

**GENERAL FUND BLOCK GRANT
RECIPIENT AGREEMENT
BETWEEN THE CITY OF UNION CITY
AND**

THIS GENERAL FUND GRANT AGREEMENT ("Agreement") entered into as of _____ (the "Effective Date") by and between the CITY OF UNION CITY, a California municipal corporation ("City") and _____, a _____ ("Recipient").

R E C I T A L S

A. City is desirous of contracting with Recipient for the provision of certain services, a description of which are presented in Exhibit A, attached hereto; and

B. Recipient is willing and able to perform duties and render services which are determined by the City Council to be necessary or appropriate for the welfare of residents of City; and

C. City desires that such duties and services be provided by Recipient, and Recipient agrees to perform such duties and render such services, as more particularly set forth below:

NOW, THEREFORE, the parties hereto agree as follows:

1.0 **TERM OF AGREEMENT.** Unless earlier terminated in accordance with Section 8.4 of this Agreement, this Agreement shall continue in force and effect until _____.

2.0 RECIPIENT OBLIGATIONS

2.1 **Use of Funds.** Recipient hereby agrees to use the funds provided to Recipient solely for the project pursuant to all of the terms and conditions of this Agreement. The project is more particularly set forth in Exhibit A, attached hereto and incorporated herein by reference (the "Scope of Work"). The funds shall be used solely to reimburse the actual expenses incurred by Recipient for the project as set forth in the "Budget" attached hereto as Exhibit B and incorporated herein by reference. Contract Officer may approve minor changes to the budget that do not exceed the maximum amount in paragraph 3.1 of this Agreement.

2.2 **Representation and Warranties.** Recipient hereby represents and warrants to the City that Recipient will perform the project in a manner consistent with the standard of care and skill ordinarily exercised by members of the profession practicing under similar conditions in the geographic vicinity and at the time the Project is performed.

2.3 **Compliance with Law.** Recipient shall perform the project and operate the facility, if applicable, in accordance with all ordinances, resolutions, statutes, rules, and regulations of the City and any Federal, State or local governmental agency having jurisdiction in effect at the time service is rendered.

2.4 **Licenses, Permits, Fees and Assessments.** Recipient shall obtain, at its sole cost and expense, such licenses, permits and approvals as may be required by law for the

performance of the project and the operation of the facility.

2.5 Personnel and Participant Conditions.

a. Civil Rights

(1) Compliance. The Recipient agrees to comply with City and State civil rights ordinances and with Title VI of the Civil Rights Act of 1964 as amended, Title VIII of the Civil Rights Act of 1968 as amended, Section 109 of Title I of the Housing and Community Development Act of 1974, Section 504 of the Rehabilitation Act of 1973, the Americans with Disabilities Act of 1990, the Age Discrimination Act of 1975, Executive Order 11063, and with Executive Order 11246 as amended by Executive Orders 11375 and 12086.

(2) Nondiscrimination. The Recipient will not discriminate against any employee or applicant for employment because of race, color, creed, religion, ancestry, national origin, sex, disability or other handicap, age, marital status, or status with regard to public assistance. The Recipient will take affirmative action to ensure that all employment practices are free from such discrimination. Such employment practices include but are not limited to the following: hiring, upgrading, demotion, transfer, recruitment or recruitment advertising, layoff, termination, rates of pay or other forms of compensation, and selection for training, including apprenticeship. The Recipient agrees to post in conspicuous places, available to employees and applicants for employment, notices to be provided by the contracting agency setting forth the provisions of this nondiscrimination clause.

(3) Section 504. The Recipient agrees to comply with any federal regulations issued pursuant to compliance with Section 504 of the Rehabilitation Act of 1973, (29 U.S.C. 721) that prohibits discrimination against the handicapped in any federally assisted program. The City of Union City shall provide the Recipient with any guidelines necessary for compliance with that portion of the regulations in force during the term of this Agreement.

b. Employment Restrictions

(1) Prohibited Activity. The Recipient is prohibited from using funds provided herein or personnel employed in the administration of the program for political activities; sectarian or religious activities; lobbying, political patronage, and nepotism activities.

(2) OSHA. Where employees are engaged in activities not covered under the Occupational Safety and Health Act of 1970, they shall not be required or permitted to work, be trained, or receive services in buildings or surroundings or under working conditions which are unsanitary, hazardous or dangerous to the participants' health or safety.

2.6 **Further Responsibilities of Parties**. Both parties agree to use reasonable care and diligence to perform their respective obligations under this Agreement. Both parties agree to act in good faith to execute all instruments, prepare all documents, and take all actions as may be reasonably necessary to carry out the purposes of this Agreement. Unless hereafter specified, neither party shall be responsible for the obligations of the other.

3.0 DISBURSEMENT OF FUNDS

3.1 **Maximum Amount of Funds**. The maximum amount of funds to be provided to Recipient is Dollars (\$) for each of the fiscal years ending June 30,

_____ and June 30, _____. City shall pay Recipient for services rendered pursuant to this Agreement at the time and in the manner set forth herein. The amount listed above is not a guarantee of the amount of funds the City will provide the Recipient, but is rather the maximum amount the City pay provide the Recipient under the terms of this Agreement.

3.2 Termination of Fund Obligation. The services to be provided under this Agreement may be terminated without cause at any point in time in the sole and exclusive discretion of City. In this event, City shall compensate the Recipient for all outstanding costs incurred for work satisfactorily completed as of the date of written notice thereof. Recipient shall maintain adequate logs and timesheets in order to verify costs incurred to date.

3.3 Method of Payment. Unless otherwise specified in Exhibit A, not more frequently than monthly and at least quarterly, Recipient may submit to the Contract Officer an invoice, in a form acceptable to the City, setting forth the amounts actually expended by Recipient for the project; provided that said expenses are included in the budget (Exhibit B) and performance standards have been met. Said invoice shall, at a minimum, set forth each budget category for which reimbursement is sought, a description of the expense, the total budgeted amount for the category, the amount requested to be reimbursed for each budget category, and the total amount expended for each budget category to date. Said invoice shall be accompanied with such additional supporting information as requested by the City, including, but not limited to, paid receipts for each expense.

3.5 Program Income. Any program income, as such term is defined in the regulations, received by Recipient shall be retained by Recipient. The program income received by Recipient shall solely be used for the project or for the purpose of operating the facility. All provisions of this Agreement shall apply to activities funded by program income. All program income shall be expended by Recipient before the City is obligated to advance any other funds to Recipient under this Agreement.

3.6 Indirect Costs. If indirect costs are charged, the Recipient will develop an indirect cost allocation plan for determining the appropriate City of Union City share of administrative costs and shall submit such plan to the City of Union City for approval.

4.0 PERFORMANCE SCHEDULE

Recipient shall commence, prosecute and complete the project within the time periods established in the "Scope of Work" attached hereto as Exhibit A and incorporated herein by this reference.

5.0 COORDINATION OF WORK

5.1 Representative of Recipient. The _____ is hereby designated as being the representative of Recipient authorized to act in its behalf with respect to this Agreement and make all decisions in connection therewith.

5.2 Contract Officer. Contract Officer shall be the _____ or such person as may be designated by the City Manager. It shall be the Recipient's responsibility to assure that the Contract Officer is kept informed of the progress of the performance of the services and the Recipient shall refer any decisions that must be made by City to the Contract Officer. Unless otherwise specified herein, any approval of City required hereunder shall mean the approval of the Contract Officer. The Contract Officer shall have authority to sign all documents on behalf of

the City required hereunder to carry out the terms of this Agreement.

5.3 Prohibition Against Subcontracting or Assignment. Neither this Agreement nor any interest herein may be transferred, assigned, conveyed, hypothecated or encumbered voluntarily or by operation of law, whether for the benefit of creditors or otherwise, without the prior written approval of City. Transfers restricted hereunder shall include the transfer to any person or group of persons acting in concert of more than twenty-five percent (25%) of the present ownership and/or control of Recipient, taking all transfers into account on a cumulative basis. In the event of any such unapproved transfer, including any bankruptcy proceeding, this Agreement shall be void. No approved transfer shall release the Recipient or any surety of Recipient of any liability hereunder without the express consent of City.

5.4 Independent Contractor. Neither the City nor any of its employees shall have any control over the manner, mode or means by which Recipient, its agents or employees, perform the services required herein, except as otherwise set forth herein. City shall have no voice in the selection, discharge, supervision or control of Recipient's employees, servants, representatives or agents, or in fixing their number, compensation or hours of service. Recipient shall perform all services required herein as an independent contractor of City and shall remain at all times as to City a wholly independent contractor with only such obligations as are consistent with the role. Recipient shall not at any time or in any manner represent that it or any of its agents or employees are agents or employees of City. City shall not in any way or for any purpose become or be deemed to be a partner of Recipient in its business or otherwise of a joint venture or a member of any joint enterprise with Recipient.

5.5 Conflict of Interest. Recipient may serve other clients, but none whose activities within the corporate limits of City or whose business, regardless of location, would place Recipient in a "conflict of interest," as that term is defined in the Political Reform Act, codified at California Government Code Section 81000 *et seq.*

Recipient shall not employ any City official in the work performed pursuant to this Agreement. No officer or employee of City shall have any financial interest in this Agreement that would violate California Government Code Sections 1090 *et seq.* Recipient hereby warrants that it is not now, nor has it been in the previous 12 months, an employee, agent, appointee, or official of the City. If Recipient was an employee, agent, appointee, or official of the City in the previous twelve months, Recipient warrants that it did not participate in any manner in the forming of this Agreement. Recipient understands that, if this Agreement is made in violation of Government Code § 1090 *et seq.*, the entire Agreement is void and Recipient will not be entitled to any compensation for services performed pursuant to this Agreement, including reimbursement of expenses, and Recipient will be required to reimburse the City for any sums paid to the Recipient. Recipient understands that, in addition to the foregoing, it may be subject to criminal prosecution for a violation of Government Code § 1090 and, if applicable, will be disqualified from holding public office in the State of California.

5.6 Solicitation. Recipient agrees not to solicit business at any meeting, focus group, or interview related to this Agreement, either orally or through any written materials.

6.0 INSURANCE REQUIREMENTS

6.1 Insurance. Before beginning any work under this Agreement, Recipient, at its own cost and expense, unless otherwise specified below, shall procure the types and amounts of insurance listed below against claims for injuries to persons or damages to property that may

arise from or in connection with the performance of the work hereunder by the Recipient and its agents, representatives, employees, and subcontractors. Consistent with the following provisions, Recipient shall provide proof satisfactory to City of such insurance that meets the requirements of this section and under forms of insurance satisfactory in all respects, and that such insurance is in effect prior to beginning work to the City. Recipient shall maintain the insurance policies required by this section throughout the term of this Agreement. The cost of such insurance shall be included in the Recipient's bid. Recipient shall not allow any subcontractor to commence work on any subcontract until Recipient has obtained all insurance required herein for the subcontractor(s) and provided evidence that such insurance is in effect to City. VERIFICATION OF THE REQUIRED INSURANCE SHALL BE SUBMITTED AND MADE PART OF THIS AGREEMENT PRIOR TO EXECUTION. Recipient shall maintain all required insurance listed herein for the duration of this Agreement.

6.2 Workers' Compensation. Recipient shall, at its sole cost and expense, maintain Statutory Workers' Compensation Insurance and Employer's Liability Insurance for any and all persons employed directly or indirectly by Recipient. The Statutory Workers' Compensation Insurance and Employer's Liability Insurance shall be provided with limits of not less than One Million Dollars (\$1,000,000) per accident. In the alternative, Recipient may rely on a self-insurance program to meet those requirements, but only if the program of self-insurance complies fully with the provisions of the California Labor Code. Determination of whether a self-insurance program meets the standards of the California Labor Code shall be solely in the discretion of the Contract Administrator.

The Workers' Compensation policy shall be endorsed with a waiver of subrogation in favor of the entity for all work performed by the Recipient, its employees, agendas, and subcontractors.

6.2.2 Submittal Requirements. To comply with Subsection 6.2, Recipient shall submit the following:

- a. Certificate of Liability Insurance in the amounts specified in the section; and
- b. Waiver of Subrogation Endorsement as required by the section.

6.3 Commercial General and Automobile Liability Insurance.

6.3.1 General Requirements. Recipient, at its own cost and expense, shall maintain commercial general liability insurance for the term of this Agreement in an amount not less than One Million Dollars (\$1,000,000) and automobile liability insurance for the term of this Agreement in an amount not less than One Million Dollars (\$1,000,000) per occurrence, combined single limit coverage for risks associated with the work contemplated by this Agreement. If a Commercial General Liability Insurance or an Automobile Liability form or other form with a general aggregate limit is used, either the general aggregate limit shall apply separately to the work to be performed under this Agreement or the general aggregate limit shall be at least twice the required occurrence limit. Such coverage shall include but shall not be limited to, protection against claims arising from bodily and personal injury, including death resulting therefrom, and damage to property resulting from activities contemplated under this Agreement, including the use of owned and non-owned automobiles.

6.3.2 Minimum Scope of Coverage. Commercial general coverage shall be at least as broad as Insurance Services Office Commercial General Liability occurrence form CG 0001 (most

recent edition) covering comprehensive General Liability on an “occurrence” basis. Automobile coverage shall be at least as broad as Insurance Services Office Automobile Liability form CA 0001, Code 1 (any auto). No endorsement shall be attached limiting the coverage.

6.3.3 Additional Requirements. Each of the following shall be included in the insurance coverage or added as a certified endorsement to the policy:

a. The Insurance shall cover on an occurrence or an accident basis, and not on a claims-made basis.

b. City, its officers, officials, employees, and volunteers are to be covered as insureds as respects: liability arising out of work or operations performed by or on behalf of the Recipient; or automobiles owned, leased, hired, or borrowed by the Recipient.

c. Recipient hereby agrees to waive subrogation which any insurer or contractor may require from vendor by virtue of the payment of any loss. Recipient agrees to obtain any endorsements that may be necessary to affect this waiver of subrogation.

d. For any claims related to this Agreement or the work hereunder, the Recipient’s insurance covered shall be primary insurance as respects the City, its officers, officials, employees, and volunteers. Any insurance or self-insurance maintained by the City, its officers, officials, employees, or volunteers shall be excess of the Recipient’s insurance and shall not contribute with it.

6.3.4 Submittal Requirements. To comply with Subsection 6.3 Recipient shall submit the following:

a. Certificate of Liability Insurance in the amounts specified in the section;

b. Additional Insured Endorsement as required by the section;

c. Waiver of Subrogation Endorsement as required by the section; and

d. Primary Insurance Endorsement as required by the section.

6.4 Professional Liability Insurance.

6.4.1 General Requirements. Recipient, at its own cost and expense, shall maintain for the period covered by this Agreement professional liability insurance for licensed professionals performing work pursuant to this Agreement in an amount not less than One Million Dollars (\$1,000,000) covering the licensed professionals’ errors and omissions. Any deductible or self-insured retention shall not exceed \$150,000 per claim.

6.4.2 Claims-Made Limitations. The following provisions shall apply if the professional liability coverage is written on a claims-made form:

a. The retroactive date of the policy must be shown and must be before the date of the Agreement.

b. Insurance must be maintained and evidence of insurance must be provided for at least 5 years after completion of the Agreement or the work, so long as commercially

available at reasonable rates.

c. If coverage is canceled or not renewed and it is not replaced with another claims-made policy form with a retroactive date that precedes the date of this Agreement, Recipient shall purchase an extended period coverage for a minimum of 5 years after completion of work under this Agreement.

d. A copy of the claim reporting requirements must be submitted to the City for review prior to the commencement of any work under this Agreement.

6.4.3 Additional Requirements. A certified endorsement to include contractual liability shall be included in the policy.

6.4.4 Submittal Requirements. To comply with Subsection 6.4, Recipient shall submit the Certificate of Liability Insurance in the amounts specified in the section.

6.5 All Policies Requirements.

6.5.1 Acceptability of Insurers. All insurance required by this section is to be placed with insurers with a Bests' rating of no less than A:VII.

6.5.2 Verification of Coverage. Prior to beginning any work under this Agreement, Recipient shall furnish City with complete copies of all certificates of insurance delivered to Recipient by the insurer, including complete copies of all endorsements attached to the policies. All copies of certificates of insurance and certified endorsements shall show the signature of a person authorized by that insurer to bind coverage on its behalf. If the City does not receive the required insurance documents prior to the Recipient beginning work, it shall not waive the Recipient's obligation to provide them. The City reserves the right to require complete copies of all required insurance policies at any time.

6.5.3 Deductibles and Self-Insured Retentions. Recipient shall disclose to and obtain the written approval of City for the self-insured retentions and deductibles before beginning any of the services or work called for by any term of this Agreement. At the option of the City, either: the insurer shall reduce or eliminate such deductibles or self-insured retentions as respects the City, its officers, employees, and volunteers; or the Recipient shall provide a financial guarantee satisfactory to the City guaranteeing payment of losses and related investigations, claim administration and defense expenses.

6.5.4 Wasting Policies. No policy required by this Section 6 shall include a "wasting" policy limit (i.e. limit that is eroded by the cost of defense).

6.5.5 Endorsement Requirements. Each insurance policy required by Section 6 shall be endorsed to state that coverage shall not be canceled by either party, except after 30 days' prior written notice has been provided to the City.

6.5.6 Subcontractors. Recipient shall include all subcontractors as insureds under its policies or shall furnish separate certificates and certified endorsements for each subcontractor. All coverages for subcontractors shall be subject to all of the requirements stated herein.

6.6 Remedies. In addition to any other remedies City may have if Recipient fails to provide or maintain any insurance policies or policy endorsements to the extent and within the

time herein required, City may, at its sole option exercise any of the following remedies, which are alternatives to other remedies City may have and are not the exclusive remedy for Recipient's breach:

- a. Obtain such insurance and deduct and retain the amount of the premiums for such insurance from any sums due under the Agreement;
- b. Order Recipient to stop work under this Agreement or withhold any payment that becomes due to Recipient hereunder, or both stop work and withhold any payment, until Recipient demonstrates compliance with the requirements hereof; and/or
- c. Terminate this Agreement.

7.0 ADMINISTRATIVE REQUIREMENTS

7.1 **Records Created as Part of Recipient's Performance.** All reports, data, maps, models, charts, studies, surveys, photographs, memoranda, plans, studies, specifications, records, files, or any other documents or materials, in electronic or any other form, that Recipient prepares or obtains pursuant to this Agreement and that relate to the matters covered hereunder shall be the property of the City. Recipient hereby agrees to deliver those documents to the City upon termination of the Agreement. It is understood and agreed that the documents and other materials, including but not limited to those described above, prepared pursuant to this Agreement are prepared specifically for the City and are not necessarily suitable for any future or other use. City and Recipient agree that, until final approval by City, all data, plans, specifications, reports and other documents are confidential and will not be released to third parties without prior written consent of both parties.

7.2 **Recipient's Books and Records.** Recipient shall maintain any and all ledgers, books of account, invoices, vouchers, canceled checks, and other records or documents evidencing or relating to charges for services or expenditures and disbursements charged to the City under this Agreement for a minimum of 3 years, or for any longer period required by law, from the date of final payment to the Recipient to this Agreement.

Any records or documents that this Agreement requires Recipient to maintain shall be made available for inspection, audit, and/or copying at any time during regular business hours, upon oral or written request of the City. Under California Government Code Section 8546.7, if the amount of public funds expended under this Agreement exceeds \$10,000.00, the Agreement shall be subject to the examination and audit of the State Auditor, at the request of City or as part of any audit of the City, for a period of 3 years after final payment under the Agreement.

7.3 **Client Data.** The Recipient shall maintain client data demonstrating client eligibility for services provided. Such data shall include, but not be limited to, client name, address, income level or other basis for determining eligibility, and description of service provided. Such information shall be made available to City of Union City monitors or their designees for review upon request.

7.4 **Disclosure.** The Recipient understands that client information collected under this Agreement is private and the use or disclosure of such information, when not directly connected with the administration of the City of Union City's or Recipient's responsibilities with respect to services provided under this Agreement, is prohibited by law unless written consent is obtained

from such person receiving service and, in the case of a minor, that of a responsible parent/guardian.

7.5 Performance Monitoring. The City of Union City will monitor the performance of the Recipient against goals and performance standards required herein. Substandard performance as determined by the City of Union City will constitute non-compliance with this agreement. If action to correct such substandard performance is not taken by the Recipient within a reasonable period of time after being notified by the City of Union City, contract suspension or termination procedures will be initiated. The City may conduct an evaluation of the Recipient's performance, at any time, in its sole discretion.

7.8 Close-Outs. Recipient obligation to the City of Union City shall not end until all closeout requirements are completed. Activities during this closeout period shall include, but are not limited to: making final payments, disposing of program assets (including the return of all unused materials, equipment, unspent cash advances, program income balances, and receivable accounts to the City of Union City), and determining the custodianship of records.

8.0 ENFORCEMENT OF CONTRACT

8.1 Applicable Law. This Agreement shall be construed and interpreted both as to validity and to performance of the parties in accordance with the laws of the State of California and the United States, as applicable. Legal actions concerning any dispute, claim or matter arising out of or in relation to this Agreement shall be instituted in the Superior Court of the County of Alameda, State of California, the United States District Court for the Northern District of California, or any other appropriate court in Alameda County, and Recipient covenants and agrees to submit to the personal jurisdiction of such court in the event of such action.

8.2 Disputes. In the event of any dispute arising under this Agreement, the injured party shall notify the insuring party in writing of its contentions by submitting a claim therefore. The injured party shall continue performing its obligations hereunder so long as the injuring party commences to cure such default within ten (10) days of service of such notice and completes the cure of such default within thirty (30) days after service of the notice, or such longer period as may be permitted by the injured party; provided that if the default is an immediate danger to the health, safety and general welfare, such immediate action may be necessary. Notwithstanding the foregoing, the City may suspend any further payment of funds until Recipient is in compliance with this Agreement. Compliance with the provisions of this Section shall be a condition precedent to termination of this Agreement for cause and to any legal action, and such compliance shall not be a waiver of any party's right to take legal action in the event that the depute is not cured.

8.3 Remedies Upon Default by Recipient. In addition to any other rights or remedies available at law or in equity, if Recipient fails to fulfill its obligations under this Agreement, City may, after compliance with the provisions of Section 8.2:

- a. Temporarily withhold payment of funds pending correction of the default by Recipient;
 - b. Refuse to advance all or any part of the funds for the project and reallocate said funds to another activity;
 - c. Wholly or partially suspend or terminate the award and this Agreement;
- and;

d. Withhold further awards for the project and/or the facility; and

e. Require Recipient to repay any funds that the City determines were not expended in compliance with the requirements of this Agreement, the Act or the Regulations.

8.4 Termination for Convenience. City may terminate this Agreement, with or without cause and in its sole discretion, upon written notice to the Recipient. Recipient may terminate this agreement upon thirty (30) days prior written notice to City

8.5 Waiver. No delay or omission in the exercise of any right or remedy by a non-defaulting party on any default shall impair such right or remedy or be construed as a waiver. A party's consent to or approval of any act by the other party requiring the party's consent or approval shall not be deemed to waive or render unnecessary the other party's consent to or approval of any subsequent act. Any waiver by either party of any default must be in writing and shall not be a waiver of any other default concerning the same or any other provision of this Agreement.

8.6 Rights and Remedies are Cumulative. Except with respect to rights and remedies expressly declared to be exclusive in this Agreement, the rights and remedies of the parties are cumulative and the exercise by either party of one or more of such rights or remedies shall not preclude the exercise by it, at the same or different times, of any other rights or remedies for the same default or any other default by the other party.

8.7 Legal Action. In addition to any other rights or remedies, either party may take legal action, in law or in equity, to cure, correct or remedy any default, to recover damages for any default, to complete specific performance of this Agreement, to obtain declaratory or injunctive relief, or to obtain any other remedy consistent with the purposes of the Agreement.

8.8 Attorneys' Fees. If either party to this Agreement is required to initiate or defend or made a party to any action or proceeding in any way connected with this Agreement, the prevailing party in such action or proceeding, in addition to any other relief which may be granted, whether legal or equitable, shall be entitled to reasonable attorney's fees. Attorney fees shall include attorney's fees on any appeal, and in addition a party entitled to attorney's fees shall be entitled to all other reasonable costs for investigating such action, taking depositions and discovery and all other necessary costs the court allows which are incurred in such litigation. All such fees shall be deemed to have accrued on commencement of such action and shall be enforceable whether or not such action is prosecuted to judgment.

9.0 CITY OFFICERS AND EMPLOYEES

9.1 Non-liability of City Officers and Employees. No officer or employee of the City shall be personally liable to the Recipient, or any successor in interest, in the event of any default or breach by the City or for any amount that may become due to the Recipient or to its successor, or for breach of any obligation of the terms of this Agreement.

9.2 Conflict of Interest. No officer or employee of the City shall have any financial interest, direct or indirect, in this Agreement nor shall any such officer or employee participate in any decision relating to the contract which affects his/her financial interest or the financial interest of any corporation, partnership or association in which s/he is, directly or indirectly, interested, in violation of any State statute or regulation. The Recipient warrants that it has not paid or given

and will not pay or give any third party any money or other consideration for obtaining this Agreement.

9.3 Indemnify and Hold Harmless. Recipient agrees to indemnify, defend, and hold harmless City and its officers, agents and employees, from any liabilities, claims, suits or actions, losses or expenses, including attorney fees, caused by, arising out of, or in connection with, either directly or indirectly, Recipient's performance under this Agreement. Nothing herein shall be construed to require Recipient to indemnify the City, its officers, agents and employees against any responsibility or liability in contravention of Section 2782 of the California Civil Code. With respect to third party claims against the Recipient, the Recipient waives any and all rights of any type to express or implied indemnity against the Indemnitees.

10.0 MISCELLANEOUS PROVISIONS

10.1 Notice. Any notice, demand, request, document, consent, approval, or communication either party desires or is required to give to the other party or any other person shall be in writing and either served personally or sent by prepaid first-class mail

To the City: City of Union City
34009 Alvarado-Niles Road
Union City, California 94587
Attention: Alin Lancaster

To the Recipient: [REDACTED]
[REDACTED]
[REDACTED]
Attention: Executive Director

at his/her address by notifying the other party of the change of address in writing. Notice shall be deemed communicated at the time personally delivered or in seventy-two (72) hours from the time of mailing if mailed as provided in this Section.

10.2 Interpretation. The terms of this Agreement shall be construed in accordance with the meaning of the language used and shall not be construed for or against either party by reason of the authorship of this Agreement or any other rule of construction which might otherwise apply.

10.3 Integration; Amendment. It is understood that there are no oral agreements between the parties hereto affecting this Agreement and this Agreement supersedes and cancels any and all previous negotiations, arrangements, agreements and understandings, if any, between the parties, and none shall be used to interpret this Agreement. This Agreement may be amended at any time by the mutual consent of the parties by an instrument in writing.

10.4 Severability. In the event that any one or more of the phrases, sentences, clauses, paragraphs, or sections contained in this Agreement shall be declared invalid or unenforceable by a valid judgment or decree of a court of competent jurisdiction, such invalidity or unenforceability shall not affect any of the remaining phrases, sentences, clauses, paragraphs, or sections of this Agreement that are hereby declared as severable and shall be interpreted to carry out the intent of the parties hereunder unless the invalid provision is so material that its

invalidity deprives either party of the basic benefit of their bargain or renders this Agreement meaningless.

10.5 **Corporate Authority.** The persons executing this Agreement on behalf of the parties hereby warrant that (i) such party is duly organized and existing, (ii) they are duly authorized to execute and deliver this Agreement on behalf of said party, (iii) by so executing this Agreement, such party is formally bound to the provisions of this Agreement, and, (iv) the entering into this Agreement does not violate any provision of any other agreement to which said party is bound.

CITY OF UNION CITY

[RECIPIENT]

Joan Malloy, City Manager

By: _____

Name: _____

Attest:

Title: _____

Anna Brown, City Clerk

Approved as to Form:

Kristopher J. Kokotaylo, City Attorney

EXHIBIT A
SCOPE OF WORK

**EXHIBIT B
BUDGET**

3080417.1