

AGREEMENT NO. \_\_\_\_\_

## INDEPENDENT CONTRACTOR'S AGREEMENT

This **INDEPENDENT CONTRACTOR'S AGREEMENT** ("Agreement") is made and entered into on \_\_\_\_\_, by and between the **CITY OF BAKERSFIELD**, a municipal corporation, ("CITY") and **CENTER FOR PUBLIC SAFETY EXCELLENCE** ("CONTRACTOR").

### RECITALS

**WHEREAS**, CONTRACTOR represents that CONTRACTOR is experienced, well qualified and a specialist in the field of strategic planning for fire and emergency services.

**NOW, THEREFORE**, incorporating the foregoing recitals herein, CITY and CONTRACTOR mutually agree as follows:

1. **SCOPE OF WORK.** In exchange for the Compensation (defined below), CONTRACTOR shall perform the following: Contractor will facilitate a Total Self-Assessment Phase 2 including a Community Driven Strategic Plan (CDSP) and a Self-Assessment Manual Facilitation (SAM). CONTRACTOR will allow Twenty-Two (22) Step Project Steps and will design, edit and publish the CDSP and SAM documents for the BFD as per Exhibit A which is attached hereto and incorporated by reference herein.

The Scope of Work shall include all items and procedures necessary to properly complete the task CONTRACTOR has been hired to perform, whether specifically included in the Scope of Work or not.

2. **COMPENSATION/PAYMENT PROCEDURE.** Subject to the conditions of this section, CITY will pay CONTRACTOR as follows for performing the Scope of Work ("Compensation"):

A total payment of Forty Two Thousand Nine Hundred Dollars (\$42,900.00) which shall be paid as follows: In partial payments of \$7,150.00 which will be invoiced at the completion of each of the following Project Steps: No. 1, 6, 10, 11, 15, and 22. CITY will pay CONTRACTOR within 30 days after CONTRACTOR submits an itemized invoice for each of the Project Steps and the portions of the Scope of Work completed and that invoice is approved by CITY.

The Compensation will be the total amount paid to CONTRACTOR for performing the Scope of Work and includes, but is not limited to, all out-of-pocket costs and taxes. CITY will pay no other compensation to CONTRACTOR. In no case will CITY compensate CONTRACTOR more than \$42,900.00 for performing the Scope of Work.

3. **TERM.** Unless terminated sooner, as set forth herein, this Agreement shall terminate on June 1, 2022.
4. **TERMINATION.** Either party may terminate this Agreement after giving the other party written notice, as provided herein, ten days before the termination is effective.
5. **COMPLIANCE WITH ALL LAWS.** CONTRACTOR shall, at CONTRACTOR's sole cost, comply with all of the requirements of Municipal, State, and Federal authorities now in force, or which may hereafter be in force, pertaining to this Agreement, and shall faithfully observe in all activities relating to or growing out of this Agreement all Municipal ordinances and State and Federal statutes, rules or regulations, and permitting requirements now in force or which may hereafter be in force including, without limitation, obtaining a City of Bakersfield business tax certificate (Bakersfield Municipal Code Chapter 5.02) where required.
6. **INDEPENDENT CONTRACTOR.** This Agreement calls for CONTRACTOR's performance of the Scope of Work as an independent contractor. CONTRACTOR is not an agent or employee of the CITY for any purpose and is not entitled to any of the benefits provided by CITY to its employees. This Agreement shall not be construed as forming a partnership or any other association with CONTRACTOR other than that of an independent contractor.
7. **DIRECTION.** CONTRACTOR retains the right to control or direct the manner in which the services described herein are performed.
8. **EQUIPMENT.** CONTRACTOR will supply all equipment, tools, materials and supplies necessary to perform the services under this Agreement.
9. **STARTING WORK.** CONTRACTOR shall not begin work until authorized to do so in writing by CITY. No work will be authorized before the date first written above.
10. **KEY PERSONNEL.** CONTRACTOR shall name all key personnel to be assigned to perform the Scope of Work. All key personnel shall be properly licensed and have the experience to perform the work called for



under this Agreement. CONTRACTOR shall provide background for each of the key personnel including, without limitation, resumes and work experience performing work similar to the Scope of Work. CITY reserves the right to approve key personnel. Once the key personnel are approved, CONTRACTOR shall not change such personnel without CITY's written approval.

**10.1** Notwithstanding the above, CPSE Technical Advisors working on projects under this Agreement may perform similar services from time to time for others, and this Agreement shall not prevent CPSE from performing such similar services or restrict CPSE from so assigning the technical advisors provided to Agency under this Agreement. CPSE will make every effort consistent with sound business practices to honor the specific requests of Agency with regard to the assignment of its technical advisors; however, CPSE reserves the sole right to determine the assignment of its technical advisors.

- 11. INCLUDED DOCUMENTS.** Any bid documents, including, without limitation, special provisions and standard specifications and any Request for Proposals, Request for Qualifications and responses thereto relating to this Agreement are incorporated by reference as though fully set forth herein.
- 12. LICENSES.** CONTRACTOR shall, at its sole cost and expense, keep in effect or obtain at all times during the term of this Agreement any licenses, permits and approvals which are legally required for CONTRACTOR to practice its profession and perform the Scope of Work. If CONTRACTOR is a corporation, at least one officer or key employee shall hold the required licenses or professional degrees. If CONTRACTOR is a partnership, at least one partner shall hold the required licenses or professional degrees.
- 13. STANDARD OF PERFORMANCE.** The Scope of Work shall be performed in conformity with all legal requirements and industry standards observed by a specialist of CONTRACTOR's profession in California.
- 14. SB 854 COMPLIANCE.** To the extent Labor Code Section 1771.1 applies to this Agreement, a contractor or subcontractor shall not be qualified to bid on, be listed in a bid proposal, be subject to the requirements of Section 4104 of the Public Contract Code, or engage in the performance of any contract for public work, as defined in this chapter, unless currently registered and qualified to perform public work pursuant to Section 1725.5. It is not a violation of Labor Code Section 1771.1 for an unregistered contractor to submit a bid that is authorized by Section 7029.1 of the Business and Professions Code or by Section 10164 or 20103.5 of the Public Contract Code, provided the contractor is registered to

perform public work pursuant to Section 1725.5 at the time the contract is awarded. The prime contractor is required to post job site notices in compliance with Title 8 California Code of Regulations Section 16451. This project is subject to compliance monitoring and enforcement by the Department of Industrial Relations.

15. **NO WAIVER OF DEFAULT.** The failure of any party to enforce against another party any provision of this Agreement shall not constitute a waiver of that party's right to enforce such a provision at a later time and shall not serve to vary the terms of this Agreement.

16. **INSURANCE.**

- 16.1 **Types and Limits of Insurance.** In addition to any other insurance or security required under this Agreement, CONTRACTOR must procure and maintain, for the duration of this Agreement, the types and limits of insurance below ("Basic Insurance Requirements").

16.1.1 **Automobile liability insurance,** providing coverage for owned, non-owned, and hired autos on an occurrence basis for bodily injury, including death, of one or more persons, property damage, and personal injury, with limits of not less than \$1,000,000 per occurrence.

16.1.2 **Commercial general liability insurance,** unless otherwise approved by CITY's Risk Manager, providing coverage on an occurrence basis for bodily injury, including death, of one or more persons, property damage, and personal injury, with limits of not less than \$1,000,000 per occurrence. The policy must:

16.1.2.1 Provide contractual liability coverage for the terms of this Agreement;

16.1.2.2 Provide products and completed operations coverage;

16.1.2.3 Provide premises, operations, and mobile equipment coverage; and

16.1.2.4 Contain an additional insured endorsement in favor of CITY and its mayor, council, officers, agents, employees, and designated volunteers.



- 16.1.3 Workers' compensation insurance** with limits of not less than \$1,000,000 per occurrence. In accordance with the provisions of Labor Code Section 3700, every contractor will be required to secure the payment of compensation to his employees. Pursuant to Labor Code Section 1861, CONTRACTOR must submit to CITY the following certification before beginning any work on the Improvements:

I am aware of the provisions of Section 3700 of the Labor Code which require every employer to be insured against liability for worker's compensation or to undertake self-insurance in accordance with the provisions of that code, and I will comply with such provisions before commencing the performance of the work of this contract.

By executing this Agreement, CONTRACTOR is submitting the certification required above.

The policy must contain a waiver of subrogation in favor of CITY and its mayor, council, officers, agents, employees, and designated volunteers.

**16.2 General Provisions Applying to All Insurance Types.**

- 16.2.1** All policies required of CONTRACTOR must be written on a first-dollar coverage basis, or contain a deductible provision. Subject to CITY's advance approval, CONTRACTOR may utilize a self-insured retention in any or all of the policies provided, but the policy or policies may not contain language, whether added by endorsement or contained in the policy conditions, that prohibits satisfaction of any self-insured provision or requirement by anyone other than the named insured or by any means including other insurance or which is intended to defeat the intent or protection of an additional insured.

- 16.2.2** All policies required of CONTRACTOR must be primary insurance as to CITY and its mayor, council, officers, agents, employees, or designated volunteers and any insurance or self-insurance maintained by CITY and its mayor, council, officers, agents, employees, and designated volunteers must be excess of CONTRACTOR's insurance and must not contribute with it.

**16.2.3** The insurance required above, except for workers' compensation insurance, must be placed with insurers with a Best's rating as approved by CITY's Risk Manager, but in no event less than A-:VII. Any deductibles, self-insured retentions, or insurance in lesser amounts, or lack of certain types of insurance otherwise required by this Agreement, or insurance rated below Best's A-:VII, must be declared prior to execution of this Agreement and approved by CITY in writing.

**16.2.4** The insurance required in this section must be maintained until the Scope of Work is satisfactorily completed as evidenced by CITY's written acceptance. All policies must provide that there will be continuing liability thereon, notwithstanding any recovery on any policy.

**16.2.5** Full compensation for all premiums which the CONTRACTOR is required to pay to satisfy the Basic Insurance Requirements shall be considered as included in the prices paid for the performance of the Scope of Work, and no additional allowance will be made therefor or for additional premiums which may be required by extensions of the policies of insurance.

**16.2.6** It is further understood and agreed by CONTRACTOR that its liability to CITY will not in any way be limited to or affected by the amount of insurance obtained and carried by CONTRACTOR in connection with this Agreement.

**16.2.7** Unless otherwise approved by CITY, if any part of the Scope of Work is subcontracted, the Basic Insurance Requirements must be provided by, or on behalf of, all subcontractors even if CITY has approved lesser insurance requirements for CONTRACTOR, and all subcontractors must agree in writing to be bound by the provisions of this section.

**17. THIRD PARTY CLAIMS.** In the case of public works contracts, CITY will timely notify CONTRACTOR of third party claims relating to this Agreement. CITY shall be allowed to recover from CONTRACTOR, and CONTRACTOR shall pay on demand, all costs of notification.

**18. INDEMNITY.** CONTRACTOR shall indemnify, defend, and hold harmless



of negotiation and all parties are equally responsible for authorship of this Agreement. Section 1654 of the California Civil Code shall not apply to the interpretation of this Agreement.

25. **EXHIBITS.** In the event of a conflict between the terms, conditions or specifications set forth in this Agreement and those in exhibits attached hereto, the terms, conditions, or specifications set forth in this Agreement shall prevail. All exhibits to which reference is made in this Agreement are deemed incorporated in this Agreement, whether or not actually attached.
26. **FURTHER ASSURANCES.** Each party shall execute and deliver such papers, documents, and instruments, and perform such acts as are necessary or appropriate, to implement the terms of this Agreement and the intent of the parties to this Agreement.
27. **RIGHTS IN WORK PRODUCT.** Unless otherwise agreed by the parties, all services rendered by CPSE under this Agreement and the product of such services manifested in documentation delivered to Agency ("Work Product") shall belong to and be owned by Agency. To the extent such Work Project qualifies as a "work made for hire" under the applicable copyright law, it shall be considered a work made for hire, and the copyright shall be owned solely and exclusively by Agency. The extent such Work Project is not considered as a "work for hire" under applicable copyright law, CPSE hereby assigns and transfers all of CPSE's right, title and interest in and to such Work Project to Agency. The rights conveyed to Agency pursuant to this Agreement do not include rights to any preexisting CPSE Intellectual Property used, developed and refined by CPSE during CPSE's provision of Services under this Agreement. CPSE shall retain sole and exclusive ownership, right, title and interest, including ownership of copyright, with respect to CPSE's Intellectual Property.
28. **FORCE MAJEURE.** CPSE shall not be held responsible for delay or default caused by fire, riot, acts of God or war, civil unrest, major weather event (e.g., tornado, blizzard, etc.), and failures of public carrier, which was beyond CPSE's reasonable control.
29. **GOVERNING LAW.** The laws of the State of California will govern the validity of this Agreement and its interpretation and performance. Any litigation arising in any way from this Agreement shall be brought in Kern County, California.
30. **INTERPRETATION.** Whenever the context so requires, the masculine gender includes the feminine and neuter, and the singular number includes the plural.

31. **MERGER AND MODIFICATION.** This Agreement sets forth the entire agreement between the parties and supersedes all other oral or written representations. This Agreement may be modified only in a writing approved and signed by all the parties hereto. If any modification of this Agreement results in total Compensation which exceeds \$40,000, the modification must be approved by the City Council.
32. **NON-INTEREST.** No CITY officer or employee shall hold any interest in this Agreement (California Government Code section 1090).
33. **CONFLICT OF INTEREST STATEMENT.** CPSE has neither directly, nor indirectly entered into any agreement, participated in any collusion or collusion activity, nor otherwise taken any action which in any way restrict or restrain the competitive nature of this solicitation, including but not limited to, the prior discussion of terms, conditions, pricing or other offer parameters required by this solicitation.
- 33.1 CPSE is not presently suspended or otherwise prohibited from participation in this solicitation or any other contracting to follow thereafter by any government.
- 33.2 Neither CPSE nor anyone associated with CPSE have any potential conflict of interest because of or due to any other clients, contracts, or property interests in this solicitation or the resulting project. In the event that a conflict of interest is identified in the provision of services, CPSE will immediately notify the Agency in writing.
- 33.3 Any person assigned to this project by CPSE shall not serve as a peer assessor for the Commission of Fire Accreditation International (CFAI) for the Agency within a five (5) year time period.
34. **NOTICES.** All notices relative to this Agreement shall be given in writing and shall be personally served or sent by certified or registered mail and be effective upon actual personal service or depositing in the United States mail. The parties shall be addressed as follows, or at any other address designated by notice:

**CITY:           BAKERSFIELD FIRE DEPARTMENT  
                  2101 H STREET  
                  BAKERSFIELD, CA 93301**



**CONTRACTOR: CENTER FOR PUBLIC SAFETY EXCELLENCE  
4501 SINGER COURT, SUITE 180  
CHANTILLY, VA 20151**

- 35. RESOURCE ALLOCATION.** All CITY obligations under the terms of this Agreement are subject to the appropriation and allocation of resources by the City Council.
- 36. TITLE TO DOCUMENTS.** All documents, plans, and drawings, maps, photographs, and other papers, or copies thereof prepared by CONTRACTOR pursuant to the terms of this Agreement, shall, upon preparation, become CITY property.
- 37. TAX NUMBERS.**

CONTRACTOR's Federal Tax ID Number 54-2053612  
CONTRACTOR is a corporation? Yes X No         
(Please check one.)

**IN WITNESS WHEREOF,** the parties hereto have caused this Agreement to be executed as of the date first written above.

"CITY"  
**CITY OF BAKERSFIELD**

"CONTRACTOR"  
**CENTER FOR PUBLIC SAFETY EXCELLENCE**

By: \_\_\_\_\_  
**KAREN GOH**  
Mayor

By: Debbie Sobotka  
Print Name: Debbie Sobotka  
Title: Chief Operating Officer

**ADDITIONAL SIGNATURES ON FOLLOWING PAGE**

APPROVED AS TO FORM:  
**VIRGINIA GENNARO**  
City Attorney

By: \_\_\_\_\_  
**JOSHUA H. RUDNICK**  
Deputy City Attorney

Insurance: \_\_\_\_\_

APPROVED AS TO CONTENT:  
**BAKERSFIELD FIRE DEPARTMENT**

By:  \_\_\_\_\_  
**ANTHONY GALAGAZA**  
Fire Chief

COUNTERSIGNED:

By: \_\_\_\_\_  
**RANDY MCKEEGAN**  
Finance Director

Attachment:      Exhibit A  
                         Sole Source Letter  
                         Certificates of Insurance





**Appendix A: Strategic Plan & Self-Assessment Project Statement of Work**  
May 18, 2020

<b>Contract Price: \$42,900</b>				
<b>Project Steps</b>	<b>Step Details</b>	<b>Step Timing</b>	<b>Step Responsibility</b>	<b>Step Billing</b>
1. Project Acceptance	<ul style="list-style-type: none"> <li>Finalized Statement of Work</li> <li>Signed Professional Services Agreement</li> <li>Construction of Updated Shared Web Site</li> </ul>	By Friday, June 26, 2020	CPSE and Bakersfield Fire Department CA	\$7,150
2. Project Executive Orientation	<ul style="list-style-type: none"> <li>Discussion of final SOW and identification of resources need for each step</li> <li>Overview of the Shared Web Site</li> </ul>	By Friday, July 3, 2020	CPSE	N/A
3. Post Required Materials to Shared Site	<ul style="list-style-type: none"> <li>Update Agency primary contact information</li> <li>Agency and community images, including high resolution agency logo</li> <li>Current Agency organizational chart</li> <li>Agency background information, as available</li> </ul>	By Friday, July 17, 2020	CPSE and Bakersfield Fire Department CA	N/A
4. Invite Stakeholders	<ul style="list-style-type: none"> <li>Send invitations to request external stakeholder participation in External Stakeholder Meeting</li> <li>Invite identified internal stakeholder and schedule the work session</li> </ul>	By Monday, August 3, 2020	Bakersfield Fire Department CA	N/A
5. Post Additional Required CDSP Materials to Shared Site	<ul style="list-style-type: none"> <li>Agency current mission and values, if available</li> <li>Agency organizational chart</li> <li>Agency background information, as available</li> <li>List of internal stakeholders with rank/title and assignment (shift, station, etc.)</li> </ul>	By Wednesday, August 12, 2020	Bakersfield Fire Department CA	N/A
6. Internal Stakeholder Work Session	<ul style="list-style-type: none"> <li>Review input from External Stakeholders</li> <li>Develop, Revise or Update Mission Statement</li> <li>Develop, Revise or update Value Statements</li> <li>Establish core programs and support services</li> <li>Conduct S.W.O.T. Analysis</li> <li>Identify Critical Issues and Service Gaps</li> <li>Determine strategic initiatives with outcomes expected</li> <li>Develop goals, objectives, and critical tasks</li> <li>Develop, Revise or Update Vision Statement</li> </ul>	Monday, August 17, 2020 through Thursday, August 20, 2020	CPSE	\$7,150
7. Draft Report Published	<ul style="list-style-type: none"> <li>Draft uploaded to Shared Site for Agency review</li> </ul>	By Monday, August 31, 2020	CPSE	N/A
8. Review of Draft Report	<ul style="list-style-type: none"> <li>Edits to draft report completed via Shared Site</li> </ul>	By Monday, September 14, 2020	Bakersfield Fire Department CA	N/A
9. Strategic Plan Finalized	<ul style="list-style-type: none"> <li>Approval of final draft</li> </ul>	By Monday, September 28, 2020	Bakersfield Fire Department CA	N/A

**EXHIBIT A**



## Appendix A: Strategic Plan & Self-Assessment Project Statement of Work

May 18, 2020

10. Strategic Plan Issued	<ul style="list-style-type: none"> <li>• Delivery of one digital and ten (10) hard copies of the finalized Strategic Plan.</li> </ul>	By Monday, October 12, 2020	CPSE	\$7,150
11. Self-Assessment Writing Team Instruction	<ul style="list-style-type: none"> <li>• Instruction of the CFAI Model competencies and writing requirements for agency Self-Assessment Manual</li> </ul>	Monday, October 19, 2020 and Tuesday, October 20, 2020	CPSE	\$7,150
12. Upload of SAM Categories 1, 3, and 4	<ul style="list-style-type: none"> <li>• Agency upload of Category 1 Draft</li> <li>• Agency upload of Category 3 Draft</li> <li>• Agency upload of Category 4 Draft</li> </ul>	By Friday, November 20, 2020	Bakersfield Fire Department CA	N/A
13. Technical Review of Categories 1, 3, and 4	<ul style="list-style-type: none"> <li>• Technical Advisor review and comment on Categories 1, 3, and 4</li> </ul>	By Wednesday, November 25, 2020	CPSE	N/A
14. Upload of SAM Categories 2 and 5	<ul style="list-style-type: none"> <li>• Agency upload of Category 2 Draft</li> <li>• Agency upload of Category 5 Draft; Criteria A, B, C, D, E, F, G, H, I, K</li> </ul>	By Friday, December 18, 2020	Bakersfield Fire Department CA	N/A
15. Technical Review of Categories 2 and 5	<ul style="list-style-type: none"> <li>• Technical Advisor review and comment on Category 2, and the Criteria of Category 5</li> </ul>	By Wednesday, December 23, 2020	CPSE	\$7,150
16. Upload of SAM Categories 6, 7, and 8	<ul style="list-style-type: none"> <li>• Agency upload of Category 6 Draft</li> <li>• Agency upload of Category 7 Draft</li> <li>• Agency upload of Category 8 Draft</li> </ul>	By Friday, January 22, 2021	Bakersfield Fire Department CA	N/A
17. Technical Review of Categories 6, 7, and 8	<ul style="list-style-type: none"> <li>• Technical Advisor review and comment on Categories 6, 7, and 8</li> </ul>	By Wednesday, January 27, 2021	CPSE	N/A
18. Upload of SAM Categories 9 and 10	<ul style="list-style-type: none"> <li>• Agency upload of Category 9 Draft</li> <li>• Agency upload of Category 10 Draft</li> </ul>	By Friday, February 19, 2021	Bakersfield Fire Department CA	N/A
19. Technical Review of Categories 9 and 10	<ul style="list-style-type: none"> <li>• Technical Advisor review and comment on Categories 9 and 10</li> </ul>	By Friday, February 26, 2021	CPSE	N/A
20. Final SAM Web Meeting	<ul style="list-style-type: none"> <li>• Final Technical Advisor review and wrap up of SAM Categories and Criterion</li> </ul>	By Friday, March 5, 2021	CPSE and Bakersfield Fire Department CA	N/A
21. Self-Assessment Site Study	<ul style="list-style-type: none"> <li>• Site work activity by 3 technical advisors to evaluate the agency's CFAI model work</li> </ul>	Monday, March 15, 2021 through Wednesday, March 17, 2021	CPSE	N/A
22. Self-Assessment Site Study Report	<ul style="list-style-type: none"> <li>• Technical advisor report and recommendations for agency to consider before becoming a CFAI Candidate agency</li> </ul>	By Friday, March 26, 2021	CPSE	\$7,150

### Acceptance:

Bakersfield Fire Department, CA

Initials of Authorized Party: *Anthony Galagaza, Fire Chief*

Center for Public Safety Excellence (CPSE)

Initials of Authorized Party: *Debbie Sobotka, COO* 