



# City of Santa Clara

The Center of What's Possible

## REQUEST FOR PROPOSAL

### INTERIM CITY ATTORNEY APPOINTMENT

#### RFP HR 22-01

**January 31, 2022**

RFP release date	January 31, 2022
Deadline for questions	February 7, 2022 by 8:00 PM PST
Issue responses to questions	February 14, 2022
Proposal Due Date	March 3, 2022
Proposal Due Time	Close of Business
Proposal Due Location	e-mail your response to: <a href="mailto:AAzevedo@SantaClaraCA.gov">AAzevedo@SantaClaraCA.gov</a>
Evaluation of Proposal Period	March 4 -11, 2022
Proposer Interviews	March 14 - 16, 2022
City Council Review for Approval	March 22, 2022
Projected Start Date for Selected Interim City Attorney	April 1, 2022
Contact Name:	Aracely Azevedo Human Resources Director <a href="mailto:AAzevedo@SantaClaraCA.gov">AAzevedo@SantaClaraCA.gov</a>

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## **1 INTRODUCTION**

The City of Santa Clara is seeking proposals from full-service law firms and individuals with experience in advising and representing California cities for full city attorney services in response to the City's present need for an Interim City Attorney, to serve while the City conducts its recruitment for a long-term City Attorney.

## **2 BACKGROUND**

**2.1** The City of Santa Clara, also known as the Mission City, is a charter city incorporated in 1852 under the laws of the State of California. The City's powers are exercised through a Council/Manager form of government. The City Council is made up of the Mayor, elected at large, and six councilmembers elected by district serving as the legislative authority. The City Council appoints a City Manager who is responsible for the overall management and administration of the City, a City Attorney to represent and advise the City Council and all City officers in all matters of law pertaining to their offices, and a City Auditor to audit and approve all bills, invoices, payrolls, demands or charges against the City government before payment and, with the advice of the City Attorney, advise the City Council as to the regularity, legality and correctness of such claims, demands or charges. The Police Chief and the City Clerk are also publicly elected officials.

**2.2** Santa Clara is a full service City that provides its residents with, among other things, electric, water and sewer utilities as well as police and fire services.

**2.3** The City is located in the County of Santa Clara, California, and is approximately 45 miles southeast of San Francisco and three miles west of downtown San Jose. It is situated in the northern part of the County and occupies approximately 18.41 square miles.

**2.4** The City enjoys a diversified industrial and commercial base. Santa Clara is headquarters to some of the nation's leading electronics, telecommunications, computer, and semiconductor firms. The City is also home to a university, a community college, an adult learning center, and a general hospital.

**2.5** The City's population is estimated at 129,100 indicating the City remains an attractive place both to live and work. The City is one of the most highly desirable areas to live because of the high-quality services it provides to residents and its business-friendly environment.

**2.6** On June 8, 2010, the residents of Santa Clara voted to adopt Measure J, the Santa Clara Stadium Taxpayer Protection and Economic Progress Act, resulting in the approval to construct a new stadium to be leased by the San Francisco 49ers. Measure J called for the creation of the Santa Clara Stadium Authority to own, develop, construct, operate, and maintain the Stadium. The Stadium Authority exists as a public body, a JPA, separate and distinct from the City. The City Attorney also serves as the Stadium Authority Counsel for the Stadium Authority Board, attends all Board meetings and provides legal advice and representation on all legal matters.

**2.7** The Office of the City Attorney provides a wide range of legal services to the City, and its various constituent entities/authorities, and the Santa Clara Stadium Authority. The City Attorney serves as a key member of the executive management team.

**2.8** The responsibilities of the Office of the City Attorney consist of the following:

**2.8.1** Represent and advise the City Council and all City officers in all matters of law pertaining to their offices.

**2.8.2** Represent and appear on behalf of the City and any City officer or employee in all legal actions or proceedings which the City or any such officer or employee, in or by reason of his/her official capacity is a party; provide the City Council with information and advice regarding ongoing litigation and legislation that affects the City.

**2.8.3** Attends all City Council meetings and gives advice or an opinion in writing whenever requested to do so by the City Council or officers of the City.

**2.8.4** Staff board and commission meetings as necessary.

**2.8.5** Approve the form of all bonds and given to and all contracts made by the City, endorsing approval thereon in writing.

**2.8.6** Review and approve all ordinances and resolutions and amendments thereof.

**2.8.7** Prosecute cases for violation of the Charter and City ordinances; and assist and provide training on current issues in the law and City policy as needed.

**2.8.8** The Office of the City Attorney, acting as Stadium Authority Counsel, shall be responsible for all legal matters pertaining to the Stadium Authority and its operations.

**2.8.9** The City is currently without a City Attorney. The work of the City Attorney is currently being performed by the most senior attorney in the City Attorney's Office and with the support of the CAO staff. The CAO currently includes 5 full-time attorneys and 1.5 non-attorney staff members. All CAO staff are appointed and directed by the City Manager.

**2.8.10** The City has an immediate need for an Interim City Attorney and issues this RFP for this purpose. The expectation is that Interim City Attorney will serve in this position until the City hires a new City Attorney following a formal recruitment process. The City anticipates that the formal recruitment process could take between nine to twelve months from the date of this RFP to complete.

**2.8.11** The City also has a long-term goal to hire a new City Attorney. City Council has directed staff to issue a RFP to retain an executive recruiting firm to undertake a recruitment for the permanent City Attorney position.

### **3 SCOPE OF WORK**

**3.1** Proposals are required to address the entire scope of work described herein.

**3.2** The Interim City Attorney shall be responsible for performing all duties attributable to the City Attorney pursuant to the City Charter and as articulated in this Request for Proposal (RFP). The Interim City Attorney shall provide a wide range of legal services to the City and the Santa Clara Stadium Authority. The Interim City Attorney shall serve as a member of the executive management team.

**3.3** The responsibilities of the Interim City Attorney are set forth in Attachment B (Anticipated Scope of Work).

**3.4** The City intends for the engagement to be short-term and to only last while the City undertakes a formal recruitment process to appoint its replacement City Attorney. At this time, the City anticipates that the recruitment process may take between nine (9) to twelve months (12) months from the date that the Interim City Attorney is placed. The City requires a candidate or law firm who will remain flexible with respect to the termination date of the parties' agreement.

3.5 The designated Interim City Attorney may simultaneously apply for the long-term City Attorney position and participate in the RFP process for such position.

## **4 QUALIFICATIONS**

4.1 The City desires to obtain services of a law firm or individual experienced in municipal law to serve as Interim City Attorney. Qualified firms or individuals with at least ten (10) years of municipal law experience are invited to submit written proposals to provide Interim City Attorney services. It is the City's preference that the individual designated Interim City Attorney have at least ten (10) years of municipal law experience. It is desirable, but not required, that the individual designated Interim City Attorney have prior experience serving as a City Attorney or Assistant City Attorney.

4.2 Telework will be permitted for attendance at remote meetings (including for Council meetings to the extent that Council continues to meet remotely during the appointment period) and during regular business hours in amount subject to Council's discretion and consistent with existing practices in the City Attorney's Office.

4.3 The following certification and licensure are required or desirable:

4.3.1 Active member in good standing of the State Bar of California is required;

4.3.2 Possession of an appropriate California Driver's License is required;

4.3.3 Admission to the United States Supreme Court, Federal District Court, and Federal Appeals Court Bar is desirable.

## **5 HOW TO OBTAIN THIS RFP**

5.1 This RFP may be downloaded from the Periscope S2G (formerly BidSync) e-Procurement system located at <https://www.periscopeholdings.com/s2g>. Respondents can also find a link at the City of Santa Clara website at <https://www.santaclaraca.gov/our-city/departments-a-f/finance/doing-business-with-the-city>. At either website, follow the links to register for this online service. You may register for free either online or by calling Periscope S2G Vendor Support at 1-800-990-9339 and telling the support representative that you are registering for City of Santa Clara bids.

5.2 All addenda and notices related to this procurement will be posted by the City on Periscope S2G. In the event that this RFP is obtained through any means other than Periscope S2G, the City will not be responsible for the completeness, accuracy, or timeliness of the final RFP document.

## **6 PROCEDURE FOR SUBMITTING QUESTIONS AND INQUIRIES**

All questions/inquiries pertaining to this RFP must be made using the Periscope S2G Q&A tool. The City will provide a written response to all questions using the S2G platform and all questions answered on S2G shall be considered addenda to the RFP.

## **7 OBJECTIONS**

Any objections as to the structure, content or distribution of this RFP must be submitted in writing through the contact listed as the contact on the cover page of this document. Contact with representative(s) other than the name listed in this RFP may be grounds for disqualification. Objections must be as specific as possible and identify the RFP section number and title, as well as including a description and rationale for the objection. All objections must be received by the deadline for questions and objections indicated on the cover sheet of this document.

## **8 SUBMISSION OF PROPOSALS**

**8.1** Submit your proposal via email on or before the due date and time to the purchasing contact listed on the cover sheet of this RFP. The subject line of the email shall read as follows: PROPOSAL: RFP HR-21-01. Your proposal should be submitted as one file. Submitting multiple files may result in a proposal being marked down or disqualified if the City spends excessive printing and organizing your proposal. The City will accept e-signatures on documents that require a signature.

**8.2** The contact will send a non-automatic acknowledgement email within one business day from receipt of your proposal. Promptly contact the contact by telephone or email if you have not received a confirming email. It is the Proposer's responsibility to ensure the delivery of its proposal to the contact by the due date and to seek confirmation of the contact's receipt of its proposal.

**8.3** Formatting - The Proposal must be in Times New Roman, Arial or some similar, easily readable font. The size of the font cannot be any smaller than 11 and margins should be 1 inch or wider.

**8.4** Cover Letter – Provide a cover letter (maximum 2 pages) signed by an authorized representative of the proposer providing an overview of proposer's general expertise, capacity, experience, and approach to performing the work described in this RFP. Please include the following information:

**8.4.1** If you are a law firm, provide a Company history demonstrating that your firm has been in business for at least five years. For both firms and individuals, provide your staffing capacity, and list any subcontractors that you plan on using for this assignment and how they will be used.

**8.4.2** Your primary area(s) of expertise.

**8.4.3** Describe any pending or current litigation related to services provided by your firm, and any terminated contracts within the past five years with an explanation of the reasons for termination.

**8.4.4** Please include your, or your firm's, name, mailing address, and point of contact information address and contact information if questions do arise regarding your submittal.

### **8.5 QUALIFICATIONS AND EXPERIENCE.**

All proposals shall include the following minimum information:

**8.5.1 Approach and Availability** – A short discussion on the firm's or individual attorney's approach to providing municipal legal services that demonstrate the proposer's understanding of the needs of Santa Clara and the proposer's ability to address them during the appointment period.

**8.5.2** The Office of the City Attorney currently has 5 full time attorneys – 1 Chief Assistant, 3 Assistants, and 1 Deputy – who split up the work of the City's various departments (including transactional/policy support, claims and litigation management, staffing various Boards and Commissions, etc.) amongst them. The Office has established processes and platforms used to provide support to the various departments. It is anticipated that the primary focus of the Interim City Attorney will be providing support to Mayor and Council, City Clerk, City Manager, and Stadium Authority, as well as staffing Council/Board meetings. Describe your approach to integrating your services with the existing team and the office's established practices.

**8.5.3** Address how your office will staff this position during the appointment period.

**8.5.4** Address the firm's or individual's ability to remain flexible with respect to the termination date for the parties' engagement. The Interim City Attorney appointment will last the duration of the City's recruitment process for the City Attorney, which is anticipated to last between nine (9) to twelve (12) months from the date of the RFP. It is the City's expectation that the contract would terminate upon the hiring of a long-term City Attorney. It is also the City's expectation that the Interim City Attorney or law firm could remain flexible to the extent that the City required a reasonable extension of the contract term with the City Attorney recruitment process remained pending.

**8.5.5** Description of Law Firm, Management, and Team Members (As Applicable). A description of the law firm, its history, and a workplace that identifies the designated Interim City Attorney, all attorneys with whom the Interim City Attorney may consult or assign discrete projects to during the appointment period, all non-attorney staff the Interim City Attorney may use to complete the Services, and back-up attorneys (no more than two) who could assist the City in the event of absence or unavailability of the Interim City Attorney.

**8.6** Interim City Attorney Qualifications. For the designated Interim City Attorney:

**8.6.1** The name of the individual, along with their resume and length of employment with the law firm (if applicable);

**8.6.2** Specialization, legal training and years of practice and years of public sector practice;

**8.6.3** Municipal or other local public sector experience and California Municipal Law;

**8.6.4** Knowledge and practice of law relating to land use and planning, CEQA, NEPA, general plans, real estate, environmental issues, hazardous waste and other related law;

**8.6.5** Knowledge and practice of law relating to municipal utilities;

**8.6.6** Experience in the areas of personnel/labor, workers' compensation, general liability, and employee relations;

**8.6.7** Experience in the area of drafting and interpreting contracts and franchises, including public works contracting and prevailing wage matters;

**8.6.8** Experience in the area of municipal code enforcement;

**8.6.9** Experience in the preparation and review of ordinances and resolutions;

**8.6.10** Experience in conflict resolution, managing disputes, and anticipating legal issues; and

**8.6.11** Experience in the areas of Conflicts of Interest (including the Political Reform Act and Government Code Section 1090), Public Records Act, the Brown Act, and the California Elections Code.

**8.7** Potential Conflicts and Legal Action. For the designated Interim City Attorney and their law firm, address the following:

**8.7.1** Identify all public and private clients for whom the designated Interim City Attorney currently provides services. Identify any foreseeable or potential conflicts of interest that could result from such representation and the way you propose to resolve such conflicts.

**8.7.2** Identify all public and private clients for whom the law firm currently provides a significant amount of legal services. Identify any foreseeable or potential conflicts of interest that could result from such representation and the way you propose to resolve such conflicts.

**8.7.3** Identify all situations in the last ten (10) years in which the law firm has been adverse to public entities, either in litigation or administrative matters.

**8.7.4** Confirm that neither the designated Interim City Attorney nor any member of the proposed legal team has been the subject of an enforcement action by the Fair Political Practices Commission at any time during legal practice and, if you are unable to make such confirmation, explain the circumstances pertaining to the same.

**8.7.5** Confirm that neither the designated Interim City Attorney nor any member of the proposed legal team has been the subject of prosecution by the California State Bar at any time during legal practice and, if you are unable to make such confirmation, explain the circumstances pertaining to the same.

**8.7.6** The City reserves the right to make any contractual agreement for the proposed appointment contingent upon the satisfactory completion of a criminal background check for the designated Interim City Attorney.

## **8.8 PROPOSED BUDGET.**

**8.8.1** Billing proposals should consider the Scope of Work as set forth in Attachment B. Describe how you or your firm will aid the City in remaining within the adopted legal services budget. Specify how long the prices quoted will be binding. The system of proposed compensation shall be one of three formats below. The proposal must also address how the City will be charged for all costs associated with legal services, including without limitation, Westlaw/LexisNexis, travel, phone, mileage, copies, courier fees.

**8.8.2** The law firm or individual proposes an hourly rate(s) for all work, including meeting attendance; or

**8.8.3** The law firm or individual proposes a billing system where some services (“basic services” such as attendance at City Council and Stadium Authority (or other work) are billed at a fixed cost such as a per meeting fee and other services (“special services” are billed at the proposed hourly rate(s); or

**8.8.4** The law firm or individual proposes all work is billed at a fixed monthly cost.

## **8.9 REFERENCES, RELATED EXPERIENCE, AND EXAMPLES OF WORK.**

**8.9.1** Provide at least five (5) recent municipal client references with contact information. Specify the client, location, members of the legal team and their roles (e.g., City Attorney, Deputy City Attorney, legal staff), type of work, and other relevant information to allow detailed reference checks. References that are non-responsive after 2 attempts by City to contact the specified reference contact and complete an interview will be rejected. Proposers are responsible for notifying references that City may be contacting them and for providing any waivers or releases the reference requires prior to submitting a proposal.

**8.9.2** Provide written samples of an ordinance, resolution, staff report, and litigation memorandum to Council. Provide information on a particularly unique or controversial issue that the firm or individual addressed and how the issue resolved.

**8.10** Attachment A – Proposal Certification Form; Please complete, sign and submit this form with your proposal



**8.11** Exhibit 1 – Exemplar Agreement; Please note any questions, issues, or concerns your firm may have with the City’s standard terms and conditions. Excessive exceptions to these terms may result in your proposal as being non-responsive.

**8.12** Exhibit 2 – Insurance Requirements

## **9 SELECTION PROCESS AND EVALUATION CRITERIA**

**9.1** The City Council or its designee will evaluate and interview the highest ranked proposers that demonstrate the following criteria. Each criteria will be equally weighted and ranked on a scale of 1 to 5, 1 being the lowest and 5 being the highest.

**9.1.1** Responsiveness to this RFP.

**9.1.2** Qualifications and experience of staff that will be assigned to the project.

**9.1.3** Proposed timeline and availability.

**9.1.4** Cost.

**9.1.5** Relevancy of client references.

**9.1.6** Absence of adverse administrative enforcement actions or criminal history.

**9.2** After initial ranking, rating and interviews, candidates will be invited to be interviewed by Council. The final selection shall be made by Council in its sole discretion based solely on the outcome of the oral interviews.

## **10 GROUNDS FOR DISQUALIFICATION**

**10.1** All proposers are expected to have read, understand, and follow the City’s Ethical Standards for Contractors and the Procurement and Contract Process Integrity Guidelines which may be found on the City’s internet site at:

<https://www.santaclaraca.gov/home/showpublisheddocument/58299/636658684122230000>

<https://www.santaclaraca.gov/our-city/departments-a-f/finance/purchasing/procurement-and-contract-process-integrity-guidelines>

**10.2** Evidence of collusion, directly or indirectly, among proposers in regard to the amount, terms or conditions of this proposal.

**10.3** Any attempt to improperly influence any member of the evaluation team.

**10.4** Existence of any lawsuit, unresolved contractual claim or dispute between proposer and the City.

**10.5** Evidence of incorrect information submitted as part of the proposal, including an unreported potential conflict of interest.

### **10.6**

Evidence of Proposer’s inability to successfully complete the responsibilities and obligations of the proposal.

**10.7** Proposer’s default under any previous agreement with the City.

## **11 NON-CONFORMING PROPOSAL**

A proposal shall be prepared and submitted in accordance with the provisions of these RFP instructions and specifications. Any alteration, omission, addition, variance, or limitation of, from or to a proposal may be sufficient grounds for non-acceptance of the proposal, at the sole discretion of the City.

## **12 GRATUITIES**

No person shall offer, give or agree to give any City employee any gratuity, discount or offer of employment in connection with the award of contract by the City. No City employee shall solicit, demand, accept or agree to accept from any other person a gratuity, discount or offer of employment in connection with a City contract.

## **13 GENERAL INFORMATION**

**13.1** The successful proposer will be required to enter into an agreement with terms and conditions in substantial conformity with Exhibit 1 of this RFP.

**13.2** All costs associated with responding to this request are to be borne by the proposer.

**13.3** It is the City's policy that the selected firm or individual if applicable shall not discriminate, in any way, against any person on the basis of race, sex, color, religion, religious creed, national origin, ancestry, age, gender, marital status, physical disability, mental disability, medical condition, genetic information, sexual orientation, gender expression, gender identity, military and veteran status, or ethnic background, in violation of federal, state or local law, in connection with or related to the performance of City of Santa Clara contracts.

**13.4** An agreement shall not be binding or valid with the City unless and until it is approved by the City Council, if so required, and executed by authorized representatives of the City and of the proposer.

## **14 RIGHTS OF THE CITY OF SANTA CLARA**

**14.1** This RFP does not commit the City to enter into a contract, nor does it obligate the City to pay for any costs incurred in preparation and submission of proposals or in anticipation of a contract. The City reserves the right to:

**14.1.1** Accept an offer in full, or in part, or to reject all offers.

**14.1.2** Reject any and all proposals.

**14.1.3** Issue subsequent solicitations.

**14.1.4** Postpone the opening of proposals for its own convenience.

**14.1.5** Approve or disapprove the use of particular subconsultants.

**14.1.6** Negotiate with any, all or none of the Proposers.

**14.1.7** Accept other than the lowest offer.

**14.1.8** Waive informalities and irregularities in the Proposals.

**14.1.9** Enter into an agreement with another Proposer in the event the originally selected Proposer defaults or fails to execute an agreement with the City.

**14.1.10** Make the final selection in its sole discretion.

**14.2** An agreement shall not be binding or valid with the City unless and until it is approved by the City Council, if so required, and executed by authorized representatives of the City and of the proposer.

## **15 PUBLIC NATURE OF PROPOSAL MATERIAL**

**15.1** Responses to this RFP become the exclusive property of the City. At such time as the City awards a contract, all proposals received in response to this RFP become a matter of public record and shall be regarded as public records, with the exception of those elements in each proposal which are defined by the proposer as business or trade secrets and plainly marked as “Confidential,” “Trade Secret,” or “Proprietary.” The City shall not in any way be liable or responsible for the disclosure of any such proposal or portions thereof, if they are not plainly marked as “Confidential,” “Trade Secret,” or “Proprietary,” or if disclosure, in the City’s sole discretion, is required under the California Public Records Act as addressed below. Any proposal which contains language purporting to render all or significant portions of the proposal “Confidential,” “Trade Secret,” or “Proprietary” shall be regarded as non-responsive.

**15.2** Although the California Public Records Act recognizes that certain confidential trade secret information may be protected from disclosure, the City of Santa Clara may determine, in its sole discretion, that the information that a proposer submits is not a trade secret. If a request is made for information marked “Confidential,” “Trade Secret,” or “Proprietary,” the City shall provide the proposer who submitted the information reasonable notice to allow the proposer to seek protection from disclosure by a court of competent jurisdiction, at the proposer’s sole expense. If Proposer takes no such action after receiving the foregoing notice from the City, the City shall comply with the records request and is not required to defend against it.

## **16 INSURANCE REQUIREMENTS**

**16.1** The selected proposer(s), at proposer’s sole cost and expense and for the full term of the Agreement or any extension thereof, shall obtain and maintain, at a minimum, all of the insurance requirements outlined in Exhibit 2.

**16.2** Certificate of Insurance, as required, shall be provided to City within 10 days of the notice of award. Failure to provide the required Certificate of Insurance may result in withdrawal of the Award, and award to the next highest ranked proposer.

## **17 ATTACHMENT A – PROPOSER CERTIFICATION**

## **18 ATTACHMENT B – ANTICIPATED SCOPE OF WORK**

## **19 EXHIBIT 1 – EXEMPLAR AGREEMENT**

## **20 EXHIBIT 2 – INSURANCE REQUIRMENTS**

**ATTACHMENT A  
PROPOSER CERTIFICATION**

<b>Proposing Firm Name:</b>	
<b>Address:</b>	
<b>Telephone:</b>	
<b>Facsimile:</b>	
<b>Email:</b>	
<b>Contact Person Name and Title:</b>	

**PROPOSER REPRESENTATIONS**

1. Proposer did not, in any way, collude, conspire or agree, directly or indirectly, with any person, firm, corporation or other Proposer in regard to the amount, terms, or conditions of this proposal.
2. Proposer additionally certifies that neither Proposer nor its principals are presently disbarred, suspended, proposed for disbarment, declared ineligible or voluntarily excluded from participation in this transaction by any federal department or agency, any California State agency, or any local governmental agency.
3. Proposer acknowledges that all requests for deviations, exceptions, and approved equals are enclosed herein and that only those deviations, exceptions, and approved equals included in the RFP document or permitted by formal addenda are accepted by the City.
4. Proposer did not receive unauthorized information from any City staff member or City Consultant during the Proposal period except as provided for in the Request for Qualifications package, formal addenda issued by the City, or the pre-proposal conference.
5. As suppliers of goods or services to the City of Santa Clara, Proposer and individuals listed below certify that they do not discriminate in employment of any person because of race, sex, color, religion, religious creed, national origin, ancestry, age, gender, marital status, physical disability, mental disability, medical condition, genetic information, sexual orientation, gender expression, gender identity, military and veteran status, or ethnic background; and that they are in compliance with all Federal, State and local laws, directives and executive orders regarding nondiscrimination in employment.
6. Proposer hereby certifies that the information contained in the proposal and all accompanying documents is true and correct.
7. Please check the appropriate box below:

- If the proposal is submitted by an individual, it shall be signed by him or her, and if he or she is doing business under a fictitious name, the proposal shall so state.
- If the proposal is submitted by a partnership, the full names and addresses of all members and the address of the partnership, the full names and addresses of all members and the addresses of the partnership shall be stated and the proposal shall be signed for all members by one or more members thereof.
- If the proposal is submitted by a corporation, it shall be signed in the corporate name by an authorized officer or officers.
- If the proposal is submitted by a limited liability company, it shall be signed in the corporate name by an authorized officer or officers.
- If the proposal is submitted by a joint venture, the full names and addresses of all members of the joint venture shall be stated and it shall be signed by each individual.

By signing below, the submission of a proposal with all accompanying documents shall be deemed a representation and certification by the Proposer that they have investigated all aspects of the RFP, that they are aware of the applicable facts pertaining to the RFP process, its procedures and requirements, and that they have read and understand the RFP.

Authorized Representative Name:	
Authorized Representative Signature:	
Authorized Representative Title:	
<b>Complete additional signatures as required per #6 above:</b>	
Authorized Representative Name:	
Authorized Representative Signature:	
Authorized Representative Title:	
<b>Complete additional signatures as required per #6 above:</b>	
Authorized Representative Name:	
Authorized Representative Signature:	
Authorized Representative Title:	

## **ATTACHMENT B: Anticipated Scope of Work**

1. Act as the City of Santa Clara's (City) Interim City Attorney.
2. Perform, or supervise the performance of, all duties as prescribed under the City Charter § 908.
3. Represent and advise the City Council and all City officers in all matters of law pertaining to their offices.
4. Represent and appear on behalf of the City and any City officer or employee in all legal actions or proceedings which the City or any such officer or employee, in or by reason of his/her official capacity is a party; provide the City Council with information and advice regarding ongoing litigation and legislation that affects the City.
5. Attends all City Council meetings and gives advice or an opinion in writing whenever requested to do so by the City Council or officers of the City.
6. Staff board and commission meetings as necessary.
7. Approve the form of all bonds and given to and all contracts made by the City, endorsing approval thereon in writing.
8. Review and approve all ordinances and resolutions and amendments thereof.
9. Prosecute cases for violation of the Charter and City ordinances; and
10. Assist and provide training on current issues in the law and City policy as needed.
11. Advise the City Council, Commissions, and City officials and staff on legal matters pertaining to municipal government, including but not limited to, the Ralph M. Brown Act, Elections Code, Public Records Act, Political Reform Act and GC 1090, Robert's Rules of Order, and MMBA.
12. Advise on procedural and substantive issues that arise during meetings.
13. Prepare or review or provide guidance to CAO staff regarding necessary legal documents such as: ordinances and resolutions; various types of agreements, real property instruments of varying nature including purchase agreements and escrows, leases, covenants, deeds, easements and licenses; bond size, amount, and offering terms and conditions; public works construction documents including bid specifications, contracts, bonds, insurance, liens and related documents; memorandums of understanding; franchise agreements; bargaining agreements and bargaining agreement language, employment agreements, independent contract agreements, investigation reports, as required, public records act response and other legal documents as requested by the City.
14. Ensure attorney staffing at all meetings of the City Council and Stadium Authority. Meeting dates for the identified bodies are set forth on the City's website.

15. Support the following tasks on an as-needed basis:

- a. Attend Council workshops or other meetings as specified by the Council, including meetings with individual Councilmembers and the City Manager, as requested.
- b. Provide prompt response to inquiries by City Manager, City Clerk, or Mayor and Councilmembers, on a wide variety of topics
- c. Analyze proposed and enacted legislation, publish legal opinions, and other matters that may have an impact on the operations of the city upon request.
- d. Review Requests for Proposals to be published before publication upon request.
- e. Upon request, provide input regarding administrative hearings.
- f. Review Public Records Act requests as well as documents scheduled for production prior to response/production upon request.
- g. Review and provide input to CAO staff and Risk Manager on litigation management including but not limited to litigation involving in the Stadium Authority.
- h. Oversee or provide input regarding court appearances handled by CAO staff (Municipal Code violation prosecutions, Pitchess motions, GVROs, WVROs, dangerous dog hearings, etc.)
- i. Provide legal advice pertaining to real estate and land use issues, including, but not limited to, property acquisition (including eminent domain), property disposals (including Surplus Land Act), leases, public improvements, easements, dedications, CEQA, and public utilities as requested.
- j. Provide legal advice and services on labor or personnel matters as required.
- k. Be available for consultation with City staff, as needed, on legal matters which are within their area of operation and maintain office hours at City Hall as requested by the City Council at times mutually agreeable to Council and the City Attorney.
- l. Promptly respond to calls, emails, and correspondence from City officials and staff.
- m. Perform such other legal duties as may be required by the City Council that are necessary to complete the City Attorney functions.
- n. Provide supervisory support to the attorneys and staff of the City Attorney's Office consistent with the City Charter and Personnel Rules.
- o. Retain and work with existing outside legal counsel on specific litigation or transactional advice matters.

16. In addition to the more technical scope of work outlined above, the City Attorney must understand their role in local government, avoiding political debates and active participation in the policy and managerial decision-making process entrusted to the City Council and the City Manager. The City Attorney is expected to provide technically sound and consistent legal advice to members of the City Council and City staff while maintaining trust and unwavering ethical standard no matter the situation or the individuals involved.
17. Work collaboratively with CAO staff and the long-term City Attorney to properly transition performance of job duties to the long-term City Attorney once hired by Council.



**LEGAL SERVICES AGREEMENT  
BETWEEN THE  
CITY OF SANTA CLARA, CALIFORNIA  
AND  
XXX**

**PREAMBLE**

This legal services agreement (“Agreement”) is made and entered by and between XXX, a California (\*Limited Liability Company (LLC), Public Limited Company (PLC), Corporation) comprised of attorneys licensed to practice law in the State of California (“Firm”) and the City of Santa Clara, California, a chartered California municipal corporation (“City”). City and Firm may be referred to herein individually as a “Party” or collectively as the “Parties” or the “Parties to this Agreement.”

**RECITALS**

- A. City desires to secure the services more fully described in this Agreement, at Exhibit A, entitled “Scope of Services”;
- B. Firm represents that it, and its subcontractors, if any, have the professional qualifications, expertise, necessary licenses and desire to provide certain services of the quality and type which meet objectives and requirements of City; and,
- C. The Parties have specified herein the terms and conditions under which such services will be provided and paid for.

The Parties agree as follows:

**AGREEMENT TERMS AND CONDITIONS**

**1. AGREEMENT DOCUMENTS**

The documents forming the entire Agreement between City and Firm shall consist of these Terms and Conditions and the following Exhibits, which are hereby incorporated into this Agreement by this reference:

Exhibit A – Scope of Services / Fee Schedule

Exhibit B – Billing Standards

Exhibit C – Insurance Requirements

This Agreement, including the Exhibits set forth above, contains all the agreements, representations and understandings of the Parties, and supersedes

and replaces any previous agreements, representations and understandings, whether oral or written. In the event of any inconsistency between the provisions of any of the Exhibits and the Terms and Conditions, the Terms and Conditions shall govern and control.

## **2. RETENTION OF FIRM**

- A. City hereby confirms, retains and authorizes Firm to represent City and provide legal services as may be requested, from time to time, orally or in writing, by authorized representatives of City on an as-needed basis. By this Agreement, City is retaining Firm and not individual members of the Firm. Firm's client is the City, as a public entity, and not any of its individual members, groups of individuals or any other entity. Firm shall report to and receive direction from the City Council, City Attorney and/or City Manager.
- B. Firm shall perform such legal services for and on behalf of City under the primary direction of the City Attorney. Firm shall undertake, subject to approval of Firm, such additional duties as may be authorized by City from time to time under the terms and conditions of this Agreement.

## **3. DESCRIPTION OF SERVICES TO BE PROVIDED**

Legal services are to be provided to City by Firm as directed by the City Attorney. Such services may include, but are not limited to, providing advice and counsel on legal matters affecting City, performing legal research, representing City in judicial proceedings in state and/or federal court or other dispute resolution tribunals or before administrative agencies, negotiating contracts and drafting contracts, correspondence, resolutions and other legal documents as may become necessary. Such services shall also include the preparation and delivery of status reports to City as specified in paragraph 8 of this Agreement.

## **4. COMMENCEMENT OF WORK**

Firm shall begin performing legal services under this Agreement when directed to do so by the City Attorney and shall complete said services within the time limits mutually determined to be acceptable by Firm and City.

## **5. ASSIGNMENT OF DUTIES**

It is contemplated that \*Attorney name will be assigned from Firm. S/He may be assisted as appropriate by people listed in Exhibit A, provided that multiple representations at meetings, depositions, hearings and court appearances shall require authorization from the City Attorney. In addition, should it be desirable for any other attorney not listed in Exhibit A to work under this Agreement, such attorney may only be added with the consent of the City Attorney. While City expects the attorneys listed above to perform the tasks that require substantial

experience, Firm shall attempt to minimize legal expenses by relying on junior attorneys, paralegals and law clerks for less demanding or non-attorney tasks.

**6. PAYMENT FOR SERVICE**

In consideration for Firm's performance of legal services on behalf of City under the terms of this Agreement, and upon review and approval of Firm's bill by the City Attorney, Firm shall be compensated at the preapproved hourly rates and for authorized expenses as set forth in Exhibit A entitled "Fee Schedule" attached and incorporated by this reference. Fees for services performed by retained consultants, subcontractors, experts or other personnel may be billed to City only if approved in writing by the City Attorney.

**7. BILLING INVOICES**

Firm shall, within fifteen (15) days after the end of each calendar month in which services are performed under this Agreement, submit to the City an itemized invoice, describing the specific services performed as set forth in this Agreement. Firm shall adhere to the billing standards set forth in Exhibit B entitled "Billing Standards" attached and incorporated by this reference. The invoice shall be submitted to:

Santa Clara City Attorney's Office  
1500 Warburton Avenue  
Santa Clara, CA 95050

**8. BILLING STANDARDS**

Firm shall not bill for hours other than those hours expressly devoted to the tasks approved in advance by the City Attorney and/or required under the terms of this Agreement. Firm agrees it will not bill for time which is not specifically devoted to said task(s). Firm shall not bill for secretarial or clerical tasks. The billing format utilized to provide bills shall be set forth in detailed format which readily permits review by City retained auditors.

**9. STATUS REPORTS**

Firm shall, within fifteen (15) days of each calendar quarter, submit to City a written report setting forth a summary of activities performed on behalf of City during the preceding calendar quarter, the current status of each pending matter or proceeding, results obtained or expected to be obtained, a summary of invoices for the preceding quarter and such other information relating to the services rendered as City may reasonably request. See Exhibit B for additional reporting requirements.

## **10. TERMINATION**

Either Party may terminate this Agreement by providing written notice to the other. Any termination hereunder shall become effective upon receipt of written notice of termination; provided, however, that Firm may exercise its right of termination only to the extent and under terms and conditions consistent with the obligations of Firm under the Rules of Professional Conduct of the State Bar of California; and provided, further, that in the event of termination, the amount due Firm for services rendered and costs and expenses incurred prior to termination shall remain due and payable. The City Attorney may exercise the power of City to terminate this Agreement without prior City Council approval. Upon written request of the City Attorney, Firm agrees to turn over to any attorney substituted in its place, the entire file and attorney work product regarding any such matter within seven (7) calendar days of any such termination.

## **11. CONFLICTS OF INTEREST**

Periodically during the term of the Agreement, Firm shall make a good faith effort to identify and shall apprise City of those possible conflicts of interest which could affect Firm's duties to City or to the City Attorney under the California Rules of Professional Responsibility, or Firm's performance of the responsibilities reposed in Firm under this Agreement, or which Firm reasonably believes are likely to affect future transactions by and between City and third parties. City retains those rights with respect to future conflicts as are vested in a client under the California Rules of Professional Responsibility, and may terminate Firm's services and withhold consent to such conflicts of interest under the California Rules of Professional Responsibility which City deems in good faith not to be in the City's best interest.

## **12. ASSIGNMENTS AND SUCCESSORS IN INTEREST**

City and Firm bind themselves, their partners, successors, assigns, executors and administrators to the terms of this Agreement. Except as otherwise set forth in this Agreement, no interest in this Agreement or any of the work provided for in this Agreement shall be assigned or transferred, either voluntarily or by operation of law, without the prior written approval of the City Attorney.

Firm shall be as fully responsible to City for the acts and omissions of its subcontractors, and of persons either directly or indirectly employed by them, as Firm is for the acts and omissions of persons directly employed by it.

## **13. INDEPENDENT CONTRACTOR**

In performing work required under this Agreement, Firm is not an agent nor employee of City but an independent contractor. Firm shall at all time act as an independent contractor with respect to the performance of this Agreement, with full rights to manage its employees subject to the requirements of the law.

Neither Firm nor any employees or agents of Firm shall be considered an employee of City for any purpose.

**14. RECORDS AND DOCUMENTATION**

Firm shall maintain complete and accurate records of the services provided to City and expenses incurred on behalf of City. Firm agrees to assist City in meeting City's reporting requirements to other agencies with respect to Firm's work under this Agreement. All records, reports and documentation relating to the work performed under this Agreement shall be made available to City during the term of this Agreement, and for a period of six (6) years after termination of the Agreement.

**15. FAIR EMPLOYMENT**

Firm shall not discriminate against any employee or applicant for employment because of race, sex, color, religion, religious creed, national origin, ancestry, age, gender, marital status, physical disability, mental disability, medical condition, genetic information, sexual orientation, gender expression, gender identity, military and veteran status, or ethnic background, in violation of federal, state or local law.

**16. HOLD HARMLESS/INDEMNIFICATION**

- A. To the extent permitted by law, Firm agrees to protect, defend, hold harmless and indemnify City, its City Council, commissions, officers, employees, volunteers and agents from and against any claim, injury, liability, loss, cost, and/or expense or damage, including all costs and attorney's fees in providing a defense to any such claim or other action, and whether sounding in law, contract, tort, or equity, arising from Firm's negligent, reckless or otherwise wrongful acts, errors, or omissions with respect to or in any way connected with the performance of the work by Firm, its agents, subcontractors and/or assigns under this Agreement.
- B. To the extent Firm is obligated to provide health insurance coverage to its employees pursuant to the Affordable Care Act ("Act") and/or any other similar federal or state law, Firm warrants that it is meeting its obligations under the Act and will fully indemnify and hold harmless City for any penalties, fines, adverse rulings, or tax payments associated with Firm's responsibilities under the Act.

**17. INSURANCE REQUIREMENTS**

Firm shall maintain in full force and effect the following insurance policies:

- A. Commercial general liability policy (bodily injury and property damage);
- B. Worker's compensation/employer's liability policy;

- C. Business automobile liability insurance policy; and,
- D. Professional liability policy.

Said policies shall be maintained with respect to employees and vehicles assigned to the performance of work under this Agreement with coverage amounts, endorsements, certificates of insurance and coverage verifications as set forth in Exhibit C entitled "Insurance Requirements" attached and incorporated by this reference.

## **18. CONFIDENTIALITY AND DISCLOSURE**

The data, information and reports acquired or prepared by Firm in connection with matters upon which the City has retained Firm shall not be shown or distributed to any other public or private person or entity except as authorized by the City Attorney and in no event prior to having been first disclosed to the City Attorney, in accordance with applicable state law. All information, documents, records, reports, data or other materials furnished by City to Firm or other such information, documents, records, data or other materials to which the Firm has access during its performance pursuant to this Agreement are deemed confidential and shall remain the property of City. Firm shall not make oral or written disclosure of such documents or materials, other than as necessary for its performance under this Agreement, without the prior written approval of the City Attorney.

City is subject to the requirements of the California Public Records Act (PRA). In accordance with case law interpreting the PRA (including but not limited to *Los Angeles County Board of Supervisors v. Superior Court* (2016) 2 Cal.5th 282 and *Los Angeles County Board of Supervisors v. Superior Court* (2017) 12 Cal.App.5th 1264) billing statements for closed files may be disclosable to the public. In the event a request is made for Firm's billing records, City shall give Firm reasonable notice to allow Firm to seek protection from disclosure by a court of competent jurisdiction, at Firm's sole expense. Firm agrees to defend, indemnify and hold harmless City against any and all claims or losses including reasonable attorney's fees and costs arising from Firm's request to withhold production of any documentation in response to a PRA request. In no event shall City be liable to Firm for disclosure of any documentation made in response to a PRA request.

## **19. AMENDMENTS**

This Agreement, including any Exhibits attached to it, represents the entire understanding of the Parties as to those matters contained herein. No prior oral or written understanding shall be of any force or effect with respect to those matters covered hereunder. This Agreement may be modified only by a written amendment duly executed by the Parties to this Agreement.

**20. NO THIRD-PARTY BENEFICIARY**

This Agreement shall not be construed or deemed to be an agreement for the benefit of any third party or parties. No third party or parties shall have any claim or right of action under this Agreement for any cause whatsoever.

**21. NOTICES**

All notices, invoices, reports or other communication to the Parties shall be properly given if delivered in person or sent by First Class mail, email or overnight delivery and addressed as follows:

Santa Clara City Attorney's Office  
1500 Warburton Avenue  
Santa Clara, CA 95050  
Email: [cityattorney@santaclaraca.gov](mailto:cityattorney@santaclaraca.gov)

And to Firm addressed as follows:

Name  
Address  
Address  
Email:

Either Party may change its address for receipt of notices under this Agreement by notice given in the manner provided herein.

**22. GOVERNING LAW AND VENUE**

This Agreement shall be governed and construed in accordance with the statutes and laws of the State of California. The venue of any suit filed by either Party shall be vested in the state courts of the County of Santa Clara, or if appropriate, in the United States District Court, Northern District of California, San Jose, California.

**23. SEVERABILITY CLAUSE**

In case any one or more of the provisions in this Agreement shall, for any reason, be held invalid, illegal or unenforceable in any respect, it shall not affect the validity of the other provisions, which shall remain in full force and effect.

**24. LICENSE REQUIREMENTS**

Firm shall demonstrate that the attorney(s) who provide legal services to City under this Agreement are licensed to practice law in the State of California and, if not, indicate to the satisfaction of the City Attorney why such license is not required to perform the services required.

**25. COUNTERPARTS**

This Agreement may be executed in counterparts, each of which shall be deemed to be an original, but both of which shall constitute one and the same instrument.

The Parties acknowledge and accept the terms and conditions of this Agreement as evidenced by the following signatures of their duly authorized representatives. The Effective Date is the date that the final signatory executes the Agreement. It is the intent of the Parties that this Agreement shall become operative on the Effective Date.

**CITY OF SANTA CLARA, CALIFORNIA  
A Chartered California Municipal Corporation**

Dated: \_\_\_\_\_

\_\_\_\_\_  
**NAME OF CITY REPRESENTATIVE**

“City”

**\*NAME OF FIRM**

Dated: \_\_\_\_\_

By: \_\_\_\_\_  
Name, Title: **\*NAME OF PARTNER**, Partner  
Principal Place of Business: \_\_\_\_\_  
Telephone/Fax: \_\_\_\_\_  
Email: \_\_\_\_\_

“Firm”

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**EXHIBIT A**  
**SCOPE OF SERVICES / FEE SCHEDULE**

A. Scope of Services. Firm will assist City to **XXX**

B. Billable Rates

Firm shall bill its time by the hour at the hourly billable rate assigned to each attorney. Firm shall bill City for its services at its current hourly rates, which are as follows:

Senior Partners      \$XXX/hour

Junior Partners      \$XXX/hour

Of Counsel            \$XXX/hour

Senior Associates    \$XXX/hour

Junior Associates    \$XXX/hour

Firm shall give notice of any proposed increase in the approved hourly rates for services rendered under this Agreement to City in writing no later than thirty (30) days prior to the proposed effective date of increase. No proposed increase will become effective unless City approves such increase in writing. In the event that after a reasonable period the parties are unable to reach agreement, either party may advise the other in writing that this Agreement is terminated.

Firm will be reimbursed for out-of-pocket costs and expenses actually incurred by Firm in the above-described representation of City. Reimbursable out-of-pocket expenses include, but are not limited to, reasonable travel expenses, third party reproduction and printing costs, postage, filing fees, transcript costs, and notary fees, to the extent that any such costs are incurred on behalf of City.

C. Maximum Not to Exceed Contract Amount

In no event shall the total amount paid to the Firm for services, including all fees, costs and/or expenses, under this Agreement exceed **XXX** Dollars (**\$XXX**) subject to budgetary appropriations.

**EXHIBIT B**  
**BILLING STANDARDS**

- A. All cases shall be billed monthly pursuant to paragraph 7 of this Agreement, and shall comport with State and ABA billing standards.
- B. The fee portion of each invoice shall include the attorney's name (or initials, if full name is noted elsewhere on invoice), amount, date work was performed, the amount of time expended, rate per hour, and a brief description of the services rendered as a basis for fee calculation, or other method of determining the fees. All tasks set forth in Firm's billing documentation shall be specific and detailed. Examples of unacceptable billing entries include but are not limited to: overly generalized listings of task descriptions (e.g., "review contract" or "prepare for negotiations"); double staff or attorney time on any task, unless expressly authorized by the City Attorney; block billing; time billed for additional newly assigned attorney(s) to learn case file; assigned work by law clerks; administrative costs; word processing charges; secretarial or clerical charges; time spent on researching and/or drafting work that Firm has done and billed another client for in the past.
- C. Billings under this Agreement shall not be provided in more than six (6) minute increments and shall represent the devotion of a full six minutes before an increment is billed.
- D. The cost and expense portion of the invoice shall clearly identify the nature and amount and any other cost(s) billed to City must be separately itemized with prior written approval of the City Attorney. Any experts or contractors hired by Firm on behalf of City whose charges are billed through the Firm must also provide such billing itemization and such billing shall be attached to the billing provided to City by Firm. Professional fees and expenses invoiced to City shall be due and payable within thirty (30) days after receipt of Firm's statement.
- E. In support of payment for such bill, Firm shall furnish payroll records, bills, invoices, receipts or other evidence of reimbursable expenses incurred as reasonably requested by the City Attorney. City reserves the right to require additional substantiation of any item of claimed expense.
- F. Firms representing City in active litigation shall prepare a brief summary of activity on each case on a quarterly basis.
- G. Each month's bill should include the total billable hours and expenses to date for each matter.
- H. City encourages the use of paralegals for any task that can be delegated. However, similar to attorneys, no more than two paralegals (but preferably one) should work on each case.

- I. Messenger and other charges in excess of actual costs are not permitted.
- J. Postage charges are billable at actual cost.
- K. Expert witness fees are not automatically authorized. Firm shall obtain approval for each expert witness from the City Attorney.
- L. Firm shall maintain at least the insurance coverage set forth in Exhibit C at all times.
- M. Work performed on a not-to-exceed basis may not be increased without prior approval by the City Attorney and/or City Council, depending upon the amount in question.
- N. If Firm is provided with a new case directly from City staff or if a matter arises that requires Firm to open a new file, the City Attorney should be informed immediately.
- O. City expects that Firm will resolve all discovery disputes without court intervention. If this is impossible due to the conduct of others, please inform the City Attorney immediately.
- P. City's Finance Department will send a request for an auditor response letter annually. Firm will respond to these requests timely and will provide a copy of Firm's response letter to the City Attorney.
- Q. Firm will provide copies of all motions or briefs which are filed related to City's matter. Unless previously requested, Firm does not need to send drafts or miscellaneous correspondence. Copies of significant pieces of correspondence should be provided to the City Attorney.
- R. City expects early and frequent evaluation of its cases. If the likelihood of success on a particular case is low, City needs to know up front in order to minimize litigation costs and make reasonable attempts to settle the case.

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

Without limiting the Firm's indemnification of the City, and prior to commencing any of the Services required under this Agreement, the Firm shall provide and maintain in full force and effect during the period of performance of the Agreement and for twenty-four (24) months following acceptance by the City, at its sole cost and expense, the following insurance policies from insurance companies authorized to do business in the State of California. These policies shall be primary insurance as to the City of Santa Clara so that any other coverage held by the City shall not contribute to any loss under Firm's insurance. The minimum coverages, provisions and endorsements are as follows:

**A. COMMERCIAL GENERAL LIABILITY INSURANCE**

1. Commercial General Liability Insurance policy which provides coverage at least as broad as Insurance Services Office form CG 00 01. Policy limits are subject to review, but shall in no event be less than, the following:
  - \$1,000,000 Each Occurrence
  - \$2,000,000 General Aggregate
  - \$2,000,000 Products/Completed Operations Aggregate
  - \$1,000,000 Personal Injury
2. Exact structure and layering of the coverage shall be left to the discretion of Firm; however, any excess or umbrella policies used to meet the required limits shall be at least as broad as the underlying coverage and shall otherwise follow form.
3. The following provisions shall apply to the Commercial Liability policy as well as any umbrella policy maintained by the Firm to comply with the insurance requirements of this Agreement:
  - a. Coverage shall be on a "pay on behalf" basis with defense costs payable in addition to policy limits;
  - b. There shall be no cross-liability exclusion which precludes coverage for claims or suits by one insured against another; and
  - c. Coverage shall apply separately to each insured against whom a claim is made or a suit is brought, except with respect to the limits of liability.

B. BUSINESS AUTOMOBILE LIABILITY INSURANCE

Business automobile liability insurance policy which provides coverage at least as broad as ISO form CA 00 01 with policy limits a minimum limit of not less than one million dollars (\$1,000,000) each accident using, or providing coverage at least as broad as, Insurance Services Office form CA 00 01. Liability coverage shall apply to all owned (if any), non-owned and hired autos.

C. WORKERS' COMPENSATION

1. Workers' Compensation Insurance Policy as required by statute and employer's liability with limits of at least one million dollars (\$1,000,000) policy limit Bodily Injury by disease, one million dollars (\$1,000,000) each accident/Bodily Injury and one million dollars (\$1,000,000) each employee Bodily Injury by disease.
2. The indemnification and hold harmless obligations of Firm included in this Agreement shall not be limited in any way by any limitation on the amount or type of damage, compensation or benefit payable by or for Firm or any subcontractor under any Workers' Compensation Act(s), Disability Benefits Act(s) or other employee benefits act(s).
3. This policy must include a Waiver of Subrogation in favor of the City of Santa Clara, its City Council, commissions, officers, employees, volunteers and agents.

D. PROFESSIONAL LIABILITY

Professional Liability or Errors and Omissions Insurance as appropriate shall be written on a policy form coverage specifically designed to protect against negligent acts, errors or omissions of the Firm. Covered services as designated in the policy must specifically include work performed under this agreement. Coverage shall be in an amount of not less than one million dollars (\$1,000,000) per occurrence or two million dollars (\$2,000,000) aggregate. Any coverage containing a deductible or self-retention must first be approved in writing by the City Attorney's Office.

E. COMPLIANCE WITH REQUIREMENTS

All of the following clauses and/or endorsements, or similar provisions, must be part of each commercial general liability policy, and each umbrella or excess policy.

1. Additional Insureds. City of Santa Clara, its City Council, commissions, officers, employees, volunteers and agents are hereby added as additional insureds in respect to liability arising out of Firm's work for City, using Insurance Services Office (ISO) Endorsement CG 20 10 11 85, or the combination of CG 20 10 03 97 and CG 20 37 10 01, or its equivalent.

2. Primary and non-contributing. Each insurance policy provided by Firm shall contain language or be endorsed to contain wording making it primary insurance as respects to, and not requiring contribution from, any other insurance which the indemnities may possess, including any self-insurance or self-insured retention they may have. Any other insurance indemnities may possess shall be considered excess insurance only and shall not be called upon to contribute with Firm's insurance.
3. Cancellation.
  - a. Each insurance policy shall contain language or be endorsed to reflect that no cancellation or modification of the coverage provided due to non-payment of premiums shall be effective until written notice has been given to City at least ten (10) days prior to the effective date of such modification or cancellation. In the event of non-renewal, written notice shall be given at least ten (10) days prior to the effective date of non-renewal.
  - b. Each insurance policy shall contain language or be endorsed to reflect that no cancellation or modification of the coverage provided for any cause save and except non-payment of premiums shall be effective until written notice has been given to City at least thirty (30) days prior to the effective date of such modification or cancellation. In the event of non-renewal, written notice shall be given at least thirty (30) days prior to the effective date of non-renewal.
4. Other Endorsements. Other endorsements may be required for policies other than the commercial general liability policy if specified in the description of required insurance set forth in Sections A through E of this Exhibit C, above.

F. ADDITIONAL INSURANCE RELATED PROVISIONS

Firm and City agree as follows:

1. Firm agrees to ensure that subcontractors, and any other party involved with the Services, who is brought onto or involved in the performance of the Services by Firm, provide the same minimum insurance coverage required of Firm, except as with respect to limits. Firm agrees to monitor and review all such coverage and assumes all responsibility for ensuring that such coverage is provided in conformity with the requirements of this Agreement. Firm agrees that upon request by City, all agreements with, and insurance compliance documents provided by, such subcontractors and others engaged in the project will be submitted to City for review.
2. Firm agrees to be responsible for ensuring that no contract used by any party involved in any way with the project reserves the right to charge City

or Firm for the cost of additional insurance coverage required by this Agreement. Any such provisions are to be deleted with reference to City. It is not the intent of City to reimburse any third party for the cost of complying with these requirements. There shall be no recourse against City for payment of premiums or other amounts with respect thereto.

3. The City reserves the right to withhold payments from the Firm in the event of material noncompliance with the insurance requirements set forth in this Agreement.

#### G. EVIDENCE OF COVERAGE

Prior to commencement of any Services under this Agreement, Firm, and each and every subcontractor (of every tier) shall, at its sole cost and expense, provide and maintain not less than the minimum insurance coverage with the endorsements and deductibles indicated in this Agreement. Such insurance coverage shall be maintained with insurers, and under forms of policies, satisfactory to City and as described in this Agreement. Firm shall file with the City all certificates and endorsements for the required insurance policies for City's approval as to adequacy of the insurance protection.

#### H. EVIDENCE OF COMPLIANCE

Firm or its insurance broker shall provide the required proof of insurance compliance, consisting of Insurance Services Office (ISO) endorsement forms or their equivalent and the ACORD form 25-S certificate of insurance (or its equivalent), evidencing all required coverage shall be delivered to City, or its representative as set forth below, at or prior to execution of this Agreement. Upon City's request, Firm shall submit to City copies of the actual insurance policies or renewals or replacements. Unless otherwise required by the terms of this Agreement, all certificates, endorsements, coverage verifications and other items required to be delivered to City pursuant to this Agreement shall be emailed or mailed to:

EBIX Inc.

City of Santa Clara City Attorney's Office

P.O. 100085 – S2

or,

1 EBIX Way

Duluth, GA 30096

John's Creek, GA 30097

Telephone number: 951-766-2280

Fax number: 770-325-0409

**Email address: [ctsantaclara@ebix.com](mailto:ctsantaclara@ebix.com)**

#### I. QUALIFYING INSURERS

All the insurance companies providing insurance for Firm shall have, and provide written proof of, an A. M. Best rating of at least A minus 6 (A- VI) or shall be an insurance company of equal financial stability that is approved by the City or its insurance compliance representatives.

## Exhibit 2 – Insurance Requirements

Without limiting the Contractor's indemnification of the City, and prior to commencing any of the Services required under this Agreement, the Contractor shall provide and maintain in full force and effect during the period of performance of the Agreement and for twenty-four (24) months following acceptance by the City, at its sole cost and expense, the following insurance policies from insurance companies authorized to do business in the State of California. These policies shall be primary insurance as to the City of Santa Clara so that any other coverage held by the City shall not contribute to any loss under Contractor's insurance. The minimum coverages, provisions and endorsements are as follows:

### A. COMMERCIAL GENERAL LIABILITY INSURANCE

1. Commercial General Liability Insurance policy which provides coverage at least as broad as Insurance Services Office form CG 00 01. Policy limits are subject to review, but shall in no event be less than, the following:
  - \$2,000,000 Each Occurrence
  - \$4,000,000 General Aggregate
  - \$2,000,000 Products/Completed Operations Aggregate
  - \$1,000,000 Personal Injury
2. Exact structure and layering of the coverage shall be left to the discretion of Contractor; however, any excess or umbrella policies used to meet the required limits shall be at least as broad as the underlying coverage and shall otherwise follow form.
3. The following provisions shall apply to the Commercial Liability policy as well as any umbrella policy maintained by the Contractor to comply with the insurance requirements of this Agreement:
  - a. Coverage shall be on a "pay on behalf" basis with defense costs payable in addition to policy limits;
  - b. There shall be no cross liability exclusion which precludes coverage for claims or suits by one insured against another; and
  - c. Coverage shall apply separately to each insured against whom a claim is made or a suit is brought, except with respect to the limits of liability.



B. BUSINESS AUTOMOBILE LIABILITY INSURANCE

Business automobile liability insurance policy which provides coverage at least as broad as ISO form CA 00 01 with policy limits a minimum limit of not less than one million dollars (\$1,000,000) each accident using, or providing coverage at least as broad as, Insurance Services Office form CA 00 01. Liability coverage shall apply to all owned (if any), non-owned and hired autos.

C. WORKERS' COMPENSATION

1. Workers' Compensation Insurance Policy as required by statute and employer's liability with limits of at least one million dollars (\$1,000,000) policy limit Bodily Injury by disease, one million dollars (\$1,000,000) each accident/Bodily Injury and one million dollars (\$1,000,000) each employee Bodily Injury by disease.
2. The indemnification and hold harmless obligations of Contractor included in this Agreement shall not be limited in any way by any limitation on the amount or type of damage, compensation or benefit payable by or for Contractor or any subcontractor under any Workers' Compensation Act(s), Disability Benefits Act(s) or other employee benefits act(s).
3. This policy must include a Waiver of Subrogation in favor of the City of Santa Clara, its City Council, commissions, officers, employees, volunteers and agents.

D. PROFESSIONAL LIABILITY

Professional Liability or Errors and Omissions Insurance as appropriate shall be written on a policy form coverage specifically designed to protect against negligent acts, errors or omissions of the Contractor. Covered services as designated in the policy must specifically include work performed under this agreement. Coverage shall be in an amount of not less than one million dollars (\$2,000,000) per claim or two million dollars (\$4,000,000) aggregate. Any coverage containing a deductible or self-retention must first be approved in writing by the City Attorney's Office.

E. COMPLIANCE WITH REQUIREMENTS

All of the following clauses and/or endorsements, or similar provisions, must be part of each commercial general liability policy, and each umbrella or excess policy.

1. Additional Insureds. City of Santa Clara, its City Council, commissions, officers, employees, volunteers and agents are hereby added as additional insureds in respect to liability arising out

of Contractor's work for City, using Insurance Services Office (ISO) Endorsement CG 20 10 11 85, or the combination of CG 20 10 03 97 and CG 20 37 10 01, or its equivalent.

2. Primary and non-contributing. Each insurance policy provided by Contractor shall contain language or be endorsed to contain wording making it primary insurance as respects to, and not requiring contribution from, any other insurance which the indemnities may possess, including any self-insurance or self-insured retention they may have. Any other insurance indemnities may possess shall be considered excess insurance only and shall not be called upon to contribute with Contractor's insurance.
3. Cancellation.
  - a. Each insurance policy shall contain language or be endorsed to reflect that no cancellation or modification of the coverage provided due to non-payment of premiums shall be effective until written notice has been given to City at least ten (10) days prior to the effective date of such modification or cancellation. In the event of non-renewal, written notice shall be given at least ten (10) days prior to the effective date of non-renewal.
  - b. Each insurance policy shall contain language or be endorsed to reflect that no cancellation or modification of the coverage provided for any cause save and except non-payment of premiums shall be effective until written notice has been given to City at least thirty (30) days prior to the effective date of such modification or cancellation. In the event of non-renewal, written notice shall be given at least thirty (30) days prior to the effective date of non-renewal.
4. Other Endorsements. Other endorsements may be required for policies other than the commercial general liability policy if specified in the description of required insurance set forth in Sections A through E of this Exhibit C, above.

#### F. ADDITIONAL INSURANCE RELATED PROVISIONS

Contractor and City agree as follows:

1. Contractor agrees to ensure that subcontractors, and any other party involved with the Services, who is brought onto or involved in the performance of the Services by Contractor, provide the same minimum insurance coverage required of Contractor, except as with respect to limits. Contractor agrees to monitor and review all such

coverage and assumes all responsibility for ensuring that such coverage is provided in conformity with the requirements of this Agreement. Contractor agrees that upon request by City, all agreements with, and insurance compliance documents provided by, such subcontractors and others engaged in the project will be submitted to City for review.

2. Contractor agrees to be responsible for ensuring that no contract used by any party involved in any way with the project reserves the right to charge City or Contractor for the cost of additional insurance coverage required by this Agreement. Any such provisions are to be deleted with reference to City. It is not the intent of City to reimburse any third party for the cost of complying with these requirements. There shall be no recourse against City for payment of premiums or other amounts with respect thereto.
3. The City reserves the right to withhold payments from the Contractor in the event of material noncompliance with the insurance requirements set forth in this Agreement.

#### G. EVIDENCE OF COVERAGE

Prior to commencement of any Services under this Agreement, Contractor, and each and every subcontractor (of every tier) shall, at its sole cost and expense, provide and maintain not less than the minimum insurance coverage with the endorsements and deductibles indicated in this Agreement. Such insurance coverage shall be maintained with insurers, and under forms of policies, satisfactory to City and as described in this Agreement. Contractor shall file with the City all certificates and endorsements for the required insurance policies for City's approval as to adequacy of the insurance protection.

#### H. EVIDENCE OF COMPLIANCE

Contractor or its insurance broker shall provide the required proof of insurance compliance, consisting of Insurance Services Office (ISO) endorsement forms or their equivalent and the ACORD form 25-S certificate of insurance (or its equivalent), evidencing all required coverage shall be delivered to City, or its representative as set forth below, at or prior to execution of this Agreement. Upon City's request, Contractor shall submit to City copies of the actual insurance policies or renewals or replacements. Unless otherwise required by the terms of this Agreement, all certificates, endorsements, coverage verifications and other items required to be delivered to City pursuant to this Agreement shall be mailed to:

EBIX Inc.  
City of Santa Clara [\*insert City department name here]

P.O. Box 100085 – S2  
Duluth, GA 30096

or 1 Ebix Way  
John's Creek, GA 30097

Telephone number: 951-766-2280

Fax number: 770-325-0409

Email address: [ctsantaclara@ebix.com](mailto:ctsantaclara@ebix.com)

#### I. QUALIFYING INSURERS

All of the insurance companies providing insurance for Contractor shall have, and provide written proof of, an A. M. Best rating of at least A minus 6 (A- VI) or shall be an insurance company of equal financial stability that is approved by the City or its insurance compliance representatives.