

**AGREEMENT FOR SERVICES  
BETWEEN THE  
CITY OF SANTA CLARA, CALIFORNIA,  
AND  
CASCADIA CONSULTING GROUP, INC.**

**PREAMBLE**

This Agreement is entered into between the City of Santa Clara, a chartered California municipal corporation (hereinafter “City”) and Cascadia Consulting Group, Inc., A Washington Corporation (hereinafter “Consultant”). City and Consultant may be referred to 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. Consultant represents that it, and its subconsultants, if any, have the professional qualifications, expertise, necessary licenses and desire to provide certain goods and/or required 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 Consultant 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

Exhibit B – Schedule of Fees

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. TERM OF AGREEMENT**

- A. Unless otherwise set forth in this Agreement or unless this paragraph is subsequently modified by a written amendment to this Agreement, the term of this Agreement shall begin on January 15, 2020 and expire on December 31, 2021.
- B. After the Initial Term, the City reserves the right, at its sole discretion, to extend the term of this Agreement for up to two (2) additional one-year terms through December 31, 2023 (“Option Periods”). City shall provide Consultant with no less than thirty (30) days prior written notice of its intention to exercise its option to extend the term of this Agreement.

**3. SCOPE OF SERVICES & PERFORMANCE SCHEDULE**

Consultant shall perform those Services specified in Exhibit A within the time stated in Exhibit A. Time is of the essence.

**4. WARRANTY**

Consultant expressly warrants that all materials and services covered by this Agreement shall be fit for the purpose intended, shall be free from defect and shall conform to the specifications, requirements and instructions upon which this Agreement is based. Consultant agrees to promptly replace or correct any incomplete, inaccurate or defective Services at no further cost to City when defects are due to the negligence, errors or omissions of Consultant. If Consultant fails to promptly correct or replace materials or services, City may make corrections or replace materials or services and charge Consultant for the cost incurred by City.

**5. QUALIFICATIONS OF CONSULTANT - STANDARD OF CARE**

Consultant represents and maintains that it has the expertise in the professional calling necessary to perform the Services, and its duties and obligations, expressed and implied, contained herein, and City expressly relies upon Consultant’s representations regarding its skills and knowledge. Consultant shall perform such Services and duties in conformance to and consistent with the professional standards of a specialist in the same discipline in the State of California.

**6. COMPENSATION AND PAYMENT**

In consideration for Consultant’s complete performance of Services, City shall pay Consultant for all materials provided and Services rendered by Consultant in

accordance with Exhibit B, entitled "SCHEDULE OF FEES." The maximum compensation of this Agreement is Two Hundred Eleven Thousand Six Hundred Eighty-Four Dollars (\$211,684), subject to budget appropriations, which includes all payments that may be authorized for Services and for expenses, supplies, materials and equipment required to perform the Services. All work performed or materials provided in excess of the maximum compensation shall be at Consultant's expense. Consultant shall not be entitled to any payment above the maximum compensation under any circumstance.

## **7. TERMINATION**

- A. Termination for Convenience. City shall have the right to terminate this Agreement, without cause or penalty, by giving not less than Thirty (30) days' prior written notice to Consultant.
- B. Termination for Default. If Consultant fails to perform any of its material obligations under this Agreement, in addition to all other remedies provided by law, City may terminate this Agreement immediately upon written notice to Consultant.
- C. Upon termination, each Party shall assist the other in arranging an orderly transfer and close-out of services. As soon as possible following the notice of termination, but no later than ten (10) days after the notice of termination, Consultant will deliver to City all City information or material that Consultant has in its possession.

## **8. ASSIGNMENT AND SUBCONTRACTING**

City and Consultant bind themselves, their successors and assigns to all covenants of this Agreement. This Agreement shall not be assigned or transferred without the prior written approval of City. Consultant shall not hire subconsultants without express written permission from City.

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

## **9. NO THIRD PARTY BENEFICIARY**

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

## **10. INDEPENDENT CONTRACTOR**

Consultant and all person(s) employed by or contracted with Consultant to furnish labor and/or materials under this Agreement are independent contractors

and do not act as agent(s) or employee(s) of City. Consultant has full rights to manage its employees in their performance of Services under this Agreement.

#### **11. CONFIDENTIALITY OF MATERIAL**

All ideas, memoranda, specifications, plans, manufacturing procedures, data, drawings, descriptions, documents, discussions or other information developed or received by or for Consultant and all other written information submitted to Consultant in connection with the performance of this Agreement shall be held confidential by Consultant and shall not, without the prior written consent of City, be used for any purposes other than the performance of the Services nor be disclosed to an entity not connected with performance of the Services. Nothing furnished to Consultant which is otherwise known to Consultant or becomes generally known to the related industry shall be deemed confidential.

#### **12. OWNERSHIP OF MATERIAL**

All material, which shall include, but not be limited to, data, sketches, tracings, drawings, plans, diagrams, quantities, estimates, specifications, proposals, tests, maps, calculations, photographs, reports, designs, technology, programming, works of authorship and other material developed, collected, prepared or caused to be prepared under this Agreement shall be the property of City but Consultant may retain and use copies thereof. City shall not be limited in any way or at any time in its use of said material. However, Consultant shall not be responsible for damages resulting from the use of said material for work other than Project, including, but not limited to, the release of this material to third parties.

#### **13. RIGHT OF CITY TO INSPECT RECORDS OF CONSULTANT**

City, through its authorized employees, representatives or agents shall have the right during the term of this Agreement and for four (4) years from the date of final payment for goods or services provided under this Agreement, to audit the books and records of Consultant for the purpose of verifying any and all charges made by Consultant in connection with Consultant compensation under this Agreement, including termination of Consultant. Consultant agrees to maintain sufficient books and records in accordance with generally accepted accounting principles to establish the correctness of all charges submitted to City. Any expenses not so recorded shall be disallowed by City. Consultant shall bear the cost of the audit if the audit determines that there has been a substantial billing deviation in excess of five (5) percent adverse to the City.

Consultant shall submit to City any and all reports concerning its performance under this Agreement that may be requested by City in writing. Consultant agrees to assist City in meeting City's reporting requirements to the State and other agencies with respect to Consultant's Services hereunder.

#### **14. HOLD HARMLESS/INDEMNIFICATION**

- A. To the extent permitted by law, Consultant 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, in any manner arising from, or alleged to arise in whole or in part from, or in any way connected with the Services performed by Consultant pursuant to this Agreement – including claims of any kind by Consultant's employees or persons contracting with Consultant to perform any portion of the Scope of Services – and shall expressly include passive or active negligence by City connected with the Services. However, the obligation to indemnify shall not apply if such liability is ultimately adjudicated to have arisen through the sole active negligence or sole willful misconduct of City; the obligation to defend is not similarly limited.
- B. Consultant's obligation to protect, defend, indemnify, and hold harmless in full City and City's employees, shall specifically extend to any and all employment-related claims of any type brought by employees, consultants, subconsultants or other agents of Consultant, against City (either alone, or jointly with Consultant), regardless of venue/jurisdiction in which the claim is brought and the manner of relief sought.
- C. To the extent Consultant 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, Consultant 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 Consultant's responsibilities under the Act.

#### **15. INSURANCE REQUIREMENTS**

During the term of this Agreement, and for any time period set forth in Exhibit C, Consultant shall provide and maintain in full force and effect, at no cost to City, insurance policies as set forth in Exhibit C.

#### **16. WAIVER**

Consultant agrees that waiver by City of any one or more of the conditions of performance under this Agreement shall not be construed as waiver(s) of any other condition of performance under this Agreement. Neither City's review, acceptance nor payments for any of the Services required under this Agreement shall be constructed to operate as a waiver of any rights under this Agreement or of any cause of action arising out of the performance of this Agreement.

## 17. NOTICES

All notices to the Parties shall, unless otherwise requested in writing, be sent to City addressed as follows:

City of Santa Clara  
Attention: Community Development Department  
Andrew Crabtree, Director  
1500 Warburton Avenue  
Santa Clara, CA 95050  
acrabtree@santaclaraca.gov, and  
manager@santaclaraca.gov

And to Consultant addressed as follows:

Cascadia Consulting Group, Inc.  
Attention: Andrea Martin  
1109 1<sup>st</sup> Avenue, Suite 400  
Seattle, WA 98101  
(704) 604-5727  
andream@cascadiaconsulting.com

The workday the e-mail was sent shall control the date notice was deemed given. An e-mail transmitted after 1:00 p.m. on a Friday shall be deemed to have been transmitted on the following business day.

## 18. COMPLIANCE WITH LAWS

Consultant shall comply with all applicable laws and regulations of the federal, state and local government, including but not limited to “The Code of the City of Santa Clara, California” (“SCCC”). In particular, Consultant’s attention is called to the regulations regarding Campaign Contributions (SCCC Chapter 2.130), Lobbying (SCCC Chapter 2.155), Minimum Wage (SCCC Chapter 3.20), Business Tax Certificate (SCCC section 3.40.060), and Food and Beverage Service Worker Retention (SCCC Chapter 9.60), as such Chapters or Sections may be amended from time to time or renumbered. Additionally Consultant has read and agrees to comply with City’s Ethical Standards (<http://santaclaraca.gov/home/showdocument?id=58299>).

## 19. CONFLICTS OF INTEREST

Consultant certifies that to the best of its knowledge, no City officer, employee or authorized representative has any financial interest in the business of Consultant and that no person associated with Consultant has any interest, direct or indirect, which could conflict with the faithful performance of this Agreement. Consultant is familiar with the provisions of California Government Code section 87100 and

following, and certifies that it does not know of any facts which would violate these code provisions. Consultant will advise City if a conflict arises.

**20. FAIR EMPLOYMENT**

Consultant 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.

**21. NO USE OF CITY NAME OR EMBLEM**

Consultant shall not use City's name, insignia, or emblem, or distribute any information related to services under this Agreement in any magazine, trade paper, newspaper or other medium without express written consent of City.

**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. AMENDMENTS**

This Agreement may only be modified by a written amendment duly authorized and executed by the Parties to this Agreement.

**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.

**CITY OF SANTA CLARA, CALIFORNIA**  
a chartered California municipal corporation

Approved as to Form: \_\_\_\_\_

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

\_\_\_\_\_  
BRIAN DOYLE  
City Attorney

\_\_\_\_\_  
DEANNA J. SANTANA  
City Manager  
1500 Warburton Avenue  
Santa Clara, CA 95050  
Telephone: (408) 615-2210  
Fax: (408) 241-6771

“CITY”

**CASCADIA CONSULTING GROUP, INC.**  
a Washington Corporation

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

By (Signature): \_\_\_\_\_

Name: Ruth Bell

Title: Co-President

Principal Place of Business Address: 1109 1<sup>st</sup> Avenue, Suite 400  
Seattle, WA 98101

Email Address: ruth@cascadiaconsulting.com

Telephone: (206) 449-1103

Fax: \_\_\_\_\_

“CONSULTANT”



**EXHIBIT A**  
**SCOPE OF SERVICES**

**1. GENERAL**

- 1.1. Consultant shall assist the City in updating its Climate Action Plan (CAP). Consultant shall also assist the City in the preparation of related environmental reviews in conformance with the California Environmental Quality Act (CEQA).
- 1.2. The Consultant team will work closely with City staff members from the Community Development Department, the Electric Department (Silicon Valley Power), the Public Works Department, and the Water & Sewer Utilities Department.
- 1.3. Consultant shall coordinate with the City project team, including participating in biweekly check-in calls with City staff.
- 1.4. Consultant shall provide real-time budget updates and regular detailed reports and invoices, and will provide monthly progress reports that cover budget, timeline, and deliverables.
- 1.5. Subconsultants: The following subconsultants have been approved to perform services under this Agreement.
  - 1.5.1. David J. Powers & Associates; and
  - 1.5.2. Raimi + Associates.

**2. CLIMATE ACTION PLAN UPDATE**

**2.1. Coordinate with City Project Team**

- 2.1.1. Consultant shall facilitate a kickoff meeting with the City project team. The purpose of the kickoff meeting will be to review the 2013 Climate Action Plan, discuss the relationship of the CAP to other City documents, and make key decisions regarding project methodologies, scopes, and boundaries.
- 2.1.2. Consultant shall describe the project's ultimate goals and outcomes, and methodologies for meeting those outcomes through City, stakeholder, and public engagement. Consultant shall outline a vision for public engagement and identify key stakeholder groups to begin contacting. Outcomes from the kick-off meeting will include a final project work plan and schedule.
- 2.1.3. **Deliverable:**
  - 2.1.3.1. Project Initiation/Kickoff meeting.

## **2.2. Analyze City Actions Since 2013 CAP was Adopted**

**2.2.1.** The Consultant shall review the City's existing Climate Action Plan, environmental documentation, and any other related data to measure the City's progress in reducing greenhouse gases (GHG) against the recommended baseline. The updated CAP shall reflect the City's accomplishments since the adoption of the last Climate Action Plan.

**2.2.2.** The City has adopted several programs since the current Climate Action Plan was developed that shall be considered for the greenhouse gas reduction, while preparing the updated CAP document. The City aims to develop and adopt the updated CAP as an amendment to the existing 2030 General Plan.

### **2.2.3. Deliverables:**

**2.2.3.1.** Memo summarizing City progress on 2013 CAP actions;  
and

**2.2.3.2.** Interviews with City staff, if needed.

## **2.3. Recommend and Forecast GHG Emission Reduction Targets**

**2.3.1.** The Consultant shall review and analyze the past GHG emission data for the community and municipal operations and update GHG emission reduction forecasts. Consultant shall determine scenarios to achieve new reduction targets in the CAP Update. The Consultant must evaluate and summarize the impact of anticipated state and federal policies and programs on GHG emission reductions and incorporate those into this task as appropriate.

### **2.3.2. Deliverables:**

**2.3.2.1.** Validated municipal and community inventories;

**2.3.2.2.** Business as usual forecast, including contributions from population and economic growth and comparison to potential reduction targets; and

**2.3.2.3.** Emission scenarios and reduction targets, in total and per capita.

## **2.4. Greenhouse Gas Reduction and Sustainability Strategies**

**2.4.1.** The Consultant shall identify any opportunities where greater cross-departmental coordination and/or consideration of GHG impacts would increase the effectiveness of the City's sustainability efforts and GHG reduction.

### **2.4.2. Deliverables:**

**2.4.2.1.** Initial list of options, evaluation of options, and revised shortlist; and

2.4.2.2. Inter-departmental workshop and/or other collaborative tools.

## 2.5. Develop and Conduct Community Engagement Guidance and Strategies

2.5.1. The Consultant shall provide a robust community outreach strategy based on successful outcomes and experience with similar projects in other communities.

2.5.2. At a minimum, the Consultant shall plan on facilitating and attending three (3) public workshops to engage the community.

### 2.5.3. Deliverable:

2.5.3.1. Community Engagement Plan and implementation of engagement strategies included therein.

## 2.6. Coordinate with Related City Efforts

2.6.1. The City is in the process of adopting several policies and initiatives, such as the Green Infrastructure Plan, electric vehicle (EV) charging master plan, etc. The Consultant shall stay coordinated and aligned with the relevant departments and include them in the updated Climate Action Plan.

### 2.6.2. Deliverable:

2.6.2.1. Coordinate with Related City Efforts.

## 2.7. Draft Updated Climate Action Plan

2.7.1. The Consultant shall develop a draft updated Climate Action Plan using the GHG emission analysis described in Section 2.4 above. The specific strategies and priority actions selected to meet the recommended target reductions shall be summarized into a strategic framework with specific near-term implementation plans and a schedule for longer-term implementation plan development. Measures shall identify agencies and departments responsible, indicators for success, potential partnerships, recommended funding sources, and appropriate methods to assess progress.

2.7.2. The Plan shall include the following key components.

2.7.2.1. Background and rationale: This will describe the vision of a resilient, low-emissions City of Santa Clara, explain the importance of the CAP, and highlight anticipated benefits and avoided costs.

2.7.2.2. Baseline and projections summary: This section will summarize and discuss baseline conditions and forecasts of GHG emissions. It will also cover observed and projected changes in climate and likely impacts of climate change on the city and region.

- 2.7.2.3.** Vision, goals, and key performance indicators: This component will frame the CAP by introducing the City's vision for the future, emissions-reduction goals over the short, medium and long term, and key performance indicators that the City and the general public can use to gauge progress.
- 2.7.2.4.** Strategies and actions: Consultant shall describe each overarching strategy and briefly describe the corresponding actions.
- 2.7.2.5.** Implementation Plan: A plan that will be presented as an integral component of the full Climate Action Plan, laying out how to put it into action. The implementation plan will have tables to depict actions, roles, and desired outcomes by sector and emissions source. The implementation plan will contain the following sections.
- Year 1 implementation overview: A summary of key tasks to be accomplished in the first year of plan implementation.
  - Implementation summary and schedule: For each priority plan action, relative measures of action cost and effectiveness, accompanying co-benefits, timeframes for implementation, and responsible departments.
  - Funding: Potential funding mechanisms and opportunities for financing specific plan actions.
  - Oversight, accountability, and enforcement: This will include a framework and plan for future revisions and updates by City staff and the Council. It may also include an ongoing structure for ongoing citizen oversight and involvement.
  - City staffing and leadership: Based on the staffing analysis, this section will lay out a structure for maintaining ongoing City staff resources and leadership during the CAP implementation phase.
  - Equity: Guidance for ensuring that equity is considered in plan implementation and noting specific strategies or actions where this will require particular attention.
  - Monitoring, evaluation, and reporting: Methodology, tools, and metrics for measuring progress and tracking performance over time, and a template and plan for reporting on this progress to broad audiences. It will include reporting on progress against specific strategies

and actions, as well as overall progress on reducing community climate vulnerability and emissions.

**2.7.3. Deliverable:**

- 2.7.3.1. Draft Climate Action Plan, with the main body anticipated to be approximately 50-60 pages long; and
- 2.7.3.2. Appendices to the CAP, including a detailed Implementation Plan.

**2.8. Prepare Appropriate Environmental Documents**

2.8.1. Consultant shall prepare an addendum for the City's CAP that fulfills the requirements under the CEQA. The addendum will include a project description, discussion of consistency with applicable plans and policies, a section that includes a description of existing conditions, the CEQA checklist, and an explanation of project impacts.

2.8.1.1. Project description: A detailed description using maps and graphics where appropriate to illustrate the proposed measures and programs that will be incorporated into the CAP.

2.8.1.2. CEQA checklist: This will include content appropriate for the proposed implementation measures. These will likely focus on energy, GHG emissions, transportation, and utilities.

2.8.1.3. Report circulation, review, and finalizing: Preparation of the 1<sup>st</sup> Administrative Draft Addendum, revising per City comments, submittal of the Screencheck version to the City for final review and comment, and preparation of the final document for posting on the City's website.

**2.8.2. Deliverables:**

- 2.8.2.1. 1<sup>st</sup> Administrative Draft Addendum;
- 2.8.2.2. Revised Addendum and Screencheck; and
- 2.8.2.3. Final Study/Addendum.

**2.9. Support City in the Adoption of the Climate Action Plan and the General Plan Amendment**

2.9.1. The Consultant shall prepare reports, presentations and updates, and attend and engage the commissions and City Council throughout the CAP update process.

2.9.2. The Consultant shall support City staff preparing reports, presenting, and obtaining approval of the finalized CAP and obtaining approval of the General Plan Amendment from the Planning Commission and the final adoption by the City Council.

**2.9.3. Deliverable:**

- 2.9.3.1.** Presentations, reports, memos, and/or other CAP adoption support, as required by City staff.

**3. ADMINISTRATIVE DRAFT CLIMATE ACTION PLAN**

- 3.1.** Consultant shall prepare an Administrative Draft Climate Action Plan with all the components discussed in this Exhibit A.
- 3.2.** Consultant shall provide ten (10) copies of the Administrative Draft CAP to the City for review and comment. Consultant shall also submit a Word version of the draft to facilitate and convey City comments/edits.
- 3.3.** The City shall send the Consultant a consolidated set of City comments/edits in Word format using tracked changes.
- 3.4. Deliverable:**
- 3.4.1.** Ten (10) copies and Word file of draft CAP submitted to the City for review.

**4. FINAL DRAFT CLIMATE ACTION PLAN**

- 4.1.** Upon receiving the consolidated set of City comments/edits, Consultant will revise the draft CAP based on the comments and revision from the City. Consultant shall then organize a request for public comment on the revised CAP.
- 4.2.** Consultant shall provide the City with a matrix indicating Consultant's recommended way to address each public comment and asking for City guidance on pending issues. Consultant shall compile feedback and integrate it, as appropriate, into a final version of the CAP to be presented to City Council for approval.
- 4.3.** Consultant shall provide five (5) printed copies of the final draft CAP. Consultant shall also submit them electronically in Word and Adobe PDF formats.
- 4.4. Deliverable:**
- 4.4.1.** Five (5) copies of Final Climate Action Plan and electronic copies in Word and PDF formats.

**EXHIBIT B  
SCHEDULE OF FEES**

**1. Maximum Compensation**

The maximum amount of compensation to be paid to Consultant shall not exceed Two Hundred Eleven Thousand Six Hundred Eighty-Four Dollars (\$211,684).

**2. Project Tasks**

City shall pay Consultant for completed Climate Action Plan update tasks as set forth in the Scope of Services (Exhibit A) at the rates listed in Table B1- Payment Schedule below.

**Table B1 – Payment Schedule**

<b>Task</b>	<b>Deliverable</b>	<b>Hours</b>	<b>Cost</b>
2.1	Project Initiation/Kickoff Meeting	85	\$15,975
2.2	Analysis of 2013 Climate Action Plan	38	\$4,450
2.3	Recommended and forecast GHG emission reduction targets	92	\$16,435
2.4	GHG reduction and sustainability strategies	152	\$22,200
2.5	Conduct Public Engagement	234	\$35,940
2.6	Coordination with Related City Efforts	28	\$5,160
2.7	Draft updated Climate Action Plan	172	\$22,820
2.8	Prepare environmental documents	136	\$28,780
2.9	Support City in the adoption of the CAP and the General Plan Amendment	56	\$11,840
3	Administrative Draft of the Climate Action Plan	32	\$4,540
4	Final Draft of the Climate Action Plan	164	\$24,300
	Contingency for Additional Services		\$19,244
	<b>GRAND TOTAL</b>		<b>\$211,684</b>

**3. Additional Services**

**3.1.** The maximum compensation includes a ten percent (10%) contingency for additional services, as required by the City. In the event the City requires additional services, Consultant shall provide a written quotation, at no cost to the City, of the type of service(s) requested and the time and cost required. Consultant shall not perform any additional services without receiving written approval from the City.

- 3.2. City shall pay Consultant for completed additional services at the hourly rates listed in Table B2- Hourly Rates below.
- 3.3. The total compensation paid to Consultant for additional services shall not exceed \$19,244.

**Table B2 – Hourly Rates**

<b>Position</b>	<b>Hourly Rate</b>
CEQA Lead	\$215/hour
Forecasting & Target-setting Lead	\$210/hour
Deputy Project Manager and Coordinator	\$190/hour
Project Manager	\$170/hour
Engagement Lead	\$160/hour
Analyst & Lead Writer	\$100/hour

**4. Invoicing**

- 4.1. Consultant shall submit to the City a monthly invoice by the fifteenth (15th) day of each month, in arrears, for payment for services performed the previous month, pursuant to this Agreement.
- 4.2. Each invoice shall include the task costs for the previous month. The invoiced task costs shall be in a separate section from the reimbursable expenses.
- 4.3. The City shall review the invoice submitted by Consultant and within ten (10) working days of receipt of the invoice, the City shall notify Consultant of any discrepancies or deficiencies in said invoice.
- 4.4. If the City disputes an expense in an invoice, the City may deduct the disputed expense from the payment of that invoice, provided that the City submits to the Consultant a written explanation of why the expense is being disputed.

**5. Payment to Consultant**

- 5.1. The City shall review the invoice submitted by Consultant and within ten (10) working days of receipt of the invoice, the City shall notify Consultant of any discrepancies or deficiencies in said invoice.
- 5.2. If there are no discrepancies or deficiencies in the submitted invoice, City shall submit payment to Consultant within thirty (30) days.



## **EXHIBIT C**

### **INSURANCE REQUIREMENTS**

Without limiting the Consultant's indemnification of the City, and prior to commencing any of the Services required under this Agreement, the Consultant shall provide and maintain in full force and effect, at its sole cost and expense, the following insurance policies with at least the indicated coverages, provisions and endorsements:

#### **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 Consultant; 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 Consultant 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, non-owned and hired autos.

In the event that the Work being performed under this Agreement involves transporting of hazardous or regulated substances, hazardous or regulated

wastes and/or hazardous or regulated materials, Consultant and/or its subconsultants involved in such activities shall provide coverage with a limit of two million dollars (\$2,000,000) per accident covering transportation of such materials by the addition to the Business Auto Coverage Policy of Environmental Impairment Endorsement MCS90 or Insurance Services Office endorsement form CA 99 48, which amends the pollution exclusion in the standard Business Automobile Policy to cover pollutants that are in or upon, being transported or towed by, being loaded onto, or being unloaded from a covered auto.

#### 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 Consultant 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 Consultant or any subconsultant 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 Consultant. 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 claim 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 Consultant'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 Consultant 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 Consultant'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 D of this Exhibit C, above.

#### F. ADDITIONAL INSURANCE RELATED PROVISIONS

Consultant and City agree as follows:

1. Consultant agrees to ensure that subconsultants, and any other party involved with the Services who is brought onto or involved in the performance of the Services by Consultant, provide the same minimum insurance coverage required of Consultant, except as with respect to limits. Consultant 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. Consultant agrees that upon request by City, all agreements with, and insurance compliance

documents provided by, such subconsultants and others engaged in the project will be submitted to City for review.

2. Consultant 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 Consultant 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 Consultant 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, Consultant, and each and every subconsultant (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. Consultant 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

Consultant 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, Consultant 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, Parks and Recreation Department

P.O. Box 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 of the insurance companies providing insurance for Consultant 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.