

**CITY OF CHULA VISTA
CONSULTANT SERVICES AGREEMENT
WITH NIELSEN MERKSAMER PARRINELLO GROSS & LEONI, LLP
TO PROVIDE PROFESSIONAL LEGISLATIVE ADVOCACY SERVICES**

This Agreement is entered into effective as of August 10, 2021 (“Effective Date”) by and between the City of Chula Vista, a chartered municipal corporation (“City”) and Nielsen Merksamer Parrinello Gross & Leoni, LLP, (“Nielsen Merksamer”) (collectively, the “Parties” and, individually, a “Party”) with reference to the following facts:

RECITALS

WHEREAS, section 2.56.110 of the Chula Vista Municipal Code authorizes the City to contract for professional services; and

WHEREAS, Government Code section 50023 allows a city to present information and engage in other activities to aid the passage of State or Federal legislation beneficial to the city and to oppose passage of said legislation that is detrimental to the city, including the City of Chula Vista; and

WHEREAS, the City is in need of professional legislative advocacy services to engage at the State level on legislative priorities and policies that advance City interests; and

WHEREAS, the City issued a Request for Proposals to secure professional legislative advocacy services, received 12 proposals and selected Nielsen Merksamer Parrinello Gross & Leoni, LLP (Nielsen Merksamer), as the most qualified among those submitting proposals; and

WHEREAS, Nielsen Merksamer has the expertise and capacity to develop and implement a strategic advocacy program and related activities to represent City interests in Sacramento and with other jurisdictions, agencies or organizations as needed to meet the City’s legislative and policy goals; and

WHEREAS, Nielsen Merksamer warrants and represents that it is experienced and staffed in a manner such that it can deliver the services required by City; and

WHEREAS, Nielsen Merksamer warrants and represents that it is experienced and staffed in a manner such that it can deliver the services required of Nielsen Merksamer to City in accordance with the time frames and the terms and conditions of this Agreement.

[End of Recitals. Next Page Starts Obligatory Provisions.]

OBLIGATORY PROVISIONS

NOW, THEREFORE, in consideration of the above recitals, the covenants contained herein, and other good and valuable consideration, the receipt and sufficiency of which the Parties hereby acknowledge, City and Nielsen Merksamer hereby agree as follows:

1. SERVICES

1.1 Required Services. Nielsen Merksamer agrees to perform the services and deliver to City the “Deliverables” (if any) described in the attached Exhibit A, incorporated into the Agreement by this reference, within the time frames set forth therein, time being of the essence for this Agreement. The services and/or Deliverables described in Exhibit A shall be referred to herein as the “Required Services.”

1.2 Reductions in Scope of Work. City may independently, or upon request from Nielsen Merksamer, from time to time, reduce the Required Services to be performed by the Nielsen Merksamer under this Agreement. Upon doing so, City and Nielsen Merksamer agree to meet and confer in good faith for the purpose of negotiating a corresponding reduction in the compensation associated with the reduction.

1.3 Additional Services. Subject to compliance with the City’s Charter, codes, policies, procedures and ordinances governing procurement and purchasing authority, City may request Nielsen Merksamer provide additional services related to the Required Services (“Additional Services”). If so, City and Nielsen Merksamer agree to meet and confer in good faith for the purpose of negotiating an amendment to Exhibit A, to add the Additional Services. Unless otherwise agreed, compensation for the Additional Services shall be charged and paid consistent with the rates and terms already provided therein. Once added to Exhibit A, “Additional Services” shall also become “Required Services” for purposes of this Agreement.

1.4 Standard of Care. Nielsen Merksamer expressly warrants and agrees that any and all Required Services hereunder shall be performed in accordance with the highest standard of care exercised by members of the profession currently practicing under similar conditions and in similar locations.

1.5 No Waiver of Standard of Care. Where approval by City is required, it is understood to be conceptual approval only and does not relieve the Nielsen Merksamer of responsibility for complying with all laws, codes, industry standards, and liability for damages caused by negligent acts, errors, omissions, noncompliance with industry standards, or the willful misconduct of the Nielsen Merksamer or its subcontractors.

1.6 Security for Performance. In the event that Exhibit A Section 4 indicates the need for Nielsen Merksamer to provide additional security for performance of its duties under this Agreement, Nielsen Merksamer shall provide such additional security prior to commencement of its Required Services in the form and on the terms prescribed on Exhibit A, or as otherwise prescribed by the City Attorney.

1.7 Compliance with Laws. In its performance of the Required Services, Nielsen Merksamer shall comply with any and all applicable federal, state and local laws, including the Chula Vista Municipal Code.

1.8 Business License. Prior to commencement of work, Nielsen Merksamer shall obtain a business license from City.

1.9 Subcontractors. Prior to commencement of any work, Nielsen Merksamer shall submit for City’s information and approval a list of any and all subcontractors to be used by Nielsen Merksamer in the

performance of the Required Services. Nielsen Merksamer agrees to take appropriate measures necessary to ensure that all subcontractors and personnel utilized by the Nielsen Merksamer to complete its obligations under this Agreement comply with all applicable laws, regulations, ordinances, and policies, whether federal, state, or local. In addition, if any subcontractor is expected to fulfill any responsibilities of the Nielsen Merksamer under this Agreement, Nielsen Merksamer shall ensure that each and every subcontractor carries out the Nielsen Merksamer's responsibilities as set forth in this Agreement.

1.10 Term. This Agreement shall commence on the earlier to occur of the Effective Date or Nielsen Merksamer's commencement of the Required Services hereunder, and shall terminate when the Parties have complied with all their obligations hereunder; provided, however, provisions which expressly survive termination shall remain in effect.

2. COMPENSATION

2.1 General. For satisfactory performance of the Required Services, City agrees to compensate Nielsen Merksamer in the amount(s) and on the terms set forth in Exhibit A, Section 4. Standard terms for billing and payment are set forth in this Section 2.

2.2 Invoicing. Nielsen Merksamer agrees to provide City with an invoice for services performed each month, within thirty (30) days of the end of the month in which the services were performed, unless otherwise specified in Exhibit A. Invoicing shall begin on the first of the month following the Effective Date of the Agreement. Nielsen Merksamer shall provide a general list of activities for the month being invoiced. Nielsen Merksamer must obtain prior written authorization from City for any fees or expenses that exceed the monthly retainer fee.

2.3 Payment to Nielsen Merksamer. Upon receipt of a properly prepared invoice and confirmation that the Required Services detailed in the invoice have been satisfactorily performed, City shall pay Nielsen Merksamer for the invoice amount within thirty (30) days. Payment shall be made in accordance with the terms and conditions set forth in Exhibit A and section 2.4, below. At City's discretion, invoices not timely submitted may be subject to a penalty of up to five percent (5%) of the amount invoiced.

2.4 Left Blank.

2.5 Reimbursement of Costs. City may reimburse Nielsen Merksamer's out-of-pocket costs incurred by Nielsen Merksamer in the performance of the Required Services if negotiated in advance and included in Exhibit A. Unless specifically provided in Exhibit A, Nielsen Merksamer shall be responsible for any and all out-of-pocket costs incurred by Nielsen Merksamer in the performance of the Required Services.

2.6 Exclusions. City shall not be responsible for payment to Nielsen Merksamer for any fees or costs in excess of any agreed upon budget, rate or other maximum amount(s) provided for in Exhibit A. City shall also not be responsible for any cost: (a) incurred prior to the Effective Date; or (b) arising out of or related to the errors, omissions, negligence or acts of willful misconduct of Nielsen Merksamer, its agents, employees, or subcontractors.

2.7 Payment Not Final Approval. Nielsen Merksamer understands and agrees that payment to the Nielsen Merksamer or reimbursement for any Nielsen Merksamer costs related to the performance of Required Services does not constitute a City final decision regarding whether such payment or cost reimbursement is allowable and eligible for payment under this Agreement, nor does it constitute a waiver of any violation by Nielsen Merksamer of the terms of this Agreement. If City determines that Nielsen Merksamer is not entitled

to receive any amount of compensation already paid, City will notify Nielsen Merksamer in writing and Nielsen Merksamer shall promptly return such amount.

3. INSURANCE

3.1 Required Insurance. Nielsen Merksamer must procure and maintain, during the period of performance of Required Services under this Agreement, and for twelve months after completion of Required Services, the policies of insurance described on the attached Exhibit B, incorporated into the Agreement by this reference (the “Required Insurance”). The Required Insurance shall also comply with all other terms of this Section.

3.2 Deductibles and Self-Insured Retentions. Any deductibles or self-insured retentions relating to the Required Insurance must be disclosed to and approved by City in advance of the commencement of work.

3.3 Standards for Insurers. Required Insurance must be placed with licensed insurers admitted to transact business in the State of California with a current A.M. Best’s rating of A V or better, or, if insurance is placed with a surplus lines insurer, insurer must be listed on the State of California List of Eligible Surplus Lines Insurers (LESLI) with a current A.M. Best’s rating of no less than A X. For Workers’ Compensation Insurance, insurance issued by the State Compensation Fund is also acceptable.

3.4 Subcontractors. Nielsen Merksamer must include all sub-Nielsen Merksamers/sub-contractors as insureds under its policies and/or furnish separate certificates and endorsements demonstrating separate coverage for those not under its policies. Any separate coverage for sub-Nielsen Merksamers must also comply with the terms of this Agreement.

3.5 Additional Insureds. City, its officers, officials, employees, agents, and volunteers must be named as additional insureds with respect to any policy of general liability, automobile, or pollution insurance specified as required in Exhibit B or as may otherwise be specified by City’s Risk Manager. The general liability additional insured coverage must be provided in the form of an endorsement to the Nielsen Merksamer’s insurance using ISO CG 2010 (11/85) or its equivalent; such endorsement must not exclude Products/Completed Operations coverage.

3.6 General Liability Coverage to be “Primary.” Nielsen Merksamer’s general liability coverage must be primary insurance as it pertains to the City, its officers, officials, employees, agents, and volunteers. Any insurance or self-insurance maintained by the City, its officers, officials, employees, or volunteers is wholly separate from the insurance provided by Nielsen Merksamer and in no way relieves Nielsen Merksamer from its responsibility to provide insurance.

3.7 No Cancellation. No Required Insurance policy may be canceled by either Party during the required insured period under this Agreement, except after thirty days’ prior written notice to the City by certified mail, return receipt requested. Prior to the effective date of any such cancellation Nielsen Merksamer must procure and put into effect equivalent coverage(s).

3.8 Waiver of Subrogation. Nielsen Merksamer’s insurer(s) will provide a Waiver of Subrogation in favor of the City for each Required Insurance policy under this Agreement. In addition, Nielsen Merksamer waives any right it may have or may obtain to subrogation for a claim against City.

3.9 Verification of Coverage. Prior to commencement of any work, Nielsen Merksamer shall furnish City with original certificates of insurance and any amendatory endorsements necessary to demonstrate to City that Nielsen Merksamer has obtained the Required Insurance in compliance with the terms of this Agreement.

The words “will endeavor” and “but failure to mail such notice shall impose no obligation or liability of any kind upon the company, its agents, or representatives” or any similar language must be deleted from all certificates. The required certificates and endorsements should otherwise be on industry standard forms. The City reserves the right to require, at any time, complete, certified copies of all required insurance policies, including endorsements evidencing the coverage required by these specifications.

3.10 Claims Made Policy Requirements. If General Liability, Pollution and/or Asbestos Pollution Liability and/or Errors & Omissions coverage are required and are provided on a claims-made form, the following requirements also apply:

a. The “Retro Date” must be shown, and must be before the date of this Agreement or the beginning of the work required by this Agreement.

b. Insurance must be maintained, and evidence of insurance must be provided, for at least five (5) years after completion of the work required by this Agreement.

c. If coverage is canceled or non-renewed, and not replaced with another claims-made policy form with a “Retro Date” prior to the effective date of this Agreement, the Nielsen Merksamer must purchase “extended reporting” coverage for a minimum of five (5) years after completion of the work required by this Agreement.

d. A copy of the claims reporting requirements must be submitted to the City for review.

3.11 Not a Limitation of Other Obligations. Insurance provisions under this section shall not be construed to limit the Nielsen Merksamer’s obligations under this Agreement, including Indemnity.

3.12 Additional Coverage. To the extent that insurance coverage provided by Nielsen Merksamer maintains higher limits than the minimums appearing in Exhibit B, City requires and shall be entitled to coverage for higher limits maintained.

4. INDEMNIFICATION

4.1. General. To the maximum extent allowed by law, Nielsen Merksamer shall protect, defend, indemnify and hold harmless City, its elected and appointed officers, agents, employees and volunteers (collectively, “Indemnified Parties”), from and against any and all claims, demands, causes of action, costs, expenses, (including reasonable attorneys’ fees and court costs), liability, loss, damage or injury, in law or equity, to property or persons, including wrongful death, in any manner arising out of or incident to any alleged acts, omissions, negligence, or willful misconduct of Nielsen Merksamer, its officials, officers, employees, agents, and contractors, arising out of or in connection with the performance of the Required Services, the results of such performance, or this Agreement. This indemnity provision does not include any claims, damages, liability, costs and expenses arising from the sole negligence or willful misconduct of the Indemnified Parties. Also covered is liability arising from, connected with, caused by or claimed to be caused by the active or passive negligent acts or omissions of the Indemnified Parties which may be in combination with the active or passive negligent acts or omissions of the Nielsen Merksamer, its employees, agents or officers, or any third party.

4.2. Modified Indemnity Where Agreement Involves Design Professional Services. Notwithstanding the forgoing, if the services provided under this Agreement are design professional services, as defined by California Civil Code section 2782.8, as may be amended from time to time, the defense and indemnity

obligation under Section 1, above, shall be limited to the extent required by California Civil Code section 2782.8.

4.3 Costs of Defense and Award. Included in Nielsen Merksamer's obligations under this Section 4 is Nielsen Merksamer's obligation to defend, at Nielsen Merksamer's own cost, expense and risk, any and all suits, actions or other legal proceedings that may be brought or instituted against one or more of the Indemnified Parties. Subject to the limitations in this Section 4, Nielsen Merksamer shall pay and satisfy any judgment, award or decree that may be rendered against one or more of the Indemnified Parties for any and all related legal expenses and costs incurred by any of them.

4.4. Nielsen Merksamer's Obligations Not Limited or Modified. Nielsen Merksamer's obligations under this Section 4 shall not be limited to insurance proceeds, if any, received by the Indemnified Parties, or by any prior or subsequent declaration by the Nielsen Merksamer. Furthermore, Nielsen Merksamer's obligations under this Section 4 shall in no way limit, modify or excuse any of Nielsen Merksamer's other obligations or duties under this Agreement.

4.5. Enforcement Costs. Nielsen Merksamer agrees to pay any and all costs City incurs in enforcing Nielsen Merksamer's obligations under this Section 4.

4.6 Survival. Nielsen Merksamer's obligations under this Section 4 shall survive the termination of this Agreement.

5. FINANCIAL INTERESTS OF NIELSEN MERKSAMER.

5.1 Form 700 Filing. The California Political Reform Act and the Chula Vista Conflict of Interest Code require certain government officials and Nielsen Merksamers performing work for government agencies to publicly disclose certain of their personal assets and income using a Statement of Economic Interests form (Form 700). In order to assure compliance with these requirements, Nielsen Merksamer, to the extent applicable, comply with the disclosure requirements identified in the attached Exhibit C, incorporated into the Agreement by reference.

Nielsen Merksamer warrants that the scope of this Agreement does not confer "Nielsen Merksamer" status on any of the attorneys and other firm personnel providing services pursuant to this Agreement; therefore, Nielsen Merksamer is not subject to the public disclosure requirements as a "public official" under the City's conflict of interest code. Nielsen Merksamer will only accept this engagement if it does not, under the City's conflict code, qualify any Nielsen Merksamer attorney or other personnel as public officials.

5.2 Disclosures; Prohibited Interests. Independent of whether Nielsen Merksamer is required to file a Form 700, Nielsen Merksamer warrants and represents that it has disclosed to City any economic interests held by Nielsen Merksamer, or its employees or subcontractors who will be performing the Required Services, in any real property or project which is the subject of this Agreement. Nielsen Merksamer warrants and represents that it has not employed or retained any company or person, other than a bona fide employee or approved subcontractor working solely for Nielsen Merksamer, to solicit or secure this Agreement. Further, Nielsen Merksamer warrants and represents that it has not paid or agreed to pay any company or person, other than a bona fide employee or approved subcontractor working solely for Nielsen Merksamer, any fee, commission, percentage, brokerage fee, gift or other consideration contingent upon or resulting from the award or making of this Agreement. Nielsen Merksamer further warrants and represents that no officer or employee of City, has any interest, whether contractual, non-contractual, financial or otherwise, in this transaction, the proceeds hereof, or in the business of Nielsen Merksamer or Nielsen Merksamer's subcontractors. Nielsen Merksamer

further agrees to notify City in the event any such interest is discovered whether or not such interest is prohibited by law or this Agreement. For breach or violation of any of these warranties, City shall have the right to rescind this Agreement without liability.

6. REMEDIES

6.1 Termination for Cause. If for any reason whatsoever Nielsen Merksamer shall fail to perform the Required Services under this Agreement, in a proper or timely manner, or if Nielsen Merksamer shall violate any of the other covenants, agreements or conditions of this Agreement (each a “Default”), in addition to any and all other rights and remedies City may have under this Agreement, at law or in equity, City shall have the right to terminate this Agreement by giving five (5) days written notice to Nielsen Merksamer. Such notice shall identify the Default and the Agreement termination date. If Nielsen Merksamer notifies City of its intent to cure such Default prior to City’s specified termination date, and City agrees that the specified Default is capable of being cured, City may grant Nielsen Merksamer up to ten (10) additional days after the designated termination date to effectuate such cure. In the event of a termination under this Section 6.1, Nielsen Merksamer shall immediately provide City any and all “Work Product” (defined in Section 7 below) prepared by Nielsen Merksamer as part of the Required Services. Such Work Product shall be City’s sole and exclusive property as provided in Section 7 hereof. Nielsen Merksamer may be entitled to compensation for work satisfactorily performed prior to Nielsen Merksamer’s receipt of the Default notice; provided, however, in no event shall such compensation exceed the amount that would have been payable under this Agreement for such work, and any such compensation shall be reduced by any costs incurred or projected to be incurred by City as a result of the Default.

6.2 Termination or Suspension for Convenience of City. City may suspend or terminate this Agreement, or any portion of the Required Services, at any time and for any reason, with or without cause, by giving specific written notice to Nielsen Merksamer of such termination or suspension at least fifteen (15) days prior to the effective date thereof. Upon receipt of such notice, Nielsen Merksamer shall immediately cease all work under the Agreement and promptly deliver all “Work Product” (defined in Section 7 below) to City. Such Work Product shall be City’s sole and exclusive property as provided in Section 7 hereof. Nielsen Merksamer shall be entitled to receive just and equitable compensation for this Work Product in an amount equal to the amount due and payable under this Agreement for work satisfactorily performed as of the date of the termination/suspension notice plus any additional remaining Required Services requested or approved by City in advance that would maximize City’s value under the Agreement.

6.3 Waiver of Claims. In the event City terminates the Agreement in accordance with the terms of this Section, Nielsen Merksamer hereby expressly waives any and all claims for damages or compensation as a result of such termination except as expressly provided in this Section 6.

6.4 Administrative Claims Requirements and Procedures. No suit or arbitration shall be brought arising out of this Agreement against City unless a claim has first been presented in writing and filed with City and acted upon by City in accordance with the procedures set forth in Chapter 1.34 of the Chula Vista Municipal Code, as same may be amended, the provisions of which, including such policies and procedures used by City in the implementation of same, are incorporated herein by this reference. Upon request by City, Nielsen Merksamer shall meet and confer in good faith with City for the purpose of resolving any dispute over the terms of this Agreement.

6.5 Governing Law/Venue. This Agreement shall be governed by and construed in accordance with the laws of the State of California. Any action arising under or relating to this Agreement shall be brought only in San Diego County, State of California.

6.6 Service of Process. Nielsen Merksamer agrees that it is subject to personal jurisdiction in California. If Nielsen Merksamer is a foreign corporation, limited liability company, or partnership that is not registered with the California Secretary of State, Nielsen Merksamer irrevocably consents to service of process on Nielsen Merksamer by first class mail directed to the individual and address listed under “For Legal Notice,” in section 1.B. of Exhibit A to this Agreement, and that such service shall be effective five days after mailing.

7. OWNERSHIP AND USE OF WORK PRODUCT

All reports, studies, information, data, statistics, forms, designs, plans, procedures, systems and any other materials or properties produced in whole or in part under this Agreement in connection with the performance of the Required Services (collectively “Work Product”) shall be the sole and exclusive property of City. No such Work Product shall be subject to private use, copyrights or patent rights by Nielsen Merksamer in the United States or in any other country without the express, prior written consent of City. City shall have unrestricted authority to publish, disclose, distribute, and otherwise use, copyright or patent, in whole or in part, any such Work Product, without requiring any permission of Nielsen Merksamer, except as may be limited by the provisions of the Public Records Act or expressly prohibited by other applicable laws. With respect to computer files containing data generated as Work Product, Nielsen Merksamer shall make available to City, upon reasonable written request by City, the necessary functional computer software and hardware for purposes of accessing, compiling, transferring and printing computer files.

8. GENERAL PROVISIONS

8.1 Amendment. This Agreement may be amended, but only in writing signed by both Parties.

8.2 Assignment. City would not have entered into this Agreement but for Nielsen Merksamer’s unique qualifications and traits. Nielsen Merksamer shall not assign any of its rights or responsibilities under this Agreement, nor any part hereof, without City’s prior written consent, which City may grant, condition or deny in its sole discretion.

8.3 Authority. The person(s) executing this Agreement for Nielsen Merksamer warrants and represents that they have the authority to execute same on behalf of Nielsen Merksamer and to bind Nielsen Merksamer to its obligations hereunder without any further action or direction from Nielsen Merksamer or any board, principle or officer thereof.

8.4 Counterparts. This Agreement may be executed in counterparts, each of which shall be deemed an original, but all of which shall constitute one Agreement after each Party has signed such a counterpart.

8.5 Entire Agreement. This Agreement together with all exhibits attached hereto and other agreements expressly referred to herein, constitutes the entire Agreement between the Parties with respect to the subject matter contained herein. All exhibits referenced herein shall be attached hereto and are incorporated herein by reference. All prior or contemporaneous agreements, understandings, representations, warranties and statements, oral or written, are superseded.

8.6 Record Retention. During the course of the Agreement and for three (3) years following completion of the Required Services, Nielsen Merksamer agrees to maintain, intact and readily accessible, all data, documents, reports, records, contracts, and supporting materials relating to the performance of the Agreement, including accounting for costs and expenses charged to City, including such records in the possession of sub-contractors/sub-Nielsen Merksamers.

8.7 Further Assurances. The Parties agree to perform such further acts and to execute and deliver such additional documents and instruments as may be reasonably required in order to carry out the provisions of this Agreement and the intentions of the Parties.

8.8 Independent Contractor. Nielsen Merksamer is and shall at all times remain as to City a wholly independent contractor. Neither City nor any of its officers, employees, agents or volunteers shall have control over the conduct of Nielsen Merksamer or any of Nielsen Merksamer's officers, employees, or agents ("Nielsen Merksamer Related Individuals"), except as set forth in this Agreement. No Nielsen Merksamer Related Individuals shall be deemed employees of City, and none of them shall be entitled to any benefits to which City employees are entitled, including but not limited to, overtime, retirement benefits, worker's compensation benefits, injury leave or other leave benefits. Furthermore, City will not withhold state or federal income tax, social security tax or any other payroll tax with respect to any Nielsen Merksamer Related Individuals; instead, Nielsen Merksamer shall be solely responsible for the payment of same and shall hold the City harmless with respect to same. Nielsen Merksamer shall not at any time or in any manner represent that it or any of its Nielsen Merksamer Related Individuals are employees or agents of City. Nielsen Merksamer shall not incur or have the power to incur any debt, obligation or liability whatsoever against City, or bind City in any manner.

8.9 Acknowledgement Regarding Other Clients. Since 1975, Nielsen Merksamer has represented thousands of clients in dealing with, and/or litigating against, various governmental agencies and complying with federal, state, and local political laws, and is accepting new engagements all the time. It is certainly possible, even likely, that Nielsen Merksamer will represent these and future clients on matters that may be inconsistent in some way with City's governmental or political objectives, beliefs, concerns, philosophies, or views, but which are not directly related to the matters for which City is retaining Nielsen Merksamer. While City is free to terminate Nielsen Merksamer according to the terms of this Agreement, City agrees that on matters not directly related to the specific services for which Nielsen Merksamer is being retained, Nielsen Merksamer would be free to continue representing other clients where their governmental or political objectives, beliefs, concerns, philosophies, or views are inconsistent with City's on matters not directly related to the services Nielsen Merksamer is providing to City. Of course, this acknowledgement does not permit Nielsen Merksamer, without City's specific written consent, to represent another client in opposing the specific matters for which City has retained Nielsen Merksamer.

Notwithstanding the above, this Section 8.9 does not in any way prevent City from terminating this Agreement pursuant to Section 6, including if Nielsen Merksamer performs work for other clients whose beliefs, concerns, philosophies, positions or views, are inconsistent City's governmental or political objectives, as determined by City. Nielsen Merksamer also agrees that it will keep and maintain any and all confidential or privileged information received from City confidential and privileged unless disclosure is authorized by City.

City also acknowledges that Nielsen Merksamer shall represent the City itself, and not any of its individual council members or staff, and this agreement does not create any legal relationship between Nielsen Merksamer and such individuals.

8.10 Notices. All notices, demands or requests provided for or permitted to be given pursuant to this Agreement must be in writing. All notices, demands and requests to be sent to any Party shall be deemed to have been properly given or served if personally served or deposited in the United States mail, addressed to such Party, postage prepaid, registered or certified, with return receipt requested, at the addresses identified in this Agreement at the places of business for each of the designated Parties as indicated in Exhibit A, or otherwise provided in writing.

8.11 Electronic Signatures. Each Party agrees that the electronic signatures, whether digital or encrypted, of the Parties included in this Agreement are intended to authenticate this writing and to have the same force and effect as manual signatures. Electronic Signature means any electronic sound, symbol, or process attached to or logically associated with a record and executed and adopted by a Party with the intent to sign such record, including facsimile or email electronic signatures, pursuant to the California Uniform Electronic Transactions Act (Cal. Civ. Code §§ 1633.1 to 1633.17) as amended from time to time.

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SIGNATURE PAGE
NIELSEN MERKSAMER SERVICES AGREEMENT

IN WITNESS WHEREOF, by executing this Agreement where indicated below, City and Nielsen Merksamer agree that they have read and understood all terms and conditions of the Agreement, that they fully agree and consent to bound by same, and that they are freely entering into this Agreement as of the Effective Date.

NIELSEN MERKSAMER PARRINELLO
GROSS & LEONI, LLP

CITY OF CHULA VISTA

BY: _____
MICHELLE RUBALCAVA |
SENIOR COUNSEL |

BY: _____
MARIA KACHADOORIAN |
CITY MANAGER |

APPROVED AS TO FORM

BY: _____
Glen R. Googins
City Attorney

EXHIBIT A
SCOPE OF WORK AND PAYMENT TERMS

1. Contact People for Contract Administration and Legal Notice

A. City Contract Administration:

Anne Steinberger
276 Fourth Ave.
Chula Vista, CA 91910
619-409-5446
asteinberger@chulavistaca.gov

For Legal Notice Copy to:
City of Chula Vista
City Attorney
276 Fourth Avenue, Chula Vista, CA 91910
619-691-5037
CityAttorney@chulavistaca.gov

B. Nielsen Merksamer Contract Administration:

NIELSEN MERKSAMER PARRINELLO GROSS & LEONI, LLP

Michelle Rubalcava
Senior Counsel
1415 L Street, Suite 1200
Sacramento, California 95814
916-446-6752
MRubalcava@nmgovlaw.com

For Legal Notice Copy to:
Michelle Rubalcava
1415 L Street, Suite 1200
Sacramento, California 95814
916-446-6752
MRubalcava@nmgovlaw.com

2. Required Services

A. General Description:

Nielsen Merksamer will develop and implement a strategic advocacy program and related activities to represent City interests in Sacramento and with other jurisdictions, agencies or organizations as needed to meet the City's legislative and policy goals.

B. Detailed Description:

The following Scope of Work details the activities Nielsen Merksamer will perform as needed to meet the City's legislative and policy goals

1. Implement a strategic legislative advocacy program for the City of Chula Vista, including program

development and all related activities to attain the objectives of the City. Related activities include policy analysis; meeting with legislators, staff and other agencies and organization representatives; drafting legislation; obtaining sponsor(s) for legislation and drafting legislative amendments.

2. Review proposed, introduced, and amended legislation, as well as proposed and adopted administrative rules and regulations, to determine and provide analysis as appropriate on its impact on the City and recommend positions to be taken on the legislation. Advocate positions on legislation and work to secure language as needed in proposed legislation that will advance the City's interests. Represent the City by testifying at legislative hearings, as appropriate.
3. Work effectively at the Sacramento-level with policy makers in the legislature, the executive branch, regulatory agencies, and legislative committees. Also work with state agencies that control uses or own land within Chula Vista, including but not limited to the California Coastal Commission, California State Lands Commission, Department of Transportation, Department of Housing and Community Development, and the Department of Finance.
4. Maintain effective working relationships with San Diego County jurisdictions including with the District 1 County Supervisor and State legislative delegation. As needed, engage with the Federal Congressional delegation on federal matters affecting the City.
5. Coordinate and cooperate with Cal Cities and other organizations, agencies, municipalities, industry organizations and representatives, as well as non-profit and private company representatives that can support and/or advance the City's legislative objectives.
6. Coordinate, schedule and facilitate meetings in person or virtually for City officials with the Governor, state legislators and/or staff members, CalCities representatives, state agency representatives and other key stakeholders that can support and/or advance the City's legislative objectives.
7. Coordinate testimony at legislative hearings and administrative agencies, organize advocacy trips, and advise on other advocacy efforts to advance the City's positions as needed/upon request.
8. On an annual basis, work with the City to review and update its Legislative Program to address upcoming legislative trends. Present legislative issues and updates to the City Council as needed/upon request.
9. Identify and assist with potential funding opportunities for City's services, projects, and programs as needed.
10. Prepare and file all applicable Fair Political Practices Commission lobbying documents and reports within all applicable deadlines, per the provisions of the Political Reform Act of 1974 as amended. Provide the City notification of any changes or modifications that may be pertinent. |

3. **Term:** In accordance with Section 1.10 of this Agreement, the term of this Agreement shall begin [August 10, 2021] and end on [August 31, 2022]. After an initial one-year term not to exceed \$80,000, this agreement may be extended by the City annually for up to four (4) years for a total amount not to exceed \$400,000 | for completion of all Required Services.

4. Compensation:

A. Form of Compensation

☐ Single Fixed Fee. For performance of all of the Required Services by Consultant as herein required, City shall pay a single fixed fee of \$[Enter Contract Amount], upon completion of all Required Services to City's satisfaction.

OR

☐ Fixed Fee Paid in Increments. For the completion of each Deliverable of the Required Services, as identified in section 2.B., above, City shall pay the fixed fee associated with each Deliverable, in the amounts set forth below:

Task No.	Deliverable	Amount

OR

☐ Time and Materials. For performance of the Required Services by Consultant as identified in Section 2.B., above, City shall pay Consultant for the productive hours of time spent by Consultant in the performance of the Required Services, at the rates or amounts as indicated below:

Enter Applicable Hourly Rates |

OR

☒ Invoiced or agreed-upon amounts as follows:

1. Nielsen Merksamer will be paid a retainer in amount of \$6,000 per month for performing the services identified Section 2 above.
2. The City will also reimburse pre-approved travel expenses and an hourly fee (\$170/hour) for preparation of required City disclosure reports. |
3. Notwithstanding the foregoing, the maximum amount to be paid to the Nielsen Merksamer for services performed through [August 31, 2025] shall not exceed a total of \$400,000|.

B. Reimbursement of Costs

☒ Other than those noted in Section 4(A)(2), the compensation includes all costs

5. Special Provisions: | |

☐ Permitted Sub-Nielsen Merksamers: | List Permitted Sub-Nielsen Merksamers or Indicate "None" |

☐ Security for Performance: | See City Attorney or Indicate "None" if Not Applicable |

☒ Notwithstanding the completion date set forth in Section 3 above, City has option to extend this Agreement for | four | additional terms, defined as a one-year increment. The City Manager or Director of Finance/Treasurer shall be authorized to exercise the extensions on behalf of the City. If the City exercises an option to extend, each extension shall be on the same terms and conditions contained herein, provided that the amounts specified in Section 4 for each extension may be increase in the discretion of the City. The City shall give written notice to Nielsen Merksamer of the City's election to exercise the extension via the Notice of Exercise of Option to Extend document.

☐ Other: Describe Special Provisions (Delete Line If Not Applicable)

☐ None

|

EXHIBIT B INSURANCE REQUIREMENTS

Nielsen Merksamer shall adhere to all terms and conditions of Section 3 of the Agreement and agrees to provide the following types and minimum amounts of insurance, as indicated by checking the applicable boxes (x).

	Type of Insurance	Minimum Amount	Form
<input checked="" type="checkbox"/>	General Liability: Including products and completed operations, personal and advertising injury	\$2,000,000 per occurrence for bodily injury, personal injury (including death), and property damage. If Commercial General Liability insurance with a general aggregate limit is used, either the general aggregate limit must apply separately to this Agreement or the general aggregate limit must be twice the required occurrence limit Additional Insured Endorsement or Blanket AI Endorsement for City* Waiver of Recovery Endorsement	Insurance Services Office Form CG 00 01 <i>*Must be primary and must not exclude Products/Completed Operations</i>
<input checked="" type="checkbox"/>	Automobile Liability	\$1,000,000 per accident for bodily injury, including death, and property damage	Insurance Services Office Form CA 00 01 Code 1-Any Auto Code 8-Hired Code 9-Non Owned
<input checked="" type="checkbox"/>	Workers' Compensation Employer's Liability	\$1,000,000 each accident \$1,000,000 disease policy limit \$1,000,000 disease each employee Waiver of Recovery Endorsement	
<input checked="" type="checkbox"/>	Professional Liability (Errors & Omissions)	\$1,000,000 each occurrence \$2,000,000 aggregate	

Other Negotiated Insurance Terms: ENTER ANY ADDITIONAL TERMS OR "NONE"

EXHIBIT C
NIELSEN MERKSAMER CONFLICT OF INTEREST DESIGNATION

The Political Reform Act¹ and the Chula Vista Conflict of Interest Code² (“Code”) require designated state and local government officials, including some Nielsen Merksamers, to make certain public disclosures using a Statement of Economic Interests form (Form 700). Once filed, a Form 700 is a public document, accessible to any member of the public. In addition, Nielsen Merksamers designated to file the Form 700 are also required to comply with certain ethics training requirements.³

☐ A. Nielsen Merksamer IS a corporation or limited liability company and is therefore EXCLUDED⁴ from disclosure.

☐ B. Nielsen Merksamer NOT a corporation or limited liability company and disclosure designation is as follows:

APPLICABLE DESIGNATIONS FOR INDIVIDUAL(S) ASSIGNED TO PROVIDE SERVICES

(Category descriptions available at www.chulavistaca.gov/departments/city-clerk/conflict-of-interest-code.)

Name	Email Address	Applicable Designation
Enter Name of Each Individual Who Will Be Providing Service Under the Contract – If individuals have different disclosure requirements, duplicate this row and complete separately for each individual	Enter email address(es)	<input type="checkbox"/> A. Full Disclosure <input type="checkbox"/> B. Limited Disclosure (select one or more of the categories under which the Nielsen Merksamer shall file): <input type="checkbox"/> 1. <input type="checkbox"/> 2. <input type="checkbox"/> 3. <input type="checkbox"/> 4. <input type="checkbox"/> 5. <input type="checkbox"/> 6. <input type="checkbox"/> 7. Justification: <input type="checkbox"/> C. Excluded from Disclosure

1. Required Filers

Each individual who will be performing services for the City pursuant to the Agreement and who meets the definition of “Nielsen Merksamer,” pursuant to FPPC Regulation 18700.3, must file a Form 700.

2. Required Filing Deadlines

Each initial Form 700 required under this Agreement shall be filed with the Office of the City Clerk via the City's online filing system, NetFile, within 30 days of the approval of the Agreement. Additional Form 700 filings will be required annually on April 1 during the term of the Agreement, and within 30 days of the termination of the Agreement.

3. Filing Designation

The City Department Director will designate each individual who will be providing services to the City pursuant to the Agreement as *full disclosure*, *limited disclosure*, or *excluded from disclosure*, based on an analysis of the services the Nielsen Merksamer will provide. Notwithstanding this designation or anything in the Agreement, the Nielsen Merksamer is ultimately responsible for complying with FPPC regulations and filing requirements. If you have any questions regarding filing requirements, please do not hesitate to contact the City Clerk at (619)691-5041, or the FPPC at 1-866-ASK-FPPC, or (866) 275-3772 *2.

Pursuant to the duly adopted City of Chula Vista Conflict of Interest Code, this document shall serve as the written determination of the Nielsen Merksamer’s requirement to comply with the disclosure requirements set forth in the Code.

Completed by: Anne Steinberger

1 Cal. Gov. Code §§81000 *et seq.*; FPPC Regs. 18700.3 and 18704.

2 Chula Vista Municipal Code §§2.02.010-2.02.040.

3 Cal. Gov. Code §§53234, *et seq.*

4 CA FPPC Adv. A-15-147 (*Chadwick*) (2015); *Davis v. Fresno Unified School District* (2015) 237 Cal.App.4th 261; FPPC Reg. 18700.3 (Consultant defined as an “individual” who participates in making a governmental decision; “individual” does not include corporation or limited liability company).