

**CITY OF SAN JOSE
POLICE DEPARTMENT
GRANT AGREEMENT**

SUMMARY PAGES

Grantee Name:	City of Salinas		
Project Name:	Internet Crimes Against Children Grant Program		
Project Description:	The California Governor's Office of Emergency Services ("Cal OES") has awarded Fiscal Year 2023 Internet Crimes Against Children grant funds to the CITY. The purpose of the project is to ensure local law enforcement agencies in the Silicon Valley Task Force are adequately equipped to investigate computer crimes that target youth. This AGREEMENT will allocate a subaward in an amount not to exceed \$75,000 to City of Salinas for training, supplies, and equipment.		
Funding Source:	Cal OES State Funds		
Grant Award for Grant Year 2024 Not to Exceed:	\$75,000		
Resolution/Authority:	RES2024-4		
Payment Terms:	See EXHIBIT D		
Agreement Term:	Start Date:	1/1/2024	End Date: 2/28/2025

PARTIES TO AGREEMENT:

	GRANTEE	CITY OF SAN JOSE
Name:	City of Salinas	San José Police Department
Address for Legal Notice:	200 Lincoln Avenue Salinas, CA 93901	201 W. Mission Street San José, CA 95110
Attention:	John C. Murray	Anthony Mata
Email Address:	johnm@ci.salinas.ca.us	Anthony.Mata@sanjoseca.gov
Telephone No:	(831) 758-7286	(408) 277-4212

Taxpayer ID:	94-6000412	
DUNS/UEI No.:	CHDWBL29G9Z5	
Type of Entity:	Government	
State of Incorporation or Residency:	California	

CONTACT INFORMATION:

GRANTEE Contract Manager:	Tonya Erickson
Title:	Police Services Administrator
Telephone No:	(831) 758-7325
Email:	tonyae@ci.salinas.ca.us

CITY Representative:	Sylvia Perez
Title:	Senior Analyst
Telephone No:	(408) 537-1617
Email:	Sylvia.Perez@sanjoseca.gov

EXHIBIT LIST:

YES N/A

<input checked="" type="checkbox"/>	<input type="checkbox"/>	Exhibit A:	Scope of Services
<input checked="" type="checkbox"/>	<input type="checkbox"/>	Exhibit B:	Monitoring, Evaluation, and Reporting Requirements
<input checked="" type="checkbox"/>	<input type="checkbox"/>	Exhibit C:	Budget Summary
<input checked="" type="checkbox"/>	<input type="checkbox"/>	Exhibit D:	Payments to Grantee and Reporting Schedule
<input checked="" type="checkbox"/>	<input type="checkbox"/>	Exhibit E:	General Service Requirements
<input type="checkbox"/>	<input checked="" type="checkbox"/>	Exhibit F:	Federal Funding Provisions
<input checked="" type="checkbox"/>	<input type="checkbox"/>	Exhibit G:	Insurance Requirements
<input checked="" type="checkbox"/>	<input type="checkbox"/>	Exhibit H:	Employee/Volunteer Clearance Verification and Compliance with the Child Abuse and Neglect Reporting Act *
<input checked="" type="checkbox"/>	<input type="checkbox"/>	Exhibit I:	Retroactive Services

* Applicable if GRANTEE employees or volunteers perform services in a position i) having supervisory or disciplinary authority over minors; or ii) requiring contact with children, or as a food concessionaire or other similar licensed concessionaire.

To the extent applicable, the following grant provisions are required for this AGREEMENT:

REQUIRED LANGUAGE ATTACHMENT:

YES	N/A	
<input type="checkbox"/>	<input checked="" type="checkbox"/>	City of San José Funding
<input type="checkbox"/>	<input checked="" type="checkbox"/>	Federal
<input checked="" type="checkbox"/>	<input type="checkbox"/>	State
<input type="checkbox"/>	<input checked="" type="checkbox"/>	County
<input type="checkbox"/>	<input checked="" type="checkbox"/>	Other Public Agency
<input type="checkbox"/>	<input checked="" type="checkbox"/>	Private Funding Agency

The Exhibits marked above are attached hereto and incorporated herein. I certify that I have read and hereby consent to all the terms and provisions contained in the attached AGREEMENT, including without limitation, all exhibits. Said AGREEMENT is hereby incorporated.

WITNESS THE EXECUTION HEREOF the day and year first hereinabove written.

CITY OF SALINAS, a political subdivision of the State of California

GRANTEE Signature: _____ Date: _____
Print Name: _____
Title: _____

Approved as to Form:

Christopher A. Callihan, City Attorney

CITY OF SAN JOSE, a California municipal corporation

SARAH ZARATE

Director, City Manager's
Office

_____ Date: _____

APPROVED AS TO FORM:

CARL B. MITCHELL

Sr. Deputy City Attorney

_____ Date: _____



CITY OF SAN JOSE
POLICE DEPARTMENT
GRANT AGREEMENT

Internet Crimes Against Children Grant Program

This GRANT AGREEMENT ("AGREEMENT") is made and entered into upon execution by CITY, and is by and between the CITY OF SAN JOSE, a California municipal corporation ("CITY"), and CITY OF SALINAS, a political subdivision of the State of California ("GRANTEE"). CITY and GRANTEE are sometimes collectively referred to as "Parties" and individually as "Party".

RECITALS

WHEREAS, on January 9, 2024, the Council of the City of San José ("City Council") adopted a resolution authorizing the CITY to enter into this AGREEMENT for the Internet Crimes Against Children ("ICAC") Grant Program ("Program"); and

WHEREAS, GRANTEE has the necessary professional expertise and skill to perform such services; and

WHEREAS, CITY desires to grant Cal OES State Funds funding for the services in this AGREEMENT to be provided by GRANTEE; and

WHEREAS, CITY's Chief of Police ("DIRECTOR"), including the DIRECTOR's authorized designees, are charged with the administration of this AGREEMENT; and

WHEREAS, it is understood and agreed that GRANTEE has commenced work and incurred costs prior to execution of this AGREEMENT in anticipation of its execution; and

WHEREAS, CITY agrees to reimburse GRANTEE for those costs in accordance with the terms of this AGREEMENT. However, in no event shall GRANTEE be reimbursed for costs incurred prior to January 1, 2024; and]

WHEREAS, these Recitals are incorporated and made a part of this AGREEMENT;

NOW, THEREFORE, the purpose of this AGREEMENT is to retain GRANTEE to perform those services specified in **EXHIBIT A** of this AGREEMENT as follows:

THE PARTIES HEREBY AGREE AS FOLLOWS:

SECTION 1: PROGRAM COORDINATION

- A. **CITY:** The CITY'S DIRECTOR, or his or her designee, also identified on the Summary Pages, shall be the CITY official responsible for the Program and shall

render overall supervision of the progress and performance of this AGREEMENT by CITY. All services agreed to be performed by CITY shall be under the overall direction of the DIRECTOR.

- B. **GRANTEE:** GRANTEE shall identify a single project director who shall have overall responsibility for the progress and execution of this AGREEMENT ("GRANTEE Contract Manager") as also identified on the Summary Pages. Additionally, GRANTEE shall immediately notify CITY in writing should circumstances or conditions subsequent to the execution of this AGREEMENT require a substitute GRANTEE Contract Manager. GRANTEE Contract Manager and GRANTEE staff will fully cooperate with the DIRECTOR relating to the work or services provided hereunder.

SECTION 2: TERM OF AGREEMENT

- A. The term of this AGREEMENT ("Term") shall commence on the Start Date and shall expire on the End Date, as set forth in the Summary Pages, unless extended or sooner terminated in accordance with the terms of this AGREEMENT. Regardless of the date of execution of this AGREEMENT, this AGREEMENT is effective as of the Start Date. GRANTEE shall not receive payment for work performed prior to the Start Date.
- B. If this AGREEMENT is extended, a request to extend this AGREEMENT along with a description of the revised Scope of Services (attached hereto as **EXHIBIT A**) should be submitted by GRANTEE to the CITY no less than forty-five (45) days prior to the End Date. An extension must be set forth in a written amendment to this AGREEMENT, signed by authorized representatives of CITY and GRANTEE. Nothing herein commits or binds the CITY to extend this AGREEMENT which shall be at the sole discretion of CITY, and if additional funds are required, shall be subject to appropriation of funds by the City Council.

SECTION 3: GRANT SERVICES AND GRANT AWARD

- A. GRANTEE shall perform those services as specified in detail on **EXHIBIT A**, "Scope of Services" ("Grant Services"), which is attached hereto and incorporated herein, and shall comply with the terms and conditions of this AGREEMENT.
- B. The maximum amount the CITY will pay the GRANTEE for the Grant Services is set forth on the Summary Pages ("Grant Award").

SECTION 4: PAYMENTS

- A. CITY agrees to pay GRANTEE an amount not to exceed the amount set forth on the Summary Pages ("Grant Award"), for the services described in **EXHIBIT A**, "Scope of Services," and which payment is subject to the terms and conditions set forth in **EXHIBIT C**, "Budget Summary," and **EXHIBIT D**, "Payments to GRANTEE

and Reporting Schedule.” Any costs incurred by GRANTEE above the Grant Award shall be at GRANTEE’s sole cost and expense.

- B. GRANTEE will provide CITY with invoices or financial reports signed by the GRANTEE Contract Manager or other authorized GRANTEE representative with authority to confirm the accuracy of reported expenditures on a form approved by CITY, with applicable invoices and/or financial reports in sufficient detail to determine actual costs incurred, hours, services provided, and any indirect, overhead or administrative costs charged to the CITY.
- C. CITY will review invoices or financial reports for adherence to AGREEMENT requirements and services, and authorize and release payment to GRANTEE based upon claims submitted and within thirty (30) calendar days from receipt of invoice or financial reports and complete supporting documentation which includes but is not limited to signed timecards, personnel activity reports, paid invoices, receipts, executed contracts, signed leases, payroll records, or any other documentation to prove the costs claimed for reimbursement, provided that GRANTEE is not in default under any provisions of this AGREEMENT.
- D. CITY will not pay for unauthorized services rendered by GRANTEE or for claimed services which GRANTEE has not provided as required by this AGREEMENT. GRANTEE shall in no event be reimbursed for costs incurred prior to Start Date.
- E. City’s Manager or designee may, without prior notice to GRANTEE, at any time in his or her absolute discretion, elect to suspend or terminate payment to GRANTEE, in whole or in part, terminate work or expenditures by GRANTEE under this AGREEMENT, or not to make any particular payment under this AGREEMENT or take any other action available in the event of any of the following occurrences:
 - 1. If GRANTEE (with or without knowledge) shall have made any material misrepresentation of any nature with respect to any information or statements furnished to CITY in connection with this AGREEMENT;
 - 2. If there is pending litigation with respect to the performance by GRANTEE of any of its duties or obligations under this AGREEMENT which may materially jeopardize or adversely affect the undertaking of or the carrying out of the Grant Services;
 - 3. If GRANTEE, without having obtained CITY approval, has taken any action pertaining to the Grant Services which requires CITY approval;
 - 4. If GRANTEE makes improper use of the Grant Award;
 - 5. If GRANTEE fails to comply with any of the terms and conditions of this AGREEMENT including without limitation, GRANTEE’s failure to carry out

the Grant Services or other obligations as described in any Exhibit to this AGREEMENT; or

6. If GRANTEE submits to CITY any report which is incorrect or incomplete in any material respect, or is untimely.

SECTION 5: DEFAULT AND TERMINATION OF AGREEMENT

- A. Termination for Convenience. CITY may, through its DIRECTOR, terminate this AGREEMENT without cause by giving GRANTEE thirty (30) calendar days' written notice.
- B. Termination for Cause. Each of GRANTEE's obligations under this AGREEMENT shall be deemed material. If GRANTEE fails to perform any of its obligations under this AGREEMENT, or any other agreement with the CITY, CITY may terminate this AGREEMENT upon ten (10) days advance notice ("Notice Period") to GRANTEE, specifying GRANTEE's breach and providing GRANTEE with the opportunity to cure the specified breach within the Notice Period or in those instances where the specified breach cannot reasonably be cured within the Notice Period, the opportunity to commence to cure the specified breach. In the event GRANTEE fails to cure or to commence to cure the specified breach within the Notice Period, this AGREEMENT shall be terminated. Without limiting the generality of the foregoing, the occurrence of any one of the following events shall constitute a default of this AGREEMENT for which CITY may exercise its right of termination:
 1. GRANTEE's breach of any of the representations or warranties contained in this AGREEMENT;
 2. The occurrence of any of the events set forth in Section 4 for suspension or termination of CITY's payment of the Grant Award.
- C. Termination for Unavailability of Funds. In the event of reduction, suspension, discontinuance or other unavailability of funds, CITY unilaterally may take appropriate action(s) including, but not limited to, immediately canceling or reducing existing service authorization, stopping or reducing further referrals of individuals, and/or reducing the maximum dollar amount of this AGREEMENT. CITY shall give GRANTEE no less than sixty (60) business days' advance written notice of the action(s) CITY intends to take as a result of the unavailability of funds. CITY shall not be liable for start-up costs, or lost profits in the event of early termination.
- D. In the event of termination under this Section 5, GRANTEE shall have the following obligations:

1. No later than thirty (30) days following the date of termination, GRANTEE shall refund to CITY any unused portion of the Grant Award, included interest accrued, except that GRANTEE shall have no obligation to refund to CITY any portion of the Grant Award that was distributed in accordance with the terms of the AGREEMENT. GRANTEE shall also provide CITY with a written report detailing the expenditures, if any, from the Grant Award, including an accounting of its administrative expenses to the date of termination. GRANTEE shall refund to CITY any portion of the Grant Award designated for GRANTEE's administrative expenses which was not expended as of the date of termination.

Nothing in this AGREEMENT shall be deemed to be a waiver of CITY's right to recover from GRANTEE any portion of the Grant Award that has not been spent in accordance with this AGREEMENT. Upon receipt, GRANTEE will be paid for services performed and reimbursable expenses incurred in compliance with the terms of this AGREEMENT to date of termination.

2. Upon termination, GRANTEE shall immediately deliver to CITY any and all copies of materials used or developed for this grant including, but not limited to, all data collection forms, reports, studies and other work performed, whether or not completed by GRANTEE or GRANTEE's subcontractor, if any, under this AGREEMENT.
- E. Nothing in this AGREEMENT shall be construed so as to deprive CITY of its rights and remedies at law or in equity against GRANTEE.
- F. The DIRECTOR is authorized to terminate this AGREEMENT on CITY's behalf.
- G. If the term of this AGREEMENT is more than three hundred and sixty-five (365) days, the funding in any year after the first year may be contingent upon past and pending performance as well as future appropriation by the City Council, in its sole discretion. If the funding required to pay for Grant Services for the next fiscal year has not been appropriated by June 30 of any year, this AGREEMENT will automatically terminate, effective June 30.
- H. CITY may, at its sole option, pursue a course correction process with GRANTEE to address issues with GRANTEE's performance under this AGREEMENT. However, CITY is under no obligation to pursue a course correction prior to exercising its rights to suspend payment to GRANTEE or to terminate this AGREEMENT.

SECTION 6: ACCOUNTING AND FINANCIAL RECORDS

GRANTEE shall establish and maintain at all times, on a current basis in connection with the provision of Grant Services, an adequate accounting system in accordance with generally accepted accounting principles and standards and acceptable to the

DIRECTOR covering all revenues, costs, and expenditures with respect to GRANTEE's performance under this AGREEMENT. GRANTEE shall maintain its accounting system and shall provide CITY with reports that separate costs and expenses incurred by GRANTEE with CITY funds as distinguished from costs and expenses paid for from other funding sources.

SECTION 7: REPORTING REQUIREMENTS

GRANTEE shall submit reports related to GRANTEE's performance under this AGREEMENT prepared in accordance with **EXHIBIT B** and, to the extent applicable, on the schedule specified in **EXHIBIT D**. The format of the reports shall be as provided in this AGREEMENT unless otherwise directed by the DIRECTOR. A final report shall be delivered to CITY prior to expiration of this AGREEMENT, as may be further described in **EXHIBIT B**.

SECTION 8: RIGHT OF EXAMINATION AND AUDIT AND PRESERVATION OF RECORDS

- A. GRANTEE agrees that the CITY's Manager, Auditor, Attorney or the DIRECTOR, or any of their duly authorized representatives, shall have access to and the right to examine all facilities and activities of GRANTEE related to GRANTEE's performance of this AGREEMENT, including the right to audit, examine and make excerpts or transcripts of all contracts, subcontracts, invoices, payroll records, personnel records, and all other data or financial records relating to matters covered by this AGREEMENT at any time during the term of this AGREEMENT. GRANTEE shall cooperate with CITY in such audit, examination, further review and shall provide CITY with access to GRANTEE's staff and to all relevant records, documents, and data, including but not limited to, management letters, board minutes, and payroll.
- B. GRANTEE shall comply with any audits by appropriate monitoring agencies at GRANTEE's sole expense. GRANTEE shall submit an audit report within thirty (30) days in the event the AGREEMENT is terminated, voluntarily or involuntarily, before the end of the term. GRANTEE shall pay to CITY, from neither CITY nor federal funds, the full amount of liability resulting from disallowances or other audit or monitoring exceptions which are attributed to GRANTEE's error, omission, or violation of any provision of this AGREEMENT.
- C. **EXHIBIT B**, "Monitoring, Evaluation, and Reporting Requirements," may set forth additional standards regarding the CITY's right to audit, and GRANTEE's obligation to deliver to the CITY reports which may include audited financial reports. GRANTEE further agrees that GRANTEE shall preserve all records related to the performance of this AGREEMENT and that CITY's right to examine or audit the GRANTEE's records, facilities or activities shall continue as specified in **EXHIBIT B**.

SECTION 9: CITY ACKNOWLEDGMENT

GRANTEE shall acknowledge the support of CITY, where appropriate, in written documents and informational materials regarding Grant Services, the Grant Award or this AGREEMENT.

SECTION 10: INSURANCE

GRANTEE agrees to have the policies set forth in the attached **EXHIBIT G**, "Insurance Requirements," which is attached and incorporated herein, not later than the date of execution of this AGREEMENT and to maintain such policies throughout the term of this AGREEMENT. All policies, endorsements, certificates and/or binders shall be subject to approval by the Risk Manager of the CITY as to form and content. These requirements may not be amended or waived unless approved in writing by the CITY's Risk Manager. GRANTEE agrees to provide CITY with a copy of said policies, certificates and/or endorsements upon execution of this AGREEMENT.

SECTION 11: INDEMNIFICATION AND HOLD HARMLESS

- A. GRANTEE shall defend, indemnify and hold harmless the CITY, its officers, employees and agents from and against any and all claims, loss, demands, causes of action, or liabilities arising from, in whole or in part, directly or indirectly, GRANTEE's acts or omissions under this AGREEMENT. In any action or claim against CITY in which GRANTEE is defending CITY, CITY shall have the right to approve legal counsel providing CITY's defense and such approval shall not be unreasonably withheld. GRANTEE further agrees to release CITY from any and all claims for any damages, including property damage, injury or death occurring or arising out of use of CITY's property, except as may be caused by the CITY's sole, active negligence or willful misconduct.
- B. The GRANTEE's obligations under this indemnification provision shall survive the expiration or termination of this AGREEMENT.

SECTION 12: NOTICES

- A. Any communication or notice to either Party shall be in writing and shall be either personally delivered or mailed in the United States mail, postage prepaid, or by facsimile, or electronic mail, to the respective Parties addressed as referenced on the Summary Pages of this AGREEMENT. Notice shall be deemed effective on the date personally delivered or, if mailed, three (3) days after deposit in the mail.
- B. Either Party may change its address by sending written notice of the new address to the other Party pursuant to this Section 12.

SECTION 13: AMENDMENTS

Unless otherwise authorized by this AGREEMENT, amendments to the terms and conditions of this AGREEMENT and any such adjustment to this AGREEMENT shall be effective only upon the mutual AGREEMENT in writing of the authorized representatives of the Parties.

SECTION 14: COMPLIANCE WITH LAWS/NONDISCRIMINATION

- A. GRANTEE shall comply with all applicable laws, ordinances, codes and regulations of the federal, state and local governments and with applicable CITY policies.
- B. GRANTEE shall not discriminate, in any way, against any person on the basis of race, sex, color, age, religion, actual or perceived gender identity, sexual orientation, disability, ethnicity or national origin in connection with or related to the performance of this AGREEMENT.
- C. GRANTEE shall fully implement and comply with its CITY-approved Language Access Plan to ensure that Limited English Proficient clients have equal access to community programs and services.
- D. GRANTEE will also obtain and maintain all licenses and permits appropriate to its proper and effective performance of this AGREEMENT prior to the date of commencement, including, but not limited to a City of San José business tax certificate or exemption, if applicable, with the CITY's Finance Department to operate in the CITY. GRANTEE is responsible for contacting the appropriate offices and filing the necessary documents to comply with these requirements.
- E. GRANTEE shall comply with the provisions of CITY's Business Tax Ordinance in Chapter 4.76 of the San José Municipal Code. Moreover, neither CITY nor GRANTEE shall make any payments that would be in violation of any law existing during the term of this AGREEMENT, including but not limited to any maximum amount of administrative fee(s).
- F. In the event there are conflicting terms in this AGREEMENT or if the terms of this AGREEMENT conflict with laws existing during the term of this AGREEMENT the stricter terms shall take precedent over the more lenient, unless otherwise stated. The following examples are intended to provide clarity on this point: (i) if the maximum administrative fee allowed under the agreement is ten (10%), but federal law allows for only seven (7%), then the stricter seven (7%) maximum under federal law would govern; or, (ii) if the agreement provides GRANTEE retain records for five (5) years, but the federal regulations are amended during the term to be seven (7) years, then the stricter seven (7) year retention requirement governs.

SECTION 15: RELATIONSHIP OF PARTIES/INDEPENDENT CONTRACTOR

- A. It is understood and agreed that GRANTEE in the performance of this AGREEMENT, shall not act nor is it at any time authorized to act, as the agent or representative of CITY in any matter. GRANTEE further agrees that it will not in any manner hold itself out as the agent or representative of CITY or act in such a fashion as would give the impression to a reasonable person that GRANTEE is acting in such a capacity.
- B. The Parties agree that GRANTEE and GRANTEE's employees, in the performance of this AGREEMENT, shall be at all times independent contractors and not agents or employees of the CITY, and that GRANTEE and GRANTEE's employees shall not be entitled to any salary, fringe benefits, pension, Workers' Compensation, sick leave, insurance or any other benefit or right connected with employment by the CITY, or any compensation other than as prescribed herein, and GRANTEE and GRANTEE's employees expressly waive any claim it/they may have to any such rights.
- C. Under no circumstances shall this AGREEMENT be construed as one of partnership, joint venture, or employment between GRANTEE and CITY. Each Party acknowledges and agrees that it neither has, nor will give the appearance or impression of having, any legal authority to bind or commit the other Party in any way.

SECTION 16: WAIVER

- A. In no event shall any payment by CITY or any acceptance of payment by GRANTEE hereunder constitute or be construed to be a waiver by CITY of any breach of covenants or conditions of this AGREEMENT or any default which may then exist on the part of GRANTEE, and the making of any such payment or the acceptance of any such payment while any such breach or default exists, shall in no way impair or prejudice any right or remedy available to CITY with respect to such breach or default.
- B. The waiver by any Party of a breach of any provision of this AGREEMENT shall not be deemed a continuing waiver or a waiver of any subsequent breach of that or any other provision of this AGREEMENT.

SECTION 17: CORPORATE AUTHORITY/AUTHORIZED REPRESENTATIVES

GRANTEE represents and warrants that it has the authority to enter into this AGREEMENT. GRANTEE further represents and warrants that its signatory to this AGREEMENT is authorized to execute this AGREEMENT on GRANTEE's behalf.

SECTION 18: INTEGRATED DOCUMENT

This AGREEMENT, including the Summary Pages and any exhibits, are incorporated herein and embody the entire AGREEMENT between CITY and GRANTEE. No oral agreements or conversations with any officer, agent or employee of CITY shall affect or modify any of the terms or obligations contained in any documents comprising this AGREEMENT. Any such oral agreement shall be considered as unofficial information and in no way binding upon CITY. In the event that the terms specified in the Summary Pages or any of the Exhibits and Certifications attached hereto conflict with any of the terms specified in the body of this AGREEMENT, the terms specified in the body of this AGREEMENT shall control.

SECTION 19: SEVERABILITY OF PROVISIONS

If any part of this AGREEMENT is for any reason found to be unenforceable by a court of competent jurisdiction, all other parts nevertheless remain enforceable. CITY and GRANTEE agree that to the extent that the exclusion of any unenforceable provisions from this AGREEMENT affects the purpose of this AGREEMENT, then the Parties shall negotiate an adjustment to this AGREEMENT in order to give full effect to the purpose of this AGREEMENT or either Party may terminate this AGREEMENT. In the event of termination, the provisions of Section 5 as related to repayment of the Grant Award shall apply.

SECTION 20: VENUE

The Parties agree that this AGREEMENT shall be governed and construed in accordance with the laws of the State of California. In the event that suit shall be brought by either Party to this AGREEMENT, the Parties agree that venue shall be exclusively vested in the state courts of the County of Santa Clara, or if federal jurisdiction is appropriate, exclusively in the United States District Court, Northern District of California, San José, California.

SECTION 21: CONFLICT OF INTEREST

GRANTEE shall avoid all conflict of interest or appearance of conflict of interest in performance of this AGREEMENT. GRANTEE shall comply with the applicable provisions of the Political Reform Act of 1974, as amended, relating to conflicts of interest (codified in California Government Code Section 87000, et seq.), with the conflict of interest provisions of Government Code Section 1090 et seq. and with the CITY's Code of Ethics, set forth in City Council policy 0-15. GRANTEE shall promptly advise CITY of the facts and circumstances concerning any disclosure made to it or any information obtained by it relating to conflicts of interest.

SECTION 22: RELIGIOUS/POLITICAL ACTIVITIES

- A. GRANTEE shall not expend any portion of the Grant Award to inhibit or promote religion and the Grant Services funded by the Grant Award must not be used to convey a religious message. Any portion of the Grant Award used in contradiction to the provisions of this Section 22, shall be deemed a disallowed cost.
- B. GRANTEE shall not expend any portion of the Grant Award for political advocacy efforts, whether for or against a political candidate, ballot measure or bill.

SECTION 23: ASSIGNABILITY

The Parties agree that the expertise and experience of GRANTEE are material considerations for this AGREEMENT. Unless specifically authorized by this AGREEMENT, GRANTEE may not assign the performance of any obligation or interest under this AGREEMENT, including subcontracting, without the prior written consent of CITY. Any attempt by GRANTEE to assign this AGREEMENT, in violation of this Section 23, will be voidable at CITY's sole option. In the event CITY determines that any of the rights, duties or obligations under this AGREEMENT have been subcontracted or assigned to another vendor or grantee by GRANTEE, without the written consent of CITY, then CITY may exercise its right to take any appropriate remedy identified in Section 5, "Default and Termination of Agreement," including without limitation, termination of the entire AGREEMENT.

SECTION 24: SUBCONTRACTS

- A. No subcontract will alter in any way any legal responsibility of GRANTEE to provide services under this AGREEMENT.
- B. GRANTEE will monitor the subcontractor(s) to ensure compliance with the terms and conditions of this AGREEMENT and provide records of their compliance as requested.
- C. GRANTEE will assure that the subcontractor(s) maintain(s) current licensure and indemnity insurance appropriate for obligations undertaken by subcontractor(s) and will provide copies of such to CITY.
- D. GRANTEE will provide CITY with records of reimbursement to subcontractor(s) for obligations incurred under subcontract.
- E. CITY has the right to refuse reimbursement for obligations incurred under any subcontract that does not comply with the terms of this AGREEMENT.

SECTION 25: EMPLOYEES/VOLUNTEERS

- A. Any and all personnel employed or volunteers retained by GRANTEE in conducting the operations of GRANTEE's Program shall be qualified to perform the duties assigned to them by GRANTEE.
- B. GRANTEE shall not hire employees or volunteers who will have supervisory or disciplinary authority over minors who have been convicted of any offense identified in California Public Resources Code Sections 5164. GRANTEE shall fully indemnify, defend, and hold harmless CITY for any such hiring. GRANTEE shall notify CITY in writing of any violation of this provision as soon as is reasonably practicable.
- C. GRANTEE shall also not employ any person who is permitted to provide services requiring contact with children or providing food concessionaire services or other licensed concessionaire services in that area, unless GRANTEE has complied with the tuberculosis (TB) testing requirements set forth in Section 5163 of the California Public Resources Code.
- D. Regardless of whether services have been provided prior to full execution of this AGREEMENT, GRANTEE certifies to the CITY that all services were provided in full compliance with the terms and provisions of this AGREEMENT.
- E. To give effect to California Public Resources Code Sections 5163 and 5164, GRANTEE shall follow the procedures contained in **EXHIBIT H** attached hereto. In the event GRANTEE chooses a different national criminal database for complying with the Federal Bureau of Investigation (FBI) requirement for background checks, then such alternative database shall be subject to the CITY's prior written approval.

SECTION 26: GRANTEE'S FINANCIALS

- A. City Council requires that each non-profit organization receiving Three Hundred Fifty Thousand Dollars (\$350,000) or more in funds from the CITY (in the aggregate) during any fiscal year which is either (i) grant funding other than construction funding and/or (ii) operating subsidy funding for operation of CITY facilities, must prepare and make available for public view on the internet, annual audited financial statements. The audited financial statements must be made available for view within one hundred fifty (150) days from the end of the non-profit's fiscal year (which period may be extended by the CITY's Manager based upon a showing of hardship or other good cause) and must be submitted to the CITY's Police Department and posted at the GRANTEE's website at an easily accessible location. All audits must be performed by a certified public accountant currently licensed to practice in the State of California, must conform to generally accepted auditing standards and otherwise be in a form acceptable to the CITY.

- B. Non-profits shall be required to comply with this requirement at the time that the non-profit has entered into one or more grant agreements or subsidy agreements with the CITY, which provide for the payment of an aggregate amount that equals or exceeds Three Hundred Fifty Thousand Dollars (\$350,000) in grant and/or subsidy funds in any one fiscal year. Non-profits covered by this requirement must exert due diligence in determining when they have reached the aggregate funding threshold of Three Hundred Fifty Thousand Dollars (\$350,000). The provisions of the financial posting requirements shall be interpreted broadly to effectuate the purpose of making available to the public information on recipients of substantial CITY funds. These provisions shall apply not only to grant agreements or operating agreements but shall also apply, without limitation, if any amendments to such agreements brings the total annual funding to equal or exceed Three Hundred Fifty Thousand Dollars (\$350,000), and also to any other agreements with the CITY that are equivalent in purpose to a grant agreement or an operating subsidy agreement, regardless of the title of the agreement.
- C. This posting requirement shall remain in effect until an entire fiscal year passes in which the non-profit does not have contracts with the CITY which provide for grants and/or subsidies from the CITY in an aggregate amount equaling or exceeding Three Hundred Fifty Thousand Dollars (\$350,000). Without limitation of any other remedy, GRANTEE's failure to comply with this requirement may be taken into consideration when evaluating GRANTEE's request for future grant funds or subsidies.
- D. Organizations receiving an aggregate amount of Twenty-Five Thousand Dollars (\$25,000) or more in funds from the CITY during any fiscal year which is either (i) grant funding other than construction funding and/or (ii) operating subsidy funding for operation of CITY facilities, must prepare and submit via the CITY's WebGrants grant management system, ("WebGrants"), a completed Financial Dashboard. CITY's project director will provide a CITY approved Financial Dashboard template upon request. The Financial Dashboard must be submitted via WebGrants within six (6) months from the end of GRANTEE'S fiscal year. This includes the GRANTEE's previous fiscal year, if that year ended within six (6) months of the commencement of this AGREEMENT.

SECTION 27: ENVIRONMENTALLY PREFERABLE PROCUREMENT POLICY

- A. GRANTEE agrees that, in the performance of this AGREEMENT, GRANTEE shall perform its obligations under the AGREEMENT in conformance with City Council Policy 4-6, Environmentally Preferable Procurement Policy. A description for environmentally preferable procurement and the policy can be found on the CITY's website at the following link: <https://www.sanjoseca.gov/home/showdocument?id=12833>.
- B. Environmental procurement policies and activities related to the completion of work will include wherever practicable, but are not limited to:

1. Use of recycled and/or recyclable products in daily operations (i.e. 30, 50, 100% PCW paper, chlorine process free; triclosan free hand cleaner, etc.).
2. Use of Energy Star Compliant equipment.
3. Vehicles and vehicle operations (i.e. Alternative Fuel, Hybrid, etc.).
4. Internal waste reduction and reuse protocol(s).
5. Water and resource conservation activities within facilities, including bans on individual serving bottled water and the use of compostable food service products, etc.

SECTION 28: GIFTS

- A. GRANTEE is familiar with CITY's prohibition against the acceptance of any gift by a CITY officer or designated employee, which prohibition is found in Chapter 12.08 of the CITY Municipal Code.
- B. GRANTEE agrees not to offer any CITY officer or designated employee any gift prohibited by said Chapter.
- C. The offer or giving of any gift prohibited by Chapter 12.08 shall constitute a material breach of this AGREEMENT by GRANTEE. In addition to any other remedies CITY may have in law or equity, CITY may terminate this AGREEMENT for such breach as provided in Section 5 of this AGREEMENT.

SECTION 29: DISQUALIFICATION OF FORMER EMPLOYEES

GRANTEE is familiar with the provisions relating to the disqualification of former officers and employees of CITY in matters which are connected with former duties or official responsibilities as set forth in Chapter 12.10 of the CITY Municipal Code ("Revolving Door Ordinance"). GRANTEE shall not utilize either directly or indirectly any officer, employee or agent of GRANTEE to perform services under this AGREEMENT, if in the performance of such services, the officer, employee, or agent would be in violation of the Revolving Door Ordinance.

SECTION 30: NO THIRD PARTY RIGHTS

This AGREEMENT does not constitute a binding commitment to any client or agency except CITY and GRANTEE. No third party rights are created for clients or other individuals.

SECTION 31: OWNERSHIP OF MATERIALS; APPLICANT/CLIENT REPORTS

GRANTEE agrees that it shall provide to CITY information regarding applicants or clients who applied for or received services under this AGREEMENT as needed for reporting and tracking required by applicable federal and state laws. Such information shall be reported in a format that does not identify the individual applicant or client. Training

information or reports assembled by CITY from information provided by GRANTEE including, but not limited to, the number of clients enrolled; the number of clients that have completed training; and the number of clients who have entered employment in the area in which they have been trained is the property of CITY without restriction or limitation upon their use including the publication of such information.

SECTION 32: RECORDS

GRANTEE shall be solely responsible to implement internal controls and record keeping procedures that comply with this AGREEMENT and all applicable laws. GRANTEE's administrative, programmatic and financial records pertaining to the Program, or the AGREEMENT collectively, must sufficiently support the determination that expenditures are allowable. GRANTEE shall retain all records pertinent to this AGREEMENT for a period of five (5) years from the date of final payment for each fiscal year. GRANTEE shall retain such records beyond five (5) years so long as any litigation, audit, dispute or claim is pending.

SECTION 33: MISCELLANEOUS

- A. The headings of the sections and subsections of this AGREEMENT are inserted for convenience only.
- B. Where this AGREEMENT refers to CITY and no officer of the CITY is named, CITY's Manager shall have the authority to act on CITY's behalf.
- C. This AGREEMENT may be executed in any number of counterparts and by each Party in separate counterparts, each of which when so executed and delivered shall be deemed to be an original and all of which together shall constitute one and the same instrument.
- D. Unless otherwise prohibited by law or CITY policy, the Parties agree that an electronic copy of a signed contract, or an electronically signed contract, has the same force and legal effect as a contract executed with an original ink signature. The term "electronic copy of a signed contract" refers to a writing as set forth in Evidence Code Section 1550. The term "electronically signed contract" means a contract that is executed by applying an electronic signature using technology approved by the CITY.

EXHIBIT A
SCOPE OF SERVICES

GRANTEE will provide the services as described in this EXHIBIT.

In the event GRANTEE desires to modify the Scope of Services, GRANTEE shall apply to CITY in writing setting forth the requested modifications. CITY shall have the authority to approve the following categories of modifications, by letter signed by the CITY, without the necessity of a formal written amendment to this AGREEMENT:

1. Modifications to the times and dates of Scope of Services which do not affect the total units of services ("UOS") to be provided; or
2. Modifications to the location of the services provided so long as the proposed location will serve the same target population and is consistent with the Grant Allocation Plan, if applicable; or
3. The total number of UOS is reduced by an amount not to exceed ten percent (10%) of the UOS specified in the UOS Workbook.

A. Period of Service.

The Grant Services will commence on January 1, 2024 and continue through February 28, 2025.

B. Description of Services

In accordance with the provisions of the AGREEMENT and all rules and regulations pertaining thereto, GRANTEE shall use the Grant Program funds to procure training, supplies and equipment for the Silicon Valley Internet Crimes Against Children Task Force (SVICAC). The purpose of the SVICAC Task Force is to identify, apprehend, and prosecute Internet sexual predators who exploit children using computers, and to sponsor community education efforts regarding the prevention of internet crimes against children. The SVICAC Task Force expands across 11 different counties within the peninsula. All participating agencies acknowledge that the SVICAC Task Force is a joint operation in which all agencies act as partners in a joint effort to address internet crimes against children. The purchases under this agreement will consist of, but not limited to, training, evidence processing equipment, and operational equipment that will support in assisting jurisdictions in the southern part of the task force region with investigation.

EXHIBIT B
PROCUREMENT, MONITORING, AND REPORTING REQUIREMENTS

A. Fiscal Responsibilities of GRANTEE:

GRANTEE shall:

1. Appoint and submit to CITY the name of a fiscal contact who shall be responsible for the financial and accounting activities of the GRANTEE, including the receipt and disbursement of GRANTEE funds.
2. Establish and maintain a system of accounts that shall conform to generally accepted principles of accounting for budgeted funds. Such system of accounts shall be subject to review and approval of CITY.
3. Document all costs by maintaining complete and accurate records of all financial transactions, including but not limited to, contracts, invoices, time cards, cash receipts, vouchers, canceled checks, bank statements and/or other official documentation, evidencing in proper detail the nature and propriety of all charges.
4. Submit quarterly financial reports at the end of each quarter as outlined in **EXHIBIT D** in such form as CITY shall require.
5. Certify insurability subject to CITY approval as outlined in **EXHIBIT G**.
6. Submit to CITY at such times and in such forms as CITY may require, such statements, records, reports, data, and information pertaining to matters covered by this AGREEMENT.

B. Records, Reports and Audits of GRANTEE:

1. **Establishment and Maintenance of Records.** GRANTEE shall maintain records, including but not limited to, books, financial records, supporting documents, statistical records, personnel, property, and all other pertinent records sufficient to reflect properly:
 - a. All direct and indirect costs of whatever nature claimed to have been incurred and anticipated to be incurred in the performance of this AGREEMENT; and
 - b. All other matters covered by this AGREEMENT. Such records shall be maintained in accordance with requirements now or hereafter prescribed by the CITY.

2. Preservation of Records. GRANTEE shall preserve and make available its records:
 - a. for the period of five (5) years from the date of final payment to GRANTEE under this AGREEMENT; or
 - b. for such longer period, if any, as may be required by applicable law; or
 - c. if this AGREEMENT is completely or partially terminated, for a period of five (5) years from the date of any resulting final settlement.
3. Examination of Records and Facilities. At any time during normal business hours, upon advance written notice and as often as may be deemed necessary, GRANTEE agrees that CITY, and/or any of its respective authorized representatives shall have access to and the right to examine any of its plants, offices and/or facilities engaged in performance of this AGREEMENT and all its records with respect to all matters covered by this AGREEMENT. GRANTEE also agrees that the CITY, or any of its authorized representatives shall have the right to audit, examine, and make excerpts or transcripts of and from such records, and to make audits of all contracts and subcontracts, invoices, payrolls, records of personnel, conditions of employment, materials, and all other data relating to matters covered by this AGREEMENT. CITY may examine records or facilities pursuant to this Section throughout the term of this AGREEMENT and
 - a. for a period of five (5) years after final payment under this AGREEMENT; or,
 - b. for such longer period as may be required by applicable law; or
 - c. if this AGREEMENT is completely or partially terminated, for a period of five (5) years from the date of any resulting settlement.
4. Audits.
 - a. Independent Audits.
 - (1) If required by CITY's Grant Manager, GRANTEE shall submit an agency audit that conforms to generally accepted auditing standards and that includes the following components:
 - A. Balance Sheet or Statement of Financial Position;
 - B. Statement of Support, Revenue and Expenses and Changes in Fund Balances or Statement of Activities;

- C. Statement of Functional Expenses;
- D. Independent Auditor's Report. If the audit includes a Management Letter, this must also be submitted to the CITY.
- E. Schedule of Government Financial Assistance which identifies the gross amounts of grants obtained from the CITY and other governmental sources and shows the amount received and disbursed under each grant during the audited fiscal year; and
- F. Report on Compliance and on Internal Control over Financial Reporting based on an Audit of Financial Statements performed in Accordance with Government Auditing Standards indicating that a review of internal controls was performed and identifying material weaknesses and/or reportable conditions, if any.

Funds may be set aside in GRANTEE's budget in an amount equal to CITY's fair share of the GRANTEE's cost of the audit, if required.

- (2) If GRANTEE expends \$750,000 or more in a year in Federal awards, GRANTEE shall submit an audit report that conforms to the requirements of 2 C.F.R. Part 200, Subpart F, "Audit Requirements". Funds may be set aside in GRANTEE's budget in an amount equal to CITY's fair share of the GRANTEE's cost of a 2 C.F.R. Part 200, Subpart F independent audit, if required.
- (3) The GRANTEE's contract with its independent auditor shall require that the audit ascertains and determines that no services provided by the GRANTEE under this AGREEMENT are duplicative of services provided to another agency from which GRANTEE receives funding and are not being reimbursed from funding received from another agency.
- (4) GRANTEE shall also submit a written agency management response to the findings of the Internal Control Report, if required.
- (5) GRANTEE shall obtain three (3) bids for an outside auditor to conduct the agency audit. The AGREEMENT with an outside auditor can span a term of multiple years but it is highly

recommended that the GRANTEE rotate independent auditors every three years.

- (6) GRANTEE shall enter into an AGREEMENT with an outside auditor no later than sixty (60) days before the end of each Fiscal Year calling for a financial and compliance audit of GRANTEE's Fiscal Years that are covered by this AGREEMENT. The written AGREEMENT may be in the form of an engagement letter prepared by the auditor and approved by GRANTEE.
- (7) An audit report must be completed and posted in PDF format on WebGrants within six months of the end of each of the GRANTEE's Fiscal Years covered by this AGREEMENT. If this AGREEMENT expires or is terminated on a date that occurs after the period covered by the foregoing audit, GRANTEE shall deliver an audit report within two hundred and fifty (250) days after the expiration or termination of this AGREEMENT auditing the period not covered by the prior audit.
- (8) Should GRANTEE not enter into an AGREEMENT with an outside auditor or should an audit not be done on a timely basis, the CITY, at its discretion, may enter into an AGREEMENT with an independent auditor to do the audit at GRANTEE's expense.
- (9) The GRANTEE shall submit to the CITY copies of management letters the auditor prepares for the GRANTEE as part of the audit engagement.
- (10) All audits must be performed by Certified Public Accountants currently certified and licensed to practice in the State of California. GRANTEE must have Auditor's proof of current licensing on file in GRANTEE's office. GRANTEE must submit to the CITY's Police Department, Administrative Services Division a copy of Auditor's certification to practice in California with the audit.

- b. CITY Audits. The CITY may perform an independent audit. Such audits may cover programmatic as well as fiscal matters. GRANTEE will be afforded an opportunity to respond to any audit findings, and have the responses included in the final audit report. Costs of such audits will be borne by the CITY.

- c. Disallowed Costs. GRANTEE is liable for repayment of disallowed costs as determined by CITY. Disallowed costs may be identified through audits, monitoring or other sources. GRANTEE shall be afforded the opportunity to respond to any adverse findings that may lead to disallowed costs. CITY shall make the final determination of disallowed costs.
- d. GRANTEE shall not adjust any line item expenditures in the Budget Summary (**EXHIBIT C**) by more than ten percent (10%) without the prior approval of the CITY. GRANTEE shall make such requests for the line item adjustments in writing to the CITY. Failure to do so, may at CITY's option, result in disallowed costs.

C. Monitoring and Evaluation

1. GRANTEE agrees to cooperate with CITY on the implementation, monitoring and evaluation of this Program and to comply with any and all reporting, data collection, and evaluation requirements established by CITY, including but not limited to; submission of reports as outlined in this AGREEMENT.
2. **Desk Reviews/ Site Visits:** GRANTEE shall cooperate with desk reviews and visits from the CITY for the purpose of verifying the implementation of funded projects, interviewing staff, and/or verifying supporting documentation.
3. **Data Collection:** GRANTEE agrees to perform ongoing data collection that includes but not limited to, training records, training certificates, equipment invoices, supplies, and sharing in accordance with CITY process to ensure effective service delivery in compliance with this AGREEMENT.
4. **Equipment Identification and Records:** GRANTEE shall maintain a readily identifiable inventory of the procured equipment and supplies. Supplies and equipment must be noted in a log containing the following information for as long as they are owned by the Subrecipient. Equipment records must contain the following information:
 - A description of the property.
 - Serial number, or other identification number.
 - Source of the property.
 - Identification of the title holder.

D. Reporting

1. **Quarterly Performance and Fiscal Reports:** GRANTEE shall submit quarterly reports or other specific fiscal or reporting requirements regarding

GRANTEE's performance of the Grant Services in accordance with the schedule set forth in **EXHIBIT D**. The quarterly reports must be on a form approved by CITY.

EXHIBIT C
BUDGET SUMMARY

A. Personnel Costs

Description	CITY Funding	Other Funding for Program	Budget Narrative Explanation (Include a brief description of the position)		
Total Salaries	\$0.00				
Fringe Benefits	\$0.00				
TOTAL PERSONNEL COSTS	\$0.00				

B. Operating Costs

Description	CITY Funding	Other Funding for Program	Budget Narrative Explanation (Include a brief description of the expense)		
Training and Equipment	\$75,000		Funds will be used to procure equipment for evidence processing and operations to support the program		
Total Personnel Costs	\$0.00				
Total Operating Costs	\$75,000				
TOTAL PROGRAM COSTS	\$75,000				

EXHIBIT D
PAYMENTS TO GRANTEE AND REPORTING SCHEDULE

Payment shall be made as stated in the following schedule, subject to GRANTEE's satisfactory performance of this AGREEMENT.

- A. GRANTEE shall submit invoices to the CITY no later than fifteen (15) days following the end of each month. GRANTEE shall provide quarterly activity reports and other suitable documentation acceptable by the CITY that may include, but not limited to, invoices, packing slips, copy of purchase orders, equipment asset list, transaction general ledger, and proof of payment.
- B. Payment of the Grant Award shall be made quarterly, subject to GRANTEE's satisfactory performance of this AGREEMENT.
- C. Upon receipt of a quarterly invoice and supporting documentation acceptable to CITY, payments shall be made in accordance with the approved project budget.

EXHIBIT E
GENERAL SERVICE REQUIREMENTS
(Special Grant Requirements)

This Grant Award is subject to the Cal OES 2023 Subrecipient Handbook, located at https://www.caloes.ca.gov/wp-content/uploads/Grants/Documents/2023_Subrecipient_Handbook.pdf . Subrecipients must administer their subawards in accordance with these administrative and fiscal requirements.

- Part 1. Grant Subaward Terminology and General Requirements
- Part 2. Subrecipient Policy and Certification Requirements
- Part 3. Personnel and Personnel Costs Requirements
- Part 4. Operating Costs Requirements
- Part 5. Equipment and Equipment Costs Requirements
- Part 6. Contract and Procurement Requirements
- Part 7. Operational Agreement and Second-Tier Subaward Requirements
- Part 8. Intellectual Property, Copyright, and Patent Requirements
- Part 9. Financial Tracking and Reporting Requirements
- Part 10. Grant Subaward Amendment and Modification Requirements
- Part 11. Reporting Activities and Achievements Requirements
- Part 12. Records Requirements
- Part 13. Monitoring Processes and Requirements
- Part 14. Audit Requirements
- Part 15. Closeout Process and Requirements

EXHIBIT F
FEDERAL FUNDING PROVISIONS

(Intentionally Omitted)

EXHIBIT G
INSURANCE REQUIREMENTS

GRANTEE, at GRANTEE's sole cost and expense, shall procure and maintain for the duration of this AGREEMENT insurance against claims for injuries to persons or damages to property which may arise from, or in connection with, the performance of the services hereunder by GRANTEE, its agents, representatives, employees or subcontractors.

A. Minimum Scope of Insurance

Coverage shall be at least as broad as:

1. The coverage provided by Insurance Services Office Commercial General Liability coverage ("occurrence") Form Number CG 0001; and
2. The coverage provided by Insurance Services Office Form Number CA 0001 covering Automobile Liability. Coverage shall be included for all owned, non-owned and hired automobiles; and
3. Workers' Compensation insurance as required by the California Labor Code and Employers Liability insurance; and
4. Professional Liability Errors & Omissions for all professional services.

There shall be no endorsement reducing the scope of coverage required above unless approved by the CITY's Risk Manager.

B. Minimum Limits of Insurance

GRANTEE shall maintain limits no less than:

1. Commercial General Liability: \$2,000,000 per occurrence for bodily injury, personal injury and property damage. If Commercial Liability Insurance or other form with a general aggregate limit is used, either the general aggregate limit shall apply separately to this project/location or the general aggregate limit shall be twice the required occurrence limit; and
2. Automobile Liability: \$1,000,000 combined single limit per accident for bodily injury and property damage; and
3. Workers' Compensation and Employers Liability: Workers' Compensation limits as required by the applicable statute and Employers Liability limits of \$1,000,000 per accident; and

4. Professional Liability Errors & Omissions \$1,000,000 per occurrence/ aggregate limit.

Any limits requirement may be met with any combination of primary and excess coverage so long as the excess coverage is written on a "follow form" or umbrella basis.

C. Deductibles and Self-Insured Retentions

Any deductibles or self-insured retentions must be declared to the CITY's Risk Manager.

D. Other Insurance Provisions

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

1. Commercial General Liability and Automobile Liability Coverages

- a. The City of San José, its officers, employees, agents and contractors are to be covered as additional insureds as respects: Liability arising out of activities performed by or on behalf of, GRANTEE; products and completed operations of GRANTEE; premises owned, leased or used by GRANTEE; and automobiles owned, leased, hired or borrowed by GRANTEE.
- b. GRANTEE's insurance coverage shall be primary insurance as respects CITY, its officers, employees, agents and contractors. Any insurance or self-insurance maintained by CITY, its officers, employees, agents or contractors shall be excess of GRANTEE's insurance and shall not contribute with it.
- c. Any failure to comply with reporting provisions of the policies by GRANTEE shall not affect coverage provided CITY, its officers, employees, agents, or contractors.
- d. Coverage shall state that GRANTEE's insurance shall apply separately to each insured against whom claim is made or suit is brought, except with respect to the limits of the insurer's liability.
- e. Coverage shall contain a waiver of subrogation in favor of the CITY, its officers, employees, agents and contractors.

2. Workers' Compensation and Employers' Liability

Coverage shall contain waiver of subrogation in favor of the City of San José, its officers, employees, agents and contractors.

3. All Coverages

Each insurance policy required by this AGREEMENT shall be endorsed to state that coverage shall not be suspended, voided, cancelled, or reduced in limits except after thirty (10) days' prior written notice has been given to CITY.

E. Acceptability of Insurers

Insurance is to be placed with insurers acceptable to CITY's Risk Manager.

F. Verification of Coverage

GRANTEE shall furnish CITY with certificates of insurance and copies of endorsements affecting coverage required by this AGREEMENT. The certificates and copies of endorsements for each insurance policy are to be signed by a person authorized by that insurer to bind coverage on its behalf.

Proof of insurance shall be emailed in pdf format to: Riskmgmt@sanjoseca.gov:

Certificate Holder
City of San José—Finance
Risk Management
200 East Santa Clara Street, 13th Floor Tower
San José, CA 95113-1905

G. Subcontractors

GRANTEE shall include all subcontractors as insureds under its policies or shall obtain separate certificates and endorsements for each subcontractor.

EXHIBIT H
EMPLOYEE/VOLUNTEER CLEARANCE VERIFICATION AND COMPLIANCE WITH
CHILD ABUSE AND NEGLECT REPORTING ACT

If GRANTEE provides services involving minors, and as a CITY-approved method of complying with the provisions contained in this AGREEMENT, GRANTEE shall conduct a criminal background check through the database of the California Department of Justice **and** an FBI criminal database or equivalent national database as approved in writing by GRANTEE's liability insurance provider, on each of its employees and volunteers who have supervisory or disciplinary authority over minors.

GRANTEE shall also comply with the provisions of the Child Abuse and Neglect Reporting Act, California Penal Code Section 11164 *et. seq.* Additionally, GRANTEE certifies to the following:

1. Any and all personnel employed or retained by GRANTEE in conducting the operations of GRANTEE's program shall be qualified to perform the duties assigned to them by GRANTEE. GRANTEE agrees that GRANTEE shall not at any time allow its employees or volunteers to be in any position with supervisory or disciplinary authority over minors, if they have been convicted of any offense identified in California Public Resources Code Section 5164 (copy attached).

CITY and GRANTEE understand that results of background checks on minors may be confidential under state law. Therefore, all employees or volunteers must be at least 18 years of age if they are to be in a position having supervisory or disciplinary authority over any minor.

If GRANTEE intends to have employees or volunteers under the age of 18 providing services under this AGREEMENT, GRANTEE shall maintain and make available to CITY, if requested, guidelines, procedures or policies, that safeguard and ensure that no employees or volunteers under the age of 18 will be providing services under this AGREEMENT unsupervised and further GRANTEE shall ensure that none of its employees or volunteers under 18 years of age have any supervisory or disciplinary authority over any minor, as such term is used in California Public Resources Code Section 5164.

2. GRANTEE shall be responsible for ensuring that no person who has supervisory or disciplinary authority over minors, who is paid or unpaid by GRANTEE shall be permitted to provide services unless appropriate background checks, including fingerprints, have been performed prior to the beginning of services under this AGREEMENT, and the person meets the standards set forth above. If requested by CITY, and to the extent allowed by law, GRANTEE shall promptly provide documentation listing each person that has provided or is providing services hereunder involving supervision or disciplinary authority over minors, and certifying that the GRANTEE has conducted the proper background check on such person or persons, and each of the named persons is legally permitted to perform the services described in this AGREEMENT. Regardless of whether such documentation is requested or delivered by GRANTEE, GRANTEE shall be solely responsible for compliance with the provisions of this Section 2.

3. That no person paid or unpaid by GRANTEE shall be permitted to provide services requiring contact with children or providing food concessionaire services or other licensed concessionaire services in that area, unless GRANTEE has complied with the TB testing requirements set forth in Section 5163 of the California Public Resources Code (copy attached), verifying that the person or persons has provided evidence/verification of a negative TB skin test reading less than two (2) years old (if newly hired) or within four (4) years (if current employee) of the date of execution of this AGREEMENT and every four (4) years thereafter, if the term of this AGREEMENT exceeds four (4) years. For persons with a positive TB skin test reading, a physician's medical clearance must be obtained prior to services being provided as specified above. GRANTEE shall keep on file each certificate of clearance ("Certificate") for the persons described above, and shall also make available a copy of each Certificate to CITY, if requested and allowed by law. "Certificate" means a document signed by a licensed examining physician and surgeon or a notice from a public health agency or unit of the tuberculosis association which indicates freedom from active tuberculosis.
4. GRANTEE understands that if services are rendered on a school site, there may be additional requirements that may apply including without limitation, requirements under the California Education Code. GRANTEE acknowledges that it is GRANTEE's sole responsibility to comply with all applicable laws, regulations and licensing requirements in GRANTEE's provision of services hereunder.

I, the GRANTEE by signing below verify that I have read and agree to the above:

Signature

Date

Please Print or Type Name of Organization

CALIFORNIA PUBLIC RESOURCES CODE SECTION 5164

5164. (a)(1) A county, city, city and county, or special district shall not hire a person for employment, or hire a volunteer to perform services, at a county, city, city and county, or special district operated park, playground, recreational center, or beach used for recreational purposes, in a position having supervisory or disciplinary authority over a minor, if that person has been convicted of an offense specified in paragraph (2).

(2)(A) Violations or attempted violation of Section 220, 261.5, former Section 262, 273a, 273d, or 273.5 of the Penal Code, or a sex offense listed in Section 290 of the Penal Code, except for the offense specified in subdivision (d) of Section 243.4 of the Penal Code.

(B) A felony or misdemeanor conviction specified in subparagraph (C) within 10 years of the date of the employer's request.

(C) A felony conviction that is over 10 years old, if the subject of the request was incarcerated within 10 years of the employer's request, for a violation or attempted violation of an offense specified in Chapter 3 (commencing with Section 207) of Title 8 of Part 1 of the Penal Code, Section 211 or 215 of the Penal Code, wherein it is charged and proved that the defendant personally used a deadly or dangerous weapon, as provided in subdivision (b) of Section 12022 of the Penal Code, in the commission of that offense, Section 217.1 of the Penal Code, Section 236 of the Penal Code, an offense specified in Chapter 9 (commencing with Section 240) of Title 8 of Part 1 of the Penal Code, or an offense specified in subdivision (c) of Section 667.5 of the Penal Code, provided that a record of a misdemeanor conviction shall not be transmitted to the requester unless the subject of the request has a total of three (3) or more misdemeanor convictions, or a combined total of three or more misdemeanor and felony convictions, for violations listed in this Section within the 10-year period immediately preceding the employer's request or has been incarcerated for any of those convictions within the preceding 10 years.

(b)(1) To give effect to this Section, a county, city, city and county, or special district shall require each such prospective employee or volunteer to complete an application that inquires as to whether or not that individual has been convicted of an offense specified in subdivision (a). The county, city, city and county, or special district shall screen, pursuant to Section 11105.3 of the Penal Code, any such prospective employee or volunteer, having supervisory or disciplinary authority over a minor, for that person's criminal background.

(2) A local agency request for Department of Justice records pursuant to this subdivision shall include the prospective employee's or volunteer's fingerprints, which may be taken by the local agency, and any other data specified by the Department of Justice. The request shall be made on a form approved by the Department of Justice. A fee shall not be charged to the local agency for requesting the records of a prospective volunteer pursuant to this subdivision.

(3) A county, city, city and county, or special district may charge a prospective employee or volunteer described in subdivision (a) a fee to cover all of the county, city, city and county, or special district's costs attributable to the requirements imposed by this section.

CALIFORNIA PUBLIC RESOURCES CODE SECTION 5163

5163. (a) No person shall initially be employed in connection with a park, playground, recreational center, or beach used for recreational purposes by a city or county in a position requiring contact with children, or as a food concessionaire or other licensed concessionaire in that area, unless the person produces or has on file with the city or county a certificate showing that within the last two (2) years the person has been examined and has been found to be free of communicable tuberculosis.

(b) Thereafter, those employees who are skin test negative shall be required to undergo the foregoing examination at least once each four (4) years for so long as the employee remains skin test negative. Once an employee has a documented positive skin test which has been followed by an X-ray, the foregoing examination is no longer required and a referral shall be made within thirty (30) days of the examination to the local health officer to determine the need for follow-up care.

“Certificate” means a document signed by the examining physician and surgeon who is licensed under Chapter 5 (commencing with Section 2000) of Division 2 of the Business and Professions Code, or a notice from a public health agency or unit of the tuberculosis association which indicates freedom from active tuberculosis.

5163.1. The examination shall consist of an approved intradermal tuberculosis test, which, if positive, shall be followed by an X-ray of the lungs.

Nothing in Sections 5163 to 5163.2, inclusive, shall prevent the governing body of any city or county, upon recommendation of the local health officer, from establishing a rule requiring a more extensive or more frequent examination than required by Section 5163 and this Section.

5163.2. The X-ray film may be taken by a competent and qualified X-ray technician if the X-ray film is subsequently interpreted by a licensed physician and surgeon.

5163.3. The city or county shall maintain a file containing an up-to-date certificate for each person covered by Section 5163.

5163.4. Nothing in Section 5163 to 5163.3, inclusive, shall prevent the city or county from requiring more extensive or more frequent examinations.

EXHIBIT I
RETROACTIVE SERVICES

The term of this AGREEMENT shall be retroactive from January 1, 2024 and shall continue through February 28, 2025. It is understood and agreed that GRANTEE has commenced work and incurred costs prior to execution of this AGREEMENT in anticipation of its execution.

CITY agrees to reimburse GRANTEE for those costs in accordance with the terms of the AGREEMENT. However, in no event shall GRANTEE be reimbursed for costs incurred prior to January 1, 2024.