

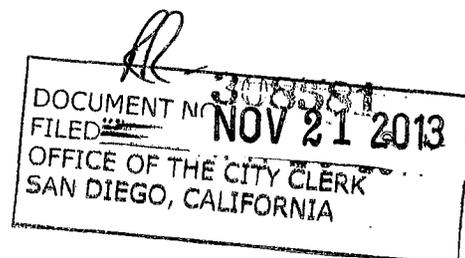
DUPLICATE ORIGINAL

**AGREEMENT BETWEEN
THE CITY OF SAN DIEGO
AND
KITCHELL CEM, INC.**

FOR

**AS-NEEDED FACILITY CONDITION ASSESSMENT FY 2014-2018
CONTRACT 3**

CONTRACT NUMBER: H146145



AGREEMENT FOR AS-NEEDED CONSULTANT SERVICES

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**AS-NEEDED AGREEMENT BETWEEN
THE CITY OF SAN DIEGO
AND KITCHELL CEM, INC.
FOR CONSULTANT SERVICES**

THIS Agreement is made and entered into between the City of San Diego, a municipal corporation [City], and Kitchell CEM, Inc.[Consultant] for the Consultant to provide Professional Services to the City for facility condition assessment.

RECITALS

The City wants to retain the services of a professional facility condition assessment firm to provide the Professional Services on an as-needed, hourly fee or unit cost basis.

The City is concerned that one Consultant may not be able to meet all the City's needs for the Professional Services in a timely and efficient manner and, therefore, the City may enter into an agreement with more than one Consultant to provide the Professional Services on an as-needed, hourly or unit cost basis in exchange for a guaranteed minimum amount of work with each Consultant.

The Consultant represents that it has the expertise, experience and personnel necessary to provide the Professional Services on an as-needed, hourly fee or unit cost basis.

The City and the Consultant [Parties] want to enter into an Agreement whereby the City will retain the Consultant to provide, and the Consultant shall provide, the Professional Services on an as-needed, hourly fee or unit cost basis [Agreement].

In consideration of the above recitals and the mutual covenants and conditions set forth herein, and for good and valuable consideration, the sufficiency of which are hereby acknowledged, the Parties hereby set forth their mutual covenants and understandings as follows:

ARTICLE I

CONSULTANT SERVICES

The above-listed recitals are true and correct and are hereby incorporated by reference.

1.1 Scope of Services. The scope of services will be determined by the City on an as-needed basis and presented to Consultant as an individual task [Task Order]. The Consultant shall perform the Professional Services at the direction of the City and as generally set forth in the Scope of Services [Exhibit A] and as more specifically described in each Task Order Authorization [Task Order] [Exhibit B].

1.1.1 Task Order. Prior to beginning performance in response to a Task Order, Consultant shall complete and execute the Task Order which must be approved in writing by the

City. Each Task Order shall include a scope of Professional Services, a cost estimate, and the time for completion. The scope of Professional Services shall include all activities or work reasonably anticipated as necessary for successful completion of each Task Order presented by the City.

1.1.2 Non-Exclusivity. The Consultant agrees that this Agreement is non-exclusive and that the City may enter into agreements with other Consultants to perform substantially the same or similar Professional Services during the term of this Agreement.

1.2 Task Administrator. The Public Works Department is the task administrator for this Agreement. The Consultant shall provide the Professional Services under the direction of a designated representative of the Public Works Department. The City's designated representative will communicate with the Consultant on all matters related to the administration of this Agreement and the Consultant's performance of the Professional Services rendered hereunder. When this Agreement refers to communications to or with the City, those communications will be with the designated representative, unless the designated representative or the Agreement specifies otherwise. Further, when this Agreement refers to an act or approval to be performed by City, that act or approval shall be performed by the Mayor or designee, unless the Agreement specifies otherwise.

1.3 City Modification of Scope of Services. The City may, without invalidating this Agreement, order changes in any Task Order by altering, adding to or deducting from the Professional Services to be performed. All such changes shall be in writing and shall be performed in accordance with the provisions of this Agreement. If any such changes cause an increase or decrease in the Consultant's cost of, or the time required for, the performance of any of the Professional Services, the Consultant shall immediately notify the City. If the City deems it appropriate, an equitable adjustment to the Consultant's compensation may be made, provided that any adjustment must be approved by both Parties in writing in accordance with Section 9.1 of this Agreement.

1.4 Written Authorization. Prior to performing any Professional Services in connection with the Task Orders, the Consultant shall obtain from the City a written authorization to proceed. Further, throughout the term of this Agreement, the Consultant shall immediately advise the City in writing of any anticipated changes to any Task Order, including any changes to the time for completion or the Compensation and Fee Schedule, and shall obtain the City's written consent to the change prior to making any changes. In no event shall the City's consent be construed to relieve the Consultant from its duty to render all Professional Services in accordance with applicable laws and accepted industry standards.

1.5 Confidentiality of Services. All Professional Services performed by the Consultant, including but not limited to all drafts, data, correspondence, proposals, reports, and estimates compiled or composed by the Consultant, pursuant to this Agreement, are for the sole use of the City, its agents and employees. Neither the documents nor their contents shall be released to any third party without the prior written consent of the City. This provision does not apply to information that (a) was publicly known, or otherwise known to the Consultant, at the time that it was disclosed to the Consultant by the City, (b) subsequently becomes publicly

known through no act or omission of the Consultant, or (c) otherwise becomes known to the Consultant other than through disclosure by the City. Except for Subcontractors covered by Section 4.4, neither the documents nor their contents shall be released to any third party without the prior written consent of the City.

1.6 Competitive Bidding. If applicable, the Consultant shall comply with the following: Consultant shall ensure that any plans, specifications, studies, or reports prepared, required, or recommended under this Agreement allow for competitive bidding. The Consultant shall prepare such plans, specifications, studies, or reports so that procurement of services, labor or materials are not available from only one source, and shall not prepare plans, specifications, studies, or reports around a single or specific product, piece of major equipment or machinery, a specific patented design, or a proprietary process, unless required by principles of sound engineering practice and supported by a written justification that has been approved in writing by the City. The Consultant shall submit this written justification to the City prior to beginning work on such plans, specifications, studies, or reports. Whenever the Consultant recommends a specific product or equipment for competitive procurement, such recommendation shall include at least two brand names of products that are capable of meeting the functional requirements applicable to the Project.

ARTICLE II

DURATION OF AGREEMENT

2.1 Term of Agreement. This Agreement shall be effective on the date it is executed by the last Party to sign the Agreement, and approved by the City Attorney in accordance with San Diego Charter Section 40. Unless otherwise terminated, this Agreement shall be effective for issuing and completing Task Orders for no more than **60** months following the date of its execution by the City, unless said duration is modified in writing by an amendment to this Agreement. Any extension beyond sixty (60) months will require City Council approval via Ordinance.

2.2 Time of Essence. Time is of the essence for each provision of this Agreement, unless otherwise specified in this Agreement. The time for performance of any Task Order shall be set forth in the Task Order and shall not exceed the contract duration.

2.3 Notification of Delay. The Consultant shall immediately notify the City in writing if Consultant experiences or anticipates experiencing a delay in performing the Professional Services within the time frames set forth in the Task Order. The written notice shall include an explanation of the cause for, and a reasonable estimate of the length of, the delay. If in the opinion of the City, the delay affects a material part of the Task Order, the City may exercise its rights under Sections 2.5-2.7 of this Agreement.

2.4 Delay. If delays in the performance of the Professional Services are caused by unforeseen events beyond the control of the Parties, such delay may entitle the Consultant to a reasonable extension of time, but such delay shall not entitle the Consultant to damages or additional compensation. Any such extension of time must be approved in writing by the City. The following conditions may constitute such a delay: war; changes in law or government

regulation; labor disputes; strikes; fires, floods, adverse weather or other similar condition of the elements necessitating cessation of the Consultant's work; inability to obtain materials, equipment or labor; required additional Professional Services; or other specific reasons agreed to between the City and the Consultant; provided, however, that: (a) this provision shall not apply to, and the Consultant shall not be entitled to an extension of time for, a delay caused by the acts or omissions of the Consultant; and (b) a delay caused by the inability to obtain materials, equipment, or labor shall not entitle the Consultant to an extension of time unless the Consultant furnishes the City, in a timely manner, documentary proof satisfactory to the City of the Consultant's inability to obtain materials, equipment, or labor.

2.5 City's Right to Suspend for Convenience. The City may, at its sole option and for its convenience, suspend all or any portion of the Consultant's performance of the Professional Services, for a reasonable period of time not to exceed six months. In accordance with the provisions of this Agreement, the City will give written notice to the Consultant of such suspension. In the event of such a suspension, in accordance with the provisions of Article III of this Agreement, the City shall pay to the Consultant a sum equivalent to the reasonable value of the Professional Services the Consultant has performed up to the date of suspension. Thereafter, the City may rescind such suspension by giving written notice of rescission to the Consultant. The City may then require the Consultant to resume performance of the Professional Services in compliance with the terms and conditions of this Agreement; provided, however, that the Consultant shall be entitled to an extension of time equal to the length of the suspension, unless otherwise agreed to in writing by the Parties.

2.6 City's Right to Terminate for Convenience. The City may, at its sole option and for its convenience, terminate all or any portion of the Professional Services agreed to pursuant to this Agreement by giving written notice of such termination to the Consultant. Such notice shall be delivered by certified mail with return receipt for delivery to the City. The termination of the Professional Services shall be effective upon receipt of the notice by the Consultant. After termination of this Agreement, the Consultant shall complete any and all additional work necessary for the orderly filing of documents and closing of the Consultant's Professional Services under this Agreement. For services rendered in completing the work, the Consultant shall be entitled to fair and reasonable compensation for the Professional Services performed by the Consultant before the effective date of termination. After filing of documents and completion of performance, the Consultant shall deliver to the City all drawings, plans, calculations, specifications and other documents or records related to the Consultant's Professional Services on all Task(s). By accepting payment for completion, filing and delivering documents as called for in this paragraph, the Consultant discharges the City of all of the City's payment obligations and liabilities under this Agreement.

2.7 City's Right to Terminate for Default. If the Consultant fails to perform or adequately perform any obligation required by this Agreement, the Consultant's failure constitutes a Default. A Default includes the Consultant's failure to complete the Professional Services within the time for completion as set forth in the Task Order. If the Consultant fails to satisfactorily cure a Default within ten calendar days of receiving written notice from the City specifying the nature of the Default, the City may immediately cancel and/or terminate this Agreement, and terminate each and every right of the Consultant, and any person claiming any

rights by or through the Consultant under this Agreement. The rights and remedies of the City enumerated in this Section are cumulative and shall not limit, waive, or deny any of the City's rights under any other provision of this Agreement. Nor does this Section otherwise waive or deny any right or remedy, at law or in equity, existing as of the date of this Agreement or hereinafter enacted or established, that may be available to the City against the Consultant.

ARTICLE III

COMPENSATION

3.1 Amount of Compensation. The City shall pay the Consultant for performance of all Professional Services rendered in accordance with this Agreement, including all reasonably related expenses, in an amount not to exceed \$5,000,000.00. The City agrees to issue at least one or more Task Orders with a minimum aggregate value of \$1,000.00 to the Consultant.

3.2 Manner of Payment. The City shall pay the Consultant in accordance with the Compensation and Fee Schedule [Exhibit C]. For the duration of this Agreement, the Consultant shall not be entitled to fees, including fees for expenses, that exceed the amounts specified in the Compensation and Fee Schedule. The Consultant shall submit one invoice per calendar month per Task Order in a form acceptable to City in accordance with the Compensation and Fee Schedule. The Consultant shall include with each invoice a description of completed Professional Services, reasonably related expenses, if any, and all other information, including but not limited to: the progress percentage of the Scope of Services and/or deliverables completed prior to the invoice date, as required by the City. The City will pay undisputed portions of invoices within thirty calendar days of receipt.

3.3 Additional Costs. Additional Costs are those costs that can be reasonably determined to be related to the Consultant's errors or omissions, and may include Consultant, City, or Subcontractor overhead, construction, materials, demolition, and related costs. The Consultant shall not be paid for the Professional Services required due to the Consultant's errors or omissions, and the Consultant shall be responsible for any Additional Costs associated with such errors or omissions. These Additional Costs may be deducted from monies due, or that become due, the Consultant. Whether or not there are any monies due, or becoming due, the Consultant shall reimburse the City for Additional Costs due to the Consultant's errors or omissions.

3.4 Eighty Percent Notification. The Consultant shall promptly notify the City in writing of any potential cost overruns. Cost overruns include, but are not limited to the following: (1) where anticipated costs to be incurred in the next sixty calendar days, when added to all costs previously incurred, will exceed 80 percent of the maximum compensation for this Agreement or for any issued Task Order; or (2) where the total anticipated cost for performance of the Scope of Services may be greater than the maximum compensation for this Agreement or for any Task Order.

ARTICLE IV

CONSULTANT'S OBLIGATIONS

4.1 Industry Standards. The Consultant agrees that the Services rendered under this Agreement shall be performed in accordance with the standards customarily adhered to by an experienced and competent facility condition assessment firm using the degree of care and skill ordinarily exercised by reputable professionals practicing in the same field of service in the State of California. Where approval by the City, the Mayor or his designee, or other representatives of the City is required, it is understood to be general approval only and does not relieve the Consultant of responsibility for complying with all applicable laws, codes, and good consulting practices.

4.2 Right to Audit.

4.2.1 Access. The City retains the right to review and audit, and the reasonable right of access to Consultant's and any Subcontractor's premises to review and audit the Consultant's or Subcontractor's compliance with the provisions of this 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 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.

4.2.2 Audit. 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 the Consultant or Subcontractor is in compliance with all requirements under this Agreement.

4.2.2.1 Cost Audit. If there is a claim for additional compensation or for Additional Costs, 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.

4.2.2.1.1 Accounting Records. The Consultant and all Subcontractors shall maintain complete and accurate records in accordance with generally accepted accounting practices in the industry. The Consultant and Subcontractors shall make available to the City for review and audit all Service related accounting records and documents, and any other financial data. Upon the City's request, the Consultant and Subcontractors shall submit exact duplicates of originals of all requested records to the City.

4.2.3 City's Right Binding on Subcontractors. The Consultant shall include the City's Right as described in Section 4.2, in any and all of their subcontracts, and shall ensure that these sections are binding upon all Subcontractors.

4.2.4 Compliance Required before Mediation or Litigation. A condition precedent to proceeding with mandatory mediation and further litigation provided for in Article VII is the Consultant's and Subcontractors full compliance with the provisions of this Section 4.2 within sixty days of the date on which the City mailed a written request to review and audit compliance.

4.3 Insurance. The Consultant shall not begin the Services under this Agreement until it has: (a) obtained, and provided to the City, insurance certificates reflecting evidence of all insurance as set forth herein; however, the City reserves the right to request, and the Consultant shall submit, copies of any policy upon reasonable request by the City; (b) obtained City approval of each company or companies as described in Section 4.3.3; and (c) confirmed that all policies contain the specific provisions required in Section 4.3.4. Consultant's liabilities, including but not limited to Consultant's indemnity obligations, under this Agreement, shall not be deemed limited in any way to the insurance coverage required herein. Except as provided for under California law, all policies of insurance required hereunder must provide that the City is entitled to thirty (30) days prior written notice (10 days for cancellation due to non-payment of premium) of cancellation or non-renewal of the policy or policies. Maintenance of specified insurance coverage is a material element of this Agreement and Consultant's failure to maintain or renew coverage or to provide evidence of renewal during the term of this Agreement may be treated as a material breach of contract by the City.

Further, the Consultant shall not modify any policy or endorsement thereto which increases the City's exposure to loss for the duration of this Agreement.

4.3.1 Types of Insurance. At all times during the term of this Agreement, the Consultant shall maintain insurance coverage as follows:

4.3.1.1 Commercial General Liability. Commercial General Liability (CGL) Insurance written on an ISO Occurrence form CG 00 01 07 98 or an equivalent form providing coverage at least as broad which shall cover liability arising from any and all personal injury or property damage in the amount of \$1 million per occurrence and subject to an annual aggregate of \$2 million. There shall be no endorsement or modification of the CGL limiting the scope of coverage for either insured vs. insured claims or contractual liability. All defense costs shall be outside the limits of the policy.

4.3.1.2 Commercial Automobile Liability. For all of the Consultant's automobiles including owned, hired and non-owned automobiles, the Consultant shall keep in full force and effect, automobile insurance written on an ISO form CA 00 01 12 90 or a later version of this form or an equivalent form providing coverage at least as broad for bodily injury and property damage for a combined single limit of \$1 million per occurrence. Insurance certificate shall reflect coverage for any automobile (any auto).

4.3.1.3 Workers' Compensation. For all of the Consultant's employees who are subject to this Agreement and to the extent required by the applicable state or federal law, the Consultant shall keep in full force and effect, a Workers' Compensation policy. That policy shall provide a minimum of \$1 million of employers' liability coverage, and the Consultant shall provide an endorsement that the insurer waives the right of subrogation against the City and its respective elected officials, officers, employees, agents and representatives.

4.3.1.4 Professional Liability. For all of the Consultant's employees who are subject to this Agreement, the Consultant shall keep in full force and effect, Professional Liability coverage for professional liability with a limit of \$1 million per claim and \$2 million

annual aggregate. The Consultant shall ensure both that: (1) the policy retroactive date is on or before the date of commencement of the Scope of Services as described in issued Task Orders; and (2) the policy will be maintained in force for a period of three years after substantial completion of the Scope of Services as described in issued Task Orders or termination of this Agreement whichever occurs last. The Consultant agrees that for the time period defined above, there will be no changes or endorsements to the policy that increase the City's exposure to loss.

4.3.2 Deductibles. All deductibles on any policy shall be the responsibility of the Consultant and shall be disclosed to the City at the time the evidence of insurance is provided.

4.3.3 Acceptability of Insurers.

4.3.3.1 Except for the State Compensation Insurance Fund, all insurance required by this Contract or in the Special General Conditions shall only be carried by insurance companies with a rating of at least "A-, VI" by A.M. Best Company, that are authorized by the California Insurance Commissioner to do business in the State of California, and that have been approved by the City.

4.3.3.2 The City will accept insurance provided by non-admitted, "surplus lines" carriers only if the carrier is authorized to do business in the State of California and is included on the List of Approved Surplus Lines Insurers (LASLI list). All policies of insurance carried by non-admitted carriers are subject to all of the requirements for policies of insurance provided by admitted carriers described herein.

4.3.4 Required Endorsements

The following endorsements to the policies of insurance are required to be provided to the City before any work is initiated under this Agreement.

4.3.4.1 Commercial General Liability Insurance Endorsements

ADDITIONAL INSURED. To the fullest extent allowed by law including but not limited to California Insurance Code Section 11580.04, the policy or policies must be endorsed to include as an Additional Insured the City of San Diego and its respective elected officials, officers, employees, agents and representatives with respect to liability arising out of (a) ongoing operations performed by you or on your behalf, (b) your products, (c) your work, including but not limited to your completed operations performed by you or on your behalf, or (d) premises owned, leased, controlled or used by you.

PRIMARY AND NON-CONTRIBUTORY COVERAGE. The policy or policies must be endorsed to provide that the insurance afforded by the Commercial General Liability policy or policies is primary to any insurance or self-insurance of the City of San Diego and its elected officials, officers, employees, agents and representatives as respects operations of the Named Insured. Any insurance maintained by the City of San Diego and its elected officials, officers, employees, agents and representatives shall be in excess of Consultant's insurance and shall not contribute to it.

4.3.4.2 Automobile Liability Insurance Endorsements

ADDITIONAL INSURED. To the fullest extent allowed by law including but not limited to California Insurance Code Section 11580.04, the policy or policies must be endorsed to include as an Additional Insured the City of San Diego and its respective elected officials, officers, employees, agents and representatives with respect to liability arising out of automobiles owned, leased, hired or borrowed by or on behalf of the Consultant.

4.3.4.3 Worker's Compensation and Employer's Liability Insurance Endorsements

WAIVER OF SUBROGATION. The Worker's Compensation policy or policies must be endorsed to provide that the insurer will waive all rights of subrogation against the City and its respective elected officials, officers, employees, agents and representatives for losses paid under the terms of this policy or these policies which arise from work performed by the Named Insured for the City.

4.3.5 Reservation of Rights. The City reserves the right, from time to time, to review the Consultant's insurance coverage, limits, deductible, and self-insured retentions to determine if they are acceptable to the City. The City will reimburse the Consultant for the cost of the additional premium for any coverage requested by the City in excess of that required by this Agreement without overhead, profit, or any other markup.

4.3.6 Additional Insurance. The Consultant may obtain additional insurance not required by this Agreement.

4.3.7 Excess Insurance. All policies providing excess coverage to the City shall follow the form of the primary policy or policies including but not limited to all endorsements.

4.4 Subcontractors. The Consultant's hiring or retaining of any third parties [Subcontractors] to perform Services [Subcontractor Services] is subject to prior approval by the City. The Consultant shall list on the Subcontractor List [Exhibit D Attachment BB] all Subcontractors known to the Consultant at the time this Agreement is entered. If at any time after this Agreement is entered into the Consultant identifies a need for additional Subcontractor Services, the Consultant shall give written notice to the City of the need, at least forty-five days before entering into a contract for such Subcontractor Services. The Consultant's notice shall include a justification, a description of the Scope of Services, and an estimate of all costs for the Subcontractor Services. The Consultant may request that the City reduce the forty-five day notice period. The City agrees to consider such requests in good faith.

4.4.1 Subcontractor Contract. All contracts entered into between the Consultant and any Subcontractor shall contain the information as described in Sections 4.6 and 4.7 and shall also provide as follows:

4.4.1.1 The Consultant shall require the Subcontractor to obtain insurance policies, as described in Section 4.3.1, and those policies shall be kept in full force and effect during any and all work on this Project and for the duration of this Agreement. Furthermore, Subcontractor policy limits, and required endorsements shall be determined by the Consultant proportionate to the services performed by the Subcontractor.

4.4.1.2 The Consultant is obligated to pay the Subcontractor, for Consultant and City-approved invoice amounts, out of amounts paid by the City to the Consultant, not later than fourteen working days from the Consultant's receipt of payment from the City. Nothing in this paragraph shall be construed to impair the right of the Consultant and any Subcontractor to negotiate fair and reasonable pricing and payment provisions among themselves.

4.4.1.3 In the case of a deficiency in the performance of Subcontractor Services, the Consultant shall notify the City in writing of any withholding of payment to the Subcontractor, specifying: (a) the amount withheld; (b) the specific cause under the terms of the subcontract for withholding payment; (c) the connection between the cause for withholding payment and the amount withheld; and (d) the remedial action the Subcontractor must take in order to receive the amount withheld. Once the Subcontractor corrects the deficiency, the Consultant shall pay the Subcontractor the amount withheld within fourteen working days of the Consultant's receipt of the City's next payment.

4.4.1.4 In any dispute between the Consultant and Subcontractor, the City shall not be made a party to any judicial or administrative proceeding to resolve the dispute. The Consultant agrees to defend and indemnify the City as described in Article VI of this Agreement in any dispute between the Consultant and Subcontractor should the City be made a party to any judicial or administrative proceeding to resolve the dispute in violation of this position.

4.4.1.5 The Subcontractor is bound to the City's Equal Opportunity Contracting Program covenants set forth in Article IV, Section 4.6 and [Exhibit D] of this Agreement.

4.4.1.6 The City is an intended beneficiary of any work performed by the Subcontractor for purposes of establishing a duty of care between the Subcontractor and the City.

4.5 Contract Activity Report. The Consultant shall submit statistical information to the City as requested in the City's Contract Activity Report [Exhibit D Attachment CC]. The statistical information shall include the amount of subcontracting provided by firms during the period covered by the Contract Activity Report. With the Contract Activity Report, the Consultant shall provide an invoice from each Subcontractor listed in the report. The Consultant agrees to issue payment to each firm listed in the Report within fourteen working days of receiving payment from the City for Subcontractor Services as described in Section 4.4.1.

4.6 Non-Discrimination Requirements.

4.6.1 Compliance with the City's Equal Opportunity Contracting Program. The Consultant shall comply with the City's Equal Opportunity Contracting Program Consultant

Requirements [Exhibit D]. The Consultant shall not discriminate against any employee or applicant for employment on any basis prohibited by law. The Consultant shall provide equal opportunity in all employment practices. The Consultant shall ensure that its Subcontractors comply with the City's Equal Opportunity Contracting Program Consultant Requirements. Nothing in this Section shall be interpreted to hold the Consultant liable for any discriminatory practice of its Subcontractors.

4.6.2 Non-Discrimination Ordinance. The 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 Subcontractors, vendors or suppliers. The Consultant shall provide equal opportunity for Subcontractors to participate in subcontracting opportunities. The Consultant 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. This language shall be in contracts between the Consultant and any Subcontractors, vendors and suppliers.

4.6.3 Compliance Investigations. Upon the City's request, the Consultant agrees to provide to the City, within sixty calendar days, a truthful and complete list of the names of all Subcontractors, vendors, and suppliers that the Consultant has used in the past five years on any of its contracts that were undertaken within San Diego County, including the total dollar amount paid by the Consultant for each subcontract or supply contract. The Consultant further agrees to fully cooperate in any investigation conducted by the City pursuant to the City's Nondiscrimination in Contracting Ordinance [San Diego Municipal Code sections 22.3501-22.3517.] The 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 the Consultant up to and including contract termination, debarment, and other sanctions for violation of the provisions of the Nondiscrimination in Contracting Ordinance. The Consultant further understands and agrees that the procedures, remedies and sanctions provided for in the Nondiscrimination Ordinance apply only to violations of said Nondiscrimination Ordinance.

4.7 Drug-Free Workplace. The Consultant agrees to comply with the City's Drug-Free Workplace requirements set forth in Council Policy 100-17, adopted by San Diego Resolution R-277952 and incorporated into this Agreement by this reference. The Consultant shall certify to the City that it will provide a drug-free workplace by submitting a Consultant Certification for a Drug-Free Workplace form [Exhibit E].

4.7.1 Consultant's Notice to Employees. The Consultant shall 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.

4.7.2 Drug-Free Awareness Program. The Consultant shall establish a drug-free awareness program to inform employees about all of the following:

4.7.2.1 The dangers of drug abuse in the work place.

4.7.2.2 The policy of maintaining a drug-free work place.

4.7.2.3 Available drug counseling, rehabilitation, and employee assistance programs.

4.7.2.4 The penalties that may be imposed upon employees for drug abuse violations.

4.7.3 Posting the Statement. In addition to Section 4.7.1 above, the Consultant shall post the drug-free policy in a prominent place.

4.7.4 Subcontractor's Agreements. The Consultant further certifies that each contract for Subcontractor Services for this Agreement shall contain language that binds the Subcontractor to comply with the provisions of Article IV, Section 4.7 of this Agreement, as required by Sections 2.A.(1) through (3) of Council Policy 100-17. Consultants and Subcontractors shall be individually responsible for their own drug-free work place program.

4.8 Product Endorsement. The Consultant acknowledges and agrees to comply with the provisions of City of San Diego Administrative Regulation 95.65, concerning product endorsement. Any advertisement identifying or referring to the City as the user of a product or service requires the prior written approval of the City.

4.9 Conflict of Interest. The Consultant is 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 sections 1090, et. seq. and 81000, et. seq., and the City of San Diego Ethics Ordinance, codified in the San Diego Municipal Code at sections 27.3501 to 27.3595.

4.9.1 If, in performing the Services set forth in this Agreement, the Consultant 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 the City that would otherwise be performed by a City employee holding a position specified in the department's conflict of interest code, the Consultant shall be subject to a conflict of interest code requiring the completion of one or more statements of economic interests disclosing the Consultant's relevant financial interests. The determination as to whether any individual members of the Assessment Engineering Professional's organization must make disclosures of relevant financial interests is set forth in the Determination Form [Exhibit F].

4.9.1.1 Statements of economic interests shall be made on Fair Political Practices Commission Form 700 and filed with the City Clerk. The Consultant shall file a Form 700 (Assuming Office Statement) within thirty calendar days of the City's determination that the Consultant is subject to a conflict of interest code. The Consultant shall also file a Form 700 (Annual Statement) on or before April 1, disclosing any financial interests held during the previous calendar year for which the Consultant was subject to a conflict of interest code.

4.9.1.2 If the City requires the Consultant to file a statement of economic interests as a result of the Services performed, the Consultant shall be considered a "City Official" subject to the provisions of the City of San Diego Ethics Ordinance, including the prohibition against lobbying the City for one year following the termination of this Agreement.

4.9.2 The Consultant 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.

4.9.3 The Consultant's personnel employed for the Services shall not accept gratuities or any other favors from any Subcontractors or potential Subcontractors. The Consultant shall not recommend or specify any product, supplier, or contractor with whom the Consultant has a direct or indirect financial or organizational interest or relationship that would violate conflict of interest laws, regulations, or policies.

4.9.4 If the Consultant violates any conflict of interest law or any of the provisions in this Section 4.9, the violation shall be grounds for immediate termination of this Agreement. Further, the violation subjects the Consultant to liability to the City for attorney's fees and all damages sustained as a result of the violation.

4.10 Mandatory Assistance. If a third party dispute or litigation, or both, arises out of, or relates in any way to the Services provided under this Agreement, upon the City's request, the Consultant, its agents, officers, and employees agree to assist in resolving the dispute or litigation. The Consultant's assistance includes, but is not limited to, providing professional consultations, attending mediations, arbitrations, depositions, trials or any event related to the dispute resolution and/or litigation.

4.11 Compensation for Mandatory Assistance. The City will compensate the Consultant for fees incurred for providing Mandatory Assistance as Additional Costs under Section 3.3. If, however, the fees incurred for the Mandatory Assistance are determined, through resolution of the third party dispute or litigation, or both, to be attributable in whole, or in part, to the acts or omissions of the Consultant, its agents, officers, and employees, the Consultant shall reimburse the City. The City is then entitled to reimbursement of all fees paid to the Consultant, its agents, officers, and employees for Mandatory Assistance.

4.12 Attorney Fees related to Mandatory Assistance. In providing the City with dispute or litigation assistance, the Consultant or its agents, officers, and employees may incur expenses and/or costs. The Consultant agrees that any attorney fees it may incur as a result of assistance provided under Section 4.11 are not reimbursable. The Parties agree this provision does not in any way affect their rights to seek attorney fees under Article VIII, Section 8.8 of this Agreement.

4.13 ADA Certification. The Consultant hereby certifies (Exhibit K) that it agrees to comply with the City's Americans with Disabilities Act Compliance/City Contracts requirements set forth in Council Policy 100-04, adopted by San Diego Resolution R-282153 and incorporated into this Agreement by this reference.

4.14 Prevailing Wage Rates. Prevailing wage rates apply to this contract.

STATE REQUIREMENTS FOR CONTRACTS SUBJECT TO STATE PREVAILING WAGE REQUIREMENTS.

In accordance with the provisions of California Labor Code Sections 1770, et seq. as amended, the Director of the Department of Industrial Relations has determined the general prevailing rate of per diem wages in accordance with the standards set forth in such Sections for the locality in which the Work is to be performed. Copies of the prevailing rate of per diem wages may be found at http://www.dir.ca.gov/dlsr/statistics_research.html. The Consultant shall post a copy of the above determination of the prevailing rate of per diem wages at each job site and shall make them available to any interested party on request.

Pursuant to Sections 1720 et seq., and 1770 et seq., of the California Labor Code the Consultant and any Subcontractor shall pay not less than said specified rates determined by the Director of the California Department of Industrial Relations to all workmen employed by them in the execution of the Work. This includes Work performed during the design and preconstruction phases of construction, including, but not limited to, inspection and land surveying work.

The wage rates determined by the Director of Industrial Relations and published in the Department of Transportation publication entitled, "General Prevailing Wage Rates", refer to expiration dates. If the published wage rate does not refer to a predetermined wage rate to be paid after the expiration date, said published rate of wage shall be in effect for the life of this contract. If the published wage rate refers to a predetermined wage rate to become effective upon expiration of the published wage rate and the predetermined wage rate is on file with the Department of Industrial Relations, such predetermined wage rate shall become effective on the date following the expiration date and shall apply to this contract in the same manner as if it had been published in said publication. If the predetermined wage rate refers to one or more additional expiration dates with additional predetermined wage rates, which expiration dates occur during the life of this contract, each successive predetermined wage rate shall apply to this contract on the date following the expiration date of the previous wage rate. If the last of such predetermined wage rates expires during the life of this contract, such wage rate shall apply to the balance of the contract.

The successful Consultant intending to use a craft or classification not shown on the prevailing rate determinations may be required to pay the rate of the craft or classification most closely related to it.

ARTICLE V

RESERVED

ARTICLE VI

INDEMNIFICATION

6.1 Indemnification and Hold Harmless Agreement. With respect to any liability, including but not limited to claims asserted or costs, losses, attorney fees, or payments for injury to any person or property caused or claimed to be caused by the acts or omissions of the

Consultant, or Consultant's employees, agents, and officers, arising out of any services performed under this Agreement, the Consultant agrees to defend, indemnify, protect, and hold harmless the City, its agents, officers, and employees from and against all liability. Also covered is liability arising from, connected with, caused by, or claimed to be caused by the passive negligent acts or omissions of the City, its agents, officers, or employees which may be in combination with the active or passive negligent acts or omissions of the Consultant, its employees, agents or officers, or any third party. The Consultant's duty to defend, indemnify, protect and hold harmless shall not include any claims or liabilities arising from the active or sole negligence or sole willful misconduct of the City, its agents, officers or employees.

ARTICLE VII

MEDIATION

7.1 Mandatory Non-binding Mediation. With the exception of Sections 2.5-2.7 of this Agreement, if a dispute arises out of, or relates to this Agreement, or the breach thereof, and if said dispute cannot be settled through normal contract negotiations, prior to the initiation of any litigation, the Parties agree to attempt to settle the dispute in an amicable manner, using mandatory mediation under the Construction Industry Mediation Rules of the American Arbitration Association [AAA] or any other neutral organization agreed upon before having recourse in a court of law.

7.2 Mandatory Mediation Costs. The expenses of witnesses for either side shall be paid by the Party producing such witnesses. All other expenses of the mediation, including required traveling and other expenses of the mediator [Mediator], and the cost of any proofs or expert advice produced at the direct request of the Mediator, shall be borne equally by the Parties, unless they agree otherwise.

7.3 Selection of Mediator. A single Mediator that is acceptable to both Parties shall be used to mediate the dispute. The Mediator will be knowledgeable in construction aspects and may be selected from lists furnished by the AAA or any other agreed upon Mediator. To initiate mediation, the initiating Party shall serve a Request for Mediation on the opposing Party. If the Mediator is selected from a list provided by AAA, the initiating Party shall concurrently file with AAA a "Request for Mediation" along with the appropriate fees, a list of three requested Mediators marked in preference order, and a preference for available dates.

7.3.1 If AAA is selected to coordinate the mediation [Administrator], within ten working days from the receipt of the initiating Party's Request for Mediation, the opposing Party shall file the following: a list of preferred Mediators listed in preference order after striking any Mediators to which they have any factual objection, and a preference for available dates. If the opposing Party strikes all of initiating Party's preferred Mediators, opposing Party shall submit a list of three preferred Mediators listed in preference order to initiating Party and Administrator. Initiating Party shall file a list of preferred Mediators listed in preference order, after striking any Mediator to which they have any factual objection. This process shall continue until both sides have agreed upon a Mediator.

7.3.2 The Administrator will appoint or the Parties shall agree upon the highest, mutually preferred Mediator from the individual Parties' lists who is available to serve within the designated time frame.

7.3.3 If the Parties agree not to use AAA, then a Mediator, date and place for the mediation shall be mutually agreed upon.

7.4 **Conduct of Mediation Sessions.** Mediation hearings will be conducted in an informal manner and discovery will not be allowed. All discussions, statements, or admissions will be confidential to the Party's legal position. The Parties may agree to exchange any information they deem necessary.

7.4.1 Both Parties must have an authorized representative attend the mediation. Each representative must have the authority to recommend entering into a settlement. Either Party may have attorney(s) or expert(s) present. Upon reasonable demand, either Party may request and receive a list of witnesses and notification whether attorney(s) will be present.

7.4.2 Any agreements resulting from mediation shall be documented in writing. All mediation results and documentation, by themselves, shall be "non-binding" and inadmissible for any purpose in any legal proceeding, unless such admission is otherwise agreed upon, in writing, by both Parties. Mediators shall not be subject to any subpoena or liability and their actions shall not be subject to discovery.

ARTICLE VIII

INTELLECTUAL PROPERTY RIGHTS

8.1 **Work For Hire.** All original designs, plans, specifications, reports, documentation, and other informational materials, whether written or readable by machine, originated or prepared exclusively for the City pursuant to this Agreement (Deliverable Materials) is "work for hire" under the United States Copyright law and shall become the sole property of the City. The Contractor, including its employees, and independent Subcontractor(s), shall not assert any common law or statutory patent, copyright, trademark, or any other intellectual proprietary right to the City to the deliverable Materials.

8.2 **Rights in Data.** All rights (including, but not limited to publication(s), registration of copyright(s), and trademark(s) in the Deliverable Materials, developed by the Contractor, including its employees, agents, talent and independent Subcontractors pursuant to this Agreement are the sole property of the City. The Consultant, including its employees, agents, talent, and independent Subcontractor(s), may not use any such Product mentioned in this article for purposes unrelated to Consultant's work on behalf of the City without prior written consent of the City.

8.3 **Intellectual Property Rights Assignment.** Consultant, its employees, agents, talent, and independent Subcontractor(s) agree to promptly execute and deliver, upon request by City or any of its successors or assigns at any time and without further compensation of any kind, any power of attorney, assignment, application for copyright, patent, trademark or other

intellectual property right protection, or other papers or instruments which may be necessary or desirable to fully secure, perfect or otherwise protect to or for the City, its successors and assigns, all right, title and interest in and to the content of the Deliverable Materials; and cooperate and assist in the prosecution of any action or opposition proceeding involving said rights and any adjudication of the same.

8.4 Moral Rights. Consultant, its employees, agents, talent, and independent Subcontractor(s) hereby irrevocably and forever waives, and agrees never to assert, any Moral Rights in or to the Deliverable Materials which Consultant, its employees, agents, talent, and independent Subcontractor(s), may now have or which may accrue to Consultant, its employees, agents, talent, and independent Subcontractor(s)' benefit under U.S. or foreign copyright laws and any and all other residual rights and benefits which arise under any other applicable law now in force or hereafter enacted. The term "Moral Rights" shall mean any and all rights of paternity or integrity in or to the Deliverable Materials and the right to object to any modification, translation or use of said content, and any similar rights existing under judicial or statutory law of any country in the world or under any treaty, regardless of whether or not such right is denominated or referred to as a moral right.

8.5 Subcontracting. In the event that Consultant utilizes a Subcontractor(s) for any portion of the Work that is in whole or in part of the specified Deliverable(s) to the City, the agreement between Consultant and the Subcontractor [Subcontractor Agreement] shall include a statement that identifies that the Deliverable/Work product as a "work-for hire" as defined in the Act and that all intellectual property rights in the Deliverable/Work product, whether arising in copyright, trademark, service mark or other belongs to and shall vest solely with the City. Further, the Subcontractor Agreement shall require that the Subcontractor, if necessary, shall grant, transfer, sell and assign, free of charge, exclusively to the City, all titles, rights and interests in and to said Work/Deliverable, including all copyrights and other intellectual property rights. City shall have the right to review any Subcontractor agreement for compliance with this provision.

8.6 Publication. Consultant may not publish or reproduce any Deliverable Materials, for purposes unrelated to Consultant's work on behalf of the City without prior written consent of the City.

8.7 Intellectual Property Warranty and Indemnification. Consultant represents and warrants that any materials or deliverables, including all Deliverable Materials, provided under this contract are either original, not encumbered and do not infringe upon the copyright, trademark, patent or other intellectual property rights of any third party, or are in the public domain. If Deliverable Materials provided hereunder become the subject of a claim, suit or allegation of copyright, trademark or patent infringement, City shall have the right, in its sole discretion, to require Consultant to produce, at Consultant's own expense, new non-infringing materials, deliverables or Works as a means of remedying any claim of infringement in addition to any other remedy available to the City under law or equity. Consultant further agrees to indemnify and hold harmless the City, its officers, employees and agents from and against any and all claims, actions, costs, judgments or damages of any type alleging or threatening that any materials, deliverables, supplies, equipment, services or Works provided under this contract infringe the copyright, trademark, patent or other intellectual property or proprietary rights of

any third party (Third Party Claims of Infringement). If a Third Party Claim of Infringement is threatened or made before Consultant receives payment under this contract, City shall be entitled, upon written notice to Consultant, to withhold some or all of such payment.

8.8 Enforcement Costs. The Consultant agrees to pay any and all costs the City incurs enforcing the indemnity and defense provisions set forth in Article 8, including but not limited to, attorney's fees.

ARTICLE IX

MISCELLANEOUS

9.1 Notices. In all cases where written notice is required under this Agreement, service shall be deemed sufficient if the notice is deposited in the United States mail, postage paid. Proper notice shall be effective on the date it is mailed, unless provided otherwise in this Agreement. For the purpose of this Agreement, unless otherwise agreed in writing, notice to the City shall be addressed to: Public Works Department, c/o Leigh Ann Sutton, MS 612, 1010 2nd Avenue, San Diego, CA 92101, and notice to the Consultant shall be addressed to: Kitchell CEM, Inc., 853 Camino Del Mar, Suite 200, San Diego, CA 92014.

9.2 Headings. All article headings are for convenience only and shall not affect the interpretation of this Agreement.

9.3 Non-Assignment. The Consultant shall not assign the obligations under this Agreement, whether by express assignment or by sale of the company, nor any monies due or to become due, without the City's prior written approval. Any assignment in violation of this paragraph shall constitute a Default and is grounds for immediate termination of this Agreement, at the sole discretion of the City. In no event shall any putative assignment create a contractual relationship between the City and any putative assignee.

9.4 Independent Contractors. The Consultant and any Subcontractors employed by the Consultant shall be independent contractors and not agents of the City. Any provisions of this Agreement that may appear to give the City any right to direct the Consultant concerning the details of performing the Services, or to exercise any control over such performance, shall mean only that the Consultant shall follow the direction of the City concerning the end results of the performance.

9.5 Consultant and Subcontractor Principals for Consultant Services. It is understood that this Agreement is for unique Professional Services. Retention of the Consultant's Professional Services is based on the particular professional expertise of the following members of the Consultant's organization: Wendy Cohen, Gordon Rogers, Heather Brown, and the Kitchell technical and condition assessment staff [Project Team]. Accordingly, performance of Professional Services on the Project may not be delegated to other members of the Consultant's organization or to Subcontractors without the prior written consent of the City. It is mutually agreed that the members of the Project Team are the principal persons responsible for delivery of all Professional Services and may not be removed from the Project without the City's prior

written approval. Removal of any member of the Project Team without notice and approval by the City may be considered a default of the terms and conditions of this Agreement by the Consultant. In the event any member of the Project Team becomes unavailable for any reason, the City must be consulted as to any replacement. If the City does not approve of a proposed replacement, the City may terminate this Agreement pursuant to section 2.6 of this Agreement. Further, the City reserves the right, after consultation with the Consultant, to require any of the Consultant's employees or agents to be removed from the Project.

9.6 Covenants and Conditions. All provisions of this Agreement expressed as either covenants or conditions on the part of the City or the Consultant shall be deemed to be both covenants and conditions.

9.7 Compliance with Controlling Law. The Consultant shall comply with all laws, ordinances, regulations, and policies of the federal, state, and local governments applicable to this Agreement. In addition, the Consultant shall comply immediately with all directives issued by the City or its authorized representatives under authority of any laws, statutes, ordinances, rules, or regulations. The laws of the State of California shall govern and control the terms and conditions of this Agreement.

9.8 Jurisdiction. The jurisdiction and applicable laws for any suit or proceeding concerning this Agreement, the interpretation or application of any of its terms, or any related disputes shall be in accordance with the laws of the State of California. The prevailing Party in any such suit or proceeding shall be entitled to a reasonable award of attorney fees in addition to any other award made in such suit or proceeding.

9.9 Successors in Interest. This Agreement and all rights and obligations created by this Agreement shall be in force and effect whether or not any Parties to the Agreement have been succeeded by another entity, and all rights and obligations created by this Agreement shall be vested and binding on any Party's successor in interest.

9.10 Integration. This Agreement and the Exhibits and references incorporated into this Agreement fully express all understandings of the Parties concerning the matters covered in this Agreement. No change, alteration, amendment, or modification of the terms or conditions of this Agreement, and no verbal understanding of the Parties, their officers, agents, or employees shall be valid unless made in the form of a written change agreed to in writing by both Parties. All prior negotiations and agreements are merged into this Agreement.

9.11 Counterparts. This Agreement may be executed in counterparts, which when taken together shall constitute a single signed original as though all Parties had executed the same page.

9.12 No Waiver. No failure of either the City or the Consultant to insist upon the strict performance by the other of any covenant, term or condition of this Agreement, nor any failure to exercise any right or remedy consequent upon a breach of any covenant, term, or condition of this Agreement, shall constitute a waiver of any such breach of such covenant, term or condition. No waiver of any breach shall affect or alter this Agreement, and each and every covenant,

condition, and term hereof shall continue in full force and effect without respect to any existing or subsequent breach.

9.13 Severability. The unenforceability, invalidity, or illegality of any provision of this Agreement shall not render any other provision of this Agreement unenforceable, invalid, or illegal.

9.14 Additional Consultants or Contractors. The City reserves the right to employ, at its own expense, such additional Consultants or contractors as the City deems necessary to perform work or to provide the Professional Services in the Scope of Services as described in issued Task Orders.

9.15 Employment of City Staff. This Agreement may be unilaterally and immediately terminated by the City, at its sole discretion, if the Consultant employs an individual who, within the last twelve months immediately preceding such employment did, in the individual's capacity as an officer or employee of the City, participate in, negotiate with, or otherwise have an influence on the recommendation made to the City Council or Mayor in connection with the selection of the Consultant.

9.16 Municipal Powers. Nothing contained in this Agreement shall be construed as a limitation upon the powers of the City as a chartered city of the State of California.

9.17 Drafting Ambiguities. 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 Agreement, and the decision of whether or not to seek advice of counsel with respect to this Agreement is a decision which is the sole responsibility of each Party. This Agreement shall not be construed in favor of or against either Party by reason of the extent to which each Party participated in the drafting of the Agreement.

9.18 Signing Authority. The representative for each Party signing on behalf of a corporation, partnership, joint venture or governmental entity hereby declares that authority has been obtained to sign on behalf of the corporation, partnership, joint venture, or entity and agrees to hold the other Party or Parties hereto harmless if it is later determined that such authority does not exist.

9.19 Conflicts Between Terms. If an apparent conflict or inconsistency exists between the main body of this Agreement and the Exhibits, the main body of this Agreement shall control. If a conflict exists between an applicable federal, state, or local law, rule, regulation, order, or code and this Agreement, the law, rule, regulation, order, or code shall control. Varying degrees of stringency among the main body of this Agreement, the Exhibits, and laws, rules, regulations, orders, or codes are not deemed conflicts, and the most stringent requirement shall control. Each Party shall notify the other immediately upon the identification of any apparent conflict or inconsistency concerning this Agreement.

9.20 Consultant Evaluation. City will evaluate Consultant's performance of Services using the Consultant Evaluation Form [Exhibit G].

9.21 Exhibits Incorporated. All Exhibits referenced in this Agreement are incorporated into the Agreement by this reference.

9.22 Survival of Obligations. All representations, indemnifications, warranties and guarantees made in, required by or given in accordance with this Agreement, as well as all continuing obligations indicated in this Agreement, shall survive, completion and acceptance of the Professional Services and termination or completion of the Agreement.

9.23 Contractor Standards. This Agreement is subject to the Contractor Standards clause of the Municipal Code Chapter 2, Article 2, Division 32 adopted by Ordinance No. O-19383. All consultants are required to complete the Contractor Standards Pledge of Compliance included herein as [Exhibit H]. The Contractor Standards are available online at www.sandiego.gov/purchasing/vendor/index.shtml or by request from the Purchasing & Contracting Department by calling (619) 236-6000.

9.24 Equal Benefits Ordinance. This Agreement is subject to the Equal Benefits Ordinance [EBO]. All consultants are required to complete the Equal Benefits Ordinance Certification of Compliance included herein as Exhibit I. Effective January 1, 2011, any contract awarded from this solicitation is subject to the City of San Diego's Equal Benefits Ordinance [EBO], Chapter 2, Article 2, Division 43 of the San Diego Municipal Code [SDMC].

In accordance with the EBO, contractors must certify they will provide and maintain equal benefits as defined in SDMC §22.4302 for the duration of the contract [SDMC §22.4304(f)]. Failure to maintain equal benefits is a material breach of the contract [SDMC §22.4304(e)]. Contractors must notify 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 the City of San Diego, this employer will provide equal benefits to its employees with spouses and its employees with domestic partners.

Contractors also must give the City access to documents and records sufficient for the City to verify the contractors are 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.

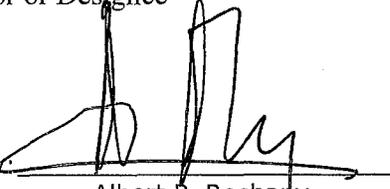
9.25 Public Records. This contract is a public document subject to the California Public Records Act, and as such may be subject to public review per Exhibit J (Regarding Information Requested under the California Public Records Act)..

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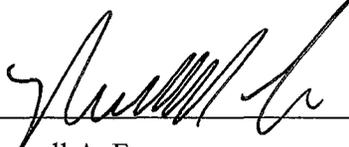
IN WITNESS WHEREOF, this Agreement is executed by the City of San Diego, acting by and through its Mayor, pursuant to R- 308581, authorizing such execution, and by the Consultant pursuant to Kitchell CEM, Inc. Corporate Resolution.

Dated this 12th day of May, 2014

THE CITY OF SAN DIEGO
Mayor or Designee

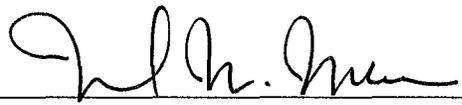
By: 
Albert P. Rechany
Program Manager
Public Works Contracting Group

I HEREBY CERTIFY I can legally bind Kitchell CEM, Inc. and that I have read all of this Agreement, this 25th day of April, 2014.

By: 
Russell A. Fox
President

I HEREBY APPROVE the form and legality of the foregoing Agreement this 14th day of May, 2014.

JAN I. GOLDSMITH, City Attorney

By: 
Deputy City Attorney

 308581

CONSULTANT AS NEEDED AGREEMENT EXHIBITS

- Exhibit A - Scope of Services
- Exhibit B - Task Order Authorization
- Exhibit C - Compensation and Fee Schedule
- Exhibit D - City's Equal Opportunity Contracting Program Consultant Requirements
 - (AA) Work Force Report
 - (BB) Subcontractors List
 - (CC) Contract Activity Report
 - (DD) Consultant Past Participation List
- Exhibit E - Consultant Certification for a Drug-Free Workplace
- Exhibit F - Determination Form
- Exhibit G - Consultant Evaluation Form
- Exhibit H - Contractor Standards Pledge of Compliance
- Exhibit I - Equal Benefits Ordinance Certification of Compliance
- Exhibit J - Regarding Information Requested under the California Public Records Act
- Exhibit K - Americans with Disabilities Act (ADA) Compliance Certification

SCOPE OF SERVICES

AS-NEEDED FACILITY CONDITION ASSESSMENT FY 2014-2018 (H146145)

TABLE OF CONTENTS

- I. Introduction
- II. Facility Condition Assessment Guidelines
- III. Major Components for Facility Condition Assessment
- IV. Facility Condition Assessment Database
- V. Analysis of Facility Condition Information
- VI. Facility Condition Information System (FCIS)

SECTION I

1.0 Introduction. This scope of services includes a facility condition assessment of the City of San Diego's assets focusing on Park & Recreation assets which includes but is not limited to developed park land and improvements, playgrounds, parking lots, play courts, walkways, trails, athletic fields, turf, irrigations systems, security systems, lighting controls, athletic field lighting and controls, aquatic complexes, storm water infrastructure, landscaping, and other facilities or infrastructure.

1.1 Summary of Services. The services shall include a comprehensive inventory and assessment of infrastructure, facilities and their major components to identify deferred maintenance, capital renewal and capital replacement costs; to develop a comprehensive asset management plan; and to develop current and future maintenance and capital budgets for the next 20 years. The condition assessment shall include a calculation of the condition of the facilities, infrastructure, and major components using the FCI system. A Microsoft Access database shall be created which includes the estimated costs for capital and maintenance items calculated using R.S. Means Construction Cost data and applicable soft costs. Comprehensive reports shall be prepared that include the condition of the entire system and each facility and its major components, a summary of the required maintenance and capital expenditures at each facility, a 5-year and 20-year budget of the maintenance requirements and costs that can be adjusted for inflation. The services shall also include updating of data from previously assessed facilities, ADA assessment, Equipment assessment, and integration of data into the City's asset management system.

1.2 Facility Access. The consultant shall coordinate with the Park & Recreation Department to schedule condition assessments.

1.3 Facility Records. City staff will provide access to electronic as-built plans where available. City staff will provide maintenance records, capital records and other records as requested by the consultant.

1.4 Information Sharing. City staff will set up a VPM (virtual project management) site for sharing of information and documents. The City and consultants shall use VPM for sharing all project information and communications.

1.5 Deliverables.

1.5.1 Facility Condition Assessment Reports. The facility condition assessment reports shall include an overall condition of the facilities, infrastructure, and equipment, a summary of the maintenance and capital costs for 20 years, and electronic digital photographs of the facilities and their deficiencies. Additionally, the report should summarize the deferred maintenance, capital replacement and capital renewal requirements for each facility for the next 20 years. The report shall also include a 5-year incremental and 20-year forecast of the maintenance requirements and costs that can be adjusted for inflation. The consultant shall also prepare a 5-year and 20-year capital and maintenance project plan based on funding levels to maintain the current condition (FCI) of the system and to improve the condition of the system based on Funding Projections Models.

1.5.2 QA/QC Program. The consultant will provide detailed processes, through which they intend to manage the scope, assess the data, integrate the data, communicate the information, make recommendations, and provide the City of San Diego the ability to manage its park and recreation assets. Provide a submittal detailing the consultant's QA/QC program that will assure that data is collected in a consistent and accurate manner. The QA/QC program shall analyze the process while the condition assessment is taking place and make any changes that are necessary at the earliest possible time so as to avoid faulty data and rework.

1.5.3 Schedules. Submit a Bar chart schedule monthly for contract level activities showing all major milestones and deliverables of the project such as planning, database updates, task order delivery, and other deliverables. The consultant will provide a schedule one month in advance identifying the facilities that the consultant proposes to visit the following month and indicating milestones and deliverables of the project with start and completion dates. The consultant shall also provide a schedule one week in advance indicating the dates and times that they will be visiting each facility the following week.

1.5.4 Database. The consultant shall provide the City of San Diego data and information in a Microsoft Access database format with report generation capability. The consultant shall provide training in the data fields, how to use the data, and how to update the database. The services shall also include up to 5 custom queries/reports. The consultant may also be required to assist with data integration into the City's new SAP Asset Management System.

1.5.5 Cost Estimates. For each identified deferred maintenance repair, capital renewal project, and capital replacement project, a means of correcting the condition shall be identified and a cost estimate developed. The cost estimates shall be derived from R.S. Means construction cost data and soft cost data that is developed using information provided by City staff. The cost estimates shall be incorporated into the database. The consultant shall provide backup detail for the cost estimates when requested. The consultant shall train City staff on how to update the costs in the database from year to year.

1.5.6 Records. The consultant shall supply copies of all records generated or collected to provide the services of this contract. Records may include raw assessment data, photographs, field notes, maintenance records or history, etc.

1.6 Training. The consultant shall train up to twelve (12) City of San Diego employees on how to conduct condition assessments and how to interpret, use, and update the database

SECTION II

2.0 Facility Condition Assessment Guidelines. The primary goal of the facility condition assessments will be to identify all deferred maintenance, capital renewal and capital replacement requirements at all of the general fund facilities. The following guidelines will be followed by the consultant: The assessment staff and team(s) will provide and utilize the appropriate hand tools in order to determine the condition of the components/systems. The assessment team(s) will also need to provide any other equipment necessary to perform the evaluations such as ladders, lifts, etc. City staff will provide access per the consultant's schedule on a timely basis and will open any doors and remove any ceiling tiles.

2.1 Level of detail. The facility condition assessments will be performed at the component-level and system-level. The assessment team(s) will evaluate and document each asset to determine whether there is sufficient evidence to warrant complete replacement of the system, or if repairing only portions of the system is preferable. For example, an assessment may indicate the need to replace the entire roof of a facility, instead of repairing various sections. The final report will contain a description and discussion of each asset inventoried, with or without deficiencies, and provide a summary as to the overall condition of the asset with recommendations.

2.2 Contaminated Areas. The facility condition assessments will include entering accessible crawl spaces and attic spaces. Crawl spaces and attic spaces which have suspected environmental hazards will not be entered until the type of contamination has been identified under a separate contract. Information regarding areas of known contamination will be provided to the consultant as it becomes available. The consultant and the City will work together to make sure that assets can be properly assessed in a safe manner.

2.3 Urgent Repairs. Should the consultant discover any disrepair or issues that are considered urgent (endangering life and/or property, etc.), the consultant will immediately bring these to the attention of the City and detail these items in the database and on the assessment reports.

2.4 Special Inspections. If the visual assessment of a component indicates the need for an in-depth study, analysis, or specialized inspection, the consultant shall prepare cost estimates of the recommended specialized inspections and include the cost estimates for special inspections in the database and in the reports. The consultant shall also document the special inspection issues with photographs.

2.5 Plant Equipment. Should the need arise for the assessment of Plant Property (equipment) or specialty equipment, the City will provide a Task Order Scope of Work and request a proposal from the consultant based on the consultant's negotiated hourly rate sheet. In general, Plant Property refers to equipment that is not an integral part of a building or structure, such as testing equipment, shop/production equipment, office equipment and furniture.

SECTION III

3.0 Major Systems. The primary goal of the facility condition assessments is to identify all deferred maintenance, capital replacement and capital renewal requirements for the next 20 years. In addition to identifying maintenance and capital requirements per facility, the condition assessment reports will identify maintenance and capital requirements by major system. This will allow the asset managers to formulate maintenance and capital programs and to establish the appropriate staffing and contract levels for various types of assets (mechanical, electrical, building, etc.).

The consultant will be responsible for collecting condition assessment data at the system and component level for all of the primary structures and services systems indicated below:

| Primary Structure | Service System |
|--|--|
| Building Foundation System | Building - Heating Systems |
| Building Columns/Exterior Walls | Building - Cooling Systems |
| Building Roof/Flashing Systems | Building - Ventilating Systems |
| Building Glazing and Weather Seals | Building - Electrical (service & distribution) |
| Building Plumbing (interior/exterior)* | Building - Electrical (lighting & power) |
| Building/Park – Parking Lots | Building - Control Systems |
| Building/Park – Parking Lot Lighting | Building - Fire Suppression Systems |
| Building/Park - Hardscape | Building - Fire/Smoke Detection and Alarms |
| Building/Park - Walkways | Building - Conveying Systems |
| Park - Playgrounds | Building - Facility Equipment upon request** |
| Park - Play Courts | Other Service Systems** |
| Park - Trails ** | Security Systems** |
| Park - Athletic fields and Turf** | Irrigation Systems ** |
| Park - Aquatic Complex** | Lighting Controls** |
| Accessibility (ADA) infrastructure** | Athletic Field Lighting & Controls ** |
| | Swimming Pool Mechanical Systems** |

*Building plumbing shall be defined as water, sewer, and gas service lines from property line to the building and throughout the building. The Contractor shall assess the exterior plumbing from property line to the building and all internal plumbing.

**These are considered enhanced or add-on services that are not included in the base park assessment rate but are available as add-on services as requested on a Task Order basis.

SECTION IV

4.0 Facility Condition Assessment Database. Using the data collected during the facility condition assessment, the consultant will provide a database of all deferred maintenance, capital renewal, and capital replacement costs for the next 20 years. The consultant will identify and categorize all conditions and deficiency with as much information as can be effectively associated with each detailed item. All conditions and deficiencies will be categorized by facility, council district, community area, priority year, deficiency type, work type, and system code. The following guidelines will be followed by the consultant:

4.1 Data Hierarchy. The database will provide the ability to maintain condition assessment information on assets such as major equipment (component assets) within the facilities (parent assets). The information will be used to assess the condition of classes of component assets as well as entire facilities, community areas, and council districts.

4.2 Data Cells. The condition assessment database will contain the following components:

4.2.1 Facility Identification. Include name and location information as provided by the City of San Diego, asset description:

4.2.2 Asset Description. Include a detailed description of each facility, including a summary of the major deficiencies classified by inspection type.

4.2.3 Photograph. Include internet link to digital photographs of each facility and each major deficiency. Data will be maintained by the City on VPM, Sharepoint, and the GIS system. Links will be provided for Sharepoint and the GIS system when available.

4.2.4 Component Detail. A summary of the maintenance, renewal and replacement costs for each component within the facilities including the year installed, useful life and renewal year. The costs shall include a breakdown of line items, quantities, units of measure, and unit costs for each item. The breakdown should also include labor hours, labor rates using State of California/San Diego area prevailing wages, and a description of the work if not intuitive.

4.2.5 As-Builts. Include internet link to As-Built plans. Consultant will be provided access to as-builts through xdoc or through an external hard drive or flash drive. Not all facilities have as-built plans on file with the City. Include Maps & Records drawings numbers in the database.

SECTION V

5.0 Analysis & Presentation of Facility Condition Assessment Information. The consultant will evaluate the information generated from the condition assessment data to determine trends and comparisons. The information will include incorporation of data from outside sources (such as special studies or other assessments) if so directed. The consultant will apply soft costs to the information generated from the condition assessment based on the client's current processes and methodology.

5.1 Expanded Evaluation and Analysis. The consultant will provide an expanded evaluation and analysis for the following areas:

5.1.1 Work Type. Maintenance and capital costs summarized by work type across all facilities.

5.1.2 Building System. Maintenance and capital costs summarized by building system across all facilities.

5.1.3 Facility costs. Multi-year annual cost total for each facility.

5.1.4 Comparisons. City-wide and facility comparisons of costs, conditions, and average cost per unit of measure with government or industry standards.

5.1.5 Project Prioritization. Prioritized ranking of maintenance and capital projects within the various Funding Projections Models.

5.2 Projections & Analysis. The consultant will provide the following projections and analyses:

5.2.1 Facility Condition Index. The consultant's analysis will include the calculation of the facility condition index (FCI) for each building in the client's portfolio. An FCI will provide a simple measure of the relative condition of a facility. The FCI is the ratio of the deferred maintenance to the current replacement value. Typically, costs for component renewal or capital improvement items are not included in the FCI. The work types included within the FCI shall be client definable. This index will provide a simple, valid, and quantifiable indication of the relative condition of a facility or group of facilities for comparisons with other facilities or groups of facilities.

$$FCI = \frac{\text{deferred maintenance}}{\text{Replacement Value}}$$

5.2.2 Funding Projections Models. The consultant will analyze the deferred capital and deferred maintenance along with the FCI for various components and buildings and propose funding levels to maintain the current condition (FCI) and to improve the current condition of the system. In order to have a solid understanding of the impact of a particular funding level on the overall facility conditions, a Funding Projection Model will be used to project the level of deferred maintenance and capital renewal that will result from an assumed funding level. The Funding Projection Model will predict annual funding levels required to obtain a desired condition (FCI) of the system, facilities, and components.

5.2.3 Life Cycle Analysis. The consultant will utilize life cycle analysis to develop component renewal costs, a 5-year incremental and 20-year forecast of the maintenance and capital costs. The costs should be adjusted for inflation using industry-accepted escalators. A facility's useful life is limited by the durability of its systems, and generally does not fail as a whole but as individual components or systems. Building components will be evaluated based on their individual life cycles determined by an evaluation of the age and condition. The renewal cost for the components will be calculated, adjusted for inflation, and identified by renewal year. The consultant will report the life cycle costs at the component and building level. A grand total of the deferred maintenance, capital renewal and capital replacement for each year and for each facility shall be incorporated into the spreadsheet and the reports. A condition assessment is valuable only if: (1) the data accurately reflects the funding needs for each facility, and (2) the information system provides a tool for all levels of an organization to develop and execute a strategic plan. With this in mind, the consultant will present the findings through the report, with

facility-specific and system-specific graphs and charts. The charts and graphs will provide a visual representation of the condition assessment data in order to assist in understanding the scope of the funding needs and the condition.

SECTION VI

6.0 Facility Condition Information System (FCIS). The consultant shall provide the City with a Microsoft Access database for all of the information required in this scope of services and training in how to update information from year to year. The consultant shall also assist with training in how to interpret, use and manipulate the data for various clients. The City may request a specialized asset management program at a later date.

6.1 iMaint Integration. The City currently uses DPSI iMaint Version 3.5.59 multi-user database system. It provides a management tool capable of projecting maintenance and capital budgets for assets using data from visual assessments or other studies. The information system is a fully integrated software package, not merely a database and its associated management software. It is a completely self-contained application, so the client does not need database administration support. It contains its own flexible report generator that does not require purchase of a third party report writer. All data collected must be compatible with this existing system or be structured (fields aligned) such that the data can be incorporated into this system. Integration of data into iMaint may be requested by task order.

6.2 SAP Integration. The City will be migrating to SAP for Asset Management in the future. Preparing data for uploading onto SAP or data integration into SAP may be requested by task order.

6.3 Report Generation. The Microsoft Access database shall incorporate custom reports/queries as requested by Task Order. The consultant shall provide the capability of generating two report formats: standard reports and graphic reports. Each report will allow filtering for criteria such as council district, asset age, building system/component, work category, cost, and completion status. In addition, each report will allow sorting by various criteria. The user will be able to remove categories of data from the reports. The system will provide presentation quality graphical reports of the condition assessment data. The graphics package will have options to allow the user to customize the data shown by the graph using the same selection criteria as other reports. Additionally, the system will have the capability of producing various types of graphics such as pie charts, bar graphs, and line graphs.

6.4 Libraries. Information used to classify or categorize assets, deficiencies, and projects (i.e., building systems, asset usage, etc.) will be contained in library files that can be modified by a user with the proper security privileges. In addition, labor rates will be maintained in a library so the client can make changes as local labor rates change. During the planning phase, the consultant will assist the client in determining values for all libraries. The cost database will be easy to use and will allow the client to modify, add, and delete items in order to tailor costs to the local area.

END OF SCOPE OF SERVICES

EXHIBIT B

TASK ORDER AUTHORIZATION FOR PROFESSIONAL SERVICES

| | | | | |
|--|--------------|---|--------------------|---------------|
| FCA Contract FY14-18 Contract # H146145 – Kitchell CEM, Inc. | | | | |
| Task Order # _____ | | | | |
| Cost Center or WBS # _____ | | | | |
| Date: _____ | | | | |
| Pursuant to the Terms and Conditions of the Agreement referenced above and incorporated into this Task Order, Consultant hereby agrees to perform the Professional Services described below. The Consultant shall furnish all necessary facilities, materials, and professional, technical, and supporting personnel required by this Task Order. | | | | |
| Part A Scope of Services: The Professional Services rendered under this Task Order shall be performed in accordance with the Agreement. The Scope of Services shall be as set forth in Exhibit A of the Agreement and as more fully set forth in the Task Order Scope of Services. | | | | |
| Part B Task Order Compensation: City shall pay Consultant for the Professional Services required by this Task Order in accordance with Article III of the Agreement. The not to exceed cost of the Scope of Services for this Task Order is detailed below. | | | | |
| Task # _____ | FY | \$/GSF <small>(Gross Square Feet)</small> | SF | Amount |
| Group I: Facility Condition Assessment | | | | |
| Group II: FCA Database Update | | | | |
| | FY | \$/hour | Hours | Amount |
| Group III: Stand-by allowance | | | | |
| Group V: Hourly Labor Categories | | | | |
| | FY | \$/Building | Buildings | Amount |
| Group IV: Solar Feasibility Study | | | | |
| | | | Total NTE: | \$ |
| | PO | Task Order | Contingency | |
| PO # | \$ | \$ | \$0.00 | |
| | Total | \$0.00 | \$0.00 | \$0.00 |
| Part C Personnel Commitment: The Scope of Services shall be performed by Consultant's personnel in the number and classifications required by the City. | | | | |
| Part D Time Sequence: All Professional Services to be performed under this Task Order shall be completed within _____ Calendar Days or by _____ as set forth in the Task Order Scope of Services. | | | | |
| City of San Diego | | Consultant | | |
| Recommended for Approval: | | I hereby accept this Task Order: | | |
| Approved by: | | Accepted by: | | |
| Signature _____ | | Signature _____ | | |
| Name: _____ | | Name: _____ | | |
| Title: <u>Program/Contract Manager</u> | | Title: <u>Principal In Charge</u> | | |
| Date: _____ | | Company: Kitchell CEM, Inc. | | |
| Signature _____ | | Date: _____ | | |
| Name: _____ | | Signature _____ | | |
| Title: <u>Project Manager</u> | | Name: _____ | | |
| Date: _____ | | Title: <u>Project Manager</u> | | |
| Signature _____ | | Company: Kitchell CEM, Inc. | | |
| Name: _____ | | Date: _____ | | |
| Title: <u>Project Manager</u> | | Signature _____ | | |
| Date: _____ | | Name: _____ | | |

COMPENSATION AND FEE SCHEDULE

| Item | Group 1 - Start-Up | FY2014 Unit Cost | Unit of Measure | FY 2015 | FY 2016 | FY 2017 | FY 2018 |
|------|--|---------------------|--------------------|----------|----------|----------|----------|
| 1.1 | Facilities Conditions Assessment Start Up - One Time Fee for Mobilization, establishing quality control, establishing pilot report, staff training, establishing cost estimating standards including deliverables in Paragraph 4.1. | \$25,000 | Lump Sum | N/A | N/A | N/A | N/A |
| Item | Group 2 - Field Assessment and Reporting | FY2014 Unit Cost | Unit of Measure | FY 2015 | FY 2016 | FY 2017 | FY 2018 |
| 2.1 | Developed Parks Assessment; Assessment kick off meeting; one meeting held for each group of assigned park assessments. Facility Condition Assessment Field Data Collection, Facility Condition Assessment Reports, includes project deliverables outlined in the scope of services including playground review, parking lot review, concrete and asphalt parkways and ADA readily achievable. (1 acre = 43,560sf) | | Per Park | 3% COLA | 3% COLA | 3% COLA | 3% COLA |
| | minimum | \$500.00 | Each Park | \$515.00 | \$530.45 | \$546.36 | \$562.75 |
| | 0 to 0.999 acres | \$0.032 | GSF/Park | \$0.033 | \$0.034 | \$0.035 | \$0.036 |
| | 1 to 5.999 acres | \$0.019 | GSF/Park | \$0.020 | \$0.020 | \$0.021 | \$0.021 |
| | 6 to 9.999 acres | \$0.012 | GSF/Park | \$0.012 | \$0.013 | \$0.013 | \$0.014 |
| | 10 to 24.999 acres | \$0.011 | GSF/Park | \$0.011 | \$0.012 | \$0.012 | \$0.012 |
| | 25 to 49.999 acres | \$0.006 | GSF/Park | \$0.006 | \$0.006 | \$0.007 | \$0.007 |
| | 50 to 149.999 acres | \$0.004 | GSF/Park | \$0.004 | \$0.004 | \$0.004 | \$0.005 |
| | 150 acres or greater | \$0.002 | GSF/Park | \$0.002 | \$0.002 | \$0.002 | \$0.002 |
| | Playground Inspection (includes review of components, deck coatings, paint / powder coating, play surface, equipment verification, photo documentation) | Included | | | | | |
| | Parking Lot (includes arial extents of distressed pavement, tree root intrusion, surface water runoff, subgrade failure, surface wear from traffic, load impacts, photo documentation) | Included | | | | | |
| | Play Courts (includes court paving, court surfacing, fencing, gates & windscreens) | Included | | | | | |
| | Walkways (concrete, asphalt and DG pathways) within the Developed area of the park. | Included | | | | | |
| | ADA Option 1: Readily Achievable - Visual Only No Measuring | Included | | | | | |
| Item | Group 3 - Balanced Assessment Services | FY2014 Unit Cost | Unit of Measure | FY 2015 | FY 2016 | FY 2017 | FY 2018 |
| 3.1 | Trails (includes condition of permeable walkways, condition of trails, etc) | \$90.90 | Mile | \$93.63 | \$96.44 | \$99.33 | \$102.31 |
| 3.2 | Athletic Field Turf & Irrigation (includes agronomic soils testing, soil types, soil compaction, irrigation system efficiency, irrigation component functionality, programmed / permitted use patterns, backstop fencing, concrete mow curbs) | | Field Area | 3% COLA | 3% COLA | 3% COLA | 3% COLA |
| | 0 to 0.999 acres | \$5,000 | Per Park | \$5,150 | \$5,305 | \$5,464 | \$5,628 |
| | 1 to 5.999 acres | \$7,500 | Per Park | \$7,725 | \$7,957 | \$8,195 | \$8,441 |
| | 6 to 9.999 acres | \$10,000 | Per Park | \$10,300 | \$10,609 | \$10,927 | \$11,255 |
| | 10 to 24.999 acres | \$15,000 | Per Park | \$15,450 | \$15,914 | \$16,391 | \$16,883 |
| | 25 to 49.999 acres | \$20,000 | Per Park | \$20,600 | \$21,218 | \$21,855 | \$22,510 |
| | 50 to 149.999 acres | NA | | | | | |
| | 150 acres or greater | NA | | | | | |
| 3.3 | Security Systems & Lighting Controls | \$2,500.00 | Each System | \$2,575 | \$2,652 | \$2,732 | \$2,814 |
| | Security Systems & Lighting (includes condition of security light poles, condition of electrical components) | Included | | | | | |
| | Security Systems & Lighting Control Systems: Security Control System & Associated Electrical Components | Included | | | | | |
| | Security Systems & Lighting (includes review of light levels in comparison to the City standards, includes photometric study at night) | \$2,500.00 | Each System | \$2,575 | \$2,652 | \$2,732 | \$2,814 |
| 3.4 | Athletic Field Lighting & Controls | \$2,500.00 | Each Field | \$2,575 | \$2,652 | \$2,732 | \$2,814 |
| | Athletic Field Lighting (includes condition of light poles, condition of electrical components) | Included | | | | | |
| | Athletic Field Lighting Control System: Lighting Control System & Associated Electrical Components | Included | | | | | |
| | Athletic Field Lighting (includes review of light levels in comparison to the City standards includes photometric study at night) | \$2,500.00 | Each Field | \$2,575 | \$2,652 | \$2,732 | \$2,814 |
| 3.5 | Aquatic Complex (includes pool decking, drainage system, pool slides, pool plaster, coping, tile, pool mechanical systems & fencing. (fee assumes team already on site for other scope) | \$1,500.00 | Each Complex | \$1,545 | \$1,591 | \$1,639 | \$1,688 |
| 3.6 | ADA Option 2: Fully Compliant - Quantifiable | \$0.09 | GSF | \$0.093 | \$0.095 | \$0.098 | \$0.101 |
| 3.7 | General Building Assessments (buildings up to 30,000sf) | \$0.24 | GSF | \$0.25 | \$0.25 | \$0.26 | \$0.27 |
| Item | Group 4 - Miscellaneous Services | FY2014 Unit Cost | Unit of Measure | FY 2015 | FY 2016 | FY 2017 | FY 2018 |
| 4.1 | Staff Training Include project deliverables outlined in Paragraph 4.7 of the Scope of Services | \$135.00 | Hourly Rate | \$139.05 | \$143.22 | \$147.52 | \$151.94 |
| 4.2 | Standby Time (Per Person) | \$100.00 | Hourly Rate | \$103.00 | \$106.09 | \$109.27 | \$112.55 |
| 4.3 | Hourly Rate for other duties as assigned in writing | \$135.00 | Hourly Rate | \$139.05 | \$143.22 | \$147.52 | \$151.94 |
| 4.4 | Travel Between Parks (Per Person) | Included | | | | | |

EXHIBIT C

| Group V: Hourly Labor Categories (Cont'd) | Hourly Rates | | | | |
|---|--------------|-----------|-----------|-----------|-----------|
| | FY2014 | FY2015 | FY2016 | FY2017 | FY2018 |
| Project Director | \$ 195.00 | \$ 200.00 | \$ 206.00 | \$ 213.00 | \$ 219.00 |
| Engineering Department Manager | \$ 190.00 | \$ 195.00 | \$ 201.00 | \$ 207.00 | \$ 213.00 |
| Senior Project Manager | \$ 175.00 | \$ 180.00 | \$ 185.00 | \$ 191.00 | \$ 196.00 |
| Engineering Department Director | \$ 170.00 | \$ 175.00 | \$ 180.00 | \$ 185.00 | \$ 191.00 |
| Project Manager II | \$ 144.00 | \$ 148.00 | \$ 152.00 | \$ 157.00 | \$ 162.00 |
| Project Manager I | \$ 135.00 | \$ 139.00 | \$ 143.00 | \$ 147.00 | \$ 151.00 |
| Senior Estimator | \$ 130.00 | \$ 133.00 | \$ 137.00 | \$ 142.00 | \$ 146.00 |
| Estimator | \$ 125.00 | \$ 128.00 | \$ 132.00 | \$ 136.00 | \$ 140.00 |
| Senior Structural Engineer | \$ 144.00 | \$ 148.00 | \$ 152.00 | \$ 157.00 | \$ 162.00 |
| Structural Engineer | \$ 135.00 | \$ 139.00 | \$ 143.00 | \$ 147.00 | \$ 151.00 |
| Senior Civil Engineer | \$ 144.00 | \$ 148.00 | \$ 152.00 | \$ 157.00 | \$ 162.00 |
| Civil Engineer | \$ 135.00 | \$ 139.00 | \$ 143.00 | \$ 147.00 | \$ 151.00 |
| Scheduler | \$ 128.00 | \$ 131.00 | \$ 135.00 | \$ 139.00 | \$ 144.00 |
| Senior Registered Architect | \$ 144.00 | \$ 148.00 | \$ 152.00 | \$ 157.00 | \$ 162.00 |
| Registered Architect | \$ 135.00 | \$ 139.00 | \$ 143.00 | \$ 147.00 | \$ 151.00 |
| Senior Electrical Engineer | \$ 144.00 | \$ 148.00 | \$ 152.00 | \$ 157.00 | \$ 162.00 |
| Electrical Engineer | \$ 135.00 | \$ 139.00 | \$ 143.00 | \$ 147.00 | \$ 151.00 |
| Senior Mechanical Engineer | \$ 144.00 | \$ 148.00 | \$ 152.00 | \$ 157.00 | \$ 162.00 |
| Mechanical Engineer | \$ 135.00 | \$ 139.00 | \$ 143.00 | \$ 147.00 | \$ 151.00 |
| Senior Industrial Engineer | \$ 144.00 | \$ 148.00 | \$ 152.00 | \$ 157.00 | \$ 162.00 |
| Industrial Engineer | \$ 135.00 | \$ 139.00 | \$ 143.00 | \$ 147.00 | \$ 151.00 |
| Senior Project Engineer | \$ 120.00 | \$ 123.00 | \$ 127.00 | \$ 131.00 | \$ 135.00 |
| Project Engineer | \$ 100.00 | \$ 103.00 | \$ 106.00 | \$ 109.00 | \$ 112.00 |
| BIM Manager/Specialist | \$ 115.00 | \$ 118.00 | \$ 122.00 | \$ 125.00 | \$ 129.00 |
| BIM/CAD Operator | \$ 115.00 | \$ 118.00 | \$ 122.00 | \$ 125.00 | \$ 129.00 |
| Field Office Manager | \$ 70.00 | \$ 72.00 | \$ 74.00 | \$ 76.00 | \$ 78.00 |
| Administrative Support | \$ 67.00 | \$ 69.00 | \$ 71.00 | \$ 73.00 | \$ 75.00 |

*Hourly rates to be used only for services not included in Group I through IV above.

NOTES:

- Mileage reimbursements for consultants and sub-consultants are included in the unit costs and hourly rates in the fee schedule listed above so there will be no additional allowance for mileage.
- Travel expenses for consultants and sub-consultants are included in the unit costs and hourly rates in the fee schedule listed above so there will be no additional allowance for travel expenses.
- Lodging and per diem for consultants and sub-consultants are included in the unit costs and hourly rates in the fee schedule listed above so there will be no additional allowance for lodging or per diem.
- Sub-consultant costs are included in the unit costs and hourly rates in the fee schedule above so there will be no additional allowance for sub-consultants beyond the costs listed above.

EXHIBIT C

- Annual rate adjustments for unit costs and hourly rates are included in the compensation and fee schedule above so there will be no additional adjustments allowed.
- The date that the City issues a written request for a Task Order Proposal will be the date used to determine which fiscal year fees shall apply. Fiscal years start on July 1st and end on June 30th. FY2015 starts on July 1, 2014 and ends on June 30, 2015. For example, if the City issues a request for a Task Order Proposal on June 30, 2014, the consultant shall use FY2014 pricing. If the City issues a request for a Task Order Proposal on July 1, 2014, the consultant shall use FY2015 pricing.

EQUAL OPPORTUNITY CONTRACTING PROGRAM (EOCP)
CONSULTANT REQUIREMENTS

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- I. **City’s Equal Opportunity Commitment.** The City of San Diego (City) is strongly committed to equal opportunity for employees and Subcontractors of Consultants doing business with the City. The City encourages its Consultants to share this commitment. Consultants are encouraged to take positive steps to diversify and expand their Subcontractor solicitation base and to offer consulting opportunities to all eligible Subcontractors. *Failure to submit the required EOCP documentation indicated below shall result in a determination of the Consultant being non-responsive.*
- II. **Nondiscrimination in Contracting Ordinance.** All Consultants doing business with the City, and their Subcontractors, must comply with requirements of the City’s *Nondiscrimination in Contracting Ordinance*, San Diego Municipal Code Sections 22.3501 through 22.3517.
- A. Proposal Documents to include Disclosure of Discrimination Complaints. As part of its bid or proposal, Consultant shall provide to the City a list of all instances within the past ten (10) years where a complaint was filed or pending against Consultant in a legal or administrative proceeding alleging that Consultant discriminated against its employees, Subcontractors, vendors, or suppliers, and a description of the status or resolution of that complaint, including any remedial action taken.
- B. Contract Language. The following language shall be included in contracts for City projects between the Consultant and any Subcontractors, vendors, and suppliers:

EXHIBIT D

Contractor 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 subcontractors, vendors, or suppliers. Consultant shall provide equal opportunity for Subcontractors to participate in opportunities. Consultant 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.

- C. Contract Disclosure Requirements. Upon the City's request, Consultant agrees to provide to the City, within sixty (60) calendar days, a truthful and complete list of the names of all Subcontractors, vendors, and suppliers that Consultant has used in the past five (5) years on any of its contracts that were undertaken within County of San Diego, 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's Nondiscrimination in Contracting Ordinance, Municipal Code Sections 22.3501 through 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 the Consultant up to and including contract termination, debarment and other sanctions.

III. Equal Employment Opportunity Outreach Program. Consultants shall comply with requirements of San Diego Municipal Code Sections 22.2701 through 22.2707. Consultants shall submit with their proposal a Work Force Report for approval by the Program Manager of the City of San Diego Equal Opportunity Contracting Program (EOCP).

- A. Nondiscrimination in Employment. Consultant 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. Consultants shall ensure that their subcontractors comply with this program. Nothing in this Section shall be interpreted to hold a Consultant liable for any discriminatory practice of its subcontractors.
- B. Work Force Report. If based on a review of the Work Force Report (Attachment AA) submitted an EOCP staff Work Force Analysis determines there are under representations when compared to County Labor Force Availability data, then the Consultant will also be required to submit an Equal Employment Opportunity (EEO) Plan to the Program Manager of the City of San Diego Equal Opportunity Contracting Program (EOCP) for approval.
- C. Equal Employment Opportunity Plan. If an Equal Employment Opportunity Plan is required, the Program Manager of EOCP will provide a list of plan requirements to Consultant.

IV. Small and Local Business Program Requirements. The City has adopted a Small and Local Business Enterprise (SLBE) program for consultant contracts. SLBE program requirements for consultant contracts are set forth Council Policy 100-10.

A. SLBE and ELBE Participation for Contracts Valued Over \$50,000:

1. For proposals ranking as qualified or acceptable, or any higher ranking, the City shall apply a maximum of 12 additional points for SLBE or ELBE participation. Points will be awarded as follows:
 - a. 20% participation – 5 points
 - b. 25% participation – 10 points
 - c. SLBE or ELBE as prime contractor – 12 points
2. All professional services contracts valued over \$50,000 or more have a voluntary SLBE/ELBE goal of 20%. For the purposes of this Council Policy, the subcontractor requirement may be met by a provider of materials or supplies. Details can be found at <http://www.sandiego.gov/eoc/boc/slbe.shtml>.

B. Subcontractor Participation List. The Subcontractor Participation List (Attachment BB) shall indicate the Name and Address, Scope of Services, Percent of Total Proposed Contract Amount, Certification Status and Where Certified for each proposed Subcontractor/Subconsultant.

C. Commitment Letters. Consultant shall also submit Subcontractor Commitment Letters on Subcontractor’s letterhead, no more than one page each, from all proposed Subcontractors to acknowledge their commitment to the team, scope of services, and percent of participation in the project.

D. Contract Activity Reports. To permit monitoring of the winning Consultant’s commitment to achieving compliance, Contract Activity Reports (Attachment CC) reflecting work performed by Subcontractors/Subconsultants/Vendors shall be submitted quarterly for any work covered under an executed contract.

V. Demonstrated Commitment to Equal Opportunity. The City seeks to foster a business climate of inclusion and to eliminate barriers to inclusion.

A. Consultants are required to submit the following information with their proposals:

1. Outreach Efforts. Description of Consultant’s outreach efforts undertaken on this project to make subcontracting opportunities available to all interested and qualified firms including SLBE/ELBE/DBE/MBE/WBE/DVBE/OBE.
2. Past Participation Levels. The Consultant shall list all Subcontractor and Supplier past participation levels on each project (preferably in the City or County of San Diego) in response to Section 6.2.3 of the RFP by using the Past Participation List (Attachment DD). Include the name of project, type of

project, value of project, Subcontractor and Supplier firm name, Subcontract amount and identification of the firm's ownership as a certified Minority Enterprise (MBE), Women Business Enterprise (WBE), Disadvantaged Business Enterprise (DBE), Disabled Veteran Business Enterprise (DVBE), Other Business Enterprise (OBE), Emerging Local Business Enterprise (ELBE) or Small Local Business Enterprise (SLBE). To receive credit for past participation levels by certified firms, Consultant shall provide copies of all listed consultant's certifications with the Proposal.

3. Equal Opportunity Employment. Listing of Consultant's strategies to recruit, hire, train and promote a diverse workforce. These efforts will be considered in conjunction with Consultant's *Workforce Report* as compared to the County's Labor Force Availability.
4. Community Activities. Listing of Consultant's current community activities such as membership and participation in local organizations, associations, scholarship programs, mentoring, apprenticeships, internships, community projects, charitable contributions and similar endeavors.

B. In accordance with the City's Equal Opportunity Commitment, the City will consider the four factors described above as part of the evaluation process. A maximum of 13 additional points will be awarded based on consideration of these four factors. Points awarded based on Consultants demonstrated commitment to equal opportunity will be in addition to any points awarded for SLBE or ELBE participation as described in Section IV.

VI. Definitions.

Certified "**Minority Business Enterprise**" (MBE) means a business which is at least fifty-one percent (51%) owned by African Americans, American Indians, Asians, Filipinos, and/or Latinos and whose management and daily operation is controlled by one or more members of the identified ethnic groups. In the case of a publicly-owned business, at least fifty-one percent (51%) of the stock must be owned by, and the business operated by, one or more members of the identified ethnic groups.

Certified "**Women Business Enterprise**" (WBE) means a business which is at least fifty-one percent (51%) owned by one or more women and whose management and daily operation is controlled by the qualifying party(s). In the case of a publicly-owned business, at least fifty-one percent (51%) of the stock must be owned by, and the business operated by, one or more women.

Certified "**Disadvantaged Business Enterprise**" (DBE) means a business which is at least fifty-one percent (51%) owned and operated by one or more socially and economically disadvantaged individuals and whose management and daily operation is controlled by the qualifying party(s). In the case of a publicly-owned business, at least fifty-one percent (51%) of the stock must be owned by, and the business operated by, socially and economically disadvantaged individuals.

EXHIBIT D

Certified **“Disabled Veteran Business Enterprise” (DVBE)** means a business which is at least fifty-one percent (51%) owned by one or more veterans with a service related disability and whose management and daily operation is controlled by the qualifying party(s).

“Other Business Enterprise” (OBE) means any business which does not otherwise qualify as Minority, Woman, Disadvantaged or Disabled Veteran Business Enterprise.

“Emerging Local Business Enterprise” (ELBE) – Any for-profit enterprise that is not a broker, that is independently owned and operated; that is not a subsidiary of another business; that meets the definition of a local business; and that is not dominant in its field of operation whose average gross annual receipts in the prior three fiscal years do not exceed:

- \$2.75 million – Construction
- \$1.5 million – Specialty Construction
- \$1.5 million – Goods/Materials/Services
- \$1.5 million – Trucking
- \$1.0 million – Professional Services and Architect/Engineering

If a business has not existed for 3 years, the gross sales limits described above shall be applied based upon the annual averages over the course of the existence of the business.

“Local Business Enterprise” (LBE) – A firm having a Principal Place of Business and a Significant Employment Presence in San Diego City or County, California that has been in operation for 12 consecutive months and a valid business tax certificate. This definition is subsumed within the definition of Small Local Business Enterprise.

“Small Local Business Enterprise” (SLBE) – Any for-profit enterprise that is not a broker, that is independently owned and operated; that is not a subsidiary of another business; that meets definition of a local business; and that is not dominant in its field of operation whose average gross annual receipts in the prior three fiscal years do not exceed:

- \$5.0 million – Construction
- \$3.0 million – Specialty Construction
- \$3.0 million – Goods/Materials/Services
- \$3.0 million – Trucking
- \$2.0 million – Professional Services and Architect/Engineering

California State certified Micro and Disabled Veteran Owned business enterprises shall also satisfy the income requirements to be defined as a Small Local Business Enterprise.

If a business has not existed for 3 years, the employment and gross sales limits described above shall be applied based upon the annual averages over the course of the existence of the business.

EXHIBIT D

VII. Certification.

Below are the EOCP – accepted certification agencies along with certifiable groups:

| | |
|--|-----------------|
| City of San Diego: | ELBE, SLBE |
| Caltrans: | DBE, SMBE, SWBE |
| Dept. of General Services: | DVBE |
| CA Public Utilities Commission: | MBE, WBE |
| City of Los Angeles: | DBE, WBE, MBE |
| SD Regional Minority Supplier Diversity Council: | MBE, WBE |

VIII. List of Attachments.

- AA. Work Force Report**
- BB. Subcontractors List**
- CC. Contract Activity Report**
- DD. Consultant Past Participation List**



WORK FORCE REPORT

ADMINISTRATIVE

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)*.

CONTRACTOR IDENTIFICATION

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

Name of Company: Kitchell/CEM, Inc.

AKA/DBA: N/A

Address (Corporate Headquarters, where applicable): 2750 Gateway Oaks Drive, Suite 300

City Sacramento County Sacramento State CA Zip: 95833

Telephone Number: (916) 648-9700 FAX Number: (916) 648-6534

Name of Company CEO: Russell A. Fox

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

Address: 853 Camino Del Mar, Suite 200

City Del Mar County San Diego State CA Zip 92014

Telephone Number: (858) 947-5228 FAX Number: (858) 259-0696

Type of Business: Project/Construction Management Type of License: Contractor's License - #950139 Class B

The Company has appointed: Laman Synder, Director of Human Resources

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: 1707 East Highland Avenue, Phoenix, AZ 85016

Telephone Number: (602) 631-6114 FAX Number: (602) 631-6121

- 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 Kitchell/CEM, Inc.,
 (Firm Name)

Sacramento CA hereby certify that information provided
 (County) (State)

herein is true and correct. This document was executed on this twenty-sixth day of August, 2013

Russell Fox
 (Authorized Signature)

Russell A. Fox, President
 (Print Authorized Signature)



OFFICE(S) or BRANCH(ES): Sacramento

COUNTY: Sacramento

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

| OCCUPATIONAL CATEGORY | (1) Black | | (2) Hispanic | | (3) Asian | | (4) American Indian | | (5) Filipino | | (6) White | | (7) Other Ethnicities | |
|------------------------|-----------|-----|--------------|-----|-----------|-----|---------------------|-----|--------------|-----|-----------|-----|-----------------------|-----|
| | (M) | (F) | (M) | (F) | (M) | (F) | (M) | (F) | (M) | (F) | (M) | (F) | (M) | (F) |
| Management & Financial | 3 | 2 | 8 | 3 | 2 | 1 | | | | | 67 | 6 | 5 | 2 |
| Professional | 1 | 1 | 3 | 4 | 6 | 1 | | 1 | | | 15 | 3 | | 1 |
| A&E, Science, Computer | | | | | | | | | | | | | | |
| Technical | | | | | | | | | | | | | | |
| Sales | | | | | | | | | | | | | | |
| Administrative Support | | 2 | | 8 | | | | | | | | 13 | | 2 |
| Services | | | | | | | | | | | | | | |
| Crafts | | | | | | | | | | | | | | |
| Operative Workers | | | | | | | | | | | | | | |
| Transportation | | | | | | | | | | | | | | |
| Laborers* | | | | | | | | | | | | | | |

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

| | | | | | | | | | | | | | | |
|--------------------|---|---|----|----|---|---|--|---|--|--|----|----|---|---|
| Totals Each Column | 4 | 5 | 11 | 15 | 8 | 2 | | 1 | | | 85 | 22 | 5 | 5 |
|--------------------|---|---|----|----|---|---|--|---|--|--|----|----|---|---|

Grand Total All Employees

163

Non-Profit Organizations Only:

| | | | | | | | | | | | | | | |
|--------------------|--|--|--|--|--|--|--|--|--|--|--|--|--|--|
| Board of Directors | | | | | | | | | | | | | | |
| Volunteers | | | | | | | | | | | | | | |
| Artists | | | | | | | | | | | | | | |





CITY OF SAN DIEGO WORK FORCE REPORT – ADMINISTRATIVE

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 For example, if participation in a San Diego project is by work forces from San Diego County, Los Angeles County and Sacramento County, we will ask for separate Work Force Reports representing the work forces of

your firm from each of the three counties.^{1,2} On the other hand, if the project will be accomplished completely outside of San Diego, we ask for a Work Force Report from the county or counties where the work will be accomplished.²

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: Work Force Report Job categories

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

Management & Financial

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

Professional

| |
|--|
| Art and Design Workers |
| Counselors, Social Workers, and Other Community and Social Service Specialists |
| Entertainers and Performers, Sports and Related Workers |
| Health Diagnosing and Treating Practitioners |
| Lawyers, Judges, and Related Workers |
| Librarians, Curators, and Archivists |
| Life Scientists |
| Media and Communication Workers |

| |
|---|
| Other Teachers and Instructors |
| Postsecondary Teachers |
| Primary, Secondary, and Special Education School Teachers |
| Religious Workers |
| Social Scientists and Related Workers |

Architecture & Engineering, Science, Computer

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

Technical

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

Sales

| |
|--|
| Other Sales and Related Workers |
| Retail Sales Workers |
| Sales Representatives, Services |
| Sales Representatives, Wholesale and Manufacturing |
| Supervisors, Sales Workers |

Administrative Support

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

Services

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

| |
|---|
| Other Protective Service Workers |
| Personal Appearance Workers |
| Supervisors, Food Preparation and Serving Workers |
| Supervisors, Personal Care and Service Workers |
| Transportation, Tourism, and Lodging Attendants |

Crafts

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

Operative Workers

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

Transportation

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

Laborers

| |
|--|
| Agricultural Workers |
| Animal Care and Service Workers |
| Fishing and Hunting Workers |
| Forest, Conservation, and Logging Workers |
| Grounds Maintenance Workers |
| Helpers, Construction Trades |
| Supervisors, Building and Grounds Cleaning and Maintenance Workers |
| Supervisors, Farming, Fishing, and Forestry Workers |

SUBCONTRACTOR PARTICIPATION LIST

This list shall include the name and complete address of all Subcontractors who qualify as SLBEs or ELBEs. Contractors may also list participation by MBE, WBE, DBE, DBVE and OBE firms. However, no additional points will be awarded for participation by these firms, except that DVBEs that are certified by the City as local businesses shall be counted as SLBEs.

Contractor shall also submit Subcontractor commitment letters on Subcontractor’s letterhead, no more than one page each, from Subcontractors listed below to acknowledge their commitment to the team, scope of services, and percent of participation in the project.

Subcontractors shall be used in the percentages listed. No changes to this Participation List will be allowed without prior written City approval.

| NAME AND ADDRESS SUBCONTRACTORS | SCOPE OF SERVICES | PERCENT OF CONTRACT | SLBE/ELBE (MBE/ WBE/DBE/ DVBE/OBE*) | WHERE CERTIFIED** |
|---|----------------------|---------------------------|--|----------------------|
| CJ Roberts, Inc. 16957 Laurel Hill Lane, Suite 206 San Diego, CA 92127 | Condition Assessment | 7% | SLBE | City of San Diego |
| Benson & Bohls Architects 3900 5 th Avenue, Suite 200 San Diego, CA 92102 | Condition Assessment | 13% | SLBE | City of San Diego |
| Libby Engineers, Inc. dba: Martin & Libby 4452 Glacier Avenue San Diego, CA 92120 | Condition Assessment | 0-1% | SLBE | City of San Diego |
| Burkett & Wong Engineers, Inc. 3434 Fourth Avenue San Diego, CA 92103 | Condition Assessment | 0-1% | SBE | State of California |
| D’Amato Conversano, Inc. 101 West Broadway, Suite 1260 San Diego, CA 92101 | Condition Assessment | 0-1% | OBE | State of California |
| DPSI 1801 Stanley Road, Suite 301 Greensboro, NC 27407 | Condition Assessment | 0-1% | OBE | State of California |
| EXP U.S. Services, Inc. 5670 Oberlin Drive San Diego, CA 92121 | Condition Assessment | 0-1% | OBE | State of California |
| KTU&A 3916 Normal Street San Diego, CA 92103 | Condition Assessment | 0-1% | MBE | State of California |
| Roesling Nakamura Terada Architects, Inc. 363 5 th Avenue, Suite 202 San Diego, CA 92101 | Condition Assessment | 0-1% | SBE, WBE | State of California |

List of Abbreviations:

| | |
|--|-------------|
| Small Local Business Enterprise | SLBE |
| Emerging Local Business Enterprise | ELBE |
| Certified Minority Business Enterprise | MBE* |
| Certified Woman Business Enterprise | WBE* |
| Certified Disadvantaged Business Enterprise | DBE* |
| Certified Disabled Veteran Business Enterprise | DVBE* |

* Listed for informational purposes only.

** Consultant shall indicate if Subcontractor is certified by one of the agencies listed in Section VII of the Equal Opportunity Contracting Program (EOCP) Consultant Requirements.

| | |
|--|-------|
| Certified Minority Business Enterprise | MBE* |
| Certified Woman Business Enterprise | WBE* |
| Certified Disadvantaged Business Enterprise | DBE* |
| Certified Disabled Veteran Business Enterprise | DVBE* |

** Listed for informational purposes only.*

*** Consultant shall indicate if Subcontractor is certified by one of the agencies listed in Section VII of the Equal Opportunity Contracting Program (EOCP) Consultant Requirements.*

CONSULTANT PAST PARTICIPATION LIST

The Consultant shall complete this form for each project listed in response to RFP. The Consultant Past Participation List shall include name, address, telephone number (including area code), classification, type of work, dollar amount of participation, certification, and certifying agency for each Subcontractor or Supplier who participated in the referenced project.

NAME OF PROJECT: County of San Diego, Facility Assessment

TYPE OF PROJECT: Facility Assessment

DOLLAR VALUE OF CONTRACT: \$480,000

| NAME, ADDRESS AND TELEPHONE NUMBER OF SUBCONTRACTOR | CONTRACTOR, DESIGNER, SUPPLIER, OR VENDOR | TYPE OF WORK PERFORMED, MATERIALS OR SUPPLIES | DOLLAR AMOUNT OF SUBCONTRACTOR PARTICIPATION OR MATERIALS OR SUPPLIES | MBE, WBE, DBE, DVBE, OBE, ELBE, SLBE, SDB, WoSB, HUBZone, OR SDVOSB ^o | WHERE CERTIFIED ^o |
|--|---|---|---|--|------------------------------|
| Name: <u>None</u> Address: _____ City: _____ State: _____ Zip: _____ Phone: _____ | None | None | None | None | None |
| Name: _____ Address: _____ City: _____ State: _____ Zip: _____ Phone: _____ | | | | | |
| Name: _____ Address: _____ City: _____ State: _____ Zip: _____ Phone: _____ | | | | | |

① As appropriate, Design Professional shall identify Subcontractors or Suppliers as one of the following and shall include a valid proof of certification (except for OBE, SLBE and ELBE):

- | | | | |
|---|--------|--|---------|
| Certified Minority Business Enterprise | MBE | Certified Woman Business Enterprise | WBE |
| Certified Disadvantaged Business Enterprise | DBE | Certified Disabled Veteran Business Enterprise | DVBE |
| Other Business Enterprise | OBE | Certified Emerging Local Business Enterprise | ELBE |
| Certified Small Local Business Enterprise | SLBE | Small Disadvantaged Business | SDB |
| Woman-Owned Small Business | WoSB | HUBZone Business | HUBZone |
| Service-Disabled Veteran Owned Small Business | SDVOSB | | |

② As appropriate, Design Professional shall indicate if Subcontractor or Subcontractor is certified by:

- | | | | |
|--|--------|--|----------|
| City of San Diego | CITY | State of California Department of Transportation | CALTRANS |
| California Public Utilities Commission | CPUC | San Diego Regional Minority Supplier Diversity Council | SRMSDC |
| State of California's Department of General Services | CADoGS | City of Los Angeles | LA |
| State of California | CA | U.S. Small Business Administration | SBA |

The Consultant will not receive any points for past subcontracting participation percentages if the Consultant fails to submit the required proof of certification.



CONSULTANT PAST PARTICIPATION LIST

The Consultant shall complete this form for each project listed in response to RFP. The Consultant Past Participation List shall include name, address, telephone number (including area code), classification, type of work, dollar amount of participation, certification, and certifying agency for each Subcontractor or Supplier who participated in the referenced project.

NAME OF PROJECT: City of San Jose, Parks Backlog Assessment

TYPE OF PROJECT: Facility Assessment

DOLLAR VALUE OF CONTRACT: \$250,000

| NAME, ADDRESS AND TELEPHONE NUMBER OF SUBCONTRACTOR | CONTRACTOR, DESIGNER, SUPPLIER, OR VENDOR | TYPE OF WORK PERFORMED, MATERIALS OR SUPPLIES | DOLLAR AMOUNT OF SUBCONTRACTOR PARTICIPATION OR MATERIALS OR SUPPLIES | MBE, WBE, DBE, DVBE, OBE, ELBE, SLBE, SDB, WoSB, HUBZone, OR SDVOSB® | WHERE CERTIFIED® |
|--|---|---|---|--|------------------|
| Name: <u>None</u> Address: _____ City: _____ State: _____ Zip: _____ Phone: _____ | None | None | None | None | None |
| Name: _____ Address: _____ City: _____ State: _____ Zip: _____ Phone: _____ | | | | | |
| Name: _____ Address: _____ City: _____ State: _____ Zip: _____ Phone: _____ | | | | | |

① As appropriate, Design Professional shall identify Subcontractors or Suppliers as one of the following and shall include a valid proof of certification (except for OBE, SLBE and ELBE):

| | | | |
|---|--------|--|---------|
| Certified Minority Business Enterprise | MBE | Certified Woman Business Enterprise | WBE |
| Certified Disadvantaged Business Enterprise | DBE | Certified Disabled Veteran Business Enterprise | DVBE |
| Other Business Enterprise | OBE | Certified Emerging Local Business Enterprise | ELBE |
| Certified Small Local Business Enterprise | SLBE | Small Disadvantaged Business | SDB |
| Woman-Owned Small Business | WoSB | HUBZone Business | HUBZone |
| Service-Disabled Veteran Owned Small Business | SDVOSB | | |

② As appropriate, Design Professional shall indicate if Subcontractor or Subcontractor is certified by:

| | | | |
|--|--------|--|----------|
| City of San Diego | CITY | State of California Department of Transportation | CALTRANS |
| California Public Utilities Commission | CPUC | San Diego Regional Minority Supplier Diversity Council | SRMSDC |
| State of California's Department of General Services | CADoGS | City of Los Angeles | LA |
| State of California | CA | U.S. Small Business Administration | SBA |

The Consultant will not receive any points for past subcontracting participation percentages if the Consultant fails to submit the required proof of certification.



CONSULTANT PAST PARTICIPATION LIST

The Consultant shall complete this form for each project listed in response to RFP. The Consultant Past Participation List shall include name, address, telephone number (including area code), classification, type of work, dollar amount of participation, certification, and certifying agency for each Subcontractor or Supplier who participated in the referenced project.

NAME OF PROJECT: City of Palo Alto, Facilities Assessment

TYPE OF PROJECT: Facility Assessment

DOLLAR VALUE OF CONTRACT: \$150,000

| NAME, ADDRESS AND TELEPHONE NUMBER OF SUBCONTRACTOR | CONTRACTOR, DESIGNER, SUPPLIER, OR VENDOR | TYPE OF WORK PERFORMED, MATERIALS OR SUPPLIES | DOLLAR AMOUNT OF SUBCONTRACTOR PARTICIPATION OR MATERIALS OR SUPPLIES | MBE, WBE, DBE, DVBE, OBE, ELBE, SLBE, SDB, WoSB, HUBZone, OR SDVOSB [®] | WHERE CERTIFIED [®] |
|--|---|---|---|--|------------------------------|
| Name: <u>None</u> Address: _____ City: _____ State: _____ Zip: _____ Phone: _____ | None | None | None | None | None |
| Name: _____ Address: _____ City: _____ State: _____ Zip: _____ Phone: _____ | | | | | |
| Name: _____ Address: _____ City: _____ State: _____ Zip: _____ Phone: _____ | | | | | |

① As appropriate, Design Professional shall identify Subcontractors or Suppliers as one of the following and shall include a valid proof of certification (except for OBE, SLBE and ELBE):

- | | | | |
|---|--------|--|---------|
| Certified Minority Business Enterprise | MBE | Certified Woman Business Enterprise | WBE |
| Certified Disadvantaged Business Enterprise | DBE | Certified Disabled Veteran Business Enterprise | DVBE |
| Other Business Enterprise | OBE | Certified Emerging Local Business Enterprise | ELBE |
| Certified Small Local Business Enterprise | SLBE | Small Disadvantaged Business | SDB |
| Woman-Owned Small Business | WoSB | HUBZone Business | HUBZone |
| Service-Disabled Veteran Owned Small Business | SDVOSB | | |

② As appropriate, Design Professional shall indicate if Subcontractor or Subcontractor is certified by:

- | | | | |
|--|--------|--|----------|
| City of San Diego | CITY | State of California Department of Transportation | CALTRANS |
| California Public Utilities Commission | CPUC | San Diego Regional Minority Supplier Diversity Council | SRMSDC |
| State of California's Department of General Services | CADoGS | City of Los Angeles | LA |
| State of California | CA | U.S. Small Business Administration | SBA |

The Consultant will not receive any points for past subcontracting participation percentages if the Consultant fails to submit the required proof of certification.



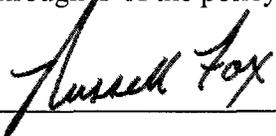
CONSULTANT CERTIFICATION FOR A DRUG-FREE WORKPLACE

PROJECT TITLE: As-Needed Facility Condition Assessment FY 2014 - 2018 (H136032)

I hereby certify that I am familiar with the requirement of San Diego City Council Policy No. 100-17 regarding Drug-Free Workplace as outlined in the request for proposals, and that:

FIRM NAME: Kitchell/CEM, Inc.

has in place a drug-free workplace program that complies with said policy. I further certify that each subcontract agreement for this project contains language which indicates the Subconsultants agreement to abide by the provisions of Section 4.9.1 subdivisions A through C of the policy as outlined.

Signed 
Printed Name Russell A. Fox
Title President
Date August 26, 2013



**INSTRUCTION SHEET FOR
DISCLOSURE DETERMINATION FOR CONSULTANT
(Form CC-1671)**

Use the "Disclosure Determination for Consultant" form (CC-1671) to report the disclosure requirement for any consultant hired to provide services to the City of San Diego or the boards, commissions and agencies that fall under the City of San Diego's jurisdiction.

2 California Code of Regulations defines a "consultant" as an individual who, pursuant to a contract with a state or local government agency, either makes a governmental decision or serves in a staff capacity with the state or local government agency and in that capacity participates in making a governmental decision. For the complete definition of "consultant", refer to Government Code section 18701(a)(2). This section can be located at:

http://www.fppc.ca.gov/index.html?ID=52&r_id=/legal/regs/18701.htm

The "Disclosure Determination for Consultant" form is completed for all consultants under contract with the City of San Diego or the boards, commissions and agencies that fall under the City of San Diego's jurisdiction. Please follow the step-by-step directions:

1. List the department, board, commission or agency requesting the consultant service.
2. List the consulting company. If known, also list the individual(s) who will be providing the consultant services.
3. List the mailing address.
4. List the e-mail address of individual(s) providing the consultant service.
5. Provide the date the individual(s) will start providing the consultant service.
6. List all duties/responsibilities the consultant will have. This list will enable you to determine the disclosure requirement for the consultant.
7. Determine the consultant's disclosure category. Your consultant should be required to disclose only those economic interests which could potentially create a conflict of interest as he/she performs his/her contractual obligations. For ideas about possible disclosure categories, review those in your department's, board's, commission's or agency's conflict of interest code, available at:

www.sandiego.gov/city-clerk/elections/eid/codes.shtml

Please fill out the entire "Disclosure Determination for Consultant" form, and have it signed by the appropriate authority. (Individuals with signing authority are described in your conflict of interest code as part of the disclosure requirement for Consultants.) Forward the original form to the City Clerk's Office, MS 2A.

DISCLOSURE DETERMINATION FOR CONSULTANT

*Must be signed by department director, agency president or other individual authorized by the appropriate conflict of interest code regarding consultants.

- 1. Department / Board / Commission / Agency Name: City of San Diego/Public Works Department
2. Name of Specific Consultant & Company: Kitchell CEM, Inc.
3. Address, City, State, ZIP: 853 Camino Del Mar, Suite 200, Del Mar, CA 92014
4. Project Title (as shown on 1472, "Request for Council Action"): As-Needed Facility Condition Assessment FY2014 - FY 2018 H146145
5. Consultant Duties for Project: Facilities Condition Assessment, Asset Management Database, Computer Data integration, Solar/Energy Assessment, Accessibility Assessment

6. Disclosure Determination [select applicable disclosure requirement]:

[X] Consultant will not be "making a governmental decision" or "serving in a staff capacity." No disclosure required.

- or -

[] Consultant will be "making a governmental decision" or "serving in a staff capacity." Consultant is required to file a Statement of Economic Interests with the City Clerk of the City of San Diego in a timely manner as required by law. [Select consultant's disclosure category.]

[] Full: Disclosure is required pursuant to the broadest disclosure category in the appropriate Conflict of Interest Code.

- or -

[] Limited: Disclosure is required to a limited extent. [List the specific economic interests the consultant is required to disclose.]

By: [Signature]
[Darren Greenhalgh/Deputy Director PW/PI]*

8/8/14
[Date]

Once completed, with all questions answered and an authorized signature affixed, please forward the original form to the City Clerk's Office, MS 2A. Keep a copy with the contract.

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)
http://www.fppc.ca.gov/index.html?ID=52&r_id=/legal/regs/18701.htm
1/28/2006

**CITY OF SAN DIEGO
Consultant Performance Evaluation**

The purpose of this form is to provide historical data to City staff when selecting consultants.

Section I

| 1. PROJECT DATA | | 2. CONSULTANT DATA | | | | | | | | | | | | | | | | | | | | | | | | | | | | | |
|--|---|--|--|---------|---------|---------|---------|---------|---------|-------|-----------|-------|-------|-------|-------|-------|-------|----------|-------|-------|-------|-------|-------|-------|------------|-------|-------|-------|-------|-------|-------|
| 1a. Project (title, location): 1b. Brief Description: 1c. Budgeted Cost: \$ _____ WBS/IO: _____ | 2a. Name and address of Consultant: 2b. Consultant's Project Manager: Phone: (____) _____ | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | |
| 3. CITY DEPARTMENT RESPONSIBLE | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | |
| B. 3a. Department (include Division): C. | 3b. Project Manager (address & phone): Phone: (____) _____ | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | |
| 4. & 5. CONTRACT DATA (DESIGN AND CONSTRUCTION) | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | |
| 4. Design 1. 4a. Agreement Date: _____ Resolution #: R- _____ \$ _____ 4b. Amendment(s): \$ _____ / # _____ (City) \$ _____ / # _____ (Consultant) 4c. Total Agreement (4a. & 4b.): \$ _____ | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | |
| 4d. Type of Work (design, study, etc.): | 4e. Key Contract Completion Dates: <table style="width:100%; border-collapse: collapse;"> <tr> <td style="width:15%;"></td> <td style="width:15%; text-align: center;">_____ %</td> <td style="width:15%; text-align: center;">100 %</td> </tr> <tr> <td>Agreement</td> <td style="text-align: center;">_____</td> </tr> <tr> <td>Delivery</td> <td style="text-align: center;">_____</td> </tr> <tr> <td>Acceptance</td> <td style="text-align: center;">_____</td> </tr> </table> | | | | _____ % | _____ % | _____ % | _____ % | _____ % | 100 % | Agreement | _____ | _____ | _____ | _____ | _____ | _____ | Delivery | _____ | _____ | _____ | _____ | _____ | _____ | Acceptance | _____ | _____ | _____ | _____ | _____ | _____ |
| | _____ % | _____ % | _____ % | _____ % | _____ % | 100 % | | | | | | | | | | | | | | | | | | | | | | | | | |
| Agreement | _____ | _____ | _____ | _____ | _____ | _____ | | | | | | | | | | | | | | | | | | | | | | | | | |
| Delivery | _____ | _____ | _____ | _____ | _____ | _____ | | | | | | | | | | | | | | | | | | | | | | | | | |
| Acceptance | _____ | _____ | _____ | _____ | _____ | _____ | | | | | | | | | | | | | | | | | | | | | | | | | |
| 5. Construction 5a. Contractor _____ (name and address) Phone (____) _____ • 5b. Superintendent _____ | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | |
| 5c. Notice to Proceed _____ (date) 5d. Working days _____ (number) 5e. Actual Working days _____ (number) | 5f. Change Orders: Errors/Omissions _____ % of const. cost \$ _____ Unforeseen Conditions _____ % of const. cost \$ _____ Changed Scope _____ % of const. cost \$ _____ Changes Quantities _____ % of const. cost \$ _____ Total Construction Cost \$ _____ | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | |
| 6. OVERALL RATING (Please ensure Section I is completed) | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | |
| 6a. Plans/Specification Accuracy Consistency with Budget Responsiveness to City Staff 6b. Overall Rating _____ | Excellent <input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/> | Satisfactory <input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/> | Poor <input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/> | | | | | | | | | | | | | | | | | | | | | | | | | | | | |
| 7. AUTHORIZING SIGNATURES | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | |
| 7a. Project Manager _____ 7b. Deputy Director _____ | Date _____ Date _____ | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | |

(4/91)

TURN OVER

| Section II | | | | | SPECIFIC RATING | | | | |
|--|--------------------------|--------------------------|--------------------------|--------------------------|--|--------------------------|--------------------------|--------------------------|--------------------------|
| PLANS / SPECIFICATION ACCURACY | | | | | RESPONSIVENESS TO CITY STAFF | | | | |
| | EXCELLENT | SATISFACTORY | POOR | N/A | | EXCELLENT | SATISFACTORY | POOR | N/A |
| Plan/Specification clear and precise | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | Timely Responses | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| Plans/Specs Coordination | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | Attitude toward Client and review bodies | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| Plans/Specs properly formatted | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | Follows direction and chain of responsibility | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| Code Requirements covered | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | Work product delivered on time | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| Adhered to City Standard Drawings/Specs | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | Timeliness in notifying City of major problems | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| Drawings reflect existing conditions | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | Resolution of Field problems | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| As-Built Drawings | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | CONSISTENCY WITH BUDGET | | | | |
| Quality Design | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | Reasonable Agreement negotiation | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| Change Orders due to design deficiencies are minimized | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | Adherence to fee schedule | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | Adherence to project budget | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | Value Engineering Analysis | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |

Section III SUPPLEMENTAL INFORMATION
 (Please ensure to attach additional documentation as needed.)

Item _____ : _____

(*Supporting documentation attached: Yes No)

City of San Diego Purchasing & Contracting Department
CONTRACTOR STANDARDS
Pledge of Compliance

Effective December 24, 2008, the Council of the City of San Diego adopted Ordinance No. O-19808 to extend the Contractor Standards Ordinance to all contracts greater than \$50,000. The intent of the Contractor Standards clause of San Diego Municipal Code §22.3224 is to ensure the City of San Diego conducts business with firms that have the necessary quality, fitness and capacity to perform the work set forth in the contract.

To assist the Purchasing Agent in making this determination and to fulfill the requirements of §22.3224(d), each bidder/proposer must complete and submit this *Pledge of Compliance* with the bid/proposal. If a non-competitive process is used to procure the contract, the proposed contractor must submit this completed *Pledge of Compliance* prior to execution of the contract. A submitted *Pledge of Compliance* is a public record and information contained within will be available for public review for at least ten (10) calendar days, except to the extent that such information is exempt from disclosure pursuant to applicable law.

All responses must be typewritten or printed in ink. If an explanation is requested or additional space is required, respondents must use the *Pledge of Compliance Attachment "A"* and sign each page. The signatory guarantees the truth and accuracy of all responses and statements. Failure to submit this completed *Pledge of Compliance* may make the bid/proposal non-responsive and disqualified from the bidding process. If a change occurs which would modify any response, Contractor must provide the Purchasing Agent an updated response within thirty (30) calendar days.

A. PROJECT TITLE:

As-Needed Facility Condition Assessment FY 2014-2018 (H136032)

B. BIDDER/CONTRACTOR INFORMATION:

| | | | |
|----------------------------------|--------------|--------------|-------|
| Kitchell/CEM, Inc. | N/A | | |
| Legal Name | DBA | | |
| 853 Camino Del Mar, Suite 200 | Del Mar | CA | 92014 |
| Street Address | City | State | Zip |
| Wendy Cohen, Regional Executive | 858.947.5228 | 858.259.0696 | |
| Contact Person, Title | Phone | Fax | |

C. OWNERSHIP AND NAME CHANGES:

1. In the past five (5) years, has your firm changed its name?

Yes No

If Yes, use *Pledge of Compliance Attachment "A"* to list all prior legal and DBA names, addresses and dates when used. Explain the specific reasons for each name change.

2. In the past five (5) years, has a firm owner, partner or officer operated a similar business?

Yes No

If Yes, use *Pledge of Compliance Attachment "A"* to list names and addresses of all businesses and the person who operated the business. Include information about a similar business only if an owner, partner or officer of your firm holds or has held a similar position in another firm.



D. BUSINESS ORGANIZATION/STRUCTURE: Indicate the organizational structure of your firm. Check one only on this page. Use *Pledge of Compliance Attachment "A"* if more space is required.

Corporation Date incorporated: 6/16/2010 State of incorporation: CA

List corporation's current officers: President: Russell A. Fox
Vice Pres: James T. Swanson, Dave Giannelli
Secretary: David E. Koval; Assistant Secretary: Michael Bruggeman, Susan L. Gartin-Haney
Treasurer: N/A

Is your firm a publicly traded corporation? Yes No

If Yes, name those who own five percent (5%) or more of the corporation's stocks:

**Kitchell is an 100% employee-owned company

Limited Liability Company Date formed: / / State of formation:

List names of members who own five percent (5%) or more of the company:

Partnership Date formed: / / State of formation:

List names of all firm partners:

Sole Proprietorship Date started:

List all firms you have been an owner, partner or officer with during the past five (5) years. Do not include ownership of stock in a publicly traded company:

Joint Venture Date started:

List each firm in the joint venture and its percentage of ownership:

Note: Each member of a Joint Venture must complete a separate *Contractor Standards Pledge of Compliance* for a



Joint Venture's submission to be considered responsive.

E. FINANCIAL RESOURCES AND RESPONSIBILITY:

1. Is your firm in preparation for, in the process of, or in negotiations toward being sold?
 Yes No

If Yes, use *Pledge of Compliance Attachment "A"* to explain specific circumstances, including name of the buyer and principal contact information.

2. In the past five (5) years, has your firm been denied bonding?
 Yes No

If Yes, use *Pledge of Compliance Attachment "A"* to explain specific circumstances; include bonding company name.

3. In the past five (5) years, has a bonding company made any payments to satisfy claims made against a bond issued on your firm's behalf or a firm where you were the principal?
 Yes No

If Yes, use *Pledge of Compliance Attachment "A"* to explain specific circumstances.

F. PERFORMANCE HISTORY:

1. In the past five (5) years, has your firm been found civilly liable, either in a court of law or pursuant to the terms of a settlement agreement, for defaulting or breaching a contract with a government agency?
 Yes No

If Yes, use *Pledge of Compliance Attachment "A"* to explain specific circumstances.

2. In the past five (5) years, has a government agency terminated your firm's contract prior to completion?
 Yes No

If Yes, use *Pledge of Compliance Attachment "A"* to explain specific circumstances and provide principal contact information.

G. COMPLIANCE:

1. In the past five (5) years, has your firm or any firm owner, partner, officer, executives or management been criminally penalized or found civilly liable, either in a court of law or pursuant to the terms of a settlement agreement for violating any federal, state or local law in performance of a contract, including but not limited to laws regarding health and safety, labor and employment, wage and hours, and licensing laws which affect employees?
 Yes No

If Yes, use *Pledge of Compliance Attachment "A"* to explain specific circumstances surrounding each instance; include name of entity involved, specific infraction(s) or violation(s), dates of instances, and outcome with current status.

2. In the past five (5) years, has your firm been debarred or determined to be non-responsible by a government agency?
 Yes No

If Yes, use *Pledge of Compliance Attachment "A"* to explain specific circumstances of each instance; include name of entity involved, specific infraction, dates, and outcome.



H. BUSINESS INTEGRITY:

1. In the past five (5) years, has your firm been convicted of or found liable in a civil suit for making a false claim or material misrepresentation to a private or governmental entity?

Yes No

If Yes, use *Pledge of Compliance Attachment "A"* to explain specific circumstances of each instance; include the entity involved, specific infraction(s) or violation(s), dates, outcome and current status.

2. In the past five (5) years, has your firm or any of its executives, management personnel, or owners been convicted of a crime, including misdemeanors, or been found liable in a civil suit involving the bidding, awarding, or performance of a government contract?

Yes No

If Yes, use *Pledge of Compliance Attachment "A"* to explain specific circumstances of each instance; include the entity involved, specific infraction(s), dates, outcome and current status.

I. TYPE OF SUBMISSION: This document is submitted as:

Initial submission of *Contractor Standards Pledge of Compliance*.

Update of prior *Contractor Standards Pledge of Compliance* dated: / /

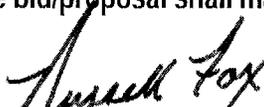
Complete all questions and sign below. Each *Pledge of Compliance Attachment "A"* page must be signed.

Under penalty of perjury under the laws of the State of California, I certify I have read and understand the questions contained in this *Pledge of Compliance* and that I am responsible for completeness and accuracy of responses and all information provided is true to the best of my knowledge and belief. I further certify my agreement to the following provisions of San Diego Municipal Code §22,3224:

- (a) To comply with all applicable local, State and Federal laws, including health and safety, labor and employment, and licensing laws that affect the employees, worksite or performance of the contract.
- (b) To notify the Purchasing Agent within fifteen (15) calendar days upon receiving notification that a government agency has begun an investigation of the Contractor that may result in a finding that the Contractor is or was not in compliance with laws stated in paragraph (a).
- (c) To notify the Purchasing Agent within fifteen (15) calendar days when there has been a finding by a government agency or court of competent jurisdiction of a violation by the Contractor of laws stated in paragraph (a).
- (d) To provide the Purchasing Agent updated responses to the *Contractor Standards Pledge of Compliance* within thirty (30) calendar days if a change occurs which would modify any response.
- (e) To notify the Purchasing Agent within fifteen (15) days of becoming aware of an investigation or finding by a government agency or court of competent jurisdiction of a violation by a subcontractor of laws stated in paragraph (a).
- (f) To cooperate fully with the Purchasing Agent and the City during any investigation and to respond to a request for information within ten (10) working days from the request date.

Failure to sign and submit this form with the bid/proposal shall make the bid/proposal non-responsive.

Russell A. Fox, President
Print Name, Title


Signature

8/26/2013
Date



City of San Diego Purchasing & Contracting Department
CONTRACTOR STANDARDS
Pledge of Compliance Attachment "A"

Provide additional information in space below. Use additional *Pledge of Compliance Attachment "A"* pages as needed; sign each page. Print in ink or type responses and indicate question being answered. Information provided will be available for public review, except if exempt from disclosure pursuant to applicable law.

N/A

Under penalty of perjury under the laws of the State of California, I certify I have read and understand the questions contained in this *Contractor Standards Pledge of Compliance* and that I am responsible for completeness and accuracy of responses on this *Pledge of Compliance Attachment "A"* page and all information provided is true to the best of my knowledge.

Russell A. Fox, President

Print Name, Title

Russell Fox

Signature

8/26/2013

Date



**EQUAL BENEFITS ORDINANCE
CERTIFICATION OF COMPLIANCE**

EQUAL BENEFITS ORDINANCE CERTIFICATION OF COMPLIANCE



For additional information, contact:
CITY OF SAN DIEGO
EQUAL BENEFITS PROGRAM
202 C Street, MS 9A, San Diego, CA 92101
Phone (619) 533-3948 Fax (619) 533-3220

COMPANY INFORMATION

| | |
|---|------------------------------------|
| Company Name: Kitchell/CEM, Inc. | Contact Name: Wendy Cohen |
| Company Address: 853 Camino Del Mar, Suite 200, Del Mar, CA 92014 | Contact Phone: 858.947.5228 |
| | Contact Email: wcohen@kitchell.com |

CONTRACT INFORMATION

| | |
|--|-------------|
| Contract Title: As-Needed Facility Condition Assessment FY 2014 - 2018 | Start Date: |
| Contract Number (if no number, state location): H136032 | End Date: |

SUMMARY OF EQUAL BENEFITS ORDINANCE REQUIREMENTS

The Equal Benefits Ordinance [EBO] requires the City to enter into contracts only with contractors who certify they will provide and maintain equal benefits as defined in San Diego Municipal Code §22.4302 for the duration of the contract. To comply:

- Contractor shall offer equal benefits to employees with spouses and employees with domestic partners.
 - Benefits include health, dental, vision insurance; pension/401(k) plans; bereavement, family, parental leave; discounts, child care; travel/relocation expenses; employee assistance programs; credit union membership; or any other benefit.
 - Any benefit not offered to an employee with a spouse, is not required to be offered to an employee with a domestic partner.
- Contractor shall post notice of firm's equal benefits policy in the workplace and notify employees at time of hire and during open enrollment periods.
- Contractor shall allow City access to records, when requested, to confirm compliance with EBO requirements.
- Contractor shall submit *EBO Certification of Compliance*, signed under penalty of perjury, prior to award of contract.

NOTE: This summary is provided for convenience. Full text of the EBO and its Rules are posted at www.sandiego.gov/administration.

CONTRACTOR EQUAL BENEFITS ORDINANCE CERTIFICATION

Please indicate your firm's compliance status with the EBO. The City may request supporting documentation.

- I affirm **compliance** with the EBO because my firm (*contractor must select one reason*):
- Provides equal benefits to spouses and domestic partners.
 - Provides no benefits to spouses or domestic partners.
 - Has no employees.
 - Has collective bargaining agreement(s) in place prior to January 1, 2011, that has not been renewed or expired.

- I request the City's approval to pay affected employees a **cash equivalent** in lieu of equal benefits and verify my firm made a reasonable effort but is not able to provide equal benefits upon contract award. I agree to notify employees of the availability of a cash equivalent for benefits available to spouses but not domestic partners and to continue to make every reasonable effort to extend all available benefits to domestic partners.

It is unlawful for any contractor to knowingly submit any false information to the City regarding equal benefits or cash equivalent associated with the execution, award, amendment, or administration of any contract. [San Diego Municipal Code §22.4307(a)]

Under penalty of perjury under laws of the State of California, I certify the above information is true and correct. I further certify that my firm understands the requirements of the Equal Benefits Ordinance and will provide and maintain equal benefits for the duration of the contract or pay a cash equivalent if authorized by the City.

Russell A. Fox/President

August 26, 2013

Name/Title of Signatory

Signature

Date

FOR OFFICIAL CITY USE ONLY

Receipt Date: _____ EBO Analyst: _____ Approved Not Approved – Reason: _____

rev 02/15/2011



**REGARDING INFORMATION REQUESTED UNDER THE
CALIFORNIA PUBLIC RECORDS ACT**

The undersigned duly authorized representative, on behalf of the named Contractor declares and acknowledges the following:

The contents of this contract and any documents pertaining to the performance of the contract requirements/Scope of Services resulting from this contract are public records, and therefore subject to disclosure unless a specific exemption in the California Public Records Act applies.

If a Contractor submits information **clearly marked** confidential or proprietary, the City of San Diego (City) may protect such information and treat it with confidentiality only to the extent permitted by law. However, it will be the **responsibility of the Contractor** to provide to the City the specific legal grounds on which the City can rely in withholding information requested under the California Public Records Act, should the City choose to withhold such information.

General references to sections of the California Public Records Act will not suffice. Rather, the Contractor must provide a **specific and detailed legal basis, including applicable case law** that **clearly establishes** the requested information is exempt from the disclosure requirements of the California Public Records Act.

If the Contractor does not provide a specific and detailed legal basis for withholding the requested information within a time specified by the City, the City will release the information as required by the California Public Records Act and the **Contractor will hold the City harmless** for release of this information.

It will be the **Contractor's obligation to defend**, at Contractor's expense, any legal actions or challenges seeking to obtain from the City any information requested under the California Public Records Act withheld by the City at the Contractor's request. Furthermore, the Contractor shall **indemnify** the City and **hold it harmless** for any claim or liability, and **defend any action** brought against the City, resulting from the City's refusal to release information requested under the Public Records Act withheld at Contractor's request.

Nothing in this Agreement creates any obligation for the City to notify the Contractor or obtain the Contractor's approval or consent before releasing information subject to disclosure under the California Public Records Act.

Kitchell/CEM, Inc.

Name of Firm
Russell Fox

Signature of Authorized Representative
Russell A. Fox

Printed/Typed Name
August 26, 2013

Date



CONSULTANT CERTIFICATION

AMERICAN WITH DISABILITIES ACT (ADA) COMPLIANCE CERTIFICATION

PROJECT TITLE: As-Needed Facility Assessment FY 2014 - 2018 (H136032)

I hereby certify that I am familiar with the requirements of San Diego City Council Policy No. 100-4 regarding the American With Disabilities Act (ADA) outlined in Article IV, "ADA Certification", of the Agreement, and that;

Kitchell/CEM, Inc.

(Name under which business is conducted)

has in place workplace program that complies with said policy. I further certify that each subcontract agreement for this project contains language which indicates the subcontractor's agreement to abide by the provisions of the policy as outlined.

Signed _____



Printed Name **Russell A. Fox**

Title **President**

Effective 05-14-12

