

PROFESSIONAL CONSULTANT SERVICES AGREEMENT

CONNIE H. LEACH

MULTI-CULTURAL YOUTH FESTIVAL

THIS PROFESSIONAL CONSULTANT SERVICES AGREEMENT ("Agreement") is made and entered into this 30th day of June 2006, ("Effective Date") by and between the CITY OF RIVERSIDE ("City"), a California charter city and municipal corporation, and CONNIE H. LEACH, ("Consultant").

1. **Scope of Services.** City agrees to retain and does hereby retain Consultant and Consultant agrees to provide the services more particularly described in Exhibit "A," "Scope of Services" ("Services"), attached hereto and incorporated herein by reference, in conjunction with the Multi-Cultural Youth Festival ("Project").

2. **Term.** This Agreement shall be effective on the date first written above unless otherwise provided in Exhibit "A" Scope of Services and the Agreement shall remain in effect until June 30, 2007, unless otherwise terminated pursuant to the provisions herein.

3. **Compensation/Payment.** Consultant shall perform the Services under this Agreement for the total sum not to exceed *Thirty Five Thousand Dollars* (\$35,000.00), payable in accordance with the terms set forth in Exhibit "B." Said payment shall be made in accordance with City's usual accounting procedures upon receipt and approval of an itemized invoice setting forth the services performed. The invoices shall be delivered to City at the address set forth in Section 4 hereof.

4. **Notices.** Any notices required to be given, hereunder shall be in writing and shall be personally served or given by mail. Any notice given by mail shall be deemed given when deposited in the United States Mail, certified and postage prepaid, addressed to the party to be served as follows:

To City

DEVELOPMENT DEPARTMENT
City of Riverside
Attn: Belinda Graham
3900 Main Street
Riverside, CA 92522

To Consultant

CONNIE H. LEACH


5. **Prevailing Wage.** If applicable, Consultant and all subcontractors are required to pay the general prevailing wage rates of per diem wages and overtime and holiday wages determined by the Director of the Department of Industrial Relations under Section 1720 et seq. of the California Labor Code and implemented by Resolution No. 13346 of the City Council of the City of Riverside. The

Director's determination is on file and open to inspection in the office of the City Clerk and is referred to and made a part hereof; the wage rates therein ascertained, determined, and specified are referred to and made a part hereof as though fully set forth herein.

6. **Contract Administration.** A designee of the City will be appointed in writing by the City Manager or Department Director to administer this Agreement on behalf of City and shall be referred to herein as Contract Administrator.

7. **Standard of Performance.** While performing the Services, Consultant shall exercise the reasonable professional care and skill customarily exercised by reputable members of Consultant's profession practicing in the Metropolitan Southern California Area, and shall use reasonable diligence and best judgment while exercising its professional skill and expertise.

8. **Personnel.** Consultant shall furnish all personnel necessary to perform the Services and shall be responsible for their performance and compensation. Consultant recognizes that the qualifications and experience of the personnel to be used are vital to professional and timely completion of the Services. The key personnel listed in Exhibit "C" attached hereto and incorporated herein by this reference and assigned to perform portions of the Services shall remain assigned through completion of the Services, unless otherwise mutually agreed by the parties in writing, or caused by hardship or resignation in which case substitutes shall be subject to City approval.

9. **Assignment and Subcontracting.** Neither party shall transfer any right, interest, or obligation in or under this Agreement to any other entity without prior written consent of the other party. In any event, no assignment shall be made unless the assignee expressly assumes the obligations of assignor under this Agreement, in a writing satisfactory to the parties. Consultant shall not subcontract any portion of the work required by this Agreement without prior written approval by the responsible City's Contract Administrator. Subcontracts, if any, shall contain a provision making them subject to all provisions stipulated in this Agreement, including without limitation, the insurance obligations set forth in Section 12. Consultant acknowledges that any transfer of rights may require City Manager and/or City Council approval.

10. **Independent Contractor.** In the performance of this Agreement, Consultant, and Consultant's employees, subcontractors and agents, shall act in an independent capacity as independent contractors, and not as officers or employees of the City of Riverside. Consultant acknowledges and agrees that the City has no obligation to pay or withhold state or federal taxes or to provide workers' compensation or unemployment insurance to Consultant, or to Consultant's employees, subcontractors and agents. Consultant, as an independent contractor, shall be responsible for any and all taxes that apply to Consultant as an employer.

11. **Indemnification.**

11.1 **Indemnity – Non-Construction Related Services.** Except as to the sole negligence or willful misconduct of the City, Consultant shall indemnify and hold the City, and its employees,

officers, managers, agents and council members, harmless from any and all loss, damage, claim for damage, liability, expense or cost, including attorneys' fees, which arises out of, or is related to, or is in any manner connected with, the performance of work, activities, operations or duties of Consultant, or anyone employed by or working under Consultant, and from all claims by anyone employed by or working under Consultant for services rendered to Consultant in the performance of this Agreement, notwithstanding that the City may have benefited from their services. This indemnification provision shall apply to any acts or omissions, willful misconduct or negligent conduct, whether active or passive, on the part of Consultant or of anyone employed by or working under Consultant.

The parties expressly agree that any payment, attorneys' fees, costs or expense that the City incurs or makes to or on behalf of an injured employee under the City's self-administered workers' compensation is included as a loss, expense or cost for the purposes of this Section, and that this Section shall survive the expiration or early termination of the Agreement.

11.2 Duty to Defend. Consultant agrees, at its cost and expense, to promptly defend the City and the City's employees, officers, managers, agents and council members (collectively the "Parties to be defended") from and against any and all claims, allegations, lawsuits or other legal proceedings which arise out of, or are related to, or are in any manner connected with: (1) the work, activities, operations, or duties of Consultant, or of anyone employed by or working under the Consultant, or (2) any breach of this Agreement by Consultant. This duty to defend shall apply whether or not such claims, allegations, lawsuits or proceedings have merit or are meritless, or which involve claims or allegations that any of the Parties to be defended were actively, passively or concurrently negligent, or which otherwise assert that the parties to be defended are responsible, in whole or in part, for any loss, damage or injury. Consultant agrees to provide this defense immediately upon written notice from the City, and with well qualified, adequately insured and experienced legal counsel acceptable to the City.

12. Business Tax. Consultant understands that the Services performed under this Agreement constitutes doing business in the City of Riverside, and Consultant agrees that Consultant will register for and pay a business tax pursuant to Chapter 5.04 of the Riverside Municipal Code and keep such tax certificate current during the term of this Agreement.

13. Time of Essence. Time is of the essence for each and every provision of this Agreement.

14. City's Right to Employ Other Consultants. City reserves the right to employ other Consultants in connection with the Project.

15. Accounting Records. Consultant shall maintain complete and accurate records with respect to costs incurred under this Agreement. All such records shall be clearly identifiable. Consultant shall allow a representative of City during normal business hours to examine, audit, and make transcripts or copies of such records and any other documents created pursuant to this

Agreement. Consultant shall allow inspection of all work, data, documents, proceedings, and activities related to the Agreement for a period of three (3) years from the date of final payment under this Agreement.

16. **Confidentiality.** All ideas, memoranda, specifications, plans, procedures, drawings, descriptions, computer program data, input record data, written information, and other materials either created by or provided to Consultant in connection with the performance of this Agreement shall be held confidential by Consultant, except as otherwise directed by City's Contract Administrator. Nothing furnished to Consultant which is otherwise known to the Consultant or is generally known, or has become known, to the related industry shall be deemed confidential. Consultant shall not use City's name or insignia, photographs of the Project, or any publicity pertaining to the Services or the Project in any magazine, trade paper, newspaper, television or radio production, website, or other similar medium without the prior written consent of the City.

17. **Ownership of Documents.** All reports, maps, drawings and other contract deliverables prepared under this Agreement by Consultant shall be and remain the property of City upon City's compensation to Consultant for its services as herein provided. Consultant shall not release to others information furnished by City without prior express written approval of City.

18. **Conflict of Interest.** Consultant, for itself and on behalf of the individuals listed in Exhibit "C", represents and warrants that by the execution of this Agreement, they have no interest, present or contemplated, in the Project affected by the above-described Services. Consultant further warrants that neither Consultant, nor the individuals listed in Exhibit "C" have any real property, business interests or income interests that will be affected by this project or, alternatively, that Consultant will file with the City an affidavit disclosing any such interest.

19. **Solicitation.** Consultant warrants that Consultant has not employed or retained any person or agency to solicit or secure this Agreement, nor has it entered into any agreement or understanding for a commission, percentage, brokerage, or contingent fee to be paid to secure this Agreement. For breach of this warranty, City shall have the right to terminate this Agreement without liability and pay Consultant only for the value of work Consultant has actually performed, or, in its sole discretion, to deduct from the Agreement price or otherwise recover from Consultant the full amount of such commission, percentage, brokerage or commission fee. The remedies specified in this section shall be in addition to and not in lieu of those remedies otherwise specified in this Agreement.

20. **General Compliance with Laws.** Consultant shall keep fully informed of federal, state and local laws and ordinances and regulations which in any manner affect those employed by Consultant, or in any way affect the performance of services by Consultant pursuant to this Agreement. Consultant shall at all times observe and comply with all such laws, ordinances and regulations, and shall be solely responsible for any failure to comply with all applicable laws, ordinances and regulations. Consultant represents and warrants that Consultant has obtained all necessary licenses to perform the Scope of Services and that such licenses are in good standing.

Consultant further represents and warrants that the services provided herein shall conform to all ordinances, policies and practices of the City of Riverside.

21. **Amendments.** This Agreement may be modified or amended only by a written agreement and/or change order executed by the Consultant and City.

22. **Termination.** City, by notifying Consultant in writing, shall have the right to terminate any or all of Consultant's services and work covered by this Agreement at any time. In the event of such termination, Consultant may submit Consultant's final written statement of the amount of Consultant's services as of the date of such termination based upon the ratio that the work completed bears to the total work required to make the report complete, subject to the City's rights under Sections 15 and 24 hereof. In ascertaining the work actually rendered through the termination date, City shall consider completed work, work in progress and complete and incomplete reports and other documents only after delivered to City.

22.1 Other than as stated below, City shall give Consultant thirty (30) days prior written notice prior to termination.

22.2 City may terminate this Agreement upon fifteen (15) days written notice to Consultant, in the event:

22.2.1 Consultant substantially fails to perform or materially breaches the Agreement; or

22.2.2 City decides to abandon or postpone the Project.

23. **Offsets.** Consultant acknowledges and agrees that with respect to any business tax or penalties thereon, utility charges, invoiced fee or other debt which Consultant owes or may owe to the City, City reserves the right to withhold and offset said amounts from payments or refunds or reimbursements owed by City to Consultant. Notice of such withholding and offset, shall promptly be given to Consultant by City in writing. In the event of a dispute as to the amount owed or whether such amount is owed to the City, City will hold such disputed amount until either the appropriate appeal process has been completed or until the dispute has been resolved.

24. **Successors and Assigns.** This Agreement shall be binding upon City and its successors and assigns, and upon Consultant and its permitted successors and assigns, and shall not be assigned by Consultant, either in whole or in part, except as otherwise provided in paragraph 9 of this Agreement.

25. **Venue and Attorneys' Fees.** Any action at law or in equity brought by either of the parties hereto for the purpose of enforcing a right or rights provided for by this Agreement shall be tried in a court of competent jurisdiction in the County of Riverside, State of California, and the parties hereby waive all provisions of law providing for a change of venue in such proceedings to any other county. In the event either party hereto shall bring suit to enforce any term of this Agreement or

to recover any damages for and on account of the breach of any term or condition of this Agreement, it is mutually agreed that the prevailing party in such action shall recover all costs thereof, including reasonable attorneys' fees, to be set by the court in such action.

26. **Nondiscrimination.** During Consultant's performance of this Agreement, Consultant shall not discriminate on the grounds of race, religious creed, color, national origin, ancestry, age, physical disability, mental disability, medical condition, including the medical condition of Acquired Immune Deficiency Syndrome (AIDS) or any condition related thereto, marital status, sex, or sexual orientation, in the selection and retention of employees and subcontractors and the procurement of materials and equipment, except as provided in Section 12940 of the California Government Code. Further, Consultant agrees to conform to the requirements of the Americans with Disabilities Act in the performance of this Agreement.

27. **Severability.** Each provision, term, condition, covenant and/or restriction, in whole and in part, of this Agreement shall be considered severable. In the event any provision, term, condition, covenant and/or restriction, in whole and/or in part, of this Agreement is declared invalid, unconstitutional, or void for any reason, such provision or part thereof shall be severed from this Agreement and shall not affect any other provision, term, condition, covenant and/or restriction of this Agreement, and the remainder of the Agreement shall continue in full force and effect.

28. **Authority:** The individuals executing this Agreement and the instruments referenced herein on behalf of Consultant each represent and warrant that they have the legal power, right and actual authority to bind Consultant to the terms and conditions hereof and thereof.

29. **Entire Agreement:** This Agreement constitutes the final, complete, and exclusive statement of the terms of the agreement between the parties pertaining to the subject matter of this Agreement, and supersedes all prior and contemporaneous understandings or agreements of the parties. Neither party has been induced to enter into this Agreement by, and neither party is relying on, any representation or warranty outside those expressly set forth in this Agreement.

30. **Interpretation.** City and Consultant acknowledge and agree that this Agreement is the product of mutual arms-length negotiations and accordingly, the rule of construction, which provides that the ambiguities in a document shall be construed against the drafter of that document, shall have no application to the interpretation and enforcement of this Agreement.

30.1 Titles and captions are for convenience of reference only and do not define, describe or limit the scope or the intent of the Agreement or any of its terms. Reference to section numbers are to sections in the Agreement unless expressly stated otherwise.

30.2 This Agreement shall be governed by and construed in accordance with the laws of the State of California in effect at the time of the execution of this Agreement.

30.3 In the event of a conflict between the body of this Agreement and Exhibit "A" ("Scope of Services") hereto, the terms contained in Exhibit "A" shall be controlling.

31. **Exhibits.** The following exhibit attached hereto are incorporated herein to this Agreement by this reference:

- Exhibit "A" - Scope of Services
- Exhibit "B" - Compensation
- Exhibit "C" - Key Personnel

IN WITNESS WHEREOF City and Consultant have caused this Agreement to be duly executed the day and year first above written.

CITY OF RIVERSIDE

CONNIE H. LEACH

By: 

Bradley J. Hudson
City Manager

By: 

Attest: 

Colleen J. Nicol
City Clerk

APPROVED AS TO FORM:

CERTIFIED AS TO FUNDS
AVAILABILITY:

By: 

Gregory P. Priamos
City Attorney

By: 

Paul C. Sundeen
Assistant City Manager/
Chief Financial Officer

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[05-3019.1]

EXHIBIT "A"

SCOPE OF SERVICES

CONSULTANT SERVICES FOR THE MULTICULTURAL YOUTH FESTIVAL APRIL 29, 2007

Purpose: To offer a venue where the citizens of Riverside can explore and celebrate the cultural heritage of the community. While the festival will focus on the experience of youth from around the world, it will be planned as a family event offering entertainment, ethnic cuisine, educational activities, and the artistic creativity of all cultures.

Mission: The Multicultural Youth Festival, "How Big Is YOUR World?" hopes to achieve a twofold objective: to highlight the similarities among youth of different cultures balanced with the awareness that each person is also a unique individual. Through knowledge, dialogue, and information sharing, the festival aims to teach young people to recognize that the differences distinctive of a group can actually enrich both individuals and the community.

Scope of Services:

- Develop and implement activities consistent with the purpose of the festival
- Solicit donations to support the operating costs for the festival
- Recruit students from Riverside colleges and high schools to participate in the event
- Develop promotional materials for marketing purposes
- Secure citywide advertising for the festival
- Recruit adults from various community organizations to participate as partners with youth in planning and implementing country booths
- Contact vendors for food and crafts consistent with the multicultural theme
- Retain complete and accurate records with respect to costs incurred in the planning and implementation of the festival
- Secure permits required by county and city agencies
- Direct set up and tear down of event
- Supervise all facets of operation on day of event
- Complete tasks such as preparing and sending sponsor and volunteer thank you letters, performing city council debrief and festival evaluation after completion of the event
- Prepare a report outlining the event plan and "lessons learned" as a resource for future planning

EXHIBIT "B"
COMPENSATION

Contract Fee: \$35,000.00

Schedule of payments based upon receipt of invoice by the City.

EXHIBIT "C"

KEY PERSONNEL

Connie Leach, Consultant

RECEIVED

JUL 13 2006

City of Riverside
City Clerk's Office

DOCUMENT TRANSMITTAL FORM

TO: CITY CLERK'S OFFICE
FROM: CITY ATTORNEY'S OFFICE
DATE: July 13, 2006



CONTRACTOR/OTHER PARTY: CONNIE LEACH (MULTICULTURAL YOUTH FESTIVAL)

DOCUMENT DESCRIPTION/BID NO.: Professional Consultants Services Agreement

Approved by [City Council] [Agency] on
Anticipated [City Council] [Agency] future agenda of
 No City Council action required

Insurance required:

No
Yes, as attached
Yes, withhold execution until received

Bonds required:

No
Yes, as attached
Yes, withhold execution until received

Type of Insurance required (unless waived by the Risk Manager):

Commercial General Liability
Auto
Professional Liability
Workers' Compensation
Other:

Agreement date(s):

City Council Approval Date:
 Date City executes
Other:
 Agreement expiration date: 06/30/07

Day Head
5/13/06

Comments: AFTER EXECUTION, PLEASE RETURN ORIGINAL TO CONNIE LEACH AND COPY TO MARIO LARA IN CITY MANAGER'S OFFICE.

Department: City Manager

Contact person: Tom DeSantis

Approved as to form by: 07/13/06

Date Approved as to Form: Greg P. Priamos

CA #: 05-3019.1

cc: Purchasing Division
Originating Department: City Manager