

CONSULTING SERVICES AGREEMENT

This agreement ("Agreement") is made as of September _____, 2018 ("Effective Date") by and between the **City of Commerce**, a municipal corporation ("City") and Municipal Translation Company ("Consultant"). City and Consultant are sometimes hereinafter individually referred to as a "Party" and collectively referred to as the "Parties."

RECITALS

WHEREAS, City desires to utilize the services of Consultant as an independent contractor to provide consulting services to City as set forth in the attached **Exhibit A**; and

WHEREAS, Consultant represents that it is fully qualified to perform such consulting services by virtue of its experience and the training, education and expertise of its principals and employees.

NOW, THEREFORE, in consideration of performance by the parties of the covenants and conditions herein contained, the parties hereto agree as follows:

1. **Consultant's Scope of Services.** The nature and scope of the specific services to be performed by Consultant are as described in **Exhibit A**.
2. **Term of Agreement.** The term of this Agreement shall commence on the Effective Date and continue thereafter for a period not to exceed two years, unless earlier terminated as set forth in Section 3. Any amendment to renew or extend this Agreement beyond the initial two-year term shall be approved by the City Council.
3. **Termination.** Either party to this Agreement may terminate this Agreement at any time, with or without cause, upon providing the other party with thirty days written notice.

4. **Compensation.**

A. City agrees to compensate Consultant a flat fee of \$1,300 for regularly scheduled meetings for services under this Agreement in compliance with the Scope of Services set forth in **Exhibit A**. Consultant may also provide services at special meetings upon the request of the City. City shall pay Consultant \$175 per interpreter per hour with a minimum charge of \$700 per special meeting. Payment will be made only after submission of proper invoices.

B. If at the request of the City, Consultant is required to incur out of pocket expenses which are above and beyond the ordinary expenses associated with performance of this Agreement, Consultant shall be entitled to reimbursement of such expenses. Consultant shall only be reimbursed for those expenses which: (i) appear on Consultant's monthly invoices; (ii) are accompanied by a copy of the City's written authorization for Consultant to incur such expenses; and (iii) receipts documenting such expenses.

5. **General Terms and Conditions.** The General Terms and Conditions set forth in **Exhibit B** are incorporated as part of this Agreement. In the event of any inconsistency between

the General Terms and Conditions and any other exhibit to this Agreement, the General Terms and Conditions shall control unless it is clear from the context that both parties intend the provisions of the other exhibit(s) to control.

5. Addresses.

City

City of Commerce
2535 Commerce Way
Commerce, CA 90262
Attn: Edgar P. Cisneros, City Administrator

Consultant

Municipal Translation Company
[Insert Contact Info]
Attention: Hilda Estrada

6. Exhibits. All exhibits referred to in this Agreement are listed here and are incorporated and made part of this Agreement by this reference.

Exhibit A – Scope of Services

Exhibit B – General Terms and Conditions

///

SIGNATURES ON FOLLOWING PAGE

IN WITNESS WHEREOF, the parties have executed this Agreement as of the dates written below.

CITY

CITY OF COMMERCE

By: _____
Hugo A. Argumedo, Mayor

Date

CONSULTANT

MUNICIPAL TRANSLATION COMPANY

By: _____

Date

ATTEST:

By: _____
Lena Shumway, City Clerk

APPROVED AS TO FORM:

By: _____
Noel Tapia, City Attorney

EXHIBIT A

SCOPE OF SERVICES

- I. Consultant will perform the following services:
- A. Spanish language interpretation services at all Regular City Council Meetings. Regular City Council Meetings are held on the first and third Mondays (subject to change) of every month starting at approximately 6:00 PM. Consultant shall provide two interpreters at every regularly scheduled meeting. Consultant agrees to provide the interpretation services for a flat fee of \$1,300 per regularly scheduled meeting.
 - B. Spanish language interpretation services at City Council Special Meetings, Community Events, Planning Commission Meetings, and Other Meetings as requested by the Contract Officer. City shall pay Consultant \$175 per interpreter per hour with a minimum charge of \$700 per special meeting.
 - C. All equipment necessary for the interpretation services shall be provided by Consultant in the Scope of Services.
 - D. Consultant will also translate or edit City documents during City Council and related City meetings, provided the need for translation services is not required during a meeting.

EXHIBIT B

GENERAL TERMS AND CONDITIONS

1. Status as Independent Contractor.

A. Consultant is, and shall at all times remain as to City, a wholly independent contractor. Consultant shall have no power to incur any debt, obligation, or liability on behalf of City or otherwise act on behalf of City as an agent. Neither City nor any of its agents shall have control over the conduct of Consultant or any of Consultant's employees, except as set forth in this Agreement. Consultant shall not, at any time, or in any manner, represent that it or any of its agents or employees are in any manner agents or employees of City.

B. Consultant agrees to pay all required taxes on amounts paid to Consultant under this Agreement, and to indemnify and hold City harmless from any and all taxes, assessments, penalties, and interest asserted against City by reason of the independent contractor relationship created by this Agreement. In the event that City is audited by any Federal or State agency regarding the independent contractor status of Consultant and the audit in any way fails to sustain the validity of a wholly independent contractor relationship between City and Consultant, then Consultant agrees to reimburse City for all costs, including accounting and attorney's fees, arising out of such audit and any appeals relating thereto.

C. Consultant shall fully comply with the workers' compensation law regarding Consultant and Consultant's employees. Consultant further agrees to indemnify and hold City harmless from any failure of Consultant to comply with applicable worker's compensation laws. City shall have the right to offset against the amount of any fees due to Consultant under this Agreement any amount due to City from Consultant as a result of Consultant's failure to promptly pay to City any reimbursement or indemnification arising under this Section 1.

2. Standard of Performance.

A. Consultant shall perform all work in accord with industry standard and in a manner reasonably satisfactory to the City Administrator or his/her designee. Any change in the scope of services shall be mutually agreed and evidenced by a writing signed or authorized by both parties.

B. The City of Commerce shall, until further notice to Consultant, administer this Agreement and provide for immediate supervision of Consultant with respect to the services to be provided hereunder.

3. Indemnification, Limitation of Liability & Exclusion of Damages.

A. Consultant is skilled in the professional calling necessary to perform the services and duties agreed to be performed under this Agreement, and City is relying upon the skill and knowledge of Consultant to perform said services and duties.

B. Subject to the limitation of liability set forth elsewhere in this Agreement, Consultant shall indemnify and hold harmless the City and its agents, officials and employees from and against any and all claims, losses, liabilities, damages, costs and expenses (including reasonable attorney's fees and costs) arising from the acts, omissions, negligence or willful misconduct of Consultant, its officials, employees, contractors, subcontractors or agents. Consultant shall not be liable to the degree or extent of damages, loss, or expense determined to be the fault of the City, its agents, officials, employees, contractors, subcontractors, sub-consultants or third party suppliers/developers.

C. This obligation to indemnify and defend Indemnitees as set forth herein shall survive the termination of this Agreement and is in addition to any rights which City may have under the law. This indemnity is effective without reference to the existence or applicability of any insurance coverages which may have been required under this Agreement or any additional insured endorsements which may extend to City.

D. Consultant represents to the City, and City relies on Consultant's representations, that the Consultant shall serve solely in the capacity of an independent contractor to the City. Neither the City nor any of its agents will have control over the conduct of Consultant or any of Consultant's employees, except as otherwise set forth in the Agreement. Consultant may not, at any time or in any manner, represent that it or any of its agents or employees are in any manner agents or employees of the City. The City has no duty, obligation, or responsibility to Consultant's agents or employees, including the Affordable Care Act coverage requirements. Consultant warrants and represents that the City will not be responsible and will not be held liable for issues related to Consultant's status as an independent contract, including Consultant's failure to comply with Consultant's duties, obligations, and responsibilities under the Affordable Care Act.

4. Conflict of Interest.

A. Consultant covenants that it presently has no interest and shall not acquire any interest, direct or indirect, which may be affected by the services to be performed by Consultant under this Agreement, or which would conflict in any manner with the performance of its services hereunder. Consultant further covenants that, in performance of this Agreement, no person having any such interest shall be employed by it. Furthermore, Consultant shall avoid the appearance of having any interest which would conflict in any manner with the performance of its services pursuant to this Agreement.

B. Consultant covenants not to give or receive any compensation, monetary or otherwise, to or from the ultimate vendor(s) of services to City as a result of the performance of this Agreement, or the services that may be procured by the City as a result of the recommendations made by Consultant. Consultant's covenant under this section shall survive the termination of this Agreement.

5. Personnel. Consultant represents that it has, or will secure at its own expense, all personnel required to perform the services under this Agreement. All of the services required under this Agreement will be performed by Consultant or under its supervision, and all personnel engaged in

the work shall be qualified to perform such services. Consultant reserves the right to determine the assignment of its own employees to the performance of Consultant's services under this Agreement, but City reserves the right, for good cause, to require Consultant to exclude any employee from performing services on City's premises.

6. Non-Discrimination and Equal Employment Opportunity.

A. Consultant shall not discriminate as to race, color, creed, religion, sex, marital status, national origin, ancestry, age, physical or mental handicap, medical condition, or sexual orientation, in the performance of its services and duties pursuant to this Agreement, and will comply with all reasonable rules and regulations of City relating thereto. Such nondiscrimination shall include but not be limited to the following: employment, upgrading, demotion, transfers, recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship.

B. Consultant will, in all solicitations or advertisements for employees placed by or on behalf of Consultant state either that it is an equal opportunity employer or that all qualified applicants will receive consideration for employment without regard to race, color, creed, religion, sex, marital status, national origin, ancestry, age, physical or mental handicap, medical condition, or sexual orientation.

C. Consultant will cause the foregoing provisions to be inserted in all subcontracts for any work covered by this Agreement except contracts or subcontracts for standard commercial supplies or raw materials.

7. Assignment. Consultant shall not assign or transfer any interest in this Agreement nor the performance of any of Consultant's obligations hereunder, without the prior written consent of City, and any attempt by Consultant to so assign this Agreement or any rights, duties, or obligations arising hereunder shall be void and of no effect.

8. Compliance with Laws. Consultant shall keep itself informed of State, Federal and Local laws, ordinances, codes and regulations which in any manner affect those employed by it or in any way affect the performance of its service pursuant to this Agreement. The Consultant shall at all times comply with such laws, ordinances, codes and regulations. The City, its officers and employees shall not be liable at law or in equity occasioned by failure of Consultant to comply with this Section.

9. Licenses. At all times during the term of this Agreement, Consultant shall have in full force and effect all licenses (including a City business license) required of it by law for performance of the services hereunder.

10. Non-Waiver of Terms, Rights and Remedies. Waiver by either party of any one or more of the conditions of performance under this Agreement shall not be a waiver of any other condition of performance under this Agreement. In no event shall the making by City of any payment to Consultant constitute or be construed as a waiver by City of any breach of covenant, or any default which may then exist on the part of Consultant, and the making of any such payment by City shall

in no way impair or prejudice any right or remedy available to City with regard to such breach or default.

11. Attorney's Fees. In the event that either party to this Agreement shall commence any legal or equitable action or proceeding to enforce or interpret the provisions of this Agreement, the prevailing party in such action or proceeding shall be entitled to recover its costs of suit, including reasonable attorney's fees and costs, including costs of expert witnesses and consultants.

12. Notices. Any notices, bills, invoices, or reports required by this Agreement shall be deemed received on (a) the day of delivery if delivered by hand during Consultant's regular business hours or by facsimile before or during Consultant's regular business hours; or (b) on the third business day following deposit in the United States mail, postage prepaid, to the addresses heretofore set forth in the Agreement, or to such other addresses as the parties may, from time to time, designate in writing pursuant to the provisions of this section.

13. Governing Law. This Agreement shall be interpreted, construed and enforced in accordance with the laws of the State of California.

14. Counterparts. This Agreement may be executed in any number of counterparts, each of which shall be deemed to be the original, and all of which together shall constitute one and the same instrument.

15. Severability. If any provision or any part of any provision of this Agreement is found to be invalid or unenforceable, the balance of this Agreement shall remain in full force and effect.

16. Entire Agreement & Amendment. This Agreement, and any other documents incorporated herein by specific reference, represents the entire and integrated agreement between Consultant and City. This Agreement supersedes all prior oral or written negotiations, representations or agreements. This Agreement may not be amended, nor any provision or breach hereof waived, except in a writing signed by the Parties which expressly refers to this Agreement. Amendments on behalf of the City will only be valid if approved by the City Council, signed by the Mayor and attested by the City Clerk.

17. Authority. The person or persons executing this Agreement on behalf of Consultant warrants and represents that he/she has the authority to execute this Agreement on behalf of the Consultant and has the authority to bind Consultant to the performance of its obligations hereunder.

4822-6432-1906, v. 1