

**AGREEMENT FOR SERVICES
BETWEEN THE
CITY OF SANTA CLARA, CALIFORNIA,
AND
PFM ASSET MANAGEMENT LLC**

PREAMBLE

This Agreement is entered into between the City of Santa Clara, California, a chartered California municipal corporation (City) and PFM Asset Management LLC, a Delaware limited liability company (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 services more fully described in this Agreement, at Exhibit A, entitled "Scope of Services";
- B. 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,
- 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 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

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 August 1, 2020 and terminate on July 31, 2023 (Initial Term). The City reserves the right, at its own sole discretion, to extend the term of this Agreement for up to two (2) additional one-year options through July 31, 2025.

3. SCOPE OF SERVICES & PERFORMANCE SCHEDULE

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

4. WARRANTY

Contractor expressly warrants that all materials and services covered by this Agreement shall be performed with the degree of skill and care in accordance with industry standards, 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 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. CONFLICT OF INTEREST (FORM 700)

In accordance with the California Political Reform Act (Government Code section 81000 et seq.) and the City's Conflict of Interest Code, Contractor shall cause each person who will be principally responsible for providing the service and deliverables under this Agreement as having to file a Form 700 to do each of the following:

- A. Complete and file the Form 700 no later than thirty (30) calendar days after the date the person begins performing services under the Agreement and all subsequent Form 700s in conformance with the requirements specified in the California Political Reform Act; and
- B. File the Form 700 with the City's Clerk Office.

7. COMPENSATION AND PAYMENT

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." The maximum compensation of this Agreement is Eight Hundred Forty Thousand Dollars (\$840,000) during the Initial Term, 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 Contractor's expense. Contractor shall not be entitled to any payment above the maximum compensation under any circumstance.

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. Either Party may terminate this Agreement upon written notice to the other Party, if the other Party breaches a material term of this Agreement and such breach remains uncured for thirty (30) days after the other Party's receipt of such notice.
- 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.

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) (except with respect to the purchase and sale of portfolio securities managed by Contractor) 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 or unless required by law or judicial or regulatory process, 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, upon reasonable advance notice, 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

- A. 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, in any manner arising from, or alleged to arise in whole or in part from, or in any way connected with the Services negligently or intentionally wrongfully performed by Contractor pursuant to this Agreement – including claims of any kind by Contractor's employees or persons contracting with Contractor 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. Contractor'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, contractors, subcontractors or other agents of Contractor, against City (either alone, or jointly with Contractor), regardless of venue/jurisdiction in which the claim is brought and the manner of relief sought.
- C. To the extent Contractor 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, Contractor 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 Contractor's responsibilities under the Act.

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: Finance Department
1500 Warburton Avenue
Santa Clara, CA 95050
and by e-mail at finance@santaclaraca.gov, and
manager@santaclaraca.gov

And to Contractor addressed as follows:

PFM Asset Management LLC
Attention: Monique Spyke, Managing Director
50 California Street
Suite 2300
San Francisco, CA 94111
and by e-mail at spykem@pfm.com

with a copy to:

PFM Asset Management LLC
Attention: Controller
1735 Market Street, 43rd Floor
Philadelphia, PA 19103
and by email at controller@pfm.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.

27. INVESTMENT ADVISOR PROVISIONS

- A. Services of Contractor. City hereby engages Contractor to serve as investment manager under the terms of this Agreement with respect to the funds described in Exhibit A, Section 1 to this Agreement and such other funds as City may from time to time assign by written notice to Contractor (collectively the "Managed Funds"), and Contractor accepts such appointment. In connection therewith, Contractor will be a fiduciary to the City and provide investment research and management of the Managed Funds investments and conduct a continuous program of investment, evaluation and, when appropriate, sale and reinvestment of the Managed Funds assets. Contractor shall continuously monitor investment opportunities, evaluate investments of the Managed Funds, and invest Managed Funds in accordance with Federal and State law and the City's Investment Policy, as amended from time to time. Contractor shall furnish City with statistical information and reports with respect to investments of the Managed Funds. Contractor shall place all orders for the purchase, sale, loan or exchange of portfolio securities for City's account with brokers or dealers recommended by Contractor and/or City, and to that end Contractor is authorized as agent of City to give instructions to the custodian designated by City (the "Custodian") as to deliveries of securities and payments of cash for the account of City. In connection with the selection of such brokers and dealers and the placing of such orders, Contractor is directed to seek for City the most favorable execution and price. The Custodian shall have custody of cash, assets and securities of City. Contractor shall not take possession of or act as custodian for the cash, securities or other assets of City and shall have no responsibility in connection therewith. Authorized investments shall include only those investments which are currently authorized by the state investment statutes and the applicable covenants and as supplemented

by such other written instructions, including the City's Investment Policy, as may from time to time be provided by City to Contractor. Contractor shall be entitled to rely upon City's written advice with respect to anticipated drawdowns of Managed Funds. Contractor will observe the instructions of City with respect to broker/dealers who are approved to execute transactions involving the Managed Funds and in the absence of such instructions will engage broker/dealers which Contractor reasonably believes to be reputable, qualified and financially sound.

- B. Pool Compensation. Assets invested by Contractor under the terms of this Agreement may from time to time be invested in (i) a money market mutual fund managed by Contractor or (ii) a local government investment pool managed by Contractor (either, a "Pool") or in individual securities. Approval for Contractor to invest Managed Funds in accordance with this subsection must be specifically allowed in the City's Investment Policy and expressly approved in writing by the City. Average daily net assets subject to the fees described in this Agreement shall not take into account any funds invested in the Pool. Expenses of the Pool, including compensation for Contractor and the Pool custodian, are described in the relevant prospectus or information statement and are paid from the Pool.
- C. Other Compensation. If and to the extent that City shall request Contractor to render services other than those to be rendered by Contractor under this Agreement, such additional services shall be compensated separately on terms to be agreed to in writing between Contractor and City.
- D. Expenses. Contractor shall furnish at its own expense all necessary administrative services, office space, equipment, clerical personnel, telephone and other communication facilities, courier or other delivery services, printing, subscription services, computer and technology, investment advisory facilities, executive and supervisory personnel, and all other equipment and services customarily required for managing the Managed Funds. Except as expressly provided otherwise herein, City shall pay all of its own expenses including, without limitation, taxes, commissions, fees and expenses of City's independent auditors and legal counsel, if any, brokerage and other expenses connected with the execution of portfolio security transactions, insurance premiums, and fees and expenses of the Custodian.
- E. Registered Advisor; Duty of Care. Contractor hereby represents it is a registered investment advisor under the Investment Advisers Act of 1940. Contractor shall immediately notify City if at any time during the term of this Agreement it is not so registered or if its registration is suspended. Contractor agrees to perform its duties and responsibilities under this Agreement with reasonable care. The federal securities laws impose liabilities under certain circumstances on persons who act in good faith.

Nothing herein shall in any way constitute a waiver or limitation of any rights which City may have under any federal securities laws. City hereby authorizes Contractor to sign I.R.S. Form W-9 on behalf of City and to deliver such form to broker-dealers or others from time to time as required in connection with securities transactions pursuant to this Agreement.

- F. Contractor's Other Clients. City understands that Contractor performs investment advisory services for various other clients which may include investment companies, commingled trust funds and/or individual portfolios. City agrees that Contractor, in the exercise of its professional judgment, may give advice or take action with respect to any of its other clients which may differ from advice given or the timing or nature of action taken with respect to the Managed Funds. Contractor shall not have any obligation to purchase, sell or exchange any security for the Managed Funds solely by reason of the fact that Contractor, its principals, affiliates, or employees may purchase, sell or exchange such security for the account of any other client or for itself or its own accounts.
- G. Force Majeure. Contractor shall have no liability for any losses arising out of the delays in performing or inability to perform the services which it renders under this Agreement which result from events beyond its control, including interruption of the business activities of Contractor or other financial institutions due to acts of God, pandemic, "superhuman cause," acts of governmental authority, acts of war, terrorism, civil insurrection, riots, labor difficulties, or any action or inaction of any carrier or utility, or mechanical or other malfunction.
- H. Disciplinary Actions. Contractor shall promptly give notice to City if Contractor shall have been found to have violated any state or federal securities law or regulation in any final and unappealable judgment in any criminal action or civil suit in any state or federal court or in any disciplinary proceeding before the Securities and Exchange Commission ("SEC") or any other agency or department of the United States, any registered securities exchange, FINRA, or any regulatory authority of any State based upon the performance of services as an investment advisor.
- I. Books. Contractor shall maintain records of all transactions in the Managed Funds. Contractor shall provide City with a monthly statement showing deposits, withdrawals, purchases and sales (or maturities) of investments, earnings received, and the value of assets held on the last business day of the month. The statement shall be in the format and manner that is mutually agreed upon by Contractor and City. Other reporting requirements and electronic access to the City's account shall be provided by the Contractor as described in Exhibit A – Scope of Services or as reasonably requested by the City.

- J. Brochure and Brochure Supplement. Contractor warrants that it has delivered to City prior to the execution of this Agreement Contractor's current SEC Form ADV, Part 2A (brochure) and Part 2B (brochure supplement). City acknowledges receipt of such brochure and brochure supplement prior to the execution of this Agreement.

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"

PFM ASSET MANAGEMENT LLC
a Delaware limited liability company

Dated: 7/6/2020

By (Signature): 

Name: Monique Spyke

Title: Managing Director

50 California Street

Principal Place of Suite 2300

Business Address: San Francisco, CA 94111

Email Address: spykem@pfm.com

Telephone: (415) 982-5544

Fax: (415) 982-4513

"CONTRACTOR"

EXHIBIT A

SCOPE OF SERVICES

1. GENERAL

- 1.1.** The City currently manages the investment of its pooled portfolio, which as of May 31, 2020 totaled \$770 million (Managed Funds). Of this amount, approximately \$64 million is invested with the State's Local Agency Investment Fund (LAIF) to meet the City's liquidity needs. Under this Agreement, the City designates and retains Contractor to furnish investment advisory and portfolio management services for the City's portfolio.
- 1.2.** To the extent not inconsistent with this Agreement between the City and Contractor including this Scope of Services, the City's RFP 19-20-36 (including subsequent updates), Contractor's proposal response dated February 18, 2020 and Contractor's oral demonstration materials dated May 5, 2020 are hereby incorporated by reference herein, and shall supplement this Scope of Services and be subject to the terms and conditions of the Agreement.

2. SCOPE OF SERVICES

The services that Contractor shall perform include, but are not limited to, the following:

- 2.1.** Provide full-time investment management services in accordance with the City's Investment Policy and State law.
- 2.2.** Assist with reviewing and recommending any appropriate amendments to the City's Investment Policy at the outset of the contract term and assist with the annual review and update of the Investment Policy.
- 2.3.** Assist the City with developing an appropriate cash flow model to minimize balances held in highly liquid but low interest accounts (e.g., bank accounts and LAIF).
- 2.4.** Assist the City with maturity analysis.
- 2.5.** Provide credit analysis and assess risk of portfolio investments.
- 2.6.** Work with the City's third-party custodian for safekeeping of securities and provide services required to execute and settle investment trades. Contractor will not act as a custodian of assets in the account or have possession of any such assets.
- 2.7.** Recommend and justify appropriate investment benchmarks.
- 2.8.** Provide detailed monthly reports of investment portfolio activity, performance, holdings by investment type, maturity, broker, weighted average maturity,

- duration, benchmark comparison, and other such reports normally provided to governmental clients. Provide separate annual portfolio holding, activity, and performance reports and relevant GASB reports based on the City's fiscal year (July 1 – June 30). Provide custom reports as requested by the City at no additional cost.
- 2.9.** Be available to Finance Department staff in a timely manner by telephone or email and meet with and provide information to Finance Department staff upon request, and if requested, to other interested parties such as the Investment Committee, City Council and/or City Manager.
 - 2.10.** Attend City Council meetings for the annual review of the investment policy.
 - 2.11.** Provide assurance of portfolio compliance with all federal and State of California laws as well as ordinances, resolutions, and policies of the City relating to the investment of public funds.
 - 2.12.** Annually perform due diligence reviews of the broker/dealers, custodian bank, and financial institutions utilized by the City and provide supporting documentation to the City.
 - 2.13.** Act as a fiduciary agent to the City, serving as an independent advisor to represent the best interests of the City.
 - 2.14.** Demonstrate independence from any financial institution or securities brokerage firm, or fully disclose any such relationships relevant to qualified investments for public sector entities.
 - 2.15.** Keep City informed of changing economic conditions through flash emails, daily, weekly, and/or monthly reports including discussion of key economic indicators relevant to the regional, State, national, and global economies.

EXHIBIT B
SCHEDULE OF FEES

1. MAXIMUM COMPENSATION

- 1.1.** The maximum compensation the City will pay the Contractor for all professional fees, costs and expenses provided under this Agreement shall not exceed Eight Hundred Forty Thousand Dollars (\$840,000) during the Initial Term of the Agreement.
- 1.2.** Any additional professional fees, costs and expenses requested by the City that would exceed the preceding maximum amount will be addressed in an Amendment to the Agreement. No additional services will be performed unless both Parties execute an Amendment outlining the services requested and the compensation agreed for such services.

2. FEES

- 2.1.** For its services, Contractor shall receive an investment fee as set forth below:

Schedule	Fee Cap
Year 1: 4.2 basis points	Not to exceed \$255,000
Year 2: 4.7 basis points	Not to exceed \$280,000
Year 3: 5.2 basis points	Not to exceed \$305,000
Year 4: 5.2 basis points	Not to exceed \$305,000 + COLA (see Section 2.1.1 below)
Year 5: 5.2 basis points	Not to exceed \$305,000 + COLA (see Section 2.1.1 below)

2.1.1. For Years 4 and 5:

- 2.1.1.1.** Cost-of-Living Adjustment (COLA) shall be in line with the Consumer Price Index.
- 2.1.1.2.** Should invested assets exceed \$730 million, a commensurate increase will be calculated in the fee cap. Contractor shall request such adjustment to the fee cap at least sixty (60) days prior to the beginning of the renewal period.

3. INVOICING

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. 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:

\$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 an occurrence 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.

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, Contractor and/or its subcontractors involved in such activities shall provide coverage with a limit of one million dollars (\$1,000,000) 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 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 forty million dollars (\$40,000,000) per claim and in 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, with the exception of workers compensation, 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 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 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. Contractor agrees to provide the City written notice at least thirty (30) days prior to the effective date of any modification of coverage provided.
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, separately 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 e-mailed to ctsantaclara@ebix.com:

Or by mail to:
EBIX Inc.
City of Santa Clara – Finance Department

P.O. Box 100085 – S2
Duluth, GA 30096
Telephone number: 951-766-2280
Fax number: 770-325-0409

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 representative