# CONSULTANT SERVICES AGREEMENT

# **BETWEEN THE**

# **CITY OF SAN DIEGO**



# **AND**

# **BLAIR SEARCH PARTNERS LLC**

TO PROVIDE EXECUTIVE SEARCH SERVICES FOR THE CITY OF SAN DIEGO ETHICS COMMISSION EXECUTIVE DIRECTOR

### CONSULTANT SERVICES AGREEMENT

This Consultant Services Agreement (Agreement) is entered into by and between the City of San Diego, a municipal corporation (City), and Blair Search Partners, LLC (Consultant).

#### RECITALS

City wishes to retain Consultant to provide executive search services for the City of San Diego (services).

Consultant has the expertise, experience, and personnel necessary to provide the Services.

City and Consultant (collectively, the Parties) wish to enter into an agreement whereby City will retain Consultant to provide the Services.

The City issued a Request for Quote (RFQ No. 10089670-20-K) on March 20, 2020.

For good and valuable consideration, the sufficiency of which is acknowledged, City and Consultant agree as follows:

# ARTICLE I CONSULTANT SERVICES

- **1.1 Scope of Services.** Consultant shall provide the Services to City as described in Exhibit B, Scope of Services at the rates agreed upon and awarded, in accordance with the City's General Terms and Provisions attached hereto as Exhibit D.
- **1.2 Contract Administrator.** The Ethic Commission (Commission) is the Contract Administrator for this Agreement. Consultant shall provide the Services under the direction of a designated representative of the Commission as follows:

Ms. Stacey Fulhorst, Ethics Director 619-533-3477 SFulhorst@sandiego.gov

- **1.3 Written Authorization.** City shall issue a written authorization to proceed before Consultant is authorized to perform Services.
- 1.4 Duty to Inform City of Changes in Scope of Services. Consultant shall immediately advise the City in writing of any anticipated change in the Scope of Services, Compensation and Fee Schedule, or Time 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 Consultant from its duty to render all Services in accordance with applicable law and industry standards.
- **1.5** Competitive Bidding. If applicable, Consultant shall ensure that any plans, specifications, studies, or reports prepared, required, or recommended under this Agreement

Consultant Agreement Revised: October 13, 2014 OCA Document No. 860733\_4 allow for competitive bidding. 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 City. Consultant shall submit this written justification to City prior to beginning work on such plans, specifications, studies, or reports. Whenever 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 Services.

# ARTICLE II DURATION OF AGREEMENT

- **2.1 Term.** This Agreement shall be for a period of five (5) years or until completion of scope of services, whichever is earliest beginning on the effective date. The term of this Agreement shall not exceed five years unless approved by the City Council by ordinance.
- **2.2 Effective Date**. 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.

# ARTICLE III COMPENSATION

- **3.1 Amount of Compensation.** City shall pay Consultant for performance of all Services rendered in accordance with this Agreement in an amount not to exceed \$36,000.
- **3.2** Additional Services. City may require Consultant to perform additional Services beyond those described in the Scope of Services (Additional Services). Before Consultant commences such work, the Parties must agree in writing upon a fee for the Additional Services, including reasonably related expenses, in accordance with Section 3.3.
- **3.3 Manner of Payment.** City shall pay Consultant in accordance with the cost/price proposal submitted in Tab C (referenced in Exhibit A). Consultant is not entitled to fees, including fees for expenses, that exceed the amounts specified therein. Consultant shall submit one invoice per calendar month in a form acceptable to City in accordance with the Compensation and Fee Schedule. Consultant shall include with each invoice a description of completed 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. City will pay undisputed portions of invoices within thirty calendar days of receipt.
- **3.4** Additional Costs. Additional Costs are costs that can be reasonably determined to be related to Consultant's errors or omissions, and may include Consultant, City, or Subcontractor overhead, construction, materials, demolition, and related costs. Consultant shall not be paid for the Services required due to the Consultant's errors or omissions, and Consultant shall be

Consultant Agreement Revised: October 13, 2014 OCA Document No. 860733\_4 responsible for any Additional Costs associated with such errors or omissions. These Additional Costs may be deducted from monies due, or that become due, to Consultant. Whether or not there are any monies due, or becoming due, Consultant shall reimburse City for Additional Costs due to Consultant's errors or omissions.

3.5 Eighty Percent Notification. Consultant shall promptly notify 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 (2) where the total cost for performance of the Scope of Services appears that it may be greater than the maximum compensation for this Agreement.

# ARTICLE IV WAGE REQUIREMENTS

4.1 Reserved.

# ARTICLE V CONSULTANT'S OBLIGATIONS

- **5.1 Right to Audit.** 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 Consultant's or Subcontractor's compliance with the provisions of this Agreement (City's Right). City's Right includes the right to inspect, photocopy, and retain copies of any and all books, records, documents and any other information (Records) relating to this Agreement outside of Consultant's premises if deemed necessary by City in its sole discretion. City shall keep these Records confidential to the extent permitted by law.
- **5.1.1** Audit. City's Right includes the right to examine Records of procedures and practices that City determines are necessary to discover and verify that Consultant or Subcontractor is in compliance with all requirements under this Agreement.
- **5.1.2** Cost Audit. If there is a claim for additional compensation or for Additional Services, the City's Right includes the right to Records 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.
- **5.1.3** Accounting Records. Consultant and all subcontractors shall maintain complete and accurate Records in accordance with generally accepted accounting practices. Consultant and Subcontractors shall make available to City for review and audit all Records relating to the Services. Upon City's request, Consultant and Subcontractors shall submit exact duplicates of originals of all requested records to City.
- **5.1.4** City's Right Binding on Subcontractors. Consultant shall include City's Right as described in this Section 5.1 in any and all of their subcontracts, and shall ensure that these sections are binding upon all Subcontractors.
- **5.2 Subcontractors.** Consultant's hiring or retaining of any third parties (Subcontractors) to perform Services (Subcontractor Services) is subject to City's prior written approval.

Consultant Agreement Revised: October 13, 2014 OCA Document No. 860733 4 Consultant shall list all Subcontractors known to Consultant on the Subcontractor List at the time this Agreement is entered. Consultant shall give written notice to the City of the need at least 45 days before entering into a contract for such Subcontractor Services. Consultant's notice shall include a justification, a description of the Scope of Services, and an estimate of all costs for Subcontractor Services. Consultant may request that City reduce the 45-day notice period. City agrees to consider such requests in good faith.

- **5.2.1 Subcontractor Contract.** Consultant shall require Subcontractor to obtain and maintain insurance policies as required by City for the duration of this Agreement. Consultant shall determine Subcontractor policy limits and required endorsements proportionate to the services performed by Subcontractor.
- **5.2.1.1** Consultant is obligated to pay Subcontractor, for Consultant and Cityapproved invoice amounts, out of amounts paid by City to Consultant not later than fourteen working days from Consultant's receipt of payment from City. Nothing in this paragraph shall be construed to impair the right of Consultant and any Subcontractor to negotiate fair and reasonable pricing and payment provisions among themselves.
- **5.2.1.2** If Subcontractor's performance is deficient, Consultant shall notify City in writing of any withholding of payment to 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 Subcontractor must take in order to receive the amount withheld. Once Subcontractor corrects the deficiency, Consultant shall pay Subcontractor the amount withheld within fourteen working days of the Consultant's receipt of City's next payment.
- **5.2.1.3** City shall not be made a party to any judicial or administrative proceeding to resolve any dispute between Consultant and Subcontractor. Consultant agrees to defend and indemnify the City as described in the City's General Terms and Conditions, attached hereto as Exhibit D, and incorporated by reference, in any dispute between Consultant and Subcontractor should City be made a party to any judicial or administrative proceeding to resolve the dispute in violation of this position.
- **5.2.1.4** Subcontractor must comply with the City's Equal Opportunity Contracting Program requirements.
- **5.2.1.5** City is an intended beneficiary of any work performed by Subcontractor for purposes of establishing a duty of care between Subcontractor and City.
- 5.3 Consultant Award Tracking Form. Consultant shall submit statistical information to City as requested in City's Consultant Award Tracking Form. The statistical information shall include the amount of subcontracting provided by firms during the period covered by the Consultant Award Tracking Form. With the Contract Award Tracking Form, Consultant shall provide an invoice from each Subcontractor listed in the report. 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.

Consultant Agreement Revised: October 13, 2014 OCA Document No. 860733\_4

- 5.4 Consultant and Subcontractor Principals for Consultant Services. This Agreement is for unique Services. City has retained Consultant based on Consultant's particular professional expertise as exhibited by the following members of the Consultant's organization: [List individuals by name and title] (the Project Team). Consultant may not delegate the performance of Services to other members of Consultant's organization or to Subcontractors without City's prior written consent. It is mutually agreed that the members of the Project Team are the principal persons responsible for delivery of all Services and may not be removed from the Project without the City's prior written approval. City may consider Consultant in default of this Agreement if any member of the Project Team is prevented from providing Services without City's prior written approval. Consultant must consult City as to any replacement if any member of the Project Team becomes unavailable. City may terminate this Agreement if City does not approve of a proposed replacement. Further, City reserves the right, after consultation with Consultant, to require any of Consultant's employees or agents to be removed from providing Services under this Agreement.
- **5.5 Consultant Evaluation.** City will evaluate Consultant's performance using the Consultant Evaluation Form.

#### VI. CONTRACT DOCUMENTS

**6.1 Contract Documents.** This Agreement and its exhibits constitute the Contract Documents. The Contract Documents completely describes the Services to be provided. The exhibits are as follows:

Exhibit A - Response Submission and Requirements

Exhibit B - Scope of Services

Exhibit C - Tab C: Revised Cost/Price Proposal Exhibit D - City's General Terms and Provisions

**Submittals Required with the Agreement**. Consultant is required to submit the following forms and information before the Agreement is executed:

Contractor Standards Pledge of Compliance Work Force Report Consultant Award Tracking Form Contractor Certification of Pending Actions

**6.3** 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.

Consultant Agreement Revised: October 13, 2014 OCA Document No. 860733 4 IN WITNESS WHEREOF, this Agreement is executed by City and Consultant acting by and through their authorized officers.

	R SEARCH PARTNERS		OF SAN DIEGO
ALin	nited Liability Company	A Mu	micipal Corporation
BY:	Trevar Blair	BY:	Print Name: STACEY FULTIVE Director Purchasing & Contracting Department ETHICS COMMISSION
	06-04-20		6.9.20
	DATE SIGNED		DATE SIGNED  Approved as to form this 2 day of 2020.
			MARA W. ELLIOTT, City Attorney By: MAN HUMBER

Deputy City Attorney

# **Exhibit A**

# **Tab A: Submission of Information & Forms**

2.1 Acceptions requested by respondent

# City of San Diego CONTRACTOR STANDARDS

# **Pledge of Compliance**

The City of San Diego has adopted a Contractor Standards Ordinance (CSO) codified in section 22.3004 of the San Diego Municipal Code (SDMC). The City of San Diego uses the criteria set forth in the CSO to determine whether a contractor (bidder or proposer) has the capacity to fully perform the contract requirements and the business integrity to justify the award of public funds. This completed Pledge of Compliance signed under penalty of perjury must be submitted with each bid and proposal. If an informal solicitation process is used, the bidder must submit this completed Pledge of Compliance to the City prior to execution of the contract. All responses must be typewritten or printed in ink. If an explanation is requested or additional space is required, Contractors must provide responses on Attachment A to the Pledge of Compliance and sign each page. Failure to submit a signed and completed Pledge of Compliance may render a bid or proposal non-responsive. In the case of an informal solicitation or cooperative procurement, the contract will not be awarded unless a signed and completed Pledge of Compliance is submitted. A submitted Pledge of Compliance is a public record and information contained within will be available for public review except to the extent that such information is exempt from disclosure pursuant to applicable law.

By signing and submitting this form, the contractor is certifying, to the best of their knowledge, that the contractor and any of its Principals have not within a five (5) year period – preceding this offer, been convicted of or had a civil judgement rendered against them for commission of a fraud or a criminal offense in connection with obtaining, attempting to obtain or performing a public (Federal, State or local) contract or subcontract.

"Principal" means an officer, director, owner, partner or a person having primary management or supervisory responsibilities within the firm. The Contractor shall provide immediate written notice to the Procurement Contracting Officer handling the solicitation, at any time prior to award should they learn that this Representations and Certifications was inaccurate or incomplete.

This form contains 10 pages, additional information may be submitted as part of Attachment A.

Executive Search Services, Ethics Commission Executive Director

#### A. BID/PROPOSAL/SOLICITATION TITLE:

Solicitation No. 10089670-20-K					
A. BIDDER/PROPOSER INFORMATION:		<del></del>			
Blair Search Partners LLC					
Legal Name		DBA			
550 West B Street, Fourth Floor	San Diego	CA	92101		
Street Address	City	State	Zip		
Trevor Blair	760 889 2707				
Contact Person, Title	Phone	Fax			

Provide the name, identity, and precise nature of the interest\* of all persons who are directly or indirectly involved\*\* in this proposed transaction (SDMC § 21.0103). Use additional pages if necessary.

- \* The precise nature of the interest includes:
  - the percentage ownership interest in a party to the transaction,
  - the percentage ownership interest in any firm, corporation, or partnership that will receive funds from the transaction.
  - the value of any financial interest in the transaction,
  - any contingent interest in the transaction and the value of such interest should the contingency be satisfied, and
  - any philanthropic, scientific, artistic, or property interest in the transaction.

- \*\* Directly or indirectly involved means pursuing the transaction by:
  - communicating or negotiating with City officers or employees,
  - submitting or preparing applications, bids, proposals or other documents for purposes of contracting with the City, or
  - directing or supervising the actions of persons engaged in the above activity.

Trevor Blair	CEO
Name	Title/Position
San Diego, CA	
City and State of Residence	Employer (if different than Bidder/Proposer)
Company owner	
Interest in the transaction	
Sarah Thompson	Director
Name	Title/Position
San Diego, CA	
City and State of Residence	Employer (if different than Bidder/Proposer)
Project staff	
Interest in the transaction	, , , <u>, , , , , , , , , , , , , , , , </u>
Diana Grant-Davie	Operations & Research Manager
Name	Title/Position
San Diego, CA	
City and State of Residence	Employer (if different than Bidder/Proposer)
Project Staff	. , ,
Interest in the transaction	
Name	Title/Position
City and State of Residence	Employer (if different than Bidder/Proposer)
Interest in the transaction	
Name	Title/Position
City and State of Residence	Employer (if different than Bidder/Proposer)
Interest in the transaction	
Name	Title/Position
City and State of Residence	Employer (if different than Bidder/Proposer)
Interest in the transaction	

		Name		Title/Position
		City and State of Residence		Employer (if different than Bidder/Proposer)
		Interest in the transaction		
		Name	-	Title/Position
		City and State of Residence		Employer (if different than Bidder/Proposer)
		Interest in the transaction		
		Name		Title/Position
		City and State of Residence		Employer (if different than Bidder/Proposer)
		Interest in the transaction		
_				
C.	OW	NERSHIP AND NAME CHANGES:		
	1.	In the past five ten (5) years, has y  ✓ Yes □No	our firm chang	ed its name?
		If <b>Yes</b> , use Attachment A to list all specific reasons for each name ch		d DBA names, addresses, and dates each firm name was used. Explain the
	2.	Is your firm a non-profit? ☐Yes ☑No		
		If Yes, attach proof of status to this	submission.	
	3.	In the past five (5) years, has a firm  Yes  No	n owner, partne	er, or officer operated a similar business?
				dresses of all businesses and the person who operated the business. only if an owner, partner, or officer of your firm holds or has held a similar
D.		BUSINESS ORGANIZATION/STR	UCTURE:	
		Indicate the organizational structure required.	e of your firm. I	Fill in only one section on this page. Use Attachment A if more space is
		Corporation Date incorporated: _		State of incorporation:
		List corporation's current officers:	President: Vice Pres: Secretary: Treasurer:	
		Type of corporation: C Su	ıbchapter S⊡	
		Is the corporation authorized to do		
		If Yes, after what date:		

Contractor Standards Form Revised: April 5, 2018 Document No. 841283\_4

D.

	☐Yes	□ No	
If Yes, how and where is the stock traded?_			
If Yes, list the name, title and address of those			
Do the President, Vice President, Secretary interests in a business/enterprise that perform			
If Yes, please use Attachment A to disclose.  Please list the following:	Authorized	Issued	Outstanding
			_
a. Number of voting shares: b. Number of nonvoting shares:	81	128 2	
<ul><li>b. Number of nonvoting shares:</li><li>c. Number of shareholders:</li></ul>	-	-	
d. Value per share of common stock:		Par	<u>\$</u>
		Book	\$
		Market	\$
Trevor Blair 1750 Kettner Bivd., #104			
San Diego, CA 92101			
Partnership Date formed:	State of formation:		***************************************
	State of formation:		
		**	
List names of all firm partners:		**	
List names of all firm partners:  Sole Proprietorship Date started:  List all firms you have been an owner, partner			
Partnership Date formed:			
List names of all firm partners:  Sole Proprietorship  Date started:  List all firms you have been an owner, partner a publicly traded company:			

Contractor Standards Form Revised: April 5, 2018 Document No. 841283\_4

No	te: T	o be responsive, each member of a Joint Venture or Partnership must complete a separate Contractor Standards form.
E.	FIN	ANCIAL RESOURCES AND RESPONSIBILITY:
	1.	Is your firm preparing to be sold, in the process of being sold, or in negotiations to be sold?  ☑ Yes ☑No
		If Yes, use Attachment A to explain the circumstances, including the buyer's name and principal contact information.
	<b>2.</b> [	In the past five (5) years, has your firm been denied bonding?  ☐ Yes ☑ No
		If Yes, use Attachment A to explain specific circumstances; include bonding company name.
	<b>3.</b>	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 Attachment A to explain specific circumstances.
	<b>4.</b>	In the past five (5) years, has any insurance carrier, for any form of insurance, refused to renew the insurance policy for your firm?  Yes  No
	•	If <b>Yes</b> , use Attachment A to explain specific circumstances.
	<b>5</b> .	Within the last five years, has your firm filed a voluntary petition in bankruptcy, been adjudicated bankrupt, or made a genera assignment for the benefit of creditors?  Yes  No
		If Yes, use Attachment A to explain specific circumstances.
		Are there any claims, liens or judgements that are outstanding against your firm? <b>Yes</b> □ <b>No</b>
	ı	f Yes, please use Attachment A to provide detailed information on the action.
	7.	Please provide the name of your principal financial institution for financial reference. By submitting a response to this Solicitation Contractor authorizes a release of credit information for verification of financial responsibility.
		Name of Bank: Bank of America
		Point of Contact: Sean Dial
		Address: 655 West Broadway, Suite 101, San Diego, CA 92101
		Phone Number: 760.421-8909

8. By submitting a response to a City solicitation, Contractor certifies that he or she has sufficient operating capital and/or financial reserves to properly fund the requirements identified in the solicitation. At City's request, Contractor will promptly provide to City

	perform.
9.	issued by the City Treasurer's Office. If you do not have one at the time of submission, one must be obtained prior to award.
	Business Tax Certificate No.: B2014032228 Year Issued: 2017
PE	ERFORMANCE 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 Attachment A to explain specific circumstances.
	In the past five (5) years, has a public entity terminated your firm's contract for cause prior to contract completion?  Yes  No
	If Yes, use Attachment A to explain specific circumstances and provide principal contact information.
3.	In the past five (5) years, has your firm entered into any settlement agreement for any lawsuit that alleged contract default, breach of contract, or fraud with or against a public entity?  Yes  No
	If Yes, use Attachment A to explain specific circumstances.
4.	Is your firm currently involved in any lawsuit with a government agency in which it is alleged that your firm has defaulted on a contract, breached a contract, or committed fraud?  Yes  No
	If Yes, use Attachment A to explain specific circumstances.
5.	In the past five (5) years, has your firm, or any firm with which any of your firm's owners, partners, or officers is or was associated, been debarred, disqualified, removed, or otherwise prevented from bidding on or completing any government or public agency contract for any reason?  Yes  No
	If Yes, use Attachment A to explain specific circumstances.
6.	In the past five (5) years, has your firm received a notice to cure or a notice of default on a contract with any public agency?
	□Yes
	If Yes, use Attachment A to explain specific circumstances and how the matter resolved.
7.	Performance References:
	ease provide a minimum of three (3) references familiar with work performed by your firm which was of a similar size and nature the subject solicitation within the last five (5) years.
	ease note that any references required as part of your bid/proposal submittal are in addition to those references required as part his form.
	Company Name: San Diego Housing Commission

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F.,

		Contact Name and Phone Number: Rick Gentry, (619) 578-7606
		Contact Email: rickg@sdhc.org
		Address: 1122 Broadway #300, San Diego, CA 92101
		Contract Date: various, 2017-present
		Contract Amount: \$50,000
		Requirements of Contract: Executive search services
		Company Name: San Diego Workforce Partnership
		Contact Name and Phone Number: Peter Callstrom, (619) 228-2906
		Contact Email: petercallstrom@workforce.org
		Address: 3910 University Avenue, #400, San Diego, CA 9210
		Contract Date: various, 2017-2018
		Contract Amount: \$30,000
		Requirements of Contract: Executive search services
		Company Name: The San Diego Foundation
		Contact Name and Phone Number: Mark Stuart, (619) 365-4490
		Contact Email: MarkS@sdfoundation.org
		Address: 2508 Historic Decatur Rd #200, San Diego, CA 9210
		Contract Date: 2017-present
		Contract Amount: \$150,000
		Requirements of Contract: Executive search services
G.	СО	MPLIANCE:
	1.	In the past five (5) years, has your firm or any firm owner, partner, officer, executive, or manager 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, permitting, and licensing laws?  Yes  No
		If Yes, use Attachment A to explain specific circumstances surrounding each instance. Include the name of the entity involved, the 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 determined to be non-responsible by a public entity?  Yes  No

If **Yes**, use Attachment A to explain specific circumstances of each instance. Include the name of the entity involved, the specific infraction, dates, and outcome.

		aposition, dates, and sections.
H.	BU	ISINESS 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 public entity?  Yes  No
		If <b>Yes</b> , use Attachment A to explain specific circumstances of each instance. Include the entity involved, specific 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 <b>Yes</b> , use Attachment A to explain specific circumstances of each instance; include the entity involved, specific infraction(s), dates, outcome and current status.
	3.	In the past five (5) years, has your firm or any of its executives, management personnel, or owners been convicted of a federal, state, or local crime of fraud, theft, or any other act of dishonesty?  Yes  No
		If <b>Yes</b> , use Attachment A to explain specific circumstances of each instance; include the entity involved, specific infraction(s), dates, outcome and current status.
	4.	Do any of the Principals of your firm have relatives that are either currently employed by the City or were employed by the City in the past five (5) years?
		□Yes
		If Yes, please disclose the names of those relatives in Attachment A.
I. B	USI	NESS REPRESENTATION:
		<ol> <li>Are you a local business with a physical address within the County of San Diego?</li> <li>✓Yes □No</li> </ol>
		2. Are you a certified Small and Local Business Enterprise certified by the City of San Diego?  ☐Yes ☑No
		Certification #
		Are you certified as any of the following:     a. Disabled Veteran Business Enterprise Certification #

J. WAGE COMPLIANCE:

In the past five (5)years, has your firm been required to pay back wages or penalties for failure to comply with the federal, state or local **prevailing, minimum, or living wage laws?** Yes No If Yes, use Attachment A to explain the specific circumstances of each instance. Include the entity involved, the specific infraction(s), dates, outcome, and current status.

By signing this Pledge of Compliance, your firm is certifying to the City that you will comply with the requirements of the Equal Pay Ordinance set forth in SDMC sections 22.4801 through 22.4809.

b. Woman or Minority Owned Business Enterprise Certification #\_
 c. Disadvantaged Business Enterprise Certification #

### K. STATEMENT OF SUBCONTRACTORS & SUPPLIERS:

Please provide the names and information for all subcontractors and suppliers used in the performance of the proposed contract, and what portion of work will be assigned to each subcontractor. Subcontractors may not be substituted without the written consent of the City. Use Attachment A if additional pages are necessary. If no subcontractors or suppliers will be used, please write "Not Applicable."

Company Name: Not Applicable					
Address:	<del></del>				
Contact Name:	Phone:	Email:			
Contractor License No.:	DIR Reg	stration No.:			
Sub-Contract Dollar Amount: \$	(per year)	\$	_ (total contract term)		
Scope of work subcontractor will perform:					
Identify whether company is a subcontract	or or supplier:				
Certification type (check all that apply):C	DBE □DVBE □ELBE	E □MBE □SLBE□WB	E Not Certified		
Contractor must provide valid proof of certi	fication with the respo	nse to the bid or proposa	l to receive		
participation credit.					
Company Name:					
Contact Name:	Phone:	Email:			
Contractor License No.:	DIR Regi	stration No.:			
Sub-Contract Dollar Amount: \$	(per year)	\$	_ (total contract term)		
Scope of work subcontractor will perform:					
Identify whether company is a subcontractor	or or supplier:				
Certification type (check all that apply): □D	BE DVBE ELBE	MBE SLBEWB	E ☐Not Certified		
Contractor must provide valid proof of certif	fication with the respon	nse to the bid or proposa	I to receive		
participation credit.					

## L. STATEMENT OF AVAILABLE EQUIPMENT:

A full inventoried list of all necessary equipment to complete the work specified may be a requirement of the bid/proposal submission.

By signing and submitting this form, the Contractor certifies that all required equipment included in this bid or proposal will be made available one week (7 days) before work shall commence. In instances where the required equipment is not owned by the Contractor, Contractor shall explain how the equipment will be made available before the commencement of work. The City of San

Diego reserves the right to reject any response, in its opinion, if the Contractor has not demonstrated he or she will be properly equipped to perform the work in an efficient, effective matter for the duration of the contract period.

M.	TYPE OF SUBMISSION: This document is submitted as:
	☑Initial submission of Contractor Standards Pledge of Compliance
	☐ Initial submission of Contractor Standards Pledge of Compliance as part of a Cooperative agreement
	☐ Initial submission of Contractor Standards Pledge of Compliance as part of a Sole Source agreement
	Update of prior Contractor Standards Pledge of Compliance dated

## Complete all questions and sign below.

Under penalty of perjury under the laws of the State of California, I certify that I have read and understand the questions contained in this Pledge of Compliance, that I am responsible for completeness and accuracy of the responses contained herein, and that all information provided is true, full and complete to the best of my knowledge and belief. I agree to provide written notice to the Purchasing Agent within five (5) business days if, at any time, I learn that any portion of this Pledge of Compliance is inaccurate. Failure to timely provide the Purchasing Agent with written notice is grounds for Contract termination.

I, on behalf of the firm, further certify that I and my firm will comply with the following provisions of SDMC section 22.3004:

- (a) I and my firm will 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) I and my firm will notify the Purchasing Agent in writing within fifteen (15) calendar days of receiving notice that a government agency has begun an investigation of me or my firm that may result in a finding that I or my firm is or was not in compliance with laws stated in paragraph (a).
- (c) I and my firm will notify the Purchasing Agent in writing within fifteen (15) calendar days of a finding by a government agency or court of competent jurisdiction of a violation by the Contractor of laws stated in paragraph (a).
- (d) I and my firm will notify the Purchasing Agent in writing within fifteen (15) calendar 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).
- (e) I and my firm will cooperate fully with the City during any investigation and to respond to a request for information within ten (10) working days.

Failure to sign and submit this form with the bid/proposal shall make the bid/proposal non-responsive. In the case of an informal solicitation, the contract will not be awarded unless a signed and completed *Pledge of Compliance* is submitted.

Trevor Blair, CEC	Tora Bli	04/29/20
Name and Title	Signature	Date

# City of San Diego CONTRACTOR STANDARDS Attachment "A"

Provide additional information in space below. Use additional Attachment "A" pages as needed. Each page must be signed. Print in ink or type responses and indicate question being answered.

C: Ownership & Name Changes Legal name change - 2014 to 2016 Distillery Coffee Company LLC, 2016 to present E Reason: more cost effective to transfer existing legal entity from earlier startup to the	Blair Search Partners LLC new business venture rather than
incorporating a new legal entity.	
	12 22 12 X

I have read the matters and statements made in this Contractor Standards Pledge of Compliance and attachments thereto and I know the same to be true of my own knowledge, except as to those matters stated upon information or belief and as to such matters, I believe the same to be true. I certify under penalty of perjury that the foregoing is true and correct.

Trevor Blair, CEO	Townski	04-29-20			
Print Name, Title	Signature	Date			

### AA. CONTRACTORS CERTIFICATION OF PENDING ACTIONS

As part of this Contract, the Contractor must provide to the City a list of all instances within the past 10 years where a complaint was filed or pending against the Contractor in a legal or administrative proceeding alleging that Contractor discriminated against its employees, subcontractors, vendors or suppliers, and a description of the status or resolution of that complaint, including any remedial action taken.

## CHECK ONE BOX ONLY.

<b>V</b>	The undersigned certifies that within the past 10 years the Contractor has NOT been the subject of a complaint or pending action in a legal administrative proceeding alleging that Contractor discriminated against its employees, subcontractors, vendors or suppliers.
	The undersigned certifies that within the past 10 years the Contractor has been the subject of a complaint or pending action in a legal administrative proceeding alleging that Contractor discriminated against its employees, subcontractors, vendors or suppliers. A description of the status or resolution of that complaint, including any remedial action taken and the applicable dates is as follows:

DATE OF CLAIM	LOCATION	DESCRIPTION OF CLARM.	LITIGATION (Y/N)	STATUS	RESOLUTION/ REMEDIAL ACTION TAKEN

Contractor Na	me: Blair Search Pa	artners	
	Trevor Blair		Title CEO
		Name	
	Toroghi		Date 04-29-20
		Signature	



# **EQUAL OPPORTUNITY CONTRACTING (EOC)**

1200 Third Avenue, Suite 200 · San Diego, CA 92101 Phone: (619) 236-6000 · Fax: (619) 236-5904

# **BB. WORK FORCE REPORT**

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

# NO OTHER FORMS WILL BE ACCEPTED CONTRACTOR IDENTIFICATION

	CONTRA	ACTOR IDE	INTIFICATION	J	
**	☐ Construction ☐ Vendor ☐ Consultant ☐ Grant F		□ Financial II □ Insurance (		□ Lessee/Lessor □ Other
Name of Company: Blai	r Search Partners LLC				<del></del>
ADA/DBA:			3		
Address (Corporate Head	quarters, where applicable): 550	West B Stre	et, Fourth Floor	r	
City: San Diego	County: San I	Diego	9	State: CA	Zip: 92101
Telephone Number: 760	889 2707		Fax Number:		
Name of Company CEO:	T evo rBlai r				
	ax number(s) of company facilities	s located in S	San Diego County	(if different fro	m above):
Address:					
	County:			State:	Zip:
Telephone Number:	Fax Numbe	er:		Email:	
Type of Business: Re or	iting firm		Type of License:	N/A	_
The Company has appoin	ted: Te vor Blair				
	Opportunity Officer (EEOO). The I	EEOO has bee	en given authority	to establish, di	sseminate and enforce equal
employment and affirmate Address: 550 West B St	tive action policies of this company reet, Fourth Floor	y. The EEOO	may be contacted	d at:	
	889 2707 Fax Number	er:		Email: trevo	@blairsearchpartners.co
	One San D	Diego Coun	ty (or Most Lo	ocal County)	Work Force - Mandatory
	🗖 Branch We	ork Force	*		
	☐ Managing	Office Wo	ork Force		
	Check the ho	y ahove that	applies to this W	TD	
*Suhmit a separa	te Work Force Report for all partic		• •		an one heanch nee county
•			iches. combine v	vins y more in	in one branch per tounty.
I, the undersigned repres	entative of Bla irSea ron Partrers				
San Diego	CA	(Firm	n Name)	hought coutifu	ibat information provided
(County	, <u>CA</u>	(State)		nereby certify t	that information provided
	This document was executed on	•	day o	of April	, <sub>20</sub> .20
Tooks.			_Trevor	Plair	
(Authoriz	red Sianature)	_		uthorized Sianatu	re Name)

			_			2.0				2-912-02		5 5 5 5		
WORK FORCE REPORT - Page 2 NAME OF FIRM: Blair Search Par	tners									D	лтг. О	4-29-20	)	
NAME OF FIRM: Blair Search Partners  DATE: 04-29-20  OFFICE(S) or BRANCH(ES): San Di ego  COUNTY: San Di ego														
INSTRUCTIONS: For each occupa	itional (	catego	y, indic	ate nu	mber o	f male	s and f	emales	in eve	ry ethi	nic gro	up. Tota	al colu	nns in row
provided. Sum of all totals should time basis. The following groups a	be equa re to be	l to yo includ	ur total led in et	work f hnic ca	orce. I	nclude s listed	all thos I in colu	e empl ımns be	oyed by clow:	y your	compar	ıy on ei	ther a f	ull or part-
(1) Black or African-American (2) Hispanic or Latino (3) Asian (4) American Indian or Alaska Definitions of the race and ethnic	Native		can be f	ound o	n Page	(6) (7)	Native White Other 1					ider ; into o	ther g	roups
ADMINISTRATION OCCUPATIONAL CATEGORY	Blac Afri Amer	k or can	(2 Hispa Lat	nic or	(3 Asi		Ame Indian Alas	rican n/ Nat.	Pac	(5) Pacific Islander		6) hite	(7) Other Race/ Ethnicity	
	(M)	(F)	(M)	(F)	(M)	(F)	(M)	(F)	(M)	(F)	(M)	(F)	(M)	(F)
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# Confidentiality and Non-Disclosure Agreement

During the course of this Contract for Executive Search Services, City and Contractor (collectively, the Parties) may be exposed to important business or technical information which is the property of the other party. The unauthorized use or disclosure of this information could harm the business of the owner of the information. For this reason, and in consideration of the mutual covenants contained in this Agreement and the mutual disclosure of confidential information to each other, the Parties agree as follows:

## 1. Confidential Information.

- (a) Confidential Information is information disclosed by the Disclosing Party (Disclosing Party) to the Receiving Party (Receiving Party) which is non-public, proprietary or confidential in nature, whether provided in writing, orally, visually, electronically or by other means. Confidential Information includes, but is not limited to the following: (i) know-how, trade secrets, tools, methods, methodologies, techniques, designs, specifications, computer source code, customer lists, customer information, marketing plans, personnel information, financial information, business strategies, and information relating to released or unreleased software, hardware or technology; (ii) information received by the Disclosing Party from third parties under confidential conditions which information is identified by the Disclosing Party as being subject to such conditions, (iii) the Disclosing Party's Trade Secrets. Trade Secrets means information which (a) derives economic value, actual or potential, from not being generally known to, or readily ascertainable by proper means by, other persons who can obtain economic value from its disclosure or use, and which is the subject of efforts that are reasonable under the circumstances to maintain its secrecy, or (b) is otherwise a Trade Secret as defined by California law, and (iv) the existence of this Agreement, the fact that the Receiving Party has received any information under this Agreement, and that any investigations, discussions or negotiations are taking, or have taken, place between the parties. Confidential Information disclosed to the Receiving Party by any Disclosing Party subsidiary, affiliate, or agent is covered by this Agreement.
- (b) Confidential Information does not include any information that: (i) is or subsequently becomes publicly available without the Receiving Party or its Representative's (as defined below) breach of any obligation owed the Disclosing Party; (ii) became known to the Receiving Party prior to the Disclosing Party's disclosure of such information to the Receiving Party; (iii) became known to the Receiving Party from a source other than the Disclosing Party or its affiliates or advisors other than by the breach of an obligation of confidentiality owed to the Disclosing Party; or (iv) is independently developed by the Receiving Party or its Representatives without violating any of their obligations under this Agreement.

# 2.Obligations.

- (a) The Parties shall each keep in confidence, and shall cause their respective Representatives to keep in confidence, all Confidential Information disclosed to either of them by the other and shall use such Confidential Information only for the mutually agreed upon objectives of the discussions between the Parties.
- (b) Receiving Party shall exercise reasonable care to prevent the disclosure of Confidential Information to any third party, and in any event not less than the same precautions used by the Receiving Party to protect its own Confidential Information. Dissemination of Confidential

Information shall be limited to the directors, officers, employees and advisors (including legal, accounting and financial advisors) of the Receiving Party (collectively, the Representatives), whose duties justify their need to know such information and then only on the basis of a clear understanding by these Representatives of their obligation to maintain the confidential status of the information and to restrict the use of the information solely to the use granted under this Agreement. The Receiving Party shall be responsible for any breach of this Agreement by its Representatives.

- (c) All Confidential Information, including all tangible embodiments, copies, reproductions and summaries thereof, and any other information and materials provided by the Disclosing Party to the Receiving Party, shall remain the sole and exclusive property of the Disclosing Party.
- (d) Receiving Party shall immediately report to the Disclosing Party any attempt by the Receiving Party's Representatives to use or disclose any portion of the Confidential Information without authorization from the Disclosing Party, and shall cooperate with the Disclosing Party in every reasonable way to help the Disclosing Party regain possession of the Confidential Information and prevent its further unauthorized use.
- (e) At the Disclosing Party's request, the Receiving Party shall return all originals, copies, reproductions and summaries of Confidential Information in the possession of the Receiving Party or its Representatives.
- 3. <u>Exception</u>. The obligations of confidentiality imposed by this Agreement do not apply to any Confidential Information which is required to be disclosed pursuant to operation of law or legal process, governmental regulation or court order, provided that the Receiving Party receiving such legal demand or order shall promptly inform the Disclosing Party to allow a reasonable opportunity to obtain a protective order, as appropriate. Nothing in this Agreement shall prohibit City from disclosing information that qualifies as a "public record," as that term is defined in the California Public Records Act, codified in California Government Code section 6250 through 6270.
- **4. <u>Duration.</u>** This Agreement shall survive for a period of three (3) years after the date hereof. For Confidential Information that constitutes a Trade Secret, the restrictions set forth in this Agreement shall continue in effect for so long as such information remains a Trade Secret. This Agreement shall inure to the benefit of and be binding upon the Parties, their successors, and assigns.

THE CITY OF SAN DIEGO, a California municipal corporation	Blair Search Partners LLC
Name (Print)	Name (Print): Trevor 13 lair
Title:	Title: CEO
Signature:	Signature: TwoShi
Date:	Date: 04/29/20

# Solicitation No. 10089670-20-K

# **Executive Search Services**

# **Ethics Commission Executive Director**



# Prepared for:



Due date: April 30, 2020 @ 2:00 PM

**Contact Information:** 

**Trevor Blair** 

CEO, Blair Search Partners 550 West B Street, 4th Floor San Diego, CA 92101 C: 760 889 2707 trevor@blairsearchpartners.com

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# **Executive Summary**

Based in Downtown San Diego, Blair Search Partners (BSP) offers our clients a unique approach and capabilities. No other search firm is more closely tied to our city. Our deep understanding of this community will be a tremendous asset throughout this engagement, enabling us to quickly identify and connect with our region's most capable leaders, as well as leading talent from across the country. Key differentiators include:

- Sectoral specialization BSP works exclusively with San Diego-based public and nonprofit sector clients. This not just <u>α</u> practice area for our firm, it is our <u>only</u> practice area, ensuring each of our clients is supported by a local team of dedicated specialists. We bring extensive experience coordinating with commissions, advisory committees, selection subcommittees, staff, community groups and the general public.
- 2. **Local context** 100% of the project services will be managed and performed here in San Diego. This ensures the highest levels of responsiveness, service and accountability, as well as providing an important local context for the entire project. We also conduct all client meetings in-person (as soon as safe to do so again), rather than relying on teleconference or virtual platforms.
- 3. **Unlimited candidate access** our team can target any candidate anywhere in the state of California, or across the country, enabling us to recruit from the top public agencies. There is absolutely no conflict of interest between this project and our prior placements, nor are we bound by any noncompete contracts.
- 4. **Customization** our process and service delivery are fully customized around the needs of each client organization, which we feel is essential for unique positions such as the Executive Director.
- 5. **Total transparency** we provide our clients with complete access to all project data in real time through a secure online client portal.
- 6. **Project Management** this engagement will be directly managed by our firm's Founder & CEO, not delegated out to staff or contractors.

We would be honored to support the Ethics Commission through this incredibly important process, and we are comfortable with the dates and timeline outlined in the Scope of Services. Thank you and we look forward to continuing the conversation.

Trevor Blair

CEO, Blair Search Partners

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# **Company Background**

#### **Organizational Capacity**

BSP manages approximately 40 search engagements across the region annually. With 4 full-time San Diego-based team members, our firm has the resources to manage high-profile, high-volume search engagements. This enables us to go deeper into the market, recruiting and processing an exceptionally large number of candidates, to ensure we bring our clients the very best talent. As an example, we recently built a pool of over 1,300 CEO candidates for The San Diego Foundation, through an intensive national marketing and headhunting campaign.

#### **Local Public Sector Recruitment Experience**

Our local public sector executive search experience includes numerous agencies and organizations such as the San Diego Housing Commission, Southwestern Community College District, Port of San Diego, San Diego Workforce Partnership and the San Diego Regional Task Force on the Homeless.

### **Focus on Diversity**

We approach each search with new thinking, and a dedication to sourcing the widest selection of candidates possible. We go beyond the "usual suspects" to recruit candidates from a wide array of backgrounds and geographies. Our firm has a history of finding rising leaders with a demonstrated track record of innovation, as well as recruiting seasoned executives from the corporate sector. Our company is also dedicated to helping our clients better reflect the communities and stakeholders they represent. Since our firm's founding, 2/3 of our executive level placements have been filled by women, people of color, or candidates from other diverse backgrounds.

#### **Unlimited Candidate Reach**

Our focus on serving San Diego-based organizations provides the Commission with another significant benefit. Unlike out-of-town search firms working with other public agencies, BSP is not limited by our existing client base. We can strategically source the very best candidates from any agency, anywhere across the country. Our work for the Commission will not be constrained in any way by previous placements or noncompete agreements.

# **Project Team**

## Trevor Blair, Principal



A native of San Diego, Trevor has nearly 20 years of experience in executive search, recruiting and workforce development. He began his career with Manpower, a global provider of recruiting and HR solutions, and was initially based in Sydney. After 5 years with the Australian operation, he transferred back to the US for graduate school, and then rejoined Manpower in San Diego. After serving for several years as a Business Development Manager, he shifted focus to build the company's workforce development and executive search practices. During this time, Trevor worked closely with nonprofit organizations to develop training and job placement programs for groups facing barriers to employment,

such as youth and veterans. He also helped secure significant government and private funding to back those programs. On the executive search front, Trevor built a significant practice at Manpower serving a range of clients in the public, nonprofit and private sectors. In 2016, he leveraged this experience to launch a new firm, Blair Search Partners, specializing in search engagements for nonprofit and public-sector clients. Based in Downtown San Diego, the firm manages over 40 search engagements annually. Clients represent almost every sector of the community, including civic and philanthropic institutions, health & human services, education and the arts. Trevor's community engagement is centered on education and employment issues. Current board and committee positions include LEAD San Diego, Zero8hundred (formerly the Military Transition Support Project), the Barrio Logan College Institute, San Diego Rotary, and San Diego Grantmakers. Trevor is an avid endurance athlete, having competed in over 200 triathlons around the world. He is a 10-time Ironman finisher and 3-time Boston Marathon finisher. He holds a BA from the University of Pennsylvania (summa cum laude), and an MBA from the University of Southern California.

## Specific responsibilities will include:

- > Establishing and guiding project strategy
- Managing communication with the Commission
- Conducting all stakeholder meetings/interviews
- > Attending every client meeting
- Facilitating public comment forums (if requested by the Commission)
- Creating all project materials including target candidate profile, position description, scoring matrix, client final interview questions
- > Targeted candidate outreach and interviewing
- Managing partner relationships and referrals

## Sarah Thompson, Director



Working closely with our firm's Principal, Sarah manages executive search and recruiting engagements for a range of nonprofit clients in the San Diego area, including the San Diego Symphony, Mingei International Museum, Startup San Diego, MAAC, the Rady Children's Hospital Foundation and the San Diego Housing Commission. Sarah brings 17 years of nonprofit sector experience to the firm, having served in workforce development, technology startups and youth programs. Prior to joining Blair Search Partners, she served as the Executive Director of the Eric Paredes Save A Life Foundation, an organization providing free heart screenings for teens in San Diego. Sarah's prior leadership roles include

Program Director for Athena San Diego and Director of Community Relations for the San Diego Workforce Partnership. Sarah's community engagement includes immediate past-Chair of the United Way of San Diego County's Women's Leadership Council and LEAD San Diego. She was also a nominee for the San Diego NEXT Top Business Leaders Under 40. A graduate of Oregon State University, Sarah also holds a MA in Nonprofit Leadership and Management from the University of San Diego and joined the BSP team in 2018.

#### Specific responsibilities will include:

- Serving as an additional POC for The Commission
- > Attending every client meeting
- Managing the candidate outreach and screening process
- Conducting first and second round interviews
- Serving as the primary candidate POC

## Diana Grant-Davie, Operations and Research Manager



Diana manages the daily operations at Blair Search Partners supporting all search engagements for the firm's clients. Her recent engagements include Voice of San Diego, The San Diego Foundation, the San Diego Symphony and Bastyr University. Joining the BSP team in August of 2019, Diana began her recruiting career at an international law firm in London and most recently managed operations for the Career Services department at Point Loma Nazarene University (PLNU). Diana is a recent graduate of PLNU's Organizational Leadership master's program. Her community engagement includes LEAD San Diego's IMPACT Class of 2020, steering committee member for the University of San Diego's Women for Social Impact, San

Diego Young Leaders, and United Way of San Diego County's Emerging Leaders. She also holds a BA in Social Sciences from Durham University in the UK.

#### Specific responsibilities will include:

Provide close project support across every stage

- Managing all job postings, social media and other outreach/marketing activities
- Conducting national candidate research and initial contact
- > Coordinating candidate interviews with both the firm and the client
- Overseeing the background and reference checking process

# **Public Sector Expertise**

Our public-sector experience includes CEO and other high-level placements for leading organizations such as the San Diego Regional Task Force on the Homeless, the San Diego Housing Commission, Port of San Diego, and the San Diego Workforce Partnership. We feel our success in this area is based on our unique ability to infuse the "voice" of the community into every stage of the process. As part of our engagement strategy, we will invest significant time in meeting with the Commission's designated stakeholder groups to gather their insights and suggestions and ensure the entire search process reflects a community-centric focus.

BSP's work with the San Diego Housing Commission illustrates our firm's capabilities to support high-profile public agencies across a range of functional areas. Trevor Blair, our firm's Principal and the project leader for this engagement, has provided executive search services to the Commission since 2011. With an annual budget of nearly \$450 million, the Commission is a complex, multifunctional agency, providing services in rental assistance, affordable housing development, workforce development and homeless services. Over the course of our relationship with the Commission, our firm has managed numerous search engagements across almost every area of the organization including:

- Director of Human Resources
- Director of Policy
- Director of Rental Assistance Programs
- Sr. Director of Real Estate
- Director of Workforce Development and Economic Opportunity
- Director of Homeless Housing Innovations
- VP of Financial Services (current engagement)

# **Experience & Sourcing Strategies**

The number and diversity of retained search engagements we manage for public sector and nonprofit organizations each year (43 over the past 12 months alone) keeps us tightly connected to the national candidate market. We feel the quality and professionalism of our service is reflected by the deep relationships we have developed with long-time clients such as The San Diego Housing Commission (7 engagements to-date), The San Diego Foundation (6), the Rady Children's Hospital Foundation (13), and MAAC (7).

One of BSP's core capabilities is managing search engagements for highly unique and specialized positions, such as the Ethics Commission's Executive Director. Nothing our firm does is "cookie cutter" or "off-the-shelf". We take a fresh approach to each engagement, conducting extensive new candidate research and outreach for each of our positions. BSP never relies on a go-to "stable" of recycled applicants. While we have developed an incredibly thorough and proven recruitment methodology, our dedication to customizing both our approach and our model around the unique needs of both the client organization and the position is what truly sets our firm apart.

BSP has extensive experience managing national search engagements for very high-profile, complex positions. Given that most of our clients are community-based organizations or public agencies, we regularly manage community feedback forums/stakeholder meetings and coordinate with multiple boards and committees on behalf of our clients. Recent engagements managed by our firm of a similar level of complexity to the Ethics Commission's Executive Director search include:

- CEO Downtown San Diego Partnership
- CEO San Diego Regional Task Force on the Homeless
- CEO The San Diego Foundation
- CEO South County Economic Development Council
- VP Business & Financial Affairs Southwestern Community College District

For the period 2017-present, our firm's executive level placement experience breaks down as follows:

- Director level placements: 29
- Executive Director level placements: 13
- Vice President level placements: 10
- CEO placements: 15
- Other C-level placements: 16

Each of our searches include an in-depth national recruiting effort, whereby we typically build a pool of at least 400 candidates for our higher-level positions. We feel this extra effort is important for several reasons:

- 1. **Breadth**: our clients need to be confident we have scanned the national candidate market, and that we have thought creatively about the requirements, proactively reaching out to the most compelling and diverse pool of candidates possible.
- 2. **Depth**: in additional to looking nationally, community-facing positions such as the Commission's Executive Director also require that we dig deep into the local candidate market, to ensure San Diego-based talent is well-represented in the candidate pool.
- 3. **Optics**: our clients must be able to demonstrate to their stakeholders and the wider public that the search was truly open, transparent and thorough. We help meet that requirement by going

to extremes with our talent mapping and candidate research – the exceptionally large applicant pools we build validate that the process was highly competitive, and that the selected finalist was truly the very best candidate in the country.

#### Research

BSP invests significant time and resources into the research phase, prior to launching each engagement. It is critical that our team develop a highly detailed understanding of the Executive Director role, which we do by carefully mapping the ecosystem of stakeholders around the position, and then meeting with those parties either 1:1 or in small, confidential group settings. These conversations are guided by structured questioning and information gathering, to ensure we fully capture the vision and requirements each stakeholder has for the Executive Director role. The insights gained through this research will then direct our candidate sourcing efforts in numerous areas.

#### **Talent mapping**

Our team conducts fresh candidate research for each search engagement. This includes identifying skilled individuals that may already be known within the Commission's stakeholder ecosystem, as uncovered through the stakeholder conversations above. BSP also overlays our existing database of both active and potential candidates, which is then cross-checked and edited down to an initial target outreach list (typically 50+ to begin with).

#### **Leading Organizations**

At the organizational level, our team will also map out entities and agencies providing services in related fields to the Commission, and which are considered high performing. BSP will then conduct additional research to identify the individuals leading those organizations and evaluate whether they might also fit the Commission's Executive Director requirements.

#### **Marketing**

In addition to the proactive headhunting strategies outlined above, BSP will also launch a comprehensive national marketing campaign to ensure the Commission's recruitment announcement reaches the widest possible audience of potential candidates. This will include creating new content for a variety of platforms including:

- Social media
- Professional and industry-specific job boards
- Relevant list serves, blog sites and associations

#### **Referrals**

And finally, one of the most time-honored and still most powerful sourcing techniques remains person-to-person referrals. BSP invests a tremendous amount of time each year into building and maintaining our national network of relationships with current and prior clients and candidates. This remains one of our most effective means of sourcing fresh talent at all levels.

# **Services Guarantee**

If the Commission is not completely satisfied with the candidate within the first 12 months of hire, or if the candidate quits or is terminated for cause, and all fees have been paid, our firm will repeat the recruitment process on a one-time basis, to locate a replacement candidate at no additional cost, provided the position remains unchanged in scope, location, and compensation, and that the termination was not the result of a lay-off or other corporate restructuring at the Commission.

# **Recruitment Plan & Approach**

BSP will design, implement and manage a search process that is customized around the needs of the Ethics Commission and its stakeholders. Another important aspect about our approach: we don't stop until we have secured a finalist candidate who not only meets all the position requirements, but who your Commissioners are also *excited* to work with. We place no limit on either the number of candidates presented or the engagement duration. While our clients typically elect to meet with up to 8 finalists, your search committee is welcome to meet with any number of candidates. And to ensure momentum is maintained throughout the entire engagement, BSP does not shut down recruiting activities until your selected finalist has signed an employment offer.

# **Ethical Candidate Sourcing & Confidentiality**

The Commission requires a search firm partner that shares similar values of transparency, equity and excellence - your work depends on it. Similarly, we built our business on healthy community relationships, and a commitment to ethical business conduct. As such, we fully appreciate the sensitive nature of high-profile assignments such as these. The San Diego region is very connected, with many close and long-standing relationships that could play a role in this high-profile engagement. Our firm will never take any action that could compromise the relationships or reputation of the Commission or your stakeholders.

During the initial project kick-off meeting with the search committee, we will finalize key areas we consider essential to conducting an effective, equitable, inclusive and confidential search. These include:

- Non-compete organizations for the Commission, locally and nationally.
- Specific external candidates you would/would not like us to approach.
- Specific internal candidates you would/would not like to include in the process.
- Other requirements, as specified by the Commission.

#### **Protecting Candidate Privacy**

Many of the top candidates are currently leading other organizations around the country, requiring absolute discretion and confidentiality to protect them and the Commission. As such, BSP always allows for candidate meetings and interviews to be conducted on mutually agreeable terms (time and location), to ensure confidentiality. This includes making ourselves available to candidates outside of business hours and on weekends. Should any potential conflict arise, the search committee can direct us to terminate those candidate conversations at any time.

#### **Commitment to the Candidate Experience**

In selecting BSP, you are effectively entrusting us to represent the City's brand at a national level – a responsibility we by no means take lightly. Accordingly, another way in which our firm distinguishes itself is through our total commitment to the candidate experience. We take great care to ensure candidates are not only treated with respect and equanimity, but that they also have a highly positive experience throughout the entire search process. This includes timely communication, honesty, and absolute confidentiality. Our goal is for each candidate participating in the search process to have such a positive experience, regardless of the outcome of their application, that they have an even higher regard for the organization upon exit than they did going into the process.

# **Candidate Profile**

We believe that building a strong foundation for any search process begins with clearly identifying the position requirements, cultural factors and performance outcomes for the position. If desired by the Commission, our process will begin with a series of facilitated discussions to ensure alignment around a shared vision for the Commission's next Executive Director. This includes a clear definition of success and performance-based outcomes at 1-year, 3-year and 5-year time horizons. Specific position requirements to review and confirm include:

- Entrepreneurial approach with solid business/operations acumen
- Experience working with large, high-profile boards
- Track record for building effective community partnerships
- Highly developed public and government relations skills
- Strong communicator skilled at managing a large and multigenerational team

Our team will synthesize findings from these discussions into the new position description and target candidate profile. While these documents are not set in stone, they provide a solid basis from which to initiate the search. Quite often the ideal candidate profile evolves over time, as the search committee begins meeting candidates and testing assumptions. As such, our process is inherently flexible to accommodate and incorporate new datapoints into the various stages.

# Methodology

We invest significant time in the early stages of the process to build an intimate understanding of both the organization and requirements for the position. This will include personally meeting with the Commission's designated stakeholder groups to gather their insights and suggestions, ensuring the entire search process reflects a community-centric focus. Each aspect of the process and timeline will be customized around the Commission's needs, with BSP providing comprehensive support and materials in a number of key areas:

- Search Committee Support: We are here to provide in-person support and guidance for the
  committee through each step of the screening, interviewing and placement process. All
  meetings will be conducted locally, and we are happy to attend and facilitate candidate
  interviews for the search committee as well. Our firm's Principal, Trevor Blair will directly
  manage the entire engagement and will be the Commission's central point of contact.
- **Community Forums:** The Commission works with an array of stakeholders and community-based organizations, as well as the general public. BSP would be happy to host listening forums to meet with constituents and gather additional perspectives on the position requirements and process. Our experience has been that this extra level of inclusivity helps build trust amongst stakeholders with the organization and improves the onboarding process.
- **Position Description:** Using data gathered from in-depth stakeholder meetings and research, we will update the position description to ensure it fully captures the Commission's vision for the role. We believe a truly comprehensive position description achieves the following:
  - o Accurately reflects the Commission's values, mission and brand.
  - Appeals to the widest possible pool of qualified candidates.
  - Projects inclusivity, diversity and effectively attracts candidates of all backgrounds.
  - o Provides candidates with detailed insight into the position requirements and key success factors, particularly around strategic priorities, culture, and vision.
- Interview Guide: We will develop a comprehensive set of interview questions for your search committee members, customized to the position, covering areas into which your search committee may wish to delve deeper during meetings with each finalist candidate.
- **Weighted Evaluation Tool:** This provides an objective measure of each candidate in areas central to the position's requirements. Interviewer scores are entered into the tool, yielding a numerical ranking of each candidate's interview performance and overall fit. The evaluation tool facilitates the final decision-making process and ranks all finalists accordingly.
- Candidate Profile: This is a 360-degree view of the position, incorporating input from stakeholders at all levels relative to the role: superiors, peers, and direct reports. Based on their

position within the organization, each stakeholder has a different view of the position, enabling them to offer unique perspectives and insights as to what the role requires.

- Leadership Assessments: Along with the written candidate profile, the search committee will receive a copy of the candidate's performance on the Criteria Corp platform. This program is comprised of two assessments. The first analyzes a range of capabilities, including problemsolving, critical thinking, attention to detail, and the ability to learn, digest, and apply new information. The second test measures 12 personality traits that provide valuable insight into the individual's work style and behavior. Candidates later selected for final interviews will complete a second assessment, the Hogan Personality Inventory, which is used to predict job performance, evaluate career derailers, identify potential, bolster leadership development, and capture key behavioral tendencies.
- Executive Transition Support: An important part of our role is to ensure the new Executive Director transitions smoothly into the position and is effective immediately. The placement will be followed by a series of quarterly executive check-in sessions with the new Executive Director to receive their feedback on their transition and expectations for achieving the performance outcomes specified in the position description. Our firm will hold similar briefings with your search committee chair to report findings and discuss solutions to any friction points before those items could potentially become derailleurs in the future. These executive transition meetings will take place over the first 12 months post-placement, or until otherwise specified by the Commission.

# **Process**

BSP will manage every aspect of the engagement. Each of these components will be customized to the Commission's requirements, which will be discussed in-depth at the initial project kick-off meeting. Our approach is extremely flexible, enabling us to make further customizations to the process over the course of the engagement. Additional details about each stage is provided in later sections:

- 1. Project kick-off meeting
- Internal and external stakeholder meetings
- Update position description and candidate profile
- 2. Social media and marketing campaign
- 3. Headhunting (locally and nationally)
- 4. Resume screening
- 5. Phone interviews
- 6. Face-to-face interviews

- 7. CEO aptitude assessment
- 8. Candidate profiles and resumes submitted to the search committee
- 9. Candidate review meeting (BSP and search committee)
- 10. The Commission selects candidates for interview
- 11. 1st round interviews scheduled for The Commission
- 12. CEO alignment assessment

- 13. 2nd round interviews
- 14. Final round interviews
- 15. Candidate selection meeting (BSP and search committee)
- 16. Background check and drug screen
- 17. Employment offer extended

- 18. Salary and benefits package negotiated
- 19. Offer signed
- 20. New hire gives notice
- 21. Start date
- 22. Guarantee period goes into effect
- 23. CEO onboarding and transition support

## Stakeholder Input: building a 360-degree view of each position

As the first step in the search engagement process, the pre-launch kick-off meeting with the search committee is incredibly important. During this discussion, we will review each step of the above process, making additions and customizations recommended by the search committee. We will also create a list of key stakeholders with whom additional feedback meetings will be scheduled individually. The input gathered in these discussions will help form the target candidate profile, which documents the key attributes required of the Commission's next Executive Director. We have found that thorough stakeholder participation pays major dividends later in the process, particularly with regards to onboarding and retention. By consulting key stakeholders early in the process, they feel their voice has been heard, and they therefore become individually vested in helping the new Executive Director get up-to-speed and be as successful as possible.

# **Sample Project Timeline**

The new Executive Director's actual start date is ultimately dependent on factors such as the amount of notice they may need to give a current employer, and for relocation if recruited from outside the region. However, BSP will do everything we can to minimize the amount of time between selection and onboarding.

Item	Deliverables	Proposed Timeframe	Party Responsible
1	Notice of award.	Week 1	The Commission
2	Kick-off meeting to discuss work plan specifics, including stakeholder meetings, job description updates, optional community forums/outreach, candidate profile document, evaluation criteria, ratings scales, recruiting methodology, communication processes and current candidates.	Week 1	BSP, The Commission
3	Stakeholder meetings.	Weeks 2-3	BSP, The Commission
4	Stakeholder engagement forums (optional) to gain input from key constituencies.	Weeks 2-3	BSP
5	Updated position description and candidate profile submitted for review/sign-off.	Week 3	BSP
6	Go live: BSP to run multi-channel candidate recruiting campaign, including local and national outreach; BSP will continue sourcing candidates all the way to the end of the engagement to ensure the talent pipeline remains full.	Week 3 and ongoing to engagement completion	BSP
7	Candidate interviews and assessments by BSP.	Week 5 and ongoing to	BSP

		engagement	
_		completion	T 0
8	Round 1 candidates submitted to the Commission for review.	Week 6	The Commission,
	Call or meeting to review candidates and select those to		BSP
	move forward for interview.		
9	Round 1 interviews with the Commission. Call or meeting to	Week 7	The Commission,
	review round 1 interview results.		BSP
10	Round 2 candidates submitted for review. Call or meeting to	Week 8	The Commission,
	review candidates and select those to move forward for		BSP
	interview.		
11	Round 2 interviews with the Commission. Call or meeting to	Week 9	The Commission,
	review round 2 interview results.		BSP
12	Potential round 3 candidates submitted for review and	Week 9	The Commission,
	possible interview.		BSP
13	Selection meeting: BSP and the Commission meet to select	Week 10	The Commission,
	candidates for semi-final interviews.		BSP
14	Semi-final interviews. Selection meeting: interview results	Week 11	The Commission,
	weighted; candidates selected for final interviews.		BSP
15	Final interviews.	Week 12	The Commission,
			BSP
16	Selection meeting: terms for letter of offer agreed,	Week 12	The Commission,
	references and background checks completed.		BSP
17	Offer issued, compensation package negotiations.	Week 13	BSP
18	Offer accepted, candidate gives notice at current employer.	Week 13	BSP
19	Start date and commencement of new-hire onboarding	TBD	The Commission,
	process.		BSP
20	Placement guarantee goes into effect. Project wrap-up	TBD	BSP
	meeting (optional).		

# **Compensation Package Negotiations**

Unless otherwise specified by the search committee, BSP will manage the compensation package negotiations with your selected finalist, under full consultation of the search committee. Once terms are agreed, BSP can also draft the offer letter, which will be sent to the search committee for final approval before being presented to the candidate. Our approach is to discuss each candidate's salary expectations during their very first interview, to ensure alignment with the Commission's budget. Addressing the sensitive issue of compensation at the very beginning enables us to then focus the rest of the selection process on the candidate's experience, qualifications and cultural alignment. We also find this helps put candidates at ease, making for a more effective dialogue. Equally important, this enables us to quickly conclude compensation negotiations with the selected finalist at the end of the process.

In the event we identify a highly qualified candidate whose salary requirements are outside of the target range, this information will be immediately flagged for the search committee. We will review the candidate's qualifications with the committee, so that a determination can be made as to whether that candidate will continue through the process.

# **Community Forums**

We see ourselves as the Commission's close partner, and we will take a very active role in the community outreach process for this engagement. This includes not only assisting with strategy development, but also executing community feedback forums, should you elect for us to do so. The plan below is an example of a stakeholder engagement strategy similar to one our firm executed as part of the CEO search engagement for the San Diego Regional Task Force on the Homeless.

- 1. Ensure we are working off a common definition of "community" geographically, organizationally, and demographically to ensure outreach is properly focused.
- 2. With the selection committee, identify key stakeholder groups or individuals for consultation.
- 3. Identify barriers to engagement and formulate mitigation strategies.
- 4. Provide input on the design and creation of outreach collateral and meeting protocols.
- 5. Provide information on best practices/qualities of highly effective Agency Directors (briefing packets) to be shared with forum participants, if desired by the Commission.
- 6. Create an interaction map, or visual graph, identifying key individuals and groups with whom the current Executive Director interacts, and bandwidth percentage allocated to each constituency. This ensures all stakeholder groups are included and prioritized accordingly.
- 7. Conduct a series of individual meetings with each stakeholder/group to collect input.
- 8. Share findings with the search committee and incorporate into the search process.

## **Broad-based Input**

This is an extremely critical hiring decision for the Commission, and it is therefore imperative that input be thoughtfully collected, organized and considered from all stakeholder groups. We would look to ensure the community outreach effort takes into consideration:

- Geography: each council district is represented.
- Contributors: leaders, staff, and community members at-large; everyone has a voice and must feel they have been heard.
- Organization types: city resident groups, neighborhood associations, nonprofit organizations, other government agencies, local businesses, etc.

# **Executing Community Forums**

Outreach efforts would be carefully planned, and participants would be briefed prior to the event, to ensure the dialogue is relevant, constructive, and complete. It is also essential that we be extremely clear as to how the information gathered will be used, to prevent these forums from becoming grievance or lobbying sessions. As the facilitators, we will manage the process to make it effective and efficient.

# **Diversity, Equity & Inclusion**

When it comes to executive search and recruiting, it is critical that every engagement is designed with DEI as part of the core strategy. Equal focus must be paid to both the "who" as well as the "how" at every stage of the process. One of the first steps in our research and discovery phase will be to develop a deeper understanding of what DEI means for the Commission, and how it is practiced.

We define DEI as a competitive advantage, not just a catchphrase. It is a commitment to engaging audiences and stakeholders across the spectrum of ethnicity, race, gender identification, age, economic circumstance, class, physical ability, geography and thought/philosophy. This becomes even more critical when the very nature of the organization's work is so firmly rooted in the communities it supports. We share the Commission's commitment in this area, and strongly support your dedication to diversity, equity and inclusion in shaping the selection process. This commitment to diversity will also be incorporated into each aspect of our candidate outreach process, ensuring we screen the widest and deepest pools of the most capable candidates. This includes:

- Ensuring every aspect of the messaging around the search and position announcement reflects both inclusive language and the Commission's specific DEI objectives.
- Leveraging social media platforms, industry associations and job boards that specifically speak to diverse candidate populations.
- Accessing BSP's database of diversity candidates.
- Reaching out to recognized DEI leaders across San Diego and nationally.

# **Project Coordination**

Our role is to support the Commission throughout the entire executive search process. To streamline and expedite communication, BSP's CEO, Trevor Blair, will be your dedicated point of contact. Trevor will oversee the entire process and will be available to the Commission via cell phone both during and outside of normal business hours. Weekly update calls will be scheduled between Trevor and the search committee chairperson through the entire engagement. We will gladly schedule additional calls, meetings, and process reviews at any time. Trevor will be supported by the rest of the BSP team and project partners on this engagement.

#### **Client Portal**

Our commitment to a superb client experience extends to our usage of robust technology platforms. Through Clockwork's client portal (a comprehensive, executive search software system), the search committee will have 24/7 access to all relevant search data, including: monitoring our firm's progress against key milestones, a summary of the candidate pipeline, a forum for submitting comments and feedback, and access to all project documents, including candidate profiles, assessment results, and

scoring matrices. Also through Clockwork, the committee will receive weekly status reports, ensuring our check-in meetings are organized, targeted and time efficient.

#### **Openness and Transparency**

As your executive search firm, BSP has no vested interest in any individual. Our only concern is that the Commission secures the best possible candidate for the position, period. The search process will be fully open and transparent, and any committee member or community member may recommend a candidate or apply for the position themselves. All candidates and referrals will go directly through Trevor Blair, ensuring streamlined communication and full accountability for transparency and reporting purposes. Each candidate will also receive the same high level of professional service and complete the same thorough screening process.

# References

## 1) San Diego Housing Commission & Regional Task Force on the Homeless

Trevor Blair has led numerous executive search engagements for the SDHC over the past 9 years, including: Director of Human Resources, Director of Policy, Director of Rental Assistance Programs, Director of Workforce Development and Economic Opportunity and Director of Homeless Housing Innovations. Within the next few weeks, we also expect to complete the search for the Commission's new VP of Financial Services role. Based on this successful track record, our firm was selected to also manage the CEO search engagement for the San Diego Regional Task Force on the Homeless, with SDHC CEO Rick Gentry serving as RTFH Chairman.

**Contact:** Rick Gentry, San Diego Housing Commission President & CEO 1122 Broadway #300, San Diego, CA 92101 (619) 578-7606 / rickg@sdhc.org

## 2) San Diego Workforce Partnership

Blair Search Partners has supported the SDWP through several different search engagements at the Manager, Director and C-levels. Positions include: Director of Information Technology, Technical Services Manager and CFO.

Contact: Peter Callstrom, CEO 3910 University Avenue, #400, San Diego, CA 92105 (619) 228-2906 / petercallstrom@workforce.org

#### 3) The San Diego Foundation

In May of 2019 BSP completed the Foundation's CEO search engagement, recruiting and screening 1,300 candidates from across the country. Our firm is currently managing the search for TSDF's new Chief Impact Officer position. BSP's earlier work for this key client centered around building out the new Community Impact team for TSDF, recruiting two Director level staff, and two Program Specialists. This new department conducts fundraising activities, builds strategic programmatic and investing relationships, and supports the operations of TSDF's regional affiliate foundations. Subsequently BSP was retained to recruit the VP of Development & Stewardship for TSDF, the organization's top fundraising position.

Contact: Mark Stuart, CEO 2508 Historic Decatur Rd #200, San Diego, CA 92106 (619) 365-4490 / MarkS@sdfoundation.org

#### 4) Rady Children's Hospital Foundation

Our firm has built a very close partnership with the RCHSD Foundation over the past 3 years, working directly for SVP Steve Jennings and his senior leadership team. During that time BSP has helped the organization build capacity ahead of a \$500M capital campaign, managing 13 different retained search engagements. Our work includes the following positions: Deputy Executive Director, Associate Vice President of Institute Philanthropy, Sr. Director of Strategic Initiatives, Sr. Director of Marketing & Donor Communications, Sr. Director of Corporate & Community Development, Director of Donor Stewardship, and Campaign Director, as well as staff level positions (2 Data Analytics Officers and a Special Events Officer). Our current work for the Foundation includes engagements for the newly created position of Sr. Director of Foundation Relations, as well as two Philanthropy Director roles.

**Contact:** Steve Jennings, Senior Vice President 3665 Kearny Villa Road, Suite 201, San Diego, CA 91942 (858) 966-5950 / sjennings@rchsd.org

# **Tab C: Cost/Price Proposal**

Blair Search Partners will provide the search services outlined in this proposal for a flat fee of 19% of the first-year total cash compensation, as ultimately agreed by both the Commission and your selected candidate, up to a maximum not-to-exceed contract value of \$36,000. BSP will invoice the Commission according to the requirements specified in section 3.2.6.2.

# **Reimbursable Expenses**

Not covered under the flat fee are candidate travel, consultant travel (none anticipated) and any additional assessments, background checks and drug screens as directed by the Commission, beyond those specified in this proposal. If applicable, these items would be will be billed back at cost only.

# Exhibit B

## **SCOPE OF SERVICES**

#### A. SPECIFICATIONS

The City of San Diego Ethics Commission is seeking an experienced executive search firm to conduct the recruitment effort for the Executive Director of the Ethics Commission. The selected firm (Consultant) will provide expertise to the Ethics Commission to source a pool of qualified candidates for consideration.

This Request for Quote (RFQ) describes the required scope of services, the selection process and minimum information that must be included in the response. Failure to submit information in accordance with the RFQ requirements and procedures may result in disqualification.

The RFQ response from interested firms should include a detailed recruitment plan which includes the planned approach and time frame to meet the Ethics Commission's needs. The response should include examples of other recruitments completed for other state, local or federal agencies similar in scope.

# Background

The City of San Diego is the eighth largest city in the United States with a workforce of nearly 11,000 employees. The City is governed by an elected Mayor with a City Council made up of nine (9) districts, each represented by an elected Councilmember.

The Ethics Commission is an independent City department responsible for monitoring, administering, and enforcing the City's campaign, ethics, and lobbying laws. The Commission conducts audits and investigations, provides formal and informal advice to persons who fall within its jurisdiction, conducts training sessions for the regulated community, and proposes governmental ethics law reforms. Additional information about the Commission can be found on its website: www.sandiego.gov/ethics. The Commission's mission statement is: To preserve public confidence in our City government through education, advice, and the prompt and fair enforcement of local governmental ethics laws.

The Executive Director reports directly to the Ethics Commission and is responsible for directing and overseeing all aspects of the Commission's activities including advice, education, investigations, enforcement, auditing, legislation, budgeting, and other aspects of department administration. The Ethics Commission has a team of six full time employees as well as contract attorneys.

The successful candidate from this recruitment effort will be selected by the Ethics Commission. The Commission's selection is subject to confirmation by the City Council.

Working under the direction and guidance of a subcommittee of three Ethics Commissioners, the Consultant will perform the following Scope of Services:

1. Consult with the Ethics Commission Subcommittee. These activities shall commence in early May and will conclude by the end of October 2020. The selected Consultant will provide a summary report, the results of which may be incorporated into evaluation criteria for candidates and/or reflected in interview questions. The selected Consultant may be required to appear at meetings of the full Ethics Commission to present an

update on this recruitment effort as part of the resulting Contract. The Consultant must also work with Subcommittee and Ethics Commission General Counsel throughout the selection process. Lastly, the Consultant must also have the technological capability to work and to communicate with City staff and others remotely, including access to, at Consultant's cost, teleconferencing equipment.

- **2. Recruitment.** These activities shall commence as soon as the resulting contract permits and should conclude by the end of October 2020. The selected Consultant will conduct an aggressive recruitment effort to reach all potential candidates. Any candidates who reach out directly to the City's Human Resources Department to express interest will be forwarded to the selected recruiter.
- 3. Consultant will perform a full range executive search to ensure the successful selection of a Ethics Commission Executive Director. The Consultant is expected to conduct the recruitment for the position in a manner consistent with the City's Equal Opportunity Employment and general hiring policies.
- **4. Assessment of Applicants.** The selected recruiter will:
- **4.1.** Assist the Ethics Commission in developing evaluation criteria of candidates which may include but not be limited to desired education, experience, skills and traits;
- **4.2.** Using evaluation criteria agreed to by the Ethics Commission, review materials submitted by all applicants and develop a list of candidates to advance to the interview phase of the selection process;
- **4.3.** Provide complete criminal history, financial, education and previous work performance background clearances for each candidate to be interviewed; and
- **4.4.** Provide to the Ethics Commission a detailed summary or profile of each candidate proposed for advancement to the interview phase.
- September of 2020. The selected Consultant, along with suggested panel members, consistent with industry best practice, will recommend suggested stages of the interview process and facilitate the multi-round interview process, including multi-party video conferences for some candidate interviews. The Consultant will provide suggested interview topics and questions based on the Ethics Commission's input and industry best practices. The Consultant will schedule and arrange all candidate interviews, prepare all interview materials (panel packets) and ensure all panel members have all necessary materials and a clear understanding of the selection criteria, and provide all interview materials to the Ethics Commission upon conclusion of this Contract. The Contract Administrator for this resulting Contract will be the selected Consultant's main point of contact for coordination of dates, times and locations of these interviews. All interviews will be held at the Ethics Commission's office located in downtown San Diego.
- **5.1.** Progress Reports and Feedback. The Consultant will provide written progress reports and updates upon the request of the Ethics Commission.
- **5.2.** The Consultant will serve as every candidate's point of contact throughout the recruitment and selection process.

**6. Representation/Meeting Attendance**. The Consultant will be required to be on premises to participate in meetings identified in the summary matrix provided below. The matrix below is an estimate, the Ethics Commission is open to suggestions by the selected Consultant for additional meetings.

	Summary of Estimated Number of Meetings	Duration		
Recru				
1.	Initial meeting with Ethics Commission Subcommittee, planning work and	2-4 hours		
timeli				
2.	Mid-point check in meeting (only if needed)	2 hours		
3.	Feedback/post-selection de-brief or wrap-up (as needed)	То Ве		
		Determined		
Recru	Recruiter-Facilitated meetings in San Diego: (must be in person)			
4.	Candidate Interviews-	To Be		
	First, Second, and (possibly) Third Rounds	Determined		

**B. DEPARTMENT REPRESENTATIVE.** The Department Representative (Contract Administrator in 4, above) for this Contract will be Stacey Fulhorst, the incumbent Ethics Commission Executive Director. Ms. Fulhorst will be responsible for contract administration.

# Exhibit C

# **Tab C: Revised Cost/Price Proposal**

Blair Search Partners will provide the search services outlined in this proposal for a flat fee of 19% of the first-year total cash compensation, as ultimately agreed by both the Commission and your selected candidate, up to a maximum not-to-exceed contract value of \$36,000. BSP will invoice the City for \$10,000 upon completion of the first 5 deliverables outlined in the Scope of Work, detailed in Tab B — Executive Summary and Responses to Specifications, as submitted within BSP's response package. These first 5 deliverables are expected to take place on or before June 30, 2020.

The second installment of \$10,000 will be invoiced upon completion of the 10<sup>th</sup> deliverable outlined in the Scope of Work, with the third and final installment to be invoiced after the selected finalists has signed an offer of employment from the City of San Diego. The third installment will be prorated such that together the three installments will total 19% of the first-year total cash compensation package, as agreed by the Commission and your selected candidate. BSP's total fees for the entire scope of work will not exceed \$36,000.

#### **Reimbursable Expenses**

Not covered under the flat fee are candidate travel, consultant travel (none anticipated) and any additional assessments, background checks and drug screens as directed by the Commission, beyond those specified in this proposal. If applicable, these items would be will be billed back at cost only.

# Exhibit D



# THE CITY OF SAN DIEGO GENERAL CONTRACT TERMS AND PROVISIONS APPLICABLE TO GOODS, SERVICES, AND CONSULTANT CONTRACTS

# ARTICLE I SCOPE AND TERM OF CONTRACT

- **1.1 Scope of Contract.** The scope of contract between the City and a provider of goods and/or services (Contractor) is described in the Contract Documents. The Contract Documents are comprised of the Request for Proposal, Invitation to Bid, or other solicitation document (Solicitation); the successful bid or proposal; the letter awarding the contract to Contractor; the City's written acceptance of exceptions or clarifications to the Solicitation, if any; and these General Contract Terms and Provisions.
- **1.2 Effective Date.** A contract between the City and Contractor (Contract) is effective on the last date that the contract is signed by the parties and approved by the City Attorney in accordance with Charter section 40. Unless otherwise terminated, this Contract is effective until it is completed or as otherwise agreed upon in writing by the parties, whichever is the earliest. A Contract term cannot exceed five (5) years unless approved by the City Council by ordinance.
- **1.3 Contract Extension.** The City may, in its sole discretion, unilaterally exercise an option to extend the Contract as described in the Contract Documents. In addition, the City may, in its sole discretion, unilaterally extend the Contract on a month-to-month basis following contract expiration if authorized under Charter section 99 and the Contract Documents. Contractor shall not increase its pricing in excess of the percentage increase described in the Contract.

# ARTICLE II CONTRACT ADMINISTRATOR

- **2.1 Contract Administrator.** The Purchasing Agent or designee is the Contract Administrator for purposes of this Contract, and has the responsibilities described in this Contract, in the San Diego Charter, and in Chapter 2, Article 2, Divisions 5, 30, and 32.
- **2.1.1 Contractor Performance Evaluations.** The Contract Administrator will evaluate Contractor's performance as often as the Contract Administrator deems necessary throughout the term of the contract. This evaluation will be based on criteria including the quality of goods or services, the timeliness of performance, and adherence to applicable laws, including prevailing wage and living wage. City will provide Contractors who receive an unsatisfactory rating with a copy of the evaluation and an opportunity to respond. City may consider final evaluations, including Contractor's response, in evaluating future proposals and bids for contract award.
- **2.2 Notices.** Unless otherwise specified, in all cases where written notice is required under this Contract, service shall be deemed sufficient if the notice is personally delivered or deposited in the United States mail, with first class postage paid, attention to the Purchasing Agent. Proper notice is effective on the date of personal delivery or five (5) days after deposit in a United States postal mailbox unless provided otherwise in the Contract. Notices to the City shall be sent to:

Purchasing Agent City of San Diego, Purchasing and Contracting Division 1200 3rd Avenue, Suite 200 San Diego, CA 92101-4195

# ARTICLE III COMPENSATION

**3.1 Manner of Payment**. Contractor will be paid monthly, in arrears, for goods and/or services provided in accordance with the terms and provisions specified in the Contract.

#### 3.2 Invoices.

- **3.2.1 Invoice Detail.** Contractor's invoice must be on Contractor's stationary with Contractor's name, address, and remittance address if different. Contractor's invoice must have a date, an invoice number, a purchase order number, a description of the goods or services provided, and an amount due.
- **3.2.2 Service Contracts**. Contractor must submit invoices for services to City by the 10<sup>th</sup> of the month following the month in which Contractor provided services. Invoices must include the address of the location where services were performed and the dates in which services were provided.
- **3.2.3** Goods Contracts. Contractor must submit invoices for goods to City within seven days of the shipment. Invoices must describe the goods provided.
- **3.2.4 Parts Contracts.** Contractor must submit invoices for parts to City within seven calendar (7) days of the date the parts are shipped. Invoices must include the manufacturer of the part, manufacturer's published list price, percentage discount applied in accordance with Pricing Page(s), the net price to City, and an item description, quantity, and extension.
- **3.2.5 Extraordinary Work.** City will not pay Contractor for extraordinary work unless Contractor receives prior written authorization from the Contract Administrator. Failure to do so will result in payment being withheld for services. If approved, Contractor will include an invoice that describes the work performed and the location where the work was performed, and a copy of the Contract Administrator's written authorization.
- **3.2.6 Reporting Requirements.** Contractor must submit the following reports using the City's web-based contract compliance portal. Incomplete and/or delinquent reports may cause payment delays, non-payment of invoice, or both. For questions, please view the City's online tutorials on how to utilize the City's web-based contract compliance portal.
- **3.2.6.1 Monthly Employment Utilization Reports**. Contractor and Contractor's subcontractors and suppliers must submit Monthly Employment Utilization Reports by the fifth (5<sup>th</sup>) day of the subsequent month.

- **3.2.6.2 Monthly Invoicing and Payments**. Contractor and Contractor's subcontractors and suppliers must submit Monthly Invoicing and Payment Reports by the fifth (5<sup>th</sup>) day of the subsequent month.
- **3.3 Annual Appropriation of Funds.** Contractor acknowledges that the Contract term may extend over multiple City fiscal years, and that work and compensation under this Contract is contingent on the City Council appropriating funding for and authorizing such work and compensation for those fiscal years. This Contract may be terminated at the end of the fiscal year for which sufficient funding is not appropriated and authorized. City is not obligated to pay Contractor for any amounts not duly appropriated and authorized by City Council.
- 3.4 Price Adjustments. Based on Contractor's written request and justification, the City may approve an increase in unit prices on Contractor's pricing pages consistent with the amount requested in the justification in an amount not to exceed the increase in the Consumer Price Index, San Diego Area, for All Urban Customers (CPI-U) as published by the Bureau of Labor Statistics, or 5.0%, whichever is less, during the preceding one year term. If the CPI-U is a negative number, then the unit prices shall not be adjusted for that option year (the unit prices will not be decreased). A negative CPI-U shall be counted against any subsequent increases in the CPI-U when calculating the unit prices for later option years. Contractor must provide such written request and justification no less than sixty days before the date in which City may exercise the option to renew the contract, or sixty days before the anniversary date of the Contract. Justification in support of the written request must include a description of the basis for the adjustment, the proposed effective date and reasons for said date, and the amount of the adjustment requested with documentation to support the requested change (e.g. CPI-U or 5.0%, whichever is less). City's approval of this request must be in writing.

# ARTICLE IV SUSPENSION AND TERMINATION

- 4.1 City's Right to Suspend for Convenience. City may suspend all or any portion of Contractor's performance under this Contract at its sole option and for its convenience for a reasonable period of time not to exceed six (6) months. City must first give ten (10) days' written notice to Contractor of such suspension. City will pay to Contractor a sum equivalent to the reasonable value of the goods and/or services satisfactorily provided up to the date of suspension. City may rescind the suspension prior to or at six (6) months by providing Contractor with written notice of the rescission, at which time Contractor would be required to resume performance in compliance with the terms and provisions of this Contract. Contractor will be entitled to an extension of time to complete performance under the Contract equal to the length of the suspension unless otherwise agreed to in writing by the Parties.
- **4.2 City's Right to Terminate for Convenience.** City may, at its sole option and for its convenience, terminate all or any portion of this Contract by giving thirty (30) days' written notice of such termination to Contractor. The termination of the Contract shall be effective upon receipt of the notice by Contractor. After termination of all or any portion of the Contract, Contractor shall: (1) immediately discontinue all affected performance (unless the notice directs

otherwise); and (2) complete any and all additional work necessary for the orderly filing of documents and closing of Contractor's affected performance under the Contract. After filing of documents and completion of performance, Contractor shall deliver to City all data, drawings, specifications, reports, estimates, summaries, and such other information and materials created or received by Contractor in performing this Contract, whether completed or in process. By accepting payment for completion, filing, and delivering documents as called for in this section, Contractor discharges City of all of City's payment obligations and liabilities under this Contract with regard to the affected performance.

- **4.3 City's Right to Terminate for Default.** Contractor's failure to satisfactorily perform any obligation required by this Contract constitutes a default. Examples of default include a determination by City that Contractor has: (1) failed to deliver goods and/or perform the services of the required quality or within the time specified; (2) failed to perform any of the obligations of this Contract; and (3) failed to make sufficient progress in performance which may jeopardize full performance.
- **4.3.1** If Contractor fails to satisfactorily cure a default within ten (10) calendar days of receiving written notice from City specifying the nature of the default, City may immediately cancel and/or terminate this Contract, and terminate each and every right of Contractor, and any person claiming any rights by or through Contractor under this Contract.
- **4.3.2** If City terminates this Contract, in whole or in part, City may procure, upon such terms and in such manner as the Purchasing Agent may deem appropriate, equivalent goods or services and Contractor shall be liable to City for any excess costs. Contractor shall also continue performance to the extent not terminated.
- **4.4 Termination for Bankruptcy or Assignment for the Benefit of Creditors.** If Contractor files a voluntary petition in bankruptcy, is adjudicated bankrupt, or makes a general assignment for the benefit of creditors, the City may at its option and without further notice to, or demand upon Contractor, terminate this Contract, and terminate each and every right of Contractor, and any person claiming rights by and through Contractor under this Contract.
- 4.5 Contractor's Right to Payment Following Contract Termination.
- **4.5.1 Termination for Convenience.** If the termination is for the convenience of City an equitable adjustment in the Contract price shall be made. No amount shall be allowed for anticipated profit on unperformed services, and no amount shall be paid for an as needed contract beyond the Contract termination date.
- **4.5.2 Termination for Default.** If, after City gives notice of termination for failure to fulfill Contract obligations to Contractor, it is determined that Contractor had not so failed, the termination shall be deemed to have been effected for the convenience of City. In such event, adjustment in the Contract price shall be made as provided in Section 4.3.2. City's rights and remedies are in addition to any other rights and remedies provided by law or under this Contract.

**4.6 Remedies Cumulative.** City's remedies are cumulative and are not intended to be exclusive of any other remedies or means of redress to which City may be lawfully entitled in case of any breach or threatened breach of any provision of this Contract.

# ARTICLE V ADDITIONAL CONTRACTOR OBLIGATIONS

- **5.1 Inspection and Acceptance.** The City will inspect and accept goods provided under this Contract at the shipment destination unless specified otherwise. Inspection will be made and acceptance will be determined by the City department shown in the shipping address of the Purchase Order or other duly authorized representative of City.
- **5.2 Responsibility for Lost or Damaged Shipments.** Contractor bears the risk of loss or damage to goods prior to the time of their receipt and acceptance by City. City has no obligation to accept damaged shipments and reserves the right to return damaged goods, at Contractor's sole expense, even if the damage was not apparent or discovered until after receipt.
- **5.3 Responsibility for Damages.** Contractor is responsible for all damage that occurs as a result of Contractor's fault or negligence or that of its' employees, agents, or representatives in connection with the performance of this Contract. Contractor shall immediately report any such damage to people and/or property to the Contract Administrator.
- **5.4 Delivery.** Delivery shall be made on the delivery day specified in the Contract Documents. The City, in its sole discretion, may extend the time for delivery. The City may order, in writing, the suspension, delay or interruption of delivery of goods and/or services.
- **5.5 Delay.** Unless otherwise specified herein, time is of the essence for each and every provision of the Contract. Contractor must immediately notify City in writing if there is, or it is anticipated that there will be, a delay in performance. The written notice must explain the cause for the delay and provide a reasonable estimate of the length of the delay. City may terminate this Contract as provided herein if City, in its sole discretion, determines the delay is material.
- 5.5.1 If a delay in performance is caused by any unforeseen event(s) beyond the control of the parties, City may allow Contractor to a reasonable extension of time to complete performance, but Contractor will not be entitled to damages or additional compensation. Any such extension of time must be approved in writing by 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 performance; inability to obtain materials, equipment or labor; or other specific reasons agreed to between City and Contractor. This provision does not apply to a delay caused by Contractor's acts or omissions. Contractor is not entitled to an extension of time to perform if a delay is caused by Contractor's inability to obtain materials, equipment, or labor unless City has received, in a timely manner, documentary proof satisfactory to City of Contractor's inability to obtain materials, equipment, or labor, in which case City's approval must be in writing.

- **5.6 Restrictions and Regulations Requiring Contract Modification.** Contractor shall immediately notify City in writing of any regulations or restrictions that may or will require Contractor to alter the material, quality, workmanship, or performance of the goods and/or services to be provided. City reserves the right to accept any such alteration, including any resulting reasonable price adjustments, or to cancel the Contract at no expense to the City.
- 5.7 Warranties. All goods and/or services provided under the Contract must be warranted by Contractor or manufacturer for at least twelve (12) months after acceptance by City, except automotive equipment. Automotive equipment must be warranted for a minimum of 12,000 miles or 12 months, whichever occurs first, unless otherwise stated in the Contract. Contractor is responsible to City for all warranty service, parts, and labor. Contractor is required to ensure that warranty work is performed at a facility acceptable to City and that services, parts, and labor are available and provided to meet City's schedules and deadlines. Contractor may establish a warranty service contract with an agency satisfactory to City instead of performing the warranty service itself. If Contractor is not an authorized service center and causes any damage to equipment being serviced, which results in the existing warranty being voided, Contractor will be liable for all costs of repairs to the equipment, or the costs of replacing the equipment with new equipment that meets City's operational needs.
- **5.8 Industry Standards.** Contractor shall provide goods and/or services acceptable to City in strict conformance with the Contract. Contractor shall also provide goods and/or services in accordance with the standards customarily adhered to by an experienced and competent provider of the goods and/or services called for under this Contract using the degree of care and skill ordinarily exercised by reputable providers of such goods and/or services. Where approval by City, the Mayor, or other representative of City is required, it is understood to be general approval only and does not relieve Contractor of responsibility for complying with all applicable laws, codes, policies, regulations, and good business practices.
- **5.9 Records Retention and Examination.** Contractor shall retain, protect, and maintain in an accessible location all records and documents, including paper, electronic, and computer records, relating to this Contract for five (5) years after receipt of final payment by City under this Contract. Contractor shall make all such records and documents available for inspection, copying, or other reproduction, and auditing by authorized representatives of City, including the Purchasing Agent or designee. Contractor shall make available all requested data and records at reasonable locations within City or County of San Diego at any time during normal business hours, and as often as City deems necessary. If records are not made available within the City or County of San Diego, Contractor shall pay City's travel costs to the location where the records are maintained and shall pay for all related travel expenses. Failure to make requested records available for inspection, copying, or other reproduction, or auditing by the date requested may result in termination of the Contract. Contractor must include this provision in all subcontracts made in connection with this Contract.

- **5.9.1** Contractor shall maintain records of all subcontracts entered into with all firms, all project invoices received from Subcontractors and Suppliers, all purchases of materials and services from Suppliers, and all joint venture participation. Records shall show name, telephone number including area code, and business address of each Subcontractor and Supplier, and joint venture partner, and the total amount actually paid to each firm. Project relevant records, regardless of tier, may be periodically reviewed by the City.
- **5.10 Quality Assurance Meetings.** Upon City's request, Contractor shall schedule one or more quality assurance meetings with City's Contract Administrator to discuss Contractor's performance. If requested, Contractor shall schedule the first quality assurance meeting no later than eight (8) weeks from the date of commencement of work under the Contract. At the quality assurance meeting(s), City's Contract Administrator will provide Contractor with feedback, will note any deficiencies in Contract performance, and provide Contractor with an opportunity to address and correct such deficiencies. The total number of quality assurance meetings that may be required by City will depend upon Contractor's performance.
- **5.11 Duty to Cooperate with Auditor.** The City Auditor may, in his sole discretion, at no cost to the City, and for purposes of performing his responsibilities under Charter section 39.2, review Contractor's records to confirm contract compliance. Contractor shall make reasonable efforts to cooperate with Auditor's requests.
- **5.12 Safety Data Sheets.** If specified by City in the solicitation or otherwise required by this Contract, Contractor must send with each shipment one (1) copy of the Safety Data Sheet (SDS) for each item shipped. Failure to comply with this procedure will be cause for immediate termination of the Contract for violation of safety procedures.
- **5.13 Project Personnel.** Except as formally approved by the City, the key personnel identified in Contractor's bid or proposal shall be the individuals who will actually complete the work. Changes in staffing must be reported in writing and approved by the City.
- **5.13.1 Criminal Background Certification.** Contractor certifies that all employees working on this Contract have had a criminal background check and that said employees are clear of any sexual and drug related convictions. Contractor further certifies that all employees hired by Contractor or a subcontractor shall be free from any felony convictions.
- **5.13.2 Photo Identification Badge.** Contractor shall provide a company photo identification badge to any individual assigned by Contractor or subcontractor to perform services or deliver goods on City premises. Such badge must be worn at all times while on City premises. City reserves the right to require Contractor to pay fingerprinting fees for personnel assigned to work in sensitive areas. All employees shall turn in their photo identification badges to Contractor upon completion of services and prior to final payment of invoice.
- **5.14 Standards of Conduct.** Contractor is responsible for maintaining standards of employee competence, conduct, courtesy, appearance, honesty, and integrity satisfactory to the City.

- **5.14.1 Supervision.** Contractor shall provide adequate and competent supervision at all times during the Contract term. Contractor shall be readily available to meet with the City. Contractor shall provide the telephone numbers where its representative(s) can be reached.
- **5.14.2 City Premises.** Contractor's employees and agents shall comply with all City rules and regulations while on City premises.
- **5.14.3 Removal of Employees.** City may request Contractor immediately remove from assignment to the City any employee found unfit to perform duties at the City. Contractor shall comply with all such requests.
- **5.15 Licenses and Permits.** Contractor shall, without additional expense to the City, be responsible for obtaining any necessary licenses, permits, certifications, accreditations, fees and approvals for complying with any federal, state, county, municipal, and other laws, codes, and regulations applicable to Contract performance. This includes, but is not limited to, any laws or regulations requiring the use of licensed contractors to perform parts of the work.
- **5.16** Contractor and Subcontractor Registration Requirements. Prior to the award of the Contract or Task Order, Contractor and Contractor's subcontractors and suppliers must register with the City's web-based vendor registration and bid management system. The City may not award the Contract until registration of all subcontractors and suppliers is complete. In the event this requirement is not met within the time frame specified by the City, the City reserves the right to rescind the Contract award and to make the award to the next responsive and responsible proposer of bidder.

# ARTICLE VI INTELLECTUAL PROPERTY RIGHTS

- 6.1 Rights in Data. If, in connection with the services performed under this Contract, Contractor or its employees, agents, or subcontractors, create artwork, audio recordings, blueprints, designs, diagrams, documentation, photographs, plans, reports, software, source code, specifications, surveys, system designs, video recordings, or any other original works of authorship, whether written or readable by machine (Deliverable Materials), all rights of Contractor or its subcontractors in the Deliverable Materials, including, but not limited to publication, and registration of copyrights, and trademarks in the Deliverable Materials, are the sole property of City. Contractor, including its employees, agents, and subcontractors, may not use any Deliverable Material for purposes unrelated to Contractor's work on behalf of the City without prior written consent of City. Contractor may not publish or reproduce any Deliverable Materials, for purposes unrelated to Contractor's work on behalf of the City, without the prior written consent of the City.
- **6. 2 Intellectual Property Rights Assignment.** For no additional compensation, Contractor hereby assigns to City all of Contractor's rights, title, and interest in and to the content of the Deliverable Materials created by Contractor or its employees, agents, or subcontractors, including copyrights, in connection with the services performed under this Contract. Contractor

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shall promptly execute and deliver, and shall cause its employees, agents, and subcontractors to promptly execute and deliver, upon request by the 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. Contractor also shall cooperate and assist in the prosecution of any action or opposition proceeding involving such intellectual property rights and any adjudication of those rights.

- **6. 3** Contractor Works. Contractor Works means tangible and intangible information and material that: (a) had already been conceived, invented, created, developed or acquired by Contractor prior to the effective date of this Contract; or (b) were conceived, invented, created, or developed by Contractor after the effective date of this Contract, but only to the extent such information and material do not constitute part or all of the Deliverable Materials called for in this Contract. All Contractor Works, and all modifications or derivatives of such Contractor Works, including all intellectual property rights in or pertaining to the same, shall be owned solely and exclusively by Contractor.
- **6. 4 Subcontracting.** In the event that Contractor utilizes a subcontractor(s) for any portion of the work that comprises the whole or part of the specified Deliverable Materials to the City, the agreement between Contractor and the subcontractor shall include a statement that identifies the Deliverable Materials as a "works for hire" as described in the United States Copyright Act of 1976, as amended, and that all intellectual property rights in the Deliverable Materials, whether arising in copyright, trademark, service mark or other forms of intellectual property rights, belong to and shall vest solely with the City. Further, the agreement between Contractor and its subcontractor shall require that the subcontractor, if necessary, shall grant, transfer, sell and assign, free of charge, exclusively to City, all titles, rights and interests in and to the Deliverable Materials, including all copyrights, trademarks and other intellectual property rights. City shall have the right to review any such agreement for compliance with this provision.
- **6. 5 Intellectual Property Warranty and Indemnification.** Contractor represents and warrants that any materials or deliverables, including all Deliverable Materials, provided under this Contract are either original, or 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 Contractor to produce, at Contractor'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. Contractor further agrees to indemnify, defend, 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 Deliverable Materials, 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 Claim of Infringement). If a Third Party Claim of Infringement is threatened or made before Contractor receives payment under this Contract, City shall be entitled, upon written notice to Contractor, to withhold some or all of such payment.

- **6.6 Software Licensing.** Contractor represents and warrants that the software, if any, as delivered to City, does not contain any program code, virus, worm, trap door, back door, time or clock that would erase data or programming or otherwise cause the software to become inoperable, inaccessible, or incapable of being used in accordance with its user manuals, either automatically, upon the occurrence of licensor-selected conditions or manually on command. Contractor further represents and warrants that all third party software, delivered to City or used by Contractor in the performance of the Contract, is fully licensed by the appropriate licensor.
- **6.7 Publication.** Contractor may not publish or reproduce any Deliverable Materials, for purposes unrelated to Contractor's work on behalf of the City without prior written consent from the City.
- **6.8 Royalties, Licenses, and Patents.** Unless otherwise specified, Contractor shall pay all royalties, license, and patent fees associated with the goods that are the subject of this solicitation. Contractor warrants that the goods, materials, supplies, and equipment to be supplied do not infringe upon any patent, trademark, or copyright, and further agrees to defend any and all suits, actions and claims for infringement that are brought against the City, and to defend, indemnify and hold harmless the City, its elected officials, officers, and employees from all liability, loss and damages, whether general, exemplary or punitive, suffered as a result of any actual or claimed infringement asserted against the City, Contractor, or those furnishing goods, materials, supplies, or equipment to Contractor under the Contract.

# ARTICLE VII INDEMNIFICATION AND INSURANCE

**7.1 Indemnification.** To the fullest extent permitted by law, Contractor shall defend (with legal counsel reasonably acceptable to City), indemnify, protect, and hold harmless City and its elected officials, officers, employees, agents, and representatives (Indemnified Parties) from and against any and all claims, losses, costs, damages, injuries (including, without limitation, injury to or death of an employee of Contractor or its subcontractors), expense, and liability of every kind, nature and description (including, without limitation, incidental and consequential damages, court costs, and litigation expenses and fees of expert consultants or expert witnesses incurred in connection therewith and costs of investigation) that arise out of, pertain to, or relate to, directly or indirectly, in whole or in part, any goods provided or performance of services under this Contract by Contractor, any subcontractor, anyone directly or indirectly employed by either of them, or anyone that either of them control. Contractor's duty to defend, indemnify, protect and hold harmless shall not include any claims or liabilities arising from the sole negligence or willful misconduct of the Indemnified Parties.

**7.2 Insurance.** Contractor shall procure and maintain for the duration of the contract insurance against claims for injuries to persons or damages to property which may arise from or in connection with the performance of the work hereunder and the results of that work by Contractor, his agents, representatives, employees or subcontractors.

Contractor shall provide, at a minimum, the following:

- **7.2.1** Commercial General Liability. Insurance Services Office Form CG 00 01 covering CGL on an "occurrence" basis, including products and completed operations, property damage, bodily injury, and personal and advertising injury with limits no less than \$1,000,000 per occurrence. If a general aggregate limit applies, either the general aggregate limit shall apply separately to this project/location (ISO CG 25 03 or 25 04) or the general aggregate limit shall be twice the required occurrence limit.
- **7.2.2** Commercial Automobile Liability. Insurance Services Office Form Number CA 0001 covering Code 1 (any auto) or, if Contractor has no owned autos, Code 8 (hired) and 9 (non-owned), with limit no less than \$1,000,000 per accident for bodily injury and property damage.
- **7.2.3 Workers' Compensation.** Insurance as required by the State of California, with Statutory Limits, and Employer's Liability Insurance with limit of no less than \$1,000,000 per accident for bodily injury or disease.
- **7.2.4 Professional Liability (Errors and Omissions).** For consultant contracts, insurance appropriate to Consultant's profession, with limit no less than \$1,000,000 per occurrence or claim, \$2,000,000 aggregate.

If Contractor maintains broader coverage and/or higher limits than the minimums shown above, City requires and shall be entitled to the broader coverage and/or the higher limits maintained by Contractor. Any available insurance proceeds in excess of the specified minimum limits of insurance and coverage shall be available to City.

- **7.2.5 Other Insurance Provisions.** The insurance policies are to contain, or be endorsed to contain, the following provisions:
- **7.2.5.1 Additional Insured Status.** The City, its officers, officials, employees, and volunteers are to be covered as additional insureds on the CGL policy with respect to liability arising out of work or operations performed by or on behalf of Contractor including materials, parts, or equipment furnished in connection with such work or operations. General liability coverage can be provided in the form of an endorsement to Contractor's insurance (at least as broad as ISO Form CG 20 10 11 85 or if not available, through the addition of both CG 20 10, CG 20 26, CG 20 33, or CG 20 38; and CG 20 37 if a later edition is used).

**7.2.5.2 Primary Coverage.** For any claims related to this contract,

Contractor's insurance coverage shall be primary coverage at least as broad as ISO CG 20 01 04 13 as respects the City, its officers, officials, employees, and volunteers. Any insurance or self-insurance maintained by City, its officers, officials, employees, or volunteers shall be excess of Contractor's insurance and shall not contribute with it.

- **7.2.5.3 Notice of Cancellation.** Each insurance policy required above shall provide that coverage shall not be canceled, except with notice to City.
- **7.2.5.4 Waiver of Subrogation.** Contractor hereby grants to City a waiver of any right to subrogation which the Workers' Compensation insurer of said Contractor may acquire against City by virtue of the payment of any loss under such insurance. Contractor agrees to obtain any endorsement that may be necessary to affect this waiver of subrogation, but this provision applies regardless of whether or not the City has received a waiver of subrogation endorsement from the insurer.
- **7.2.5.5 Claims Made Policies (applicable only to professional liability).** The Retroactive Date must be shown, and must be before the date of the contract or the beginning of contract work. Insurance must be maintained and evidence of insurance must be provided for at least five (5) years after completion of the contract of work. If coverage is canceled or non-renewed, and not replaced with another claims-made policy form with a Retroactive Date prior to the contract effective date, Contractor must purchase "extended reporting" coverage for a minimum of five (5) years after completion of work.
- **7.3 Self Insured Retentions.** Self-insured retentions must be declared to and approved by City. City may require Contractor to purchase coverage with a lower retention or provide proof of ability to pay losses and related investigations, claim administration, and defense expenses within the retention. The policy language shall provide, or be endorsed to provide, that the self-insured retention may be satisfied by either the named insured or City.
- **7.4 Acceptability of Insurers.** Insurance is to be placed with insurers with a current A.M. Best's rating of no less than A-VI, unless otherwise acceptable to City.

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.

**7.5 Verification of Coverage**. Contractor shall furnish City with original certificates and amendatory endorsements or copies of the applicable policy language effecting coverage required by this clause. All certificates and endorsements are to be received and approved by City before work commences. However, failure to obtain the required documents prior to the work beginning shall not waive Contractor's obligation to provide them. City reserves the right

to require complete, certified copies of all required insurance policies, including endorsements required by these specifications, at any time.

- 7.6 **Special Risks or Circumstances.** City reserves the right to modify these requirements, including limits, based on the nature of the risk, prior experience, insurer, coverage, or other special circumstances.
- 7.7 **Additional Insurance.** Contractor may obtain additional insurance not required by this Contract.
- 7.8 **Excess Insurance.** All policies providing excess coverage to City shall follow the form of the primary policy or policies including but not limited to all endorsements.
- 7.9 **Subcontractors.** Contractor shall require and verify that all subcontractors maintain insurance meeting all the requirements stated herein, and Contractor shall ensure that City is an additional insured on insurance required from subcontractors. For CGL coverage, subcontractors shall provide coverage with a format at least as broad as the CG 20 38 04 13 endorsement.

# ARTICLE VIII BONDS

- 8.1 **Payment and Performance Bond.** Prior to the execution of this Contract, City may require Contractor to post a payment and performance bond (Bond). The Bond shall guarantee Contractor's faithful performance of this Contract and assure payment to contractors, subcontractors, and to persons furnishing goods and/or services under this Contract.
- **8.1.1 Bond Amount.** The Bond shall be in a sum equal to twenty-five percent (25%) of the Contract amount, unless otherwise stated in the Specifications. City may file a claim against the Bond if Contractor fails or refuses to fulfill the terms and provisions of the Contract.
- **8.1.2** Bond Term. The Bond shall remain in full force and effect at least until complete performance of this Contract and payment of all claims for materials and labor, at which time it will convert to a ten percent (10%) warranty bond, which shall remain in place until the end of the warranty periods set forth in this Contract. The Bond shall be renewed annually, at least sixty (60) days in advance of its expiration, and Contractor shall provide timely proof of annual renewal to City.
- **8.1.3** Bond Surety. The Bond must be furnished by a company authorized by the State of California Department of Insurance to transact surety business in the State of California and which has a current A.M. Best rating of at least "A-, VIII."
- **8.1.4** Non-Renewal or Cancellation. The Bond must provide that City and Contractor shall be provided with sixty (60) days' advance written notice in the event of non-renewal, cancellation, or material change to its terms. In the event of non-renewal, cancellation, or

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material change to the Bond terms, Contractor shall provide City with evidence of the new source of surety within twenty-one (21) calendar days after the date of the notice of non-renewal, cancellation, or material change. Failure to maintain the Bond, as required herein, in full force and effect as required under this Contact, will be a material breach of the Contract subject to termination of the Contract.

**8.2 Alternate Security.** City may, at its sole discretion, accept alternate security in the form of an endorsed certificate of deposit, a money order, a certified check drawn on a solvent bank, or other security acceptable to the Purchasing Agent in an amount equal to the required Bond.

# ARTICLE IX CITY-MANDATED CLAUSES AND REQUIREMENTS

- **9.1 Contractor Certification of Compliance.** By signing this Contract, Contractor certifies that Contractor is aware of, and will comply with, these City-mandated clauses throughout the duration of the Contract.
- **9.1.1 Drug-Free Workplace Certification.** Contractor shall comply with City's Drug-Free Workplace requirements set forth in Council Policy 100-17, which is incorporated into the Contract by this reference.
- 9.1.2 Contractor Certification for Americans with Disabilities Act (ADA) and State Access Laws and Regulations: Contractor shall comply with all accessibility requirements under the ADA and under Title 24 of the California Code of Regulations (Title 24). When a conflict exists between the ADA and Title 24, Contractor shall comply with the most restrictive requirement (i.e., that which provides the most access). Contractor also shall comply with the City's ADA Compliance/City Contractors requirements as set forth in Council Policy 100-04, which is incorporated into this Contract by reference. Contractor warrants and certifies compliance with all federal and state access laws and regulations and further certifies that any subcontract agreement for this contract contains language which indicates the subcontractor's agreement to abide by the provisions of the City's Council Policy and any applicable access laws and regulations.

## **9.1.3** Non-Discrimination Requirements.

**9.1.3.1** Compliance with City's Equal Opportunity Contracting Program (EOCP). Contractor shall comply with City's EOCP Requirements. Contractor shall not discriminate against any employee or applicant for employment on any basis prohibited by law. Contractor shall provide equal opportunity in all employment practices. Prime Contractors shall ensure that their subcontractors comply with this program. Nothing in this Section shall be interpreted to hold a Prime Contractor liable for any discriminatory practice of its subcontractors.

**9.1.3.2 Non-Discrimination Ordinance.** Contractor shall not discriminate on the basis of race, gender, gender expression, gender identity, religion, national origin, ethnicity, sexual orientation, age, or disability in the solicitation, selection, hiring or treatment of

subcontractors, vendors or suppliers. Contractor shall provide equal opportunity for subcontractors to participate in subcontracting opportunities. Contractor 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. Contractor shall ensure that this language is included in contracts between Contractor and any subcontractors, vendors and suppliers.

- **9.1.3.3** Compliance Investigations. Upon City's request, Contractor agrees to provide to City, within sixty calendar days, a truthful and complete list of the names of all subcontractors, vendors, and suppliers that Contractor 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 Contractor for each subcontract or supply contract. Contractor further agrees to fully cooperate in any investigation conducted by City pursuant to City's Nondiscrimination in Contracting Ordinance. Contractor understands and agrees that violation of this clause shall be considered a material breach of the Contract and may result in Contract termination, debarment, and other sanctions.
- **9.1.4 Equal Benefits Ordinance Certification.** Unless an exception applies, Contractor shall comply with the Equal Benefits Ordinance (EBO) codified in the San Diego Municipal Code (SDMC). Failure to maintain equal benefits is a material breach of the Contract.
- **9.1.5** Contractor Standards. Contractor shall comply with Contractor Standards provisions codified in the SDMC. Contractor understands and agrees that violation of Contractor Standards may be considered a material breach of the Contract and may result in Contract termination, debarment, and other sanctions.
- **9.1.6 Noise Abatement.** Contractor shall operate, conduct, or construct without violating the City's Noise Abatement Ordinance codified in the SDMC.
- **9.1.7 Storm Water Pollution Prevention Program.** Contractor shall comply with the City's Storm Water Management and Discharge Control provisions codified in Division 3 of Chapter 4 of the SDMC, as may be amended, and any and all applicable Best Management Practice guidelines and pollution elimination requirements in performing or delivering services at City owned, leased, or managed property, or in performance of services and activities on behalf of City regardless of location.

Contractor shall comply with the City's Jurisdictional Urban Runoff Management Plan encompassing Citywide programs and activities designed to prevent and reduce storm water pollution within City boundaries as adopted by the City Council on January 22, 2008, via Resolution No. 303351, as may be amended.

Contractor shall comply with each City facility or work site's Storm Water Pollution Prevention Plan, as applicable, and institute all controls needed while completing the services to minimize any negative impact to the storm water collection system and environment.

- **9.1.8 Service Worker Retention Ordinance.** If applicable, Contractor shall comply with the Service Worker Retention Ordinance (SWRO) codified in the SDMC.
- **9.1.9 Product Endorsement.** Contractor shall comply with Council Policy 000-41 concerning product endorsement which requires that any advertisement referring to City as a user of a good or service will require the prior written approval of the Mayor.
- **9.1.10 Business Tax Certificate.** Unless the City Treasurer determines in writing that a contractor is exempt from the payment of business tax, any contractor doing business with the City of San Diego is required to obtain a Business Tax Certificate (BTC) and to provide a copy of its BTC to the City before a Contract is executed.
- **9.1.11 Equal Pay Ordinance.** Unless an exception applies, Contractor shall comply with the Equal Pay Ordinance codified in San Diego Municipal Code sections 22.4801 through 22.4809. Contractor shall certify in writing that it will comply with the requirements of the Equal Pay Ordinance throughout the duration of the Contract.
- **9.1.11.1 Contractor and Subcontract Requirement.** The Equal Pay Ordinance applies to any subcontractor who performs work on behalf of a Contractor to the same extent as it would apply to that Contractor. Contractor shall require subcontractors performing work for contractor under their contract with the City to certify compliance with the Equal Pay Ordinance in their written subcontracts.
- **9.1.11.2 Notice Requirement.** Contractor must post a notice informing its employees of their rights under the Equal Pay Ordinance in their workplace or job site.

# ARTICLE X CONFLICT OF INTEREST AND VIOLATIONS OF LAW

- **10.1** Conflict of Interest Laws. Contractor 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 Ethics Ordinance, codified in the SDMC. City may determine that Contractor must complete one or more statements of economic interest disclosing relevant financial interests. Upon City's request, Contractor shall submit the necessary documents to City.
- **10.2 Contractor's Responsibility for Employees and Agents.** Contractor is required to 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.
- **10.3** Contractor's Financial or Organizational Interests. In connection with any task, Contractor shall not recommend or specify any product, supplier, or contractor with whom

Contractor has a direct or indirect financial or organizational interest or relationship that would violate conflict of interest laws, regulations, or policies.

- **10.4 Certification of Non-Collusion.** Contractor certifies that: (1) Contractor's bid or proposal was not made in the interest of or on behalf of any person, firm, or corporation not identified; (2) Contractor did not directly or indirectly induce or solicit any other bidder or proposer to put in a sham bid or proposal; (3) Contractor did not directly or indirectly induce or solicit any other person, firm or corporation to refrain from bidding; and (4) Contractor did not seek by collusion to secure any advantage over the other bidders or proposers.
- **10.5 Hiring City Employees.** This Contract shall be unilaterally and immediately terminated by City if Contractor employs an individual who within the twelve (12) months immediately preceding such employment did in his/her capacity as a City officer or employee participate in negotiations with or otherwise have an influence on the selection of Contractor.

# ARTICLE XI DISPUTE RESOLUTION

- **11.1 Mediation.** If a dispute arises out of or relates to this Contract and cannot be settled through normal contract negotiations, Contractor and City shall use mandatory non-binding mediation before having recourse in a court of law.
- **11.2 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 the subject matter of this Contract, if possible.
- **11.3 Expenses.** 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, 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.
- 11.4 Conduct of Mediation Sessions. Mediation hearings will be conducted in an informal manner and discovery will not be allowed. The discussions, statements, writings and admissions will be confidential to the proceedings (pursuant to California Evidence Code sections 1115 through 1128) and will not be used for any other purpose unless otherwise agreed by the parties in writing. The parties may agree to exchange any information they deem necessary. Both parties shall have a representative attend the mediation who is authorized to settle the dispute, though City's recommendation of settlement may be subject to the approval of the Mayor and City Council. Either party may have attorneys, witnesses or experts present.
- 11.5 Mediation Results. Any agreements resulting from mediation shall be memorialized in writing. The results of the mediation shall not be final or binding unless otherwise agreed to in writing by the parties. Mediators shall not be subject to any subpoena or liability, and their actions shall not be subject to discovery.

# ARTICLE XII MANDATORY ASSISTANCE

- **12.1 Mandatory Assistance.** If a third party dispute or litigation, or both, arises out of, or relates in any way to the services provided to the City under a Contract, Contractor, its agents, officers, and employees agree to assist in resolving the dispute or litigation upon City's request. Contractor'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.
- **12.2** Compensation for Mandatory Assistance. City will compensate Contractor for fees incurred for providing Mandatory Assistance. 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 Contractor, its agents, officers, and employees, Contractor shall reimburse City for all fees paid to Contractor, its agents, officers, and employees for Mandatory Assistance.
- **12.3 Attorneys' Fees Related to Mandatory Assistance.** In providing City with dispute or litigation assistance, Contractor or its agents, officers, and employees may incur expenses and/or costs. Contractor agrees that any attorney fees it may incur as a result of assistance provided under Section 12.2 are not reimbursable.

# ARTICLE XIII MISCELLANEOUS

- **13.1 Headings.** All headings are for convenience only and shall not affect the interpretation of this Contract.
- **13.2 Non-Assignment.** Contractor may not assign the obligations under this Contract, whether by express assignment or by sale of the company, nor any monies due or to become due under this Contract, without City's prior written approval. Any assignment in violation of this paragraph shall constitute a default and is grounds for termination of this Contract at the City's sole discretion. In no event shall any putative assignment create a contractual relationship between City and any putative assignee.
- **13.3 Independent Contractors.** Contractor and any subcontractors employed by Contractor are independent contractors and not agents of City. Any provisions of this Contract that may appear to give City any right to direct Contractor concerning the details of performing or providing the goods and/or services, or to exercise any control over performance of the Contract, shall mean only that Contractor shall follow the direction of City concerning the end results of the performance.
- **13.4 Subcontractors.** All persons assigned to perform any work related to this Contract, including any subcontractors, are deemed to be employees of Contractor, and Contractor shall be directly responsible for their work.

- **13.5** Covenants and Conditions. All provisions of this Contract expressed as either covenants or conditions on the part of City or Contractor shall be deemed to be both covenants and conditions.
- 13.6 Compliance with Controlling Law. Contractor shall comply with all applicable local, state, and federal laws, regulations, and policies. Contractor's act or omission in violation of applicable local, state, and federal laws, regulations, and policies is grounds for contract termination. In addition to all other remedies or damages allowed by law, Contractor is liable to City for all damages, including costs for substitute performance, sustained as a result of the violation. In addition, Contractor may be subject to suspension, debarment, or both.
- **13.7 Governing Law.** The Contract shall be deemed to be made under, construed in accordance with, and governed by the laws of the State of California without regard to the conflicts or choice of law provisions thereof.
- **13.8 Venue.** The venue for any suit concerning solicitations or the Contract, the interpretation of application of any of its terms and conditions, or any related disputes shall be in the County of San Diego, State of California.
- **13.9 Successors in Interest.** This Contract and all rights and obligations created by this Contract shall be in force and effect whether or not any parties to the Contract have been succeeded by another entity, and all rights and obligations created by this Contract shall be vested and binding on any party's successor in interest.
- **13.10 No Waiver.** No failure of either City or Contractor to insist upon the strict performance by the other of any covenant, term or condition of this Contract, nor any failure to exercise any right or remedy consequent upon a breach of any covenant, term, or condition of this Contract, shall constitute a waiver of any such breach of such covenant, term or condition. No waiver of any breach shall affect or alter this Contract, and each and every covenant, condition, and term hereof shall continue in full force and effect without respect to any existing or subsequent breach.
- **13.11 Severability.** The unenforceability, invalidity, or illegality of any provision of this Contract shall not render any other provision of this Contract unenforceable, invalid, or illegal.
- **13.12 Drafting Ambiguities.** The parties acknowledge that they have the right to be advised by legal counsel with respect to the negotiations, terms and conditions of this Contract, and the decision of whether to seek advice of legal counsel with respect to this Contract is the sole responsibility of each party. This Contract 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 Contract.
- **13.13 Amendments.** Neither this Contract nor any provision hereof may be changed, modified, amended or waived except by a written agreement executed by duly authorized representatives of City and Contractor. Any alleged oral amendments have no force or effect. The Purchasing Agent must sign all Contract amendments.

- **13.14** Conflicts Between Terms. If this Contract conflicts with an applicable local, state, or federal law, regulation, or court order, applicable local, state, or federal law, regulation, or court order shall control. Varying degrees of stringency among the main body of this Contract, the exhibits or attachments, and laws, regulations, or orders 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 Contract.
- **13.15 Survival of Obligations.** All representations, indemnifications, warranties, and guarantees made in, required by, or given in accordance with this Contract, as well as all continuing obligations indicated in this Contract, shall survive, completion and acceptance of performance and termination, expiration or completion of the Contract.
- 13.16 Confidentiality of Services. All services performed by Contractor, and any subcontractor(s) if applicable, including but not limited to all drafts, data, information, correspondence, proposals, reports of any nature, estimates compiled or composed by Contractor, are for the sole use of City, its agents, and employees. Neither the documents nor their contents shall be released by Contractor or any subcontractor to any third party without the prior written consent of City. This provision does not apply to information that: (1) was publicly known, or otherwise known to Contractor, at the time it was disclosed to Contractor by City; (2) subsequently becomes publicly known through no act or omission of Contractor; or (3) otherwise becomes known to Contractor other than through disclosure by City.
- **13.17 Insolvency.** If Contractor enters into proceedings relating to bankruptcy, whether voluntary or involuntary, Contractor agrees to furnish, by certified mail or electronic commerce method authorized by the Contract, written notification of the bankruptcy to the Purchasing Agent and the Contract Administrator responsible for administering the Contract. This notification shall be furnished within five (5) days of the initiation of the proceedings relating to bankruptcy filing. This notification shall include the date on which the bankruptcy petition was filed, the identity of the court in which the bankruptcy petition was filed, and a listing of City contract numbers and contracting offices for all City contracts against which final payment has not been made. This obligation remains in effect until final payment is made under this Contract.
- **13.18** No Third Party Beneficiaries. Except as may be specifically set forth in this Contract, none of the provisions of this Contract are intended to benefit any third party not specifically referenced herein. No party other than City and Contractor shall have the right to enforce any of the provisions of this Contract.
- **13.19** Actions of City in its Governmental Capacity. Nothing in this Contract shall be interpreted as limiting the rights and obligations of City in its governmental or regulatory capacity.