed.

The successful respondent will be required to indemnify CivicSD, the Successor Agency to the Redevelopment Agency of the City of San Diego, the Successor Housing Agency to the Redevelopment Agency of the City of San Diego, and the City of San Diego for a failure of the respondent to disclose any actual or potential conflicts associated with this engagement within its response to this solicitation.

## **2.0 SUBMITTAL REQUIREMENTS**

This section contains instructions on how to prepare and submit a response to this solicitation. Questions arising during preparation of a submittal shall be addressed only to the designated project manager.

The respondent shall follow the format specified below. The contents of the submittal must be clear, concise and complete. Each section of the submittal shall be tabbed and labeled in the order shown below.

### **2.1 Submittal Cover**

The submittal cover shall include the title, submittal due date, name, address, telephone and fax numbers, and e-mail address of the principal contact.

### **2.2 Table of Contents**

The table of contents shall be complete and clear, listing headings and pages to enable easy reference.

### **2.3 Cover Letter**

The cover letter shall be brief. Any changes to the submittal format or deletions of requested material should be explained in the cover letter. The first sentence must state in boldface type:

**“This submittal is for Request for Proposals for a Fund Manager to Manage a Double Bottom Line Investment Fund”**

Additional cover letter information:

- Identify the respondent’s primary contact (include address, e-mail address, and telephone number) responsible for all queries made during the intake and processing of the response.
- Identify the location of the office(s) housing individuals assigned to provide services.
- Provide the pertinent Federal Tax I.D. number.
- If proposing joint venture partners and subconsultants, include company name(s), the types of services to be provided by each, and the primary contact for each.
- The signatory shall be a person with legal authority to bind the prime, partners and subs.

### **2.4 Statement of Understanding and Methodology**

The statement of understanding and methodology shall contain a written narrative that demonstrates the respondent’s understanding of the solicitation and a methodology for implementing the Scope of Services. The Scope of Services is attached as Appendix A.

### **2.5 Project Related Experience**

This section shall include examples of any experience the respondents have had with double bottom-line funds, and/or experience in the past five (5) years specifically related to the Scope of

Services. Examples shall be listed consecutively and the awarding and completion dates noted for each. For each listing, include the name(s) and telephone number(s) of the respondent's project manager and the client's project manager. When listing prime, joint venture partners and subcontractors, provide examples in the same manner described herein. Respondents must provide at least three references from previous assignments with telephone numbers and e-mail addresses.

## **2.6 Project Personnel**

This section shall identify the contact person with primary responsibility for this project, the personnel proposed to work on this project, and joint venture partners and subconsultants. The persons listed will be considered committed to the project with no substitutions without prior agreement with CivicSD. A résumé for each professional and technical person assigned to the project, including partners and/or subconsultants, shall be submitted.

## **2.7 Organization Chart**

This section shall include an organization chart containing the names of all key personnel, joint venture partners, and subs with titles and their specific task assignment for this contract.

## **2.8 Insurance**

This section shall include a statement that the respondent will provide proof of insurance and bonding as required under the Insurance terms of the sample contract in Appendix B – Sample Contract.

## **2.9 Schedule of Rates and Budget**

The Scope of Services includes a budget and fee proposal to perform the Scope of Services. Respondent shall confirm if the fee proposal is acceptable or submit an alternative proposal. An alternative proposal must include a budget that is detailed to a level that allows for accurate and meaningful budget estimations for comparison by CivicSD. The proposal must contain:

- Description of fees/compensation earned and expenses expected for each party.
  - If certain fees and expenses can't be accurately estimated or will be based on a percentage, the revenue model must still be documented (e.g. the consultant shall receive a management fee of x% of committed capital and/or each investment originated as part of the Fund).

## **2.10 Additional Required Documents**

This section shall include the following required documents (documents that must be filled out and returned with the proposal) that are not requested in other sections of the submittal ("Additional Required Documents"):

From Appendix B

- Attachment B.2, Exhibit A – Consultant Self Disclosure Form *(to be completed by the prime only, but must include the requested information related to the subconsultants' employees and functions, if any)*

From Appendix C



- Attachment C.3 – Equal Opportunity Agreement *(to be completed by the prime only)*
- Attachment C.6 – Work Force Report *(to be completed by the prime only)*
- Attachment C.7 – Subconsultant and Vendor List *(to be completed by the prime only)*
- Attachment C.8 – Letter of Intent to Subcontract or Coventure *(a separate letter for each subconsultant on prime's letterhead and signed by both the prime and the subconsultant, if any; see Attachments C.7 and C.8 for further instructions)*
- Attachment C.9 – Outreach Survey *(to be completed by the prime only)*

From Appendix D

- Attachment D.2 – Disclosure Statement *(to be completed by the prime and all subconsultants, if any)*
- Attachment D.3 – Tentative Contract Revisions *(to be completed by the prime only)*

## **3.0 SELECTION PROCESS AND EVALUATION CRITERIA**

### **3.1 Selection Criteria**

Respondents shall ***carefully review*** Appendix D, Additional Project Documents, and Attachment D.1 – Selection Criteria.

### **3.2 Submittal Selection Process**

A Selection Committee will review the submittals and will determine whether to award the contract or contracts based solely on the evaluation of the submittals (and reference checks, if reference checks are determined to be necessary by the Selection Committee) or to conduct interviews (and reference checks, if reference checks are determined to be necessary by the Selection Committee). Should the Selection Committee recommend conducting interviews, it will "short-list" the most qualified respondents utilizing the Selection Criteria Form. Then, an Interview Panel will be formed to interview selected respondents. **It is mandatory that the designated lead contact who will oversee the project attend the interview.** Short-listed respondents will be given at least five working days to prepare for the interview. Based on these evaluations a recommendation shall be made to the CivicSD President and/or Board for a final decision. CivicSD reserves the right not to conduct reference checks.

### **3.3 Submittal Schedule**

The solicitation and submittal intake will conform to the following schedule. **Note:** Dates are subject to change.

Distribution/Advertisement	November 14, 2017
Deadline for Submittal of Questions	January 24, 2018 by 5:00 p.m.
Deadline for Submittal	January 31, 2018 by 4:30 p.m.

### **3.4 Submittal Format, Deadline and CivicSD Project Manager**

#### **SUBMITTAL FORMAT**

Submissions shall not exceed a total of forty (40) pages, including any appendices and required forms, using a minimum type size of 11. Tabs used as dividers between sections do not count toward the page limit. The respondent shall submit one unbound original, three bound copies, and one "high quality" digital PDF file (on CD, flash drive, or such other current electronic medium).

## **CIVICSD PROJECT MANAGER**

Interested parties should direct inquiries and submit RFP responses (marked or entitled “Request for Proposals for a Fund Manager to Manage a Double Bottom Line Investment Fund”) to:

Michael Lengyel  
Civic San Diego  
401 B Street, Suite 400  
San Diego, CA 92101  
619.533.7158  
lengyel@civicsd.com

Specific questions regarding the solicitation must be sent via e-mail to ensure appropriate tracking and response.

*The respondent understands that incomplete submittals, incorrect information, or late submittals shall be cause for disqualification. Copies received by e-mail and/or fax shall **not** be deemed as received.*

## **4.0 DECLARATIONS AND ADDITIONAL INFORMATION**

### **4.1 CivicSD's Rights Pertinent to this Solicitation**

CivicSD reserves the right to reject all submittals for any legally permissible reason without indicating reasons for said rejection.

CivicSD reserves the right to amend this solicitation by addendum and to issue responses to questions regarding the solicitation. CivicSD is bound only by what is expressly stated in this solicitation and any authorized written addenda thereto. Addenda and responses to questions regarding the solicitation will be posted on CivicSD's website at [www.civicsd.com](http://www.civicsd.com) (click on "Doing Business", "RFPs & RFQs"). It shall be the respondent's responsibility to check the website up to the final submittal date daily for any possible addenda and responses to questions regarding the solicitation.

CivicSD reserves the right to select one or more consulting firms to provide the services outlined in this RFP.

CivicSD reserves the right to contract for some or all of the services outlined in the Scope of Services, Attachment A.1.

CivicSD accepts no financial responsibility for any costs incurred by the respondent. All submittals become the property of CivicSD and may be used in any way deemed appropriate.

Submittals will be considered valid for 120 days after submittal deadline.

### **4.2 Withdrawal of Solicitation**

CivicSD reserves the right to withdraw this solicitation at any time without prior notice and make no representations that any agreement will be awarded to any respondent. Additionally, CivicSD expressly reserves the right to postpone opening responses to this solicitation for its own convenience, and/or to waive any informality or irregularity in the responses received.

### **4.3 Compensation**

The respondent agrees, if selected, that compensation shall remain firm and fixed throughout the term of the contract.

See also Appendix B, Sample Contract.

### **4.4 Contact with CivicSD Personnel**

Questions regarding this solicitation shall be directed **only** to:

Michael Lengyel  
Civic San Diego  
401 B Street, Suite 400  
San Diego, CA 92101  
Telephone: 619.533.7158  
Fax: 619.236.9148

lengyel@civicsd.com

#### **4.5 Formal Approval of Contract**

The respondent understands that issuance of this solicitation does not commit CivicSD to award a contract, to pay any costs incurred in the preparation of a response to this solicitation, or to procure a contract for services. The respondent should note that the execution of any contract pursuant to this solicitation is dependent upon the approval of CivicSD's Board of Directors, the Successor Agency to the Redevelopment Agency of the City of San Diego, and/or the San Diego City Council, as may be required.

Consultant may initially work under a contract with CivicSD that may be succeeded by a contract with the Fund after the organization is incorporated or otherwise formed or with a separate entity that is formed to manage the Fund.

#### **4.6 Independent Contractor Status**

The respondent agrees, if selected, that he or she shall perform the services as independent contractor(s) and not employee(s) of CivicSD or the City. Neither CivicSD nor the City will be considered the employer or joint employer of, or with the officer(s), employee(s), or agent(s) of, the respondent. The respondent understands that, if selected, the respondent shall have the sole responsibility for deciding the manner and means of providing the services, except as outlined in the final contract and its attachments or exhibits. In such instances that the respondent acts as a designated agent for CivicSD for the purpose of conducting public hearings or permit acquisition, the respondent shall sign a letter of authorization provided by the governing agency (e.g., water board, planning department).

#### **4.7 Quality Assurance Process**

The respondent understands that upon contract award, CivicSD will evaluate performance on a periodic basis. Such evaluation will include assessing compliance with all terms stated in the contract and the Scope of Services. If deficiencies are determined a report will be generated outlining improvement methods and corrective actions. If improvement does not occur, CivicSD may terminate the contract, in whole, or in part, or impose other penalties as specified in the contract.

#### **4.8 Public Disclosure**

The respondent understands that as a general rule documents received by CivicSD may be considered public records. Therefore all submittals shall be made available for public inspection according to applicable disclosure rules and regulations. If the respondent considers his or her submittal as proprietary and/or otherwise exempt from disclosure he or she must submit a written request for determination of whether the documents can be withheld from public disclosure no later than 15 days prior to the due date of the submittal. CivicSD legal counsel will make a determination of confidentiality. If a determination is not obtained prior to the submittal deadline, all document(s) shall be subject to public disclosure.

#### **4.9 Confidential Solicitation**

CivicSD will not share the details of individual responses to this solicitation with competing respondents during the selection process. After the selection process ends and prior to legislative action on the contract, all solicitations become public information (except portions otherwise deemed confidential as noted in Section 4.8) in accordance with the laws governing public records.

#### **4.10 News Releases**

The respondent agrees that, if selected, CivicSD will review and approve all news releases pertaining to this solicitation and/or subsequent agreement(s). All news releases will be submitted in writing to the CivicSD project manager. The project manager will review and submit the news release to the appropriate CivicSD personnel for final review and approval in a timely manner.

#### **4.11 Conflict of Interest/Financial Disclosure**

The respondent agrees, if selected, to comply with CivicSD's duly adopted Conflict of Interest Code. Key personnel who will be performing services under this Agreement are required to make disclosures with respect to all former Redevelopment Project Areas of the City of San Diego.

*See also Appendix B – Sample Professional Services Agreement, Section 6 – Indemnity and Section 10 – Conflict of Interest.*

#### **4.12 Indemnification**

The respondent agrees, if selected, to indemnify and hold harmless CivicSD, , the Successor Agency to the Redevelopment Agency of the City of San Diego, the Successor Housing Agency to the Redevelopment Agency of the City of San Diego, the City of San Diego and all City Councilmembers, board members, officers and employees of each entity from any and all liability, claims, costs (including reasonable attorneys' fees), demands, damages, expenses, and causes of action as outlined in the contract.

*See also Appendix B – Sample Professional Services Agreement, Section 6 – Indemnity.*

#### **4.13 Examination of Solicitation**

The respondent understands that the information provided herein is intended solely to assist the respondent in submittal preparation. To the best of CivicSD's knowledge, the information provided is accurate. However, CivicSD does not warrant such accuracy, and any errors or omissions subsequently determined will not be construed as a basis for invalidating this solicitation. Further, by submitting a response to this solicitation, the respondent represents that he or she has thoroughly examined and become familiar with work required in the solicitation and is capable of performing quality work and to achieve the objectives of CivicSD.

#### **4.14 Equal Opportunity Program**

The City of San Diego and CivicSD are strongly committed to equal opportunity in solicitation of services. All eligible service providers including individuals, contractors, vendors, consultants, grantees, lessees, and banks, must comply with CivicSD's Equal Opportunity Policy and Program.

*See also Appendix C, Equal Opportunity Program documents.*

#### **4.15 Nondiscrimination Policy**

The respondent shall not discriminate on the basis of race, gender, religion, national origin, ethnicity, sexual orientation, age, or disability in the solicitation, selection, hiring or treatment of subs, vendors, or suppliers. The respondent shall provide equal opportunity for subs to participate in subcontracting opportunities. The respondent understands and agrees that violation of this clause shall be considered a material breach of the contract and may result in contract termination, debarment, or other sanctions.

#### **4.16 Local Business and Employment**

The respondent acknowledges that CivicSD seeks to promote employment and business opportunities for local residents and firms on all CivicSD contracts. The respondent shall, to the extent legally possible, solicit applications for employment and proposals for subcontracts for work associated with this document from local residents and firms as opportunities occur. The respondent agrees to hire qualified local residents and firms whenever feasible.

## **5.0 APPENDICES**

### **Appendix A – Scope of Services**

Attachment A.1 – Scope of Services

### **Appendix B – Sample Professional Services Agreement**

Attachment B.1 – Sample Professional Services Agreement

Attachment B.2 – Civic San Diego Policy for Statement of Economic Interests (Form 700)

### **Appendix C – Equal Opportunity**

Attachment C.1 – CivicSD Equal Opportunity Policy

Attachment C.2 – Equal Employment Outreach Program

Attachment C.3 – Equal Opportunity Agreement

Attachment C.4 – Advisory Goals and Guidelines

Attachment C.5 – Strategies for Successful Team

Attachment C.6 – Work Force Report

Attachment C.7 – Subconsultant and Vendor List

Attachment C.8 – Letter of Intent to Subcontract or Coventure

Attachment C.9 – Outreach Survey

### **Appendix D – Additional Project Documents**

Attachment D.1 – Selection Criteria

Attachment D.2 – Disclosure Statement

Attachment D.3 – Tentative Contract Revisions





## Appendix A – Scope of Services



## **Attachment A.1 – Scope of Services**

### **1. Introduction**

Civic San Diego ("CivicSD") is a non-profit public benefit corporation created by the City of San Diego ("City") to engage in economic development, land use permitting and services, and project management services, which, under California law, can be done by contract with or delegated by the City.

### **2. Project Narrative**

The San Diego region is in the midst of a burgeoning housing crisis. While the market has produced high-end housing for the affluent and public resources have been devoted to increasing the supply of housing for low income families, there is a gap left to be addressed, and a lack of supply of affordable housing for middle income families. According to the San Diego Association of Governments (SANDAG) Regional Housing Needs Assessment the San Diego region needs to produce approximately 162,000 housing units to accommodate the region's housing needs by 2020 and 18% of that housing (i.e. 29,160 units) should be moderate income housing.

To address this disparity, Civic San Diego is establishing a \$30-50 million private capital real estate equity fund ("Smart Growth Fund" or the "Fund") to implement the region's smart growth policies, facilitate the development of middle income housing<sup>1</sup>, and contribute to the revitalization and stabilization of the region's low and moderate income communities. The Fund will make equity, debt, and/or mezzanine investments in urban infill residential and select mixed income and mixed use projects. The primary focus will be on targeted underserved low and moderate income communities within San Diego County.

#### **Investment Entity and Structure:**

The proposed structure of the Fund will be as a limited liability company (LLC) qualified to do business in California. It will be sponsored by a non-profit affiliate of CivicSD (the "Affiliate").

Each individual project in which the Fund invests will be structured as a separate affiliate LLC (which may be owned 100% by the Fund or a part of a joint venture with third parties). Affiliate LLCs will be structured so that investments are not cross collateralized (i.e. no investment may be put at risk as collateral for another investment).

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<sup>1</sup> Housing affordable to families in the 80-150% Area Median Income range

The legal structure will be designed to ensure that the particular needs of certain classes of investors will be addressed. These may include the fiduciary and other responsibilities required by investors, joint venture partners and lending institutions.

Note: This proposed Fund structure is preliminary and subject to further revisions based on the completion and results of additional internal studies.

**Affiliate as Special Member:**

The Affiliate will be a Special Member of the Smart Growth Fund. As a Special Member, it will have the following rights and responsibilities:

- Engage the Fund Manager subject to investor approval.
- Negotiate the term sheet with Fund Manager in collaboration with lead investor.
- Receive a portion of the fund management fee and carried interest in exchange for the value added services to increase deal flow and manage social returns.
- Represent the Affiliate on the Advisory Board with at least one seat.
- Monitor and report on Fund performance (economic and social criteria), to ensure that the objectives and investment criteria are met by the Fund and Fund Manager.
- Facilitate deal sourcing through its linkages and networks with community groups, public agencies and the local development industry.
- Facilitate the achievement of social returns.

**3. Consultant Services**

The proposed investment criteria and consultant services for the Fund are outlined below.

**Fund Manager:**

The Fund Manager will serve as the Managing Member or Manager of the Fund. The Fund Manager's role and responsibilities include the following:

- Fund Manager has sole responsibility for all investment decisions with input from the Special Member and for other day to day activities of the Fund.
- Fund Manager, in collaboration with the Special Member, will develop and implement a fund capitalization strategy for the successful closing and execution of the Fund.
- Project underwriting.
- Management of the investment process and oversight of investment.
- Portfolio management.

**Investment Objectives:**

The Fund will target the following double bottom line objectives:

- Achieve reasonable market rate risk adjusted equity returns commensurate with Fund objectives. Contribute to the development of middle income housing within the San Diego County region (targeting 80-150% AMI with consideration up to 200% AMI).
- Contribute to the revitalization and stabilization of the neighborhoods in which the investments are located.

**Investment Strategy:**

Emphasis will be placed on development projects that:

- Produce housing opportunities which are affordable to middle income families within San Diego County.
- Offer investors the best opportunities for market rate risk adjusted returns consistent with fund investment objectives.
- Typical projects will include for-sale or rental housing for middle income families and may be new construction, acquisition and rehabilitation of existing building or some combination thereof. In appropriate circumstances projects may include mixed-use or mixed income projects.
- A priority will be given to projects which are located within or adjacent to low and moderate income communities within San Diego County. These neighborhoods are defined as neighborhoods within census tracts that are low to moderate income as defined by HUD. Projects must be consistent with the smart growth and reinvestment policies of the applicable community development plans for the targeted neighborhoods.
- Eligible projects will be sourced through established linkages and networks with community groups, public agencies and the brokerage and development industry.
- The Fund will have the flexibility to make any appropriate investments involving equity or debt, including mezzanine capital with equity components.
- Typical projects will have an average size of development costs from \$7,000,000 to \$30,000,000 with the Fund making an investment of \$2,000,000 to \$5,000,000 in each such project. Potential projects may include joint ventures with developers with a demonstrated capacity to develop and manage complex urban infill developments consisting of 20-60 units or more. Special consideration may be given to developers indigenous to the San Diego community who are capable of producing the risk adjusted returns expected of the Fund.

**Social and Environmental Investment Criteria:**

- Urban infill housing within underserved communities in San Diego County.
- Projects which encourage the integration of mixed income and mixed use neighborhoods.
- Projects which encourage the reuse and redevelopment of underutilized urban infill properties.
- Projects which are consistent with the smart growth and reinvestment policies of the applicable community development plans for the targeted neighborhoods.
- Projects which are consistent with the City of San Diego's Climate Action Plan.

**Displacement:** Any investment which involves the displacement of households earning less than 80% of the area median income will require the project developer to prepare a relocation plan for approval by the Fund Manager and Special Member.

**Diversification:** The Fund will not invest more than 20% of the aggregate capital commitments in any single portfolio project, nor more than 25% of the aggregate capital with any one developer. The Fund's goal is for each project to have between 50%-70% leverage.

**Capitalization:** Minimum capitalization of \$30 million. Target capitalization is \$50 million.

**Minimum Subscription Commitment:** \$5 million (or less but only if so approved by both the Fund Manager and Special Member).

**Location:** Investments will include properties located in (i) any area located in a census tract within San Diego County that are low to moderate income as defined by HUD or (ii) any area of which investments in would be eligible for Community Reinvestment Act (CRA) credit as determined by any appropriate regulatory agency with oversight over CRA eligibility.

**Advisory Board:** An Advisory Board representing investors in the Fund will be established to advise the Fund Manager on issues relating to investment strategies.

A representative of the Affiliate will hold one seat on the Advisory Board, as a Special Member.

The Advisory Board will meet at least semi-annually with the Fund Manager where it will be briefed on:

- (i) the investment strategy of the Fund.
- (ii) Current performance of the Fund relevant to financial returns and social returns.

All investment decisions will be made by the Fund Manager.

**Drawdown/Investment Period:** Investor's capital shall be drawn down during the five year period commencing on the first closing date.

**Term of the Fund:** The Fund shall operate for a term of seven years, and can be extended to facilitate the realization of investments for up to three one year periods by the Fund Manager.

**Co-investment Policy:** Where possible and appropriate, the Fund Manager intends, but will be under no obligation, to provide co-investment opportunities to Fund investors.

**Reinvestment Rights:** During the drawdown/investment period, proceeds returned to investors within 24 months of investment that constitute a return of capital may be subject to reinvestment by the Fund Manager at its sole discretion.

**Additional Capital:** There shall be no requirement to make additional capital contributions in excess of an investor's commitment, but if ever required, those investors so contributing will receive a priority return of such additional capital plus a reasonable return thereon.

**Reporting:** Audited financial statement of the Fund position for the previous calendar year (for each year until all projects have been sold) will be provided to the Members by the Fund Manager within 120 days of the close of the Calendar Year.

Unaudited financial statements will be provided to the Members by the Fund Manager within 60 days after the end of each of the first three fiscal quarters of each year.

#### 4. Timeline

The term of the contract(s) is anticipated to be up to ten years, and can be extended to facilitate the realization of investments for up to three (3) one-year periods by the Fund Manager.

#### 5. Key Personnel

Respondents must include a list of the staff that will be performing the Scope of Services, their title and qualifications.

#### 6. Budget

Management Fees and Expenses: The proposed management fees and expenses for the Fund are outlined below. Respondent shall confirm if the fee proposal is acceptable or submit an alternative proposal.

**Organizational Expenses:** The Fund will bear the legal, accounting and other professional costs of organizing the Fund as well as certain out of pocket expenses. Organizational expenses are expected to be approximately \$300,000.

**Management Fees:** The asset management fee will be 2.0% per annum (1.75% to the Fund Manager and .25% to the Special Member) payable quarterly on the aggregate committed capital less capital returned from either the sale or refinancing of projects, but in no event less than a monthly minimum amount to be agreed upon with the Fund Manager during the wind-down period.



## Appendix B – Sample Contract and the Statement of Economic Interest

Attachment B.1 – Sample Professional Services Agreement\*

Attachment B.2 – Civic San Diego Policy for Statement of Economic Interests (Form 700)

\*The form of this contract may be changed by CivicSD as it determines in its reasonable discretion. The attached draft contract is illustrative only of a type of agreement that might be utilized in connection with this RFP. The actual contract to be utilized will depend upon the responses obtained from the respondents and the fee structure proposed.

## **Attachment B.1 – Sample Professional Services Agreement**

CC Number: \_\_\_\_\_

### **PROFESSIONAL SERVICES AGREEMENT**

This Professional Services Agreement (“Agreement”) dated this \_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, for reference purposes only, is entered into by and between Civic San Diego, a California non-profit public benefit corporation, with its principal place of business at 401 B Street, Suite 400, San Diego, California 92101 (“CivicSD”), and [insert company's name] (“Consultant”), a [insert type of professional], with its principal place of business at [insert consultant's address]. CivicSD and Consultant are sometimes referred to in this Agreement individually as a “Party” and collectively as the “Parties.” This Agreement is entered into in light of the following recited facts (each, a “Recital”).

#### **RECITALS**

A. CivicSD is a non-profit public benefit corporation created by the City of San Diego (“City”) to engage in economic development, land use permitting and services, and project management services, which, under California law, can be done by contract with or delegated by the City, or the Successor Agency to the Redevelopment Agency of the City of San Diego (also known as the “Agency,” the “Successor Agency” or the “City of San Diego Solely in its Capacity as the Designated Successor Agency to the Redevelopment Agency of the City of San Diego, a Former Public Body, Corporate and Politic”).

B. CivicSD is authorized to enter into contracts pursuant to the California Nonprofit Public Benefit Corporation Law (Corp. Code § 5110 et seq.), its Articles of Incorporation and its Bylaws.

C. CivicSD is also authorized to enter into contracts for and on behalf of the City and Successor Agency pursuant to its Operating Agreement, Agency Agreement, or other Agreements with the City.

D. CivicSD desires to retain the services of a [insert type of professional] firm to provide professional services relating to [identify the project] (the “Project”).

E. The professional services required by CivicSD for the Project are detailed within the Scope of Services set forth in Exhibit A to this Agreement (the “Professional Services”).

F. Consultant has represented to CivicSD that it has the expertise, experience, personnel, and the professional licenses, if professional licenses are required for the Professional Services, necessary to provide the Professional Services to CivicSD for the Project.

G. In light of these Recitals, CivicSD and Consultant desire to enter into this Agreement in which CivicSD will retain Consultant to provide, and Consultant shall provide, the



Professional Services for the Project. [If this is an “Agency” contract, add the following: “CivicSD enters into this Agreement on behalf of the Successor Agency and in its role as consultant to the Successor Agency. All payments to be made to Consultant under this Agreement shall be derived from funds made available by the Successor Agency and are predicated upon the California Department of Finance’s approval of expenditures for the Project on the appropriate Recognized Obligation Payment Schedule(s) (“ROPS”).] [If CivicSD is acting in its capacity as the City’s agent for the Downtown Community Parking District to enter into this contract, add the following: “CivicSD enters into this Agreement in its capacity as the City’s agent for the Downtown Community Parking District (“DCPD”).”] [If CivicSD is entering into this contract on behalf of the City in the City’s capacity as the housing successor entity, add the following: “CivicSD enters into this Agreement on behalf of the City in the City’s capacity as the housing successor entity.”] [NOTE- If the budget type is “agency” but no ROPS are involved, no need to add any additional language here.]

NOW, THEREFORE, in consideration of the Recitals and the terms and conditions set forth in this Agreement, and for other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the Parties set forth their mutual covenants and understandings as follows:

## 1. SCOPE OF SERVICES:

a. Scope of Services. Consultant shall perform the Professional Services set forth in the Scope of Services, attached to this Agreement as Exhibit A and incorporated into this Agreement by this reference. Consultant shall not be compensated for any services rendered that are outside the scope of services without a written amendment to this Agreement. The Scope of Services may only be changed, modified, or altered through an amendment to this Agreement. Any approved changes, modifications or alterations to the Scope of Services shall be performed in accordance with the provisions of this Agreement, subject to applicable amendments.

b. [THIS IS AN OPTIONAL CLAUSE. USE FOR ON-CALL AGREEMENTS. DELETE CLAUSE IF AGREEMENT IS NOT ON-CALL.] No Minimum Amount of Work under On-Call Agreement. CivicSD makes no representation regarding the amount or type of services, if any, that Consultant will be asked to provide to CivicSD during the term(s) of this on-call Agreement. It is expressly understood that CivicSD is under no obligation to request any services from Consultant and no minimum amount of work is contemplated under this Agreement.

## 2. COMPENSATION:

### [Option 1 – Fixed Price]

a. Payment for Professional Services. The total compensation for all Professional Services performed pursuant to this Agreement shall be [write the amount (spelled-out)] (\$[insert amount (numerical)]) (the “Fixed Price Agreement Amount”), as set forth in Exhibit B attached to this Agreement and incorporated into this Agreement by this reference (the “Fixed Price Agreement Amount Payment Schedule”). [If this is an “Agency” contract, add the following: “All payments to be made to Consultant under this Agreement shall be derived from funds made available by the Successor Agency. Furthermore, the funds will be available for this Project only

if the California Department of Finance (“DOF”) approves sufficient expenditures, if any, on the appropriate Recognized Obligation Payment Schedule (“ROPS”). Consultant shall therefore not undertake any work, and shall not be entitled to receive any payment for work until and unless Consultant has received written notification from CivicSD that the DOF has approved such expenditure on the ROPS that covers the period(s) during which such work will be performed.”]

Unless a payment schedule is provided for in the Fixed Price Agreement Amount Payment Schedule attached hereto as Exhibit B, payment to Consultant for all Professional Services shall be made in a one-time, lump-sum payment upon the satisfactory completion of the Professional Services and delivery of the Work Product (as defined in Section 12 below). The payment for the Professional Services shall not exceed the Fixed Price Agreement Amount.

b. No Separate Reimbursement for Expenses. The Fixed Price Agreement Amount includes payment for all costs and expenses that may be incurred by Consultant in the performance of such Professional Services. Unless this Agreement is amended to allow for reimbursement of approved expenses, there shall be no separate reimbursement for expenses.

c. Invoices. An invoice for Professional Services shall be submitted upon completion of the Scope of Services or for authorized scheduled payments as provided for in the Fixed Price Agreement Amount Payment Schedule. The invoice shall reference this Agreement and detail the Professional Services completed. The invoice will be generally payable, if approved, within forty-five (45) calendar days of receipt.

d. Audit of Records. Consultant shall maintain complete and accurate records that support the invoice for the Professional Services for a minimum of four (4) years from the date of final payment to Consultant. Consultant shall allow an authorized representative of CivicSD to inspect, examine, copy and audit such records during regular business hours upon reasonable advance notice.

## **[Option 2 – Time and Materials]**

a. Payment for Professional Services. CivicSD shall pay for the Professional Services in accordance with the payment and fee schedule contained in Exhibit B attached to this Agreement and incorporated into this Agreement by this reference (the “Time and Materials Fee Schedule”). The maximum payment under this Agreement for the Professional Services and, if authorized, reimbursement of expenses, shall not exceed [write the amount (spelled-out)] (\$[insert amount (numerical)]) (the “Time and Materials Not to Exceed Amount”). [If this is an “Agency” contract, add the following: “Consultant acknowledges that all payments to be made to Consultant under this Amendment shall be derived from funds made available by the Successor Agency. Furthermore, the funds will be available for this Project only if the California Department of Finance (“DOF”) approves sufficient expenditures, if any, on the appropriate Recognized Obligation Payment Schedule (“ROPS”). Consultant shall therefore not undertake any work, and shall not be entitled to receive any payment for work until and unless Consultant has received written notification from CivicSD that the DOF has approved such expenditure on the ROPS that covers the period(s) during which such work will be performed.”] Amounts designated for payment for specific tasks or Work Product in the Time and Materials Fee Schedule may be reallocated to another task or Work Product identified in the Time and Materials Fee Schedule with the advance written approval of CivicSD; however, in no case shall

any such reallocation result in an increase in the Time and Materials Not to Exceed Amount without written amendment of this Agreement.

b. Reimbursement of Expenses. Consultant shall be reimbursed for actual, reasonable and necessary expenses incurred in the performance of Professional Services in accordance with the expense reimbursement schedule and limitations included in Exhibit C attached to this Agreement and incorporated into this Agreement by this reference (the “Time and Materials Reimbursement Schedule”). Payment for reimbursable expenses incurred by the Consultant and its Subconsultant(s) is included in the Time and Materials Not to Exceed Amount. Consultant shall not mark-up reimbursable expenses, including expenses incurred by any Subconsultant. Unless this Agreement is amended, CivicSD shall not be responsible for reimbursement of expenses exceeding the applicable limitations set forth in the Time and Material Reimbursement Schedule. Consultant shall use its best efforts to schedule reimbursable expenses such as travel and lodging in advance in order to reduce costs, and CivicSD reserves the right to reject or reduce expenses resulting from Consultant’s failure to use such best efforts.

c. Invoices. Consultant shall submit a monthly itemized statement that reflects the work completed and hours of Professional Services rendered by Consultant in accordance with this Agreement. The monthly statement shall reference this Agreement and shall contain detailed billing information including, but not limited to, a description of the Professional Services rendered, Work Product completed, the date(s) of the Professional Services, time spent on tasks, name of person(s) performing the Professional Services, billing rates, and total amount billed per each service. Invoices shall also include a breakdown and substantiation (such as receipts or other evidence of actual payments acceptable to CivicSD) of all reimbursable expenses by category of expense and amount. Invoices to CivicSD must be in accordance with the Scope of Services and the Time and Materials Fee Schedule and will be generally payable, if approved, within forty-five (45) calendar days of receipt of each monthly statement. Each invoice shall include a statement of the total contract value, amount billed to date under the contract, and the amount remaining under the contract.

d. Audit of Records. Consultant shall maintain complete and accurate records of all payrolls, expenditures, disbursements and other cost items charged to CivicSD or establishing the basis for an invoice, for a minimum of four (4) years from the date of final payment to Consultant. Consultant shall allow an authorized representative of CivicSD to inspect, examine, copy and audit such records during regular business hours upon reasonable advance notice.

### **3. EFFECTIVE DATE AND TERM:**

a. Effective Date. This Agreement shall not become effective until the first date on which all of the following are true (the “Effective Date”): (i) this Agreement is approved and signed by the authorized representative(s) of Consultant and delivered to CivicSD; (ii) following all legally required notices and hearings, this Agreement is approved by the governing board of the Successor Agency, CivicSD’s governing board, and/or the authorized representative(s) of CivicSD, as applicable and legally required; and (iii) this Agreement is signed by the authorized representative(s) of CivicSD and delivered to Consultant.

b. Term. Except as provided below, the term of this Agreement (the “Term”) shall continue, unless otherwise terminated early as provided in this Agreement, until the sooner of: (i) such time as the compensation remaining under the contract is expended, or (ii) for a period of [insert term] years following the Effective Date. Consultant shall complete the Professional Services within the Term of this Agreement, and shall meet any other schedules and deadlines mutually established, in writing, between the Parties. If the Term of this Agreement would otherwise expire while there is both remaining value under the Agreement and when all tasks within the Scope of Services have not been completed, then this Agreement shall remain in effect until the earlier of such time as there is no remaining value under this Agreement or all tasks within the Scope of Services have been completed. Except as expressly provided herein, the Term of this Agreement may not be extended or renewed for any additional time period unless by a written amendment to this Agreement.

#### **4. STANDARD AND RULES OF PERFORMANCE:**

The Professional Services shall be performed in accordance with generally accepted professional practices and principles and in a manner consistent with the level of care and skill ordinarily exercised by members of Consultant’s profession currently practicing in the state of California. Whenever the Scope of Services requires or permits approval by CivicSD, it is understood to be approval solely for the purposes of conforming to the requirements of the Scope of Services and not acceptance of any professional or other responsibility for the Professional Services. Such approval does not relieve Consultant of responsibility for complying with the applicable standard of performance or laws, regulations, industry standards, or from liability for damages caused by negligent acts, errors, omissions, noncompliance with industry standards, or the willful misconduct of Consultant or its Subconsultants. By performance of the Professional Services and delivery of any completed Work Product, Consultant represents that the Professional Services and the Work Product conform to the requirements of this Agreement and all applicable federal, state, and local laws. If Consultant is retained to perform services requiring a license, certification, registration, or other similar requirement under California or other applicable law, Consultant shall maintain that license, certification, registration, or other similar requirement throughout the term of this Agreement.

#### **5. INSURANCE:**

a. Requirement. Prior to performing the Professional Services herein, throughout the duration of the Agreement, and for twelve (12) months following completion of this Agreement, Consultant shall, at its sole cost and expense, procure and maintain the following types and limits of insurance, containing the additional insured endorsements and cancellation clause set forth herein. Additionally, Consultant shall require that each Subconsultant procure and maintain the types and limits of insurance required by this Agreement prior to performing any services hereunder. The types and limits of insurance are as follows:

(i) *Minimum Scope of Insurance*. Coverage shall be at least as broad as:

A. Insurance Services Office Commercial General Liability coverage (occurrence Form CG 00 01), or equivalent, (Including operations, products and completed

operations, as applicable), with a limit of not less than \$2,000,000 per occurrence for bodily injury, personal injury and property damage. If Commercial General Liability Insurance or other form with a general aggregate limit is used, either the general aggregate limit shall apply separately to this project/location or the general aggregate limit shall be \$4,000,000.

B. Insurance Services Office Form Number CA 00 01 covering Automobile Liability, Code 1 (any auto), or equivalent, with a limit of not less than \$1,000,000 per accident for bodily injury and property damage.

C. Workers' Compensation insurance as required by the State of California.

D. Employers' Liability insurance with the following limits: \$1,000,000 each accident; \$1,000,000 policy limit bodily injury by disease; \$1,000,000 each employee bodily injury by disease.

E. Errors & Omissions Liability insurance appropriate to the Consultant's profession with a limit of not less than \$1,000,000. Architects' and engineers' coverage is to be endorsed to include contractual liability, to the extent such coverage is reasonably available in the market.

F. If Consultant maintains higher limits than the minimums shown above, CivicSD requires and shall be entitled to coverage for the higher limits maintained by Consultant. Any available insurance proceeds in excess of the specified minimum limits of insurance and coverage shall be available to CivicSD.

b. Deductibles and Self-Insured Retentions. Any deductibles or self-insured retentions must be declared to and approved by CivicSD prior to the commencement of the Professional Services. At CivicSD's option, either: the insurer shall reduce or eliminate such deductibles or self-insured retentions as respects to CivicSD, its officers, officials, employees, and volunteers; or the Consultant shall provide a financial guarantee satisfactory to CivicSD guaranteeing payment of losses and related investigations, claim administration and defense expenses.

c. Other Mandatory Insurance Provisions.

(i) The Commercial General Liability and Automobile Liability policies are to contain, or be endorsed to contain, the following provisions:

A. "CIVIC SAN DIEGO," "SUCCESSOR AGENCY TO THE REDEVELOPMENT AGENCY OF THE CITY OF SAN DIEGO" AND "CITY OF SAN DIEGO" (AND EACH OF THEIR RESPECTIVE OFFICERS, OFFICIALS, EMPLOYEES, AND VOLUNTEERS) ARE COVERED AS ADDITIONAL INSURED AS RESPECTS: LIABILITY ARISING OUT OF WORK OR OPERATIONS PERFORMED BY OR ON BEHALF OF THE CONSULTANT; OR AUTOMOBILES OWNED, LEASED, HIRED, OR BORROWED BY THE CONSULTANT.

B. For any claims related to the Professional Services, Consultant's insurance coverage shall be primary insurance as respects Civic San Diego, its officers, officials, employees, and volunteers. Any insurance or self-insurance maintained by Civic San Diego, its officers, officials, employees, or volunteers shall be excess of Consultant's insurance and shall not contribute with it.

(ii) Each insurance policy required by this Agreement shall be endorsed to state that coverage shall not be canceled by either Party, except after thirty (30) days prior written notice has been provided to CivicSD.

d. Acceptability of Insurers. All insurance required by express provision of this Agreement shall be carried only by California-admitted insurance carriers with a current A.M. Best rating of no less than A:V, unless otherwise acceptable to CivicSD.

e. Waiver of Subrogation. Consultant hereby agrees to waive subrogation which any insurer of Consultant may acquire from Consultant by virtue of the payment of any loss. Consultant agrees to obtain any endorsement that may be necessary to effect this waiver of subrogation. The Workers' Compensation policy shall be endorsed with a waiver of subrogation in favor of "Civic San Diego," the "Successor Agency to the Redevelopment Agency of the City of San Diego," and the "City of San Diego" for all work performed by Consultant, its employees, agents, and Subconsultants.

f. Verification of Coverage. Before commencing any Professional Services, Consultant shall furnish CivicSD with endorsements effecting coverage required by this clause. The endorsements are to be signed by a person authorized by that insurer to bind coverage on its behalf. **ALL ENDORSEMENTS MUST BE RECEIVED AND APPROVED BY CIVICSD BEFORE WORK COMMENCES AND NO COMPENSATION SHALL BE DUE AND OWING FOR ANY WORK PERFORMED PRIOR TO THE RECEIPT AND APPROVAL OF THE ENDORSEMENTS.** However, failure by CivicSD to obtain the endorsements shall not operate as a waiver of these insurance requirements.

g. Subconsultant Insurance Requirements. Consultant shall require and verify that each Subconsultant maintains insurance meeting all requirements of this Agreement throughout the performance of any work relating to the Professional Services by such Subconsultant. Upon request of CivicSD, the Subconsultant shall provide proof to CivicSD that each Subconsultant has in place the insurance required by this Agreement.

## 6. INDEMNITY:

a. Consultant shall be responsible for all injuries to persons and for all damage to real or personal property of CivicSD or third parties, to the extent caused by or resulting from Consultant's negligence, or that of its employees, agents, or subconsultants during the performance of or connected with the rendition of services hereunder. The City is an intended beneficiary of any services performed by Consultant for purposes of establishing a duty of care between Consultant and the City.



b. To the fullest extent permitted by law, Consultant shall defend (with independent counsel approved by CivicSD), indemnify and hold harmless CivicSD, the Successor Agency, the City and all officers and employees of each entity (each, an "Indemnified Party") from any and all liability, claims, costs (including reasonable attorneys' fees), demands, damages, expenses, and causes of action:

(i) for damages to real or personal property, or personal injury to any third party to the extent resulting from the negligent error, act or omission of Consultant, its employees, or its agents; or

(ii) to the extent of any breach of Consultant's obligations, duties or covenants under this Agreement or transactions related to Consultant's performance hereunder; or

(iii) arising out of and/or relating to any potential or actual conflict of interest and/or the failure to disclose any potential or actual conflict of interest and/or the failure to disclose any matter required to be disclosed herein or in the Disclosure Statement submitted in connection with this request for proposals or by virtue of any regulation, code or statute referred to herein, including without limitation any direct or indirect financial interest in, or contract, agreement, employment, arrangement or understanding with, or business or personal relationship of any kind with, any of the persons or entities who have submitted proposals, or any affiliate, partner, member or shareholder of any such person or entity.

c. Consultant's obligations under this Section 6 apply regardless of whether or not a liability is caused or contributed to by the negligence or other act or omission of an Indemnified Party. However, to the extent that liability is caused by the negligence or willful misconduct of an Indemnified Party, Consultant's indemnification obligation shall be reduced in proportion to the Indemnified Party's share of liability for its negligence or willful misconduct, if any.

## **7. SUBCONSULTANTS AND EMPLOYEES:**

a. Generally. Consultant shall not retain Subconsultants for any portion of the Professional Services authorized by this Agreement, except as expressly stated herein, without prior written approval of CivicSD. Subconsultant agreements, if any, shall contain a provision making them subject to all provisions stipulated in this Agreement. A copy of all contracts between Consultant and any Subconsultant(s) shall be kept on file with Consultant and be made available to CivicSD for inspection upon request at any time during the duration of this Agreement and for a period of three (3) years after the termination of this Agreement. Consultant shall obtain CivicSD's approval before making any change in a contract between Consultant and any Subconsultant that materially reduces or increases the scope of the Subconsultant services. Consultant shall not charge an administrative fee or mark-up for the cost of the work, if any, performed by an approved Subconsultant. Consultant shall remain solely responsible for Subconsultant's performance of all obligations under this Agreement at all times during the term of the Agreement, including, but not limited to, the timely and satisfactory performance of the Professional Services.

b. Disputes between Consultant and Subconsultant. CivicSD shall not be made a party to any judicial or administrative proceeding in any dispute that arises between Consultant and any Subconsultant. Consultant agrees to defend and indemnify CivicSD as described in Section 6 of this Agreement in any dispute between Consultant and any Subconsultant.

c. Control and Payment of Subordinates and Subconsultants. The Scope of Services shall be performed by Consultant or under its supervision. Consultant will determine the means, methods, and details of performing the Professional Services subject to the requirements of this Agreement. Consultant shall pay all wages, salaries, and other amounts due or becoming due to Consultant's personnel, employees and Subconsultants in connection with their performance of any services under this Agreement and as required by law. Consultant shall be responsible for all reports and obligations respecting such additional personnel, employees, and Subconsultants, including, but not limited to: social security taxes, income tax withholding, unemployment insurance, disability insurance, and workers' compensation insurance.

## **8. INDEPENDENT CONSULTANT:**

a. Consultant is an Independent Consultant. Neither Consultant nor any of Consultant's officers, employees, agents, or Subconsultants, if any, is an employee of CivicSD by virtue of this Agreement or performance of any work under this Agreement.

## **9. SUCCESSORS OR ASSIGNS:**

a. All terms, conditions, and provisions of this Agreement shall apply to and bind the respective heirs, executors, administrators, successors, and assigns of the Parties.

b. Consultant shall not assign or transfer voluntarily or involuntarily any of its rights, duties, or obligations under this Agreement without the express written consent of CivicSD.

## **10. CONFLICTS OF INTEREST:**

a. Prohibited Interests. Consultant acknowledges that no official or employee of CivicSD who is authorized in such capacity on behalf of CivicSD to negotiate, make, accept, or approve, or take part in negotiating, making, accepting, or approving this Agreement, may be directly or indirectly financially interested in this Agreement or in any part thereof. Consultant represents and warrants that it has made all required disclosures under CivicSD's policies and that it has not knowingly or negligently caused any official or employee of CivicSD to participate in this Agreement while having a direct or indirect financial interest in the Agreement. Consultant shall require each Subconsultant to make all required disclosures and shall further require that each Subconsultant include in its Subconsultant agreement an express representation and warranty in substantially the form provided in this paragraph.

b. Covenant against Contingent Fees. Consultant agrees that it has not employed or retained any company or person, other than a bona fide employee working for Consultant, to solicit or secure this Agreement, and that Consultant has not paid or agreed to pay any company or person, other than a bona fide employee, any fee, commission, percentage, brokerage fee, gift, or any other consideration contingent upon, or resulting from, the award or making of this



Agreement. For breach or violation of this provision, CivicSD shall have the right to terminate this Agreement without liability, or, in its discretion, to deduct from the consideration, or otherwise recover, the full amount of such fee, commission, percentage, brokerage fees, gift, or contingent fee.

c. Conflict of Interest Laws Applicable to Public Contracts and Procurement. Consultant and its Subconsultants are subject to all federal, state, and local conflict of interest laws, regulations and policies applicable to public contracts and procurement practices, including but not limited to California Government Code section 1090 et seq. and section 81000 et seq., and the City of San Diego Ethics Ordinance, codified in the San Diego Municipal Code (“SDMC”) at sections 27.3501 to 27.3595. If Consultant or a Subconsultant violates any conflict of interest law or any provision of this Section 10, the violation shall be grounds for immediate termination of this Agreement.

d. Statements of Economic Interest (Form 700). Consultant and its Subconsultants are subject to CivicSD’s Conflict of Interest Policy and CivicSD’s Policy for Economic Interest (Form 700) for Consultants. If, in performing the Professional Services set forth in this Agreement, Consultant or Subconsultant makes, or participates in, a “governmental decision” as described in title 2, section 18701(a)(2) of the California Code of Regulations, or performs the same or substantially all the same duties for CivicSD that would otherwise be performed by a CivicSD employee holding a position specified in CivicSD’s conflict of interest code, Consultant or Subconsultant shall be subject to all provisions of CivicSD’s conflict of interest code requiring the completion of one or more statements of economic interests disclosing Consultant's relevant financial interests. Statements of economic interests shall be made on Fair Political Practices Commission Form 700 and filed with the City Clerk of the City of San Diego. Consultant or Subconsultant shall file a Form 700 (Assuming Office Statement) within thirty (30) calendar days of CivicSD’s determination that Consultant must file a Form 700. Consultant or Subconsultant shall also file a Form 700 (Annual Statement) on or before April 1, of each year relevant to this Agreement, disclosing any financial interests held during the previous calendar year.

e. Ethics Requirements. If CivicSD requires Consultant or Subconsultant to file a statement of economic interests as a result of the Professional Services performed, pursuant to this Agreement, Consultant or Subconsultant shall be considered a “City Official” subject to the provisions of the City of San Diego Ethics Ordinance, codified in the SDMC at sections 27.3501 to 27.3595, including the prohibition against lobbying the City for one (1) year following the termination of this Agreement. Consultant or Subconsultant shall establish and make known to its employees and agents appropriate safeguards to prohibit employees from using their positions for a purpose that is, or that gives the appearance of being, motivated by the desire for private gain for themselves or others, particularly those with whom they have family, business, or other relationships.

f. Prohibition Against Gifts. Consultant and its Subconsultants are subject to CivicSD’s Gift Policy, which prohibits officials and employees of CivicSD from receiving gifts. Consultant and its Subconsultants shall abide by CivicSD’s Gift Policy and shall not knowingly or negligently make gifts to officials or employees of CivicSD.

g. Conflicting Work. During the Term, Consultant and any approved Subconsultants shall not act as a Consultant or Subconsultant to any person or entity where that work would conflict with the Professional Services, without the prior written consent of CivicSD.

## **11. EQUAL EMPLOYMENT AND NONDISCRIMINATION:**

a. Compliance with the Equal Opportunity Contracting Program. Consultant shall comply with the City of San Diego's Equal Opportunity Contracting Program ("EOCP") Consultant Requirements. The EOCP requirements are set forth in SDMC sections 22.2701 through 22.2707. Consultant shall not discriminate against any employee or applicant for employment on any basis prohibited by law. Consultant shall provide equal opportunity in all employment practices. Consultant shall ensure that its Subconsultants comply with the City's EOCP requirements. Nothing in this Section shall be interpreted to hold Consultant liable for any discriminatory practice of its Subconsultants. Consultant shall, at the commencement of this Agreement and annually thereafter, submit to CivicSD a current Work Force Report as required by the EOCP. It shall be the Consultant's sole responsibility to ensure an annual Work Force Report update is completed and submitted to CivicSD. Consultant shall be required to prepare a current Equal Employment Opportunity ("EEO") Plan, if so requested by the City of San Diego.

b. Nondiscrimination in Contracting Ordinance. Consultant shall not discriminate on the basis of race, gender, religion, national origin, ethnicity, sexual orientation, age, or disability in the solicitation, selection, hiring, or treatment of Subconsultants, vendors, or suppliers. Consultant shall provide equal opportunity for Subconsultants to participate in subconsulting opportunities. Consultant understands and agrees that violation of this clause shall be considered a material breach of the Agreement and may result in Agreement termination, debarment, and other sanctions. This language shall be in contracts between Consultant and any Subconsultants, vendors and suppliers.

c. Compliance Investigations. Upon CivicSD's request, Consultant agrees to provide to CivicSD, within sixty (60) calendar days, a truthful and complete list of the names of all Subconsultants, vendors, and suppliers that Consultant has used in the past five (5) years on any of its contracts that were undertaken within San Diego County, including the total dollar amount paid by Consultant for each subcontract or supply contract. Consultant further agrees to fully cooperate in any investigation conducted by the City pursuant to the City of San Diego's Nondiscrimination in Contracting Ordinance (SDMC sections 22.3501-22.3517). Consultant understands and agrees that violation of this clause shall be considered a material breach of the contract and may result in remedies being ordered against Consultant up to and including contract termination, debarment, and other sanctions for violation of the provisions of the Nondiscrimination Ordinance. Consultant further understands and agrees that the procedures, remedies and sanctions provided for in the Nondiscrimination Ordinance apply only to violations of the Nondiscrimination Ordinance.

d. Equal Benefits Ordinance. This Agreement is subject to the City's Equal Benefits Ordinance ("EBO"), Chapter 2, Article 2, Division 43 of the San Diego Municipal Code. In accordance with the EBO, Consultant must certify it will provide and maintain equal benefits as

defined in SDMC section 22.4302 for the duration of the Agreement. Failure to maintain equal benefits is a material breach of this Agreement. Consultant must notify its employees of their equal benefits policy at the time of hire and during open enrollment periods and must post a copy of the following statement in an area frequented by employees:

*During the performance of a contract with Civic San Diego and/or the City of San Diego, this employer will provide equal benefits to its employees with spouses and its employees with domestic partners.*

Consultant must also give CivicSD and the City access to documents and records sufficient to verify it is providing equal benefits and otherwise complying with EBO requirements. Full text of the FBO and the Rules Implementing the Equal Benefits Ordinance are posted on the City's website at [www.sandiego.gov/purchasing/](http://www.sandiego.gov/purchasing/) or can be requested from the Equal Benefits Program at (619) 533-3948.

e. Title 24/Americans with Disabilities Act Requirements. Any Project plans and specifications prepared pursuant to this Agreement shall meet all current California Building Standards Code, California Code of Regulations, Title 24 ("Title 24") and Americans with Disabilities Act Accessibility Guidelines ("ADAAG") requirements, and shall be in compliance with The Americans with Disabilities Act of 1990. When a conflict exists between Title 24 and ADAAG, the most restrictive requirement shall be followed.

f. Americans with Disabilities Act. Consultant agrees that it is aware of and will comply with San Diego City Council Policy 100-04, adopted by Resolution No. 282153, relating to the federally mandated Americans with Disabilities Act (ADA). Consultant and Subconsultants will be individually responsible for their own ADA program.

## **12. OWNERSHIP OF WORK PRODUCT:**

Upon delivery, the work product, including without limitation, all original reports, writings, recordings, drawings, files, and detailed calculations developed under this Agreement (collectively, "Work Product") are the property of CivicSD. Consultant agrees that all copyrights which arise from creation of the Work Product pursuant to this Agreement shall be vested in CivicSD and waives and relinquishes all claims to copyright or other intellectual property rights in favor of CivicSD. Consultant makes no representation of the suitability of the Work Product for use in or application to circumstances not contemplated by the Scope of Services.

## **13. TERMINATION, DELAY, AND SUSPENSION:**

a. Termination for Convenience. CivicSD may, at its sole option, terminate this Agreement for convenience at any time by providing Consultant with thirty (30) days written notice. Notice of termination shall be delivered by certified mail with return receipt.

b. Termination for Cause. Consultant's failure to perform or adequately perform any obligation required by this Agreement constitutes a Default entitling CivicSD to terminate

this Agreement upon ten (10) days written notice and opportunity to cure provided to Consultant. If the Default is such that it cannot reasonably be cured within ten (10) days, and Consultant (i) initiates corrective action within said period, and (ii) diligently, continually, and in good faith works to effect a cure as soon as possible, then Consultant shall have such time as determined by CivicSD to be reasonably necessary to cure the Default before termination. The rights and remedies of CivicSD enumerated in this subsection 13(b) are cumulative and shall not limit CivicSD's rights under any other provision of this Agreement, or otherwise waive or deny any right or remedy, at law or in equity, existing as of the Effective Date or enacted or established at a later date, that may be available to CivicSD. Provided that Consultant is not in default or breach, Consultant may terminate this Agreement for breach of CivicSD's payment obligations under this Agreement by providing CivicSD with thirty (30) days written notice of nonpayment, whereupon CivicSD shall have at least thirty (30) days to cure the breach by providing payment of amounts due as determined by CivicSD, or to dispute Consultant's claim that CivicSD breached its payment obligations under this Agreement, before termination is effective. Notice of termination shall be delivered by certified mail with return receipt.

c. Effect of Termination. Prior to the effective date of termination, Consultant shall complete any and all additional work necessary for the orderly filing of documents and closing of Consultant's Professional Services under this Agreement and shall deliver to CivicSD all maps, reports, letters, drawings, plans, calculations, specifications, and other documents or records related to Consultant's Professional Services. Upon termination, Consultant shall be compensated only for those Professional Services which have been adequately rendered to CivicSD as of the effective date of termination, and Consultant shall be entitled to no further compensation. If this Agreement provides for payment of a fixed price amount for all services, the payment for services performed shall be the reasonable value, as determined by CivicSD, of the portion of work completed in conformance with this Agreement as of the effective date of termination. By accepting payment for completion, filing and delivering documents as called for in this paragraph, Consultant discharges CivicSD of all of CivicSD's payment obligations and liabilities under this Agreement. CivicSD shall not be liable for any fees or costs that Consultant incurs as a result of termination or abandonment.

d. Extension of Time for Unforeseen Circumstances. In the event that Consultant is unable to meet the completion date or schedule of services, if any, due to circumstances beyond Consultant's reasonable control, such as war, riots, strikes, lockouts, work slowdown or stoppage, except strikes, lockouts, or work slowdown or stoppage of Consultant's employees or employees of Subconsultants, acts of God, such as floods or earthquakes, and electrical blackouts or brownouts, Consultant shall inform CivicSD of the additional time required to perform the Professional Services and CivicSD may adjust the schedule.

e. Right to Suspend for Convenience. CivicSD may, at its sole option and without cause, suspend all or any portion of Consultant's performance of the Professional Services, for a reasonable period of time not to exceed six (6) months, or as otherwise agreed upon by the Parties. In accordance with the provisions of this Agreement, CivicSD will give written notice to Consultant of such suspension. If this Agreement is for a fixed price amount, in the event of suspension, CivicSD shall pay to Consultant a sum equivalent to the reasonable value, as determined by CivicSD, of Professional Services that Consultant has satisfactorily performed

under this Agreement up to the date of suspension. In order to receive such payment, Consultant shall provide CivicSD with an invoice for Professional Services rendered through the date of suspension and CivicSD shall pay the invoice in accordance with Section 2 of this Agreement. After suspension, CivicSD may rescind such suspension by giving Consultant written notice to recommence services; provided, however, that Consultant shall be entitled to an extension of time equal to the length of the suspension to complete the Scope of Services, unless otherwise agreed to in writing by the Parties. If CivicSD does not provide written notice to recommence services to Consultant within six (6) months of the effective date of suspension, or such longer period as agreed upon by the Parties, this Agreement shall terminate effective immediately.

#### **14. GENERAL PROVISIONS:**

a. Product/Service Endorsement. Consultant acknowledges and agrees to comply with the provisions of the City of San Diego's Administrative Regulation 95.65 concerning product or service endorsement. Any advertisement identifying or referring to CivicSD or the City of San Diego as the user of a product or service requires the prior written approval of CivicSD or the City of San Diego respectively. In connection with the Professional Services performed pursuant to this Agreement, Consultant shall not recommend or specify any product, supplier, or consultant with whom Consultant has a direct or indirect financial or organizational interest or relationship that would violate conflict of interest laws, regulations, or policies.

b. Confidentiality. All Professional Services performed by Consultant, including but not limited to all drafts, data, correspondence, proposals, maps, reports, and estimates compiled or composed by Consultant pursuant to this Agreement are for the sole use of CivicSD. Neither the documents nor their contents shall be released to any third party without the prior written consent of CivicSD. This provision does not apply to information that (i) was publicly known, or otherwise known to Consultant, at the time that it was disclosed to Consultant by CivicSD, (ii) subsequently becomes publicly known through no act or omission by Consultant, (iii) otherwise becomes known to Consultant other than through disclosure by CivicSD, or (iv) is required to satisfy a valid court order.

c. Drug Free Workplace. Consultant and Consultant's officers, employees, agents, and Subconsultants shall comply with the City of San Diego's Drug-Free Workplace Policy, Council Policy No. 100-17. This policy requires that all City construction Consultants, consultants, grantees, and providers of non-professional services provide a drug-free workplace in accordance with the provisions contained therein. Consultant shall establish a drug-free awareness program to inform employees about the dangers of drug abuse in the workplace, the policy of maintaining a drug-free workplace, available drug counseling, rehabilitation, and employee assistance programs, and the penalties that may be imposed upon employees for drug abuse. Consultant shall post the drug-free policy in a prominent place and publish a statement notifying employees that the unlawful manufacture, distribution, dispensation, possession, or use of a controlled substance is prohibited in the work place, and specifying the actions that will be taken against employees for violations of the prohibition. Consultant shall certify to the City that it will provide a drug-free workplace by submitting a Consultant Certification for a Drug-Free Workplace set forth in Exhibit D to this Agreement.



d. City's Right. According to Section 3.3 of the Operating Agreement by and between the City of San Diego and Civic San Diego, the City retains the right to review and audit, and the reasonable right of access to Consultant's and any Subconsultant's premises to review and audit the Consultant's or Subconsultant's compliance with the provisions of the Operating Agreement ("City's Right"). The City's Right includes the right to inspect and photocopy same, and to retain copies, outside of the Consultant's premises, of any and all records related to the Professional Services provided hereunder with appropriate safeguards, if such retention is deemed necessary by the City in its sole discretion. This information shall be kept by the City in the strictest confidence allowed by law. The City's Right includes the right to examine any and all books, records, documents, and any other evidence of procedures and practices that the City determines are necessary to discover and verify that Consultant or Subconsultant is in compliance with all requirements under the Operating Agreement, subject to applicable privileges such as the attorney-client privilege. If there is a claim for additional compensation or for additional services, the City's Right includes the right to examine books, records, documents, and any and all other evidence and accounting procedures and practices that the City determines are necessary to discover and verify all direct and indirect costs, of whatever nature, which are claimed to have been incurred, or anticipated to be incurred. Consultant and any Subconsultants shall fully comply with this provision within sixty (60) days of the date on which the City mailed a written request to review and audit compliance.

e. Disputes. The City shall not be made a party to any judicial or administrative proceeding to resolve any dispute between CivicSD and Consultant.

f. Laws and Venue. This Agreement and disputes arising out of or relating to the Agreement or the Parties' relationship are governed by the laws of the State of California. Any action or proceeding arising out of or relating to the Agreement or the Parties' relationship shall be brought in a state court situated in the County of San Diego, State of California.

g. Notices. Any notice or instrument required to be given or delivered by law or this Agreement shall be effective upon receipt thereof and shall be by personal service or delivered by depositing the same in any United States Post Office, registered or certified, postage prepaid, addressed to:

To Civic San Diego:

[insert name of Civic San Diego project manager responsible for managing this project]

Civic San Diego  
401 B Street, Suite 400  
San Diego, CA 92101

With Copy to:

Shawn Hagerty, Esq.  
Best Best & Krieger LLP  
655 West Broadway, Suite 1500  
San Diego, CA 92101

To Consultant:

[insert consultant contact info (name of person, name of company, address)]

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Either Party may change the address or identity of the person for notices under this paragraph by written notice to the other delivered in accordance with this paragraph.

h. Integration and Modification. This Agreement represents the entire understanding of CivicSD and Consultant as to those matters contained herein. No prior oral or written understanding shall be of any force or effect with respect to those matters covered hereunder. This Agreement may not be modified, amended, or altered except in writing signed by CivicSD and Consultant.

i. Exhibits. The Exhibits listed below are attached to and incorporated into this Agreement. To the extent there is a material conflict between the provisions of this Agreement and the provisions of the Exhibits, the provisions of this Agreement shall govern.

Exhibit A	Scope of Services
Exhibit B	[Fixed Price Agreement Amount Payment] or [Time and Materials Fee] Schedule
Exhibit C	Time and Materials Reimbursement Schedule [Omit for Fixed Price Agreements]
Exhibit D	Consultant Certification for a Drug-Free Workplace

j. Advice of Counsel. The Parties agree that they are aware that they have the right to be advised by counsel with respect to the negotiations, terms, and conditions of this contract, and that the decision of whether or not to seek the advice of counsel with respect to this Agreement is a decision which is the sole responsibility of each of the Parties hereto. This Agreement shall not be construed in favor or against either Party by reason of the extent to which each Party participated in the drafting of the contract.

k. Time. Time is of the essence in this Agreement. Any reference to days means calendar days unless otherwise specifically stated.

l. Counterparts. This Agreement may be executed in any number of counterparts, each of which shall be an original, but all of which taken together shall constitute one and the same agreement.

m. Electronic Signatures. The Parties agree that this transaction can be conducted pursuant to electronic means, including the use of electronic signatures.

[SIGNATURES ARE ON THE FOLLOWING PAGE.]



IN WITNESS WHEREOF, the Parties have caused this Agreement to be executed and delivered by their respective representatives, thereunto duly authorized, as of the date first written above.

**CIVIC SAN DIEGO** [if this is an “Agency” contract, add the following: **on behalf of and in its role as consultant to the Successor Agency to the Redevelopment Agency of the City of San Diego**] [If CivicSD is acting in its capacity as the City of San Diego’s agent for the Downtown Community Parking District, add the following: **“acting in its capacity as the agent of the City of San Diego for the Downtown Community Parking District (“DCPD”).”**] [If CivicSD is entering into this contract on behalf of the City in the City’s capacity as the housing successor entity, add the following: **“acting in its capacity as the agent of the City of San Diego in the City’s capacity as the housing successor entity”**]

By (Signature)\_\_\_\_\_:

Reese A. Jarrett  
President

Dated this \_\_\_ day of \_\_\_\_\_ 20\_\_

**[INSERT CONSULTANT COMPANY NAME]**

**APPROVED AS TO FORM:**

BEST BEST & KRIEGER LLP  
CORPORATE COUNSEL FOR  
CIVIC SAN DIEGO

By (Signature):\_\_\_\_\_  
Shawn Hagerty, Esq.  
Corporate Counsel

Dated this \_\_\_ day of \_\_\_\_\_ 20\_\_

By (Signature):\_\_\_\_\_

Print Name:\_\_\_\_\_

Title or Position\_\_\_\_\_

Dated this \_\_\_ day of \_\_\_\_\_ 20\_\_

**EXHIBIT A**  
**SCOPE OF SERVICES**

**EXHIBIT B**

[FIXED PRICE AGREEMENT AMOUNT PAYMENT] OR [TIME AND MATERIALS FEE]  
SCHEDULE

[OMIT FOR FIXED PRICE AGREEMENTS WITH A SINGLE, LUMP-SUM PAYMENT]

## EXHIBIT C

### TIME AND MATERIALS REIMBURSEMENT SCHEDULE

#### [OMIT FOR FIXED PRICE AGREEMENTS]

1. Administrative, overhead, payroll, and similar charges, secretarial time or secretarial overtime, word processing, photocopying, telephone charges, regular postage, computer use, in-house printing, insurance, and other ordinary business expenses are included in the fees set forth in the Time and Material Fee Schedule and are not separately reimbursable expenses. *For certain professional services, reimbursement for word processing, copying and/or computer research may be permitted as specified in the Time and Materials Fee Schedule.*
2. Copying and report production expenses by outside copying or printing services, when necessary for the services and included in the Time and Material Fee Schedule, are reimbursable at actual cost, if previously approved by CivicSD.
3. Federal Express and similar delivery services should be avoided without the prior approval of CivicSD. Charges for approved delivery services are reimbursable at actual cost, if previously approved by CivicSD. Other charges may be approved by CivicSD, in its discretion.
4. Lodging, travel costs, including transportation, and meals, will be reimbursed at actual cost, subject to the following restrictions, and supported by receipts acceptable to CivicSD:
  - (a) No meal, mileage, or lodging expenses will be reimbursed for any period of travel that occurs within normal working hours, unless travel at least fifty (50) miles from Consultant's office is required for performance of the Scope of Services.
  - (b) Consultant shall use the most reasonable mode of transportation for any reimbursable travel, and must use its best efforts to plan its travel in advance to obtain reasonable fares. The maximum for air travel will be the actual cost of coach class travel only. The maximum for train travel will be the actual cost of business class travel only. If appropriate, rental cars must be economy/standard class. Insurance, navigation systems and other additional features are not reimbursable.
  - (c) Hotel expenses shall not exceed \$250 per day, inclusive of applicable taxes and fees, but excluding parking;

- (d) Meal expenses shall not exceed the following, per person, inclusive of applicable taxes and tip:

<u>Meal/ Expense</u>	<u>Reimbursement Rate</u>
Breakfast	\$15.00
Lunch	\$20.00
Dinner	\$30.00

- (e) CivicSD does not reimburse for cost of alcoholic beverages;
- (f) Travel time is not reimbursable or compensable;
- (g) Mileage reimbursement may not exceed the current IRS mileage rates. Gasoline and automobile repair expenses for the Consultant's own vehicle are not reimbursable expenses;
- (h) The maximum rate of reimbursement for parking fees is the actual cost of parking, not to exceed \$28.00 per day.
- (i) Consultant shall retain receipts pertaining to each trip for attachment to invoices for reimbursable costs, and shall furnish written details for each period of travel, including but not limited to: purpose of travel, departure and return times, destination points, miles driven, mode of transportation, etc. Reimbursement for travel expenses may be withheld pending receipt of adequate documentation. Website and travel company booking confirmation do not constitute a receipt, but may, when combined with a receipt from the hotel or travel provider, be acceptable documentation.

**EXHIBIT D**

**CONSULTANT CERTIFICATION FOR A DRUG-FREE WORKPLACE**

PROJECT TITLE: [INSERT PROJECT NAME]

I hereby certify that I am familiar with the requirements of San Diego City Council Policy No. 100-17 regarding Drug-Free Workplace, and that:

[INSERT CONSULTANT NAME]

(Name under which business is conducted)

has in place a drug-free workplace program that complies with said policy. I further certify that each Subconsultant agreement for this project contains language which indicates the Subconsultant's agreement to abide by the provisions of Section 4.10.1 subdivisions A through C of the policy.

Signed \_\_\_\_\_

Printed Name \_\_\_\_\_

Title \_\_\_\_\_

Date \_\_\_\_\_

**Attachment B.2 – Civic San Diego Policy for  
Statement of Economic Interests (Form 700)**

**CIVIC SAN DIEGO**

**POLICIES FOR  
STATEMENT OF ECONOMIC INTERESTS (FORM 700)  
REQUIREMENTS FOR CONSULTANTS**

**May 2009**

CIVIC SAN DIEGO POLICIES FOR STATEMENT OF ECONOMIC INTERESTS (FORM 700)  
REQUIREMENTS FOR CONSULTANTS

1. PURPOSE

1.1 Purpose

The Civic San Diego (“CivicSD”) retains many professional consultants each year. Under the California Political Reform Act (Ca. Govt. Code §81000 et seq.) (“PRA”) and regulations promulgated by the Fair Political Practices Commission (“FPPC”), certain consultants of a public agency are required to file Statement of Economic Interests Forms (Form 700) (“SEI”). The PRA and FPPC regulations require the public agency to make a determination at the time of hiring as to whether individual consultants and their subconsultants are required to file a SEI.

This policy and procedures document is intended to assist CivicSD staff in determining whether a particular consultant is required to file a SEI.

2. DEFINITIONS

2.1 Consultant

“Consultant” is defined at 2 Cal. Code of Regs. 18701(a)(2). Generally, this definition includes an individual who, pursuant to a contract with CivicSD, the City of San Diego (“City”) or the Successor Agency to the Redevelopment Agency of the City of San Diego (“Agency”): (1) makes or participates in a “Governmental Decision” to approve or adopt rates, regulations, specifications, contracts, permits, applications, plans, studies or similar items, or enforce any law; and (2) works in a “Staff Capacity.”

For purposes of SEI filing requirements, a Consultant is a natural person; if a contract is with a corporation, partnership or other legal entity, the determination of whether a person is a Consultant must be made with respect to key individuals providing services pursuant to the contract.

2.2 Governmental Decision

“Governmental Decision” is defined in 2 Cal. Code of Regs. 18702.1 and includes any decision to vote on a matter, appoint a person, enter into a contract, or otherwise commit the public agency to a course of action.

2.3 Staff Capacity

“Staff Capacity” is defined in 2 Cal. Code of Regs. 18702.2. Generally, a person acts in a Staff Capacity when he or she performs, on an ongoing basis, substantially the same tasks that would be performed by a staff member of CivicSD, the Agency, or the City without significant substantive review by CivicSD, the Agency, or the City. This includes conducting negotiations and making recommendations to CivicSD Board, the Agency Board or the City Council, including



on the basis of research, reports or other analyses prepared by the Consultant, on a Governmental Decision. A person who is assigned to

perform work on a limited or project-specific basis is not generally considered to be acting in a Staff Capacity.

### 3. SAMPLE DETERMINATIONS

The following examples of Consultant determinations by the FPPC may be used by CivicSD staff as guidance in making a determination after taking into consideration (1) the consultant's duties in all active contracts with CivicSD; (2) the level and extent of supervision and review by CivicSD staff over the services provided by the consultant; and (3) the level and extent of communication (written or verbal) between the consultant and any government decision makers.

<b>Required to File</b>	<b>Not required to File</b>
General Counsel, Special Counsel and other Consultants who provide services on an on-going basis	Special Counsel and Consultants who provide services for a single case or project and are subject to agency oversight
Investment Managers who are responsible for making decisions regarding management of public assets	Custodian of Accounts that does not participate in the making of decisions but obtains directions for each transaction
Real Estate Investment Consultant who participates in the making of policies and purchasing decisions	Investment Advisory Committee Member who makes recommendations only and is subject to agency oversight
Legislative Lobbyist who negotiates directly with legislators and makes decisions without oversight	Sales Tax Auditor who does not participate in decisions
Environmental Consultant that participates in decisions without oversight and acts in a staff capacity	Traffic Subconsultant whose work is subject to significant oversight by a lead consultant
Architect that participates in decisions without oversight and acts in a staff capacity	Survey Engineer who does not participate in decision-making

In all cases in which a Consultant was determined by FPPC to be subject to SEI filing requirements, the consultant was making or participating in decisions without significant staff supervision. In cases in which the Consultant was found to be not subject to SEI filing requirements, the FPPC found that their work was subject to significant oversight. Any doubts about whether a consultant is a "Consultant" should be resolved in favor of disclosure to meet the public policy objectives of the PRA.

#### 3.1 Specific Exemptions

CivicSD's Conflict of Interest Code also specifically exempts the following types of consultant services:

- consultants who volunteer services to CivicSD;

- consultants who provide expertise in limited areas for specific litigation or special projects; and
- expert witnesses.

#### 4. DETERMINATION

A determination as to whether an individual performing in a specific capacity pursuant to a contract with CivicSD is a Consultant subject to SEI filing requirements must be made prior to the time the contract is awarded.

#### 5. IMPLEMENTING PROCEDURES

##### 5.1 Designation of Filing Officer

The City Clerk is the Filing Officer for the purposes of notifying Consultants of their SEI filing obligations, in accordance with the FPPC Notification Guidelines for Filing Officers.

##### 5.2 SEI Filing Procedure

##### 5.2.1 Initial Disclosure of SEI Requirements

All SEI filing requirements should be disclosed in the solicitation for hiring of consultants (e.g., the RFP). The solicitation shall also include copies of (1) CivicSD's Conflict of Interest Code; and (2) the Self Disclosure Form attached hereto as Exhibit "A" ("Self Disclosure Form").

##### 5.2.2 Self Disclosure Form as Basis for Consultant Determination

All consultants responding to a solicitation for hiring, including a RFP, shall be required by the CivicSD contracts administrator to submit a fully completed and executed Self Disclosure Form, which will contain the names of all consultant and subconsultant principals and/or employees ("Service Providers") who will be providing direct services to CivicSD along with a description of those Service Providers' duties. **Employees and subconsultants providing secretarial, technical or administrative support to Service Providers, and who will not be providing direct services to CivicSD, do not need to be listed.** The submission of the Self Disclosure Form is a condition precedent to the award of any contract.

##### 5.2.3 Disclosure Determination

CivicSD's contracts administrator shall use the information provided by the consultant on the Self Disclosure Form to fill out the Disclosure Determination for Consultant (Form CC-1671), attached hereto as Exhibit "B". The Form CC-1671 will list the individuals who are determined to be Contractors subject to SEI filing requirements. The Form CC-1671 should be signed by the President or his or her designee once it has been filled out by the contracts administrator.

##### 5.2.4 Copies of Disclosure Determination to Filing Officer

After the President or his or her designee has signed it, a copy of the executed Form CC-1671 shall be filed with the contracts administrator. The original shall be forwarded by the contract administrator to the City Clerk, who will then be responsible for providing notification of SEI filing

requirements to the Consultant. All SEIs should be filed by Consultants directly with the City Clerk.

#### 5.2.5 Contract Obligations

Consultants shall be required by their consultant contracts to submit and update Self Disclosure Forms when changes in staffing occur during the contract period, and comply with all SEI filing requirements. All contracts should contain a provision that any breach of the CivicSD's Conflict of Interest Code or the City of San Diego Ethics Ordinance (San Diego Municipal Code Article 7, Division 35, sections 27.3501 et seq.) constitutes a material breach of the contract and authorizes CivicSD to withhold payment under the contract until compliance is attained and/or terminate the contract. If a consultant provides an updated Self Disclosure Form, the procedure in Sections 5.2.2 through 5.2.4 above should be repeated.

### 6. EXTENT OF DISCLOSURE OF FINANCIAL INTERESTS

For Consultants who are determined to be subject to SEI filing requirements, the specific disclosures to be made are detailed in Appendix B of CivicSD's Conflict of Interest Code (attached hereto as Exhibit "C"). All Consultants are subject to Category 5 disclosure, which means that the Consultants must disclose financial interests pursuant to the broadest disclosure category in CivicSD's Conflict of Interest Code. However, the President may determine that a particular Consultant, although occupying a "designated position," is hired to perform a range of duties that is limited in scope and thus will be required to disclose economic interests in fewer than Disclosure Categories 1-4 in CivicSD's Conflict of Interest Code. The determination must be in writing and must include a description of the Consultant's duties and, based upon that description, a statement to the extent of the Consultant's disclosure requirements. The determination is a public record and must be retained for inspection in the same manner as CivicSD's Conflict of Interest Code.

### **DEFINITION OF “CONSULTANT”**

2 California Code of Regulations defines a “consultant” as an individual who, pursuant to a contract with a state or local government agency:

- (A) Makes a governmental decision whether to:
  - 1. Approve a rate, rule or regulation;
  - 2. Adopt or enforce a law;
  - 3. Issue, deny, suspend, or revoke any permit, license, application, certificate, approval, order, or similar authorization or entitlement;
  - 4. Authorize the City to enter into, modify, or renew a contract provided it is the type of contract that requires City approval;
  - 5. Grant City approval to a contract that requires City approval and to which the City is a party, or to the specifications for such a contract;
  - 6. Grant City approval to a plan, design, report, study, or similar item;
  - 7. Adopt, or grant City approval of, policies, standards, or guidelines for the City, or for any subdivision thereof; or
- (B) Serves in a staff capacity with the City and in that capacity participates in making a governmental decision as defined in Regulation 18702.2 or performs the same or substantially all the same duties for the City that would otherwise be performed by an individual holding a position specified in the City’s Conflict of Interest Code.

An individual “serves in a staff capacity” if he or she performs substantially all the same tasks that normally would be performed by staff member of a governmental entity. In most cases, individuals who work on only one project or a limited range of projects for an agency are not considered to be working in a “staff capacity.” The length of the individual’s service to the agency is relevant. Also, the tasks over the relevant period of time must be substantially the same as a position that is or should be specified in the City’s conflict of interest code.

An individual “participates in making a governmental decision” if he or she: (1) negotiates, without substantive review, with a governmental entity or private person regarding the decision; or (2) advises or makes recommendations to the decision-maker, by conducting research or an investigation, preparing or presenting a report, analysis or opinion which requires the exercise of judgment on the part of the individual and the individual is attempting to influence the decision.

Regulation 18701 (a)(2)

1/28/2006

CONFLICT OF INTEREST CODE OF  
CIVIC SAN DIEGO

## APPENDIX A

## JURISDICTION

The jurisdiction applicable to those persons required to file Statements of Economic Interest pursuant to the Conflict of Interest Code is the boundaries of the Centre City and Horton Plaza Redevelopment Project Areas.

**DESIGNATED POSITIONS/DISCLOSURE CATEGORIES**

<u>Position</u>	<u>Categories</u>
President	1, 2, 3, 4
Officers (any and all)	1, 2, 3, 4
Vice Presidents (any and all)	1, 2, 3, 4
Project Managers (any and all)	1, 2, 3, 4
Planners (any and all)	1, 2, 3, 4
Managers (any and all)	1, 2, 3, 4
Accountants (any and all)	1, 2, 3, 4
Engineers (any and all)	1, 2, 3, 4
Equal Opportunity and Contracts Administrator	1, 2, 3, 4
Members of the Board (any and all)	1, 2, 3, 4
Corporation Counsel	1, 2, 3, 4
Consultants	5

APPENDIX B  
CIVIC SAN DIEGO  
DISCLOSURE CATEGORIES

CATEGORY DESCRIPTION

- 1 All reportable investments and business positions in, and sources of income and gifts from, any person, firm or entity that that has engaged in or provided any of the following within the boundaries of the Centre City and/or Horton Plaza redevelopment project areas during the applicable reporting period: land development; construction; acquisition or sale of real property; engineering; surveying; architecture; appraisals; soils testing, analysis and/or compaction; office equipment and supplies; newspapers, printing and reproduction services; banks and savings and loan; securities and investment companies; title insurance and escrow; financial audit services; public utilities; insurance, including brokers and agencies; planning, landscaping and/or land use consultants.
- 2 All reportable financial interests in real property located within a two (2) mile radius of the boundaries of the Centre City and/or Horton Plaza redevelopment project areas, and any other real property owned or used by CivicSD.
- 3 All reportable sources of income and gifts from any person, firm or entity that supplies goods or services to CivicSD.
- 4 All reportable investments and business positions in any firm or entity that supplies goods and/or services to CivicSD.
- 5 Consultants shall disclose pursuant to the broadest disclosure category in this Conflict of Interest Code, subject to the following limitation: The President may determine that a particular consultant, although occupying a “designated position,” is hired to perform a range of duties that is limited in scope and thus will be required to disclose economic interests in fewer than all 4 of the above categories. Such written determination shall include a description of the consultant’s duties and, based upon that description, a statement of the extent of the consultant’s disclosure requirements. The determination is a public record and shall be retained for public inspection in the same manner and location as this Conflict of Interest Code.

CivicSD has determined that the following consultants are not subject to its Conflict of Interest Code and shall not be required to file economic disclosure forms:

- (1) consultants who volunteer services to CivicSD;
- (2) consultants who provide expertise in limited areas for specific litigation or special projects; and
- (3) expert witnesses.

**EXHIBIT “A” TO STATEMENT OF ECONOMIC INTERESTS POLICY**

**CONSULTANT SELF DISCLOSURE FORM**

***TO ALL PROPOSERS:***

***Submit this form with your proposal or other response to CivicSD’s hiring solicitation. SUBMISSION OF A FULLY EXECUTED SELF DISCLOSURE FORM IS A CONDITION PRECEDENT TO THE AWARD OF ANY CONTRACT.***

Consultant Company Name: \_\_\_\_\_

Proposal Project Title: \_\_\_\_\_

<u>Name of Individual Employee/ Subconsultant*</u>	<u>Description of Employee/Subconsultant’s Duties Under Consultant’s Proposal**</u>

*\*Attach additional copies as necessary to cover all individual employees proposed to provide services for the Project.*

*\*\* Employees and subconsultants providing secretarial, technical or administrative support to consultant and who will not be providing direct services to CivicSD do not need to be listed.*

**I certify that the above information has been provided by an authorized agent on behalf of the above-named proposed with respect to the above-entitled project and that the information is correct to the best of my knowledge.**

Signed: \_\_\_\_\_

Date: \_\_\_\_\_

Name: \_\_\_\_\_

Title: \_\_\_\_\_

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## Appendix C – Equal Opportunity

Attachment C.1 – CivicSD Equal Opportunity Policy

Attachment C.2 – Equal Employment Outreach Program

Attachment C.3 – Equal Opportunity Agreement

Attachment C.4 – Advisory Goals and Guidelines

Attachment C.5 – Strategies for Successful Team

Attachment C.6 – Work Force Report

Attachment C.7 – Subconsultant and Vendor List

Attachment C.8 – Letter of Intent to Subcontract or Coventure

Attachment C.9 – Outreach Survey





## **Attachment C.1 – CivicSD Equal Opportunity Policy**

### **I. Purpose**

This document is to set forth Civic San Diego's (CivicSD's) Equal Opportunity Policy and Equal Employment Opportunity Program guidelines for business contracting. Business contracting includes, but is not limited to; hiring of persons and businesses for consultant services, vendors, and contractors by CivicSD and developers and property owners that enter into Disposition and Development Agreements (DDAs) and Owner Participation Agreements (OPAs) with the former Redevelopment Agency of the City of San Diego.

### **II. Policy to Ensure and Promote Equal Opportunity in Business Contracting**

A. It is the policy that race, religion, sex, color, ethnicity, sexual orientation, national origin, and disabilities will not be used as criteria in its business contracting practices. Every effort will be made to ensure that all persons and businesses will have equal access to contracts and other business opportunities with CivicSD.

B. CivicSD is strongly committed to equal opportunity in the solicitation of business contracting to assure that persons or businesses doing business with or receiving funds from CivicSD are an equal opportunity business and employer. CivicSD endeavors to do business with firms that share CivicSD's commitment to equal opportunity and will not do business with any firm which discriminates.

C. The Board of Directors for CivicSD and its staff expect persons and businesses doing business with CivicSD to take positive steps to expand their subconsulting and subcontracting solicitation base and offer opportunities to all eligible persons or businesses.

D. CivicSD encourages businesses to contract with small businesses, disabled-owned businesses, women-owned businesses, firms owned by underrepresented ethnic groups (African-Americans, Asian-Americans, Filipinos, Latinos and Native Americans), and local firms or enter into a joint venture with these firms.

### **III. Guidelines for Equal Employment Opportunity (EEO) Program for Business Contracting**

A. EEO is fair treatment in employment, promotion, training, and other personnel actions without regard to race, color, religion, sex, age, sexual orientation, national origin, and physical or mental disability.

B. Business contractors shall take the required steps to ensure equal employment opportunity within their own workplace and set forth action to achieve the County Labor Force Availability measures for the employment of underrepresented ethnic groups (African-

Americans, Asian-Americans, Filipinos, Latinos and Native Americans), women and people with disabilities.

C. CivicSD has implemented the City's Equal Employment Opportunity Program. The overall objective of the program is to ensure that business contracting entities doing business with or receiving funds from the City of San Diego and CivicSD will not engage in unlawful discriminatory employment practices prohibited by state or federal law.

D. Persons or businesses shall comply with requirements of the City of San Diego Ordinance No. 18173, Section 27.2701 through 22.2708, Equal Employment Opportunity Outreach Program.

Adopted by CivicSD's Board of Directors December 5, 2001

## **Attachment C.2 – EEO Program**

### **SAN DIEGO MUNICIPAL CODE DIVISION 27**

#### **EQUAL EMPLOYMENT OPPORTUNITY OUTREACH PROGRAM**

##### **§ 22.2701 Purpose and Intent**

The overall objective of the City's Equal Employment Opportunity (EEO) Program is to ensure that contractors doing business with or receiving funds from the City will not engage in unlawful discriminatory employment practices prohibited by state or federal law. Such employment practices include, but are not limited to the following: employment, promotion or upgrading, demotion or transfer, recruitment or recruitment advertising, layoff or termination, rate of pay or other forms of compensation, and selection for training, including apprenticeship.

##### **§ 22.2702 Definitions**

Unless stated otherwise, the following definitions apply to this Division:

"City" means The City of San Diego and those agencies, boards, commissions and corporations authorized to act on behalf of, or as an agent for, the City of San Diego.

"Contract" means an agreement to provide labor, materials, supplies or services in the performance of a contract, franchise, concession or lease granted, let or awarded by or on behalf of the City.

"Contractor" means any person, firm, partnership, corporation, or combination thereof, who is selected to enter into, or actually enters into a contract with department heads and officers empowered by law to enter into contracts on behalf of the City for public works or improvements to be performed, or for a franchise, concession or lease of property, or for goods, services or supplies to be

purchased, 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.

"Equal Employment Opportunity Plan" means a document prepared by a contractor in accordance with a form and format supplied by the City which describes the contractor's plan of action.

"Gender" means the character of being male or female.

"Program Manager" means the Program Manager for the City's Equal Opportunity Contracting Program or his or her designee.

"Workforce Analysis" means a comparison of a contractor's Workforce Report with applicable County Labor Force Availability data.

"Workforce Report" means a report, in a format supplied by the City but compiled by the contractor, of the contractor's total work force which indicates the number of males and females in each identified ethnic group by occupational category.

##### **§ 22.2703 Scope**

Except as provided in Section 22.2704, this Division applies to all contractors except:

(a) Contractors and subcontractors who do less than a total of \$10,000 worth of business with the City during the preceding twelve (12) months or who have less than a total of fifteen (15) employees, except that contractors exempted by this Subsection shall be subject to audits pursuant to Section 22.2707 to determine if unlawful discriminatory employment practices are occurring.

(b) Contracts to which any city (other than the City of San Diego), county, district or other political subdivision, or any joint powers authority created under authority of

law, or other public entity, or any other group or combination of the foregoing acting as a unit, is a party.

(c) Nonprofit charitable, educational, or religious associations or corporations, as evidenced by records on file with the City to be compiled for purposes of this Division in accordance with procedures established by the City Manager.

(d) Emergency contracts, if a written partial or full waiver is granted by the City Manager except that contractors exempted by this Subsection shall be subject to audits pursuant to Section 22.2707 to determine if unlawful discriminatory employment practices are occurring. The City Manager may grant a partial or full waiver from the requirements of this Division for an emergency contract only to the limited extent necessary in order to expedite the award of such contract. For purposes of this Section, the term "emergency" has the same meaning as in San Diego City Charter, Section 94.

#### **§ 22.2704 Mandatory Nondiscrimination Contract Clause**

Notwithstanding the provisions of Section 22.2703, every contract shall contain a nondiscrimination clause which shall read as follows:

Contractor shall not discriminate against any employee or applicant for employment on any basis prohibited by law. Contractor shall provide equal opportunity in all employment practices. Prime contractors shall ensure that their subcontractors comply with this Program. Nothing in this Section shall be interpreted to hold a prime contractor liable for any discriminatory practice of its subcontractors.

#### **§ 22.2705 Duty to Submit Reports**

(a) If a contract is competitively solicited, after the lowest responsible bidder has been determined and prior to the execution of the contract, the apparent

low bidder shall submit to the Equal Opportunity Contracting Program a Workforce Report, on a City form, or an Equal Employment Opportunity Plan approved by the Program Manager.

If a contract is not competitively solicited, the contractor shall submit to the Equal Opportunity Contracting Program a Workforce Report or an Equal Employment Opportunity Plan approved by the Program Manager prior to tendering the signed contract documents to the City for signature.

(b) Staff will conduct a workforce analysis on all Workforce Report submittals to determine whether or not an Equal Employment Opportunity Plan is required. If an Equal Employment Opportunity Plan is required, the contractor will submit a Plan for approval by the Program Manager.

(c) Any Equal Employment Opportunity Plan approved by the City shall not include quotas, goals or timetables for increasing women and minority employment and will not require terminating or laying off existing employees.

(d) If the apparent low bidder or contractor does not submit either a Workforce Report or Equal Employment Opportunity Plan as required by this Section, for purposes of awarding the contract only, the City Manager will ensure an administrative hearing is conducted by an independent hearing officer to determine if the contract should be awarded in accordance with city, state, and federal law.

#### **§ 22.2706 Duty to Comply with Equal Employment Opportunity Plan**

A contractor for whom an Equal Employment Opportunity Plan has been approved by the City shall use best efforts to comply with that Equal Employment Opportunity Plan.

**§ 22.2707 Reviews**

(a) The Program Manager shall conduct periodic reviews of contractors to ensure that unlawful discrimination is not being practiced and Equal Employment Opportunity Plans are implemented.

(b) If the City Manager determines, after review, that the contractor has not implemented their Equal Employment Opportunity Plan and/or practices unlawful discrimination and corrective action has not occurred by the contractor after sufficient notice, the City Manager may recommend termination of the contract and debarment to the City Council.



## Attachment C.3 – Equal Opportunity Agreement

**NONDISCRIMINATION CLAUSE:** Contractor shall not discriminate against any employee or applicant for employment on any basis prohibited by law. Contractor shall provide equal opportunity in all employment practices. Contractor shall ensure that its subcontractors comply with CivicSD's Equal Employment Opportunity Program.

**EQUAL EMPLOYMENT OPPORTUNITY (EEO):** Contractor has received, read, understands and agrees to be bound by the City of San Diego Municipal Code, Chapter II, Article 2, Division 27 (Equal Employment Opportunity Program) provided as Attachment C.2 of this package.

Contractor has submitted either a Workforce Report or an Equal Employment Opportunity Plan as required by Section 22.2705 of the City of San Diego Municipal Code.

City and contractor agree that compliance with EEO provisions will be implemented, monitored, and reviewed by CivicSD's Equal Opportunity Contracting Program staff.

**EQUAL OPPORTUNITY CONTRACTING:** Contractor has received, read, understands and agrees to be bound by the Equal Opportunity Contracting Program requirements described in the proposal package.

If requested, contractor shall submit the Outreach and Teaming Survey. Contractor agrees to provide updated reports as requested by CivicSD.

Contractor agrees to insert equal opportunity compliance language into all subcontracts for any work covered by this Agreement and such provisions will be binding upon each subcontractor.

*Company Name:* \_\_\_\_\_

*Date:* \_\_\_\_\_

*Authorized Signature:* \_\_\_\_\_

*Print Authorized Signature Name:* \_\_\_\_\_



## **Attachment C.4 – EO Advisory Goals and Guidelines**

### *Equal Opportunity Contracting Advisory Goals and Guidelines*

Any project valued at \$25,000 or more has a voluntary subcontracting goal of 20 percent. The goal is achieved by contracting with any combination of certified Minority Business Enterprise (MBE), Women Business Enterprise (WBE), Disadvantaged Business Enterprise (DBE), Disabled Veteran Business Enterprise (DVBE), Small Business Enterprise (SBE) and/or Other Business Enterprise (OBE) firms at the prime, coventure partner, subconsultant and/or vendor level. Attainment of the goal is strongly encouraged but strictly voluntary.

- ✓ To qualify for DBE certification, the business firm must provide proof of being socially and economically disadvantaged as identified in Caltrans' DBE certification process.
- ✓ To qualify for DVBE certification, a firm must provide proof that it is owned and operated by one or more veterans with a Service-related disability and the management of the firm is controlled by the qualifying party(ies).
- ✓ To qualify for MBE certifications, the business firm must provide proof of being at least 51 percent owned and operated by African-Americans, Asians, American Indians, Filipinos, and/or Latinos and that its management is controlled by one or more members of the identified ethnic groups.
- ✓ To qualify for SBE certification, the business must be independently owned and operated, cannot be dominant in its field of operation, must have a principal office in California and owners living in California and, together with its affiliates, be either: Businesses with 99 or fewer employees and average gross receipts of \$10 million or less over the previous three tax years, or be a manufacturer with 100 or fewer employees.
- ✓ To qualify for WBE certification, the business firm must provide proof of being at least 51 percent owned and operated by one or more women and its management be controlled by one or more women.
- ✓ OBE means any business which does not otherwise qualify as a Minority, Women, Disadvantaged, or Disabled Veteran Business Enterprise.



## **Attachment C.5 – Strategies for Successful Team**

1. Use City and Caltrans directories of DBE, DVBE, MBE, WBE, and SBE-certified businesses providing the needed services. Call or write to the listed certified firms. Directories are available at the City's EOCP office, 619-533-4464; and Caltrans, 916-445-3520 or on the Internet at [www.dot.ca.gov/hq/bep/](http://www.dot.ca.gov/hq/bep/).
2. Search the federal directory of certified firms under [www.sam.gov](http://www.sam.gov).
3. Attend scheduled presubmittal meetings to network with subconsultants.
4. Advertise subconsulting opportunities in general circulation, trade associations, community organizations and special interest newspapers in a timely manner, including but not limited to entities reaching out to DBEs, DVBEs, MBEs, WBEs, SBEs, and certified firms.
5. For referrals, use the services of community organizations, professional associations focusing on, but not limited to, women and underrepresented ethnic groups, and local, state, and federal small business assistance offices and other organizations.





City of San Diego

**EQUAL OPPORTUNITY CONTRACTING (EOC)**

1200 Third Avenue • Suite 200 • San Diego, CA 92101

Phone: (619) 236-6000 • Fax: (619) 235-5209

**WORK FORCE REPORT**

The objective of the *Equal Employment Opportunity Outreach Program*, San Diego Municipal Code Sections 22.3501 through 22.3517, is to ensure that contractors doing business with the City, or receiving funds from the City, do not engage in unlawful discriminatory employment practices prohibited by State and Federal law. Such employment practices include, but are not limited to unlawful discrimination in the following: employment, promotion or upgrading, demotion or transfer, recruitment or recruitment advertising, layoff or termination, rate of pay or other forms of compensation, and selection for training, including apprenticeship. Contractors are required to provide a completed *Work Force Report (WFR)*.

**NO OTHER FORMS WILL BE ACCEPTED  
CONTRACTOR IDENTIFICATION**

Type of Contractor:    ☐ Construction    ☐ Vendor/Supplier    ☐ Financial Institution    ☐ Lessee/Lessor  
                                  ☐ Consultant        ☐ Grant Recipient        ☐ Insurance Company    ☐ Other

Name of Company: \_\_\_\_\_

ADA/DBA: \_\_\_\_\_

Address (Corporate Headquarters, where applicable): \_\_\_\_\_

City: \_\_\_\_\_ County: \_\_\_\_\_ State: \_\_\_\_\_ Zip: \_\_\_\_\_

Telephone Number: ( ) \_\_\_\_\_ Fax Number: ( ) \_\_\_\_\_

Name of Company CEO: \_\_\_\_\_

Address(es), phone and fax number(s) of company facilities located in San Diego County (if different from above):

Address: \_\_\_\_\_

City: \_\_\_\_\_ County: \_\_\_\_\_ State: \_\_\_\_\_ Zip: \_\_\_\_\_

Telephone Number: ( ) \_\_\_\_\_ Fax Number: ( ) \_\_\_\_\_

Type of Business: \_\_\_\_\_ Type of License: \_\_\_\_\_

The Company has appointed: \_\_\_\_\_

As its Equal Employment Opportunity Officer (EEOO). The EEOO has been given authority to establish, disseminate and enforce equal employment and affirmative action policies of this company. The EEOO may be contacted at:

Address: \_\_\_\_\_

Telephone Number: ( ) \_\_\_\_\_ Fax Number: ( ) \_\_\_\_\_

☐ One San Diego County (or Most Local County) Work Force – Mandatory; ☐ Branch Work Force\*; ☐ Managing Office Work Force

Check the box above that applies to this WFR.. \*Submit a separate Work Force Report for all participating branches. Combine WFRs if more than one branch per county.

**Certification:** Please check one of the following boxes: ☐ DBE (Disadvantaged Business Enterprise); ☐ DVBE (Disadvantaged Veteran-Owned Business Enterprise); ☐ MBE (Minority-Owned Business Enterprise); ☐ SBE (Small Business Enterprise); WBE (Woman-Owned Business Enterprise); ☐ OBE (Other Business Enterprise)

I, the undersigned representative of (Firm Name)  
(County) (State), hereby certify that information provided herein is true and correct. This document was executed on this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

\_\_\_\_\_  
(Authorized Signature)\_\_\_\_\_  
(Print Authorized Signature Name)

**WORK FORCE REPORT – Page 2**

NAME OF FIRM: \_\_\_\_\_ DATE: \_\_\_\_\_

OFFICE(S) or BRANCH(ES): \_\_\_\_\_ COUNTY: \_\_\_\_\_

INSTRUCTIONS: For each occupational category, indicate number of males and females in every ethnic group. Total columns in row provided. Sum of all totals should be equal to your total work force. Include all those employed by your company on either a full or part-time basis. The following groups are to be included in ethnic categories listed in columns below:

- |  |  |
|--|--|
| (1) Black, African-American                          | (5) Filipino                                       |
| (2) Hispanic, Latino, Mexican-American, Puerto Rican | (6) White, Caucasian                               |
| (3) Asian, Pacific Islander                          | (7) Other ethnicity; not falling into other groups |
| (4) American Indian, Eskimo                          |  |

ADMINISTRATION OCCUPATIONAL CATEGORY	(1) Black		(2) Hispanic		(3) Asian		(4) American Indian		(5) Filipino		(6) White		(7) Other Ethnicity	
	(M)	(F)	(M)	(F)	(M)	(F)	(M)	(F)	(M)	(F)	(M)	(F)	(M)	(F)
Management & Financial														
Professional														
A&E, Science, Computer														
Technical														
Sales														
Administrative Support														
Services														
Crafts														
Operative Workers														
Transportation														
Laborers*														

\*Construction laborers and other field employees are not to be included on this page

Totals Each Column														
--------------------	--	--	--	--	--	--	--	--	--	--	--	--	--	--

Grand Total All Employees

Indicate by Gender and Ethnicity the Number of Above Employees Who Are Disabled:

Disabled														
----------	--	--	--	--	--	--	--	--	--	--	--	--	--	--

Non-Profit Organizations Only:

Board of Directors														
Volunteers														
Artists														

**WORK FORCE REPORT – Page 3**

NAME OF FIRM: \_\_\_\_\_ DATE: \_\_\_\_\_

OFFICE(S) or BRANCH(ES): \_\_\_\_\_ COUNTY: \_\_\_\_\_

INSTRUCTIONS: For each occupational category, indicate number of males and females in every ethnic group. Total columns in row provided. Sum of all totals should be equal to your total work force. Include all those employed by your company on either a full or part-time basis. The following groups are to be included in ethnic categories listed in columns below:

- |  |  |
|--|--|
| (1) Black, African-American                          | (5) Filipino                                       |
| (2) Hispanic, Latino, Mexican-American, Puerto Rican | (6) White, Caucasian                               |
| (3) Asian, Pacific Islander                          | (7) Other ethnicity; not falling into other groups |
| (4) American Indian, Eskimo                          |  |

TRADE OCCUPATIONAL CATEGORY	(1) Black		(2) Hispanic		(3) Asian		(4) American Indian		(5) Filipino		(6) White		(7) Other Ethnicity	
	(M)	(F)	(M)	(F)	(M)	(F)	(M)	(F)	(M)	(F)	(M)	(F)	(M)	(F)
Brick, Block or Stone Masons														
Carpenters														
Carpet, Floor & Tile Installers Finishers														
Cement Masons, Concrete Finishers														
Construction Laborers														
Drywall Installers, Ceiling Tile Inst														
Electricians														
Elevator Installers														
First-Line Supervisors/Managers														
Glaziers														
Helpers; Construction Trade														
Millwrights														
Misc. Const. Equipment Operators														
Painters, Const. & Maintenance														
Pipelayers, Plumbers, Pipe & Steam Fitters														
Plasterers & Stucco Masons														
Roofers														
Security Guards & Surveillance Officers														
Sheet Metal Workers														
Structural Metal Fabricators & Fitters														
Welding, Soldering & Brazing Workers														
Workers, Extractive Crafts, Miners														

Totals Each Column														
--------------------	--	--	--	--	--	--	--	--	--	--	--	--	--	--

Grand Total All Employees

Indicate By Gender and Ethnicity the Number of Above Employees Who Are Disabled:

Disabled														
----------	--	--	--	--	--	--	--	--	--	--	--	--	--	--



## CITY OF SAN DIEGO WORK FORCE REPORT

### **HISTORY**

The Work Force Report (WFR) is the document that allows the City of San Diego to analyze the work forces of all firms wishing to do business with the City. We are able to compare the firm's work force data to County Labor Force Availability (CLFA) data derived from the United States Census. CLFA data is a compilation of lists of occupations and includes the percentage of each ethnicity we track (Black, Hispanic, Asian, American Indian, Filipino) for each occupation. Currently, our CLFA data is taken from the 2000 Census. In order to compare one firm to another, it is important that the data we receive from the consultant firm is accurate and organized in the manner that allows for this fair comparison.

### **WORK FORCE & BRANCH WORK FORCE REPORTS**

When submitting a WFR, especially if the WFR is for a specific project or activity, we would like to have information about the firm's work force that is actually participating in the project or activity. That is, if the project is in San Diego and the work force is from San Diego, we want a San Diego County Work Force Report.<sup>1</sup> By the same token, if the project is in San Diego, but the work force is from another county, such as Orange or Riverside County, we want a Work Force Report from that county.<sup>2</sup> If participation in a San Diego project is by work forces from San Diego County and, for example, from Los Angeles County and from

Sacramento County, we ask for separate Work Force Reports representing your firm from each of the three counties.

### **MANAGING OFFICE WORK FORCE**

Equal Opportunity Contracting may occasionally ask for a Managing Office Work Force (MOWF) Report. This may occur in an instance where the firm involved is a large national or international firm but the San Diego or other local work force is very small. In this case, we may ask for both a local and a MOWF Report.<sup>1,3</sup> In another case, when work is done only by the Managing Office, only the MOWF Report may be necessary.<sup>3</sup>

### **TYPES OF WORK FORCE REPORTS:**

Please note, throughout the preceding text of this page, the superscript numbers one <sup>1</sup>, two <sup>2</sup> & three <sup>3</sup>. These numbers coincide with the types of work force report required in the example. See below:

- <sup>1</sup> One San Diego County (or Most Local County) Work Force – Mandatory in most cases
- <sup>2</sup> Branch Work Force \*
- <sup>3</sup> Managing Office Work Force

*\*Submit a separate Work Force Report for all participating branches. Combine WFRs if more than one branch per county.*

### **Exhibit A: Work Force Report Job categories-Administration**

Refer to this table when completing your firm's Work Force Report form(s).

**Management & Financial**

Advertising, Marketing, Promotions, Public Relations, and Sales Managers
Business Operations Specialists
Financial Specialists
Operations Specialties Managers
Other Management Occupations
Top Executives

**Professional**

Art and Design Workers
Counselors, Social Workers, and Other Community and Social Service Specialists
Entertainers and Performers, Sports and Related Workers
Health Diagnosing and Treating Practitioners
Lawyers, Judges, and Related Workers
Librarians, Curators, and Archivists
Life Scientists
Media and Communication Workers
Other Teachers and Instructors
Postsecondary Teachers
Primary, Secondary, and Special Education School Teachers
Religious Workers
Social Scientists and Related Workers

**Architecture & Engineering, Science, Computer**

Architects, Surveyors, and Cartographers
Computer Specialists
Engineers
Mathematical Science Occupations
Physical Scientists

**Technical**

Drafters, Engineering, and Mapping Technicians
Health Technologists and Technicians
Life, Physical, and Social Science Technicians
Media and Communication Equipment Workers

**Sales**

Other Sales and Related Workers
Retail Sales Workers

**Sales Representatives, Services**

Sales Representatives, Wholesale and Manufacturing
Supervisors, Sales Workers

**Administrative Support**

Financial Clerks
Information and Record Clerks
Legal Support Workers
Material Recording, Scheduling, Dispatching, and Distributing Workers
Other Education, Training, and Library Occupations
Other Office and Administrative Support Workers
Secretaries and Administrative Assistants
Supervisors, Office and Administrative Support Workers

**Services**

Building Cleaning and Pest Control Workers
Cooks and Food Preparation Workers
Entertainment Attendants and Related Workers
Fire Fighting and Prevention Workers
First-Line Supervisors/Managers, Protective Service Workers
Food and Beverage Serving Workers
Funeral Service Workers
Law Enforcement Workers
Nursing, Psychiatric, and Home Health Aides
Occupational and Physical Therapist Assistants and Aides
Other Food Preparation and Serving Related Workers
Other Healthcare Support Occupations
Other Personal Care and Service Workers
Other Protective Service Workers
Personal Appearance Workers
Supervisors, Food Preparation and Serving Workers
Supervisors, Personal Care and Service Workers
Transportation, Tourism, and Lodging Attendants

**Crafts**

Construction Trades Workers
Electrical and Electronic Equipment Mechanics, Installers, and Repairers
Extraction Workers
Material Moving Workers
Other Construction and Related Workers
Other Installation, Maintenance, and Repair Occupations
Plant and System Operators
Supervisors of Installation, Maintenance, and Repair Workers
Supervisors, Construction and Extraction Workers
Vehicle and Mobile Equipment Mechanics, Installers, and Repairers
Woodworkers

**Operative Workers**

Assemblers and Fabricators
Communications Equipment Operators
Food Processing Workers
Metal Workers and Plastic Workers
Motor Vehicle Operators
Other Production Occupations
Printing Workers
Supervisors, Production Workers
Textile, Apparel, and Furnishings Workers

**Transportation**

Air Transportation Workers
Other Transportation Workers
Rail Transportation Workers
Supervisors, Transportation and Material Moving Workers
Water Transportation Workers

**Laborers**

Agricultural Workers
Animal Care and Service Workers
Fishing and Hunting Workers
Forest, Conservation, and Logging Workers
Grounds Maintenance Workers
Helpers, Construction Trades
Supervisors, Building and Grounds

Cleaning and Maintenance Workers

Supervisors, Farming, Fishing, and Forestry Workers

**Exhibit B: Work Force Report Job categories-Trade****Brick, Block or Stone Masons**

Brickmasons and Blockmasons

Stonemasons

**Carpenters****Carpet, floor and Tile Installers and Finishers**

Carpet Installers

Floor Layers, except Carpet, Wood and Hard Tiles

Floor Sanders and Finishers

Tile and Marble Setters

**Cement Masons, Concrete Finishers**

Cement Masons and Concrete Finishers

Terrazzo Workers and Finishers

**Construction Laborers****Drywall Installers, Ceiling Tile Inst**

Drywall and Ceiling Tile Installers

Tapers

**Electricians****Elevator Installers and Repairers****First-Line Supervisors/Managers**

First-line Supervisors/Managers of Construction Trades and Extraction Workers

**Glaziers****Helpers, Construction Trade**

Brickmasons, Blockmasons, and Tile and Marble Setters

Carpenters

Electricians

Painters, Paperhangers, Plasterers and Stucco

Pipelayers, Plumbers, Pipefitters and Steamfitters
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Roofers
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All other Construction Trades
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**Millwrights**

Heating, Air Conditioning and Refrigeration Mechanics and Installers
--

Mechanical Door Repairers
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Control and Valve Installers and Repairers
--

Other Installation, Maintenance and Repair Occupations
--

**Misc. Const. Equipment Operators**

Paving, Surfacing and Tamping Equipment Operators
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Pile-Driver Operators
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Operating Engineers and Other Construction Equipment Operators
--

**Painters, Const. Maintenance**

Painters, Construction and Maintenance
--

Paperhangers
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**Pipelayers and Plumbers**

Pipelayers
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Plumbers, Pipefitters and Steamfitters
--

**Plasterers and Stucco Masons****Roofers****Security Guards & Surveillance Officers****Sheet Metal Workers****Structural Iron and Steel Workers****Welding, Soldering and Brazing Workers**

Welders, Cutter, Solderers and Brazers
--

Welding, Soldering and Brazing Machine Setter, Operators and Tenders
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**Workers, Extractive Crafts, Miners**



## C.7 – Subconsultant and Vendor List

Submittals shall include a complete list of ***all*** proposed coventure partners, subconsultants and vendors receiving in excess of one half of one percent (.05%) of the total contract or \$10,000, whichever is less. Listed subconsultants and vendors must provide services in the profession, trade, or craft listed. All columns shall be filled out. **No changes to this subconsultant list will be allowed without prior written approval from CivicSD. This document becomes part of the contract.**

Respondent shall also submit subconsultant commitment letters on prime's letterhead, no more than one page each from subconsultants listed below, to acknowledge their commitment to the team, scope of services, and percent of participation in the project (Attachment C.8 provides an outline for the commitment letters).

NAME AND ADDRESS OF SUBCONSULTANTS	SCOPE OF WORK	<u>ESTIMATED</u> DOLLAR AMOUNT OF CONTRACT	DBE, DVBE, MBE, SBE or WBE	WHERE CERTIFIED

*For information only.* As appropriate, respondent shall identify coventures, subconsultants or vendors according to the list on the following page.

Certified Disadvantaged Business Enterprise	DBE
Certified Disabled Veteran Business Enterprise	DVBE
Certified Minority Business Enterprise	MBE
Certified Small Business Enterprise	SBE
Certified Woman Business Enterprise	WBE
Other Business Enterprise (not certified)	OBE



## Attachment C.8 – Letter of Intent to Subcontract or Coventure

Date

Name  
Company  
Address

**SUBJECT: LETTER OF INTENT TO SUBCONTRACT OR COVENTURE**  
(assignment name and number, if any)

Dear:

Please consider this as written confirmation of our intent to subcontract **or coventure** (*pick one*) with [subconsulting firm or coventure partner firm name] for [trade] services at an approximated percentage of the total contract to be no less than \_\_\_\_\_%\*, should such services be utilized.

The above is contingent upon receiving the contract award from Civic San Diego for [name of contract/project] to [prime consultant name]. Please sign both copies if all meets with your approval and return one to our office.

If you have any questions, do not hesitate to call.

Sincerely,

\_\_\_\_\_  
\_\_\_\_\_

### SUBCONTRACT AGREEMENT

I, \_\_\_\_\_, agree to the aforementioned.  
(Print Name)

\_\_\_\_\_  
(Signature)                      Date \_\_\_\_\_  
(Title)

*\*If dollar amount is not known for the coventure partner, please give the approximate percentage of the contract based on functional consultant partnership percentage.*

## Attachment C.9 – CivicSD Outreach Survey

Civic San Diego is evaluating the effectiveness of its outreach efforts for consultant contracting opportunities. We appreciate your cooperation in completing this sheet and returning it with your proposal. Thank you.

*How did you find out about this consultant services opportunity?*

- |  |   |
|--|---|
| <input type="checkbox"/> <i>San Diego Daily Transcript</i> | <input type="checkbox"/> <i>San Diego Voice &amp; Viewpoint</i> |
| <input type="checkbox"/> <i>San Diego Asian Journal</i>    | <input type="checkbox"/> <i>El Sol de San Diego</i>             |
| <input type="checkbox"/> <i>El Latino</i>                  | <input type="checkbox"/> <i>San Diego Monitor News</i>          |
| <input type="checkbox"/> <i>The Filipino Press</i>         | <input type="checkbox"/> <i>Mabuhay Times</i>                   |
| <input type="checkbox"/> <i>Enlace</i>                     | <input type="checkbox"/> <i>Contractor News &amp; Views</i>     |
| <input type="checkbox"/> <i>Los Angeles Times</i>          |   |
| <input type="checkbox"/> Other publication: _____          |   |

OR

- ☐ Community and Professional Organizations (*please list the organization*)

African-American:

\_\_\_\_\_

American-Indian:

\_\_\_\_\_

Asian-American:

\_\_\_\_\_

Filipino:

\_\_\_\_\_

Hispanic:

\_\_\_\_\_

Other:

\_\_\_\_\_

OR

- ☐ CivicSD Employee
- ☐ CivicSD's Web site
- ☐ E-mail from CivicSD
- ☐ Other \_\_\_\_\_



## Appendix D – Additional Project Documents

Attachment D.1 – Selection Criteria Form

Attachment D.2 – Disclosure Statement

Attachment D.3 – Tentative Contract Revisions



## **Attachment D.1 – Selection Criteria**

### **Selection Criteria**

Listed below are the criteria that must be used to evaluate all submittals.

#### Criterion No. 1 – Submittal Documents

Is the submittal complete and well composed? Does the submittal mirror the organizational requirements described in the solicitation, including conformance with tabulation and categorical organization, clarity of writing, and cohesiveness of narrative, tables and images?

#### Criterion No. 2 – Understanding and Methodology

Does the submittal demonstrate that the respondent understands the Scope of Services, proposes an exceptional methodology that will lead to success, and is able to demonstrate how said methodology has been successful in respondent's past experience?

#### Criterion No. 3 – Samples of Work and/or Project References

Does the submittal include samples of work that specifically illustrate an understanding of the proposed work as well as a demonstrably successful product? Do project references confirm assertions made in the response and subsequently made verbally during the interview?

#### Criterion No. 4 – Project Personnel Experience and References

Do proposed project personnel meet all specified criteria set out in the solicitation? Is the level of experience commensurate with the complexity of the Scope of Services? If CivicSD elects to perform reference checks, do personnel references confirm assertions made in the response and subsequently made verbally during the interview?

#### Criterion No. 5 – Competitiveness of Cost Proposal or Fee Structure

Is the respondent's proposed cost to perform the project (or the respondent's hourly rates or fee structure, if applicable) competitive by industry standards and provides the best value for the quality of services being rendered?

# Attachment D.2 – Disclosure Statement

Consultant's statement of disclosure of certain ownership interests on all contracts which will require discretionary action on the part of CivicSD, the Successor Agency to the Redevelopment Agency, City Council, and Planning Commission of the City of San Diego.

**See Page D.2-2 for definitions of "Person" and "Financial Interest."**

The following information must be disclosed:

1. List the names of all persons having a financial interest in the consultant's business.

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2. If any person identified pursuant to (1) above is a corporation or partnership, list the names of all individuals owning more than 10% of the shares in the corporation or owning any partnership interest in the partnership.

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3. If any person identified pursuant to (1) above is a nonprofit organization or a trust, list the names of any person serving as a member on the board of directors of the nonprofit organization or as trustee or beneficiary or trustor of the trust.

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4. Have you had more than \$500 worth of business transacted with any member of CivicSD Board, Planning Commission, or Council/Agency members within the past twelve months?  
Yes \_\_\_\_\_ No \_\_\_\_\_ If yes, please indicate person(s)

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5. List the address of any property owned by the consultant's firm or principals identified in (2) that is located within the Centre City and Horton Plaza Redevelopment Projects.

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(NOTE: Attach additional pages as necessary.)

\_\_\_\_\_  
Authorized Signature of Firm

\_\_\_\_\_  
Date

\_\_\_\_\_  
Print or Type Name of Firm

## Disclosure Statement Definitions

**Person** is defined as:

Any individual, firm, copartnership, joint venture, association, social club, fraternal organization, corporation, estate, trust, receiver, syndicate, this and any other group or combination acting as a unit.

**Financial Interest** is defined as:

- Any interest as a result of which the owner currently receives or is entitled to receive in the future more than \$5,000 per year;
- Any interest with a cost or present value of \$5,000 or more; or
- Any interest representing more than 10% of a corporation, partnership, sole proprietorship, firm, enterprise, franchise, organization, holding company, joint stock company, receivership, trust, or any legal entity organization for profit; provided, however, financial interest shall not include:
  1. Any interest of the spouse of an official or employee which interest is related to the spouse's independent occupation, profession or employment;
  2. Any ownership through purchase at fair market value or inheritance of less than 1% of the shares of a corporation, or any corporate subsidiary, parent or affiliate thereof, regardless of the value of or dividends on such shares, if such shares are registered on a securities exchange pursuant to the Securities Exchange Act of 1934, as amended;
  3. The authorized compensation paid to a public official or public employee for his office or employment;
  4. Any economic benefit provided equally to all residents of the Commonwealth;
  5. A time or demand deposit in a financial institution;
  6. An endowment or insurance policy or annuity contract purchase from an insurance company.

## Attachment D.3 – Tentative Contract Revisions

Following are tentative contract revisions:

Respondent affirms that he or she has read Appendix B – Attachment B.1 Sample Professional Services Agreement and is prepared, if selected, to negotiate a final contract based on this sample. If there are provisions the respondent tentatively anticipates will require changes, please list below and provide a short description (use additional numbered sheets if necessary).

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4.

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\_\_\_\_\_  
Authorized Signature

\_\_\_\_\_  
Date

\_\_\_\_\_  
Print or type name of firm