



Request for Proposals

for

**New Markets Tax Credit Consulting Services – Allocation
Application**

Distribution/Advertisement:	Friday, November 2, 2018
Deadline for Submittal of Questions:	Wednesday, November 19, 2018
Submittal Deadline:	Friday, November 30, 2018 by 4:30 pm
Interviews, if needed:	Week beginning December 17, 2018

Contact:
Joanna Whitley
Associate Project Manager
Civic San Diego
401 B Street, Suite 400
San Diego, CA 92101
whitley@civicsd.com (619) 533-7177
www.civicsd.com

Advertisement

REQUEST FOR PROPOSALS
FOR
NEW MARKET TAX CREDIT CONSULTING SERVICES – ALLOCATION APPLICATIONS

Civic San Diego Economic Growth and Neighborhood Investment Fund (“Fund”) is an equal opportunity contractor, is requesting assistance in preparing and submitting annual applications for New Markets Tax Credit allocations.

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 Friday, November 30, 2018, by 4:30 pm. Solicitation text and attachments can be downloaded from CivicSD’s website at www.civicsd.com (click on Economic Development, RFPs & RFPs). For questions, please contact Joanna Whitley, Associate Project Manager at whitley@civicsd.com or (619) 533-7177.

*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.*

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1.0 INTRODUCTION

The Fund is a non-profit public benefit corporation created by the City of San Diego (“City”) to make qualified low-income community investments in the County of San Diego or other activities which qualify for the New Market Tax Credit Program. The Fund 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.

1.1 Purpose of Solicitation

The purpose of this solicitation is as follows:

The Fund seeks to engage a consultant to assist in preparing and submitting applications for New Markets Tax Credits (“NMTC”) allocations from the federal Community Development Financial Institution Fund (“CDFI Fund”). It is intended that the consultant will serve as the lead writer of the Fund’s NMTC allocation applications starting with the 2019 NMTC application and continuing for the term of the contract. The consultant will assist the Fund in the preparation and submission of each application. In addition, the consultant will advise the Fund in the Structuring of Qualified Equity Investments (“QEIs”), and the structuring of Qualified Low-Income community Investments (“QLICs”) into Qualified Active Low-Income Community Businesses (“QALICBs”). It is contemplated that the consultant may be requested to provide the Fund with additional services related to the ongoing management and monitoring of the Fund’s ongoing qualification as a Community Development Entity (“CDE”) and compliance with the general requirements of the NMTC program. The consultant may also provide advisory services structuring NMTC or Opportunity Fund investments. The consultant selected for Opportunity Fund Investment services may be the same consultant selected to provide services for NMTC consulting, or a different consultant may be selected.

1.2 Overview of Solicitation

This solicitation is composed of the following parts:

INTRODUCTION (Section 1.0)

This section introduces information about the Fund. It also introduces the purpose of this solicitation with pertinent details. Relevant rules and regulations follow in subsequent sections and appendices. The respondent is advised to review the entire solicitation before preparing a submittal.

SUBMITTAL SCHEDULE, INSTRUCTIONS, & CONTACT (Section 2.0)

This section explains the submittal process, the submittal deadlines, and introduces the project manager for the project.

SUBMITTAL REQUIREMENTS (Section 3.0)

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 The Fund Project Manager, whose contact information appears on the title page of this solicitation. The respondent is advised to review the entire solicitation before preparing a submittal.

SELECTION PROCESS AND EVALUATION CRITERIA (Section 4.0)**DECLARATIONS AND ADDITIONAL INFORMATION (Section 5.0)**

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 6.0)

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 before 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 the Fund. 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 the Fund, and the City 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 PROCESS

This section contains information on what the submittal process will entail, the submittal schedule, submittal instructions, and the contact information for the Project Manager for this solicitation.

2.1 Submittal Schedule

The solicitation, submittal intake, evaluation, and final selection will conform to the following schedule. The Fund reserves the right to alter the dates below at any time. In the event of any change to the schedule below, all addendums to the Request for Proposals (“RFP”) will be posted at www.civicsd.com.

It will be the respondent’s responsibility to determine if any addenda to this RFP have been posted on the website up to the final date of submittal.

Distribution/Advertisement	November 2, 2018
Deadline for Submittal of Questions	November 19, 2018
Deadline for Submittal of RFP	November 30, 2018, at 4:30 pm
Interviews, if needed	Week of December 17, 2018

The Fund reserves the right to alter the dates below at any time. In the event of any change to the schedule above, all addendums to the RFP will be posted on the website above.

It will be the respondent’s responsibility to determine if any addenda to the RFP have been posted on the website up to the final date of the submittal.

CivicSD may issue an addendum for changes prior to the Pre-Submittal Conference Date, Deadline for Submittal Questions Date, or the Submittal Due Date. The actual timing and sequence of events resulting from this RFP shall ultimately be determined by the Fund and may be adjusted at the discretion of the Fund.

2.2 Submittal Instructions

Submissions shall not exceed a total of 25 pages using a minimum type/font size of 11. Tabs used as dividers between sections do not count toward the page limit. Moreover, the “Additional Required Documents” listed in Section 3.10 of the solicitation do not count toward the page limit. The respondent shall submit one (1) unbound original, two (2) bound copies, and one (1) “high quality” digital PDF file (on USB flash drive, CD or such other current electronic medium) delivered no later than: **December 7, 2018, at 4:30 pm** submitted directly to:

Civic San Diego
Attn: Contracts Manager
401 B Street, Suite 400
San Diego, CA 92101

Incomplete submittals, incorrect information or late submittals shall be cause for disqualification. Copies received by email or fax shall not be accepted. It is the respondent’s responsibility to make sure that their submission is received by the Fund before the submittal due date and time. Submissions received after the

due date and time will be returned to the vendor unopened. The Fund assumes no responsibility for the delays caused by the United States Postal Service (USPS), any form of express mail courier or service.

2.3 Questions & Contact

Specific questions and communications regarding this solicitation must be in writing and sent via email to Joanna Whitley at whitley@civicsd.com to ensure appropriate tracking and response. Questions and requests for clarification related to definition or interpretation of the RFP shall be submitted in writing as per Section 2.3. No questions will be accepted via telephone and oral explanations or instructions shall not be considered binding. All responses to questions or requests for clarification will be posted on the website of Civic San Diego at www.civicsd.com (click on Doing Business, RFPs & RFPs). Any attempt to influence the selection process could result in the disqualification of the respondent's proposal.

Interested parties should direct inquiries entitled "Request for Proposals – New Markets Tax Credit Services – Allocation Application:") to:

Joanna Whitley
Civic San Diego
whitley@civicsd.com

3.0 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.

3.1 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.

3.2 Table of Contents

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

3.3 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 – New Markets Tax Credits Consulting Services – Allocation Applications.”

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 subconsultants.

3.4 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.

3.5 Project-Related Experience

This section shall include examples of the respondent’s 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.

3.6 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 the Fund. A résumé for each professional and technical person assigned to the project, including partners and/or subconsultants, shall be submitted.

3.7 Organization Chart

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

3.8 Insurance

This section shall include proof of insurance as required under the Insurance terms of the sample contract in Appendix B – Sample Contract.

3.9 Schedule of Rates

This section shall include the respondent's proposed fee structure to complete the scope of work outlined in Appendix A. The Fund will give preference to respondents whose fees are to be paid if and only if the Fund receives a NMTC allocation, as a percentage of QEIs closed upon each transaction's closing. In the case that the respondent includes in their scope an option to provide Asset Management and Compliance as an added service, the respondent should specify the proposed fee structure for this service in addition to the percentage-based fee indicated above. If the respondent wishes to proposed an alternate fee structure, it should appear in this section, including rates for all project personnel of the prime, joint venture partner(s), and subconsultants and a Time and Materials Fee Schedule, including a Not to Exceed Amount.

3.10 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.1 – Disclosure Statement *(to be completed by the prime and all subconsultants, if any)*
- Attachment D.2 – Tentative Contract Revisions *(to be completed by the prime only)*

4.0 SELECTION CRITERIA AND EVALUATION

4.1 Evaluation Scoring

The evaluation using the Selection Criteria shall be based on the qualification of the respondents and their financial resources and capabilities. Except as otherwise expressly specified below, the order in which the evaluation criteria appears within each category or sub-category below is not an indication of weighting or importance. Respondent submittals shall be evaluated based on the following grades:

- **Exceptional (E)** - The proposal addresses the requirements completely, exhibits outstanding knowledge, creativity, innovation or other factors to justify this rating; exhibits no significant weaknesses; exhibits no blatant deficiencies. The respondent earning a grade of “E” will receive the full value of the weighted factor for the given evaluation criteria.
- **Very Good (VG)** – The proposal addresses the requirements completely and addresses most elements of the requirements in a very good manner with major strengths in key areas; has a good probability of an above-average outcome; exhibits minor, correctable weaknesses; exhibits no blatant deficiencies. The respondent earning a grade of “VG” will receive 90% of the value of the weighted factor for the given evaluation criteria.
- **Good (G)** - The proposal addresses some elements of the requirements in an acceptable manner with some strengths in key areas; exhibits minor, correctable weaknesses; exhibits correctable deficiencies; would anticipate an average outcome. The respondent earning a grade of “G” will receive 80% of the value of the weighted factor for the given evaluation criteria.
- **Fair (F)** - The proposal addresses most elements of the requirements with minimal strengths provided in their response; exhibits minor, correctable weaknesses; exhibits minor, correctable deficiencies. The respondent earning a grade of “F” will receive 70% of the value of the weighted factor for the given evaluation criteria.
- **Marginal (M)** - The proposal meets some of the requirements with some strengths; will probably result in a below-average outcome; exhibits correctable weaknesses requiring clarification; exhibits deficiencies that may or may not be correctable. The respondent earning a grade of “M” will receive 60% of the value of the weighted factor for the given evaluation criteria.
- **Poor (P)** - The proposal meets a few of the requirements with minimal strengths; will probably result in a below-average outcome; exhibits some correctable weaknesses requiring clarification; exhibits some deficiencies that may or may not be correctable. The respondent earning a grade of “P” will receive 50% of the value of the weighted factor for the given evaluation criteria.

- **Unsatisfactory (U)** - The proposal meets a few to none of the requirements with few or no clear strengths; will probably result in an unacceptable outcome; exhibits too many weaknesses; exhibits too many deficiencies. The respondent earning a grade of “U” will receive a “zero” for the given evaluation criteria.

4.2 Selection Criteria

Respondents shall ***carefully review*** the Selection Criteria as it will be the basis by which the selection will be made for an Agreement for the project.

Criterion No. 1 – Submittal Documents

Overall evaluation of the respondent’s submittal documents includes:

1. Is the submittal complete and well organized? Does it exhibit clarity of writing, cohesiveness of narrative, tables and images?
2. 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

Overall evaluation of the respondent’s understanding of the Scope of Work and Methodology includes:

1. Does the submittal demonstrate the respondent understands the Scope of Services?
2. Does the respondent propose a methodology that would appear to lead to success?
3. Does the respondent demonstrate success on similar projects with similar methodology?

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

Overall evaluation of respondent’s prior work on similar projects includes:

1. Does the submittal include samples of work that specifically illustrate an understanding of the proposed work as well as a demonstrably successful product?
2. If the Fund elects to request project references, will they confirm assertions made in the response and subsequently made verbally during the interview?

Criterion No. 4 – Project Personnel Experience and References

Overall evaluation of respondent’s personnel experience and references includes:

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

Criterion No. 5 – Equal Opportunity

Overall evaluation of whether respondent demonstrates they provide opportunities for Equal Opportunity includes:

1. Does the submittal include evidence of a willingness to make meaningful and wide-range subcontracting and employment opportunities available to all interested and qualified firms and individuals in the marketplace?

Criterion No. 6 – Competitiveness of Cost Proposal or Fee Structure

Overall evaluation of the competitiveness of respondent's cost proposal or fee structure includes:

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

5.0 DECLARATIONS AND ADDITIONAL INFORMATION

5.1 Fund Rights Pertinent to this Solicitation

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

The Fund reserves the right to amend this solicitation by addendum and to issue responses to questions regarding the solicitation. The Fund 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 Civic San Diego's website at www.civicsd.com. It shall be the consultant's responsibility to check the website up to the final submittal date daily for any possible addenda and responses to questions regarding the solicitation.

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

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

Submittals will be considered valid for one hundred and twenty (120) days after submittal deadline.

5.2 Withdrawal of Solicitation

The Fund reserves the right to withdraw this solicitation at any time without prior notice and makes no representation that any agreement will be awarded to any respondent. Additionally, the Fund 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.

5.3 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.

5.4 Contact with the Fund Personnel

Questions regarding this solicitation shall be directed by ***e-mail only*** to:

Joanna Whitley
Civic San Diego
401 B Street, Suite 400
San Diego, CA 92101
Telephone: 619.533.7177
Fax: 619.236.9148

5.5 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 the Fund's Board of Directors, or the President, as may be required.

5.6 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 the Fund or the City. Neither the Fund 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 the Fund 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).

5.7 Fund Quality Assurance Process

The respondent understands that upon contract award, the Fund 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, the Fund may terminate the contract, in whole or in part, or impose other penalties as specified in the contract.

5.8 Public Disclosure

The respondent understands that, as a general rule, all documents received by the Fund are 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 a determination of whether the documents can be withheld from public disclosure no later than fifteen (15) days prior to the due date of the submittal. The Fund 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.

5.9 Confidential Solicitation

The Fund 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 5.8).

5.10 News Releases

The respondent agrees that, if selected, the Fund 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 Fund Project Manager. The Project Manager will review and submit the news release to the appropriate the Fund personnel for final review and approval in a timely manner.

5.11 Conflict of Interest/Financial Disclosure

The respondent agrees, if selected, to comply with Civic San Diego’s duly adopted Conflict of Interest Code.

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

5.12 Indemnification

The respondent agrees, if selected, to indemnify and hold harmless the Fund, the City, and all 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.

5.13 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 the Fund’s knowledge, the information provided is accurate. However, the Fund 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 the Fund.

5.14 Equal Opportunity Program

The City and the Fund 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 the Fund’s Equal Opportunity Policy and Program.

See also Appendix C, Equal Opportunity Program documents.

5.15 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 subconsultants, vendors, or suppliers. The respondent shall provide equal opportunity for subconsultants 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.

5.16 Local Business and Employment

The respondent acknowledges that the Fund seeks to promote employment and business opportunities for local residents and firms on all the Fund contracts. The respondent shall, to the extent legally possible, solicit applications for employment and for subcontractors 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.

6.0 APPENDICES

Appendix A – Scope of Services

- Attachment A.1 – Scope of Services
- Attachment A.2 – Project Site Map

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 – The Fund 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
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- Attachment C.8 – Letter of Intent to Subcontract or Coventure
- Attachment C.9 – Outreach Survey

Appendix D – Additional Project Documents

- Attachment D.1 – Disclosure Statement
- Attachment D.2 – Tentative Contract Revisions



Appendix A – Scope of Services



Attachment A.1 – Scope of Services

1. Introduction

The Fund seeks to engage a consultant to assist in preparing and submitting applications for New Markets Tax Credits (“NMTC”) allocations from the Federal community Development Financial Institution Fund (“CDFI Fund”). It is intended that the consultant will serve as the lead writer of the Fund’s NMTC allocation applications starting with the 2019 NMTC application and continuing for the term of the contract.

2. Project Narrative

Consultant will assist the Fund in the preparation and submission of each NMTC application. In addition, consultant will advise the Fund in the structuring of Qualified Equity Investments (“QEIs”), and the structuring of Qualified Low-Income Community Investments (“QLICIs”) into Qualified Active Low-Income Community Businesses (QALICBs). It is contemplated that the consultant may be requested to provide Fund with additional services related to the ongoing management and monitoring of the Fund’s ongoing qualification as a Community Development Entity (“CDE”) and compliance with the general requirements of the NMTC program

3. Tasks

Tasks may include, but are not limited to the following:

- A. **NMTC Allocation Applications.** At the discretion of the Fund, the selected consultant shall assist the Fund with the preparation and submission of annual Allocation Applications (the “Allocation Application”) with the CDFI Fund. In addition, the selected consultant will advise and assist the Fund with:
 - 1. Developing the Fund’s NMTC business strategy;
 - 2. Preparing and submitting the Allocation Application based upon the Fund’s business plan and utilizing financial, demographic, track record, governance, community impact and other similar data relating to the Fund;
 - 3. Assessing historical and projected community impacts for the Fund and the City, and providing analysis of economic and community impacts;
 - 4. Identifying pipeline projects, obtaining project and impact information of each, and providing analysis of the community impacts;

5. Identifying tax credit investors and obtaining investor commitments and letters of interest to further the Fund’s capitalization strategy for future deployment of NMTCs;
 6. Forming additional Sub-CDEs; and
 7. Individualized review of the Allocation Application by Novogradac and Company LLP and/or a former NMTC application reviewer..
- B. **Qualified Equity Investments.** The selected consultant shall advise the Fund regarding the structure of each Qualified Equity Investment (“QEI”) into the Fund or any Subsidiary CDE, with such advisory services including:
1. Assisting with identifying, negotiating and securing a QEI commitment and investment from a tax credit investor (including providing drafts and a final term sheet reflecting the terms negotiated between the Fund and the investor);
 2. Assisting with identifying, negotiating and securing an economic loan from a third-party lender for a “leveraged” NMTC transaction (including providing drafts and a final term sheet reflecting the terms negotiated between the Fund and the third-party lender);
 3. Assisting the Fund with the comprehensive underwriting from both a NMTC and an economic standpoint;
 4. Coordinating the NMTC closing process and acting as a central point of contact for the lawyers, accountants and other personnel or consultants of each party to the NMTC transaction in preparation, negotiation and delivery of all NMTC transaction reservation letters, term sheets, agreements, documents and financial models;
 5. Facilitating all fund flows and assisting with the establishment of necessary bank accounts;
 6. Reviewing QEI notices drafted by the lawyers or accountants for submission by the Fund; and
 7. Advising the Fund regarding the necessary reporting of the QEI for submission by the Fund to the CDFI Fund through the Awards Management Information System.
- C. **Qualified Low-Income Community Investments.** The selected consultant will advise the Fund regarding the structure of each Qualified Low-Income Investment (“QLICI”) into one or more Qualified Active Low-Income Community Business (“QALICB”) selected by the Fund with such advisory services including:
1. Assisting with identifying, negotiation and closing QLICIs with QALICBs (including providing drafts and a final term sheet reflecting the terms negotiated between the Fund and the QALICB);
 2. Assisting the Fund with comprehensive underwriting from both a NMTC and an economic standpoint;

3. Drafting and finalizing a master term sheet;
 4. Coordinating the NMTC closing process and acting as a central point of contact for the lawyers, accountants and other personnel or consultants of each party to the NMTC transaction in preparation, negotiation and delivery of all NMTC transaction reservation letters, term sheets, agreements, documents and financial models’
 5. Facilitating all funds flows and assisting with the establishment of necessary bank accounts;
 6. Assisting the QALICB with completion of a NMTC Borrower Questionnaire to demonstrate that the borrower is an eligible QALICB;
 7. Preparing a closing compliance memorandum documenting the NMTC transaction’s satisfaction of the terms and conditions of the Fund’s Allocation Agreement; and
 8. Analyzing the quantitative and qualitative community impacts of each NMTC transaction with input/output economic analysis, to compute the aggregate direct, indirect and induced economic impacts of each NMTC transaction and, at the request of the Fund, preparing a year-end analysis of the aggregate economic effects of the NMTC activities of the Fund on an annual basis for the tax credit compliance period.
- D. **Asset Management and Compliance.** The selected consultant may be required to provide the Fund with additional services relating to the ongoing management and monitoring of the Fund’s current and future QLICs and the Sub-CDEs’ continued qualification of CDEs and compliance with other aspects of the NMTC program, including recordkeeping, analysis, and reporting; and guidance and advice on the unwinding of current and future transactions after the compliance period. These services can be considered additional and separate under the proposed fee structure.
- E. **NMTC and Opportunity Fund Advisory Services.** The selected consultant may be requested to provide Fund with Additional services relating to advising it or its clients on the structuring and capitalization of NMTC investments. Such services may be for projects for which the CDE is considering making an investment or for projects where the CDE is just performing advisory services on behalf of its client. The selected consultant may also be requested to provide the Fund with similar advisory services relating to Opportunity Fund transactions. The consultant selected in this category may be the same consultant selected to provide services in categories A-D or may be a different consultant.

4. Deliverables

For each Allocation Application, consultant shall prepare a draft application in substantially final form for review by the Fund staff at least thirty (30) calendar days prior to the application due date and consultant shall prepare a final, submittal ready application at least five (5) business days prior to the application due date. For QEIs and QLICs provide comments to all NMTC transaction reservation letters, term sheets agreements, documents and financial models.

5. Timeline

The contract is anticipated to begin January 2019 and shall continue for a period of up to five (5) years from the contract date for a total up to four Allocation Applications.

6. Key Personnel

- A. The consultant will be required to have available personnel and potential subconsultants who are qualified and experienced in preparing NMTC allocation applications, are qualified in structuring QLICs in QALICBs and can demonstrate current and active relationships with NMTC investors. All team members shall exhibit excellent organizational, project management, presentation and report-writing skills.
- B. Key personnel and potential subconsultants shall be identified and must remain available throughout the term of the agreement unless mutually agreed upon following terms for replacing key personnel as referenced in the negotiated contract. Unilateral substitutions of key personnel are not allowed.
- C. Key personnel are considered to be project directors, project managers, associates and specialized technical personnel.

7. Budget

The Fund will give preference to respondents whose fees are to be paid if and only if the Fund receives a NMTC allocation, and as a percentage of QEIs closed upon each transaction's closing. In the case that the respondent includes in their scope an option to provide Asset Management and Compliance, and/or NMTC and Opportunity Fund Advisory Services as an added service, the respondent should specify the proposed fee structure for this service in addition to the percentage-based fee indicated above. If the respondent wishes to propose an alternate fee structure, it should appear in Section 3.9 of the submittal and include one "Schedule of Rates" including rates for project personnel of the prime, joint venture partner(s), and subconsultants and a Time and Material Fee Schedule, including a Not to Exceed Amount.



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)

CC / PO 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, 4th Floor, 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. 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. 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 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, 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

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

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 EBO and the Rules Implementing the Equal Benefits Ordinance are posted on the City’s website at 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, 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, 4th Floor
San Diego, CA 92101

With Copy to:

Shawn Hagerty, Esq.
Best Best & Krieger LLP
665 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.

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 Economic Growth and
Neighborhood Investment Fund**

By (Signature) _____
Andrew T. Phillips
Interim President / CFO / COO

Dated this ____ day of _____ 20__

[INSERT CONSULTANT COMPANY NAME]

By (Signature): _____

Print Name: _____

Title or Position _____

Dated this ____ day of _____ 20__

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__

**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.

Required to File	Not required to File
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

DESIGNATED POSITIONS/DISCLOSURE CATEGORIES

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.

<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: _____
Name: _____
Title: _____

Date: _____

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

Civic San Diego

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

401 B Street, Suite 400, San Diego, California 92101

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 of San Diego 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 Equal Opportunity Contracting office, at Caltrans, or on the Internet at www.dot.ca.gov/hq/bep/.
2. Search the federal directory of certified firms under <https://www.sam.gov>.
3. Attend 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: () _____ Email: _____ 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: () _____ Email: _____

- ☐ 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.

I, the undersigned representative of _____
(Firm Name)

_____, _____ hereby certify that information provided
(County) (State)

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.¹ 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.² 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.^{1,3} In another case, when work is done only by the Managing Office, only the MOWF Report may be necessary.³

TYPES OF WORK FORCE REPORTS:

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

- ¹ One San Diego County (or Most Local County) Work Force – Mandatory in most cases
- ² Branch Work Force *
- ³ 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

Supervisors, Farming, Fishing, and Forestry Workers

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

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
Roofers

All other Construction Trades**Millwrights**

Heating, Air Conditioning and Refrigeration Mechanics and Installers
Mechanical Door Repairers
Control and Valve Installers and Repairers
Other Installation, Maintenance and Repair Occupations

Misc. Const. Equipment Operators

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

Painters, Const. Maintenance

Painters, Construction and Maintenance
Paperhangers

Pipelayers and Plumbers

Pipelayers
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

Workers, Extractive Crafts, Miners

List

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	ESTIMATED PERCENTAGE OF CONTRACT AMOUNT	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) (Title) Date_____.

**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 & 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 & 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 Website
- ☐ E-mail from CivicSD
- ☐ Other _____



Appendix D – Additional Project Documents

Attachment D.1 – Disclosure Statement

Attachment D.2 – Tentative Contract Revisions



Attachment D.1 – 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.

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.

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.

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)

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.

(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, co-partnership, 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.2 – 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).

Following are tentative contract revisions:

Following are tentative contract revisions:

1.

2.

3.

4.

Authorized Signature

Date

Print or type name of firm