

000329

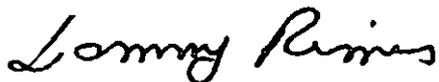
336

7/17

CITY OF SAN DIEGO
M E M O R A N D U M

DATE: February 28, 2007
TO: Greg Levin
FROM: Tammy Rimes, Purchasing Agent
SUBJECT: Sole Source Request for Request for procurement of services as a sole source

Your Sole Source Request for the above subject with Hawkins Delafield & Wood (HDW) and Bond Logistix LLC was approved and is valid through 02/26/2008 . In order for a Purchase Order to be issued, your department has to submit a purchase requisition. In the internal header notes of the requisition please reference Sole Source Case Number 1550. For questions, please contact Tammy Rimes x.65921.



Tammy Rimes
Purchasing Agent

TR/mw

000331 DOCKET SUPPORTING INFORMATION
CITY OF SAN DIEGO
EQUAL OPPORTUNITY CONTRACTING PROGRAM EVALUATION

DATE: 336
June 1, 2007 7/17

SUBJECT: First Amendment to Agreement with Hawkins, Delafield & Wood for Arbitrage Services

GENERAL CONTRACT INFORMATION

Recommended Contractor: Hawkins, Delafield & Wood

Amount of this Action: \$ 40,000.00
Original Contract: \$ 40,000.00 (1 year at 40,000 and 4 x 1-year term extensions@ 40,000)
Cumulative Total: \$ 240,000.00

Funding Source: City

SUBCONTRACTOR PARTICIPATION

No subcontractor participation on this action.

EQUAL EMPLOYMENT OPPORTUNITY COMPLIANCE

Equal Opportunity Required

Hawkins, Delafield & Wood submitted Work Force Reports dated May 29, 2007. The Administrative Work Force Report reflects 189 employees. Under representations exist in the following categories:

- Black in Administrative Support
- Hispanic in Professional and Administrative Support
- Filipino in Professional and Administrative Support
- Females in Professional

EOC Staff is concerned about the under representations in the firm's workforce and non-participation of certified firms and therefore, has requested an Equal Employment Opportunity Plan and will continue to monitor the firm's effort to implement their plans.

ADDITIONAL COMMENTS

The Work Force Analysis is attached.

RLI

File: Admin WOFO 2000

Date WOFO Submitted: 5/29/2007
Input by: SH

Goals reflect statistical labor force availability for the following: 2000 CLFA
New York, NY

City of San Diego/Equal Opportunity Contracting
WORK FORCE ANALYSIS REPORT
FOR
Company: Hawkins Delafield & Wood LLP

I. TOTAL WORK FORCE:

	Black		Hispanic		Asian		American Indian		Filipino		White		Other								
	CLFA Goals	M	F	CLFA Goals	M	F	CLFA Goals	M	F	CLFA Goals	M	F	CLFA Goals	M	F						
Mgmt & Financial Professional	6.1%	2	4	7.9%	3	0	8.1%	4	5	0.1%	0	0	6.5%	49	16	0	1				
A&E, Science, Computer Technical	5.2%	0	0	22.2%	0	0	14.7%	0	0	0.2%	0	0	14.7%	0	0	0	0				
Sales	16.5%	0	0	0.0%	0	0	12.6%	0	0	12.6%	0	0	12.6%	0	0	0	0				
Administrative Support Services	9.3%	0	0	18.6%	0	0	8.0%	0	0	0.1%	0	0	8.0%	0	0	0	0				
Crafts	20.7%	5	12	24.5%	2	14	7.4%	3	6	0.1%	0	0	7.4%	0	0	1	3				
Operative Workers	16.6%	0	0	40.4%	0	0	13.8%	0	0	0.2%	0	0	13.8%	0	0	0	0				
Transportation Laborers	23.3%	0	0	44.4%	0	0	32.2%	0	0	0.2%	0	0	32.2%	0	0	0	0				
	21.2%	0	0	48.2%	0	0	10.0%	0	0	0.3%	0	0	10.0%	0	0	0	0				
TOTAL		7	16		5	14		7	11		0	0		0	0		60	64		1	4

HOW TO READ TOTAL WORK FORCE SECTION:

The information blocks in Section 1 (Total Work Force) identify the absolute number of the firm's employees. Each employee is listed in their respective ethnic/gender and employment category. The percentages listed under the heading of "CLFA Goals" are the County Labor Force Availability goals for each employment and ethnic/gender category.

Mgmt & Financial Professional
A&E, Science, Computer Technical
Sales
Administrative Support Services
Crafts
Operative Workers
Transportation Laborers

TOTAL EMPLOYEES			Female Goals
ALL	M	F	
189	80	109	44.9%
84	58	26	53.4%
0	0	0	31.5%
0	0	0	50.0%
105	22	83	45.8%
0	0	0	66.7%
0	0	0	49.9%
0	0	0	18.1%
0	0	0	55.6%
0	0	0	12.9%
0	0	0	41.3%
TOTAL	189	80	109

HOW TO READ EMPLOYMENT ANALYSIS SECTION:

The percentages listed in the goals column are calculated by multiplying the CLFA goals by the number of employees in that job category. The number in that column represents the percentage of each protected group that should be employed by the firm to meet the CLFA goal. A negative number will be shown in the discrepancy column for each underrepresented goal of at least 1.00 position.

II. EMPLOYMENT ANALYSIS

	Black			Hispanic			Asian			American Indian			Filipino			Female		
	Goals	Actual	Discrepancy	Goals	Actual	Discrepancy	Goals	Actual	Discrepancy	Goals	Actual	Discrepancy	Goals	Actual	Discrepancy	Goals	Actual	Discrepancy
Mgmt & Financial Professional	0.00	0	0.00	0.00	0	0.00	0.00	0	0.00	0.00	0	0.00	0.00	0	0.00	0.00	0	0.00
A&E, Science, Computer Technical	5.54	6	N/A	6.22	3	(3.22)	5.46	9	3.54	0.08	0	N/A	5.46	0	(5.46)	44.88	26	(18.86)
Sales	0.00	0	0.00	0.00	0	0.00	0.00	0	0.00	0.00	0	0.00	0.00	0	0.00	0.00	0	0.00
Administrative Support Services	21.74	17	(4.74)	25.73	16	(9.73)	7.77	9	1.23	0.11	0	N/A	7.77	0	(7.77)	70.04	83	12.97
Crafts	0.00	0	0.00	0.00	0	0.00	0.00	0	0.00	0.00	0	0.00	0.00	0	0.00	0.00	0	0.00
Operative Workers	0.00	0	0.00	0.00	0	0.00	0.00	0	0.00	0.00	0	0.00	0.00	0	0.00	0.00	0	0.00
Transportation Laborers	0.00	0	0.00	0.00	0	0.00	0.00	0	0.00	0.00	0	0.00	0.00	0	0.00	0.00	0	0.00

Goals are set by job categories for each protected group. An underrepresentation is indicated by a negative number, but if the DISCREPANCY is less than -1.00 position, a N/A will be displayed to show there is no underrepresentation.

000335



City of San Diego

EQUAL OPPORTUNITY CONTRACTING (EOC)

1010 Second Avenue • Suite 500 • San Diego, CA 92101

Phone: (619) 533-4464 • Fax: (619) 533-4474

WORK FORCE REPORT

LOCAL WORK FORCE

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

CONTRACTOR IDENTIFICATION

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

Name of Company: Hawkins Delafield & Wood LLP

AKA/DBA: HDW

Address (Corporate Headquarters, where applicable): One Chase Manhattan Plaza

City New York County _____ State NY Zip 10005

Telephone Number: (212) 820 - 9300 FAX Number: (212) 820 - 9391

Name of Company CEO: N/A Partnership

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

City _____ County _____ State _____ Zip _____

Telephone Number: () _____ FAX Number: () _____

Type of Business: Law Firm Type of License: _____

The Company has appointed: Marianne Passalacqua

as its Equal Employment Opportunity Officer (EEOO). The EEOO has been given authority to establish, disseminate, and enforce equal employment and affirmative action policies of this company. The EEOO may be contacted at:

Address: One Chase Manhattan Plaza, New York, NY 10005

Telephone Number: (212) 820 - 9596 FAX Number: (212) 820 - 9391

For Firm's: San Diego Work Force and/or Managing Office Work Force

I, the undersigned representative of Hawkins Delafield & Wood LLP

One Chase Manhattan Plaza, New York, NY (Firm Name)
(County) (State) hereby certify that information provided

herein is true and correct. This document was executed on this 29th day of May, 2007.

(Authorized Signature)

TAKASHI IWATA
(Print Authorized Signature Name)

000336

WORK FORCE REPORT - Page 2

NAME OF FIRM: Hawkins, Delafield, & Wood LLP

DATE: 5/29/07

INSTRUCTIONS: For each occupational category, indicate number of males and females in every ethnic group. Total columns in row provided. Sum of all totals should be equal to your total work force. Include all those employed by your company on either a full or part-time basis. The following groups are to be included in ethnic categories listed in columns below:

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

OCCUPATIONAL CATEGORY	(1) African-American		(2) Latino		(3) Asian		(4) American Indian		(5) Filipino		(6) Caucasian		(7) Other Ethnicities	
	(M)	(F)	(M)	(F)	(M)	(F)	(M)	(F)	(M)	(F)	(M)	(F)	(M)	(F)
Executive, Administrative, Managerial														
Professional Specialty	2	4	3	0	4	5					49	16		1
Engineers/Architects														
Technicians and Related Support														
Sales														
Administrative Support/Clerical	5	12	2	14	3	6					11	48	1	3
Services														
Precision Production, Craft and Repair														
Machine Operators, Assemblers, Inspectors														
Transportation and Material Moving														
Handlers, Equipment Cleaners, Helpers and Non-construction Laborers*														

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

TOTALS EACH COLUMN	7	16	5	14	7	11					60	64	1	4
--------------------	---	----	---	----	---	----	--	--	--	--	----	----	---	---

GRAND TOTAL ALL EMPLOYEES 189

INDICATE BY GENDER AND ETHNICITY THE NUMBER OF ABOVE EMPLOYEES WHO ARE DISABLED:

DISABLED														
----------	--	--	--	--	--	--	--	--	--	--	--	--	--	--

NON-PROFIT ORGANIZATIONS ONLY:

BOARD OF DIRECTORS														
VOLUNTEERS														
ARTISTS														

NAME OF FIRM: Hawkins Delafield & Wood LLP

DATE: 5/29/07

INSTRUCTIONS: For each occupational category, indicate number of males and females in every ethnic group. Total columns in row provided. Sum of all totals should be equal to your total work force. Include all those employed by your company on either a full or part-time basis. The following groups are to be included in ethnic categories listed in columns below:

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

OCCUPATIONAL CATEGORY	(1)	(2)	(3)	(4)	(5)	(6)	(7)
	African-American	Latino	Asian	American Indian	Filipino	Caucasian	Other Ethnicities
	(M) (F)	(M) (F)	(M) (F)	(M) (F)	(M) (F)	(M) (F)	(M) (F)
Carpenter	N/A	N/A					
Drywall Installer	N/A						
Electrician	N/A						
Elevator Installers	N/A						
Finishers, Concrete or Terrazzo	N/A						
Glaziers	N/A						
Helpers, Construction Trade	N/A						
Ironworkers, Structural Metal Workers							
Laborers	N/A						
Millwrights	N/A						
Masons, Bricklayers	N/A						
Tile setters	N/A						
Operators	N/A						
Painters	N/A						
Pipe fitter, Plumbers	N/A						
Plasterers	N/A						
Roofers	N/A						
Security, Protective Services	N/A						
Sheet Metal, Duct Installers	N/A						
Welders, Cutters	N/A						

TOTALS EACH COLUMN	N/A						
--------------------	-----	--	--	--	--	--	--

GRAND TOTAL ALL EMPLOYEES	N/A
---------------------------	-----

INDICATE BY GENDER AND ETHNICITY THE NUMBER OF ABOVE EMPLOYEES WHO ARE DISABLED:

DISABLED							
----------	--	--	--	--	--	--	--

REQUEST FOR COUNCIL ACTION
CITY OF SAN DIEGO

1. CERTIFICATE NUMBER (FOR AUDITOR'S USE ONLY)
AC 2700777

000339

TO: CITY ATTORNEY

2. FROM (ORIGINATING DEPARTMENT): Office of the Auditor Comptroller

3. DATE: March 21, 2007

4. SUBJECT: First Amendment to Agreement with Hawkins, Delafield & Wood for Arbitrage Services.

5. PRIMARY CONTACT (NAME, PHONE & MAIL STA.)
Bryce Collins, 236-6863 MS 6A

6. SECONDARY CONTACT (NAME, PHONE & MAIL STA.)
Carole O'Hanlon, 236-6709, MS 6A

7. CHECK BOX IF REPORT TO COUNCIL IS ATTACHED

8. COMPLETE FOR ACCOUNTING PURPOSES

FUND				
DEPT.	SEE			
ORGANIZATION	ATTACHED			
OBJECT ACCOUNT				
JOB ORDER				
C.I.P. NUMBER				
AMOUNT				

9. ADDITIONAL INFORMATION / ESTIMATED COST:
Fiscal Impact To City:
THE COSTS FOR THIS AGREEMENT ARE PAID AND BUDGETED FOR BY THE FUNDS ASSOCIATED WITH THE VARIOUS BOND ISSUANCES.

10. ROUTING AND APPROVALS

ROUTE (#)	APPROVING AUTHORITY	APPROVAL SIGNATURE	DATE SIGNED	ROUTE (#)	APPROVING AUTHORITY	APPROVAL SIGNATURE	DATE SIGNED
1	ORIGINATING DEPARTMENT	<i>Jason McCrane</i>	5-25-07	8	CFO / DEPUTY CHIEF	<i>[Signature]</i>	6-15-07
2	EOC	<i>Celia Griffin</i>	6/4/07	9	COO	<i>[Signature]</i>	
3	PURCHASING	<i>Larry [Signature]</i>	6/8/07	10	CITY ATTORNEY	<i>[Signature]</i>	6/17/07
4	LIAISON OFFICE	<i>[Signature]</i>	6/19/07	11	ORIGINATING DEPARTMENT	<i>Carole O'Hanlon</i>	6/21/07
5	F.M.	<i>Angela Polto</i>	6/13/07	DOCKET COORD: <i>[Signature]</i> COUNCIL LIAISON: <i>[Signature]</i>			
6	AUDITOR	<i>Marilyn Nguyen</i>	5/29/07 ✓	COUNCIL PRESIDENT <input type="checkbox"/> SPOB <input type="checkbox"/> CONSENT <input type="checkbox"/> ADOPTION <input checked="" type="checkbox"/>			
7				REFER TO: _____ COUNCIL DATE: 7/17/07			

11. PREPARATION OF: RESOLUTION(S) ORDINANCE(S) AGREEMENT(S) DEED(S)

1. Approve the First Amendment to extend the Agreement between the City of San Diego and Hawkins, Delafield & Wood for arbitrage rebate compliance services for one additional year in the amount not to exceed \$40,000 per this additional year (please see the attachment for lines of accounting).

JUN 15 3 06 PM '07
CITY ATTORNEY

11A. STAFF RECOMMENDATIONS:
Adopt the ordinance.

12. SPECIAL CONDITIONS:

ENVIRONMENTAL IMPACT: This activity is exempt from CEQA pursuant to State CEQA Guidelines, Section 15061(b)(3).

HOUSING IMPACT: None

OTHER ISSUES: 6 votes required. The San Diego City Charter, Section 99, requires an ordinance that is approved by two-thirds majority vote of the City Council for contracts or agreements extending for a period of more than five years, after holding a public hearing which has been noticed in the official City newspaper at least ten days in advance.

000340

Attachment to 1472 for HAWKINS, DELAFIELD & WOOD

FUND	10253	98410	98805	98820	98379	98840	98860	99070	98343	99075	98410	98360	98410	41500	70207	102214	TOTAL
DEPT.	10253	9712	97481	97451	97571	97461	97471	97581	97430	97633	9712	97147	9712	760	7207	102214	
ORGANIZATION	2001	2011	1002	1002	1002	1002	1002	1002	1002	1002	1002	1002	1002	163	2153	300	
OBJECT ACCOUNT	4222	4222	4222	4222	4222	4222	4222	4222	4222	4222	4222	4222	4222	4222	4222	4222	
JOB ORDER	2001	2011	1002	1002	1002	1002	1002	1002	1002	1002	1002	1002	1002	2054	71915	224	
C.I.P. NUMBER																	
AMOUNT	\$3,600.00	\$1,600.00	\$1,371.42	\$1,371.43	\$1,371.43	\$1,371.43	\$1,371.43	\$1,371.43	\$1,371.43	\$1,600.00	\$2,100.00	\$1,600.00	\$1,600.00	\$3,200.00	\$13,100.00	\$2,000.00	\$40,000.00

000342

This City Council action would extend the term of the Agreement for an additional one year. Total compensation under this proposed Amendment is not to exceed \$40,000 for services per agreement.

FISCAL CONSIDERATIONS:

The costs associated with this agreement are paid for from the funds associated with the various bond issuances.

PREVIOUS COUNCIL and/or COMMITTEE ACTION:

COMMUNITY PARTICIPATION AND PUBLIC OUTREACH EFFORTS:

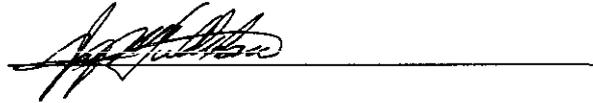
None required.

KEY STAKEHOLDERS AND PROJECTED IMPACTS:

Hawkins, Delafield & Wood LLP



Originating Department



Chief Financial Officer

000343

The City of San Diego
CERTIFICATE OF CITY AUDITOR AND COMPTROLLER

CERTIFICATE OF UNALLOTTED BALANCE

AC 2700777

ORIGINATING

DEPT. NO.: 050

I HEREBY CERTIFY that the money required for the allotment of funds for the purpose set forth in the foregoing resolution is available in the Treasury, or is anticipated to come into the Treasury, and is otherwise unallotted.

Amount: _____ Fund: _____

Purpose: _____

Date: _____ By: _____

AUDITOR AND COMPTROLLER'S DEPARTMENT

ACCOUNTING DATA											
ACCTG. LINE	CY PY	FUND	DEPT	ORG.	ACCOUNT	JOB ORDER	OPERATION ACCOUNT	BENF/ EQUIP	FACILITY	AMOUNT	
TOTAL AMOUNT											

FUND OVERRIDE

CERTIFICATION OF UNENCUMBERED BALANCE

I HEREBY CERTIFY that the indebtedness and obligation to be incurred by the contract or agreement authorized by the hereto attached resolution, can be incurred without the violation of any of the provisions of the Charter of the City of San Diego; and I do hereby further certify, in conformity with the requirements of the Charter of the City of San Diego, that sufficient moneys have been appropriated for the purpose of said contract, that sufficient moneys to meet the obligations of said contract are actually in the Treasury, or are anticipated to come into the Treasury, to the credit of the appropriation from which the same are to be drawn, and that the said money now actually in the Treasury, together with the moneys anticipated to come into the Treasury, to the credit of said appropriation, are otherwise unencumbered.

Amount: \$40,000.00

Vendor: HAWKINS, DELAFIELD AND WOOD

Purpose: Authorizing an increase in the expenditure of funds for the First Amendment between the City of San Diego and Hawkins, Delafield & Wood for arbitrage services.

Date: May 24, 2007 By: Manilyn Nguyen

AUDITOR AND COMPTROLLER'S DEPARTMENT

ACCOUNTING DATA											
ACCTG. LINE	CY PY	FUND	DEPT	ORG.	ACCOUNT	JOB ORDER	OPERATION ACCOUNT	BENF/ EQUIP	FACILITY	AMOUNT	
		Please	See	Attachment	for	Details	on Various	lines			\$40,000.00
TOTAL AMOUNT											\$40,000.00

AC-361 (REV 2-92)

FUND OVERRIDE

AC 2700777

ORDINANCE NUMBER O-_____ (NEW SERIES)

DATE OF FINAL PASSAGE _____

AN ORDINANCE OF THE COUNCIL OF THE CITY OF SAN DIEGO AUTHORIZING THE MAYOR TO EXECUTE A FIRST AMENDMENT TO THE AGREEMENT WITH HAWKINS DELAFIELD & WOOD.

WHEREAS, on January 8, 2002, the City of San Diego [City] entered into an agreement [Agreements] with Hawkins, Delafield & Wood [Arbitrage Consultant]; and

WHEREAS, the Agreement stated that the City had the option and the City exercised the option to extend the contract for four additional one-year terms; and

WHEREAS, prior to the end of the final year, the Request for Proposal process was not executed, thus resulting in the lapse of the Agreement without the selection of new consultants; and

WHEREAS, the Arbitrage Consultant's services are needed immediately to enable the City to meet its bond covenant requirements and IRS obligations; NOW, THEREFORE,

BE IT ORDAINED, by the Council of the City of San Diego, as follows:

Section 1. That Mayor is authorized to execute the First Amendment to the Agreement between the City of San Diego and Hawkins, Delafield & Wood, on file in the office of the City Clerk as document number OO-_____.

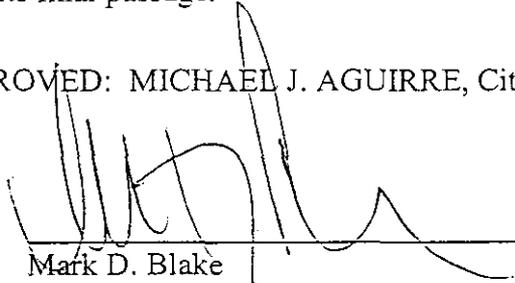
Section 2. That a full reading of this ordinance is dispensed with prior to passage, since a written copy was made available to the City Council and the public prior to the day of its passage.

000346

Section 3. This ordinance shall take effect and be in force on the thirtieth day from and after its final passage.

APPROVED: MICHAEL J. AGUIRRE, City Attorney

By



Mark D. Blake
Chief Deputy City Attorney

MDB:ai
03/20/07
Or.Dept:Auditor
O-2007-114

I hereby certify that the foregoing Ordinance was passed by the Council of the City of San Diego, at this meeting of _____.

ELIZABETH S. MALAND
City Clerk

By _____
Deputy City Clerk

Approved: _____
(date)

JERRY SANDERS, Mayor

Vetoed: _____
(date)

JERRY SANDERS, Mayor

000347

**FIRST AMENDMENT TO THE AGREEMENT BETWEEN THE CITY OF
SAN DIEGO AND HAWKINS DELAFIELD & WOOD LLP**

THIS is the first amendment [First Amendment] to the agreement that was made and entered into on the 8th day of January, 2002, by and between the City of San Diego, a public entity [City], and HAWKINS DELAFIELD & WOOD LLP [Arbitrage Consultant].

RECITALS

WHEREAS, the City desires to amend the Agreement for one additional period of one year for arbitration compliance services provided by the Arbitrage Consultant; and

WHEREAS, the extension of the term of the Agreement must be in writing, executed by the parties hereto; and

NOW THEREFORE, in consideration of the mutual covenants and conditions hereinafter set forth, and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the City and the Arbitrage Consultant hereby agree to amend the Agreement as follows:

1. **Article II, Section 2.1, TERM OF AGREEMENT, of the Agreement is hereby amended to read:**

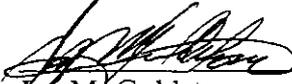
This Agreement shall be effective for one additional year starting on the 9th day of January 2007.

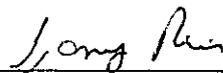
000348

IN WITNESS WHEREOF, this First Amendment to the Agreement is executed by the City of San Diego and by the Arbitrage Consultant.

Dated this 11th Day of JUNE, 2007.

THE CITY OF SAN DIEGO

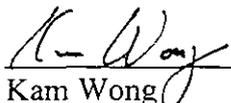
By: 
Jay M. Goldstone
Chief Financial Officer

By: 
Tammy Rimes
Purchasing Agent

Date: 6-15-07

Date: 6/12/07

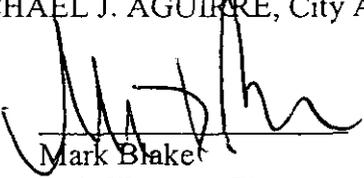
HAWKINS DELAFIELD & WOOD LLP

By: 
Kam Wong
Partner

Date: 04/17/07

I HEREBY APPROVE the form and legality of the foregoing First Amendment to the Agreement this 11 Day of June, 2007.

MICHAEL J. AGUIRE, City Attorney

By: 
Mark Blake
Chief Deputy City Attorney

000349

**THE CITY OF SAN DIEGO
OFFICE OF THE AUDITOR AND COMPTROLLER**

AGREEMENT

FOR

Arbitrage Rebate Compliance Services

**THE CITY OF SAN DIEGO
AND
HAWKINS, DELAFIELD & WOOD**

000351

**AGREEMENT BETWEEN THE CITY
OF SAN DIEGO AND HAWKINS, DELAFIELD & WOOD
FOR CONSULTING SERVICES**

THIS Agreement is made and entered into between the City of San Diego, a municipal corporation, and Hawkins, Delafield & Wood [Consultant] for the Consultant to provide Arbitrage Rebate Compliance Services.

RECITALS

The City wants to retain the services of a professional firm to provide arbitrage rebate compliance services [Professional Services].

The Consultant has the expertise, experience and personnel necessary to provide the Professional Services for Arbitrage Rebate Compliance Services.

The City and the Consultant [Parties] want to enter into an Agreement [Agreement] whereby the City will retain the Consultant to provide, and the Consultant shall provide, the Professional Services.

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

ARTICLE I - PROFESSIONAL SERVICES

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

1.1 Scope of Services.

The Consultant shall perform Professional Services as set forth in the written Scope of Services [Exhibit A] at the direction of the City as specifically enumerated in the Compensation Schedule [Exhibit B], and Fee Schedule [Exhibit C]. The compensation for this Agreement shall not exceed \$40,000.

000352

1.2 Contract Administrator.

The Office of the Auditor and Comptroller is the contract administrator for this Agreement. The Consultant shall provide Professional Services under the direction of a designated representative of the City Auditor and Comptroller. The City's designated representative will communicate with the Consultant on all matters related to the administration of this Agreement and the Consultant's performance of the Professional Services rendered hereunder. When this Agreement refers to communications to or with the City, those communications will be with the designated representative, unless the designated representative or the Agreement specifies otherwise.

1.3 City Modification of Scope of Services.

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

1.4 Written Authorization.

Prior to performing any Professional Services in connection with Arbitrage Rebate Calculations, the Consultant shall obtain from the City a written authorization to proceed. The Consultant shall advise the City in writing immediately of any anticipated change in the Scope of Services, Compensation Schedule, or Time Schedule, and shall obtain the City's written consent to the change prior to making any changes. In no event shall the City's consent be construed to relieve the Consultant from its duty to render all Professional Services in accordance with applicable laws and accepted industry standards.

1.5 Confidentiality of Services.

All Professional Services performed by the Consultant, including but not limited to data, correspondence, proposals, and reports compiled or composed by the Consultant, pursuant to this Agreement, are for the sole use of the City, its agents and employees. Neither the documents nor their contents shall be released to any third party without the prior written consent of the City. This provision does not apply to information that (a) was publicly known, or otherwise known to the Consultant, at the time that it was disclosed to the Consultant by the City, (b) subsequently becomes publicly known through no act or omission by the Consultant, or (c) otherwise becomes known to the Consultant other than through disclosure by the City. Neither the documents nor their contents shall be released to any third party without the prior written consent of the City.

000353

ARTICLE II - DURATION OF AGREEMENT

2.1 Term of Agreement.

This Agreement shall be effective as of the date it is executed by the last Party to sign the Agreement, and it shall be effective until completion of the Scope of Services or upon written cancellation. The City retains the option to extend this contract for four (4) additional one year terms, but in no event shall exceed five (5) years.

2.2 Time of Essence.

Time is of the essence for this Agreement.

2.3 Notification of Delay.

The Consultant shall immediately notify the City in writing of any delay in completion of the Professional Services. The written notice shall include an explanation of the cause for, and a reasonable estimate of the length of the delay. If the delay affects a material part of the Agreement, the City may exercise its rights under Section 2.4 and 2.5 of this agreement.

2.4 City's Right to Terminate for Convenience.

The City may, at its sole option and for its convenience, terminate all or any portion of the Professional Services agreed to pursuant to this Agreement by giving written notice of such termination to the Consultant. Such notice shall be delivered by certified mail with return receipt for delivery to the City. The termination of the Professional Services shall be effective upon receipt of the notice by the Consultant.

2.5 City's Right to Terminate for Default.

If the Consultant fails to perform or adequately perform any obligation required by this Agreement, the Consultant's failure constitutes a Default. If the Consultant fails to satisfactorily cure a Default within ten calendar days of receiving written notice from the City specifying the nature of the Default, the City may immediately cancel and/or terminate this Agreement, and terminate each and every right of the Consultant, and any person claiming any rights by or through the Consultant under this Agreement. The rights and remedies of the City enumerated in Section 2.5 are cumulative and shall not limit, waive, or deny any of the City's rights under any other provision of this Agreement. Nor does this Section otherwise waive or deny any right or remedy, at law or in equity, existing as of the date of this Agreement or hereinafter enacted or established, that may be available to the City against the Consultant.

000354

2.6 City's Right to Terminate for Bankruptcy or Assignment for the Benefit of Creditors.

If the Consultant files a voluntary petition in bankruptcy, is adjudicated bankrupt, or makes a general assignment for the benefit of creditors, the City may at its option and without further notice to or demand upon the Consultant, immediately cancel and/or terminate this Agreement, and terminate each and every right of the Consultant, and any person claiming any rights by or through the Consultant. The rights and remedies of the City enumerated in Section 2.6 are cumulative and shall not limit, waive, or deny any of the City's rights under any other provision of this Agreement. Nor does this Section otherwise waive or deny any right or remedy, at law or in equity, existing as of the date of this Agreement or hereinafter enacted or established, that may be available to the City against the Consultant.

ARTICLE III - COMPENSATION

3.1 General.

The City shall pay the Consultant for all Professional Services and expenses related to performance under this Agreement, in an amount not to exceed \$40,000, as set forth in the Compensation Schedule. The Consultant shall be entitled to compensation for Professional Services under this Agreement, whether within the Scope of Services or as Additional Services, based on the Fee Schedule. For the duration of this Agreement, the Consultant shall not be entitled to fees which exceed the Fee Schedule.

3.2 Manner of Payment.

The Consultant shall bill all fees and expenses incurred in accordance with this Agreement directly to the City at the time services are performed.

3.2.1 Payments. The Consultant shall submit one invoice per rebate report or service performed in accordance with the Compensation Schedule. The Consultant shall include with each invoice a description of completed work. Undisputed portions of invoice to the City must be in accordance with the Fee Schedule and will be paid if approved, within thirty calendar days of receipt.

3.3 Additional Services.

If the City requires additional Professional Services [Additional Services] beyond the Scope of Services, the Consultant will be paid an additional fee. For Additional Services, if required, the compensation shall be in accordance with the fees as set forth in Exhibit C. The City and the Consultant must agree in writing upon such fees for a specific task prior to the Consultant beginning the Additional Services.

000355

ARTICLE IV - CONSULTANT'S OBLIGATIONS

4.1 Industry Standards.

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

4.2 Right to Audit.

4.2.1 Access. The City retains the right to review and audit, and the reasonable right of access to Consultant's and all Subconsultant's premises to review and audit Consultant's compliance with the provisions of this Agreement [City's Right]. The City's Right includes the right to inspect and photocopy same, and to retain copies, outside of Consultant's premises, of any and all records with appropriate safeguards, if such retention is deemed necessary by City in its sole discretion. This information shall be kept by the City in strictest confidence allowed by law.

4.2.2 Audit. The City's Right includes the right to examine any and all books, records, documents and any other evidence of procedures and practices that the City determines are necessary to discover and verify that the Consultant is in compliance with all requirements under this Agreement.

4.2.2.1 Cost Audit. If there is a claim for additional compensation or for Additional Services, the City's Right includes the right to examine books, records, documents, and any and all other evidence and accounting procedures and practices that the City determines are necessary to discover and verify all direct and indirect costs, of whatever nature, which are claimed to have been incurred, or anticipated to be incurred.

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

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

000356

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

4.3 Insurance.

The Consultant shall not begin Professional Services under this Agreement until it has: a) obtained insurance certificates reflecting evidence of all insurance required in Section 4.3.1; however, the City reserves the right to request, and the Consultant shall submit, copies of any policy upon reasonable request by the City; b) obtained City approval of each company or companies as required by Article IV, Section 4.3.2; c) confirmed that all policies contain the specific provisions required in Article IV, Section 4.3.4.

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

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

4.3.1.1 Commercial General Liability. For all of the Consultant's operations, including contractual, property damage, completed operations, and independent Consultant's liability, the Consultant shall keep in full force and effect, during any and all work on these Arbitrage Rebate Calculations, all applicable insurance to cover personal injury, bodily injury and property damage, providing coverage to a combined single limit of \$1 million per occurrence, subject to an annual aggregate of \$2 million for general liability, completed operations and personal injury other than bodily injury. Contractual liability shall include coverage of tort liability of another party to pay for bodily injury or property damage to a third person or organization. Contractual liability limitation endorsement is not acceptable.

4.3.1.2 Commercial Automobile Liability. For all of the Consultant's automobiles including owned, hired and non-owned automobiles, the Consultant shall keep in full force and effect, automobile insurance for bodily injury and property damage providing coverage to a combined single limit of \$1 million per occurrence. Insurance certificate shall reflect coverage for any automobile [any auto]. The City shall be named as an additional insured, but only for liability arising out of use of Consultant's automobiles and only arising out of Professional Services performed under this Agreement.

4.3.1.3 Professional Liability. For all of the Consultant's employees who are subject to this Agreement, the Consultant shall keep in full force and effect, errors and omissions insurance providing coverage for professional liability with a combined single limit of \$1 million per claim and \$2 million annual aggregate. The Consultant shall ensure both that (1) this policy retroactive date is on or before the date of commencement of this Agreement; and (2) this policy has a reporting period of three years after the date of completion or termination of this Agreement. The Consultant agrees that for the time period defined above, there will be no changes or endorsements to the policy that increases the City's exposure to loss.

000357

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

4.3.2 Rating Requirements. All insurance required by express provision of this Agreement shall be carried only by responsible insurance companies that have been given at least an "A" or "A-" and "V" rating by AM BEST, that are licensed to do business in the State of California, and that have been approved by the City.

4.3.3 Deductibles. All deductibles on any policy shall be the responsibility of the Consultant.

4.3.4 Specific Provisions Required. Each policy required under Article IV, Sections 4.3.1.1. through 4.3.1.3 shall expressly provide, and an endorsement shall be submitted to the City, that:

4.3.4.1 Except as to Workers' Compensation, The City of San Diego and its respective elected officials, officers, employees, agents, and representatives shall be named as additional insureds. The City's Additional Insured status must be reflected on additional insured endorsement form CG 20 10, or equivalent, which shall be submitted to the City.

4.3.4.2 The policies are primary and non-contributing to any insurance that may be carried by the City, as reflected in an endorsement which shall be submitted to the City.

4.3.4.3 The policies cannot be canceled, non renewed or materially changed except after thirty calendar days prior written notice by the Consultant to the City by certified mail, as reflected in an endorsement which shall be submitted to the City except for non-payment of premium, in which case ten days notice will be provided.

4.3.4.4 Before performing any Professional Services, the Consultant shall provide the City with all Certificates of Insurance accompanied with all endorsements.

4.3.4.5 The Consultant may obtain additional insurance not required by this Agreement.

4.4 Subconsultants.

The Consultant's hiring of or retaining any third parties [Subconsultants] to perform services related to Arbitrage Rebate Calculations [Subconsultant Services] is subject to prior approval by the City. The Consultant shall list on the Subconsultants List [Exhibit E (4)] all Subconsultants known to the Consultant at the time this Agreement is entered. If at any time after this Agreement is entered into the Consultant identifies a need for additional Subconsultant Services, the Consultant shall give written notice to the City of the need, at least forty-five days before entering into a contract for such Subconsultant Services. The Consultant's notice shall include a justification, a description of the scope of work, and an estimate of all costs for the Subconsultant Services. The Consultant may request that the City reduce the forty-five-day notice period. The City agrees to consider such requests in good faith.

4.4.1 Subconsultant Contract. All contracts entered into between the Consultant and a Subconsultant shall contain the information as described in Sections 4.6, 4.7, and 4.10.2, and shall provide as follows:

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

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

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

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

000359

4.4.1.6 Each Subconsultant shall obtain insurance policies which shall be kept in full force and effect during any and all work on these Arbitrage Rebate Calculations and for the duration of this Agreement. Each Subconsultant shall obtain, and the Consultant shall require the Subconsultant to obtain, all policies described in Section 4.3.1.

4.5 Contract Activity Report.

The Consultant shall submit statistical information to the City as requested in the City's Contract Activity Report [Exhibit E (5)]. The statistical information shall include the amount of subcontracting provided by firms during the period covered by the Contract Activity Report. With the Contract Activity Report, the Consultant shall provide an invoice from each Subconsultant listed in the report. The Consultant agrees to issue payment to each firm listed in the Report within fourteen working days of receiving payment from the City for Subconsultant Services as described in Section 4.4.1.

4.6 Non-Discrimination Requirements.

4.6.1 Compliance with the City's Equal Opportunity Contracting Program. The Consultant and each of its Subconsultants shall comply with the City's Equal Opportunity Contracting Program Consultant Requirements which is attached hereto as Exhibit E and incorporated herein by this reference.

4.6.2 Non-Discrimination Ordinance. The Consultant shall not discriminate on the basis of race, gender, religion, national origin, ethnicity, sexual orientation, age, or disability in the solicitation, selection, hiring or treatment of Subconsultants, vendors or suppliers. The Consultant shall provide equal opportunity for Subconsultants to participate in subconsulting opportunities. The Consultant understands and agrees that violation of this clause shall be considered a material breach of the contract and may result in contract termination, debarment, or other sanctions. This language shall be in contracts between the Consultant and any Subconsultants, vendors and suppliers.

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

000360

4.7 Drug-Free Workplace.

The Consultant agrees to comply with the City's Drug-Free Workplace requirements set forth in Council Policy 100-17, adopted by Council Resolution No. R-277952 and incorporated into this Agreement by this reference. The Consultant shall certify to the City that it will provide a drug-free workplace by submitting a Consultant Certification for a Drug-Free Workplace form [Exhibit E (6)].

4.7.1 Consultant's Notice to Employees. The Consultant shall publish a statement notifying employees that the unlawful manufacture, distribution, dispensation, possession, or use of a controlled substance is prohibited in the work place, and specifying the actions that will be taken against employees for violations of the prohibition.

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

4.7.2.1 The dangers of drug abuse in the work place.

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

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

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

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

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

4.8 Americans with Disabilities Act Statement.

Consultant shall certify that the construction documents and specifications meet all current California Building Standards Code, California Code of Regulations, Title 24 (Title 24) and The Americans with Disabilities Act Accessibility Guidelines (ADAAG) requirements, and are in compliance with The Americans with Disabilities Act of 1990. When a conflict exists between Title 24 and ADAAG, the most restrictive requirement shall be followed.

4.9 Product Endorsement.

The Consultant acknowledges and agrees to comply with the provisions of the City's Administrative Regulation 95-65, concerning product endorsement. Any advertisement identifying or referring to the City as the user of a product or service requires the prior written approval of the City.

000361

4.10 Conflict of Interest.

The Consultant is subject to all federal, state and local conflict of interest laws, regulations and policies applicable to public contracts and procurement practices, including but not limited to California Government Code sections 1090, et. seq. and 81000, et. seq. The City may determine that a conflict of interest code requires the Consultant to complete one or more statements of economic interest disclosing relevant financial interests. Upon the City's request, the Consultant shall submit the necessary documentation to the City.

4.10.1 The Consultant shall establish and make known to its employees and agents appropriate safeguards to prohibit employees from using their positions for a purpose that is, or that gives the appearance of being, motivated by the desire for private gain for themselves or others, particularly those with whom they have family, business or other relationships.

4.10.2 The Consultant and its Subconsultants having subcontracts amounting to 1% or more of the value of the Professional Services agreed to under this Agreement are precluded from participating in design services on behalf of the contractor, construction management, and any other construction services related in any way to these Professional Services without the prior written consent of the City.

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

4.10.4 If the Consultant violates any conflict of interest laws or any of these provisions in Section 4.10, the violation shall be grounds for immediate termination of this Agreement. Further, the violation subjects the Consultant to liability to the City for attorneys' fees and all damages sustained as a result of the violation.

4.11 Mandatory Assistance.

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

4.12 Compensation for Mandatory Assistance.

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

000362

4.13 Attorneys' Fees related to Mandatory Assistance.

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

ARTICLE V - CITY'S OBLIGATIONS

5.1 Ownership of Documents.

Once the Consultant has received any compensation for the Professional Services performed, all documents, including but not limited to, arbitrage rebate reports prepared in connection with or related to the Scope of Services or Professional Services, shall be the property of the City. The City's ownership of these documents includes use of, reproduction or reuse of and all incidental rights. The City's ownership entitlement arises upon payment or any partial payment for work performed and includes ownership of any and all work product completed. This Section shall apply whether the Consultant's Professional Services are terminated: (a) by the completion of the Project, or (b) in accordance with other provisions of this Agreement. Notwithstanding any other provision of this paragraph or Agreement, the Consultant shall have the right to make copies of all such arbitrage rebate reports.

The Consultant shall not be responsible for damage caused by subsequent changes to arbitrage rebate reports, where the subsequent changes are not authorized or approved by the Consultant, provided that the service rendered by the Consultant was not a proximate cause of the damage.

5.2 Additional Consultants or Contractors.

The City reserves the right to employ, at its own expense, such additional consultants or contractors as the City deems necessary to perform work or to provide Professional Services.

5.3 Employment of City Staff.

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

000363

ARTICLE VI - INDEMNIFICATION

6.1 Indemnification and Hold Harmless Agreement.

With respect to any liability, including but not limited to claims asserted or costs, losses, attorney fees, or payments for injury to any person or property caused or claimed to be caused by the acts or omissions of the Consultant, or the Consultant's employees, agents, and officers, arising out of any services performed involving these Arbitrage Rebate Calculations, except liability for Professional Services covered under Section 6.2, the Consultant agrees to defend, indemnify, protect, and hold harmless the City, its agents, officers, or employees from and against all liability. Also covered is liability arising from, connected with, caused by, or claimed to be caused by the active or passive negligent acts or omissions of the City, its agents, officers, or employees which may be in combination with the active or passive negligent acts or omissions of the Consultant, its employees, agents or officers, or any third party. The Consultant's duty to defend, indemnify, protect and hold harmless shall not include any claims or liabilities arising from the sole negligence or sole willful misconduct of the City, its agents, officers or employees. This Section in no way alters, affects or modifies the Consultant's obligations and duties under Section 4.3.4.1 herein.

6.2 Indemnification for Professional Services.

As to the Consultant's professional obligations, work or services involving this Agreement, the Consultant agrees to indemnify and hold harmless the City, its agents, officers and employees from and against any and all liability, claims, costs, and damages, including but not limited to, attorneys' fees, losses or payments for injury to any person or property, caused directly or indirectly from the negligent acts, errors or omissions of the Consultant or the Consultant's employees, agents or officers.

6.3 Enforcement Costs.

The Consultant agrees to pay any and all costs the City incurs enforcing the indemnity and defense provisions set forth in Section 6.1 and the indemnity provision in Section 6.2.

ARTICLE VII - MEDIATION

7.1 Mandatory Non-binding Mediation

If a dispute arises out of, or relates to this Agreement, or the breach thereof, and if said dispute cannot be settled through normal contract negotiations, the Parties agree to first endeavor to settle the dispute in an amicable manner, using mandatory mediation under the Construction Industry Mediation Rules of the American Arbitration Association [AAA] or any other neutral organization agreed upon before having recourse in a court of law.

000364

7.2 Mandatory Mediation Costs

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

7.3 Selection of Mediator

A single Mediator that is acceptable to both Parties shall be used to mediate the dispute. To initiate mediation, the initiating Party shall serve a Request for Mediation on the opposing Party.

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

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

7.4 Conduct of Mediation Sessions

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

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

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

000365

ARTICLE VIII - MISCELLANEOUS

8.1 Notices.

In all cases where written notice is required under this Agreement, service shall be deemed sufficient if the notice is deposited in the United States mail, postage paid. Proper notice shall be effective on the date it is mailed, unless provided otherwise in this Agreement. For the purpose of this Agreement, unless otherwise agreed in writing, notice to the City shall be addressed to: Holly Reed-Falk, 202 C Street, MS-7A, San Diego, CA 92101 and notice to the Consultant shall be addressed to: Takashi Iwata, 67 Wall Street, New York, NY 10005.

8.2 Headings.

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

8.3 Non-Assignment.

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

8.4 Independent Contractors.

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

8.5 Consultant and Subconsultant Principals for Professional Services.

It is understood that this Agreement is for unique Professional Services. Retention of the Consultant's Professional Services is based on the particular professional expertise of the individuals rendering the services set forth in the Scope of Services. Accordingly, portions of the described service may not be delegated to other members of the team or Subconsultants without prior written consent by the City. It is mutually agreed that Takashi Iwata is the principal person responsible for delivery of all Professional Services and may not be removed from the Project without the City's prior written approval. In the event Takashi Iwata becomes unavailable for any reason, the City must be consulted as to any replacement. Further, the City reserves the right, after consultation with the Consultant, to require removal of the Consultant's employees or agents.

8.6 Covenants and Conditions.

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

000366

Compliance with Controlling Law.

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

8.8 Jurisdiction, Venue, and Attorney's Fees.

The venue for any suit or proceeding concerning this Agreement, the interpretation or application of any of its terms, or any related disputes shall be in the County of San Diego, State of California. The prevailing Party in any such suit or proceeding shall be entitled to a reasonable award of attorneys' fees in addition to any other award made in such suit or proceeding.

8.9 Successors in Interest.

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

8.10 Integration.

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

8.11 Counterparts.

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

8.12 No Waiver.

No failure of either the City or the Consultant to insist upon the strict performance by the other of any covenant, term or condition of this Agreement, nor any failure to exercise any right or remedy consequent upon a breach of any covenant, term, or condition of this Agreement, shall constitute a waiver of any such breach or of such covenant, term or condition. No waiver of any breach shall affect or alter this Agreement, and each and every covenant, condition, and term hereof shall continue in full force and effect to any existing or subsequent breach.

8.13 Severability.

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

000367

8.14 Municipal Powers.

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

8.15 Drafting Ambiguities.

The Parties agree that they are aware that they have the right to be advised by counsel with respect to the negotiations, terms and conditions of this Agreement, and the decision of whether or not to seek advice of counsel with respect to this Agreement is a decision which is the sole responsibility of each Party. This Agreement shall not be construed in favor of or against either Party by reason of the extent to which each Party participated in the drafting of the Agreement.

8.16 Signing Authority.

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

IN WITNESS WHEREOF, this Agreement is executed by the City of San Diego, acting by and through its Auditor and Comptroller, and by the Consultant.

Dated this 4th day of January, 2002

THE CITY OF SAN DIEGO

By Terri Webster

Terri Webster

Assistant City Auditor and Comptroller

000368

I HEREBY CERTIFY I can legally bind Hawkins, Delafield and Wood and that I have read all of this Agreement, this 18th day of December, 2001.

By K. Wong
Printed Name Kam Wong
Title: PARTNER

I HEREBY APPROVE the form and legality of the foregoing Agreement this 8th January day of 2002.

CASEY GWINN, City Attorney

By Kelly J. Salt
Kelly J. Salt, Deputy City Attorney

000369

EXHIBITS

Exhibit A - Scope of Services

Exhibit B - Compensation Schedule

Exhibit C - Fee Schedule

Exhibit D - Reserved

Exhibit E - City's Equal Opportunity Contracting Program Consultant Requirements

SCOPE OF SERVICES

1. The Consultant shall perform the duties and services specifically set forth herein and shall provide such other services as the City deems necessary or advisable, or are reasonable and necessary to accomplish the intent of this Agreement in a manner consistent with the standards and practices of professional Consultants.
2. Upon request, the Consultant shall provide the following arbitrage rebate compliance services:
 - (a) **Engagement** - The Consultant shall contact the City, on a yearly basis, to review those tax-exempt debt issues requiring arbitrage rebate services and discuss the work plan prior to performing any services.
 - (b) **Data Collection** - The Consultant shall review, with the City, all transcript documentation and investment activity needed to perform arbitrage rebate calculations. Standard documents to be reviewed include, but are not limited to, the Official Statement, Tax Certificate, IRS Form 8038 or 8038-G, Trust Indenture, Advance Refunding Escrow Verification, and Cash and Asset Statements. The Contractor shall use all available resources to assist the City in compiling this data. In the absence of a trustee, the Contractor shall discuss the accounting records to be provided by the City for the purpose of rebate calculations.
 - (c) **Issue Review** - As soon as the bond issue or bond issues have been identified and the transcript documents have been collected, the Consultant shall perform a thorough review of each issue. The Consultant shall confirm that the issue is subject to the rebate requirement, identify all relevant exceptions, elections and yield restrictions, and verify the arbitrage yield.
 - (d) **Engagement Summary** - All relevant findings and assumptions shall be summarized and delivered to the City in the form of an Engagement Summary. The arbitrage reporting requirements shall be reviewed with the City and target calculation dates entered into the Consultant's database monitoring system. Recommendations for changes in record keeping, if any, shall be made and provided to the City. For all new issues, the Engagement Summary shall be forwarded to the City within 90 days of the bond issue date, assuming the transcript documentation has been provided. The Engagement Summary shall identify the arbitrage rebate calculation requirements, bond year end date, distribution of funds, arbitrage yield, yield restriction requirements, investment highlights, and recommendations for record keeping for each new bond issue.

- (e) **Arbitrage Liability Calculation** - The Consultant shall perform the following activities for each bond issue to determine the City's cumulative arbitrage liability:
- (i) verify that the issue is subject to Rebate Requirement;
 - (ii) recalculate and verify the accuracy of the bond yield;
 - (iii) identify, and separately account for all "Gross Proceeds" (as that term is defined in the Rebate Requirement of the bond issue, including those requiring allocation analyses due to "transferred proceeds" and/or "commingled funds");
 - (iv) calculate the issue's excess investment earnings (cumulative rebate liability), taking into account any proceeds that are or have become subject to the yield restriction requirements;
 - (v) review and consider alternative investment valuation methods as appropriate;
 - (vi) review and consider application of alternative regulatory provisions that may improve the arbitrage liability; and
 - (vii) provide any other related services as requested by the City.
- (f) **Legal Opinion** - Provide a legal opinion that the methodology is correct, the assumptions are reasonable, and the rebate calculations comply with the applicable federal tax law.
- (g) **Arbitrage Rebate Report** - All interim, installment date, and final arbitrage liability calculations shall be compiled into a comprehensive report and delivered to the City within 60 days of the agreement or 45 days of the calculation date, whichever is later. This report shall include the following:
- (i) a computation Summary;
 - (ii) description of methodology;
 - (iii) a summary of all relevant dates and assumptions;
 - (iv) a sources and uses of funds;
 - (v) a debt service schedule;
 - (vi) an arbitrage yield calculation;
 - (vii) a rebate liability by fund and aggregate liability for each bond issue;
 - (viii) an investment yield by fund and comparison to the arbitrage yield; and
 - (ix) preparation of IRS Form 8038-T filing instructions as necessary.

000372

- (h) **Ongoing Support** - The Consultant shall be available throughout the term of this Agreement for the following services:
- (i) Review reports with City staff and plan for future calculations as appropriate. In addition to identifying any arbitrage liability, each report shall contain a separate analysis and investment yield comparison by fund. The reports shall provide sufficient information necessary for the City to analyze investment strategies and the impact on future rebate liability.
 - (ii) Maintain close contact with City staff by informing them of changes in the rebate regulations, court decisions, and other events that may affect arbitrage compliance requirements. Changes affecting previous calculations shall be incorporated into all future rebate updates.
 - (iii) Assist City staff in the event of an audit. The Consultant shall provide all supporting documentation used to prepare the calculations. At the discretion of the City, the Consultant shall be available for representation of the rebate calculations. Fees for this service will be charged at Consultant's hourly rate as set forth in Exhibit C.
 - (iv) Review the City's current policies and procedures for tracking expenditure and investment earnings allocations. If these systems do not provide sufficient detail to adequately calculate and monitor rebate liability, the Consultant shall make specific recommendations to ensure full compliance with all applicable federal regulations.

000373

COMPENSATION SCHEDULE
Annual Updates

No.	Description	Issue Date	Issue Amount	Report Fee
1	Centre City Redev. 1992	10/29/1992	\$36,935,000	\$2,350
2	Centre City Redev. 1993B	11/17/1993	\$27,275,000	\$1,600
3	Miramar Ranch North 1995B	12/27/1995	\$20,865,000	\$2,350
4	Horton Plaza 1996 A & B	05/30/1996	\$22,800,000	\$2,350
5	Miramar Ranch North 1998 Refunding	07/14/1998	\$59,465,000	\$2,100
6	Water Revenue 1998	08/18/1998	\$385,000,000	\$1,600
7	Centre City Redev. 1999 A & C	02/17/1999	\$39,290,000	\$2,100
8	PFFA Refunding 1999 A & B	02/25/1999	\$38,145,000	\$2,350
9	Centre City Parking 1999A	12/15/1999	\$12,105,000	\$1,600
10	Centre City Redev. 2000A	04/20/2000	\$6,100,000	\$1,600
11	CFD #2 Santaluz 2000 A & B	11/02/2000	\$60,370,000	\$1,600
12	Horton Plaza Redev. 2000	11/21/2000	\$15,025,000	\$2,100
13	Centre City Redev. 2000B	11/21/2000	\$21,390,000	\$1,600
TOTAL				\$25,300

000374

EXHIBIT C

FEE SCHEDULE

1. Base Fees (per bond issue)	
Basic Report Fee	\$1,600
Penalty in-lieu-of Arbitrage Report Fee	\$1,000
Incremental Fees	
Extended Computation Periods Fee	\$500/per year
(periods in excess of 12 months)	
Variable Rate Transactions Fee (one-time only)	\$500
Transferred Proceeds Analysis Fee	\$250 - \$1,000
Commingled Fund Analysis Fee	\$250 - \$1,000
Pooled Financing Fee	\$500/per participant

2. Additional Services

2.1 Amending Calculations. To the extent amendments to calculations are necessitated by changes in regulations, Consultant will be compensated at the hourly rates set forth below, plus standard out-of-pocket expenses, or under any other arrangement that is mutually agreeable to the City and the Consultant. However, under no circumstance will the fees for amending prior calculations exceed \$1,600 per calculation.

2.2 IRS Audit. In the event of an IRS Audit, the Consultant will be available to assist the City. Compensation will be at the hourly rates set forth below, plus standard out-of-pocket expenses, or any other arrangement that is mutually agreeable to the City and the Consultant.

Hourly Rates**Attorneys**

John H. Cross III, Tax Partner \$320
T. Kam Wong, Tax Partner \$320

Financial Analysis & Services

Takashi Iwata, Consultant \$140
Arun Nair, Financial Analyst \$100
Waid Lin, Financial Analyst \$100

3. Duration of Fee Schedule

The fee schedule shall be honored for the duration of the initial, and any additional contracting periods.

000375

EXHIBIT D

RESERVED

000376

**EQUAL OPPORTUNITY CONTRACTING PROGRAM [EOCP]
CONSULTANT REQUIREMENTS**

- A. The City of San Diego is strongly committed to equal opportunity in solicitation of professional service consultants. The City encourages prime consultants to share this commitment. Prime consultants are encouraged to take positive steps to diversify and expand their subconsultant solicitation base and to offer consulting opportunities to all eligible subconsultants.

Consultant shall comply with requirements of San Diego Ordinance No. 18173, sections 27.2701 through 22.2708, Equal Employment Opportunity Outreach Program [see Attachment 1].

- B. All proposers shall sign, submit with proposal package, and agree to be bound by the *Equal Opportunity Agreement* [see Attachment 2].

C. Consultant Work Force

3. Prior to award of contract, successful proposer must submit to the City's EOCP office a *Work Force Report* [see Attachment 3] or an *Equal Employment Opportunity [EEO] Plan*.

4. If under representations are noted in the *Work Force Report* when compared to County Labor Force Availability data, Consultant will be requested by EOCP staff to submit an *Equal Employment Opportunity Plan*.

- D. An acceptable *Equal Employment Opportunity Plan* must include at least the following assurances that:

1. The Consultant will maintain a working environment free of discrimination, harassment, intimidation and coercion at all sites and in all facilities at which the contractor's employees are assigned to work;

2. A responsible official is designated to monitor all employment related activity to ensure the company EEO Policy is being carried out and to submit reports relating to EEO provisions;

3. The Consultant disseminates and reviews its EEO Policy with all employees at least once a year, posts the policy statement and EEO posters on all company bulletin boards and job sites, and documents every dissemination, review and posting with a written record to identify the time, place, employees present, subject matter, and disposition of meetings;

4. The Consultant reviews, at least annually, all supervisors' adherence to and performance under the EEO Policy and maintains written documentation of these reviews;

5. The Consultant discusses its EEO Policy Statement with subconsultants with whom it anticipates doing business, includes the EEO Policy Statement in its subcontracts, and provides such documentation to the City upon request;

000377

6. The Consultant documents and maintains a record of all bid solicitations and outreach efforts to and from subconsultants, consultant associations and other business associations;
7. The Consultant disseminates its EEO Policy externally through various media, including the media of people of color and women, in advertisements to recruit, maintains files documenting these efforts, and provides copies of these advertisements to the City upon request;
8. The Consultant disseminates its EEO Policy to union and community organizations;
9. The Consultant provides immediate written notification to the City when any union referral process has impeded the Consultant's efforts to maintain its EEO Policy;
10. The Consultant maintains a current list of recruitment sources, including those outreaching to people of color and women, and provides written notification of employment opportunities to these recruitment sources with a record of the organizations' responses;
11. The Consultant maintains a current file of names, addresses and phone numbers of each walk-in applicant, including people of color and women, and referrals from unions, recruitment sources, or community organizations with a description of the employment action taken;
12. The Consultant encourages all present employees, including people of color and women employees, to recruit others;
13. The Consultant maintains all employment selection process information with records of all tests and other selection criteria;
14. The Consultant develops and maintains documentation for on-the-job training opportunities and/or participates in training programs for all of its employees, including people of color and women, and establishes apprenticeship, trainee, and upgrade programs relevant to the Consultant's employment needs;
15. The Consultant conducts, at least annually, an inventory and evaluation of all employees for promotional opportunities and encourages all employees to seek and prepare appropriately for such opportunities;
16. The Consultant ensures the company's working environment and activities are non-segregated except for providing separate or single-user toilets and necessary changing facilities to assure privacy between the sexes;
17. The Consultant establishes and documents policies and procedures to ensure job classifications, work assignments, promotional tests, recruitment and other personnel practices do not have a discriminatory effect; and

18. The Consultant is encouraged to participate in voluntary associations which assist in fulfilling one or more of its non-discrimination obligations. The efforts of a consultant association, consultant/community professional association, foundation or other similar group of which the Consultant is a member will be considered as being part of fulfilling these obligations, provided the Consultant actively participates.

E. Listing of Subconsultants

1. Proposer shall submit a *Subconsultants List* [see Attachment 4] indicating Scope of Services, percentage of contract, dollar amount of contract, certification status, and where certified.
2. Subconsultants and vendors must be named on the *Subconsultants List* if they receive more than \$10,000 or more than one-half of one percent [.5%], whichever amount is less.
3. Proposer shall also submit subconsultant commitment letters on subconsultant letterhead, no more than one page each, from all proposed subconsultants to acknowledge their commitment to the team, Scope of Services, and percent of participation in the project.

F. Subconsultant Participation Level

1. Projects valued at \$25,000 or more have a voluntary subconsultant participation level goal of 15%. Goals are achieved by contracting with any combination of Minority Business Enterprise [MBE], Women Business Enterprise [WBE], Disadvantaged Business Enterprise [DBE], Disabled Veteran Business Enterprise [DVBE], or Other Business Enterprise [OBE] level.
2. Attainment of the 15% subconsultant participation level goal is strongly encouraged but strictly voluntary.

G. Definitions

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

2. Certified **"Women Business Enterprise" [WBE]** means a business which is at least fifty-one percent [51%] owned by one or more women and whose management and daily operation is controlled by the qualifying party(ies). In the case of a publicly-owned business, at least fifty-one percent [51%] of the stock must be owned by, and the business operated by, one or more women.
3. Certified **"Disadvantaged Business Enterprise" [DBE]** means a business which is at least fifty-one percent [51%] owned and operated by one or more socially and economically disadvantaged individuals and whose management and daily operation is controlled by the qualifying party(ies). In the case of a publicly-owned business, at least fifty-one percent [51%] of the stock must be owned by, and the business operated by, socially and economically disadvantaged individuals.
3. Certified **"Disabled Veteran Business Enterprise" [DVBE]** means a business which is at least fifty-one percent [51%] owned by one or more veterans with a service related disability and whose management and daily operation is controlled by the qualifying party(ies).
5. **"Other Business Enterprise" [OBE]** means any business which does not otherwise qualify as Minority, Woman, Disadvantaged or Disabled Veteran Business Enterprise.

H. Certification

1. The City of San Diego is a signatory to a Memorandum of Understanding [MOU] with the California Department of Transportation [CALTRANS], and therefore has adopted a policy regarding certification of MBE/WBE/DBE/DVBE firms. As a result of the MOU, an MBE, WBE or DBE is certified as such by any of the following methods:
 - a. Current certification by the City of San Diego as MBE, WBE, or DBE;
 - b. Current certification by the State of California Department of Transportation [CALTRANS] as MBE, WBE or DBE;
 - c. Current *interim certification* as MBE, WBE or DBE by any member agency of the San Diego Joint Agency Contracting Opportunities Task Force [JACO: County of San Diego, San Diego Unified Port District, San Diego County Water Authority, San Diego City Schools, San Diego Association of Governments, Metropolitan Transit Development Board, or the City of San Diego]; or
 - d. Current MBE, WBE or DBE certification from any participating agency in the statewide certified pool of firms known as CALCERT.
2. DVBE certification is received from the State of California's Department of General Services, Office of Small and Minority Business, (916) 322-5060.
- I. To permit monitoring of compliance, successful proposer shall submit to EOCP *Contract Activity Reports* [see Attachment 6] reflecting work performed by subconsultants.

000380

ATTACHMENTS:

- 1 San Diego Municipal Ordinance No. 18173, Section 22.701 through 22.2708
- 2 Equal Opportunity Agreement
- 3 Work Force Report
- 4 Subconsultants List
- 5 Contract Activity Report
- 6 Consultant Certification for a Drug-Free Workplace