

**APPENDIX A**

**SAN DIEGO GEOGRAPHIC INFORMATION SOURCE**

**CONTRACT FOR CONSULTING SERVICES**

**WITH**

**< Consultant >**

**THIS CONTRACT**, entered into this \_\_\_\_\_ day of \_\_\_\_\_, 2013

between SanGIS:  
("SanGIS")

**SAN DIEGO GEOGRAPHIC INFORMATION SOURCE**

5510 Overland Avenue, Suite 230  
San Diego, CA 92123  
(858) 874-7000 Telephone  
(858) 874-7002 Facsimile

and the Consultant:

< Consultant >

Attn: Contract Program Manager

Address

City, State Zipcode

Telephone

Facsimile

**RECITALS**

WHEREAS, Consultant is a person or entity with a physical business operation located in San Diego County;

WHEREAS, Consultant is authorized to conduct project management, business operations management, and information technology consulting services to government entities and not-for-profit institutions;

WHEREAS, SanGIS is a joint powers authority created and organized by the City of San Diego ("City") and the County of San Diego ("County");

WHEREAS, SanGIS provides geographic information data warehouse services, landbase maintenance, GIS map generation, public information releases, and other services for the City and the County to the general public and other regional governmental organizations as directed by the SanGIS Board of Directors (the "SanGIS Board" or "SanGIS's Board");

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WHEREAS, SanGIS's services and activities are carried out by City and County staff and various independent contractors;

WHEREAS, SanGIS's Board currently contracts for a program manager to provide oversight and direction of SanGIS's program activities (the "Program Manager");

WHEREAS, SanGIS's Board has instituted a Management Committee to provide day-to-day oversight and guidance to the Program Manager (the "SanGIS Management Committee");

WHEREAS, SanGIS wishes to engage Consultant to provide the services of a Program Manager to manage SanGIS business operations and direct SanGIS contracted staff activities and Consultant desires to provide such services to SanGIS as an independent contractor, all in accordance with the terms and conditions set forth in this Contract.

NOW, THEREFORE, in consideration of the mutual covenants herein contained and intending to be legally bound, the parties agree to as follows:

### ***100. SERVICES, TERM, and COMPENSATION***

#### **101. DESCRIPTION OF SERVICES**

Consultant shall provide the services of a Program Manager for day-to-day oversight of SanGIS business operations as more fully described in Section 202. The intent of this role is to provide management and oversight of business operations, budgeting and accounting, large projects, and strategic initiatives.

#### **102. TIME OF PERFORMANCE**

All services required pursuant to this Contract shall commence when and as directed by SanGIS in writing, and shall be completed within such times as are reasonably established by SanGIS.

#### **103. COMPENSATION AND METHOD OF PAYMENT**

[Reserved]

#### **104. TERM OF CONTRACT**

The term of the contract is for a period of one year with four – 1 year options commencing on the effective date in Section 105.

#### **105. EFFECTIVE DATE**

The effective date of this Contract will be \_\_\_\_\_.

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### 106. NOTICES

Any notice or instrument required or permitted to be given under this Contract shall be deemed received upon personal or courier delivery or seventy-two (72) hours after deposit in any United States post office, first class postage prepaid, and addressed to the party for whom intended, as follows:

If to SanGIS:           San Diego Geographic Information Source  
                                Attention: Chair of the Board of Directors  
                                5510 Overland Avenue, Suite 230  
                                San Diego, CA 92123

If to Consultant:       <Consultant>  
                                Attention: Contract Program Manager  
                                Street Address  
                                City, State Zipcode

### 200. SCOPE OF SERVICES

When and as directed by SanGIS, the Consultant shall perform consulting services to include, but not be limited to, items contained in the Request for Proposals for Program Management Services, which is incorporated in its entirety.

### 201. GENERAL

a. Consultant's Key Personnel

Consultant's duties under this Contract shall be performed on behalf of the Consultant by \_\_\_\_\_ ("Consultant's Key Personnel" or "Program Manager").

Consultant represents and warrants that (1) Consultant's Key Personnel has fulfilled all applicable requirements of the laws of the State of California to perform the work or oversee the performance of the work described in Scope of Services referenced in Section 200. Consultant's Key Personnel shall not be changed during the Term of the Contract without SanGIS's prior written consent. SanGIS reserves the right to terminate this Contract if the Consultant's Key Personnel should leave Consultant's employ, or if in SanGIS's judgment, the work hereunder is not being performed by Consultant's Key Personnel.

b. Hours

[Reserved]

c. Reporting Structure

In performance of the day-to-day oversight of SanGIS operations, the Program Manager shall, in general, make and implement operational decisions and provide vendor contact and follow up, public interface and reports to the Board and Management Committee, and other duties as mutually agreed by the Management

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Committee and Program Manager.

The Program Manager will report to, and take direction from, the Management Committee. The Management Committee will interpret actions of the Board into direction and instructions for the Program Manager and provide those directions and instructions in writing. The Program Manager will request clarification of any unclear instruction from the Management Committee either in writing or verbally. The response of a single member of the Management Committee is sufficient to clarify the instructions for the Program Manager. The Management Committee is expected to provide goals and objectives that the Program Manager will work towards achieving. The Management Committee may, when SanGIS is confronted with high profile issues, become involved with the day-to-day details of seeking a solution to such SanGIS issue and may need to interact with all SanGIS staff and the Program Manager.

The Management Committee will provide oversight of the Program Manager's performance under the Contract. The Management Committee will be responsible for taking steps it deems necessary to insure that the Program Manager is managing and directing operations in accord with their instructions and directions. The Program Manager will comply with all reasonable requests of the Management Committee for information, documents, materials, and other items that are necessary to monitor the performance of the Program Manager.

### **202. DUTIES OF THE PROGRAM MANAGER**

The duties of the Program Manager shall include, but not be limited to:

- a. Day-to-day oversight SanGIS operations to include assigning tasks, setting priorities, balancing workloads, and monitoring productivity and work product quality;
- b. Under direction of the Management Committee, preparation of bills and invoices for approved contracts and purchases, in conformance with SanGIS policies and procedures, for payment authorization by the Management Committee;
- c. Production and maintenance of required reports including status reports, web notifications, user group letters, meeting minutes, and other reports as may be requested by the Management Committee;
- d. Management of support and maintenance activities for SanGIS's computing infrastructure to ensure that SanGIS's services are operational and stable, such activities to include but not be limited to web site maintenance, file transfer mechanisms, replication services, and batch uploads;

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- e. Attendance at required meetings including Board meetings, Management Committee meetings, SanGIS Technical Advisory Board ("STAB") meetings, vendor meetings, and other functions as may be requested by the Management Committee;
- f. Representation of SanGIS at geographic information system ("GIS") community and industry meetings, conferences, and functions, including the Regional GIS Council meeting when members of the Management Committee cannot do so;
- g. Conduct of SanGIS project staff meetings and other operational meetings required to maintain stable and efficient operations;
- h. Facilitation of planning and coordination for hardware and software upgrades and patches;
- i. Coordination and management of operations to ensure security for SanGIS staff, facilities and data;
- j. Coordination of on-going projects and contracts including: information technology infrastructure; Service Level Agreement; and other existing consulting services contracts;
- k. Management of the operations of the data maintenance staff;
- l. Management of the operations of SanGIS's public access services including front counter information requests and website access;
- m. Prioritization of tasks and allocation of resources to implement directives and instructions of the Management Committee;
- n. Preparation of bi-weekly reports detailing the hours worked and describing the related services performed; and
- o. Other mutually-agreed duties as may be assigned by the Management Committee.

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### **203. EXCLUSIONS**

The Program Manager shall not take disciplinary action against any SanGIS governmental employee for any reason; the Program Manager shall refer all matters requiring disciplinary action to the Management Committee. With respect to City or County employees, the Program Manager shall not prepare and conduct performance reviews, monitor annual performance goals and objectives and monitor improvement programs. The Program Manager shall not execute contracts on behalf of SanGIS for goods and/or services with any vendor or consultant, except as directed by the Board of Directors or Management Committee.

### **204. FACILITIES, EQUIPMENT AND SERVICES TO BE PROVIDED BY SANGIS**

SanGIS shall provide the Program Manager with a lockable office that is equipped with a desk, desk chair, visitor chairs, bookcase, file cabinet, computer, telephone and other office and computing equipment and supplies normally available to SanGIS's staff or otherwise necessary for the day-to-day management of SanGIS staff and operations.

SanGIS shall provide the Program Manager with a dedicated telephone line with voicemail, an email address and account, and access to SanGIS's network, facilities, applications, electronic systems, data bases, passwords and all data sets and files necessary for the day-to-day oversight of SanGIS operations.

SanGIS shall provide the Program Manager with all files, contracts, documents, agreements and other items and materials necessary for the day-to-day oversight of SanGIS operations.

### **300. GENERAL PROVISIONS**

#### **301. Independent Contractor**

For purposes of this Contract, Consultant is an independent contractor, and neither Consultant nor Consultant's employees or subcontractors shall be deemed to be employees of SanGIS, the City or County for any reasons. Consultant shall be responsible for paying all applicable state, federal, and local income taxes. Neither Consultant nor Consultant's employees shall be entitled to any benefits to which SanGIS, City or County employees are entitled, including, without limitation, overtime, retirement, workers' compensation and injury leave.

#### **302. Ownership of Materials and Documents**

Excepting such items specifically identified by the Consultant as proprietary trade secrets, any and all sketches, drawings, tracings, field survey notes, computations, detail, and other materials and documents prepared by the Consultant pursuant to this Contract shall be the property of SanGIS from the moment of their preparation, and the Consultant shall deliver such materials

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and documents to SanGIS whenever requested to do so by SanGIS. All SanGIS data, records, documentation, source code and information (“SanGIS Data”) processed by or input onto the hardware and/or software systems to which Consultant has access, or otherwise provided to Consultant under this Contract, shall be and remain the property of SanGIS, and SanGIS shall retain exclusive rights and ownership thereto. Consultant shall not use SanGIS Data for any purpose other than as required under this Contract and shall return all SanGIS Data to SanGIS upon completion of the performance or termination of this Contract. No SanGIS Data, or any part thereof, shall be disclosed, sold, assigned, leased or otherwise disposed of to third parties by Consultant or commercially exploited or otherwise used by or on behalf of Consultant.

### **303. Non-Disclosure**

SanGIS Data, designs, plans, reports, investigations, materials, and documents prepared or acquired by the Consultant pursuant to this Contract (including any duplicate copies held by the Consultant) shall not be shown or disclosed to any other public or private person or entity directly or indirectly, except as authorized by SanGIS. The Consultant shall not disclose to any other public or private person or entity either directly or indirectly any information regarding the activities of SanGIS except as authorized by SanGIS.

### **304. Conflict of Interest**

- a) For the duration of this Contract, the Consultant will not act as a consultant or perform services of any kind for any person or entity which would conflict with the services to be provided herein without the prior written consent of SanGIS.
- b) A conflict occurs when circumstances, known to the Consultant, place SanGIS and Consultant's new client in adverse, hostile, or incompatible positions wherein the interests of SanGIS may be jeopardized. Consultant shall promptly notify SanGIS in the event that such a conflict occurs.
- c) In the event of such a conflict, Consultant shall meet and confer with SanGIS to agree upon modifications of its relationship with said new client or SanGIS in order to continue to perform services for said client and/or SanGIS without compromising the interests of either. Should no agreement regarding modification be reached, SanGIS may terminate this Contract.
- d) When consent has been given, Consultant shall endeavor to avoid involvement on behalf of said new client which would in any manner undermine the effective performance of services by Consultant for SanGIS. Under no circumstances may Consultant convey or utilize, or permit to be utilized, confidential information gained through its association with SanGIS for the benefit of any other client.

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- e) Consultant agrees to alert every client for whom consent is required to the existence of this conflict of interest provision and to include language in its agreement with said client which would enable Consultant to comply fully with its terms. This last paragraph shall not apply to existing clients of the Consultant for which the Consultant has previously received SanGIS consent.
- f) Consultant agrees that Program Manager will complete a Statement of Economic Interest ("Form 700") as required by law and pursuant to the SanGIS's Conflict of Interest Code, as applicable.

### **305. Consultant's Liability and Insurance**

#### **Indemnification**

SanGIS shall not be liable for, and Contractor shall defend and indemnify SanGIS and its officers, agents, employees and volunteers against any and all claims, demands, liability, losses, damages, expenses, charges or costs of any kind or character, including attorneys' fees and court costs (collectively, Claims), which arise out of or are in any way connected with the performance covered by this Agreement or arising either directly or indirectly from the Contractor's obligations under this Contract. However, the Contractor shall have no obligation to defend or indemnify SanGIS from any Claims if it is determined by a court of competent jurisdiction that such claim was caused by the sole negligence or willful misconduct of SanGIS or its agents or employees.

#### **Insurance**

Consultant shall not commence performance of services until Consultant has obtained, at its sole cost and expense, all insurance required under this Section. Consultant shall not allow any approved subcontractor to commence work on a subcontract until all similar insurance required of the subcontractor has been obtained. Consultant agrees to the following:

- a) Consultant shall purchase and maintain in full force and effect commercial general liability insurance with limits not less than one million dollars (\$1,000,000) combined single limit for bodily injury, death, and property damage, including personal injury, contractual liability, independent contractors, broad-form property damage, and products and completed operations coverage, insuring against all liability of SanGIS arising out of or in connection with Consultant's performance of work under this Contract.
- b) Consultant shall purchase and maintain in full force and effect workers' compensation insurance for Consultant, subcontractors, employees and agents in form and amount acceptable to SanGIS during the full term of this Contract.
- c) Consultant shall purchase and maintain in full force and effect commercial automobile liability insurance with limits not less than one million dollars (\$1,000,000) each occurrence combined single limit for bodily injury, death and property damage, including owned and non-owned and hired automobile coverage, as applicable.

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- d) To the extent any insurance coverage required under this Section is purchased on a “claims made” basis, such insurance shall cover all prior acts of Consultant during the term of this Contract and such insurance shall be continuously maintained until at least three (3) years beyond the expiration or termination of this Contract, or Consultant shall purchase “tail” coverage, effective upon termination of any such policy or termination of this Contract, to provide coverage for at least one (1) year from the occurrence of either event.
- e) The Consultant shall furnish to SanGIS certificates of insurance evidencing the insurance carried in compliance with this Contract, including appropriate evidence that each type of insurance has been properly amended to include coverage for the specific project. Each certificate shall contain a provision that at least thirty (30) calendar days' prior written notice will be given to SanGIS in the event of cancellation, reduction or non-renewal of the insurance.

### **307. Correction of Work**

The performance of services by the Consultant shall not relieve the Consultant from any obligation to correct any incomplete, inaccurate, or defective work at no further cost to SanGIS, when such inaccuracies are due to the negligence of the Consultant, provided such work has not been accepted in writing by an authorized representative of SanGIS.

### **308. Cost Records**

If this Contract provides that SanGIS reimburse Consultant for its costs of performing services, Consultant shall maintain full and complete financial records prepared in accordance with generally accepted accounting principles for the full duration of the Contract and five years following the termination or expiration of this Contract. Such records shall be open to the inspection of SanGIS or the appropriate government agencies at all reasonable times.

### **309. Subcontracting**

- a) No service covered by this Contract shall be subcontracted without the prior written consent of the SanGIS.
- b) In order to obtain consent, Consultant shall submit to SanGIS a list of all potential subcontractors, and a description of the work to be performed by each subcontractor. Once this list has been approved, no changes to the list will be allowed except by prior written consent of SanGIS, such consent not to be unreasonably withheld.

### **310. Assignability**

The Consultant shall not assign any interest in this Contract and shall not transfer any interest in the same (whether by assignment or novation) without the prior written approval of SanGIS.

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### **311. Changes**

SanGIS may, from time to time, request changes in Contract Sections 103 and 200. Such changes, including any increase or decrease in the amount of the Consultant's compensation, which are mutually agreed upon by and between SanGIS and the Consultant, shall be incorporated into this Contract.

### **312. Compliance with Laws and Regulations**

Consultant shall at all times perform its obligations under this Contract in compliance with all applicable federal, State, County and City laws and regulations.

### **313. Termination**

#### **313.1 Termination for Convenience**

This Contract may be terminated by SanGIS upon thirty (30) calendar days advance written notice to the Consultant, but if any work or service hereunder is in progress but not completed as of the date of termination, then this Contract may be extended upon written approval of SanGIS until said work or services are completed and accepted. In the event the Contract is terminated or canceled upon request and for the convenience of SanGIS without the required thirty (30) calendar days advance written notice, then SanGIS shall pay Consultant the amounts due and payable to the effective date of such termination.

#### **313.2 Termination for Cause**

In addition to any other provisions in this Contract allowing a party to terminate this Contract in whole or in part, and without limiting any other remedies available at law, or under this Contract, if either party materially or repeatedly defaults in the performance of any of its duties or obligations under this Contract, and: (1) within thirty (30) calendar days after written notice of the default; or, (2) with respect to those defaults that cannot be reasonably cured within thirty (30) calendar days, if the defaulting party fails to commence curing the default within fifteen (15) calendar days after receipt of the notice of default, and to continue proceeding with due diligence to cure the default, then the party not in default may terminate this Contract by giving written notice of the termination to the defaulting party, which termination shall be effective immediately upon receipt of the notice of termination. If the default is incapable of being cured, then the thirty (30) calendar day cure period shall not apply, and notice of termination may be given directly by the party not in default.

### **314. Full Cost Recovery of Investigation and Audit Costs**

Consultant shall reimburse SanGIS for all direct and indirect expenditures incurred in conducting an audit/investigation when Consultant is found in violation (material breach) of the terms of this

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Contract. Reimbursement for such costs shall be withheld from any amounts due Consultant pursuant to the payment of terms of the Contract, for from any other amounts due to the Consultant from SanGIS.

### **314.1 Suspension of Work**

SanGIS may order Consultant, in writing, to suspend, delay, or interrupt all or any part of the work under this Contract for the period of time that SanGIS determines is in SanGIS's best interest.

### **314.2 Remedies Not Exclusive**

The rights and remedies of SanGIS provided in this Agreement shall not be exclusive and are in addition to any other rights and remedies provided by law or equity.

### **315. Attorneys' Fees and Costs**

In the event that suit is brought upon this Contract to enforce the terms hereof, the prevailing party shall be entitled to recover reasonable attorneys' fees and costs.

### **316. Entire Agreement**

Each party acknowledges that this written Contract and the documents incorporated by reference constitute the complete and exclusive statement of the terms and conditions between the parties, which supersede and merge all prior proposal understandings and all other agreements, oral and written, between the parties relating to this Contract. This Contract may not be modified or altered except by written amendment duly executed by both parties.

### **317. Severability**

If any term, covenant, condition or provision of this Contract is held by a court of competent jurisdiction to be invalid, void, or unenforceable, the remainder of the provisions of this Contract shall remain in full force and effect and shall in no way be affected, impaired, or invalidated.

### **318. Contract Governed By Law of State of California**

This Contract and its performance and all suits and special proceedings under this Contract shall be construed in accordance with the laws of the State of California. In any action, special proceeding, or other proceeding that may be brought arising out of, under, or because of this Contract, the laws of the State of California shall be applicable and shall govern to the exclusion of the law of any other forum, without regard to the jurisdiction in which the action or special proceeding may be instituted.

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**319. Access to SanGIS's Facilities, Computer Systems and Electronic Data**

Consultant, its employees, agents and subcontractors, will be granted access to SanGIS computer systems and electronic data only in compliance with SanGIS's standard administrative and security requirements, including processes for registering and wearing identification badges, and only for the purpose of carrying out Consultant's obligations hereunder. Consultant shall have no tenancy, or other property or other rights in such facilities, computer systems and electronic data.

IN WITNESS WHERE OF, the parties have caused this Contract to be executed on the day and year first above written.

**SANGIS:** SAN DIEGO GEOGRAPHIC INFORMATION SOURCE

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

Date: \_\_\_\_\_

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

Date: \_\_\_\_\_

Approved as to Form:

\_\_\_\_\_  
Rachel H. Witt  
SanGIS Counsel

**CONSULTANT** <Proposer>

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

<Name> <Title>

Date: \_\_\_\_\_