

PROFESSIONAL SERVICES AGREEMENT

THIS AGREEMENT is entered into this ____ day of _____ 2018, between the CITY OF STOCKTON, a municipal corporation ("City"), and San Joaquin Partnership, Inc. whose address is 2800 W March Ln #470, Stockton, CA 95219 and telephone number is 209-956-3380 ("Consultant").

RECITALS

A. Consultant is qualified to and experienced in facilitating collaboration, teamwork and strategic planning efforts for the purposes specified in this Agreement.

B. City finds it necessary and advisable to use the services of the Consultant for the purposes provided in this Agreement.

NOW THEREFORE, in consideration of the mutual covenants and conditions in this Agreement, City and Consultant agree as follows:

1. **Consultant's Services.** Subject to the terms and conditions set forth in this Agreement, Consultant shall provide to City the services described in **Exhibit A.** Consultant shall provide said services at that time, place and in the manner specified in **Exhibit A.**

2. **City Assistance, Facilities, Equipment and Clerical Support.** Except as set forth in Exhibit A. Consultant shall, at its sole cost and expense, furnish all facilities and equipment that may be required for furnishing services pursuant to this Agreement. City shall furnish to Consultant only the facilities and equipment listed in Exhibit A. according to the terms and conditions set forth in Exhibit A.

3. **Term.** This Agreement shall commence on the date written above and shall expire on June 30, 2019; provided, however the parties may agree to change either the commencement or expiration date.

4. **Compensation.** City shall pay Consultant for services rendered pursuant to this Agreement as described more particularly in **Exhibit A** and **Exhibit C.** The payments shall be made monthly upon receipt and approval of Consultant's invoice. Total compensation for services and reimbursement for costs shall not exceed \$78,000.

a. Invoices submitted by Consultant to City must contain a brief description of work performed, time used and City reference number. Payment shall be made within thirty (30) days of receipt of Consultant's invoice and approved by City.

b. Upon completion of work and acceptance by City, Consultant shall have sixty (60) days in which to submit final invoicing for payment. An extension may

be granted by City upon receiving a written request thirty (30) days in advance of said time limitation. The City shall have no obligation or liability to pay any invoice for work

performed which the Consultant fails or neglects to submit within sixty (60) days, or any extension thereof granted by the City, after the work is accepted by the City.

5. **Sufficiency of Consultant's Work.** All reports, drawings, designs, plan review comments and work product of Consultant shall be adequate and sufficient to meet the purposes for which they are prepared.

6. **Ownership of Work.** All reports, drawings, designs, plan review comments, work product, and all other documents completed or partially completed by Consultant in the performance of this Agreement shall become the property of the City. Any and all copyrightable subject matter in all materials is hereby assigned to the City and the Consultant agrees to execute any additional documents that may be necessary to evidence such assignment. All materials shall be delivered to the City upon completion or termination of the work under this Agreement. If any materials are lost, damaged or destroyed before final delivery to the City, the Consultant shall replace them at its own expense. Consultant shall keep materials confidential. Materials shall not be used for purposes other than performance of services under this Agreement and shall not be disclosed to anyone not connected with these services, unless the City provides prior written consent.

7. **Changes.** City may request changes in the scope of services to be provided by Consultant. Any changes and related fees shall be mutually agreed upon between the parties and subject to a written amendment to this Agreement.

8. **Consultant's Status.** In performing the obligations set forth in this Agreement, Consultant shall have the status of an independent contractor and Consultant shall not be considered an employee of the City for any purpose. All persons working for or under the direction of Consultant are its agents and employees and are not agents or employees of City.

9. **Termination for Convenience of City.** The City may terminate this Agreement at any time by mailing a notice in writing to Consultant. The Agreement shall then be deemed terminated and no further work shall be performed by Consultant. If the Agreement is so terminated, the Consultant shall be paid for that percentage of the work completed at the time the notice of termination is received.

10. **Non-Assignability.** The Consultant shall not assign, sublet, or transfer this Agreement or any interest or obligation in the Agreement without the prior written consent of the City, and then only upon such terms and conditions as City may set forth in writing. Consultant shall be solely responsible for reimbursing subcontractors.

11. **Indemnity and Hold Harmless.** To the fullest extent permitted by law, Consultant shall hold harmless, defend at its own expense, and indemnify the City of Stockton, its officers, employees, agents, and volunteers, against any and all liability, claims, losses, damages, or expenses, including reasonable attorney's fees, arising from all acts or omissions of contractor or its officers, agents, or employees in rendering services under this contract; excluding, however, such liability, claims, losses, damages, or expenses arising from the City of Stockton's sole negligence or willful acts. The duty to defend and the duty to indemnify are separate and distinct

San Joaquin Partnership, Inc. 2

13. **Notices.** All notices herein required shall be in writing and shall be sent by certified or registered mail, postage prepaid, addressed as follows:

14. **Conformance to Applicable Laws.** Consultant shall comply with all applicable Federal, State, and Municipal laws, rules, and ordinances. Consultant shall not discriminate in the employment of persons or in the provision of services under this Agreement on the basis of any legally protected classification, including race, color, national origin, ancestry, sex or religion of such person.

16. **Records and Audits.** Consultant shall maintain all records regarding this Agreement and the services performed for a period of three years from the date that final payment is made. At any time during normal business hours, the records shall be made available to the City to inspect and audit.

18. **Conflicts of Interest.** Consultant covenants that other than this Agreement, Consultant has no financial interest with any official, employee or other representative of the City. Consultant and its principals do not have any financial interest in real property, sources of income or investment that would be affected in any manner of degree by the performance of Consultant's services under this Agreement. If such an interest arises, Consultant will immediately notify the City.

19. **Waiver.** In the event either City or Consultant at any time waive any breach of this Agreement by the other, such waiver shall not constitute a waiver of any other or succeeding breach of this Agreement, whether of the same or of any other covenant, condition or obligation.

20. **Governing Law.** California law shall govern any legal action pursuant to this Agreement with venue for all claims in the Superior Court of the County of San Joaquin, Stockton Branch or, where applicable, in the federal District Court of California, Eastern District, Sacramento Division.

21. **No Personal Liability.** No official or employee of City shall be personally liable to Consultant in the event of any default or breach by the City or for any amount due Consultant.

22. **Exhibits.** All exhibits referred to herein are attached hereto and are by this reference incorporated herein.

23. **Scope of Agreement.** This writing constitutes the entire Agreement between the parties. Any modification to the Agreement shall be in writing and signed by both parties.

THIS AGREEMENT executed the date and year first above written.

CITY OF STOCKTON

CONSULTANT:

SAN JOAQUIN PARTNERSHIP, INC.

KURT WILSON, CITY MANAGER

By: _____
MICHAEL AMMANN

ATTEST:

Title: _____

CHRISTIAN CLEGG, DEPUTY CITY
MANAGER/INTERIM CITY CLERK

APPROVED AS TO FORM:

*[If Consultant is a corporation
signature(s) must comply with
Corporations Code §313.]*

JOHN M. LUEBBERKE, CITY ATTORNEY

EXHIBIT A
SCOPE OF SERVICES
SAN JOAQUIN PARTNERSHIP SCOPE OF WORK FY 18-19

Services Provided	Compensation
<p>Baseline services provided by the San Joaquin Partnership:</p> <p>Business Attraction</p> <ul style="list-style-type: none"> Implement new options to generate business leads. Outline specific strategies for attracting new business with a renewed emphasis on Stockton and San Joaquin County. Participate in key trade shows, regional events, mission trips and provide leads to the City's Economic Development (ED) Team; include City representatives in these endeavors. Focus on core industries such as ag tech, food processing, manufacturing, and logistics. Examples include: SIOR Chapter Events, WestPack, Bay Area Broker Calls, Industrial Asset Management Council, Process Expo, Fab Tech, World Ag Expo, CA Food Processing Expo and Pack Expo. <p>Innovation and Entrepreneurship</p> <ul style="list-style-type: none"> Collaborate with iHub San Joaquin, Huddle, Café Coop, and others to attract and support events/organizations, such as Makerspaces and Hackathons. This includes sponsorships and other in-kind services of such events and organizations. <p>International Trade & Foreign Direct Investment</p> <ul style="list-style-type: none"> Collaborate with the Port of Stockton and Northern CA World Trade Center on attracting foreign investment and increasing international trade. Host tours with potential foreign investors. Inform City of when tours are scheduled. Collaborate with partners to host workshop(s) for Stockton/San Joaquin County business on international trade. 	\$53,000
<p>Social Media and Marketing</p> <ul style="list-style-type: none"> Increase social media presence and update website to include a modern, visually appealing format to market Stockton and San Joaquin County by March 30, 2019. Update marketing collateral (industry specific) & business attraction tools to demonstrate distinct competitive advantages of Stockton over competitor markets. Well-crafted RFI responses professionally packaged to include modern formatting and visually appealing, updated images. Drafts of the updated website, marketing collateral, and RFI response materials shall be submitted to the City for review and approval prior to final completion and payment. 	\$25,000
Total Contract Amount	\$78,000

Economic Development Reporting & Analysis

- Provide quarterly reports detailing activities to date and progress on job creation. Keep the City informed of companies interested in Stockton.
- Collaborate to provide economic research, including the compilation and analysis of economic data with local universities.

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 **\$2,000,000** per occurrence or claim, \$2,000,000 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 endorsed as 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 endorsements limiting the Consultant's insurance coverage to the sole negligence of the Named Insured.

Notice of Cancellation

Each insurance policy required above shall state that **coverage shall not be canceled, except with 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.

EXHIBIT C**FEE SCHEDULE
Professional Fees and Expenses**

Professional Service Agreement for the fiscal year 2018-19 in the amount of \$78,000 with the San Joaquin Partnership, Inc.

1. Payment for “baseline services’ shall be disbursed in two equal installments of \$26,500, covering the periods of July 1, 2018 to December 31, 2018; and January 1, 2019 to June 30, 2019.
2. Payment for Social Media & Marketing shall be disbursed upon completion and City approval; and be invoiced separately and submitted for review and approval.
3. Prior to disbursement of above mentioned payment(s), Consultant shall provide the City with a concise, detailed written summary of the prior period’s activities. Such a summary shall include both quantitative and qualitative information that addresses the Scope of Work on a point-by- point basis in order for the City to evaluate the program’s effectiveness. City, as well as County, benefits shall be evaluated. Consultant shall also submit to City a quarterly financial statement including both contributions and expenditures.

Also, to be included is information on the current year’s budget devoted to marketing; specific services provided with those expenditures; the number, location, dates, and types of trade shows attended, where the City is affirmatively marketed; the location and dates of marketing trips, included those with the California Office of Business and Economic Development (Go-Biz) and Team California; and any other external marketing data.

Quarterly meetings will be held between the City and SJP to review progress on the Scope of Services.

4. The maximum amount of compensation provided to the Consultant pursuant to the completion of the scope of work listed above shall not exceed \$78,000.