

**AGREEMENT FOR SERVICES BETWEEN THE  
CITIES ASSOCIATION OF SANTA CLARA COUNTY  
AND JOANNE BENJAMIN**

This AGREEMENT is made and entered into this 3rd day of January 2022, by and between the CITIES ASSOCIATION OF SANTA CLARA COUNTY, An unincorporated association consisting of all fifteen cities in the County of Santa Clara (“ASSOCIATION” or “CASCC”), and JOANNE BENJAMIN, an individual (“CONSULTANT”).

**RECITALS**

The following recitals are a substantive portion of this AGREEMENT:

1. The ASSOCIATION is an organization comprised of all the cities in Santa Clara County, California. Its functions include dealing with issues of common interest to all cities, and monitoring legislation and lobbying; and

3. The ASSOCIATION desires to obtain consultant services in order to fulfill the duties of Acting Executive Director during the leave of the Executive Director. CONSULTANT has the necessary professional expertise and skill to perform these services.; and

NOW, THEREFORE, the purpose of this AGREEMENT is to retain CONSULTANT for the AUTHORITY to perform those services specified herein.

**THE PARTIES HEREBY AGREE AS FOLLOWS:**

**SECTION 1. SCOPE OF SERVICES.**

The CONSULTANT shall perform those services specified in detail in EXHIBIT A, entitled “SCOPE OF SERVICES,” which is attached hereto and incorporated herein. CONSULTANT shall report to and be supervised by the President of the Association.

**SECTION 2. TERM OF AGREEMENT.**

The term of this AGREEMENT shall be from January 3, 2022 to June 30, 2022, subject to the provisions of Section 9 of this AGREEMENT.

**SECTION 3. COMPENSATION.**

The compensation to be paid to CONSULTANT, including both payment for professional services and reimbursable expenses, if any, shall not exceed Fifty Thousand Dollars (\$50,000.00). The rate and schedule of payment is set out in EXHIBIT C, entitled “COMPENSATION.” which is attached hereto and incorporated herein.

**SECTION 4. METHOD OF PAYMENT.**

Each month, CONSULTANT shall furnish to the AUTHORITY a statement of the work performed for compensation during the preceding month.

**SECTION 5. INDEPENDENT CONTRACTOR.**

The parties agree that the CONSULTANT, in the performance of the work and services agreed to be performed, shall act as and be an independent contractor and not an agent or employee of the AUTHORITY. To the extent that the AGREEMENT permits CONSULTANT to delegate duties, CONSULTANT shall be solely responsible for the performance of its employees, agents, or subcontractors under this AGREEMENT. As an independent contractor, the CONSULTANT shall obtain no rights to retirement benefits or any other benefits that may accrue to the AUTHORITY's employees. CONSULTANT hereby expressly waives any claim it may have to any such rights. It is anticipated that CONSULTANT will be providing consultant services to other entities during the term of this Agreement. Such other work is acceptable to ASSOCIATION unless the other work creates a conflict of interest with the performance of their duties under this Agreement. Employee shall not use ASSOCIATION materials, equipment, facilities, personnel or other resources in conjunction with any other work not undertaken for the ASSOCIATION.

**SECTION 6. LIMITATIONS UPON SUBCONTRACTING AND ASSIGNMENT.**

Neither this AGREEMENT nor any portion shall be assigned or subcontracted by CONSULTANT without the prior written consent of AUTHORITY. Any attempted assignment or subcontract not first approved by AUTHORITY shall be void and, at AUTHORITY's option, shall terminate this AGREEMENT effective as of the date of such attempted assignment.

**SECTION 7. INDEMNIFICATION.**

CONSULTANT agrees to protect, and hold harmless ASSOCIATION and its elective or appointive boards, officers, agents, independent contractors and employees from any and all claims, liabilities, expenses, or damages of any nature, including attorneys' fees, for injury or death of any person, or damage to property, or interference with use of property, arising out of, or in any way connected with the performance of the AGREEMENT by CONSULTANT, CONSULTANT'S agents, officers, employees, subcontractors, or independent contractors hired by CONSULTANT to perform their duties. The only exception to CONSULTANT'S responsibility to protect, defend, and hold harmless ASSOCIATION is due to the sole negligence of ASSOCIATION or its employees or contractors. This hold harmless agreement shall apply to all liability regardless of whether any insurance policies are applicable. The policy limits do not act as a limitation upon the amount of indemnification to be provided by CONSULTANT.

This Section shall constitute an agreement or contract of indemnity, incorporating the interpretations under California Civil Code Section 2778. It is expressly understood and agreed that the CONSULTANT's obligation to indemnify ASSOCIATION shall be as broad and inclusive as permitted by the laws of the State of California and shall survive termination of this AGREEMENT.

**SECTION 8. NONDISCRIMINATION.**

CONSULTANT shall not discriminate against or grant preferential treatment to any person on the basis of race, sex, color, age, religion, sexual orientation, actual or perceived gender identity, disability, ethnicity, or national origin, in connection with or related to the performance of this AGREEMENT.

**SECTION 9.        TERMINATION.**

9.1. ASSOCIATION may terminate this AGREEMENT at any time without cause upon ten days written notice to CONSULTANT. CONSULTANT may terminate this AGREEMENT at any time without cause upon 30 days written notice to ASSOCIATION.

9.2. If CONSULTANT fails to perform any of its material obligations under this AGREEMENT, in addition to all other remedies provided by law, ASSOCIATION may terminate this AGREEMENT immediately upon written notice.

9.3. ASSOCIATION's President is empowered to terminate this AGREEMENT on behalf of AUTHORITY.

9.4. In the event of termination, CONSULTANT shall deliver to ASSOCIATION copies of all reports, documents, and other work performed by CONSULTANT under this AGREEMENT, and upon receipt thereof, ASSOCIATION shall pay CONSULTANT for services performed and reimbursable expenses incurred to the date of termination.

9.5. In accordance with Article XVI, Section 18 of the California Constitution, if in any fiscal year subsequent to the execution of this AGREEMENT the ASSOCIATION fails to appropriate money for the purpose of funding this AGREEMENT, this AGREEMENT shall terminate, without penalty, effective upon the close of business on the last day of the fiscal year for which funding has been appropriated.

**SECTION 10.      GOVERNING LAW.**

The ASSOCIATION and the CONSULTANT agree that the law governing this AGREEMENT shall be that of the State of California, and venue shall be with the Santa Clara County Superior Court.

**SECTION 11.      COMPLIANCE WITH LAWS.**

11.1 CONSULTANT shall comply with all applicable laws, ordinances, administrative regulations, and permitting requirements in conducting their obligations under this AGREEMENT.

11.2 Compliance with Wage and Hour Laws: Consultant, and any subcontractor it employs to complete work under this AGREEMENT, shall comply with all applicable federal, state and local wage and hour laws. Applicable laws may include, but are not limited to, the Federal Fair Labor Standards Act and the California Labor Code.

11.3 Final Judgments, Decisions, and Orders: For purposes of this Section, a “final judgment, decision, or order” refers to one for which all appeals have been exhausted or the time to appeal has expired. Relevant investigatory government agencies include: the federal Department of Labor, the California Division of Labor Standards Enforcement, or any other governmental entity or division tasked with the investigation and enforcement of wage and hour laws.

11.4 Prior Judgments against CONSULTANT: BY SIGNING THIS AGREEMENT, CONSULTANT AFFIRMS THAT IT HAS DISCLOSED ANY FINAL JUDGMENTS, DECISIONS OR ORDERS FROM A COURT OR INVESTIGATORY GOVERNMENT AGENCY FINDING IN

THE FIVE (5) YEARS PRIOR TO EXECUTING THIS AGREEMENT THAT CONSULTANT OR ITS SUBCONTRACTOR(S) HAS VIOLATED ANY APPLICABLE WAGE AND HOUR LAWS. CONSULTANT FURTHER AFFIRMS THAT IT OR ITS SUBCONTRACTOR(S) HAS SATISFIED AND COMPLIED WITH OR HAS REACHED AGREEMENT WITH THE CITY REGARDING THE MANNER IN WHICH IT WILL SATISFY ANY SUCH JUDGMENTS, DECISIONS OR ORDERS.

11.5 Judgments or Decisions During Term of Contract: If at any time during the term of this AGREEMENT, a court or investigatory government agency issues a final judgment, decision or order finding that CONSULTANT or a subcontractor it employs to perform work under this AGREEMENT has violated any applicable wage and hour law, or CONSULTANT learns of such a judgment, decision, or order that was not previously disclosed, CONSULTANT shall inform the General Counsel, no more than fifteen (15) days after the judgment, decision or order becomes final or of learning of the final judgment, decision or order. CONSULTANT and its subcontractors shall promptly satisfy and comply with any such judgment, decision, or order, and shall provide the General Counsel with documentary evidence of compliance with the final judgment, decision or order within five (5) days of satisfying the final judgment, decision or order. ASSOCIATION reserves the right to require CONSULTANT to enter into an agreement with ASSOCIATION regarding the manner in which any such final judgment, decision, or order will be satisfied.

11.6 ASSOCIATION's Right to Withhold Payment: Where CONSULTANT or any subcontractor it employs to perform work under this AGREEMENT has been found in violation of any applicable wage and hour law by a final judgment, decision or order of a court or government agency, ASSOCIATION reserves the right to withhold payment to CONSULTANT until such judgment, decision or order has been satisfied in full.

11.7 Material Breach: Failure to comply with any part of this Section constitutes a material breach of this AGREEMENT. Such breach may serve as a basis for immediate termination of this AGREEMENT and/or any other remedies available under this AGREEMENT and/or law.

11.8 Notice to City Related to Wage Theft Prevention: Notice provided to the General Counsel as required under this Section shall be addressed to: Gary M. Baum, General Counsel, Cities Association of Santa Clara County 19925 Stevens Creek Boulevard, Suite 100, Cupertino, CA 95014-2358. The Notice provisions of this Section are separate from any other notice provisions in this AGREEMENT and, accordingly, only notice provided to the above address satisfies the notice requirements in this Section.

**SECTION 12. CONFIDENTIAL INFORMATION.**

All data, documents, discussions, or other information developed or received by or for the CONSULTANT in performance of this AGREEMENT are confidential and may not be disclosed to any person except as specifically authorized by the ASSOCIATION or as required by law or for the performance of the services.

**SECTION 13. OWNERSHIP OF MATERIALS.**

All reports, documents, electronic equivalents, or other materials developed or discovered by the CONSULTANT in connection with the performance of the services hereunder shall be and remain the property of the ASSOCIATION without restriction or limitation upon their use.

**SECTION 14. WAIVER.**

The CONSULTANT agrees that waiver by the ASSOCIATION of any breach or violation of any term or condition of this AGREEMENT shall not be deemed to be a waiver of any other term or condition or a waiver of any subsequent breach or violation of the same or any other term or condition. The acceptance by the ASSOCIATION of the performance of any work or services by the CONSULTANT shall not be deemed to be a waiver of any term or condition of this AGREEMENT.

**SECTION 15. THE CONSULTANT'S BOOKS AND RECORDS.**

The CONSULTANT shall maintain all documents and records which demonstrate performance under this AGREEMENT for period of three (3) years, from the date of termination or completion of this AGREEMENT. All records that are maintained by the ASSOCIATION do not need to be maintained by CONSULTANT. Any records or documents required to be maintained pursuant to this AGREEMENT shall be made available to ASSOCIATION for inspection or audit at no cost to the ASSOCIATION, at any time during regular business hours, upon written request by the President, the ASSOCIATION's Treasurer or the ASSOCIATION's Auditor or a designated representative of any of these. Copies of documents shall be provided to the ASSOCIATION for inspection at the ASSOCIATION's address indicated for receipt of notices unless ASSOCIATION designates an alternative location.

**SECTION 16. CONFLICT OF INTEREST.**

CONSULTANT shall avoid all conflicts of interest and the appearance of conflicts of interest during the performance of this AGREEMENT.

**SECTION 17. NOTICES.**

All notices, invoices, bills and other communications required to be given under this AGREEMENT shall be in writing and shall be emailed, addressed to the respective parties as follows:

To the ASSOCIATION:

Chappie Jones, Vice Mayor, City of San Jose,  
President of Cities Association of Santa Clara  
County  
200 E. Santa Clara Street, 18<sup>th</sup> Floor  
San Jose, CA 95113  
408-535-4901 Phone  
[Chappie.jones@sanjoseca.gov](mailto:Chappie.jones@sanjoseca.gov)

Copy to:

Rich Constantine  
Mayor, City of Morgan Hill  
17575 Peak Avenue  
Morgan Hill, CA 95037-4128  
408-313-3305 Phone  
[Rich.constantine@morganhill.ca.gov](mailto:Rich.constantine@morganhill.ca.gov)

To the CONSULTANT: Joanne Benjamin  
109 Worcester Loop  
Los Gatos, CA 95030  
408-836-7266 Phone  
Joanne.benjamin@verizon.net

Or to another email address as any party may designate by notice.

**SECTION 18. INSURANCE.**

CONSULTANT, and to the extent permitted by ASSOCIATION, any subcontractor shall maintain all required insurance as described in attached Insurance Exhibit C.

**SECTION 19. NON-LIABILITY OF OFFICIALS, CONTRACTORS OR EMPLOYEES OF ASSOCIATION.**

No official, contractor, or employee of ASSOCIATION shall be personally liable for any default or liability under this AGREEMENT.

**SECTION 20. TIME IS OF THE ESSENCE.**

Time is of the essence in the performance of this AGREEMENT.

**SECTION 21. AUTHORITY TO EXECUTE.**

The persons executing this AGREEMENT on behalf of the parties warrant that they are duly authorized to execute this AGREEMENT.

**SECTION 22. QUALIFICATIONS/STANDARD OF CARE.**

All of the services shall be performed by CONSULTANT or under CONSULTANT's supervision. CONSULTANT represents that he or she possess the professional and technical skills necessary to perform the professional services required by this AGREEMENT and that he or she has sufficient skill and experience to perform the services assigned to him or her. CONSULTANT represents that it, its employees and subconsultants, if permitted, have and shall maintain during the term of this AGREEMENT all licenses, permits, qualifications, insurance, and approvals of whatever nature that are legally required to perform the services. All of the services to be furnished by CONSULTANT under this AGREEMENT shall meet the professional standard and quality that prevail among professionals in the same discipline and of similar knowledge and skill engaged in related work throughout California under the same or similar circumstances.

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**SECTION 23. PRIOR AGREEMENTS AND AMENDMENTS.**

This AGREEMENT, including Exhibits A - C, represents the entire understanding of the parties as to those matters. No prior oral or written understanding shall be of any force or effect with respect to those matters. This AGREEMENT may only be modified by a written agreement signed by both parties.

**IN WITNESS THEREOF**, these parties have executed this AGREEMENT on the day and year shown above.

APPROVED AS TO FORM:

CITIES ASSOCIATION OF SANTA CLARA COUNTY

“AUTHORITY”

By: \_\_\_\_\_  
Gary M. Baum  
Cities Association of Santa Clara  
County

By: \_\_\_\_\_  
Chappie Jones  
President  
Date: January \_\_, 2022

JOANNE BENJAMIN  
“CONSULTANT”

By: \_\_\_\_\_  


\_\_\_\_\_  
Joanne Benjamin  
Date: 12/31/2021\_\_\_\_\_

- Exhibits:  
Exhibit A Scope of Service  
Exhibit B Compensation  
Exhibit C Insurance Requirements





**EXHIBIT A**  
**SCOPE OF SERVICES**  
**ACTING EXECUTIVE DIRECTOR**

The CONSULTANT shall provide to the AUTHORITY the services necessary to:

**SECTION 1. GENERAL.**

- A. The performance of all services by the CONSULTANT shall be to the satisfaction of the AUTHORITY.
- B. The CONSULTANT shall coordinate all services with the AUTHORITY President, Executive Board and Board of Directors, as necessary.

**SECTION 2. BASIC SERVICES.**

As directed by President, Executive Board and Board of Directors, CONSULTANT shall provide professional services, including but not limited to:

- 2.1 Attend monthly meetings of the Cities Association and prepare agendas and minutes for meetings.
- 2.2 Attend all Executive Committee meetings and prepare agendas and minutes for meetings.
- 2.3 Prepare all correspondence on behalf of the Association.
- 2.4 Conduct legislative analysis and research as requested.
- 2.5 Prepare the annual budget and monthly financial reports and perform other administrative functions or duties as directed. Pay all bills in a timely manner. Send out bills to Members and Associate Members in a timely fashion.
- 2.6 Represent the Association at various political and legislative functions as required, such as Peninsula Division and other League of California meetings.
- 2.7 Perform such other duties as may be required for the good of the Association and as directed by the President, Executive Board or Board of Directors.
- 2.8 To the extent required, in conjunction with the President, plan and manage general membership meetings and events.
- 2.4 Provide additional technical services as requested by the Executive Director.
- 2.9 Participate in meetings related to ASSOCIATION projects and initiatives, as requested by the Executive Director.

**EXHIBIT B**  
**COMPENSATION**

All services shall be compensated on an hourly basis at the rate of Dollars One Hundred Fifty Dollars (\$150.00) per hour. Reimbursable expenses shall be limited to those expense which are required for the ASSOCIATION's ongoing operations.

The maximum amount of compensation to be paid to CONSULTANT under this AGREEMENT, including both payment for professional services and any expenses incurred shall not exceed Fifty Thousand Dollars (**\$50,000.00**). Any hours worked for which payment would result in a total exceeding the maximum amount of compensation set forth herein shall be at no cost to AUTHORITY.

**EXHIBIT C**  
**INSURANCE REQUIREMENTS**

CONSULTANT, at CONSULTANT's sole cost and expense for the full term of this contract or any renewal, must obtain and maintain at least all of the following minimum insurance requirements prior to commencing any work or receiving payments therefore under this AGREEMENT. All policies shall be written in accordance with the laws of the State of California and providing coverage for any employees of CONSULTANT. All insurance required by this AGREEMENT shall be carried only by responsible insurance companies licensed to do business in California. Insurance is to be placed with insurers with a current A.M. Best's rating of no less than A:VII.

**A. Automobile Policy**

Automobile liability. CONSULTANT shall maintain insurance covering all owned, non-owned and hired automobiles against claims and liabilities for personal injury, death, or property damage, providing protection of at least \$300,000 combined single limit.

**B. Comprehensive General Liability Policy**

**Section B**, shall not apply unless this Agreement is for is for a not to exceed sum of \$51,000 per year or more. Should the not to exceed amount of this Agreement exceed \$51,000 than CONSULTANT shall maintain commercial general liability as follows:

CONSULTANT shall maintain insurance against claims and liabilities for personal injury, death, or property damage, providing protection of at least \$1,000,000 combined single limit. Further, CONSULTANT shall provide proof of the following separate endorsements:

- a. The Cities Association of Santa Clara County, its elected officials, officers, employees, agents and contractors are to be covered as additional insureds;
- b. CONSULTANT's insurance coverage shall be insurance shall be primary non-contributing; and.
- c. The insurer waives the right of subrogation against ASSOCIATION and ASSOCIATION'S elected officials, officers, employees, agents, and representatives; and,
- d. Any failure to comply with reporting provisions of the policies by CONSULTANT shall not affect coverage provided AUTHORITY, its officers, employees, agents, or contractors.

**C. Workers' Compensation and Employers' Liability Policy**

- a. This policy shall provide coverage for Workers' Compensation (Coverage A).
- b. This policy shall also provide coverage for \$1,000,000 Employers' Liability (Coverage B).

If, however, the CONSULTANT does not have any employees and does not wish to cover himself/herself for WORKERS' COMPENSATION, the CONSULTANT must sign the following statement in order to execute the AGREEMENT.

**I, as CONSULTANT, do not have, nor intend to have for the full term of this AGREEMENT, any employees. Furthermore, I do not wish to obtain or be covered under any WORKERS' COMPENSATION insurance coverage and, therefore, am signing this statement in lieu of providing the above required Workers' Compensation and Employers' Liability Policy.**

Signature:

A handwritten signature in cursive script that reads "Joanne Benjamin". The signature is written in dark ink on a light-colored background.

\_\_\_\_\_  
Joanne Benjamin