

**AGREEMENT FOR AUDIT SERVICES  
BETWEEN  
THE SUCCESSOR AGENCY TO THE REDEVELOPMENT AGENCY  
OF THE CITY OF SAN JOSE  
AND  
MACIAS GINI & O'CONNELL LLP**

THIS AGREEMENT is made and entered into this \_\_\_\_\_ day of \_\_\_\_\_, 2018 ("Contract Date"), by and between the SUCCESSOR AGENCY TO THE REDEVELOPMENT AGENCY OF THE CITY OF SAN JOSE, a public entity (hereinafter "SUCCESSOR AGENCY"), and MACIAS GINI & O'CONNELL LLP, a California limited liability partnership (hereinafter "AUDITOR").

**RECITALS**

The purpose for which this AGREEMENT is made, and all pertinent recitals, are listed on EXHIBIT A, entitled "RECITALS", which is attached hereto and incorporated herein.

THE PARTIES HEREBY AGREE AS FOLLOWS:

**SECTION 1. SCOPE OF SERVICES.**

AUDITOR shall perform those services specified in detail in EXHIBIT B, entitled "SCOPE OF SERVICES", which is attached hereto and incorporated herein.

**SECTION 2. TERM OF AGREEMENT.**

- A. The term of this AGREEMENT shall be from the Contract Date and shall extend through December 31, 2020, inclusive ("Initial Term"), subject to the provisions of SECTION 11 of this AGREEMENT, and subject to appropriation of adequate funding in the sole discretion of the Successor Agency Board to pay the expense of this AGREEMENT for each year of the Initial Term.

- B. SUCCESSOR AGENCY, in SUCCESSOR AGENCY's sole discretion, may extend the term of this AGREEMENT for up to three (3) additional one-year option periods ("Option Period(s)"), subject to all of the terms and provisions of this AGREEMENT. SUCCESSOR AGENCY's Executive Officer is authorized to exercise these Option Periods upon written notice to AUDITOR, subject to the appropriation of adequate funding in the sole discretion of the Successor Agency Board to pay the expense of this AGREEMENT for each year of the Option Periods. In the event the first Option Period is exercised by SUCCESSOR AGENCY's Executive Officer, the first Option Period will commence on January 1, 2021 and expire on December 31, 2021. In the event the second Option Period is exercised by SUCCESSOR AGENCY's Executive Officer, the second Option Period will commence on January 1, 2022 and expire on December 31, 2022. In the event the third Option Period is exercised by SUCCESSOR AGENCY's Executive Officer, the third Option Period will commence on January 1, 2023 and expire on December 31, 2023.

**SECTION 3. SCHEDULE OF PERFORMANCE.**

The services of AUDITOR are to be completed according to the schedule set out in EXHIBIT C, entitled "SCHEDULE OF PERFORMANCE", which is attached hereto and incorporated herein. Time is of the essence in this AGREEMENT.

**SECTION 4. COMPENSATION.**

- A. The maximum amount of compensation payable under this AGREEMENT for the Initial Term and, if exercised, the Option Periods, shall not exceed Three Hundred Fifty-Five Thousand Seven Hundred Dollars (\$355,700). The rate and schedule of payment is set out in EXHIBIT D, entitled "COMPENSATION," which is attached hereto and incorporated herein.

B. AUDITOR agrees that in the performance of this AGREEMENT, AUDITOR shall adhere to City Council Policy 1-19, the following provisions of which are made applicable to this AGREEMENT:

1. It is the policy of the City of San José ("CITY") that CITY's funds should not be used for the purchase of single-serving bottled water.
2. The following circumstances shall constitute exceptions to City Council Policy 1-19:
  - a. Public safety emergencies, investigations and extended deployments or activation of the Office of Emergency Services.
  - b. High risk of cross-contamination with non-potable water.
  - c. Situations where there are no reasonable alternatives to bottled water, such as large public events and when large quantities of water may need to be distributed for health and safety reasons.
3. AUDITOR acknowledges and agrees that an invoice seeking reimbursement from SUCCESSOR AGENCY for the cost of single-serving bottled water under the exception referenced above in Subsection 2 (c) must be accompanied by a waiver form provided by SUCCESSOR AGENCY and signed by the department head of the CITY department administering this AGREEMENT.

**SECTION 5. METHOD OF PAYMENT.**

Each month, AUDITOR shall furnish to the SUCCESSOR AGENCY a statement of the work performed for compensation during the preceding month, in accordance with the provisions of EXHIBIT D.

**SECTION 6. INDEPENDENT CONTRACTOR.**

It is understood and agreed that AUDITOR, in the performance of the work and services agreed to be performed by AUDITOR, shall act as and be an independent contractor and not an agent or employee of SUCCESSOR AGENCY; and as an independent contractor, AUDITOR shall obtain no rights to retirement benefits or other benefits which accrue to SUCCESSOR AGENCY's employees, and AUDITOR hereby expressly waives any claim it may have to any such rights.

**SECTION 7. ASSIGNABILITY.**

The parties agree that the expertise and experience of AUDITOR are material considerations for this AGREEMENT. AUDITOR shall not assign or transfer any interest in this AGREEMENT nor the performance of any of AUDITOR's obligations hereunder, without the prior written consent of SUCCESSOR AGENCY, and any attempt by AUDITOR to so assign this AGREEMENT or any rights, duties or obligations arising hereunder shall be void and of no effect.

**SECTION 8. INDEMNIFICATION.**

AUDITOR shall defend, indemnify and hold harmless SUCCESSOR AGENCY, its officers, employees and agents against any claim, loss or liability arising out of or resulting in any way from work performed under this AGREEMENT due to the willful or negligent acts (active or passive) or omissions by AUDITOR's officers, employees or agents. The acceptance of said services and duties by SUCCESSOR AGENCY shall not operate as a waiver of such right of indemnification.

**SECTION 9. INSURANCE REQUIREMENTS.**

AUDITOR agrees to have and maintain the policies set forth in EXHIBIT E, entitled "INSURANCE," which is attached hereto and incorporated herein. All policies, endorsements, certificates and/or binders shall be subject to approval by the CITY's Director of Finance or the Director's authorized designee ("Risk Manager") as to form and content. These requirements are subject to amendment or waiver if so approved in

writing by the Risk Manager. AUDITOR agrees to provide SUCCESSOR AGENCY with a copy of said policies, certificates and/or endorsements before work commences under this AGREEMENT.

**SECTION 10. NONDISCRIMINATION.**

AUDITOR shall not discriminate, in any way, against any person on the basis of race, sex, color, age, religion, sexual orientation, actual or perceived gender identity, disability, ethnicity, or national origin, in connection with or related to the performance of this AGREEMENT.

**SECTION 11. TERMINATION.**

- A. SUCCESSOR AGENCY shall have the right to terminate this AGREEMENT, without cause, by giving not less than seven (7) days' written notice of termination.
- B. If AUDITOR fails to perform any of its material obligations under this AGREEMENT, in addition to all other remedies provided by law, SUCCESSOR AGENCY may terminate this AGREEMENT immediately upon written notice.
- C. SUCCESSOR AGENCY's Executive Officer is empowered to terminate this AGREEMENT on behalf of SUCCESSOR AGENCY.
- D. In the event of termination, AUDITOR shall deliver to SUCCESSOR AGENCY copies of all reports, documents, and other work performed by AUDITOR under this AGREEMENT, except for audit documentation and/or working papers as these are property of the AUDITOR, and upon receipt thereof, SUCCESSOR AGENCY shall pay AUDITOR for services performed to the date of termination.

**SECTION 12. GOVERNING LAW.**

SUCCESSOR AGENCY and AUDITOR agree that the law governing this AGREEMENT shall be that of the State of California.

**SECTION 13. COMPLIANCE WITH LAWS.**

AUDITOR shall comply with all applicable laws, ordinances, codes and regulations of the federal, state and local governments. Without limiting the generality of the preceding sentence, AUDITOR shall comply with the provisions of CITY's Business Tax Ordinance in Chapter 4.76 of the San José Municipal Code.

**SECTION 14. ENVIRONMENTALLY PREFERABLE PROCUREMENT POLICY.**

AUDITOR agrees that, in the performance of this AGREEMENT, AUDITOR shall perform its obligations under the AGREEMENT in conformance with City Council Policy 4-6, Environmentally Preferable Procurement Policy. A description for environmentally preferable procurement and the Policy can be found on the CITY's website at the following link: <http://www.sanjoseca.gov/?nid=1774>.

Environmental procurement policies and activities related to the completion of work will include wherever practicable, but are not limited to:

- A. Use of recycled and/or recyclable products in daily operations (i.e. 30, 50, 100% PCW paper, chlorine process free; triclosan free hand cleaner, etc.)
- B. Use of Energy Star Compliant equipment.
- C. Vehicles and vehicle operations (i.e. Alternative Fuel, Hybrid, etc.)
- D. Internal waste reduction and reuse protocol(s).

- E. Water and resource conservation activities within facilities, including bans on individual serving bottled water and the use of compostable food service products, etc.

**SECTION 15. CONFIDENTIAL INFORMATION.**

All data, documents, discussions or other information developed or received by or for AUDITOR in performance of this AGREEMENT are confidential and not to be disclosed to any person except as authorized by SUCCESSOR AGENCY, or as required by law.

**SECTION 16. OWNERSHIP OF MATERIALS.**

All programs, working papers, files and other materials of the AUDITOR made pursuant to this AGREEMENT shall remain the property of the AUDITOR. The reports issued by the AUDITOR shall be and remain the property of SUCCESSOR AGENCY without restriction or limitation upon their use.

**SECTION 17. WAIVER.**

AUDITOR agrees that waiver by SUCCESSOR AGENCY of any breach or violation of any term or condition of this AGREEMENT shall not be deemed to be a waiver of any other term or condition contained herein or a waiver of any subsequent breach or violation of the same or any other term or condition. The acceptance by SUCCESSOR AGENCY of the performance of any work or services by AUDITOR shall not be deemed to be a waiver of any term or condition of this AGREEMENT.

**SECTION 18. AUDITOR'S BOOKS AND RECORDS.**

- A. AUDITOR shall maintain any and all ledgers, books of account, invoices, vouchers, cancelled checks, and other records or documents evidencing or relating to charges for services, or expenditures and disbursements charged to SUCCESSOR AGENCY for a minimum period of three (3) years, or for any longer period required by law, from the date of final payment to AUDITOR pursuant to this AGREEMENT.

- B. AUDITOR shall maintain all documents and records which demonstrate performance under this AGREEMENT for a minimum period of seven (7) years, or for any longer period required by law, from the date of termination or completion of this AGREEMENT.
- C. Any records or documents required to be maintained pursuant to this AGREEMENT shall be made available for inspection or audit at no cost to SUCCESSOR AGENCY, at any time during regular business hours, upon written request by the City Attorney, City Auditor, SUCCESSOR AGENCY's Executive Officer, SUCCESSOR AGENCY's Chief Financial Officer, or SUCCESSOR AGENCY's Managing Director, or a designated representative of any of these officers. Copies of such documents shall be provided to the requesting party for inspection at City Hall when it is practical to do so. Otherwise, unless an alternative is mutually agreed upon, the records shall be available at AUDITOR's address indicated for receipt of notices in this AGREEMENT. AUDITOR acknowledges that under certain circumstances specified in California Government Code Section 8546.7, this AGREEMENT (if it involves an expenditure of \$10,000 or more of public funds) may be subject to examination and audit by the Auditor of the State of California pursuant to California Government Code Section 8546.7.
- D. Where SUCCESSOR AGENCY has reason to believe that such records or documents may be lost or discarded due to dissolution, disbandment or termination of AUDITOR's business, any of the above-named officers may, by written request, require that custody of the records be given to SUCCESSOR AGENCY and that the records and documents be maintained in City Hall. Access to such records and documents shall be granted to any party authorized by AUDITOR, AUDITOR's representatives, or AUDITOR's successor-in-interest.



**SECTION 19. CONFLICT OF INTEREST.**

AUDITOR shall avoid all conflict of interest or appearance of conflict of interest in performance of this AGREEMENT. As of the date of entering into this AGREEMENT, AUDITOR's employees assigned to perform services as specified in EXHIBIT B of this AGREEMENT ("AUDITOR's Assigned Employees") shall not be required to complete and file a Form 700 with CITY's Clerk. In the event that the SUCCESSOR AGENCY subsequently determines to require AUDITOR's Assigned Employees to complete and file a Form 700 with CITY's Clerk, SUCCESSOR AGENCY will notify AUDITOR in writing of such requirement, including without limitation, instructions regarding the categories of economic interests subject to disclosure on the Form 700 ("Form 700 Notice"). AUDITOR shall cause AUDITOR's Assigned Employees to complete and file the Form 700 with CITY's Clerk and to submit a copy to CITY's Auditor, in accordance with the instructions specified in the Form 700 Notice, no later than thirty (30) days of the date of the Form 700 Notice.

**SECTION 20. GIFTS.**

- A. AUDITOR is familiar with SUCCESSOR AGENCY's prohibition against the acceptance of any gift by a SUCCESSOR AGENCY officer or designated employee, which prohibition is found in Chapter 12.08 of the San José Municipal Code.
- B. AUDITOR agrees not to offer any SUCCESSOR AGENCY officer or designated employee any gift prohibited by said Chapter.
- C. The offer or giving of any gift prohibited by Chapter 12.08 shall constitute a material breach of this AGREEMENT by AUDITOR. In addition to any other remedies SUCCESSOR AGENCY may have in law or equity, SUCCESSOR AGENCY may terminate this AGREEMENT for such breach as provided in SECTION 11 of this AGREEMENT.

**SECTION 21. DISQUALIFICATION OF FORMER EMPLOYEES.**

AUDITOR is familiar with the provisions relating to the disqualification of former officers and employees of SUCCESSOR AGENCY in matters which are connected with former duties or official responsibilities as set forth in Chapter 12.10 of the San José Municipal Code ("Revolving Door Ordinance"). AUDITOR shall not utilize either directly or indirectly any officer, employee, or agent of AUDITOR to perform services under this AGREEMENT, if in the performance of such services, the officer, employee, or agent would be in violation of the Revolving Door Ordinance.

**SECTION 22. SPECIAL PROVISIONS.**

Special provisions, if any, to this AGREEMENT are specified in EXHIBIT F, entitled, "SPECIAL PROVISIONS", which is attached hereto and incorporated herein.

**SECTION 23. NOTICES.**

All notices and other communications required or permitted to be given under this AGREEMENT shall be in writing and shall be personally served or mailed, postage prepaid and return receipt requested, addressed to the respective parties as follows:

To SUCCESSOR AGENCY: Successor Agency to the Redevelopment  
Agency of the City of San José  
Attn: Richard Keit, Managing Director  
200 East Santa Clara Street, 14th Floor  
San José, CA 95113-1905

and to: City Auditor  
City of San José  
200 East Santa Clara Street, 14th Floor  
San José, CA 95113-1905

To AUDITOR: Macias Gini & O'Connell LLP  
Attn: David Bullock  
2121 N. California Blvd., Suite 750  
Walnut Creek, CA 94596

A copy of any notice of a legal nature, including, but not limited to, any claims against SUCCESSOR AGENCY, its officers or employees, shall also be served in the manner specified above to the following address:

Successor Agency to the Redevelopment  
Agency of the City of San José  
Attn: Richard Doyle, General Counsel  
200 East Santa Clara Street, 16th Floor  
San José, CA 95113-1905

Notice shall be deemed effective on the date personally delivered or, if mailed, three (3) days after deposit in the mail.

**SECTION 24. VENUE.**

In the event that suit shall be brought by either party to this contract, the parties agree that venue shall be exclusively vested in the state courts of the County of Santa Clara, or if federal jurisdiction is appropriate, exclusively in the United States District Court, Northern District of California, San José, California.

**SECTION 25. INTERPRETATION, PRIOR AGREEMENTS AND AMENDMENTS.**

This AGREEMENT, including all Exhibits attached hereto, represents the entire understanding of the parties as to those matters contained herein. In the event that the terms specified in any of the Exhibits attached hereto conflict with any of the terms specified in the body of this AGREEMENT, the terms specified in the body of this AGREEMENT shall control. No prior oral or written understanding shall be of any force or effect with respect to those matters covered hereunder. This AGREEMENT may be modified only by a written amendment duly executed by the parties to this AGREEMENT.

**WITNESS THE EXECUTION HEREOF** on the day and year first hereinabove written.

**"SUCCESSOR AGENCY"**

APPROVED AS TO FORM:

SUCCESSOR AGENCY TO THE  
REDEVELOPMENT AGENCY OF THE  
CITY OF SAN JOSE, a public entity

\_\_\_\_\_  
DANIELLE KENEALEY  
Chief Deputy City Attorney

By \_\_\_\_\_  
TONI J. TABER, CMC  
Successor Agency Clerk

**"AUDITOR"**

MACIAS GINI & O'CONNELL LLP, a  
California limited liability partnership

By \_\_\_\_\_  
DAVID BULLOCK  
Partner

**EXHIBIT A**  
**RECITALS**

**WHEREAS**, SUCCESSOR AGENCY desires to obtain audit services to perform required financial and compliance audits; and

**WHEREAS**, MACIAS GINI & O'CONNELL LLP has the necessary professional expertise and skill to perform such auditing services;

**NOW, THEREFORE**, the purpose of this AGREEMENT is to retain MACIAS GINI & O'CONNELL LLP, a California limited liability partnership, as AUDITOR to SUCCESSOR AGENCY to perform those services specified in SECTION 1 of this AGREEMENT.

**EXHIBIT B**  
**SCOPE OF SERVICES**

**A. OVERVIEW OF SERVICES**

1. Subject to the provisions of SECTION 2 of this AGREEMENT, AUDITOR shall perform the services ("Audit Services") for the fiscal years ending on June 30<sup>th</sup> of 2018, 2019, and 2020 and, if SUCCESSOR AGENCY exercises its rights to extend the Initial Term of this AGREEMENT, for the fiscal years ending on June 30<sup>th</sup> of 2021, 2022, and 2023.
2. AUDITOR shall provide all Audit Services in accordance with all applicable federal, state and local codes, rules, regulations and generally accepted auditing and accounting professional standards for certified public accountants. All of the Audit Services to be furnished by AUDITOR under this AGREEMENT shall be of the highest professional standard and quality which prevail among certified public accountants of superior knowledge and skill engaged in related work throughout California under the same or similar circumstances.
3. AUDITOR shall inform, in accordance with the American Institute of CPAs ("AICPA") and U.S. Government Accountability Office ("GAO") guidelines, the SUCCESSOR AGENCY promptly of any discrepancy or irregularity, including fraud and defalcations, material to the financial statements which AUDITOR may discover in the course of the audits; and AUDITOR shall submit to the SUCCESSOR AGENCY those recommendations resulting from their audits as to methods of investigation considered necessary or appropriate to determine the cause and extent of any such discrepancy or irregularity. In addition, AUDITOR shall inform the SUCCESSOR AGENCY of upcoming Governmental Accounting Standards Board ("GASB") pronouncements and provide assistance for an appropriate and timely implementation.
4. AUDITOR shall perform all Audit Services to the satisfaction of SUCCESSOR AGENCY's Executive Officer, and shall coordinate the scheduling of the required work with the SUCCESSOR AGENCY's Chief Financial Officer.

**B. AUDIT WORK PLANS**

Each year during the term of this AGREEMENT, AUDITOR shall prepare and submit an audit work plan for the SUCCESSOR AGENCY to the SUCCESSOR AGENCY's Chief Financial Officer, scheduling the required work for the efficient and prompt completion of the Audits, Reports and Opinions described herein.

This audit work plan will be published by the AUDITOR and delivered to the SUCCESSOR AGENCY's Chief Financial Officer not later than the agreed-upon due dates specified in EXHIBIT C. The audit work plan is to contain discussion on the following items: (1) the organizational structure of the SUCCESSOR AGENCY, CITY's Finance Department, and the audit firm; (2) an overview on the basis of accounting utilized, any significant accounting areas, data processing, and the budgetary process; (3) financial and operating information as considered necessary; (4) any areas of potential concern to AUDITOR; (5) description of SUCCESSOR AGENCY assistance required, including a listing of reports and workpapers and when those would be required; (6) engagement staffing; (7) other issues AUDITOR believes should be included; and (8) methods of communication that will be used to keep SUCCESSOR AGENCY personnel informed during audit fieldwork. Each audit work plan is subject to the review and approval of SUCCESSOR AGENCY's Chief Financial Officer.

#### **C. QUALITY CONTROL**

In order to maintain audit quality control and assurance, AUDITOR shall have an appropriate internal quality control system in place and shall undergo external peer review in accordance with AICPA guidelines and Government Auditing Standards, 2011 revision or later revision. AUDITOR promptly shall provide SUCCESSOR AGENCY's Chief Financial Officer with documentation of each external peer review which occurs during the term of this AGREEMENT.

AUDITOR shall utilize only staff members who are experienced in public sector auditing and who have, within the past two (2) years, received an appropriate level of education and training directly related to the government environment and government auditing.

#### **D. AUDIT REPORTS**

In connection with the audit described in Paragraph J, AUDITOR shall prepare a written audit report ("Audit Report") in accordance with generally accepted auditing standards as promulgated by the AICPA and the applicable audit standards contained in Government Auditing Standards, 2011 revision, issued by the Comptroller General of the United States, as well as comply with subsequent issued revisions, with the objective of expressing an opinion on the financial statements, as a whole. The Audit Report shall consist of the AUDITOR's written opinion on the Successor Agency to the Redevelopment Agency of the City of San José Financial Statements together with the final financial statements and related notes.

#### **E. USE OF WORK PRODUCT**

AUDITOR shall perform the procedures necessary to ensure that CITY and SUCCESSOR AGENCY may use AUDITOR's reports in connection with any

official purpose including without limitation publication of AUDITOR's reports in offering documents for the issuance of debt and annual bond disclosure reporting. AUDITOR agrees that such reports may be reproduced and published by CITY or SUCCESSOR AGENCY without restriction or limitation upon their use. SUCCESSOR AGENCY understands that under auditing standards generally accepted in the United States of America, the independent auditor is presumed not to be associated with financial statements included in an offering statement.

**F. INTERNET PUBLICATION OF WORK PRODUCT**

AUDITOR shall provide all written work product in an electronic format or publication on the internet such as a searchable Adobe PDF document or other electronic format as approved by the SUCCESSOR AGENCY that meets Disability Access Design Standards. With regard to the electronic dissemination of audited financial statements, including financial statements published electronically on the CITY's or SUCCESSOR AGENCY's website, SUCCESSOR AGENCY understands that electronic sites are a means to distribute information and therefore, AUDITOR is not required to read the information contained on these sites or to consider the consistency of other information on the electronic site with the original document.

**G. AUDIT INQUIRIES**

AUDITOR will assist SUCCESSOR AGENCY in responding to inquiries from federal, state and/or regional agencies on issues related to AUDITOR's Audit Services.

**H. GASB GUIDANCE**

AUDITOR will provide guidance and information to SUCCESSOR AGENCY on changes in accounting principles due to new GASB pronouncements.

**I. ADDITIONAL SERVICES**

The SUCCESSOR AGENCY reserves the right to request additional Audit Services and may request AUDITOR to provide a quote as to the cost of auditing the additional entity based on the per hour rate agreed upon in this AGREEMENT. SUCCESSOR AGENCY reserves the right to negotiate the quote or decline to engage AUDITOR's services for such.

**J. AUDIT SERVICES**

1. Each year, during the term of this AGREEMENT, AUDITOR shall conduct an audit for the fiscal year from July 1 to June 30, of the financial



statements of the SUCCESSOR AGENCY to the extent required for the AUDITOR to issue an opinion on the fair presentation, in accordance with generally accepted accounting principles, of the financial statements.

2. Management Letter

AUDITOR shall evaluate the adequacy of the system of internal control and design compliance tests, where appropriate, to determine that the controls are in operation. This evaluation will be performed to the extent required by generally accepted auditing standards, and will be for the purpose of determining the nature, timing, and extent of the AUDITOR's substantive audit procedures. The resulting recommendations and any other audit findings or comments shall be included in a separate letter ("Management Letter") addressed to the SUCCESSOR AGENCY's Oversight Board to be issued as soon as possible after conclusion of the audits. AUDITOR shall submit a draft of said Management Letter to SUCCESSOR AGENCY's Chief Financial Officer. SUCCESSOR AGENCY shall prepare a response to the recommendations and return the response to AUDITOR for incorporation into the Management Letter.

**EXHIBIT C**  
**SCHEDULE OF PERFORMANCE**

- A. AUDITOR shall complete the following phases and/or deliver the following documents according to the following time schedule for the audit of the fiscal years noted in Paragraph D below. "Delivered" shall mean physical receipt by the persons designated below as recipients of delivery. Two (2) bound copies of each of the documents listed below, together with an unbound copy of each report, and an electronic copy of each report, are to be delivered directly to CITY's Auditor and SUCCESSOR AGENCY's Chief Financial Officer.

<b><u>TASK</u></b>	<b><u>SCHEDULE</u></b>
<b><u>Planning</u></b>	
Entrance conference	By April 15
Client service planning meeting	By May 15
Present audit plan to SUCCESSOR AGENCY representatives	By July 15
<b><u>Interim Fieldwork</u></b>	
On-site interim fieldwork	May through July
Present interim findings and to-date management letter listing to SUCCESSOR AGENCY representatives	The second week of August
<b><u>Year-End Fieldwork</u></b>	
Coordination of year end fieldwork status with CITY's Finance Department	August through October
On-site year-end financial statement fieldwork	August through October
Exit conference with SUCCESSOR AGENCY representatives	October

<b><u>Reports</u></b>	<b><u>Due by</u></b>
Successor Agency to the Redevelopment Agency Audit Report including Financial Statements Opinion and Management Letter	October 31

- B. Either CITY's Auditor or SUCCESSOR AGENCY's Chief Financial Officer may, upon notice and showing of good cause therefore given and made by AUDITOR at least fifteen (15) days before the above-scheduled dates, grant an extension of time for completion of such audit and completion and delivery of such reports and management letters for a reasonable period of time after the specified delivery dates.

- C. AUDITOR shall make its presentation to the SUCCESSOR AGENCY or any other Committee designated by CITY's Auditor.
- D. AUDITOR will perform all services associated with the audits for fiscal years ending on June 30<sup>th</sup> of 2018, 2019 and 2020 and with the audits for the Option Periods ending on June 30<sup>th</sup> of 2021, 2022 and 2023, in accordance with the schedule specified in Paragraph A above.

**EXHIBIT D**  
**COMPENSATION**

- A. The amount of compensation to be paid to AUDITOR under this AGREEMENT for all professional services related to this AGREEMENT shall not exceed the following amounts for each year of the Initial Term and, if exercised, the Option Periods:

<u>Year</u>	<u>Compensation</u>
Contract Date – December 31, 2018	\$55,131.78
January 1, 2019 – December 31, 2019	\$56,613.35
January 1, 2020 – December 31, 2020	\$58,311.75
January 1, 2021 – December 31, 2021	\$60,061.10
January 1, 2022 – December 31, 2022	\$61,862.94
January 1, 2023 – December 31, 2023	\$63,718.82
<b>TOTAL:</b>	<b>\$355,699.74</b>

The total amount of compensation to be paid to AUDITOR under this AGREEMENT for all professional services related to this AGREEMENT for the Initial Term and, if exercised, all Option Periods shall not exceed Three Hundred Fifty-Five Thousand Seven Hundred Dollars (\$355,700).

Any hours worked for which payment would result in a total exceeding the maximum amount of compensation set forth herein shall be at no cost to SUCCESSOR AGENCY.

- B. Such compensation for services related to the first year of the Initial Term shall not exceed the following annual amount for the following services:

<u>Services</u>	<u>Compensation</u>
Successor Agency to the Redevelopment Agency of the City of San José Financial Statements Audit	\$55,131.78

- C. SUCCESSOR AGENCY will pay AUDITOR on a monthly basis for its accumulated time spent in accordance with the hourly rates set forth below, up to ninety percent (90%) of the amount set forth in Paragraph B above, designated for each component of the services to be provided by AUDITOR under this AGREEMENT. For billing purposes, each monthly statement shall include an itemization of staff, hours worked, and hourly rates. After the first year of the AGREEMENT, AUDITOR may increase the hourly rates annually by up to the lesser amount of three percent (3%) or the increase in the Consumer Price Index for All Urban Consumers, All Items, for the San Francisco-Oakland-San José Metropolitan Area (1982-84=100) (October) as published by the Bureau of Labor Statistics of the U.S. Department of Labor.

<u>Staff Classification</u>	<u>Hourly Rate</u>
Partner	\$335
Senior Manager	\$234
Senior Auditor	\$153
Staff Auditor	\$115
Administrative Assistant	\$80

There shall be no separately reimbursable expenses under this AGREEMENT.

The balance of the amount due to AUDITOR will be paid within thirty (30) days after the delivery of the Audit Report and the filing of the final draft of the Management Letter, provided that SUCCESSOR AGENCY's Managing Director has determined that all conditions and terms of this AGREEMENT have been met by AUDITOR.

**EXHIBIT E**  
**INSURANCE**

AUDITOR, at AUDITOR 's sole cost and expense, shall procure and maintain for the duration of this AGREEMENT insurance against claims for injuries to persons or damages to property which may arise from, or in connection with, the performance of the services hereunder by AUDITOR, its agents, representatives, employees or subcontractors.

**A. Minimum Scope of Insurance**

Coverage shall be at least as broad as:

1. The coverage provided by Insurance Services Office Commercial General Liability coverage ("occurrence") Form Number CG 0001; and
2. The coverage provided by Insurance Services Office Form Number CA 0001 covering Automobile Liability. Coverage shall be included for all owned, non-owned and hired automobiles; and
3. Workers' Compensation insurance as required by the California Labor Code and Employers Liability insurance; and
4. Professional Liability Errors & Omissions for all professional services.

There shall be no endorsement reducing the scope of coverage required above unless approved by the CITY's Risk Manager.

**B. Minimum Limits of Insurance**

AUDITOR shall maintain limits no less than:

1. Commercial General Liability: \$1,000,000 per occurrence for bodily injury, personal injury and property damage. If Commercial Liability Insurance or other form with a general aggregate limit is used, either the general aggregate limit shall apply separately to this project/location or the general aggregate limit shall be twice the required occurrence limit; and
2. Automobile Liability: \$1,000,000 combined single limit per accident for bodily injury and property damage; and
3. Workers' Compensation and Employers Liability: Workers' Compensation limits as required by the California Labor Code and Employers Liability limits of \$1,000,000 per accident; and

4. Professional Liability Errors & Omissions: \$2,000,000 per occurrence/ aggregate limit.

**C. Deductibles and Self-Insured Retentions**

Any deductibles or self-insured retentions must be declared to, and approved by the SUCCESSOR AGENCY. At the option of the SUCCESSOR AGENCY, either: the insurer shall reduce or eliminate such deductibles or self-insured retentions as respects the SUCCESSOR AGENCY, the CITY, and their officers, employees, agents and contractors; or AUDITOR shall procure a bond guaranteeing payment of losses and related investigations, claim administration and defense expenses in an amount specified by the SUCCESSOR AGENCY.

**D. Other Insurance Provisions**

The policies are to contain, or be endorsed to contain, the following provisions:

1. Commercial General Liability and Automobile Liability Coverages
  - a. The SUCCESSOR AGENCY, the CITY, and their officers, employees, agents and contractors are to be covered as additional insureds as respects: Liability arising out of activities performed by or on behalf of, AUDITOR; products and completed operations of AUDITOR; premises owned, leased or used by AUDITOR; and automobiles owned, leased, hired or borrowed by AUDITOR. The coverage shall contain no special limitations on the scope of protection afforded to the SUCCESSOR AGENCY, the CITY, and their officers, employees, agents and contractors.
  - b. AUDITOR's insurance coverage shall be primary insurance as respects the SUCCESSOR AGENCY, the CITY, and their officers, employees, agents and contractors. Any insurance or self-insurance maintained by the SUCCESSOR AGENCY, the CITY, and their officers, employees, agents or contractors shall be excess of AUDITOR's insurance and shall not contribute with it.
  - c. Any failure to comply with reporting provisions of the policies by AUDITOR shall not affect coverage provided the SUCCESSOR AGENCY, the CITY, and their officers, employees, agents, or contractors.
  - d. Coverage shall state that AUDITOR'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.

- e. Coverage shall contain a waiver of subrogation in favor of the SUCCESSOR AGENCY, the CITY, and their officers, employees, agents and contractors.

2. Workers' Compensation and Employers' Liability

Coverage shall contain waiver of subrogation in favor of the SUCCESSOR AGENCY, the CITY, and their officers, employees, agents and contractors.

3. All Coverages

Each insurance policy required by this AGREEMENT shall be endorsed to state that coverage shall not be suspended, voided, cancelled, or reduced in limits except after thirty (30) days' prior written notice has been given to SUCCESSOR AGENCY, except that ten (10) days' prior written notice shall apply in the event of cancellation for nonpayment of premium.

**E. Acceptability of Insurers**

Insurance is to be placed with insurers acceptable to CITY's Risk Manager.

**F. Verification of Coverage**

AUDITOR shall furnish SUCCESSOR AGENCY with certificates of insurance and with original endorsements affecting coverage required by this AGREEMENT. The certificates and endorsements for each insurance policy are to be signed by a person authorized by that insurer to bind coverage on its behalf.

Proof of insurance shall be either emailed in pdf format to: [Riskmgmt@sanjoseca.gov](mailto:Riskmgmt@sanjoseca.gov), or mailed to the following postal address or any subsequent address as may be directed in writing by the Risk Manager:

City of San José – Finance Department  
Risk & Insurance  
200 East Santa Clara St., 14<sup>th</sup> Floor  
San José, CA 95113-1905

**G. Subcontractors**

AUDITOR shall include all subcontractors as insureds under its policies or shall obtain separate certificates and endorsements for each subcontractor.



**EXHIBIT F**  
**SPECIAL PROVISIONS**

**I. AUDITOR's Workpapers and Reports.**

- A. AUDITOR shall maintain all audit workpapers and reports which demonstrate performance under this AGREEMENT for a minimum period of seven (7) years, or for any longer period required by law, from the date of termination or completion of this AGREEMENT.
- B. Any audit workpapers or reports required to be maintained pursuant to this AGREEMENT shall be made available for inspection or audit, at no cost to CITY, at any time during regular business hours upon written request by the City Attorney, the City Auditor, SUCCESSOR AGENCY's Executive Officer, SUCCESSOR AGENCY's Chief Financial Officer, SUCCESSOR AGENCY's Managing Director, and successor auditors, or a designated representative of any of these officers. Copies of such audit workpapers and reports shall be provided CITY for inspection at AUDITOR's address indicated for receipt of notices in this AGREEMENT.

**II. Designation of Coordinators.**

The SUCCESSOR AGENCY designates Julia H. Cooper, Chief Financial Officer, and Sharon W. Erickson, CITY's Auditor, as SUCCESSOR AGENCY's coordinators of this AGREEMENT. AUDITOR designates David Bullock as AUDITOR's coordinator of this AGREEMENT. These coordinators, or their designated successors, will perform the function of coordinating the parties' efforts to efficiently execute this AGREEMENT.