

**AGREEMENT FOR DESIGN PROFESSIONAL SERVICES
BETWEEN THE
CITY OF SANTA CLARA, CALIFORNIA,
AND
CSG CONSULTANTS, INC.**

PREAMBLE

This Agreement is entered into between the City of Santa Clara, California, a chartered California municipal corporation (City) and CSG Consultants, Inc., a California corporation, (Contractor). City and Contractor 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 design professional services more fully described in this Agreement, at Exhibit A, entitled "Scope of Services";
- B. "Design professional" includes licensed architects, licensed landscape architects, registered professional engineers and licensed professional land surveyors;
- C. Contractor represents that it, and its subcontractors, 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,
- D. 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 Contractor 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

Exhibit D – Labor Compliance Addendum

Exhibit E – Ranking of Design Services Agreements

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

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 the Effective Date and terminate on June 30, 2030.

3. SCOPE OF SERVICES & PERFORMANCE SCHEDULE

Contractor shall perform the services specified in Exhibit A. Time is of the essence.

- A. All reports, costs estimates, plans and other documentation which may be submitted or furnished by Contractor shall be approved and signed by an appropriate qualified licensed professional in the State of California.

4. WARRANTY

Contractor 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. Contractor 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 Contractor. If Contractor fails to promptly correct or replace materials or services, City may make corrections or replace materials or services and charge Contractor for the additional cost incurred by City.

5. QUALIFICATIONS OF CONTRACTOR - STANDARD OF CARE

Contractor 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 Contractor's representations regarding its skills and knowledge. Contractor 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. ASSIGNMENT OF WORK

- A. Contractor will provide the plan check review, field inspections and related services (Services) to the Department of Water & Sewer Utilities (W&S) as further described in Exhibit A.
- B. Contractor acknowledges that that Contractor is one of two firms selected to provide Services to W&S, pursuant to two separate agreements, (collectively, the "Design Services Agreements"). Subject to the terms and conditions of this Agreement, City will assign tasks starting with the highest ranked firm under contract, as listed in Exhibit E. If assignment of individual tasks cannot be

achieved with the highest ranked firm, the City will end efforts to assign those tasks to the highest ranked firm and will begin task assignment discussions with the next highest ranked firm under contract.

- C. Each assignment will be authorized in writing by the City and shall include the scope of work, deliverables, schedule, and either (ii) a not-to-exceed amount based on time and materials (T&M) using the hourly rates in Exhibit B or (ii) a lump sum amount, if applicable.
- D. The City has no obligation to assign any work under this Agreement.

7. COMPENSATION AND PAYMENT

- A. Maximum Compensation. The aggregate maximum compensation allowable for the Design Services Agreements is One Million, Two Hundred Fifty Thousand Dollars (\$1,250,000), subject to budget appropriations. This amount represents the combined total of all assignments issued under the Design Services Agreements.
- B. Compensation per Assignment. In consideration for Contractor's complete performance of Services, City shall pay Contractor for all materials provided and Services rendered by Contractor in accordance with Exhibit B, entitled "SCHEDULE OF FEES" and the not-to-exceed amount authorized in each individual assignment. All work performed or materials provided in excess of the amount authorized in an individual assignment shall be at Contractor's expense. Contractor shall not be entitled to any payment above the amount authorized in an individual assignment under any circumstance, unless otherwise approved in writing by the City.

8. 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 Contractor.
- B. Termination for Default. If Contractor 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 Contractor.
- 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, Contractor will deliver to City all City information or material that Contractor has in its possession. The Contractor shall be entitled to payment for the cost of services performed to the City's satisfaction prior to the effective date of termination.

9. ASSIGNMENT AND SUBCONTRACTING

City and Contractor 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. Contractor shall not hire subcontractors without express written permission from City.

Contractor 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 Contractor is for the acts and omissions of persons directly employed by it.

10. 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.

11. INDEPENDENT CONTRACTOR

Contractor and all person(s) employed by or contracted with Contractor to furnish labor and/or materials under this Agreement are independent contractors and do not act as agent(s) or employee(s) of City. Contractor has full rights to manage its employees in their performance of Services under this Agreement.

12. CONFIDENTIALITY OF MATERIAL

All ideas, memoranda, specifications, plans, manufacturing procedures, data, drawings, descriptions, documents, discussions or other information developed or received by or for Contractor and all other written information submitted to Contractor in connection with the performance of this Agreement shall be held confidential by Contractor 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 Contractor which is otherwise known to Contractor or becomes generally known to the related industry shall be deemed confidential.

13. 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 Contractor 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, Contractor 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.

14. RIGHT OF CITY TO INSPECT RECORDS OF CONTRACTOR

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 Contractor for the purpose of verifying any and all charges made by Contractor in connection with Contractor compensation under this Agreement, including termination of Contractor. Contractor 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. Contractor 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.

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

15. HOLD HARMLESS/INDEMNIFICATION

To the extent permitted by law, Contractor 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, to the extent arising out of, pertaining to, or related to the negligence, recklessness, or willful misconduct of the Contractor, its employees, subcontractors, or agents in the performance, or non-performance, of Services under this Agreement.

16. INSURANCE REQUIREMENTS

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

17. WAIVER

Contractor 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.

18. NOTICES

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

City of Santa Clara
Attention: Water and Sewer Utilities
1500 Warburton Avenue
Santa Clara, CA 95050
and by e-mail at MDealbert@santaclaraca.gov

And to Contractor addressed as follows:

CSG Consultants, Inc.
550 Pilgrim Drive
Foster City, CA 94404
and by e-mail at sophiet@csgengr.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.

19. COMPLIANCE WITH LAWS

Contractor 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, Contractor'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 Contractor has read and agrees to comply with City's Ethical Standards (<http://santaclaraca.gov/home/showdocument?id=58299>).

20. CONFLICTS OF INTEREST

Contractor certifies that to the best of its knowledge, no City officer, employee or authorized representative has any financial interest in the business of Contractor and that no person associated with Contractor has any interest, direct or indirect, which could conflict with the faithful performance of this Agreement. Contractor 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. Contractor will advise City if a conflict arises.

21. FAIR EMPLOYMENT

Contractor 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.

22. NO USE OF CITY NAME OR EMBLEM

Contractor 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.

23. 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.

24. 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.

25. AMENDMENTS

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

26. 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.

Signatures on following page

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: _____

GLEN R. GOOGINS
City Attorney

JÓVAN D. GROGAN
City Manager
City of Santa Clara
1500 Warburton Avenue
Santa Clara, CA 95050
Telephone: (408) 615-2210
Fax: (408) 241-6771

"CITY"

CSG CONSULTANTS, INC.
a California corporation

Dated: _____

By (Signature): _____

Name: Cyrus Kianpour

Title: President

Principal Place of
Business Address: 550 Pilgrim Drive, Foster City, CA 94404

Email Address: _____

Telephone: 650-522-2500

Fax: 650-522-2599

"CONTRACTOR"

EXHIBIT A SCOPE OF SERVICES

The Services to be performed for the City by the Contractor under this Agreement are set forth below.

1. GENERAL SERVICES

- 1.1** Contractor shall provide Plan Check Review, Construction Support, Field Inspections, Field Markings, Construction Management, Project Close-out and Related Contractor Services collectively referred to as "Services" on an as-needed basis.
- 1.2** Contractor shall provide qualified and licensed personnel, along with necessary equipment and materials to perform the Services.
- 1.3** Contractor shall communicate and coordinate with the City team and report to the designated City representative(s).
- 1.4** Contractor shall meet with City, other third-party consultant(s), developers, and their design consultants.
- 1.5** Contractor shall review utility plans, specifications, construction submittals, calculations, reports and technical memos specific to the service areas below.
- 1.6** Contractor shall review plan revisions as they are submitted to the City for approval during design and/or construction, and provide plan check review comments, recommendations, and action item summaries.
- 1.7** Contractor shall inspect public and private improvements specific to the service areas below.
- 1.8** Inspector shall perform standard utility inspections including but not limited to material inspection, installation of transmission and distribution pipelines, sewer collection pipelines, services, appurtenances, fire hydrants, air-vacuums, blow-offs, laterals, pipeline pressure testing, backflows, meters, meter sizing calculations, cross-connection testing, on-site recycled water plumbing and onsite FOG facilities.
- 1.9** Contractor shall provide construction management and project management as required.
- 1.10** Contractor shall perform compliance program related inspections as required.

2. OFFSITE PLAN REVIEW SERVICES – WATER, REYCLCED WATER AND SEWER

- 2.1** Contractor shall review permit plans, utility plans, specifications, construction submittals, calculations, reports and technical memos and associated documents to determine compliance with City of Santa Clara Water & Sewer Utilities Department Rules & Regulations, standard specifications, design criteria, City standard details and other applicable local and regional codes, regulations,

ordinances, standards, and statutes (collectively referred to as Standards & Regulations).

- 2.2** Contractor shall review permit plans/utility plans to ensure efficient use of the public right-of-way and utility easements, sound constructability, and construction and utility industry best practices. Contractor shall provide plan check review comments, recommendations, and an action items summary.
- 2.3** Contractor shall review all plans for water and recycled water distribution and transmission systems including composite utility plans, demolition plans, plan and profile sheets, utility and construction details. The review shall include all applicable design details of the utility system including, but not limited to, the size, material and alignment of water and recycled water mains; the location and type of valves; the location of fire hydrants, air release valves, domestic water, recycled water, fire water, meter sizing; meters and backflows and other related facilities and appurtenances per W&S standards.
- 2.4** Contractor shall review all plans for sanitary sewer collection systems including composite utility plans, demolition plans, plan and profile sheets, utility and construction details. The review shall include all applicable design details of the utility system including but not limited to the size, material and alignment of sanitary sewer pipe; the location and type of manholes; the location of sanitary sewer cleanouts, sanitary sewer laterals; and other related facilities and appurtenances per W&S Standards and Department of Public Works standards.
- 2.5** Contractor shall review and provide comments and recommendations for onsite plumbing plan and FOG facility (e.g. grease traps, etc.) specifications to ensure compliance with building code, regional pre-treatment program, City Standards and industry best practices.
- 2.6** Contractor shall review all plan revisions as they are submitted to the City for approval, including during construction.
- 2.7** Contractor shall provide written comments and recommendations for compliance with Standards and Regulations and industry best practices. Contractor shall also provide comprehensive plan review annotations (e.g. redlines) that proactively anticipate potential issues to avoid unexpected project delays.
- 2.8** Contractor shall employ a streamlined review process.
- 2.9** Contractor shall designate personnel to be available by telephone and/or e-mail to respond to questions from applicants, developers, City staff, the general public, and others as assigned by the City.
- 2.10** Contractor shall maintain a review log of plan review assignments, including the permit number, project designation, description of review, and basis for compensation for each assignment.
- 2.11** Contractor shall establish a schedule to communicate status of permits and review issues with City staff and other parties on a weekly basis, or as otherwise

requested by City staff.

3. ONSITE PLAN REVIEW SERVICES – WATER, RECYCLED WATER, AND SEWER

- 3.1** Contractor shall review and provide comments and recommendations for onsite sanitary sewer systems. The review shall include sizing of grease control devices and oil grease separators; septic systems; potential for sanitary sewer overflows (SSOs), potential cross connections in conformance with the Cross Connection Control Policy Handbook (CCCPH); and other related facilities and appurtenances in compliance with Building Code, Regional Pre-treatment and FOG program requirements and City Standards.
- 3.2** Contractor shall review and provide comments and recommendations for onsite utility systems to determine potential for cross connections in conformance with the CCCPH, Building Code, and relevant City Standards.
- 3.3** Contractor shall perform hazard assessments for cross-connection control program.

4. OFFSITE INSPECTION SERVICES – WATER, RECYCLED WATER, AND SEWER

- 4.1** Contractor shall provide underground utility locating and marking services in coordination with Underground Service Alert (commonly referred to as “USA North”), including responding to USA North ticket requests for underground utility location, reviewing City utility maps to determine any conflict between proposed excavation and City facilities, and locating and marking City-owned subsurface utilities in the field when needed in response to tickets.
- 4.2** Contractor shall provide public water and recycled water inspection services during the course of construction to enforce compliance with the conditions of approval, W&S Standards, and Division of Drinking Water standards, and the approved plans for which the City issued a permit.
- 4.3** Contractor shall provide Water, Recycled Water, and Sewer field inspection and construction management services as required including, but not limited to:
 - 4.3.1** Material inspection, installation of transmission and distribution pipelines, sewer collection pipelines, services, appurtenances, fire hydrants, air-vacuums, blow-offs, laterals, pipeline pressure testing, backflows, and meters.
 - 4.3.2** Verification of the Contractor's compliance with the City Water/Recycled Water/Sewer approved plans and standard details and specifications;
 - 4.3.3** Ensuring the quality of work (via materials testing or other means as necessary) meets City and Industry Standards;
 - 4.3.4** Coordinating with City departments, other public agencies, and various

utilities to coordinate reviews, design modifications, permitting, construction and inspection of improvements;

- 4.3.5** Maintaining daily reports of work done, Contractor's staff, equipment, weather, etc.;
- 4.3.6** Monitoring construction impacts and construction operations safety in the City right-of-way/easements; and
- 4.3.7** Developing punch list items when the work is substantially complete and interact with the public.

5. ONSITE INSPECTION SERVICES – WATER, RECYCLED WATER, AND SEWER PRE-TREATMENT

- 5.1** Potable Water, Recycled Water, Sewer Pre-treatment, and FOG on-site field inspection, construction management, and project management services as required including, but not limited to:
 - 5.1.1** Performing Hazard Assessments for Cross-Connection Control Program;
 - 5.1.2** Performing Cross-connection Testing;
 - 5.1.3** Performing Meter and Backflow Testing;
 - 5.1.4** Verification of compliance with City-approved plans, standard details, specifications and industry best practice;
 - 5.1.5** Verification of compliance with City backflow and cross-connection program requirements;
 - 5.1.6** Verification of compliance with City and regional onsite Recycled Water program requirements;
 - 5.1.7** Verification of compliance with City and regional onsite Pre-treatment and FOG program requirements.
 - 5.1.8** Verification of compliance with Building Code.
 - 5.1.9** Verification of compliance with NFPA Code relating to backflows, fire hydrants, and fire services and underground fire permits associate with the project.

**EXHIBIT B
SCHEDULE OF FEES**

1. RATES

- 1.1. Contractor will be compensated according to the rates set forth in Table B-1 below. Hourly rates include all costs that may be associated with providing the Services, including all overhead costs, travel, and office expenses.

Table B-1: Plan Review & Inspection Services (Water, Recycled Water & Sewer)

Position	Hourly Rate
Admin Assistant	\$90
Engineering Intern	\$135
Assistant Engineer	\$174
Associate Engineer	\$198
Structural Engineer	\$270
Associate Surveyor	\$210
Sr. Engineer	\$228
Sr. Land Surveyor	\$228
Sr. Structural Engineer	\$252
Principal Engineer	\$264
Sr. Principal Engineer	\$288
Two-Person Survey Crew	\$384
Assistant Project Manager	\$180
Project Manager	\$240
Sr. Project Manager	\$252
Office Engineer	\$180
Construction Inspector	\$168
Sr. Construction Inspector	\$186
Assistant Resident Engineer	\$198
Resident Engineer/Construction Mngr	\$240
Structural Representative	\$240
Sr. Construction Manager	\$315

- 1.2 City authorized overtime work will be charged at 150% of the applicable hourly rate.

2. ANNUAL RATE INCREASES

- 2.1. Contractor may request adjustments to the hourly rates by providing written notice to the City no less than sixty (60) days prior to the Agreement's term anniversary date. Price adjustments will be made in accordance with the percentage change in the Consumer Price Index (CPI) for the applicable region.

3. INVOICE AND PAYMENT

- 3.1.** Contractor will bill City on a monthly basis for Services provided by Contractor during the preceding month on an invoice and in a format approved by City and subject to verification and approval by City.
- 3.2.** City will pay Contractor within thirty (30) days of City's receipt of an approved invoice.

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:

\$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 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 (\$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 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 – Planning

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

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.

EXHIBIT D LABOR COMPLIANCE ADDENDUM

This Agreement is subject to the requirements of California Labor Code section 1720 *et seq.* requiring the payment of prevailing wages, the training of apprentices, and compliance with other applicable requirements.

A. Prevailing Wage Requirements

1. Contractor shall be obligated to pay not less than the General Prevailing Wage Rate, which can be found at www.dir.ca.gov and are on file with the City Clerk's office, which shall be available to any interested party upon request. Contractor is also required to have a copy of the applicable wage determination posted and/or available at each job site.
2. Specifically, contractors are reminded of the need for compliance with Labor Code Section 1774-1775 (the payment of prevailing wages and documentation of such), Section 1776 (the keeping and submission of accurate certified payrolls) and 1777.5 in the employment of apprentices on public works projects. Further, overtime must be paid for work in excess of 8 hours per day or 40 hours per week pursuant to Labor Code Section 1811-1813.
3. Special prevailing wage rates generally apply to work performed on weekends, holidays and for certain shift work. Depending on the location of the project and the amount of travel incurred by workers on the project, certain travel and subsistence payments may also be required. Contractors and subcontractors are on notice that information about such special rates, holidays, premium pay, shift work and travel and subsistence requirements can be found at www.dir.ca.gov.
4. Only bona fide apprentices actively enrolled in a California Division of Apprenticeship Standards approved program may be employed on the project as an apprentice and receive the applicable apprenticeship prevailing wage rates. Apprentices who are not properly supervised and employed in the appropriate ratio shall be paid the full journeyman wages for the classification of work performed.
5. As a condition to receiving progress payments, final payment and payment of retention on any and all projects on which the payment of prevailing wages is required, Contractor agrees to present to City, along with its request for payment, all applicable and necessary certified payrolls (for itself and all applicable subcontractors) for the time period covering such payment request. The term "certified payroll" shall include all required documentation to comply with the mandates set forth in Labor Code Section 1720 *et seq.*, as well as any additional documentation requested by the City or its designee including, but not limited to: certified payroll, fringe benefit statements and backup documentation such as monthly benefit statements, employee timecards, copies of wage statements and cancelled checks, proof of training contributions (CAC2 if applicable), and apprenticeship forms such as DAS-140 and DAS-142.

6. In addition to submitting the certified payrolls and related documentation to City, Contractor and all subcontractors shall be required to submit certified payroll and related documents electronically to the California Department of Industrial Relations. Failure to submit payrolls to the DIR when mandated by the project parameters shall also result in the withholding of progress, retention and/or final payment.
7. No contractor or subcontractor may be listed on a bid proposal for a public works project unless registered with the Department of Industrial Relations pursuant to Labor Code section 1725.5 [with limited exceptions from this requirement for bid purposes only under Labor Code section 1771.1(a)].
8. No contractor or subcontractor may be awarded a contract for public work on a public works project, unless registered with the Department of Industrial Relations pursuant to Labor Code section 1725.5. Contractors MUST be a registered "public works contractor" with the DIR AT THE TIME OF BID. Where the prime contract is less than \$15,000 for maintenance work or less than \$25,000 for construction alternation, demolition or repair work, registration is not required.
9. All contractors/subcontractors and related construction services subject to prevailing wage, including but not limited to: trucking, surveying and inspection work must be registered with the Department of Industrial Relations as a "public works contractor". Those you fail to register and maintain their status as a public works contractor shall not be permitted to perform work on the project.
10. Should any contractor or subcontractors not be a registered public works contractor and perform work on the project, Contractor agrees to fully indemnify the City for any fines assessed by the California Department of Industrial Relations against the City for such violation, including all staff costs and attorney's fee relating to such fine.
11. This project is subject to compliance monitoring and enforcement by the Department of Industrial Relations.

B. Audit Rights

All records or documents required to be kept pursuant to this Agreement to verify compliance with this Addendum shall be made available for audit at no cost to City, at any time during regular business hours, upon written request by the City Attorney, City Auditor, City Manager, or a designated representative of any of these officers. Copies of such records or documents shall be provided to City for audit at City Hall when it is practical to do so. Otherwise, unless an alternative is mutually agreed upon, the records or documents shall be made available at Contractor's address indicated for receipt of notices in this Agreement.

C. Enforcement

1. City shall withhold any portion of a payment; including the entire payment amount, until certified payroll forms and related documentation are properly submitted, reviewed and found to be in full compliance. In the event that certified payroll forms do not comply with the requirements of Labor Code Section 1720 et

seq., City may continue to hold sufficient funds to cover estimated wages and penalties under the Agreement.

2. Based on State funding sources, this project may be subject to special labor compliance requirements of Proposition 84.
3. The City is not obligated to make any payment due to Contractor until Contractor has performed all of its obligations under these provisions. This provision means that City can withhold all or part of a payment to Contractor until all required documentation is submitted. Any payment by the City despite Contractor's failure to fully perform its obligations under these provisions shall not be deemed to be a waiver of any other term or condition contained in this Agreement or a waiver of the right to withhold payment for any subsequent breach of this Addendum.

City or the California Department of Industrial Relations may impose penalties upon contractors and subcontractors for failure to comply with prevailing wage requirements. These penalties are up to \$200 per day per worker for each wage violation identified; \$100 per day per worker for failure to provide the required paperwork and documentation requested within a 10-day window; and \$25 per day per worker for any overtime violation.

EXHIBIT E
RANKING OF DESIGN SERVICES FIRMS

Rank	Firm
1	CSG Consultants, Inc.
2	Bureau Veritas