

Agreement No. 23-W140

**PROFESSIONAL SERVICES AGREEMENT
BETWEEN
SOUTH BAY WORKFORCE INVESTMENT BOARD, INC. AND
THE CITY OF HAWTHORNE**

THIS PROFESSIONAL SERVICES AGREEMENT is made and entered into this 20th day of April 2023, by and between the South Bay Workforce Investment Board, Inc., (SBWIB, Inc.) a California non-profit public benefit corporation, hereinafter referred to as "CONTRACTOR" and the City of Hawthorne, a general law city and municipal corporation, hereinafter referred to as "CITY".

RECITALS

- A. The CITY desires to engage CONTRACTOR to perform the services as described in Exhibit A of this Agreement.
- B. The CONTRACTOR possesses the competence, experience, expertise, skill, facilities, equipment, personnel, financial wherewithal, and other resources necessary to perform properly and timely the services required by CITY under this Agreement.
- C. CONTRACTOR desires to furnish and perform professional services for CITY, on the terms and conditions described in this Agreement.

AGREEMENT

NOW THEREFORE, in consideration of the recitals and mutual obligations provided herein, the parties hereto agree as follows:

1. DUTIES OF CONTRACTOR

CONTRACTOR shall provide services to the best of its professional ability in connection with the Hawthorne's Local Business Assistance program and outlined in Exhibit A, Statement of Work.

2. DUTIES OF CITY.

CITY shall provide CONTRACTOR with such information as is possessed by CITY and is normally supplied to a CONTRACTOR performing such services.

3. TERM OF AGREEMENT

The term of the Agreement commenced on April 1, 2023, and ends on March 31, 2024, unless it is earlier terminated or amended according to the terms and conditions of this Agreement. Due to the need for CONTRACTOR's services to be provided upon commencement of the Term, CONTRACTOR may have provided services prior to the execution of this Agreement. To the extent that such services were performed in accordance with the terms and conditions of this Agreement, those services are hereby ratified and accepted.

4. COMPENSATION

CONTRACTOR agrees it shall be entitled to compensation hereunder only upon completion of services described in Exhibit A, Statement of Work attached hereto and incorporated herein as though set forth in full. Such compensation shall be payable in accordance with payment guidelines. Compensation is retroactive to the first date of this term.

CONTRACTOR shall be compensated for identified personnel to perform and complete work on this project in accordance with Exhibit B, Fee Schedule, attached hereto and incorporated herein as though set forth in full of Work. CONTRACTOR shall submit monthly invoices for work completed in the prior month. The total amount of this agreement shall not exceed **\$53,000.00**. CONTRACTOR shall not be reimbursed for any out-of-pocket expenses unless pre-approved in writing by CITY.

CONTRACTOR shall be responsible for billing CITY for services provided. CITY shall process the billing as received and issue payment within 45 days after it is received. Reference Exhibit B, Fee Schedule attached hereto and incorporated herein as though set forth in full.

5. SUPPORTING RECORDS

Records shall be maintained by the CONTRACTOR on a current basis to support billing under this Agreement for a period of three years after the expiration, cancellation, or termination of this Agreement, or any extension of it for purposes of audit by CITY or its authorized representatives. Records shall be kept and maintained in original form, all records, books, papers, or documents related to CONTRACTOR's performance of this Agreement.

6. INSURANCE REQUIREMENTS

CONTRACTOR shall provide and maintain during the term of Agreement, insurance as follows:

- A. General Liability Coverage. CONTRACTOR shall maintain commercial liability insurance in an amount of not less than one million dollars (\$1,000,000) per occurrence for bodily injury, personal injury, and property damage.
- B. Professional Liability. CONTRACTOR shall maintain professional errors and omission coverage in an amount of not less than one million dollars ((\$1,000,000 for protection against claims alleging negligent acts, errors, or omission which may arise from operations under this Agreement.
- C. Worker's Compensation and Employees Liability (if applicable) in accordance with California State Compensation laws.
- D. Automobile Liability Coverage. If a CONTRACTOR in conducting activities under this Agreement, uses motor vehicles, the CONTRACTOR shall maintain automobile liability insurance covering for bodily injury and property damage for all activities performed under this Agreement in an amount of not less than one million dollars (\$1,000,000) for combined single limit coverage.
- E. Endorsements. Each general liability, professional liability and automobile liability insurance policy shall be issued by a financially responsible insurance company admitted and authorized to do business in the State of California, and shall be endorsed and include CITY, its elected or appointed officers, officials, employees, agents, and volunteers as the additional named insured.

F. Self-Insured. Notwithstanding the insurance required above, CITY at its own option, may accept as an equivalent for any such coverage, evidence of an on-going program of self-insurance together with excess coverage. Said equivalent, in order to satisfy the requirements herein contained, shall be subject to approval of the CITY Attorney.

7. INDEPENDENT CONTRACTOR

The PARTIES understand, agree, and acknowledge the CONTRACTOR is an independent contractor. CONTRACTOR is not an employee, partner, agent, or principal of CITY. This Agreement does not create a partnership, joint venture, association, or employer-employee relationship between the PARTIES. At its own expense, CONTRACTOR is responsible for providing compensation (including prevailing wage laws); employment benefits; disability, unemployment, and other insurance; workers' compensation; training' permits and licenses; and office space for CONTRACTOR and for CONTRACTOR's employees and Subcontractors, if any. CONTRACTOR has, and shall retain, the right to exercise full control over the employment, direction, compensation, and discharge of all personnel whom CONTRACTOR uses in performing services under this agreement.

8. HOLD HARMLESS

CITY and CONTRACTOR agree to defend, indemnify, and hold harmless each other against any and all liability, expenses and claims arising from their respective acts or omissions, including attorney's fees and costs, in connection with the services to be rendered under this agreement. CITY shall be responsible for damages caused by the negligence of its directors, officers, employees, and duly authorized volunteers occurring in the performance of this agreement. CONTRACTOR shall be responsible for damages caused by the negligence of its directors, officers, employees, and duly authorized volunteers occurring in the performance of this agreement. It is the intention of CITY and CONTRACTOR that the provision of this paragraph be interpreted to impose on each party responsibility for the negligence of their respective directors, officers, employees, and duly authorized volunteers.

CITY and CONTRACTOR by this Agreement shall not assume any liability nor shall they be liable for the negligent or wrongful acts or omissions or for any indebtedness or obligations of the other party

attributable to the services required to be performed or caused by the disbursement and use of funds under this Agreement.

9. FINDINGS CONFIDENTIAL

All of the reports, findings, and conclusions prepared or assembled by CONTRACTOR under this Agreement are confidential and CONTRACTOR agrees that they shall not be made available to any individual or organization without prior written approval by the CITY, except as otherwise permitted by law. CONTRACTOR hereby relinquishes any proprietary interest, which it may have in any results obtained as consequence of this Agreement and further agrees that all reports and findings shall become the property of the CITY.

10. AUTHORITY / MODIFICATION

The PARTIES represent and warrant that all necessary action has been taken by the PARTIES to authorize the undersigned to execute this Agreement and to engage in the activities described herein. This Agreement may be modified by written amendment with authorized signatures of all parties to the Agreement.

11. TERMINATION

This agreement may be canceled by either party with or without cause upon thirty (30) calendar-day advance notice in writing prior to the effective date of such termination, which shall be specified in the notice. In the event of termination by CITY, CONTRACTOR shall deliver to CITY all documents, files, and records or copies belonging to CITY as soon as practicable after receiving notice of termination.

12. NOTICES

Any notices given pursuant to this Agreement shall be deemed received and effective when properly emailed or addressed, posted, and deposited in the United States mail addresses to the respective parties as follows:

City of Hawthorne
Vontray Norris, City Manager
City of Hawthorne
4455 W. 126th Street
Hawthorne, CA 90250
vnorris@cityofhawthorne.org

SBWIB, Inc. (Contractor)
Jan Vogel, Chief Executive Officer
South Bay Workforce Investment Board, Inc.
11539 Hawthorne Blvd., 5th Floor
Hawthorne, CA 90250
jvogel@sbwib.org

13. NON-ASSIGNABILITY

CONTRACTOR shall not assign any interest in this Agreement and shall not transfer any interest in the same whether by assignment or novation without prior written approval of CITY.

14. CHANGES, AMENDMENTS AND MODIFICATIONS

No changes, amendments, or modifications to this Agreement shall be effective unless in writing and signed by the parties hereto.

15. LITIGATION EXPENSES

In the event of any litigation, arbitration or other dispute arising as a result of or by reason of this Agreement, the prevailing party in such litigation, arbitration or other dispute shall be entitled to, in addition to any other damages assessed, its reasonable Attorney's fees and all related costs. The Attorney's fee, which the prevailing party is entitled to recover, shall include fees for prosecuting or defending any appeal and shall be awarded for any supplemental proceedings until the final judgment is satisfied in full. In addition to the foregoing award of Attorney's fees to the prevailing party, the prevailing party in any lawsuit or arbitration procedure on this Agreement shall be entitled to its reasonable Attorney's fee incurred in post judgment proceedings to collect or enforce the judgment. This Attorney's fees provision is separate and shall survive the merger of this Agreement into any judgment.

16. FORCE MAJEURE

Force Majeure. If the performance of this Agreement or of any obligation hereunder is materially prevented, restricted, or interfered with by reason of fire, flood, earthquake, elements of nature or acts of God, acts of war, terrorism, riots, civil disorders, epidemic, or other casualty or accident; strikes or labor disputes; inability to procure raw materials, equipment, power or supplies; any law, order, proclamation, regulation, ordinance, demand, or requirement of any government agency or intergovernmental body other than a party hereto, or any other act or conditions beyond the reasonable control of the parties herein continues to hinder the delivery of services beyond the period of performance or reasonableness to extend this Agreement; the party whose performance is prevented

shall notify in writing to the other party, shall terminate without cause or non-performance obligation under this Agreement.

17. CERTIFICATIONS

A. Debarment and Suspension Certification: By signing this Agreement, PARTIES hereby certify under penalty of perjury under laws of the State of California to comply with regulation implementing Executive Order 12549, Debarment and Suspension, 29 CFR, Part 98, Section 98.510, and its principals, to the best of their knowledge and belief:

1. Are not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from covered transactions by any federal department or agency;
2. Have not within a three-year period preceding this proposal been convicted of or had a civil judgment rendered against them for commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public (federal, state, or local) transaction or contract under a public transaction; violation of federal or state antitrust statutes; commission of embezzlement, theft, forgery, bribery, falsification; destruction of records; making false statements; or receiving stolen property;
3. Are not presently indicted for or otherwise criminally or civilly charged by a government entity (federal, state, or local) with commission of any of the offenses enumerated in paragraph 2 of this certification;
4. Have not within a three-year period preceding this Agreement had one or more public transactions (federal, state, or local) terminated for cause or default.
5. Where the prospective primary participant is unable to certify to any of the statements in this certification, such prospective participant shall attach an explanation to this Agreement.

B. Drug Free Workplace Compliance: By signing this Agreement the PARTIES hereby warrant and certify that it shall comply with the California Drug-Free Workplace Act of 1990 (Cal. Gov. Code Section 8350 et seq.), as amended, including provision of the requisite certification as set forth therein; and the federal Drug-Free Workplace Act of 1998, including its implementing regulations (29 CFR Part 98, commencing with 98.600).

C. Non-Discrimination in Employment: PARTIES shall not discriminate against any employee or person who is subject to this Agreement on the basis of race, color, ancestry, national origin, religion, creed, age, disability (mental or physical), sex, gender (including pregnancy, childbirth, breastfeeding, or related medical conditions), sexual orientation, gender identity, gender expression, medical condition, genetic information, marital status, or military or veteran status.

Failure to comply with these requirements may result in suspension of payments under the agreement or termination of the agreement, or cancellation of the purchase order, or all that may apply.

19. COPYRIGHT/PATENT RIGHTS IN DATA

CONTRACTOR agrees to grant the CITY, and, as required pursuant to the Federal and State governments a royalty-free, nonexclusive, and irrevocable license to publish, copy, translate or use, now and hereafter, all materials, data, films, tapes, etc., developed under this Agreement including those covered by copyright. The CITY and, as required pursuant to the Federal and State governments, reserve the right to authorize others to use or reproduce such materials. Further, the CITY, as required pursuant to the Federal and State governments shall have access to any report, preliminary findings or data assembled by CONTRACTOR under this Agreement and shall retain ownership and patent rights to any discovery or invention under this Agreement or as provided in 29 CFR 97.34 AND 97.36(i) (8), (9).

20. ENTIRE AGREEMENT

This Agreement and the documents attached hereto and referred to herein contain all the terms and conditions applicable to the parties and supersedes all oral negotiations and prior writing, with respect to the subject matter hereof. In the event of any such conflict between the terms, conditions, and provisions of this Agreement and any such agreement, document, or instrument; the terms, conditions and provisions of this Agreement shall prevail.

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

SOUTH BAY WORKFORCE INVESTMENT BOARD, INC.

Signature: _____

Name: Jan Vogel

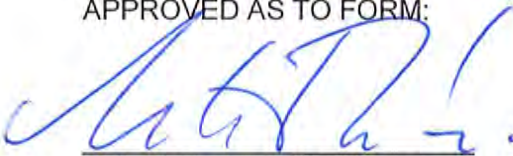
Title: Chief Executive Officer

CITY OF HAWTHORNE



Vontray Norris, City Manager

APPROVED AS TO FORM:



Robert M. Kim, City Attorney

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

SOUTH BAY WORKFORCE INVESTMENT BOARD, INC.

Signature: Jan Vogel

Name: Jan Vogel

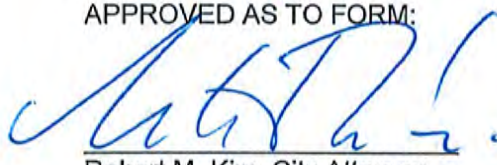
Title: Chief Executive Officer

CITY OF HAWTHORNE



Vontray Norris, City Manager

APPROVED AS TO FORM:



Robert M. Kim, City Attorney

STATEMENT OF WORK HAWTHORNE LOCAL BUSINESS ASSISTANCE PROGRAM

SCOPE OF WORK

CONTRACTOR agrees to participate in the City of Hawthorne's Local Business Assistance program. The Hawthorne Local Business Assistance program is aimed at providing local businesses with service options needed to enhance their business. Service areas include 1) Incumbent Worker Training, 2) Grant Development Assistance, and 3) Financial Management Workshops for Business Owners.

DESCRIPTION OF SERVICE OPTIONS:

Incumbent Worker Training	This service would entail identifying and coordinating the training necessary to upgrade the skills of existing employees to become more valuable to the employer and provide better service to patrons.
	SBWIB staff will work with employers to create detailed training plans that will identify the length and competencies or skills offered through the training (e.g., short-term or upskilling). Staff will also work with the businesses and trainers to track employee progress toward completing the training plan. Staff will work with both the employer and employees to identify and provide needed assistance to help ensure employee success.
	In general, these training courses will be conducted by outside trainers that have experience with upgrading/upskilling skills of incumbent workers and the expertise in the area of skills training required. SBWIB has long established relationships with hundreds of training providers and manages a database of thousands of courses that are vetted and monitored by SBWIB staff to ensure the quality and fidelity of the courses listed. Businesses will be able to access existing courses from vendors and work with SBWIB to identify new vendors that may have courses relevant to employer's needs.
Grant Assistance	SBWIB will work with local businesses to help identify available funding opportunities and assist with the completion of grant applications. Depending on the complexity, submission due dates or length of the grant application, SBWIB may coordinate with previously procured grant writing consultants for support.
Financial Management	Financial Management assistance and workshops will be available to local businesses and managers. These services would be performed by one of our financial management experts that currently conducts workshops and training for individuals facing layoffs in the South Bay region. Experts utilized will be experienced financial professionals with required certifications and credentials.

RESPONSIBILITIES OF CONTRACTOR:

1. The CONTRACTOR will provide the services under the City of Hawthorne's Local Business Assistance program:
 - a. Enhanced Business Services – outreach to Hawthorne business owners (including startups and micro businesses). Outreach activities include, as needed, personal visits, phone calls, e-mails, and postal mailings (postage and printing costs to be paid by the City of Hawthorne).
 - b. Utilize SBWIB's Business Services and resources as needed to promote the programs in SBWIB newsletters, emails and SBWIB social media.
 - c. Conduct a business needs assessment and match service needs and or referrals.
 - d. Coordination of planning activities with employers/employees and other stakeholders to meet the goals and outcomes of the service plan(s). Including trainers, grant writers and industry experts.
2. The CONTRACTOR will assist up to ten (10) individual Hawthorne businesses to receive services in one of the three service areas as identified:
 - 1) Incumbent Worker Training
 - 2) Grant Development Assistance
 - 3) Financial Management Workshops
3. Provide project data and required reports and information to be determined as well as upon demand by City of Hawthorne.
4. Provide a designated single point of contact for the program.
5. Provide a management level representative to participate in start-up planning activities, training, and on-going attendance at partner meetings.
6. PROVIDE CITY staff and/or Grantor with on-going access to project and financial files/records, and project activities at any time with or without prior notice during regular business hours.

PROJECT COORDINATION OF ACTIVITIES:

Michael Trogan
Special Projects Development Manager
South Bay Workforce Investment Board
11539 Hawthorne Blvd., Suite 500
Hawthorne, CA 90250
310-770-7787
mtrogan@sbwib.org

Laura Bischoff
Contracts & Training Manager
South Bay Workforce Investment Board
11539 Hawthorne Blvd., Suite 500
Hawthorne, CA 90250
310-970-7762
lbischoff@sbwib.org

EXHIBIT B**FEE SCHEDULE**

The CONTRACTOR is responsible for the tracking of all unduplicated services to businesses under this Agreement. The CONTRACTOR may submit an invoice to the CITY on a monthly basis for business activities rendered in accordance with Exhibit A – Statement of Work. The CONTRACTOR will maintain all fiscal records in accordance with Office of Management and Budget (OMB) regulations and make such records available for review/audit.

The CITY will receive an invoice and make payment within 45 days upon approval.

The maximum fee schedule for work described under the Exhibit A - Statement of Work will be set at **\$53,000.00.**

COST BREAKOUT

Service Option	Description	Amount *
Administrative Costs	Fiscal, Accounting, MIS, and other administrative related duties	\$3,000
Business Services (10 Local Businesses)	Upon assessment and need, local businesses may request services in any of the service options identified and described. \$5,000 per business	\$50,000
Total		\$53,000
<i>*Service needs above the planned allocation per business will require CITY approval prior to engagement.</i>		

PAYMENTS WILL BE REMITTED TO:

South Bay Workforce Investment Board, Inc.
11539 Hawthorne Blvd., Suite 500
Hawthorne, CA 90250
Attn: Fiscal Unit

FISCAL CONTACT:

Tudorita "Dori" Giulea
Fiscal Manager
310-970-7750
tgiulea@sbwib.org