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6 Attorneys for Plaintiff

FILED
YOLO SUPERIOR COURT
APR 29 2016
BY A. SALCIDO
DEPUTY

8 SUPERIOR COURT OF CALIFORNIA, COUNTY OF YOLO

10 The People of the State of California,

11 Plaintiff,

12 v.

15 CITY OF WEST SACRAMENTO,
a California corporation,

17 Defendant.

) No. CU 110-1098

) PERMANENT INJUNCTION
) (H&S §25181)
) AND FINAL JUDGMENT PURSUANT
) TO STIPULATION

) DEPT. 11

19 Upon the consent of the parties hereto, and it appearing to the court that there is good cause
20 for the entry of this Stipulated Final Judgment.

21 IT IS ORDERED, ADJUDGED AND DECREED as follows:

22 1. This court has jurisdiction of the subject matter of this action and each of the parties
23 hereto.

24 2. The injunctive provisions of this Final Judgment are applicable to CITY OF WEST
25 SACRAMENTO, an incorporated city, herein referred to as Defendant, its subsidiaries and divisions,
26 and any agent, employee, representative and all persons, corporations, or other entities acting by,
27 through, under, or on behalf of Defendant and all persons in concert with or participating with said
28 Defendant with actual or constructive knowledge of this Injunction, only insofar as they are doing

1 business in the State of California and confined to Defendant's activities in the County of Yolo and
2 elsewhere in the State of California.

3 3. Defendant, with actual or constructive knowledge of this Injunction, only insofar as they
4 are doing business in the State of California, in the course of Defendant's activities, are pursuant to
5 Health and Safety Code section 25181 hereby permanently enjoined from:

6 a. Failing to determine if that waste is a hazardous waste, in violation of
7 California Code of Regulations, title 22 section 66262.11.

8 4. Defendant shall be penalized FIFTY THOUSAND DOLLARS (\$50,000.00), as and for
9 civil penalties, pursuant to Health and Safety Code sections 25181 et seq. However, it is stipulated
10 by all parties that the entire FIFTY THOUSAND DOLLARS (\$50,000.00), in civil penalties shall be
11 stayed for a period of five (5) years on the following conditions:

12 a. Defendant will not violate Health and Safety Code sections 25100 et seq., as
13 described in paragraph 3 above, at City facilities and operating locations (e.g., the George Kristoff
14 Water Treatment Plant, 400 North Harbor Boulevard, West Sacramento, California).

15 b. The five-year period shall start on September 18, 2014, and terminate on
16 September 18, 2019.

17 5. If Plaintiff contends that Defendant violates Health and Safety Code sections 25100 et
18 seq., as described in paragraph 3 above during the five-year period, Plaintiff may file a noticed
19 motion alleging such violation and seeking to compel Defendant to make immediate payment,
20 pursuant to Health and Safety Code § 25192, of the FIFTY THOUSAND DOLLARS (\$50,000.00) in
21 civil penalties, described in paragraph 4 above, as follows:

22 \$25,000.00 made payable to the DEPARTMENT OF TOXIC SUBSTANCE
23 CONTROL – TOXIC SUBSTANCE CONTROL ACCOUNT;

24 \$12,500.00 made payable to the YOLO COUNTY ENVIRONMENTAL HEALTH
25 DEPARTMENT – ENVIRONMENTAL HEALTH DIVISION TRUST; and

26 \$12,500.00 made payable to the YOLO COUNTY OFFICE OF THE DISTRICT
27 ATTORNEY.

28 Any penalties or other relief sought by Plaintiff for such violations or alleged violations of this

1 injunction shall be sought by regularly noticed motion. Plaintiff shall notify Defendant in writing of
2 such alleged violations and shall meet and confer with Defendant within twenty (20) business days of
3 such written notice prior to filing any such motion. The Parties shall negotiate in good faith in an
4 effort to resolve any further penalty assessments or other relief pursuant to this paragraph without
5 judicial intervention. Defendant reserves all defenses in law and equity.

6 6. If the condition listed in paragraph 4(a) above is met as of September 18, 2019, then the
7 stayed penalty shall be suspended permanently and this permanent injunction shall be dissolved
8 immediately upon:

9 a. the filing of a joint motion by Plaintiff and Defendant to dissolve this
10 permanent injunction; or

11 b. absence of Plaintiff's timely opposition to a motion filed by Defendant to
12 dissolve this permanent injunction.

13 If Plaintiff timely opposes a motion by Defendant to dissolve this permanent injunction, Defendant
14 may file a reply and such motion shall proceed to hearing for resolution by this Court.

15 7. Defendant shall additionally pay to Plaintiff the sum of TWENTY FOUR THOUSAND
16 SIX HUNDRED SIXTY-SEVEN DOLLARS (\$24,667.00) as partial recovery of the cost of
17 investigation and suit incurred by THE CALIFORNIA DEPARTMENT OF TOXIC SUBSTANCES
18 CONTROL. Said payment shall be due and payable to the aforementioned agency, and shall be
19 delivered to the Yolo County Office of the District Attorney, Environmental Prosecutions Unit, at
20 time of signing. No additional cost recovery is being sought by either the YOLO COUNTY
21 ENVIRONMENTAL HEALTH DEPARTMENT or the YOLO COUNTY DISTRICT
22 ATTORNEY'S OFFICE.

23 8. Defendant shall pay FIFTY THOUSAND DOLLARS (\$50,000.00) for supplemental
24 environmental projects identified in, and in accordance with the terms of, Exhibit A, attached.

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9. This Judgment shall go into effect immediately upon entry hereof. Entry is authorized immediately upon filing.

DATED: APR 29 2016

TIMOTHY L FALL
JUDGE OF THE SUPERIOR COURT

EXHIBIT A

CONTRACT FOR SERVICES

THIS CONTRACT is made on April ____, 2016, by and between the CITY OF WEST SACRAMENTO ("City"), and NES, Inc. ("Consultant").

WITNESSETH:

WHEREAS, the City seeks to procure CUPA training for regulated businesses and government facilities within the City of West Sacramento and the County of Yolo; and

WHEREAS, the Consultant has presented a proposal for such services to the City, dated November 20, 2015, (incorporated herein as **Exhibit "A"**) and is duly licensed, qualified and experienced to perform those services;

NOW, THEREFORE, the parties hereto mutually agree as follows:

1. SCOPE OF SERVICES:

A. Consultant shall do all work, attend all meetings, produce all reports and carry out all activities necessary to completion of the services described in **Exhibit "A."** This Contract and its exhibits shall be known as the "Contract Documents." Terms set forth in any Contract Document shall be deemed to be incorporated in all Contract Documents as if set forth in full therein. In the event of conflict between terms contained in these Contract Documents, the more specific term shall control. If any portion of the Contract Documents shall be in conflict with any other portion, provisions contained in the Contract shall govern over conflicting provisions contained in the exhibits to the Contract.

B. Consultant enters into this Contract as an independent contractor and not as an employee of the City. The Consultant shall have no power or authority by this Contract to bind the City in any respect. Nothing in this Contract shall be construed to be inconsistent with this relationship or status. All employees, agents, contractors or subcontractors hired or retained by the Consultant are employees, agents, contractors or subcontractors of the Consultant and not of the City. The City shall not be obligated in any way to pay any wage claims or other claims made against Consultant by any such employees, agents, contractors or subcontractors, or any other person resulting from performance of this Contract.

C. The Consultant agrees it has satisfied itself by its own investigation and research regarding the conditions affecting the work to be done and labor and materials needed, and that its decision to execute this Contract is based on such independent investigation and research.

2. TERM OF CONTRACT

A. The services of Consultant are to commence upon receipt of written notice to proceed from the City, and shall be undertaken and completed in accordance with the Schedule of Performance which is attached as **Exhibit "B"** and is hereby incorporated by reference.

B. Consultant's failure to complete work in accordance with the Schedule of Performance may result in delayed compensation as described in Section 3.

C. The City Manager or his or her designee may, by written instrument signed by the Parties, extend the duration of this Contract for a period of one (1) year in the manner provided in

Section 5, provided that the extension does not require the payment of compensation in excess of the maximum compensation set forth in Section 3, Compensation.

3. COMPENSATION:

A. The Consultant shall be paid monthly for the actual fees, costs and expenses, but in no event shall total compensation exceed fifty thousand dollars (\$50,000.00), without City's prior written approval.

B. Said amount shall be paid upon submittal of a monthly billing showing completion of the tasks that month. Consultant shall furnish City with invoices for all expenses as well as for all materials authorized by this Contract. The invoices shall be submitted with the monthly billings. If Consultant's performance is not in conformity with the Schedule of Performance, payments may be delayed or denied, unless the Consultant's failure to perform in conformity with the Schedule of Performance is a documented result of the City's failure to conform with the Schedule of Performance, or if the Schedule of Performance is extended pursuant to Section 5.

C. If the work is halted at the request of the City, compensation shall be based upon the proportion that the work performed bears to the total work required by this Contract, subject to Section 4.

4. TERMINATION:

A. This Contract may be terminated by either party, provided that the other party is given not less than 30 calendar days' written notice (delivered by certified mail, return receipt requested) of intent to terminate.

B. The City may temporarily suspend this Contract, at no additional cost to City, provided that the Consultant is given written notice (delivered by certified mail, return receipt requested) of temporary suspension. If City gives such notice of temporary suspension, Consultant shall immediately suspend its activities under this Contract.

C. Notwithstanding any provisions of this Contract, Consultant shall not be relieved of liability to the City for damages sustained by the City by virtue of any breach of this Contract by Consultant, and the City may withhold any payments due to Consultant until such time as the exact amount of damages, if any, due the City from Consultant is determined.

D. In the event of termination, the Consultant shall be compensated as provided for in this Contract, except as provided in Section 4C. Upon termination, the City shall be entitled to all work, including but not limited to, appraisals, inventories, studies, analyses, drawings and data estimates performed to that date in accordance with Section 7 hereof.

5. AMENDMENTS, CHANGES OR MODIFICATIONS:

Amendments, changes or modifications in the terms of this Contract may be made at any time by mutual written agreement between the parties hereto and shall be signed by the persons authorized to bind the parties hereto.

6. EXTENSIONS OF TIME:

Consultant may, for good cause, request extensions of time to perform the services required hereunder. Such extensions shall be authorized in advance by the City in writing and shall be incorporated in written amendments to this Contract or the attached Work Program in the manner provided in Section 5.

7. PROPERTY OF CITY:

A. It is mutually agreed that all materials prepared by the Consultant under this Contract shall become the property of the City, and the Consultant shall have no property right therein whatsoever. Immediately upon termination, the City shall be entitled to, and the Consultant shall deliver to the City, all data, drawings, specifications, reports, estimates, summaries and other such materials as may have been prepared or accumulated to date by the Consultant in performing this Contract which is not Consultant's privileged information, as defined by law, or Consultant's personnel information, along with all other property belonging exclusively to the City which is in the Consultant's possession.

B. Additionally, it is agreed that the parties intend this to be a contract for services and each considers the products and results of the services to be rendered by Consultant hereunder (the "Work") to be a work made for hire. Consultant acknowledges and agrees that the Work (and all rights therein, including, without limitation, copyright) belongs to and shall be the sole and exclusive property of the City.

8. COMPLIANCE WITH LOCAL LAW:

Consultant shall comply with all applicable laws, ordinances, and codes of federal, State and local governments, and shall commit no trespass on any public or private property in performing any of the work authorized by this Contract. It shall be City's responsibility to obtain all rights of way and easements to enable Consultant to perform its services hereunder. Consultant shall assist City in providing the same.

9. WARRANTIES AND RESPONSIBILITIES - CONSULTANT:

A. Consultant agrees and represents that it is qualified to properly provide the services set forth in **Exhibit "A"** in a manner which is consistent with the generally accepted standards of Consultant's profession.

B. Consultant agrees and represents that the work performed under this Contract shall be in accordance with applicable federal, State and local law in accordance with Section 17A hereof.

C. Consultant shall designate a project manager who at all times shall represent the Consultant before the City on all matters relating to this Contract. The project manager shall continue in such capacity unless and until he or she is removed at the request of the City, is no longer employed by Consultant, or is replaced with the written approval of the City, which approval shall not be unreasonably withheld.

D. Consultant shall provide corrective services without charge to the City for services which fail to meet the above professional and legal standards and which are reported to Consultant in writing within sixty (60) days of discovery. Should Consultant fail or refuse to perform promptly its

obligations, the City may render or undertake performance thereof and the Consultant shall be liable for any expenses thereby incurred.]

10. SUBCONTRACTING:

None of the services covered by this Contract shall be subcontracted without the prior written consent of the City, which will not be unreasonably withheld. Consultant shall be as fully responsible to the City for the negligent acts and omissions of its contractors and subcontractors, and of persons either directly or indirectly employed by them, as it is for the negligent acts and omissions of persons directly employed by Consultant.

11. ASSIGNABILITY:

Consultant shall not assign or transfer any interest in this Contract whether by assignment or novation, without the prior written consent of the City which will not be unreasonably withheld. However, claims for money due or to become due Consultant from the City under this Contract may be assigned to a financial institution, or to a trustee in bankruptcy, without such approval. Notice of any assignment or transfer whether voluntary or involuntary shall be furnished promptly to the City.

12. INTEREST IN CONTRACT:

Consultant covenants that neither it, nor any of its employees, agents, contractors, subcontractors has any interest, nor shall they acquire any interest, direct or indirect, in the subject of the Contract, nor any other interest which would conflict in any manner or degree with the performance of its services hereunder. Consultant shall make all disclosures required by the City's conflict of interest code in accordance with the category designated by the City, unless the City Manager determines in writing that Consultant's duties are more limited in scope than is warranted by the category designated by the City code and that a narrower disclosure category should apply. Consultant also agrees to make disclosure in compliance with the City conflict of interest code if, at any time after the execution of this Contract, City determines and notifies Consultant in writing that Consultant's duties under this Contract warrant greater disclosure by Consultant than was originally contemplated. Consultant shall make disclosures in the time, place and manner set forth in the conflict of interest code and as directed by the City.

13. MATERIALS CONFIDENTIAL:

All of the materials prepared or assembled by Consultant pursuant to performance of this Contract are confidential and Consultant agrees that they shall not be made available to any individual or organization without the prior written approval of the City, except by court order.

14. LIABILITY OF CONSULTANT-NEGLIGENCE:

Consultant shall be responsible for performing the work under this Contract in a manner which is consistent with the generally-accepted standards of the Consultant's profession and shall be liable for its own negligence and the negligent acts of its employees, agents, contractors and subcontractors. The City shall have no right of control over the manner in which the work is to be done but only as to its outcome, and shall not be charged with the responsibility of preventing risk to Consultant or its employees, agents, contractors or subcontractors.

15. INDEMNITY AND LITIGATION COSTS:

Consultant shall indemnify, defend, and hold harmless the City, its officers, officials, agents, and employees and volunteers from and against any and all claims, damages, demands, liability, costs, losses and expenses, including without limitation court costs and reasonable attorneys' fees, arising in any manner by reason of negligent acts or negligent failure to act, errors, omissions or willful misconduct incident to the performance of this Contract on the part of Consultant except such loss or damage which was caused by the sole negligence, or willful misconduct of the City. The provisions of this paragraph shall survive termination or suspension of this Contract.

16. CONSULTANT TO PROVIDE INSURANCE:

A. Consultant shall not commence any work before obtaining, and shall maintain in force at all times during the duration and performance of this Contract, the policies of insurance specified in this Section. Such insurance must have the approval of the City as to limit, form, and amount, and shall be placed with insurers with a current A.M. Best's rating of no less than A VII (an NR rating is acceptable for Worker's Compensation insurance written with the State Compensation Insurance Fund of California).

B. Prior to execution of this Contract and prior to commencement of any work, the Consultant shall furnish the City with certificates of insurance and copies of endorsements providing evidence of coverage for all policies required by the Contract. The Consultant and its contractors and subcontractors shall, at their expense, maintain in effect at all times during the performance of work under the Contract not less than the following coverage and limits of insurance, which shall be maintained with insurers and under forms of policy satisfactory to the City. The maintenance by Consultant and its contractors and subcontractors of the following coverage and limits of insurance is a material element of this Contract. The failure of Consultant or of any of its contractors or subcontractors to maintain or renew coverage or to provide evidence of renewal may be treated by the City as a material breach of this Contract. Approval of the insurance by the City shall not relieve or decrease any liability of Consultant.

1. Worker's Compensation and Employer's Liability Insurance

a. Worker's Compensation - Insurance to protect the Consultant, its contractors and subcontractors from all claims under Worker's Compensation and Employer's Liability Acts, including Longshoremen's and Harbor Worker's Act ("Acts"), if applicable. Such coverage shall be maintained, in type and amount, in strict compliance with all applicable state and Federal statutes and regulations. The Consultant shall execute a certificate in compliance with Labor Code Section 1861, on the form provided in the Contract Documents.

b. Consultant shall provide a Waiver of Subrogation endorsement in favor of the City, its officers, officials, employees, agents and volunteers for losses arising from work performed by the Consultant.

2. Commercial General Liability Insurance

a. The insurance shall be provided on form CG0001, or its equivalent, and shall include coverage for claims for bodily injury or property damage arising out of premises/operations, products/completed operations, contractual liability, and subconsultant's work and personal and advertising injury resulting from actions,

failures to act, or operations of the insured, or by its employees or agents, or by anyone directly or indirectly employed by the insured. The amount of insurance coverage shall not be less than **\$1,000,000.00** per occurrence and **\$2,000,000** general and products/completed operations aggregates.

b. The commercial general liability insurance shall also include the following:

i. Endorsement equivalent to CG 2010 1185 naming the City, its officers, officials, employees, agents, and volunteers as additional insureds. The endorsement shall contain no special limitations on the scope of protection afforded to the City, its officers, officials, employees or volunteers.

ii. Endorsement stating insurance provided to the City shall be primary as respects the City, its officers, officials, employees and any insurance or self insurance maintained by the City, its officers, officials, employees or volunteers shall be in excess of the Consultant's insurance and shall not contribute with it, to the payment or satisfaction of any defense expenses, loss, or judgment.

iii. Provision or endorsement stating that the Consultant's insurance shall apply separately to each insured against whom claim is made or suit is brought, except with respect to the limits of the insurer's liability.

3. Commercial Automobile Insurance

a. The insurance shall include, but shall not be limited to, coverage for claims for bodily injury or property damage for owned, non-owned, and hired automobiles resulting from actions, failures to act, or operations of the insured, or by its employees or agents, or by anyone directly or indirectly employed by the insured. The amount of insurance coverage shall not be less than **\$1,000,000.00** per accident.

b. The commercial automobile insurance shall include the same endorsements required for the commercial general liability policy (see Section 16.B.2.b).

4. Professional Liability. The Consultant and its contractors and subcontractors shall secure and maintain in full force, during the term of this Contract and for five years thereafter, professional liability insurance policies appropriate to the respective professions and the work to be performed as specified in this Contract. The limits of such professional liability insurance coverage shall not be less than **\$1,000,000** per claim.

C. In addition to any other remedy the City may have, if Consultant fails to maintain the insurance coverage as required in this Section, the City may obtain such insurance coverage as is not being maintained, in form and amount substantially the same as is required herein, and the City may deduct the cost of such insurance from any amounts due or which may become due Consultant under this Contract.

D. No policy required by this Contract shall be suspended, cancelled, terminated by either party, or reduced in coverage or in limits unless Consultant has provided thirty (30) days prior written notice by certified mail, return receipt requested, to the City.

E. Any deductibles or self-insured retentions in excess of \$10,000 must be declared to, and approved by, the City.

F. The requirement as to types, limits, and the City's approval of insurance coverage to be maintained by Consultant are not intended to, and shall not in any manner, limit or qualify the liabilities and obligations assumed by Consultant under the Contract.

17. MISCELLANEOUS PROVISIONS:

A. Consultant shall keep itself fully informed of, shall observe and comply with, and shall cause any and all persons, firms or corporations employed by it or under its control to observe and comply with, applicable federal, state, county and municipal laws, ordinances, regulations, orders and decrees which in any manner affect those engaged or employed on the work described by this Contract or the materials used or which in any way affect the conduct of the work.

B. Consultant shall not engage in unlawful employment discrimination. Such unlawful employment discrimination includes, but is not limited to, employment discrimination based upon a person's race, religious creed, color, national origin, ancestry, physical handicap, medical condition, marital status, gender, citizenship, or sexual orientation.

C. Consultant shall maintain and make available for inspection by the City and its auditors accurate records of all of its costs, disbursements and receipts with respect to any work under this Contract. Such inspections may be made during regular office hours at any time until six (6) months after the final payments under this Contract are made to the Consultant.

D. This Contract constitutes the entire agreement between the parties relative to the services specified herein and no modification hereof shall be effective unless and until such modification is evidenced by a writing signed by both parties to this Contract. There are no understandings, agreements, conditions, representations, warranties or promises, with respect to this Contract, except those contained in or referred to in the writing.

E. All notices that are required to be given by one party to the other under this Contract shall be in writing and shall be deemed to have been given if delivered personally or enclosed in a properly addressed envelope and deposited in a United States Post Office for delivery by registered or certified mail addressed to the parties at the following addresses:

City: Amanda Berlin
Assistant City Manager
1110 West Capitol Avenue, 3rd Floor
West Sacramento, CA 95691

Contract for Services
NES, Inc.

Consultant: Steve Reichow
Vice President of EH&S Training
1141 Sibley Street
Folsom, CA 95630

F. This Contract shall be interpreted and governed by the laws of the State of California.

G. Any action arising out of this Contract shall be brought in Yolo California, regardless of where else venue may lie.

H. In any action brought by either party to enforce the terms of this Contract, each party shall bear responsibility for its attorney's fees and all costs regardless of whether one party is determined to be the prevailing party.

CITY OF WEST SACRAMENTO

By: _____
Martin Tuttle, City Manager

ATTEST:

By: _____
Kryss Rankin, City Clerk

APPROVED AS TO FORM:

By: _____
Jeffrey Mitchell, City Attorney

CONSULTANT

By: _____
Title:

EXHIBIT A

Scope of Services

NES, at the request of the City, may provide any of the following training programs to affected businesses and government facilities within West Sacramento and the County of Yolo; Hazardous Waste Management (basic and advanced), Auto Industry Hazardous Waste Management, Universal Waste Management, DOT/Manifest, Spill Prevention Control and Countermeasures (SPCC) Plans for Aboveground Petroleum Storage Act (APSA) Sites and Hazardous Materials Business Plan (HMBP)/California Environmental Reporting System (CERS). Following are the course outlines:

Hazardous Waste Management- Basic: This 4-hour training program will be provided for hazardous waste generators and cover hazardous waste record keeping and management requirements, determining generator status (CESQG, SQG, LQG), hazardous waste identification and classification (RCRA vs. Non- RCRA), container and tank management and accumulation requirements and basic shipping requirements.

Hazardous Waste Management – Advanced: This 8-hour training program will be provided for hazardous waste generators and cover topics addressed in the 4-hour basic program and also provide an overview of regulatory exclusions and exemptions, DOT shipping requirements, land disposal restrictions and tiered permitting.

Auto Industry Hazardous Waste Management: This 2-hour training program will be provided for the automotive industry (e.g. vehicle repair and body shops) and will cover waste management requirements for hazardous waste commonly generated in the auto industry and include pollution prevention methods.

Universal Waste Management: This 2-hour training program will be provided for universal waste handlers and cover hazards associated with universal waste, responding to releases of universal waste, proper packaging, labeling, and accumulation, shipping and tracking requirements for universal waste.

DOT/Manifest: This 8-hour training program will be provided for generators who ship DOT regulated hazardous waste and will cover identification of DOT regulated hazardous materials and waste, proper packaging, marking and labeling, and completion and submittal of the Uniform Hazardous Waste Manifest form.

SPCC Plans for APSA Sites: This 2-hour training program will cover an overview of the APSA statutes, tank facility requirements, SPCC plans for Qualified and Non-Qualified facilities, and releases for facilities that store more than 1,320 gallons of petroleum in aboveground storage tanks.

HMBP/CERS: This 4-hour training program will be provided for businesses that store hazardous materials, including hazardous waste, in excess of 55 gallons for liquids, 500 pounds for solids and/or 200 cubic feet for compressed gasses and will cover HMBP requirements, completion and submittal of the HMBP via CERS, contingency plan requirements and emergency response procedures.

Training programs will be provided at the request of the City. *NES* shall be responsible for securing the training facilities, which shall be provided at no cost by the City. *NES* shall also be responsible for advertising for all training events, managing and tracking participant registrations, providing all instructor and participant (course manual, record of training and completion certificate) materials for all training programs, keeping records of attendance, and issuing attendance certificates. *NES* shall provide email, phone and website advertising for training programs at no cost. In the event the City requests postal mail or newspaper advertising, *NES* shall be reimbursed for any postage or newspaper advertising fees, which must be approved in advance, and in writing, by the City.

Training programs will be billed as a fixed fee (based on the duration of the training program) plus a per participant fee to cover participant materials (course manual, record of training and completion certificate), as follows:

8-Hour Training Programs- \$1,500.00/program
4-Hour Training Programs- \$875.00/program
2-Hour Training Programs - \$475.00/program
Participant Fee (for all programs)- \$20.00/person

NES will honor these rates through July 2020, with the total contract amount (unless amended by the City) not to exceed \$50,000.00 for the term of the Contract. City of West Sacramento will only be billed for the training requested, and provided by *NES*.

NES' terms and conditions for this project are as follows:

- The services are priced on a fixed-fee basis. *NES* does not account for labor hours and incidental expenses on fixed-fee contracts unless requested prior to the start of services. In the event detailed breakdown of labor hours and expenses is required, *NES* will provide services on a time-and-material basis. The fixed price will be adjusted and a revised cost estimate for services will be provided and will include charges for the additional accounting cost. *NES* is unable to provide services on a time-and-material basis or provide detailed breakdown of charges on fixed-fee priced services after work is started under this agreement.
- *NES* services are progress billed on a monthly basis unless previously arranged and agreed upon by both parties.
- Invoices are due on a net 30-day basis.

EXHIBIT B

Schedule of Performance

The term of these Contract shall be five (5) years from the date the Contract is made, as indicated on the first page of the Contract.

Consultant shall provide the services described in Exhibit A on the dates and times mutually agreed to by the parties, and memorialized in writing by the City of West Sacramento. Consultant shall only be entitled to payment for such services mutually scheduled and actually performed.

Contract for Services
NES, Inc.

EXHIBIT C

CERTIFICATE OF COMPLIANCE WITH LABOR CODE § 3700
[Labor Code § 1861]

I am aware of the provisions of Section 3700 of the Labor Code which require every employer to be insured against liability for workers' compensation or to undertake self-insurance in accordance with the provisions of that code, and I will comply with such provisions before commencing the performance of the work of this contract.

CONSULTANTS

By: _____
[Title]

Consultant Questionnaire

Definition of a Consultant is found in Section 18702 of Regulations of the Fair Political Practices Commission, Title 2, division 6 of the California Code of Regulations.

Consultants, **as defined by Section 18701**, are required to file an Economic Interest Statement (Form 700) within 30 days of signing a Consultant Agreement with the City, on an annual basis thereafter if the contract is still in place, and within 30 days of completion of the contract.

Company Name _____

(Agreement Date)
Name of Consultant* _____

_____ (First Name) (Middle Initial) (Last Name)

Company address _____
Phone _____

City, State, Zip _____

Contracting City Dept. _____

Estimated Date of Project Completion _____

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- A. Will consultant make governmental decision whether to
1. Approve a rate, rule, or regulation?
Yes No
 2. Adopt or enforce a law?
Yes No
 3. Issue, deny, suspend, or revoke any permit, license, application, certificate, approval, order, or similar authorization or entitlement?
Yes No
 4. Authorize the agency to enter into, modify, or renew a contract provided it is the type of contract which requires agency approval?
Yes No
 5. Grant agency approval to a contract which requires agency approval and in which the agency is a party or to
Yes No

the specifications for such a contract?

6. Grant agency approval to a plan, design, report,
Yes No
study, or similar item?
7. Adopt, or grant agency approval of, policies, standards,
Yes No
or guidelines for the agency, or for any subdivision thereof?
- B. Will the consultant serve in a staff capacity with the City and in
Yes No
that capacity perform the same or substantially all the same
duties for the City that would otherwise be performed by an
individual holding a position specified in the City's Conflict of
Interest Code?
- Will consultant manage public investments?
Yes No

Name of Person Completing Questionnaire

Date

**If other individuals will be working on the contract, a form should be completed for each person to determine filing obligation*