

CIVIC BRIDGE DONOR SERVICES AGREEMENT

between the City and County of San Francisco acting by and through its Office of
Economic and Workforce Development

and

salesforce.com, inc.

RECITALS

WHEREAS, The Civic Bridge Program, a 16-week program that is an initiative of the San Francisco Mayor's Office of Civic Innovation, matches pro bono private sector talent with certain departments of the City and County of San Francisco ("City") to address specific policy or operational challenges facing those departments. Under the Program, private companies and individuals may donate consulting services free of charge to the City to help City departments develop cutting-edge strategies and solutions to improve public sector service delivery and enhance internal process capability; and

WHEREAS, the Office of Economic and Workforce Development ("Department"), a department of the City, seeks volunteer consulting services to help develop a branding and marketing strategy ("the Project"); and

WHEREAS, salesforce.com, inc. ("Donor") proposes to donate to the Department consulting services for the Project free of charge as a gift-in-kind ("Donor Services");

NOW, THEREFORE, in consideration of the foregoing recitals and the mutual promises set forth herein, the parties hereto agree as follows:

1. Description of Donor Services.

Donor will provide free consulting services on a volunteer basis to the Department for the Project over an approximately sixteen (16) week period expected to run between October of 2021 and February of 2022.

Donor will provide to City pro bono consulting services in the areas of communications and strategic planning. Donor shall provide approximately 500 hours of such pro bono consulting services over the term of this Agreement. The City agrees to cooperate reasonably and in good faith with Donor in its performance hereunder. It is the intent of Donor that this donation, with a fair market value of \$97,500, comply with all applicable laws, regulations, and ethics rules regarding gifts and donations.

The parties acknowledge and agree that deliverables provided under this agreement are subject to applicable public disclosure laws, including the City's Sunshine Ordinance.

Unless specifically agreed upon in advance by Department, all work product and deliverables prepared in whole or in part by Donor under this Agreement ("Work Product") shall be the property of City. Notwithstanding the foregoing,

Department grants Donor a worldwide, perpetual, non-exclusive, royalty-free right and license to the Work Product to use, make, modify, repurpose, reproduce, sell, sublicense, create derivative works, publicly perform, and transfer such Work Product for inclusion in Donor's products and for Donor's continued provision of services to other Donor customers.

If, in connection with consulting services provided under this Agreement, Donor creates artwork, copy, posters, billboards, photographs, videotapes, audiotapes, systems designs, software, reports, diagrams, surveys, blueprints, source codes or any other original works of authorship, such works of authorship shall be works for hire as defined under Title 17 of the United States Code, and all copyrights in such works are the property of the City. If it is ever determined that any works created by Donor under this Agreement are not works for hire under U.S. law, Donor hereby assigns all copyrights to such works to the City, and agrees to provide any material and execute any documents necessary to effectuate such assignment. With the approval of the City, Donor may retain and use copies of such works for reference and as documentation of its experience and capabilities.

The Department hereby agrees to accept the Donor Services, and will use its discretion in deciding how to deploy or implement the Donor Services provided that any use by the Department of the Donor Services will comply with all applicable laws and regulations. The parties acknowledge and agree that, unless otherwise specified in this Agreement, the Donor Services are for the benefit and use of the City, without restriction.

Donor makes this donation without seeking promises or favoritism for Donor in any bidding arrangements. Further, no exclusivity will be expected by either party in consideration for the donation. Donor and Department acknowledge and agree that the Civic Bridge Program will not be used for the Department's general acquisition of goods and services otherwise subject to the requirements of the San Francisco Administrative Code. Nothing in this Agreement shall prohibit Donor from participating in a competitive solicitation or otherwise contracting with City or Department to provide City with goods or services if done in compliance with all applicable City procurement and solicitation rules, regulations, policies, and procedures and all applicable conflict-of-interest laws.

2. No Employment Relationship.

Donor acknowledges and agrees that providing Donor Services for the City does not create any employment relationship or expectation of a future employment relationship between the Donor and the City or its Department. Donor acknowledges and agrees that the City may, in its sole discretion, provide Donor with access to certain City resources but that the provision of such access shall in no way be construed as creating, or giving rise to, any employment relationship. The City may reject Donor's services at any time without notice or hearing or cause.

The City or Department will not provide any compensation of any kind to the Donor for the Donor Services provided under this Agreement, and no expenses of any kind will be reimbursed. Donor shall not represent or hold him or herself out to be an employee of the City at any time.

3. Proprietary or Confidential Information.

If this Agreement requires City to disclose "Private Information" to Donor within the meaning of San Francisco Administrative Code Chapter 12M, Donor and Donor's employees shall use such information only in accordance with the restrictions stated in Chapter 12M and in this Agreement and only as necessary in performing the Donor Services. Further, the City agrees to comply with Chapter 12M in connection with the Donor Services provided hereunder. Donor is subject to the enforcement and penalty provisions in Chapter 12M.3.

In the performance of Donor Services, a party (the "Disclosing Party") may provide the other party (the "Receiving Party") access to the Disclosing Party's Confidential Information (as defined below), the disclosure of which to third parties may damage the Disclosing Party. If the Disclosing Party discloses Confidential Information to the Receiving Party, the Receiving Party will use the same degree of care that it uses to protect the confidentiality of its own confidential information of like kind (but not less than reasonable care) to (i) not use any Confidential Information of the Disclosing Party for any purpose outside the scope of this Agreement, and (ii) except as otherwise authorized by the Disclosing Party in writing, limit access to Confidential Information of the Disclosing Party to those of its and its affiliates' employees and contractors who need that access for purposes consistent with this Agreement and who have signed confidentiality agreements with the Receiving Party containing protections not materially less protective of the Confidential Information than those herein. For purposes of this Agreement, "Confidential Information" means all information disclosed by a Disclosing Party to a Receiving Party, whether orally or in writing, that is designated as confidential or that reasonably should be understood to be confidential given the nature of the information and the circumstances of disclosure. Confidential Information of each party includes business and marketing plans, strategies, data, technology and technical information, product plans and designs, and business processes disclosed by such party. However, Confidential Information does not include any information that (i) is or becomes generally known to the public without breach of any obligation owed to the Disclosing Party, (ii) was known to the Receiving Party prior to its disclosure by the Disclosing Party without breach of any obligation owed to the Disclosing Party, (iii) is received from a third party without breach of any obligation owed to the Disclosing Party, or (iv) was independently developed by the Receiving Party.

The Receiving Party may disclose Confidential Information of the Disclosing Party to the extent compelled by law to do so, provided the Receiving Party gives the Disclosing Party prior notice of the compelled disclosure (to the extent legally permitted) and reasonable assistance, at the Disclosing Party's cost, if the Disclosing Party wishes to contest the disclosure. If the Receiving Party is compelled by law to disclose the Disclosing Party's Confidential Information as part of a civil proceeding to which the Disclosing Party is a party, and the Disclosing Party is not contesting the disclosure, the Disclosing Party will reimburse the Receiving Party for its reasonable cost of compiling and providing secure access to that Confidential Information.

The City or Department shall not make available to Donor access to City information system networks that are not available to the public without the consultation (and approval) of the City's Chief Information Security Officer.

The City or Department shall not make available to Donor Protected Health Information ("PHI"), which means any information, whether oral or recorded in any form or medium: (i) that relates to the past, present or future physical or mental condition of an company; the provision of health care to an company; and (ii) that identifies the company or with respect to where there is a reasonable basis to believe the information can be used to identify the company, and shall have the meaning given to such term under the Privacy Rule, including, but not limited to, 45 C.F.R. Section 164.501. Protected Health Information includes Electronic Protected Health Information (45 C.F.R. Sections 160.103, 164.501). In the event that PHI is inadvertently produced to Donor, Donor shall immediately return the PHI and shall not use or disclose the PHI in any manner.

4. **Workers Compensation.** Donor acknowledges and agrees that the City is not obligated to and does not carry any insurance for Donor, and any condition, illness or injury that Donor suffers in the performance of the Donor Services shall be covered by the Donor's insurance.
5. **Use of City and County Property for Business Purposes Only.** All City equipment, devices, materials, supplies, furnishings (e.g., photocopiers, telephones, computers, printers, vehicles, stationary, fax machines) must be used only to conduct City business. Use of City property for personal, political, or other non-City business is strictly prohibited and could lead to the City's rejection of further Donor Services from the Donor.
6. **Indemnity**

Subject to Section 12 ("Limitation of Liability"), Donor agrees to defend and hold harmless the City and County of San Francisco, its officers, employees and agents ("City"), against any claim, demand, suit, or proceeding made or brought against City by a third party arising out of Donor's willful misconduct or gross negligence in the performance of the Donor Services to be provided under this Agreement ("Claim"), except to the extent arising by reason of the negligence of the City, its officers, employees and agents. Donor agrees to indemnify for any damages, attorneys' fees and costs finally awarded against the City as a result of, or for amounts paid by the City under a settlement approved in writing by

Donor of, any such Claim, provided that the City: (a) promptly gives Donor written notice of the Claim; (b) gives Donor sole control of the defense and settlement of the Claim (except that Donor may not settle any Claim unless it unconditionally releases the City of all liability); and (c) gives Donor all reasonable assistance, at Donor's cost. The above defense and indemnification obligations do not apply to the extent a Claim arises from the City's breach of this Agreement. This "Indemnification" section states the indemnifying party's sole liability to, and the indemnified party's exclusive remedy against, the other party for any type of Claim described in this section.

7. Effective Date; Term; Termination.

The effective date of this Agreement shall be October 2021. The term of this Agreement shall commence on the effective date, and shall end in February 2022, provided that the City can reject all or any part of the Donor Services being provided under this Agreement at any time upon written notice. Either party may terminate this Agreement, at any time during the term hereof, for convenience and without cause, by giving the other party written notice of termination.

8. Notices. Unless otherwise indicated elsewhere in this Agreement, all written communications sent by the parties may be by U.S. mail, e-mail or by fax, and shall be addressed as follows:

To Department: Office of Economic and Workforce Development
City Hall, 1 Dr. Carlton B. Goodlett Place, Room 448
San Francisco, CA 94102

Attn: Benson Tran
benson.tran@sfgov.org

To Donor: Salesforce Tower
415 Mission Street, 3rd Floor
San Francisco, California, 94105
attn: VP, Worldwide Sales Operations,
with a copy to attn: General Counsel.

Either party may change the address to which notice is to be sent by giving written notice thereof to the other party. If e-mail notification is used, the sender must specify a Receipt notice.

9. Modification. This Agreement may not be modified, nor may compliance with any of its terms be waived, except by written instrument executed and approved in the same manner as this Agreement.

10. **Governing Law; Venue.** The formation, interpretation and performance of this Agreement shall be governed by the laws of the State of California, without regard to its conflict of laws principles. Venue for all litigation relative to the formation, interpretation and performance of this Agreement shall be in San Francisco.
11. **Disclaimer.** THE DONOR SERVICES ARE PROVIDED "AS-IS," EXCLUSIVE OF ANY WARRANTY WHATSOEVER WHETHER EXPRESS, IMPLIED, STATUTORY OR OTHERWISE. DONOR DISCLAIMS ALL IMPLIED WARRANTIES, INCLUDING WITHOUT LIMITATION ANY IMPLIED WARRANTIES OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE OR NON-INFRINGEMENT, TO THE MAXIMUM EXTENT PERMITTED BY APPLICABLE LAW. ANY PARTICIPATION IN OR USE OF THE DONOR SERVICES IS AT CITY'S SOLE RISK.
12. **Limitation of Liability.** IN NO EVENT SHALL THE AGGREGATE LIABILITY OF EITHER PARTY TOGETHER WITH ALL OF ITS AFFILIATES ARISING OUT OF OR RELATED TO THIS AGREEMENT EXCEED US \$50,000.00. THE FOREGOING LIMITATION WILL APPLY WHETHER AN ACTION IS IN CONTRACT OR TORT AND REGARDLESS OF THE THEORY OF LIABILITY.
13. **Exclusion of Consequential and Related Damages.** IN NO EVENT WILL DONOR OR ITS AFFILIATES HAVE ANY LIABILITY ARISING OUT OF OR RELATED TO THIS AGREEMENT FOR ANY LOST PROFITS, REVENUES, GOODWILL, OR INDIRECT, SPECIAL, INCIDENTAL, CONSEQUENTIAL COVER, BUSINESS INTERRUPTION, OR PUNITIVE DAMAGES, WHETHER AN ACTION IS IN CONTRACT OR TORT, AND REGARDLESS OF THE THEORY OF LIABILITY, EVEN IF A PARTY OR ITS AFFILIATES HAVE BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES OR IF A PARTY'S OR ITS AFFILIATES' REMEDY OTHERWISE FAILS OF ITS ESSENTIAL PURPOSE. THE FOREGOING DISCLAIMER WILL NOT APPLY TO THE EXTENT PROHIBITED BY LAW, IN WHICH CASE DONOR'S LIABILITY WITH RESPECT TO THIS AGREEMENT SHALL NOT EXCEED \$1,000.00. IN THE EVENT OF A CLAIM, DEMAND, SUIT OR PROCEEDING AGAINST SFDC, ITS OFFICERS, DIRECTORS, AGENTS AND EMPLOYEES BROUGHT BY A THIRD PARTY ARISING OUT OF THE CITY'S GROSS NEGLIGENCE OR WILLFUL MISCONDUCT, THE CITY AGREES THAT THE FOLLOWING SHALL BE DEEMED DIRECT DAMAGES OF SFDC (I) REASONABLE COSTS AND ATTORNEY'S FEES INCURRED IN DEFENDING SUCH CLAIM AND (II) DAMAGES, ATTORNEY'S FEES AND COSTS FINALLY AWARDED AGAINST SFDC AS A RESULT OF, OR FOR ANY AMOUNTS PAID BY SFDC UNDER A SETTLEMENT APPROVED BY THE CITY IN WRITING OF, A CLAIM AGAINST SFDC.
14. **Entire Agreement.** This Agreement sets forth the entire Agreement between the parties, and supersedes all other oral or written provisions. This Agreement is limited to the Donor Services and does not convey any right to use Donor's

online services. Any use of such online services by City will be governed by a separate agreement.

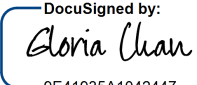
IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be duly executed as of the date first specified herein.

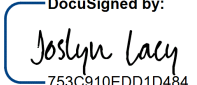
CITY:

DONOR:

OFFICE OF ECONOMIC AND
WORKFORCE DEVELOPMENT

SALESFORCE

By: 
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By: 
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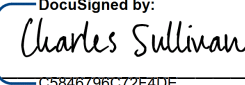
Print
Name: Gloria chan

Print
Name: Joslyn Lacy

Print
Title: Director of Communications

Approved as to Form:

Dennis J. Herrera
City Attorney

By: 
C5846796C72F4DE...

Print Name: charles sullivan
Deputy City Attorney