

**LEGAL SERVICES AGREEMENT
BETWEEN THE
CITY OF SANTA CLARA, CALIFORNIA
AND
LOZANO SMITH, LLP**

PREAMBLE

This legal services agreement ("Agreement") is made and entered by and between Lozano Smith, a California Limited Liability Partnership (LLP) 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

Exhibit B – Fee Schedule

Exhibit C – Billing Standards

Exhibit D – 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, Assistant City Attorney, Interim City Manager, and/or City Manager.

B. Firm shall perform such legal services for and on behalf of City under the primary direction of the City Council. Firm shall undertake, subject to the 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 Council. 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, and any other services as necessary and as set forth in the City Charter and City Code.

4. COMMENCEMENT OF WORK

Firm shall begin performing legal services under this Agreement effective April 6, 2022 subject to advanced approval of this Agreement by at least a majority of the City Council in a public meeting. If a majority of the City Council does not approve this Agreement in a public meeting, then the Agreement is null and void. The Firm shall complete said services within the time limits mutually determined to be acceptable by Firm and City. In the sole discretion of City, Firm services shall terminate on the later of 1) formal appointment of a permanent City Attorney by Council, or 2) a date set by the City Council to provide for a transition of duties between Firm and a permanent City Attorney not to exceed three (3) months.

5. ASSIGNMENT OF DUTIES

It is contemplated that Attorneys James (Jim) Sanchez and Steve Ngo will be assigned from Firm. They may be assisted as appropriate by people listed in Exhibit B (Fee Schedule), provided that multiple representations at meetings or other appearances shall be disallowed absent good cause. In addition, should it be desirable for any other attorney not listed in Exhibit B to work under this Agreement, such attorney may only be added with the consent of the Mayor acting on behalf of the City Council. 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 bills by the Chief Assistant City Attorney, Firm shall be compensated at the preapproved hourly rates and for authorized expenses only as specifically set forth in Exhibit B (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 Council or the Chief Assistant 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
c/o Chief Assistant City Attorney
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 a majority of the City Council, 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). The Firm will not charge billable time for travel to and from the City for in-person work, although may utilize the car allowance as specified in Exhibit B. Firm may bill for lodging for Senior Counsel Jim Sanchez up to four nights per month. 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. TERMINATION

City may terminate this Agreement without cause or penalty at any time by providing written notice to Firm. Said termination shall be effective on the date set forth on the termination notice.

Firm may terminate this Agreement 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. Notice of termination by Firm shall provide a minimum of 30 days unless such notice period is precluded by law.

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.

City shall also have the right to temporarily suspend Firm's performance in whole or in part, by giving a written notice of suspension to Firm. If Firm gives such notice of suspension, Firm shall immediately suspend its activities under this Agreement, as specified in such notice.

The City Council may exercise the power of City to terminate or suspend this Agreement. In

accordance with Charter Section 908(g), immediately upon termination Firm shall surrender to City all books, papers, files and documents pertaining to the City and/or the Services, including materials that are solely attorney work product.

10. 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 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.

11. 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 Council.

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.

12. 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.

13. 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.

14. 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.

15. 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.

16. 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.

17. 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 Council and in no event prior to having been first disclosed to the City Council, 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.

18. 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.

19. 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.

20. 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
c/o Chief Assistant Attorney
1500 Warburton Avenue
Santa Clara, CA 95050
Email: cityattorney@santaclaraca.gov

And to Firm addressed as follows:

Lozano Smith
7404 N. Spalding Avenue
Fresno, CA 93720
Email: jsanchez@lozanosmith.com

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

21. 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.

22. 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.

23. LICENSE REQUIREMENTS

Firm shall demonstrate that the attorneys 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 Chief Assistant City Attorney why such license is not required to perform the services required.

24. 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.

SIGNATURES TO FOLLOW

CITY OF SANTA CLARA, CALIFORNIA
A Chartered California Municipal Corporation

Dated: 4/5/2022

Lisa M. Gillmor

MAYOR LISA GILLMOR
"City"

LOZANO SMITH LLP

Dated: 03/31/2022

By: 

Name, Title: Karen M. Rezendes, Managing Partner

Principal Place of

Business: Lozano Smith, LLP

Telephone/Fax: (925) 953-1620

Email: KRezendes@lozanosmith.com

"Firm"

APPROVED AS TO FORM:

Dated: April 5, 2022

By: Jenica Maldonado

Name, Title: Jenica Maldonado, Of Counsel

Principal Place

of Business: Renne Public Law Group

Telephone/Fax: (415) 848-7200

Email: jmaldonado@publiclawgroup.com

"Outside Counsel"

EXHIBIT A
SCOPE OF SERVICES

- A. **Scope of Services.** The scope of services for this Agreement shall include performance of the following duties and responsibilities by the Firm:
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. Attend 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.

- 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.
 - 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 Interim 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 Interim 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 standards 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.

EXHIBIT 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:

Partners / Senior Counsel / Of Counsel	\$300/hour
Associate	\$275/hour
Paralegal / Law Clerk	\$195/hour
Consultant	\$195/hour

The following attorneys and staff members are authorized to bill regarding this engagement. Only attorneys expressly identified herein are authorized to bill regarding this engagement. Firm may seek permission from City to authorize additional billers in accordance with Section 5 of the Agreement:

- James (Jim) Sanchez, Senior Counsel
- Steve Ngo, Partner
- Manuel Martinez, Partner
- Constantine Baranoff, Senior Counsel
- Alyse Pacheco Nichols, Senior Counsel
- Stephanie Arwick, Paralegal
- Stephanie Darand, Law Clerk

The hourly rates specified in this Exhibit B apply throughout the term of this Agreement.

Firm will be reimbursed for out-of-pocket costs and expenses actually incurred by Firm in the above-described representation of City, with the exception of fees specifically excluded herein. Reimbursable out-of-pocket expenses shall be pre-approved by City Council and may include, but are not limited to 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.

With respect to reimbursement of travel-related expenses, the City shall provide monthly car allowances for Attorneys Jim Sanchez and Steve Ngo, respectively, in an amount not to exceed \$500 per attorney. No other attorneys or staff of Firm are eligible to receive a car allowance or to receive reimbursement from the City for travel-related expenses. Except as noted in Section 8 of the Agreement (including lodging for Mr. Sanchez up to four times per month to facilitate working in person for the City), the City will not reimburse the cost of air travel, per diem, or any other travel-related expenses incurred by any attorney of Firm attendant to the Firm's

representation of City for this engagement. As specified in Section 8 of the Agreement, the Firm will not bill and the City will not pay attorney or staff billable rates for travel time to and from the City for in-person work.

In no event shall the maximum amount of fees plus costs exceed the maximum not to exceed contract amount listed below.

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 Three Hundred Thousand Dollars and Zero Cents (\$300,000.00) subject to budgetary appropriations. Further authorization beyond this amount must be approved by City Council and memorialized as a written amendment to this Agreement.

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 Council; 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 Chief Assistant 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 Chief Assistant City Attorney. City reserves the right to require additional substantiation of any item of claimed expense.
- F. Each month's bill should include the total billable hours and expenses to date for each matter.
- G. 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.
- H. Messenger and other charges in excess of actual costs are not permitted.
- I. Postage charges are billable at actual cost.
- J. Expert witness fees are not automatically authorized. Firm shall obtain approval for each expert witness from the Chief Assistant City Attorney.

- K. Firm shall maintain at least the insurance coverage set forth in Exhibit C at all times.
- L. Work performed on a not-to-exceed basis may not be increased without prior approval by the City Council, depending upon the amount in question.
- M. If Firm is provided with a new case directly from the Chief Assistant City Attorney or City Council or if a matter arises that requires Firm to open a new file, the Chief Assistant City Attorney and City Council should be informed immediately.
- N. 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 Chief Assistant City Attorney immediately.
- O. City's Finance Department may 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 Chief Assistant City Attorney.
- P. Firm will provide copies of all motions or briefs which are filed related to City's litigation matters handled by Firm. 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 Council and Chief Assistant City Attorney, unless City Council directs the Firm to omit the Assistant City Attorney from such communication, in which case the correspondence would be directed to Council alone.
- Q. City expects early and frequent evaluation of its litigation cases handled by Firm. 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 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 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

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.

Signature: Jenica Maldonado
Jenica Maldonado (Apr 5, 2022 16:02 PDT)

Email: jmaldonado@publiclawgroup.com

Signature: Laura M. Gillmor
Laura M. Gillmor (Apr 5, 2022 23:24 PDT)

Email: lgillmor@santaclaraca.gov