

## **PROFESSIONAL SERVICES CONTRACT FOR CONSULTING SERVICES**

This contract is entered into and effective on July 1, 2016, by and between the CITY OF STOCKTON, hereinafter referred to as "CITY," and FRIENDS OUTSIDE hereinafter referred to as "CONSULTANT."

### **Section 1 SCOPE OF SERVICES**

Subject to the terms and conditions set forth in this Agreement, CONSULTANT shall provide CITY the services described in Exhibit A, entitled "Scope of Services," attached to this Agreement and incorporated by reference. CONSULTANT shall not be compensated for services outside the scope of services as set forth in Exhibit A unless, prior to the commencement of such services: (a) CONSULTANT notifies CITY and CITY agrees that such services are outside of the scope of services to be performed; (b) CONSULTANT estimates the additional compensation required for the additional services; and, (c) CITY, after notice, approves the additional services and amount of compensation.

### **Section 2 COMPENSATION**

CITY shall pay CONSULTANT for services rendered pursuant to this Agreement at the times and in the manner as set forth in Exhibit A, attached to this Agreement and incorporated by reference. Payments specified in Exhibit A shall be the only payments to be made to CONSULTANT for services rendered pursuant to this Agreement unless, pursuant to Section 1 above, CITY approves additional compensation for additional services.

CONSULTANT will submit monthly invoices to CITY for services completed and reasonable expenses incurred to the date of the invoice. All invoices will be itemized to reflect the categories of employees performing the requested tasks, the billing rate for each employee, and the hours for services.

All invoices sent by CONSULTANT to CITY shall be paid within thirty (30) days of receipt, provided supporting narrative and hours billed against the specific task allocations in the contract's scope of work are included and acceptable to the CITY.

**Section 3**  
**TERMS AND CONDITIONS OF AGREEMENT**

1. Time for Commencement and Completion of Services: CONSULTANT shall commence services on the date first set out above, and shall prosecute the services to completion, unless the agreement is terminated, as provided for herein or modified by CITY and agreed to by CONSULTANT.

2. Facilities and Property: CITY agrees to make its facilities accessible to CONSULTANT as required for CONSULTANT's performance of its services.

3. License, Permits, and Compliance with Law: Prior to performing any services for CITY, CONSULTANT, if not already in possession of a valid City of Stockton business license shall obtain one at its own expense and maintain it for the duration of this Agreement. In addition, CONSULTANT represents that prior to commencing any services under this Agreement, it shall obtain and maintain at its own expense during the life of this Agreement any other licenses, permits, qualifications, and approval required to practice its profession and perform the contract services and shall comply with any and all applicable local, state, and federal laws in performing the contract services.

4. Relationship of Parties, No Third-Party Beneficiaries: CONSULTANT is an independent contractor under this Agreement. This Agreement gives no rights or benefits to anyone not named as a party to this Agreement, and there are no third party beneficiaries to this Agreement. In the exercise of rights and obligations under this Agreement, CONSULTANT acts as an independent contractor and not as an agent or employee of CITY. CITY shall not control where and how services are performed. CITY shall not reimburse CONSULTANT for business expenses or supplies and shall not provide CONSULTANT with vacation, pension, insurance, or sick leave. CONSULTANT shall provide CONSULTANT'S own office, tools, and supplies and shall be free to engage in contracts with other persons or agencies, either public or private. CONSULTANT shall not be entitled to any rights and benefits accorded or accruing to the City Council members, officers or employees of CITY, and CONSULTANT expressly waives any and all claims to such right and benefits.

5. Subcontracts: CONSULTANT may use the services of independent contractors to perform a portion of its obligations under this Agreement with prior approval by CITY. Independent contractors and subcontractors shall be provided with a copy of this Agreement and shall agree to be bound by its terms. CONSULTANT shall be the responsible party with respect to all actions of its independent contractors and subcontractors, and shall obtain such insurance and indemnity provisions from contractors and subcontractors as CONSULTANT shall determine to be necessary.

6. No Discrimination: In performing the services under this Agreement, CONSULTANT shall not discriminate in the employment of its employees and the engagement of any subcontractors on the basis of race, religion, color, national origin, ancestry, disability, marital status, pregnancy, medical condition, gender, sexual orientation, or political opinions or affiliation or any other criteria prohibited by law.

7. Insurance Requirements: CONSULTANT shall comply with the insurance requirements set forth in Exhibit B, attached to this Agreement and incorporated by reference. In addition, CONSULTANT, in accordance with the provisions of Section 3700 of the California Labor Code, shall secure at its own expense and maintain during the life of this Agreement, Workers' Compensation coverage for its employees as necessary to protect CONSULTANT and its employees under the Workers' Compensation Insurance and Safety Act. Such insurance shall be in a standard form and shall relieve CITY of all responsibility for such claims and or liability. CONSULTANT shall, prior to undertaking the work contemplated herein, supply CITY with a certificate of insurance evidencing that said insurance coverage is in full effect.

8. Indemnity and Hold Harmless: With the exception that this section shall in no event be construed to require indemnification by CONSULTANT to a greater extent than permitted under the public policy of the State of California, CONSULTANT shall, indemnify, protect, defend with counsel approved by CITY and at CONSULTANT'S sole cost and expense, and hold harmless CITY, its Mayor, Council, officials, representatives, agents employees and volunteers from and against any and all claims, causes of action, liabilities, judgments, awards, losses, liens, claims, stop notices, damages, expenses, and costs (including without limitation attorneys' fees, expert and consultant fees, and other expenses of litigation) of every nature, including, but not limited to, death or injury to persons, or damage to property, which arise out of or are in any way connected with the work performed, materials furnished, or services provided under this Agreement, or from any violation of any federal, state, or municipal law or ordinance, or CITY Policy, by CONSULTANT or CONSULTANT'S officers, agents, employees, volunteers or subcontractors. CONSULTANT shall not be obligated to indemnify or defend CITY for claims finally determined by a court of law or arbitrator to arise from the active negligence or willful misconduct of the CITY. It is the intent of the Parties that this indemnity obligation is at least as broad as is permitted under California law. To the extent California Civil Code sections 2782, et seq., limit the defense or indemnity obligations of CONSULTANT to CITY, the intent hereunder is to provide the maximum defense and indemnity obligations allowed by CONSULTANT under the law. The indemnity set forth in this section shall not be limited by insurance requirements or by any other provision of this Agreement.

With the exception that this section shall in no event be construed to require indemnification, including the duty to defend, by CONSULTANT to a greater extent than permitted under the public policy of the State of California, the parties agree that CONSULTANT'S duty to defend CITY is immediate and arises upon the filing of any claim against the CITY for damages which arise out of or are in any way connected

with the work performed, materials furnished, or services provided under this Agreement by CONSULTANT or CONSULTANT'S officers, agents, employees, volunteers or subcontractors. CONSULTANT'S duties and obligations to defend the CITY shall apply regardless of whether or not the issue of the CITY'S liability, breach of this Agreement, or other obligation or fault has been determined. CONSULTANT shall be immediately obligated to pay for CITY'S defense costs of the claim, including, but not limited to, court costs, attorney's fees and costs, expert consultant and witness fees and costs, other witness fees, document reproduction costs, arbitration fees, and, if after final judgment an appeal is pursued, all of such costs for the appeal. At the conclusion of the claim, if there is any determination or finding of sole active negligence or willful misconduct on the part of the CITY, CITY will then reimburse CONSULTANT for amounts paid in excess of CONSULTANT'S proportionate share of responsibility for the damages within 30 days after CONSULTANT provides CITY with copies of all bills and expenses incurred in the defense of the claim(s). It is agreed between the parties that this reimbursement provision assures CONSULTANT is not obligated to defend or indemnify CITY in an amount greater than provided for under California law, including, without limitation, California Civil Code sections 2782, 2782.6, and 2782.8.

With the exception that this section shall in no event be construed to require indemnification by CONSULTANT to a greater extent than permitted under the public policy of the State of California, and in addition to the other indemnity obligations in this Agreement, CONSULTANT shall indemnify, defend, and hold harmless CITY its Mayor, Council, officials, representatives, agents employees and volunteers from and against all claims, losses, expenses, and costs including but not limited to attorneys' fees, arising out of any claim brought against the CITY by an employee, office, agent, or volunteer of CONSULTANT, regardless of whether such claim may be covered by any applicable workers' compensation insurance. CONSULTANT'S indemnification obligation is not limited in any way by any limitation on the amount or type of damages, compensation, or benefits payable by or for the CONSULTANT under workers' compensation acts, disability acts, or other employee benefit acts.

9. Standard of Performance: CONSULTANT shall perform all services required pursuant to this Agreement in the manner and according to the standards observed by a competent practitioner of the profession. All services and/or products of whatever nature that CONSULTANT delivers to CITY pursuant to this Agreement shall be prepared in a professional manner and conform to the standards of quality normally observed by a person practicing the profession of CONSULTANT and its agents, employees, and subcontractors assigned to perform the services contemplated by this Agreement.

10. Ownership and Use of Documents and Electronic Media Deliverables: All completed reports and other data or documents provided or prepared by CONSULTANT in accordance with this Agreement are the property of CITY, and may be used by CITY at its own risk.

11. Resolutions of Disputes, Forum, and Attorneys' Fees: The laws of the State of California shall govern the interpretation of and the resolution of disputes under this Agreement. Any dispute arising from this Agreement shall be adjudicated in the courts of San Joaquin County in the State of California. If any claim, at law or otherwise is made by either party to this Agreement, the prevailing party shall be entitled to its costs and reasonable attorneys' fees.

12. Termination: This Agreement shall continue until terminated as provided for herein. CITY may terminate this Agreement at any time by providing written notice to CONSULTANT. CONSULTANT may terminate this Agreement by providing thirty (30) days written notice to CITY. In the event CITY shall give such notice of termination, CONSULTANT shall immediately cease rendering services pursuant to this Agreement.

In the event CITY shall terminate this Agreement: (a) CITY shall have full ownership and control of all writings which have been delivered by CONSULTANT pursuant to this Agreement and all drafts of reports and writings which form the basis for any writing or report which would have been otherwise delivered to CITY pursuant to this Agreement; (b) CITY shall pay CONSULTANT the reasonable value of services rendered by CONSULTANT pursuant to this Agreement; provided, however, CITY shall not in any manner be liable for lost profits which might have been made by CONSULTANT had CONSULTANT completed the services required by this Agreement. In this regard, CONSULTANT shall furnish the CITY such financial information as in the judgment of the CITY representative is necessary to determine the reasonable value of the services rendered by CONSULTANT.

13. Notices: All notices, requests, demands and other communications hereunder shall be deemed given only if in writing signed by an authorized representative of the sender (may be other than the representative referred to in Paragraph 13 above), and delivered by facsimile with a hard copy mailed first class, postage prepaid, or when sent by a courier or express services guaranteeing overnight delivery to the receiving party, and addressed to the respective party as follows:

To CITY: City of Stockton  
City Hall  
425 N. El Dorado Street  
Stockton, CA 95202  
Attn: City Manager

To CONSULTANT: Friends Outside  
7272 Murray Drive  
Stockton, CA 95210

14. Entire Agreement: This document, including all exhibits, contains the entire agreement between the parties and supersedes whatever oral or written understanding they may have had prior to the execution of this Agreement.

15. Severability: If any portion of this Agreement or its application to any person or circumstance shall be invalid or unenforceable to any extent, the remainder of this Agreement shall not be affected thereby and shall be enforced to the greatest extent permitted by law.

16. Headings, Assignment and Waiver: The headings in this Agreement are inserted for convenience only and shall not constitute a part of it. Neither party to this Agreement shall assign its duties and obligations hereunder without the prior written consent of the other party. A waiver of any part or any provision of this Agreement, or a waiver of any breach of this Agreement, must be provided in writing and shall not be construed as a waiver of any other provision or any succeeding breach of the same or any other provisions herein.

17. Auditing: CITY reserves the right to periodically audit all charges made by CONSULTANT to CITY for services under this Agreement. Upon request, CONSULTANT agrees to furnish CITY, or a designated representative, with necessary information and assistance.

CONSULTANT agrees that CITY or its delegate will have the right to review, obtain, and copy all records pertaining to the performance of this Agreement. CONSULTANT agrees to provide CITY or its delegate with any relevant information requested and shall permit CITY or its delegate access to its premises, upon reasonable notice, during normal business hours for the purpose of interviewing employees and inspection and copying such books, records, accounts, and other material that may be relevant to a matter under investigation for the purpose of determining compliance with this requirement. CONSULTANT further agrees to maintain such records for a period of three (3) years after final payment under this Agreement.

18. Integration and Modification: This Agreement represents the entire integrated agreement between CONSULTANT and CITY; supersedes all prior negotiations, representations, or agreements, either written or oral, between the parties; and may be amended only by written instrument signed by CONSULTANT and CITY.

19. Authority: The undersigned hereby represent and warrant that they are authorized by the parties to execute this Agreement.

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IN WITNESS WHEREOF, CITY and CONSULTANT have executed this Agreement as of the date first above written.

CITY OF STOCKTON,  
a municipal corporation

By \_\_\_\_\_

By \_\_\_\_\_  
KURT O. WILSON  
CITY MANAGER

ATTEST:

\_\_\_\_\_  
BONNIE PAIGE  
CITY CLERK OF THE CITY OF  
STOCKTON

APPROVED AS TO FORM AND  
CONTENT:

By \_\_\_\_\_  
JOHN M. LUEBBERKE  
CITY ATTORNEY

## **EXHIBIT “A”**

### **SCOPE OF SERVICES FOR FRIENDS OUTSIDE**

- A. Scope of Services:
1. Services to be performed:
    - a. In consultation with the City, design and develop an implementation plan to form the Leadership Council, outline the purpose and activities of the Leadership Council and the responsibilities of Friends Outside and the City in supporting the Leadership Council; prepare presentation materials to outline the Leadership Council implementation plan to City staff;
    - b. Assist in the preparation of Ceasefire Call-ins and focus groups; providing meals, beverages, and supplies at Call-ins and focus groups; attendance and client support at Call-ins, participate in focus groups following Call-ins and one-on-one follow-up work with Call-in participants;
    - c. One full-time Case Manager to provide the core staff support for the formation and guidance of the Leadership Council; coordinate efforts of the Leadership Council with the OVP Case Manager assigned to the Leadership Council;
    - d. 15 hours per month for the design and coaching of staff related to the development of the Leadership Council;
    - e. Provide support to family and loved ones identified to participate in the Call-in meetings, and related services to clients and family members that include but are not limited to parenting classes, counseling, purchasing household goods, emergency temporary housing or lodging in crisis situations and other purchases for work readiness;
    - f. Conduct four training series: two to help clients become self-sufficient in a number of areas, and two to improve the case management performance of the Community Partners supporting Leadership Council clients;
    - g. Coordinate client involved community events, such as a leadership group project or incentive activities for ceasefire clients in collaboration with core staff.
    - h. Collect and report out monthly the following metrics:
      - A. Number of Leadership Council participants
      - B. Number of Leadership Council meetings



C. Number of individuals that receive services related to this MOU.

B. Duration of Work Effort:

CONSULTANT shall provide Services from July 1, 2016 to June 30, 2018 unless sooner terminated or canceled pursuant to the provisions of the Agreement.

### **PROFESSIONAL FEE AND EXPENSES**

This is a time and reimbursable expense arrangement as it pertains to the Strengthening Law Enforcement and Community Relations Grant Program. CITY agrees to pay CONSULTANT as follows based on the grant award approved by the Stockton City Council via Resolution No. 2016-06-28-1205.

<b>Activity</b>	<b>TOTAL</b>
Development and facilitation of Leadership Council, Ceasefire support, training, and reporting on metrics in line with above Scope of Services	\$200,000
<b>TOTAL</b>	<b>\$200,000</b>

## Exhibit "B"

### Insurance Requirements for Professional Services

Consultant shall procure and maintain for the duration of the contract insurance against claims for injuries to persons or damages to property which may arise from or in connection with the performance of the work hereunder by the Consultant, its agents, representatives, or employees.

#### **MINIMUM SCOPE AND LIMIT OF INSURANCE**

Coverage shall be at least as broad as:

1. **Commercial General Liability (CGL):** Insurance Services Office Form CG 00 01 covering CGL on an "occurrence" basis, including products and completed operations, property damage, bodily injury and personal & advertising injury with limits no less than **\$1,000,000** per occurrence. If a general aggregate limit applies, either the general aggregate limit shall apply separately to this project/location or the general aggregate limit shall be twice the required occurrence limit.
2. **Automobile Liability:** Insurance Services Office Form Number CA 0001 covering, Code 1 (any auto), or if Consultant has no owned autos, Code 8 (hired) and 9 (non-owned), with limit no less than **\$1,000,000** per accident for bodily injury and property damage.
3. **Workers' Compensation** insurance as required by the State of California, with Statutory Limits, and Employer's Liability Insurance with limit of no less than **\$1,000,000** per accident for bodily injury or disease. ***(Not required if consultant provides written verification it has no employees)***
4. **Professional Liability (Errors and Omissions)** Insurance appropriate to the Consultant's profession, with limit no less than **\$1,000,000** per occurrence or claim, \$1,000,000 aggregate. (If Claims-made, see below.)

If the Consultant maintains higher limits than the minimums shown above, the City of Stockton requires and shall be entitled to coverage for the higher limits maintained by the consultant. Any available insurance proceeds in excess of the specified minimum limits of insurance and coverage shall be available to the City of Stockton.

#### **Other Insurance Provisions**

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

### **Additional Insured Status**

**The City of Stockton, its Mayor, Council, officers, representatives, agents, employees and volunteers are to be covered as additional insureds** on the CGL policy and AL policy with respect to liability arising out of work or operations performed by or on behalf of the Consultant including materials, parts, or equipment furnished in connection with such work or operations. General liability coverage can be provided in the form of an endorsement to the Consultant's insurance (**at least as broad as** ISO Form CG 20 10 11 85 or both CG 20 10 and CG 20 37 forms if later revisions used).

### **Primary Coverage**

For any claims related to this contract, the **Consultant's insurance coverage shall be primary** insurance as respects the City of Stockton, its Mayor, Council, officers, representatives, agents, employees and volunteers. Any insurance or self-insurance maintained by the City of Stockton, its Mayor, Council, officers, representatives, agents, employees and volunteers shall be excess of the Consultant's insurance and shall not contribute with it. The City of Stockton does not accept primary endorsements limiting the Consultant's insurance coverage to sole negligence.

### **Notice of Cancellation**

Each insurance policy required above shall state that **coverage shall not be canceled, except with prior notice to the City of Stockton.**

### **Waiver of Subrogation**

Consultant hereby grants to City of Stockton a waiver of any right to subrogation which any insurer of said Consultant may acquire against the City of Stockton by virtue of the payment of any loss under such insurance. Consultant agrees to obtain any endorsement that may be necessary to affect this waiver of subrogation, but this provision applies regardless of whether or not the City of Stockton has received a waiver of subrogation endorsement from the insurer.

### **Deductibles and Self-Insured Retentions**

Any deductibles or self-insured retentions must be declared to and approved by the City of Stockton Risk Services. The City of Stockton may require the Consultant to provide proof of ability to pay losses and related investigations, claim administration, and defense expenses within the retention.

### **Acceptability of Insurers**

Insurance is to be placed with insurers with a current A.M. Best's rating of no less than A:VII if admitted to do business in the State of California; if not admitted to do business in the State of California, insurance is to be placed with insurers with a current A.M. Best's rating of no less than A+:X.

### **Claims Made Policies**

If any of the required policies provide coverage on a claims-made basis:

1. The Retroactive Date must be shown and must be before the date of the contract or the beginning of contract work.
2. If Claims Made policy form is used, a three (3) year discovery and reporting tail period of coverage is required after completion of work.

### **Verification of Coverage**

Consultant shall furnish the City of Stockton with original certificates and amendatory endorsements required by this clause. All certificates and endorsements are to be received and approved by the City of Stockton Risk Services before work commences. Failure to obtain the required documents prior to the work beginning shall not waive the Consultant's obligation to provide them. The City of Stockton reserves the right to require complete, certified copies of all required insurance policies, including endorsements required by these specifications, at any time, for any reason or no reason.

Consultant shall, prior to the commencement of work under this Agreement, provide the City of Stockton with a copy of its Declarations Page and Endorsement Page for each of the required policies.

### **Certificate Holder Address**

Proper address for mailing certificates, endorsements and notices shall be:

- City of Stockton
- Attention: Risk Services
- 425 N El Dorado Street
- Stockton, CA 95202

City of Stockton Risk Services Phone: 209-937-5037

City of Stockton Risk Services Fax: 209-937-8558

### **Maintenance of Insurance**

If at any time during the life of the Contract or any extension, the Consultant fails to maintain the required insurance in full force and effect, all work under the Contract shall be discontinued immediately. Any failure to maintain the required insurance shall be sufficient cause for the CITY to terminate this Contract.

### **Subcontractors**

Consultant shall require and verify that all subcontractors maintain insurance meeting all the requirements stated herein, and Consultant shall ensure that City of Stockton is an additional insured on insurance required from subcontractors.

### **Special Risks or Circumstances**

City of Stockton reserves the right to modify these requirements, including limits, based on the nature of the risk, prior experience, insurer, coverage, or other special circumstances.