

EXHIBIT 3 - SAMPLE CONTRACT

CITY OF STOCKTON
STANDARD AGREEMENT

Agreement Number:

1. This Agreement is entered into between the City of Stockton ("City") and ("Contractor") to provide as set forth in Exhibit A to this Agreement.

2. The term of this Agreement is as follows, unless amended as described in Exhibit A and Exhibit C section 8:

Commences on:

Terminates on:

3. The maximum not to exceed amount to be paid to Contractor for the term of this Agreement, including if authorized, reimbursement of expenses, is: \$

4. The complete Agreement consists of all the following Agreement documents which by reference are incorporated and made a part of this Agreement. The parties agree to comply with the terms and conditions of this Agreement.

- (a) Exhibit A – Statement of Work
- (b) Exhibit B – Insurance
- (c) Exhibit C – General Terms & Conditions
- (d) Exhibit D – Professional Services Special Terms & Conditions
- (e) Exhibit E – Compensation Schedule
- (f) Exhibit F – Timeline
- (g) Exhibit G – Special Funding Terms & Conditions
- (h) Exhibit H – Community Workforce and Training Agreement (CWTA)

(If applicable check box) YES

IN WITNESS WHEREOF, the authorized parties have executed this Agreement.

CONTRACTOR

Contractor's Name (if other than an individual, state whether a corporation, partnership, etc.):

Authorized Signature

Date

Printed Name and Title of Person Signing

Address

CITY OF STOCKTON

BB

Harry Black, City Manager

Date

ATTEST:

Eliza R. Garza CMC, City Clerk

APPROVED AS TO FORM:

Lori M. Asuncion, City Attorney

BY:

EXHIBIT A
STATEMENT OF WORK

1. Project Objectives

1.1 (Type the Project objectives)

2. Project Scope

2.1 (Type the Project Scope in detail including location of Work, resources, equipment and facilities needed.)

3. Specifications

3.1 (If applicable and the project has specifications, insert the specifications into this section.)

4. Major Deliverables

4.1 (Type the major deliverables in detail)

5. Tasks That Support the Deliverables

5.1 (In detail, describe the Tasks that support the deliverables and which party will complete them.)

6. Internal and External Standards and Guidelines

6.1 (If applicable and the project has internal and/or external standards or guidelines, insert them into this section.)

7. Criteria of Acceptance for Deliverables

7.1 (Type criteria used to determine whether deliverables are acceptable, how they will be accepted, and who will accept them.)

8. Notices

Pursuant to Exhibit C – General Terms and Conditions, Paragraph 15 – Notices, the mailing address for all required notices is as follows:

Contractor: _____

City: City of Stockton
Attn: City Manager

425 N. El Dorado Street
Stockton, CA 95202

9. Key Personnel

(If applicable, type the name and contact information Key Personnel working on the Project.)

10. Option to Renew.

(If an option to renew is applicable, keep this clause and type the specifics as to how many renewal terms e.g. two one-year renewals, etc.)

The term of the Agreement may be extended up to _____ by a written amendment executed by both parties. However, the total term of the Agreement including the extended term shall not exceed ___ years.

SAMPLE

**EXHIBIT B
INSURANCE**

(RESERVED FOR CITY'S INSURANCE PROVISIONS APPROVED BY RISK)

SAMPLE

EXHIBIT C

GENERAL TERMS AND CONDITIONS

1. **Goods, Equipment and Services.** Subject to the terms and conditions set forth in this Agreement, Contractor shall provide to City the services described in Exhibit A of the Agreement. Contractor shall provide said services at the time, place and in the manner specified in Exhibit A of the Agreement.

2. **City Assistance, Facilities, Equipment and Clerical Support.** Except as set forth in Exhibit A, Contractor shall, at its sole cost and expense, furnish and maintain all facilities and equipment that may be required for furnishing services pursuant to this Agreement. If applicable, City shall furnish to Contractor only the facilities and equipment listed in Exhibit A to the Agreement.

3. **Compensation.** City shall pay Contractor for services rendered pursuant to this Agreement as described more particularly in Exhibit A and Exhibit E to the Agreement.

3.1 Invoices submitted by Contractor to City must contain a brief description of work performed, time spent and City reference number. Within thirty (30) days of receipt of Contractor's invoice, City will review invoice, and if acceptable make payment on approved invoice.

3.2 Upon completion of work and acceptance by City, Contractor shall have sixty (60) days in which to submit final invoicing for payment. An extension may be granted by City upon receiving a written request thirty (30) days in advance of said time limitation. The City shall have no obligation or liability to pay any invoice for work performed which the Contractor fails or neglects to submit within sixty (60) days, or any extension thereof granted by the City, after the work is accepted by the City.

4. **Sufficiency of Contractor's Work.** All Contractor services, work, and deliverables shall be performed in a good and workmanlike manner with due diligence in accordance with the degree of skill normally exercised by similar contractors supplying services and work of a similar nature, and in conformance with applicable laws, codes and professional standards. Contractor's work shall be adequate and sufficient to meet the purposes of this Agreement.

5. **Ownership of Work.** All reports, work product, all other documents completed or partially completed by Contractor or its approved subcontractors, in performance of this Agreement, and if applicable, drawings, designs, and plan review comments shall become the property of the City. Any and all copyrightable subject matter in all materials is hereby assigned to the City and the Contractor and its approved subcontractors agree

to execute any additional documents that may be necessary to evidence such assignment. All materials shall be delivered to the City upon completion or termination of the work under this Agreement. If any materials are lost, damaged or destroyed before final delivery to the City, the Contractor shall replace them at its own expense. Contractor and its approved subcontractors shall keep materials confidential. Materials shall not be used for purposes other than performance of services under this Agreement and shall not be disclosed to anyone not connected with these services, unless the City provides prior written consent.

6. Timeliness. Time is of the essence in this Agreement. Further, Contractor acknowledges that the failure of Contractor to comply with the time limits described in Exhibit A and Exhibit F may result in economic or other losses to the City.

7. Changes. Both parties to this Agreement understand that it may become desirable or necessary during the term of this Agreement for City to modify the scope of services provided for under this Agreement. Any material extension or change in the scope of work shall be discussed with City and the change and cost shall be memorialized in a written amendment to the original contract prior to the performance of the additional work. Until the amendment is so executed, City will not be responsible to pay any charges Contractor may incur in performing such additional services, and Contractor shall not be required to perform any such additional services.

8. Amendment. No variation of the terms of this Agreement shall be valid unless an amendment is made in writing and signed by both parties.

9. Contractor's Status.

9. 1 In performing the obligations set forth in this Agreement, Contractor shall have the status of an independent contractor and Contractor shall not be considered to be an employee of the City for any purpose. All persons working for or under the direction of Contractor are its agents and employees and are not agents or employees of City. Contractor by virtue of this Agreement, has no authority to bind or incur any obligation on behalf of City. Except as expressly provided in Exhibit A, Contractor has no authority or responsibility to exercise any rights or power vested in the City. No agent, officer or employee of the City is to be considered an employee of the Contractor. It is understood by both Contractor and City that this Agreement shall not be construed or considered under any circumstances to create an employer-employee relationship or a joint venture.

9.2 Contractor shall determine the method, details and means of performing the work and services to be provided by Contractor under this Agreement. Contractor shall be responsible to City only for the requirements and results specified in this Agreement and, except as expressly provided in this Agreement, shall not be subjected to City's

control with respect to the physical action or activities of Contractor in fulfillment of this Agreement. Contractor has control over the manner and means of performing the services under this Agreement. If necessary, Contractor has the responsibility for employing other persons or firms to assist Contractor in fulfilling the terms and obligations under this Agreement.

9.3 If in the performance of this Agreement any third persons are employed by Contractor, such persons shall be entirely and exclusively under the direction, supervision and control of Contractor. All terms of employment including hours, wages, working conditions, discipline, hiring and discharging or any other term of employment or requirements of law shall be determined by the Contractor.

9.4 It is further understood and agreed that Contractor must issue W-2 forms or other forms as required by law for income and employment tax purposes for all of Contractor's assigned personnel under the terms and conditions of this Agreement.

10. Subcontractor.

10.1 Subcontractors shall not be recognized as having any direct or contractual relationship with City. Contractor shall be responsible for the work of subcontractors, which shall be subject to the provisions of this Agreement. Subcontractors will be provided with a copy of the Agreement and be bound by its terms. Contractor is responsible to City for the acts and omissions of its subcontractors and persons directly or indirectly employed by them.

10.2 If in the performance of this Agreement any third persons are employed by Contractor, such persons shall be entirely and exclusively under the direction, supervision and control of Contractor. All terms of employment including hours, wages working conditions, discipline, hiring, and discharging or any other term of employment or requirement of law shall be determined by Contractor.

10.3 It is further understood and agreed that Contractor must issue W-2 forms or other forms as required by law for income and employment tax purposes for all of Contractor's personnel.

11. Termination.

11.1 Termination for Convenience of City. The City may terminate this Agreement at any time by mailing a notice in writing to Contractor. The Agreement shall then be deemed terminated, and no further work shall be performed by Contractor. If the Agreement is so terminated, the Contractor shall be paid for the work actually completed at the time the notice of termination is received.

11. 2 Should either party default in the performance of this Agreement or materially breach any of its provisions, the other party, at that party's option, may terminate this Agreement by giving written notification to the other party.

11.3 Funding- Non-Appropriation. It is mutually understood between the Parties that payment to the Contractor for performance shall be dependent upon the availability of appropriations by the City Council for the purposes of this Agreement. No legal liability on the part of the City for any payment may arise under this Agreement until funds are made available and until the Contractor has received funding availability, which will be confirmed in writing. If funding for any fiscal year is reduced or deleted, or if the City loses funding for any reason, the City, in its sole discretion, shall have the option to either (a) cause this Agreement to be canceled or terminated pursuant to applicable provisions of the Agreement; or (b) offer to amend the Agreement to reflect the reduced funding for this Agreement.

12. Non-Assignability. The Contractor shall not assign, sublet, or transfer this Agreement or any interest or obligation in the Agreement without the prior written consent of the City, and then only upon such terms and conditions as City may set forth in writing. Contractor shall be solely responsible for reimbursing subcontractors.

13. Indemnity and Hold Harmless. To the fullest extent permitted by law, Contractor shall hold harmless, defend and indemnify City of Stockton and its officers, officials, employees and volunteers from and against any and all liability, loss, damage, expense, costs (including without limitation costs and fees of litigation) of every nature arising out of or in connection with Contractor's performance of work hereunder or its failure to comply with any of its obligations contained in this agreement, except such loss or damage which was caused by the sole negligence or willful misconduct of the City of Stockton. This obligation is independent of, and shall not in any way be limited by, the minimum insurance obligations contained in this agreement. These obligations shall survive the completion or termination of this agreement.

14. Insurance. During the term of this Agreement, Contractor shall maintain in full force and effect at its own cost and expense the insurance coverage as set forth in the attached Exhibit B to this Agreement and shall otherwise comply with the other provisions of Exhibit B to this Agreement.

15. Notices. All notices herein required shall be in writing and shall be sent by certified or registered mail, postage prepaid, addressed in Exhibit A to this Agreement.

16. Conformance to Applicable Laws. Contractor shall comply with all applicable Federal, State, and Municipal laws, rules, and ordinances. Contractor shall not discriminate in the employment of persons or in the provision of services under this Agreement on the basis of any legally protected classification, including race, color, national origin, ancestry, sex or religion of such person.

17. **Licenses, Certifications and Permits.** Prior to the City's execution of this Agreement and prior to the Contractor's engaging in any operation or activity set forth in this Agreement, Contractor shall obtain a City of Stockton business license, which must be kept in effect during the term of this Agreement. Contractor covenants that it has obtained all certificates, licenses, permits and the like required to perform the services under this Agreement. Such licenses, certificates and permits shall be maintained in full force and effect during the term of this Agreement.

18. **Records and Audits.** Contractor shall maintain all records regarding this Agreement and the services performed for a period of three (3) years from the date that final payment is made. At any time during normal business hours, the records shall be made available to the City to inspect and audit. To the extent Contractor renders services on a time and materials basis, Contractor shall maintain complete and accurate accounting records, in a form prescribed by City or, if not prescribed by City, in accordance with generally accepted accounting principles, such records to include, but not be limited to, payroll records, attendance cards, time sheets, and job summaries.

19. **Confidentiality.** Contractor shall exercise reasonable precautions to prevent the unauthorized disclosure and use of City reports, information or conclusions.

20. **Conflicts of Interest.** Contractor covenants that other than this Agreement, Contractor has no financial interest with any official, employee or other representative of the City. Contractor and its principals do not have any financial interest in real property, sources of income or investment that would be affected in any manner of degree by the performance of Contractor's services under this Agreement. If such an interest arises, Contractor shall immediately notify the City.

21. **Waiver.** In the event either City or Contractor at any time waive any breach of this Agreement by the other, such waiver shall not constitute a waiver of any other or succeeding breach of this Agreement, whether of the same or of any other covenant, condition or obligation. No payment, partial payment, acceptance, or partial acceptance by City shall operate as a waiver on the part of City of any of its rights under this Agreement.

22. **Governing Law.** California law shall govern any legal action pursuant to this Agreement with venue for all claims in the Superior Court of the County of San Joaquin, Stockton Branch or, where applicable, in the Federal District Court of California, Eastern District, Sacramento Division.

23. **No Personal Liability.** No official or employee of City shall be personally liable to Contractor in the event of any default or breach by the City or for any amount due Contractor.

24. Severability. If any portion of this Agreement or application thereof to any person or circumstance shall be declared invalid by a court of competent jurisdiction or if it is found in contravention of any federal, state or city statute, ordinance or regulation the remaining provisions of this Agreement or the application thereof shall not be invalidated thereby and shall remain in full force and effect to the extent that the provisions of this Agreement are severable.

25. Non-Discrimination. During the performance of this Agreement, Contractor and its officers, employees, agents, representatives or subcontractors shall not unlawfully discriminate in violation of any federal, state, or local law, rule or regulation against any employee, applicant for employment or person receiving services under this Agreement because of race, religion, color, national origin, ancestry, physical or mental disability, medical condition (including genetic characteristics), marital status, age, political affiliation, gender identity, gender expression, sex or sexual orientation, family and medical care leave, pregnancy leave, or disability leave. Contractor and its officers, employees, agents, representative or subcontractors shall comply with all applicable Federal, State and local laws and regulations related to non-discrimination and equal opportunity, including without limitation the City's nondiscrimination policy; the Fair Employment and Housing Act (Government Code sections 12990 (et seq.); California Labor Code sections 1101, 1102 and 1102.1; the Federal Civil Rights Act of 1964 (P.L. 88-352), as amended; and all applicable regulations promulgated in the California Code of Regulation or Code of Federal Regulations. Title VI of the Civil Rights Act of 1964 requires that "no person in the United States shall, on the grounds of race, color, or national origin be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving federal financial assistance." (42 USC Section 2000d). <http://www.dol.gov/oasam/regs/statutes/titlevi.htm>. The City requires compliance with the requirements of Title VI in all of its programs and activities regardless of funding source.

26. Force Majeure. Neither party shall be responsible for delays or failures in performance resulting from acts of God, acts of civil or military authority, terrorism, fire, flood, strikes, war, epidemics, pandemics, shortage of power or other acts or causes reasonably beyond the control of that party. The party experiencing the force majeure event agrees to give the other party notice promptly following the occurrence of a force majeure event, and to use diligent efforts to re-commence performance as promptly as commercially practicable.

27. Taxes and Charges. Contractor shall be responsible for payment of all taxes, fees, contributions or charges applicable to the conduct of the Contractor's business.

28. Cumulative Rights. Any specific right or remedy provided in this Agreement will not be exclusive but will be cumulative of all other rights and remedies to which may be legally entitled.

29. Advice of Attorney. Each party warrants and represents that in executing this Agreement, it has received independent legal advice from its attorneys or the opportunity to seek such advice.

30. Heading Not Controlling. Headings used in this Agreement are for reference purposes only and shall not be considered in construing this Agreement.

31. Entire Agreement, Integration, and Modification.

31.1 This Agreement represents the entire integrated agreement between Contractor and the City; supersedes all prior negotiations, representations, or agreements, either written or oral between the parties and may be amended only by a written Amendment signed by the Contractor and City Manager.

31.2 All Exhibits to this Agreement and this Agreement are intended to be construed as a single document.

32. Counterparts. This Agreement may be executed in one or more counterparts, each of which shall be deemed an original. All counterparts shall be construed together and shall constitute one agreement.

33. Authority. The individual(s) executing this Agreement represent and warrant that they have the legal capacity and authority to do so on behalf of their respective legal entities.

EXHIBIT D

PROFESSIONAL SERVICES SPECIAL TERMS AND CONDITIONS

1. **Definitions.** The following words and phrases have the following meanings for purposes of this Agreement:

1.1 "Services" means, collectively, the services, duties and responsibilities described in Exhibit A of this Agreement and any and all work necessary to complete them or carry them out fully and to the standard of performance required in this Agreement.

1.2 "Deliverable" means quantifiable goods or services that will be provided upon completion of a project. A deliverable is any tangible material, work or thing delivered by one party to the other, including associated technical documentation. A deliverable can be tangible or intangible parts of the development process, and often are specified functions or characteristics of the project.

2. **General.** The following terms and conditions are applicable for the Professional Services only. The special conditions shall be read in conjunction with the Standard Agreement, General Terms and Conditions ("GTC") Exhibit C, and all other Exhibits identified in the Standard Agreement.

2.1 Where any portion of the GTC is in conflict to or at variance with any provisions of the Special Conditions of the Agreement, then unless a different intention stated, the provision(s) of the Special Conditions of the Agreement shall be deemed to override the provision(s) of GTC only to the extent that such conflict or variations in the Special Conditions of the Agreement are not possible of being reconciled with the provisions of the GTC.

2.2 In the case of modification of a part or provision of the GTC, the unaltered part or provision, or both shall remain in effect. The Special Conditions shall relate to a particular project and be peculiar to that project but shall not weaken the character or intent of the GTC.

3. **Time for Performance.**

3.1 Contractor shall perform the services according to the schedule contained in Exhibit F.

3.2 Timeliness of Performance i) Contractor shall provide the Services, and Deliverables within the term and within the time limits required under this Agreement, pursuant to the provisions of Exhibit A and Exhibit F. ii) Neither Contractor nor Contractor's agents, employees nor subcontractors are entitled to any damages from the City, nor is any party entitled to be reimbursed by the City, for damages, charges or other

losses or expenses incurred by Contractor by reason of delays or hindrances in the performance of the Services, whether or not caused by the City.

4. Standard of Performance

In addition to Exhibit C, Section 4 and 17, Contractor agrees as follows:

4.1 Contractor's Services shall be performed in accordance with generally accepted professional practices and principles and in a manner consistent with the level of care and skill ordinarily exercised by members of Contractor's profession currently practicing under similar conditions. Contractor shall comply with the profession's standard of performance, applicable laws, regulations, and industry standards. By delivery of completed work, Contractor certifies that the work conforms to the requirements of this Agreement and all applicable federal, state and local laws. If Contractor is retained to perform services requiring a license, certification, registration or other similar requirement under California law, Contractor shall maintain that license, certification, registration or other similar requirement throughout the term of this Agreement.

4.2 Contractor acknowledges that it is entrusted with or has access to valuable and confidential information and records of the City and with respect to that information, Contractor agrees to be held to the standard of care of a fiduciary. Contractor shall assure that all services that require the exercise of professional skills or judgment are accomplished by professionals qualified and competent in the applicable discipline and appropriately licensed, if required by law. Contractor must provide copies of any such licenses. Contractor remains responsible for the professional and technical accuracy of all Services or Deliverables furnished, whether by Contractor or its subcontractors or others on its behalf. All Deliverables must be prepared in a form and content satisfactory to the Using Agency and delivered in a timely manner consistent with the requirements of this Agreement.

4.3 If Contractor fails to comply with the foregoing standards, Contractor must perform again, at its own expense, all Services required to be re-performed as a direct or indirect result of that failure. Any review, approval, acceptance or payment for any of the Services by the City does not relieve Contractor of its responsibility for the professional skill and care and technical accuracy of its Services and Deliverables. This provision in no way limits the City's rights against Contractor either under this Agreement, at law or in equity.

5. Compensation

5.1 In addition to Section 3 Compensation in Exhibit C – GTC, the Contractor shall be compensated for the services provided under this Agreement as follows:

5.1.1 Contractor shall be compensated for services rendered and accepted under this Agreement and shall be paid monthly, in arrears on a not to exceed

basis, based upon the rates set forth in Exhibit E attached hereto and made a part of this Agreement. Contractor may vary the compensation for each task in Exhibit E provided that the total project compensation listed in Exhibit E and the Standard Agreement is not exceeded.

6. Personnel

6.1 None of the work or services covered by this Agreement shall be subcontracted without the prior written approval of the City. Any work or services subcontracted hereunder shall be specified by written agreement and shall be subject to each provision of this Agreement. Contractor shall provide subcontractor a copy of this fully executed Agreement.

6.2 Contractor agrees to assign only competent personnel according to the reasonable and customary standards of training and experience in the relevant field to perform services under this Agreement. Failure to assign such competent personnel shall constitute grounds for termination of this Agreement. The payment made to Contractor pursuant to this Agreement shall be the full and complete compensation to which Contractor and Contractor's officers, employees, agents, and subcontractors are entitled for performance of any work under this Agreement. Neither Contractor nor Contractor's officers or employees are entitled to any salary or wages, or retirement, health, leave or other fringe benefits applicable to employees of the City. The City will not make any federal or state tax withholdings on behalf of Contractor. The City shall not be required to pay any workers' compensation insurance on behalf of Contractor. Contractor shall pay, when and as due, any and all taxes incurred as a result of Contractor's compensation hereunder, including estimated taxes, and shall provide City with proof of such payments upon request.

6.3 Key Personnel: Because of the special skills required to satisfy the requirements of this Agreement, Contractor shall not reassign or replace key personnel without the written consent of the City, which consent the City will not unreasonably withhold. "key personnel" means those job titles and the persons assigned to those positions in accordance with the provisions of this Agreement. The City may at any time in writing notify Contractor that the City will no longer accept performance of Services under this Agreement by one or more Key Personnel listed. Upon that notice Contractor shall immediately suspend the services of the key person or persons and must replace him or them in accordance with the terms of this Agreement. A list of key personnel is found in Exhibit A, Scope of Services.

7. Reports and Information

Contractor shall at such times and in such forms as the City may require furnish the City such periodic reports as it may request pertaining to the work or services undertaken pursuant to this Agreement, the costs and obligations incurred or to be incurred in connection therewith, and any other matters are covered by this Agreement as specified in Exhibit A and Exhibit E.

8. Findings Confidential

All of the reports, information, data, et cetera, prepared or assembled by the Contractor under this Agreement are confidential and the Contractor agrees that they shall not be made available to any individual or organization without the prior written approval of the City. Contractor shall not be required under the provisions of this paragraph to keep confidential any data or information which is or becomes publicly available, is required by applicable law or by proper legal or governmental authority, is already rightfully in the Contractor's possession without obligation of confidentiality, is independently developed by Contractor outside the scope of this Agreement or is rightfully obtained from third parties. Contractor shall give City prompt notice of any such legal or governmental demand and reasonably cooperate with City in any effort to seek a protective order or otherwise to contest such required disclosure.

9. Copyright

No materials, including but not limited to reports, maps, or documents produced as a result of this Agreement, in whole or in part, shall be available to Contractor for copyright purposes. Any such materials produced as a result of this Agreement that might be subject to copyright shall be the property of the City and all such rights shall belong to the City, and the City shall be sole and exclusive entity who may exercise such rights.

10. Deliverables

Contractor shall prepare or provide to the City various Deliverables. "Deliverables" include work product, such as written reviews, recommendations, reports and analyses, produced by Contractor for the City. The City may reject Deliverables that do not include relevant information or data, or do not include all documents or other materials specified in this Agreement or reasonably necessary for the purpose for which the City made this Agreement or for which the City intends to use the Deliverables. If the City determines that Contractor has failed to comply with the foregoing standards, it has 30 days from the discovery to notify Contractor of its failure. If Contractor does not correct the failure, or if it is possible to do so, within 30 days after receipt of notice from the City specifying the failure, then the City, by written notice, may treat the failure as a default of this Agreement. Partial or incomplete Deliverables may be accepted for review only when required for a specific and well-defined purpose and when consented to in advance by the City. Such Deliverables will not be considered as satisfying the requirements of this Agreement and partial or incomplete Deliverables in no way relieve Contractor of its commitments under this Agreement.

11. Applicable Laws

Deliverables must conform with all applicable federal, state, and local laws. Such conformity includes compliance with federal sanctions, and Contractor certifies that it has not and will not engage in prohibited transactions with sanctioned persons or entities.

12. Prevailing Wage

It shall be the responsibility of the Contractor to comply, when applicable, with the prevailing wage rates in accordance with the State of California Department of Industrial Relations. It shall further be the responsibility of the Contractor to monitor the prevailing wage rates as established by the California Department of Industrial Relations for any increase in rates during the term of this Agreement and adjust wage rates accordingly. CONTRACTOR REGISTRATION REQUIREMENTS- Pursuant to Labor Code Section 1771.1(a): A Contractor or subcontractor shall not be qualified to bid on, be listed in a bid

proposal, subject to the requirements of Section 4104 of the Public Contract Code, or engage in the performance of any contract for public work, as defined in this chapter, unless currently registered and qualified to perform public work pursuant to Labor Code Section 1725.5. It is not a violation of this section for an unregistered Contractor to submit

a bid that is authorized by Section 7029.1 of the Business and Professions Code or by Section 10164 or 20103.5 of the Public Contract Code, provided the Contractor is

EXHIBIT E
COMPENSATION SCHEDULE

The Contractor shall be compensated for the services identified in Exhibit A, Exhibit C, and Exhibit D to this Agreement as follows:

1. Project Price

1.1 The maximum the Contractor shall be paid on this Agreement is \$_____ (hereafter the “not to exceed” amount). The “not to exceed” amount includes all payments to be made pursuant to this Agreement, including City approved reimbursable expenses, if any. Nothing in this Agreement requires the City to pay for work that does not meet the Standard of Performance identified in Exhibit D section 4 or other requirements of this Agreement.

1.2 Standard Reimbursable Items: Only the reimbursable items identified in Exhibit A, C, and D (Compensation), shall be compensated to the Contractor. Reimbursable expenses will be reimbursed without markup. Fees plus reimbursable expenses shall not exceed the amount set forth in section 1.1 of this Exhibit and a copy of the original invoice for the items listed in i, ii or iii below shall be attached to the invoice submitted to the City for reimbursement. Payments shall be based upon work documents submitted by the Contractor to the City and accepted by the City as being satisfactory to City’s needs. The City shall not pay a markup on any of the items listed in i, ii or iii. Additionally, items such as a telephone, fax, postage or freight are already included in the billable hourly rate. Contractor shall be reimbursed the direct expenses, which are the actual cost of the following items that are reasonable, necessary and actually incurred, by the Contractor in connection with the services:

- i. Expenses, fees or charges for printing, reproduction or binding of documents at actual costs with no markup added to the actual cost.
- ii. Any filing fees, permit fees, or other fees paid or advanced by the Contractor at actual costs with no markup added to the actual cost.
- iii. Travel expenses shall be reimbursed in accordance with the City’s travel policy, which is incorporated herein by reference. Reimbursement shall be made at actual costs with no markup added to the actual cost.

1.3 The Contractor shall be entitled to receive payments for its work performed pursuant to the Agreement. The City will pay Contractor based on invoices for acceptable work performed and approved until the “not to exceed” amount is reached. Thereafter, Contractor must complete services based on the Agreement without additional compensation unless there is a material change to the Statement of Work and Scope by a written Amendment.

1.4 If work is completed before the “not to exceed” amount is reached, the Contractor’s compensation will be based on the Contractor’s invoices previously submitted for acceptable work performed and approved.

1.5 Subcontractor Costs: Compensation for subcontractors shall be limited to the same restrictions imposed on the Contractor. Maximum markup Contractor may apply to subcontractor fees, minus reimbursable expenses, shall not exceed _____%.

2. **Task Price**. Below is the price for the services and reimbursable expenses as described in Exhibit A of this Agreement.

Task	Description	Task Price
1		\$
2		\$
3		\$
TOTAL PRICE		\$

3. **Hourly Rates**. The following is a list of hourly billable rates that Contractor shall apply for additional services requested of the Contractor. Contractor shall be compensated based on the hourly rates set forth below, on a time and material basis for those services that are within the general scope of services of this Agreement, but beyond the description of services required under Exhibit A, and all services are reasonably necessary to complete the standards of performance required by this Agreement. Any changes and related fees shall be mutually agreed upon between the parties by a written amendment to this Agreement.

Hourly Billable Rate Schedule

Title	Role on Project	Hourly Billable Rates
		\$
		\$
		\$
		\$
		\$
		\$
		\$

4. **Additional Fees**. Should an amendment to the Agreement be issued for additional services that require the following items, the unit prices are as follows:

Title	Unit Price
	\$

5. Invoice to Address. Each invoice submitted shall identify the specific task(s) listed in Exhibit A and this Exhibit, and the completed work product/deliverable for the agreed upon price listed in this Exhibit. Invoices shall be submitted to the below address:

City of Stockton _____ Department
Attention: _____
425 N. El Dorado Street
Stockton, CA 95202

SAMPLE

EXHIBIT F

TIMELINE

1. Contractor shall complete the requested services identified in Exhibit A as follows:

1.1 **TIMELINE FOR COMPLETION OF WORK**

1.1.1 (insert deliverable title) (insert duration i.e. 1 week)

1.1.2 (insert deliverable title) (insert duration i.e. 1 day)

1.1.3 (insert deliverable title) (insert duration i.e. 3 weeks)

SAMPLE

Exhibit G

(Left intentionally blank. Does not apply to this project)

SAMPLE

COMMUNITY WORKFORCE AND TRAINING AGREEMENT FOR THE CITY OF STOCKTON

INTRODUCTION/FINDINGS

The purpose of this Agreement is to promote efficiency of construction operations performed for and within the City of Stockton and to provide for peaceful settlement of labor disputes and grievances without strikes or lockouts, thereby promoting the public interest in assuring the timely and economical completion of the projects subject to this Agreement, and to support the efforts of the City to increase employment opportunities for workers who reside in Stockton, to help increase training and employment opportunities for the City's students in the construction trades through apprenticeship and pre-apprentice programs as the students graduate from the City's schools.

WHEREAS, the City adopts a five-year Capital Improvement Plan that identifies the public projects necessary to maintain and improve the physical properties of the City, including buildings, parks, entertainment venues, golf courses, utility systems, the transportation system and other facilities; and

WHEREAS, the City undertakes and anticipates undertaking many of the projects identified in the current and proposed Capital Improvement Plan and other City public works projects that involve significant construction costs in excess of threshold set forth in this Agreement; and

WHEREAS, the City Council has determined that the successful and cost-effective completion of these Capital Improvement Plan projects and other major City public works projects is of the utmost importance to the City and its taxpayers and the residents it serves; and

WHEREAS, the City has determined that applying the same Agreement to the Capital Improvement Plan and other public works construction projects that exceed the threshold set forth in this Agreement during the term of this Agreement will provide efficiencies for the City and its contractors; and

WHEREAS, large numbers of workers of various skills will be required in the performance of the construction work, including those workers represented by Unions affiliated with the San Joaquin Building and Construction Trades Council ("the Council") and employed by contractors and subcontractors who are signatory to agreements with said labor organizations; and

WHEREAS, it is recognized that projects with multiple contractors and bargaining units on the job site at the same time over an extended period of time, the potential for work disruption is substantial without an overriding commitment to maintain continuity of work; and

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WHEREAS, the interests of the general public, the City and the Contractor(s)/Employer(s) would be best served if the construction work proceeded in an orderly manner without disruption due to labor disputes; and

WHEREAS, the Contractor(s)/Employer(s) and the Unions desire to mutually establish and stabilize wages, hours and working conditions for the workers employed on the construction projects subject to this Agreement in order to promote a satisfactory, continuous and harmonious relationship among the parties to this Agreement; and

WHEREAS, unemployment rates in Stockton have been consistently higher than in California as a whole and statistics indicate that the higher unemployment level in Stockton correlates to a higher number of families living in poverty and to a higher crime rate; and

WHEREAS, due to the lack of jobs, much of the work force residing in Stockton is forced to commute long distances to find work, causing increased traffic, increased pollution, and other serious environmental impacts; and

WHEREAS, because of the shortage of local jobs, many residents of Stockton must leave for work very early in the morning and return late in the evening, often leaving children and teenagers alone and unsupervised during the day; and

WHEREAS, absentee parents and unsupervised youth can result in increased problems for families, communities, and the City as a whole; and

WHEREAS, the contracts for the construction of the projects will be awarded in accordance with the applicable provisions of the California State Public Contract Code and state, local and federal laws and regulations; and

WHEREAS, the City has the absolute right to select the lowest responsive and responsible bidder for the award of construction contracts on the projects; and

WHEREAS, the parties signatory to this Agreement pledge their full good faith and trust to work towards mutually satisfactory completion of the Capital Improvement Plan projects and other major City public works projects that will be subject to this Agreement; and

NOW, THEREFORE, IT IS AGREED BETWEEN AND AMONG THE PARTIES HERETO, AS FOLLOWS:

ARTICLE I
DEFINITIONS

- 1.1 "Agreement" means this Community Workforce and Training Agreement.
- 1.2 "City" means the City of Stockton and its public employees, including managerial personnel.

1.3 "Contractor(s)/Employer(s)" or "Contractor" means any individual, firm, partnership or corporation, or combination thereof, including joint ventures, that is an independent business enterprise and has entered into a contract with the City or Project Manager or any of its contractors or subcontractors of any tier, with respect to the construction of any part of the Project under contract terms and conditions approved by the City and which incorporate this Agreement.

1.4 "Construction Contract" means a contract awarded by the City for public work within the meaning of Chapter 1 (commencing with Section 1720) of Part 7 of Division 2 of the California Labor Code.

1.5 "Project" means any construction project of the City whose value as determined by the higher of the engineer's estimate of the total cost of the project or the actual cumulative bid amounts submitted by the contractor or contractors awarded the Construction Contracts for the Project, exceeds one million dollars (\$1,000,000). By mutual consent of the City and the Council, this threshold amount may be reduced to an amount not below two hundred and fifty thousand dollars (\$250,000) after one year from the effective date of this Agreement.

1.6 "Union" or "Unions" means the San Joaquin Building and Construction Trades Council, AFL-CIO ("the Council") and any other labor organization, including those affiliated with the Council, signatory to this Agreement, acting in their own behalf and on behalf of their respective affiliates and member organization whose names are subscribed hereto and who have through their officers executed this Agreement ("Local Unions").

1.7 "Stockton Resident" means a resident of the City of Stockton as defined by Stockton Municipal Code Section 3.68.095(I)(3).

1.8 "Local Area Resident" means any Stockton Resident or any individual domiciled within the boundaries of San Joaquin County according to the criteria set forth in Stockton Municipal Code Section 3.68.095(I)(3) for Stockton Residents.

1.9 "Project Manager" means the business entity or City employee designated by the City to oversee all phases of construction on the Project.

1.10 "Master Agreement" or "Schedule A" means the Master Collective Bargaining Agreement of each craft union signatory hereto, which shall be on file with the City.

1.11 "Completion" means that point at which the City accepts a project at issue by filing a Notice of Completion, or as otherwise provided by applicable state law. "Punch List" items and any other work within the scope of this Agreement not completed prior to commencement of revenue service shall nonetheless be included within the scope of this Agreement. It is understood by the parties that portions of the Project may be completed in phases and Completion of any such phase may occur prior to Completion of the Project.

ARTICLE II
SCOPE OF AGREEMENT

2.1 Parties: The Agreement shall apply and is limited to the City and all Contractor(s)/Employer(s) performing construction contracts on the Project, including surveying and on-site testing and inspection where such work is traditionally covered by a Master Agreement with a Union, and the Council and any other labor organization signatory to this Agreement, acting in their own behalf and on behalf of their respective affiliates and member organizations whose names are subscribed hereto and who have through their officers executed this Agreement.

2.2 Project Description: The Agreement shall govern the award of all Construction Contracts identified by the City as part of the Project. The City has the absolute right to combine, change, consolidate, suspend or cancel Construction Contract(s) or portions of Construction Contract(s) identified as part of the Project. Should the City suspend or remove any individual contract from the Project and thereafter authorize that construction work be commenced on such contract, then such contract shall be performed under the terms of this Agreement. Once a Construction Contract is completed it is no longer covered by this Agreement except when a Contractor is directed to engage in repairs, warranty work or modifications required by its Construction Contract with the City. For the purposes of this Agreement, a Construction Contract shall be considered Completed as set forth in Section 1.11 of this Agreement.

2.3 Covered Work: This Agreement covers, without limitation, all site preparation, surveying, on-site construction, alteration, demolition, installation, improvement, painting or repair of buildings, structures, modular furniture installations, and other works and related activities for the Project that is within the craft jurisdiction of one of the Unions and that is part of the Project, including, without limitation to the following examples, geotechnical and exploratory drilling, temporary HVAC, landscaping and temporary fencing, pipelines (including those in linear corridors built to serve the Project), pumps, pump stations, on-site soils and material inspection and testing, and demolition of any existing structures required to be performed to complete the Project. This Agreement shall apply to any start-up, calibration, commissioning, performance testing repair, and operational revisions to systems and/or subsystems for the Project performed after completion, unless it is performed by City employees. On-site work includes work done for the Project in temporary yards or areas adjacent to the Project, and at any on-site or off-site batch plant constructed solely to supply materials to the Project. This Agreement covers all onsite fabrication work over which the City or any Contractor(s)/Employer(s) possess the right of control (including work done for the Project in any temporary yard or area established for the Project.) This Agreement also covers all off-site work, including fabrication traditionally performed by the Unions, that is part of the Project, provided such off-site work is covered by a current "Master Agreement" or local addenda to a National Agreement of the applicable Union(s) that is in effect as of the execution date of this Agreement. The furnishing of supplies, equipment or materials which are stockpiled for later use shall not be considered Covered Work; however, the delivery of ready-mix, asphalt, aggregate, sand or other fill material which are directly incorporated into the construction process as well as the off-hauling of debris and excess fill, material and/or mud shall be covered by the terms and conditions of this Agreement. Contractor(s)/Employer(s), including brokers, of persons providing construction trucking work shall provide certified payroll records to the City within ten (10) days of a written request or as required by bid specifications.

2.4 Exclusions from Covered Work

2.4.1 The Agreement shall be limited to construction work on the Project and is not intended to, and shall not affect or govern the award of public works contracts by the City which are not a part of the Project.

2.4.2 The Agreement shall not apply to a Contractor's/Employer's non-construction craft employees, including but not limited to executives, managerial employees, engineering employees and supervisors above the level of General Foreman (except those covered by existing Master Agreements), staff engineers or other professional engineers, administrative and management personnel.

2.4.3 This Agreement shall not apply to work by employees of the City.

2.4.4 This Agreement shall not apply to any work performed on or near or leading to the site of work covered by this Agreement that is undertaken by state, county, City or other governmental bodies or their contractors; or by public or private utilities or their contractors that is not part of the Project.

2.4.5 This Agreement shall not apply to the Project where the Agreement is prohibited by state or federal law or where the express conditions for the receipt of non-de minimis state or federal funding prohibit the City from applying this Agreement to the Project.

2.5 Project Labor Disputes: All Project labor disputes involving the application or interpretation of the Master Agreement to which a signatory Contractor(s)/Employer(s) and a signatory Union are parties shall be resolved pursuant to the resolution procedures of the Master Agreement. All disputes relating to the interpretation or application of this Agreement shall be subject to resolution by the Grievance Committee and the Grievance and Arbitration Procedure set forth in Article XII.

2.6 Work covered by this Agreement within the following craft jurisdictions shall be performed under the terms of their National Agreements as follows: the National Transient Lodge ("NTL") Articles of Agreement, the National Stack/Chimney Agreement, the National Cooling Tower Agreement, and the National Agreement of Elevator Constructors, and any instrument calibration work and loop checking shall be performed under the terms of the UA/IBEW Joint National Agreement for Instrument and Control Technicians, with the exception that Articles IV, XII, XIII of this Agreement shall apply to such work.

2.7 Award of Contracts. It is understood and agreed that the City has the absolute right to select any qualified bidder for the award of contracts under this Agreement. The bidder need only be willing, ready and able to execute and comply with this Agreement. It is further agreed that this Agreement shall be included in all invitations to bid or solicitations for proposals from contractors or subcontractors for work on the Project that are issued on and after the effective date of this Agreement.

ARTICLE III
EFFECT OF AGREEMENT

3.1 By executing the Agreement, the Unions and the City agree to be bound by each and all of the provisions of the Agreement.

3.2 This Agreement shall be included as a condition of the award of Construction Contracts for the Project. By accepting the award of a Construction Contract for the Project, whether as contractor or subcontractor, the Contractor(s)/Employer(s) agrees to be bound by each and every provision of the Agreement and agrees that it will evidence its acceptance prior to the commencement of work by executing the Agreement to be Bound in the form attached hereto as Addendum A.

3.3 At the time that any Contractor(s)/Employer(s) enters into a subcontract with any subcontractor providing for the performance of a Construction Contract, the Contractor(s)/Employer(s) shall provide a copy of this Agreement to said subcontractor and shall require the subcontractor as a part of accepting an award of a construction subcontract to agree in writing, to be bound by each and every provision of this Agreement prior to the commencement of work by executing the Agreement to be Bound in the form attached hereto as Addendum A.

3.4 This Agreement shall only be binding on the signatory parties hereto, their successors and assigns, and shall not apply to the parents, affiliates, subsidiaries, or other ventures of any such party. Each Contractor shall alone be liable and responsible for its own individual acts and conduct and for any breach or alleged breach of this Agreement. Any dispute between the Union(s) and the Contractor(s) respecting compliance with the terms of the Agreement, shall not affect the rights, liabilities, obligations and duties between the signatory Union(s) and other Contractor(s)/Employer(s) party to this Agreement.

3.5 It is mutually agreed by the parties that any liability by a signatory Union to this Agreement shall be several and not joint. Any alleged breach of this Agreement by a signatory Union shall not affect the rights, liabilities, obligations and duties between the signatory Contractor(s) and the other Union(s) party to this Agreement.

3.6 The provisions of this Agreement, including the Master Agreements of the Local Unions having jurisdiction over the work on the Project, incorporated herein by reference, shall apply to the work covered by this Agreement, notwithstanding the provisions of any other local, area and/or national agreements which may conflict with or differ from the terms of this Agreement. Where a subject covered by the provisions of this Agreement is also covered by a Master Agreement, the provisions of this Agreement shall prevail. Where a subject is covered by the provisions of a Schedule A and is not covered by this Agreement, the provisions of the Master Agreement shall prevail.

ARTICLE IV
WORK STOPPAGES, STRIKES, SYMPATHY
STRIKES AND LOCKOUTS

4.1 The Unions, City and Contractor(s)/Employer(s) agree that for the duration of the Project:

(1) There shall be no strikes, sympathy strikes, work stoppages, picketing, hand billing or otherwise advising the public that a labor dispute exists, or slowdowns of any kind, for any reason, by the Unions or employees employed on the Project, at the job site of the Project or at any other facility of the City because of a dispute on the Project. Nor shall the Unions or any employees employed on the Project participate in any strikes, sympathy strikes, work stoppages, picketing, hand billing, slowdowns, or otherwise advising the public that a labor dispute exists at the jobsite of the Project because of a dispute between Unions and Contractor(s)/Employer(s) on any other project. It shall not be considered a violation of this Article if labor is withheld by a Union due to lack of payments to a Trust Fund or failure to make payroll on the Project. Nothing stated in this Agreement shall prevent Unions from participating in the actions mentioned in this section on jobsites other than the Project jobsite because of disputes between the Unions and Contractor(s)/Employer(s) on projects other than the Project.

(2) As to employees employed on the Project, there shall be no lockout of any kind by a Contractor(s)/Employer(s) covered by the Agreement.

(3) If a Master Agreement between a Contractor(s)/Employer(s) and the Union expires before the Contractor(s)/Employer(s) completes the performance of a Construction Contract for work covered under this Agreement and the Union or Contractor(s)/Employer(s) gives notice of demands for a new or modified Master Agreement, the Union agrees that it will not strike the Contractor(s)/Employer(s) on said contract for work covered under this Agreement and the Union and the Contractor(s)/Employer(s) agree that the expired Master Agreement shall continue in full force and effect for work covered under this Agreement until a new or modified Master Agreement is reached between the Union and Contractor(s)/Employer(s). If the new or modified Master Agreement reached between the Union and Contractor(s)/Employer(s) provides that any terms of the Master Agreement shall be retroactive, the Contractor(s)/Employer(s) agrees to comply with any retroactive terms of the new or modified Master Agreement which is applicable to employees employed on the Project within seven (7) days after the effective date of the new or modified Master Agreement.

4.1.1. Notification: If the City contends that any Union has violated this Article, it will notify in writing (including email) the Senior Executive of the Council and the Senior Executive of the Union, setting forth the facts alleged to violate the Article, prior to instituting the expedited arbitration procedure set forth below. The Senior Executive of Council will immediately use his/her best efforts to cause the cessation of any violation of this Article. The Senior Executive of the Union will immediately inform the membership of their obligations under this Article. A Union complying with this obligation shall not be held responsible for unauthorized acts of employees it represents.

4.2 Expedited Arbitration: Any party to this Agreement shall institute the following procedure, prior to initiating any other action at law or equity, when a breach of this Article is alleged to have occurred:

(1) A party invoking this procedure shall notify Robert Hirsch, as the permanent arbitrator, or, William Riker, as the alternate under this procedure. In the event that the permanent arbitrator is unavailable at any time, the alternate will be contacted. If neither is available, then a selection shall be made from the list of arbitrators in Article XII. Notice to the arbitrator shall be

by the most expeditious means available, with notices by facsimile, electronic mail or telephone to the party alleged to be in violation, to the City, to the Council and to the involved Local Union if a Union is alleged to be in violation.

(2) Upon receipt of said notice, the City will contact the designated arbitrator named above or his alternate who will attempt to convene a hearing within twenty-four (24) hours if it is contended that the violation still exists.

(3) The arbitrator shall notify the parties by facsimile or telephone of the place and time for the hearing. Said hearing shall be completed in one session, which, with appropriate recesses at the arbitrator's discretion, shall not exceed twenty-four (24) hours unless otherwise agreed upon by all parties. A failure of any party to attend said hearings shall not delay the hearing of evidence or the issuance of any award by the arbitrator.

(4) The sole issue at the hearing shall be whether or not a violation of Article IV, Section 4.1 of the Agreement has occurred. The arbitrator shall have no authority to consider any matter of justification, explanation or mitigation of such violation or to award damages, which issue is reserved for court proceedings, if any. The award shall be issued in writing within three (3) hours after the close of the hearing, and may be issued without a written opinion. If any party desires a written opinion, one shall be issued within fifteen (15) days, but its issuance shall not delay compliance with or enforcement of the award. The arbitrator may order cessation of the violation of this Article and other appropriate relief and such award shall be served on all parties by hand or registered mail upon issuance.

(5) Such award may be enforced by any Court of competent jurisdiction upon the filing of this Agreement and all other relevant documents referred to above in the following manner. Written notice of the filing of such enforcement proceedings shall be given to the other party. In the proceeding to obtain a temporary order enforcing the arbitrator's award as issued under Section 4.2 of this Article, all parties waive the right to a hearing and agree that such proceedings may be *ex-parte*. Such agreement does not waive any party's right to participate in a hearing for a final order or enforcement. The Court's order or orders enforcing the arbitrator's award shall be served on all parties by hand or delivered by certified mail.

(6) Any rights created by statute or law governing arbitration proceedings inconsistent with the above procedure, or which interfere with compliance, are waived by the parties.

(7) The fees and expenses of the arbitrator shall be divided equally between the party instituting the arbitration proceedings provided in this Article and the party alleged to be in breach of its obligation under this Article.

ARTICLE V
PRE-CONSTRUCTION CONFERENCE

5.1 The Project Manager shall convene a pre-construction conference to be held at least fourteen (14) days prior to the commencement of each construction phase, at a time and location mutually agreeable to the Council. Such conference shall be attended by a representative each from the participating Contractor(s)/Employer(s) and Union(s) and the Project Manager.

5.2 **Review Meetings:** In order to ensure the terms of this Agreement are being fulfilled and all concerns pertaining to the City, the Unions, and the Contractors are addressed, the Project Manager, General Contractor and Senior Executive of the Council or designated representatives thereof shall meet on a periodic basis during the term of construction. The City and the Council shall have the right to call a meeting of the appropriate parties to ensure the terms of this Agreement are being fulfilled.

ARTICLE VI
NO DISCRIMINATION

6.1 The Contractor(s)/Employer(s) and Unions agree to comply with all anti-discrimination provisions of federal, state and local law, to protect employees and applicants for employment, on the Project.

ARTICLE VII
UNION SECURITY

7.1 The Contractor(s)/Employer(s) recognize the Union(s) as the sole bargaining representative of all craft employees working within the scope of this Agreement.

7.2 All employees performing work covered by this Agreement shall, as a condition of employment on or before the eighth (8th) cumulative day of employment on the Project, be responsible for the payment of the applicable periodic working dues and fees uniformly required for union membership in the Local Union that is a signatory to this Agreement for the duration of his or her employment on the Project. Nothing in this Agreement is intended to prevent any non-union employees from joining the Local Union.

7.3 Authorized representatives of the Unions shall have access to the Project whenever work covered by this Agreement is being, has been, or will be performed on the Project.

ARTICLE VIII
REFERRAL

8.1 Contractor(s)/Employer(s) performing construction work on the Project described in the Agreement shall, in filling craft job requirements, utilize and be bound by the registration facilities and referral systems established or authorized by the Local Unions ("Job Referral System"). Such Job Referral System shall be operated in a non-discriminatory manner and in full compliance with all federal, state, and local laws and regulations, including those which require

equal employment opportunities and non-discrimination. The Contractor(s)/Employer(s) shall have the right to reject any applicant referred by the Union(s), in accordance with the applicable Master Agreement.

8.2 The Contractor(s)/Employer(s) shall have the unqualified right to select and hire directly all supervisors above general foreman it considers necessary and desirable, without such persons being referred by the Union(s).

8.3 In the event that referral facilities maintained by the Union(s) are unable to fill the requisition of a Contractor(s)/Employer(s) for employees within a forty-eight (48) hour period (Saturdays, Sundays and Holidays excluded) after such requisition is made by the Contractor(s)/Employer(s), the Contractor(s)/Employer(s) shall be free to obtain work persons from any source. A Contractor who hires any personnel to perform covered work on the Project pursuant to this Section shall immediately provide the appropriate Union with the name and address of such employee(s) and shall immediately refer such employee(s) to the appropriate Union to satisfy the requirements of Article VII of this Agreement.

8.4 Unions will exert their utmost efforts to recruit sufficient numbers of skilled craft persons to fulfill the requirements of the Contractor(s)/Employer(s). Recognizing the special needs of the Project and the acute shortage of skilled craftspeople, the Unions shall consider a Contractor's request to transfer key employees to work on this Project in a manner consistent with the Union's referral procedures.

8.5 The parties to this Agreement support the development of increased numbers of skilled construction workers from the City of Stockton and San Joaquin County. To the extent allowed by law, and consistent with the Local Union's hiring hall provisions, and as long as they possess the requisite skills and qualifications, Local Area Residents, including journeymen and apprentices, shall be referred for Project work covered by this Agreement.

ARTICLE IX **WAGES AND BENEFITS**

9.1 All Contractors/Employers agree to pay contributions to the established vacation, pension and other form of deferred compensation plan, apprenticeship, and health benefit funds established by the applicable Master Agreement for each hour worked on the Project in the amounts designated in the Master Agreements of the appropriate Local Unions.

9.2 By signing this Agreement, the Contractor(s)/Employer(s) adopts and agrees to be bound by the written terms of the legally established Trust Agreements, as described in section 9.1, specifying the detailed basis on which payments are to be made into, and benefits paid out of, such Trust Funds established by such appropriate local agreements. The Contractor(s)/Employer(s) authorizes the parties to such local trust agreements to appoint trustees and successor trustees to administer the trust funds and hereby ratify and accept the trustees so appointed as if made by the Contractor(s)/Employer(s).

9.3 Wages, Hours, Terms and Conditions of Employment: The wages, hours and other terms and conditions of employment on the Project shall be governed by the Master Agreement of the respective crafts, copies of which shall be on file with the City to the extent such Master

Agreement is not inconsistent with this Agreement. All employees covered by this Agreement shall be classified and paid in accordance with the classification and wage scales contained in the appropriate local agreements which have been negotiated by the historically recognized bargaining entity and in compliance with the applicable general prevailing wage determination made by the Director of Industrial Relations pursuant to the California Labor Code.

9.4 During the period of construction on this Project, the Contractor(s)/Employer(s) agrees to recognize and put into effect such increases in wages and recognized fringe benefits as shall be negotiated between the various Unions and the historically recognized local bargaining entity on the effective date as set forth in the applicable agreement. The Unions shall notify the Contractor(s)/Employer(s) in writing of the specific increases in wages and recognized fringe benefits and the date on which they become effective.

9.5 Holidays: Holidays shall be in compliance with the applicable Schedule A agreement.

ARTICLE X **EMPLOYEE GRIEVANCE PROCEDURE**

10.1 All disputes involving discipline and/or discharge of employees working on the Project shall be resolved through the grievance and arbitration provision contained in the Master Agreement for the craft of the affected employee. No employee working on the Project shall be disciplined or dismissed without just cause.

ARTICLE XI **COMPLIANCE**

11.1 It shall be the responsibility of the Contractor(s)/Employer(s) and Unions to investigate and monitor compliance with the provisions of the Agreement contained in Article IX. Nothing in this agreement shall be construed to interfere with or supersede the usual and customary legal remedies available to the Unions and/or employee benefit Trust Funds to collect delinquent Trust Fund contributions from Employers on the Project. The City shall monitor and enforce compliance with the prevailing wage requirements of the state and Contractors'/Employers' compliance with this Agreement.

ARTICLE XII **GRIEVANCE ARBITRATION PROCEDURE**

12.1 The parties understand and agree that in the event any dispute arises out of the meaning, interpretation or application of the provisions of this Agreement, the same shall be settled by means of the procedures set out herein. No grievance shall be recognized unless the grieving party (Local Union or City on its own behalf, or on behalf of an employee whom it represents, or a contractor on its own behalf) provides notice in writing to the signatory party with whom it has a dispute within five (5) days after becoming aware of the dispute but in no event more than thirty (30) days after it reasonably should have become aware of the event giving rise to the dispute. The time limits in this Section 12.1 may be extended by mutual written agreement of the parties.

12.2 Grievances shall be settled according to the following procedures:

Step 1: Within five (5) business days after the receipt of the written notice of the grievance, the Business Representative of the involved Local Union or City, or his/her designee, or the representative of the employee, and the representative of the involved Contractor(s)/Employer(s) shall confer and attempt to resolve the grievance.

Step 2: In the event that the representatives are unable to resolve the dispute within the five (5) business days after the meeting to resolve the dispute in Step 1, the International Union Representative and the Contractor(s)/Employer(s) involved shall meet within seven (7) working days of the referral of the dispute to this second step to arrive at a satisfactory settlement thereof. Meeting minutes shall be kept by the Contractor. In the event that these representatives are unable to resolve the dispute after its referral to Step 2, either involved party may submit it within three (3) business days to the Grievance Committee, which shall meet within five (5) business days after such referral (or such longer time as is mutually agreed upon by all representatives on the Grievance Committee), to confer in an attempt to resolve the grievance. The Grievance Committee shall be comprised of two (2) representatives of the City; and one (1) representative of the Project Manager, and three (3) representatives of the San Joaquin Building & Construction Trades Council. If the dispute is not resolved within such time (five (5) business days after its referral or such longer time as mutually agreed upon) it may be referred within five (5) business days by either party to Step 3.

Step 3: If the grievance is not settled in Step 2 within five (5) business days, either party may request the dispute be submitted to arbitration or the time may be extended by mutual consent of both parties. Within five (5) business days after referral of a dispute to Step 3, the representatives shall choose a mutually agreed upon arbitrator for final and binding arbitration. If the parties are unable to agree on an arbitrator, an arbitrator shall be selected by the alternate striking method from the list of five (5) below. The order of striking names from the list of arbitrators shall be determined by a coin toss, the winner of which shall decide whether they wish to strike first or second. If any of the arbitrators listed below or in Article 4 is no longer working as a labor arbitrator at the time of selection, the City and the Council shall mutually agree to a replacement. In addition, the City and the Council may mutually agree to add additional arbitrators to those listed below.

1. William Riker
2. Barry Winogard
3. Thomas Angelo
4. Robert Hirsch
5. William Engler

12.3 The Arbitrator shall arrange for a hearing on the earliest available date from the date of his/her selection. A decision shall be given to the parties within five (5) calendar days after completion of the hearing unless such time is extended by mutual agreement. A written opinion may be requested by a party from the presiding arbitrator. The decision of the Arbitrator shall be

final and binding on all parties. The Arbitrator shall have no authority to change, amend, add to or detract from any of the provisions of the Agreement. The expense of the Arbitrator shall be borne equally by both parties.

12.4 The time limits specified in any step of the Grievance Procedure set forth in Section 12.2 may be extended by mutual agreement of the parties initiated by the written request of one party to the other, at the appropriate step of the Grievance Procedure. However, failure to process a grievance, or failure to respond in writing within the time limits provided above, without an agreed upon extension of time, shall be deemed a waiver of such grievance without prejudice, or without precedent to the processing of and/or resolution of like or similar grievances or disputes. In order to encourage the resolution of disputes and grievances at Steps 1 and 2 of this Grievance Procedure, the parties agree that such settlements shall not be precedent setting.

ARTICLE XIII **WORK ASSIGNMENTS AND JURISDICTIONAL DISPUTES**

13.1 The assignment of Covered Work will be solely the responsibility of the Employer performing the work involved; and such work assignments will be in accordance with the Plan for the Settlement of the Jurisdictional Disputes in the Construction Industry (the "Plan") or any successor Plan.

13.2 All jurisdictional disputes on this Project between or among the building and construction trades Unions and the Employers parties to this Agreement, shall be settled and adjusted according to the present Plan established by the Building and Construction Trades Department or any other plan or method of procedure that may be adopted in the future by the Building and Construction Trades Department. Decisions rendered shall be final, binding and conclusive on the Employers and Unions parties to this Agreement.

13.3 If a dispute arising under this Article involves the Northern California Carpenters Regional Council or any of its subordinate bodies, an Arbitrator shall be chosen by the procedures specified in Article V, Section 5, of the Plan from a list composed of John Kagel, Thomas Angelo, Robert Hirsch, and Thomas Pagan, and the Arbitrator's hearing on the dispute shall be held at the offices of the California State Building and Construction Trades Council in Sacramento, California within fourteen (14) days of the selection of the Arbitrator. All other procedures shall be as specified in the Plan.

13.4 All jurisdictional disputes shall be resolved without the occurrence of any strike, work stoppage, or slow-down of any nature and the Employer's assignment shall be adhered to until the dispute is resolved. Individual employees violating this section shall be subject to immediate discharge. Each Employer will conduct a pre-job conference with the Council prior to commencing work. The Project Manager and City will be advised in advance of all such conferences and may participate if they wish. Pre-job conferences for different Employers may be held together.

**ARTICLE XIV MANAGEMENT
RIGHTS**

14.1 The Contractor(s)/Employer(s) shall retain full and, exclusive authority for the management of their operations, including the right to direct their workforce in their sole discretion. Except as provided by Section 2.3 and by the lawful manning provisions in the applicable Master Agreement, no rules, customs or practices shall be permitted or observed which limit or restrict production, or limit or restrict the working efforts of employees.

**ARTICLE XV
HELMETS TO HARDHATS**

15.1 The Contractor(s)/Employer(s) and the Unions recognize a desire to facilitate the entry into the building and construction trades of veterans and members of the National Guard and Reserves who are interested in careers in the building and construction industry. The Contractor(s)/Employer(s) and Unions agree to utilize the services of the Center for Military Recruitment, Assessment and Veterans Employment (hereinafter "Center), a joint Labor-Management Cooperation Trust Fund, established under the authority of Section 6(b) of the Labor-Management Cooperation Act of 1978, 29 U.S.C. Section 175(a), and Section 302(c)(9) of the Labor-Management Relations Act, 29 U.S.C. Section 186(c)(9), and a charitable tax exempt organization under Section 501(c)(3) of the Internal Revenue Code, and the Center's "Helmets to Hardhats" program to serve as a resource for preliminary orientation, assessment of construction aptitude, referral to apprenticeship programs or hiring halls, counseling and mentoring, support network, employment opportunities and other needs as identified by the parties.

15.2 The Unions and Contractor(s)/Employer(s) agree to coordinate with the Center to participate in an integrated database of veterans and members of the National Guard and Reserves interested in working on the Project and of apprenticeship and employment opportunities for this Project. To the extent permitted by law, the Unions will give credit to such veterans for bona fide, provable past experience.

15.3 Nothing in this Article shall be interpreted to preclude any Contractor(s)/Employer(s) that is not signatory to a Master Agreement to utilize an alternative plan or program for recruiting, training and facilitating construction industry employment opportunities for military veterans and members of the National Guard and Reserves. Before utilizing such alternative program on the Project, such Contractor(s)/Employer(s) shall provide the City with a description of such plan or program.

**ARTICLE XVI
DRUG & ALCOHOL TESTING**

16.1 The use, sale, transfer, purchase and/or possession of a controlled substance, alcohol and/or firearms at any time during the work day is prohibited.

16.2 The Parties agree to recognize and use the Substance Abuse Program contained in each applicable Union's Schedule A.

ARTICLE XVII
TERM SAVINGS CLAUSE

17.1 The parties agree that in the event any article, provision, clause, sentence or word of the Agreement is determined to be illegal or void as being in contravention of any applicable law, by a court of competent jurisdiction, the remainder of the Agreement shall remain in full force and effect. The parties further agree that if any article, provision, clause, sentence or word of the Agreement is determined to be illegal or void, by a court of competent jurisdiction, the parties shall substitute, by mutual agreement, in its place and stead, an article, provision, clause, sentence or word which will meet the objections to its validity and which will be in accordance with the intent and purpose of the article, provision, clause, sentence or work in question.

17.2 The parties also agree that in the event that a decision of a court of competent jurisdiction materially alters the terms of the Agreement such that the intent of the parties is defeated, then the entire Agreement shall be null and void.

17.3 If a court of competent jurisdiction determines that all or part of the Agreement is invalid and/or enjoins the City from complying with all or part of its provisions and the City accordingly determines that the Agreement will not be required as part of an award to a Contractor(s)/Employer(s), the unions will no longer be bound by the provisions of Article IV.

ARTICLE XVIII
LOCAL HIRE, PRIORITY APPRENTICE AND WORKFORCE
DEVELOPMENT PROGRAM

18.1 The objective of the City in creating this Local Hire, Priority Apprenticeship and Workforce Development Program is to enhance and encourage employment opportunities for Stockton residents and to enable effective construction career pathways for Local Area Residents through California State approved Joint Apprenticeship Programs. To that end, as part of the Agreement, the City establishes goals for the hiring, training and retention of Local Area Residents.

18.2 Local Hire. The City establishes the following Local Hire goals and commitments:

18.2.1 The parties agree to make a good faith effort to refer on a priority basis, consistent with the non-discriminatory referral procedures of the applicable Union, qualified and available, Local Area Residents for Project work. The parties agree to a goal that Stockton residents shall perform a minimum of 50% of the hours worked on the Project by the Contractors' total construction workforce. In the event that a sufficient number of Stockton residents are not available to fulfill the 50% local hire requirement, the next tier of residents shall come from anywhere in San Joaquin County. The Contractor(s) shall make good faith efforts to reach this goal through the utilization of the Unions' hiring hall procedures. The Unions shall exercise their best efforts in their recruiting and training of Stockton resident workers and in utilizing their hiring hall procedures to facilitate this 50% goal.

18.2.2 The parties also recognize and support the City's commitment to provide opportunities for participation on the Project to Stockton businesses through the City's Local Business Preference Ordinance. In furtherance of this commitment, the parties agree that such

Stockton contractors and subcontractors awarded work on the Project may request by name, and the Local Union will honor, referral of persons who have applied to the Local Union for Project work, and who demonstrate the following qualifications:

- (1) possess any license required by state or federal law for the Project work to be performed;
 - (2) have worked a total of at least two thousand (2,000) hours in the construction craft during the prior two (2) years;
 - (3) were on the Contractor's active payroll for at least ninety (90) out of the one hundred and twenty (120) calendar days prior to the contract award;
 - (4) have the ability to perform safely the basic functions of the applicable trade;
- and
- (5) are Stockton residents.

The Union will refer to such Contractor one journeyman employee from the hiring hall out-of-work list for the affected trade or craft, and will then refer one of such Contractor's "core" employees as a journeyman and shall repeat the process, one and one, until such Contractor's crew requirements are met or until such Contractor has hired five (5) "core" employees, whichever occurs first. Thereafter, all additional employees in the affected trade or craft shall be hired exclusively from the hiring hall out-of-work list(s). For the duration of the Contractor's work, the ratio shall be maintained and when the Contractor's workforce is reduced, employees shall be reduced in the same ratio of core employees to hiring hall referrals as was applied in the initial hiring.

18.2.3 The Contractor shall notify the appropriate Union of the name and social security number of each direct hire and each direct hire shall register with the Union's hiring hall and comply with Article VII before commencing Project work. If there is any question regarding an employee's eligibility under Section 18.2, the City, at a Union's request, shall obtain satisfactory proof of such from the Contractor.

18.3 Priority Apprenticeship and Workforce Development

18.3.1 Recognizing the need to develop adequate numbers of competent workers in the construction industry, the Contractor(s)/Employer(s) shall employ apprentices of a California State approved Joint Apprenticeship Program in the respective crafts to perform such work as is within their capabilities and which is customarily performed by the craft in which they are indentured. The apprentice ratios will be in compliance with the applicable provisions of the California Labor Code and Prevailing Wage Rate Determination.

18.3.2 The parties agree to a goal that 50% of apprentices employed on the Project shall be residents of the City of Stockton or other Local Area Residents. In achieving this goal, at-risk youth who reside in the following zip codes within the City of Stockton, shall be given priority in the apprenticeship recruitment process: 95202, 95203, 95204, 95205, and 95206. If sufficient numbers of Stockton residents are not available, then a good faith effort will be made by the Unions to utilize residents of San Joaquin County. All apprentices referred to Contractors under this

Agreement shall be enrolled in State of California approved Joint Apprenticeship Programs. Subject to any legal restrictions, the parties agree to a goal that apprentices will perform twenty percent (20%) of the total craft hours worked on the Project unless an applicable Master Agreement provides for a greater percentage. The Unions agree to cooperate with the Contractors in furnishing apprentices as requested and they shall be properly supervised and paid in accordance with the provisions of the applicable Master Agreement.

18.3.3 The Contractors and Unions shall make good faith efforts to reach the apprenticeship goals set forth in this Section 18.3 through the utilization of normal hiring hall and apprentice procedures and, when appropriate, the identification of potentially qualified apprentices through community-based organizations working in collaboration with the apprentice programs. The Unions are committed to working with the Contractors and community based organizations to achieve these goals. At least annually, the Unions and the City will each conduct a Community Career Fair to provide at-risk youth, veterans and others an opportunity to learn about each craft and the process for entering their apprenticeship program.

18.4 Good Faith Efforts. A Contractor or subcontractor must take the following good faith steps to demonstrate that it has made every effort to reach the Local Hire, Priority Apprenticeship and Workforce Development Program goals of the City. The Contractor or subcontractor shall attend scheduled Pre-Job meetings held under this Agreement and shall submit written workforce projections and projected work hours on a craft-by-craft basis.

18.4.1 Within seven (7) calendar days after Notice to Proceed, the Contractor or subcontractor shall meet with the Unions and the City to present its plan for reaching the Local Hire, Priority Apprenticeship and Workforce Development Program goals.

18.4.2 The Contractor or subcontractor shall notify the Project Manager of the City by U.S. Mail or electronic mail if a Union hiring hall cannot, upon request by the Contractor or subcontractor, dispatch Local Area Residents to the Project. It shall be the responsibility of the Contractor or subcontractor to retain all evidence of such good faith efforts.

18.4.3 The Contractor or subcontractor may use the "Name Call", "Rehire" or other available hiring hall procedures to reach the goals of this Article XVIII.

18.5 Enforcement, Compliance and Reporting

18.5.1 Contractors will be required to submit Certified Weekly Payrolls to the City along with monthly workforce utilization reports documenting the Contractor's compliance with the requirements described in this Article. At a minimum, the monthly reports must include: 1) data on Stockton and Local Area Residents work hour utilization on the Project and Local Area Residents; and 2) documentation showing any requests made to the Union dispatchers for Stockton residents and the Union's response to the request.

18.5.2 The City staff shall monitor the operation of the Local Hire, Priority Apprenticeship and Workforce Development Program and shall consider allegations of non-compliance with the goals stated in this Article. If there is a determination by the City that a Contractor or subcontractor has not complied with the goals or demonstrated good faith efforts to

do so, the City and the Contractor or subcontractor shall meet and confer in order to identify necessary actions to resolve the issue and ensure a good faith effort to achieve the objectives of this Article.

18.5.3 For any Project subject to this Agreement, the Local Hire, Priority Apprenticeship and Workforce Development Program requirements of this Article shall apply in lieu of the requirements of Stockton Municipal Code Section 3.68.095 and no separate compliance with Section 3.68.095 will be required of the Contractors/Employers working on the Project.

ARTICLE
XIX TERM

19.1 This Agreement shall become effective 30 days after the day the City Council takes action to authorize its execution, and it shall continue in full force and effect for a period of three (3) years, at which time this Agreement may be considered for extension or renewal. The terms of this Agreement shall apply to any Project that is bid or solicited after the effective date and before the expiration of this Agreement. The Agreement shall continue to apply to any Project subject to this Agreement until the completion of all Covered Work on the Project.

CITY OF STOCKTON

[Signature]
Name: KURT O. WILSON
Title: CITY MANAGER

Date: 8/24/16

ATTEST:

By: [Signature]
BONNIE PAIGE, CITY CLERK



APPROVED AS TO FORM

By: [Signature]
JOHN M. LUEBBERKE
CITY ATTORNEY

APPROVED AS TO FORM
By: [Signature]
DANIEL CARDOZO

Title: ATTORNEY FOR SAN JOAQUIN OTC

SAN JOAQUIN BUILDING AND CONSTRUCTION TRADES COUNCIL, AFL-CIO COUNCIL

Name:
Title:

Date: _____

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CITY OF STOCKTON

Name: KURT O. WILSON
Title: CITY MANAGER

Date: _____

ATTEST:

APPROVED AS TO FORM

By: _____
BONNIE PAIGE, CITY CLERK


By: _____
JOHN M. LUEBBERKE
CITY ATTORNEY

APPROVED AS TO FORM

By: _____
DANIEL CARDOZO

Title: _____

SAN JOAQUIN BUILDING AND CONSTRUCTION TRADES COUNCIL, AFL-CIO COUNCIL


Name: Sam Kharoufeh
Title: Secretary/Treasurer

Date: 8/24/16

UNIONS

Daniel D. Chivello
Electrical Workers # 595.

Rob
Sheet Metal Workers # 104

Mark Sloan
Boilermakers # 549

Bob
Cement Masons # 400

CC
District Council # 16

Chris Gray
Heat & Frost Insulators & Asbestos # 16

Bill
Iron Workers # 378

Miguel
Underground Utility/Landscape # 355

Joseph B. Torack
Sign & Display # 510

James Quinn
Operating Engineers # 3

Mike Bell
Northern California Carpenters Regional Council on behalf of itself and its affiliated local Unions

Keith
Plasterers and Cement Masons # 300

William
Plumbers and Pipefitters # 442

ON BEHALF OF BUSINESS MANAGER SHAWN
BARRILL, BONES AGENT
Mark
Road Sprinkler Fitters # 669

John
Roofers and Water proofers # 81

Karl
Iron Workers # 178

John
Laborers # 73

John
Teamsters # 439

Addendum A

CITY OF STOCKTON COMMUNITY WORKFORCE AND TRAINING AGREEMENT

AGREEMENT TO BE BOUND

The undersigned, as a Contractor or Subcontractor, including construction material trucking company/entity, (CONTRACTOR) on the City of Stockton Project, (hereinafter PROJECT), for and in consideration of the award to it of a contract to perform work on said PROJECT, and in further consideration of the mutual promises made in this Community Workforce and Training Agreement (hereinafter AGREEMENT), a copy of which was received and is acknowledged, hereby:

(1) Accepts and agrees to be bound by the terms and conditions of the AGREEMENT for this Project, together with any and all amendments and supplements now existing or which are later made thereto:

(2) The CONTRACTOR agrees to be bound by the legally established local trust agreements designated in the applicable Schedule A as set forth in Article IV of this AGREEMENT.

(3) The CONTRACTOR authorizes the parties to such local trust agreements to appoint trustees and successor trustees to administer the trust funds and hereby ratifies and accepts the trustees so appointed as if made by the CONTRACTOR;

(4) Certifies that it has no commitments or agreements which would preclude its full and complete compliance with the terms and conditions of said AGREEMENT.

(5) Agrees to secure from any CONTRACTOR(S) (as defined in said AGREEMENT) which is or becomes a subcontractor (of any tier) to it, a duly executed Agreement to be Bound in form identical to this document.

(6) This Agreement to be Bound constitutes a subscription agreement to the extent of its terms. However, the undersigned agrees to execute a separate Subscription Agreement(s) or contributing employer agreement for Trust Funds when such Trust Fund(s) requires such document(s).

Date: _____

Name of Contractor

(Name of Contractor Representative)

(Authorized Officer & Title)

CSLB # of Motor Carrier Permit