

**AGREEMENT FOR SERVICES
BETWEEN THE
CITY OF SANTA CLARA, CALIFORNIA,
AND
SEL ENGINEERING SERVICES, INC.**

PREAMBLE

This Agreement is entered into between the City of Santa Clara, California, a chartered California municipal corporation (City) and SEL Engineering Services, Inc. a New York 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 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 March 1, 2019 and terminate on February 28, 2024.

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 in accordance with the specific warranty stated below, that all materials and services covered by this Agreement shall be fit for the purpose intended and specifically specified by the City, 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 in accordance with the specific warranty below, at no further cost to City when defects are directly due to the negligence, errors or omissions of Contractor. If Contractor fails to promptly correct or replace materials or services as indicated herein, if Contractor is unable to do so, City may make corrections or replace materials or services and charge Contractor for the direct, documented cost incurred by City.

Contractor warrants to City that Contractor material/goods are free from defects in material and workmanship for ten (10) years after shipment for all Contractor material/goods, including Contractor-manufactured control enclosure structures and panels. This warranty is conditioned upon proper storage and shall be void in its entirety if City modifies Contractor material/goods without prior written consent to and subsequent approval of any such modifications by Contractor or uses material/goods for any applications that require product listing or qualification not specifically included in the Contractor written quotation or proposal. If any Contractor material/good fails to conform to this warranty, City properly notifies Contractor of such failure and City returns the Contractor material/good to Contractor factory for diagnosis (and pays all expenses for such return), Contractor shall correct any such failure by, at its sole discretion, either repairing any defective or damaged Contractor material/good part(s) or making available any necessary replacement part(s) or Contractor material/good(s); freight will be prepaid by Contractor (Carriage Paid to (CPT) City). If Contractor is unable or unwilling to repair or replace, Contractor and City shall negotiate a prorated refund to the City's account. Any Contractor material/good repair or upgrade shall be covered by this warranty for the longer of one (1) year from date of repair or

the remainder of the original warranty period. TO THE MAXIMUM EXTENT PERMITTED BY LAW, THIS WARRANTY SHALL BE EXCLUSIVE AND IN LIEU OF ALL OTHER WARRANTIES, WHETHER STATUTORY, EXPRESS OR IMPLIED (INCLUDING WARRANTIES OF MERCHANTABILITY AND FITNESS FOR PARTICULAR PURPOSE AND WARRANTIES ARISING FROM COURSE OF PERFORMANCE OR DEALING OR USAGE OF TRADE), EXCEPT WARRANTY OF TITLE AND AGAINST PATENT INFRINGEMENT. Contractor shall, whenever possible, pass the original manufacturer warranty to City for non-Contractor material/goods. Contractor does not warrant non-Contractor material/goods, including non-Contractor control enclosure structures, and non-Contractor products within Contractor panels, control enclosure structures and systems, and products or prototypes provided by Contractor for testing, marketing, or loan purposes. Contractor shall reperform or at Contractor's option and City's approval, pay a third party to reperform (or, at Contractor's option, pay a third party to reperform) any defective services (including services performed in conjunction with Contractor systems) at no cost to City as long as receipt of notice detailing the defect(s) is received by Contractor within one (1) year of performance of the original services.

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. 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 three hundred eighty-seven thousand seventy-four dollars and zero cents (\$387,074.00), 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 without a written Amendment to the Agreement as set forth in Section 23.

Contractor will bill City on a monthly basis for Services provided by Contractor during the preceding month, subject to verification by City. City will pay Contractor within thirty (30) days of City's receipt of invoice.

7. TERMINATION

- A. Termination for Convenience. City shall have the right to terminate this Agreement, without cause or penalty, by giving not less than Thirty (30) days' prior written notice to Contractor. City shall pay Contractor for all Services satisfactorily performed up to the date of termination.
- 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 upon ten (10) days prior written notice to Contractor. If Contractor fails to respond with a remediation plan to cure such default within the said ten (10) day notice period, the Agreement will be terminated on the 11th day. City shall pay Contractor for all Services satisfactorily performed up to the date of termination.
- C. Upon termination, each Party shall assist the other in arranging an orderly transfer and close-out documents to finalize 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 provided to Contractor which Contractor has in its possession.

8. 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.

9. NO THIRD PARTY BENEFICIARY

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

10. INDEPENDENT CONTRACTOR

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.

11. CONFIDENTIALITY OF MATERIAL

All ideas, memoranda, specifications, plans, manufacturing procedures, data, drawings, descriptions, documents, discussions or other information provided to Contractor by City 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.

12. 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 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.

13. 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, to the extent arising out of, pertaining to, or related to the direct negligence, recklessness, or willful misconduct of the Contractor, its employees, subcontractors, or agents in the performance, or non-performance, of Services under this Agreement.
- B. Notwithstanding any term in this Agreement, Contractor's liability to City or its insurers for any loss or damage regarding this Agreement shall be limited as follows: i) for those claims covered by Contractor's insurance, arising while Contractor is on City's premises and where City has been named as an additional insured upon the applicable insurance policy,

Contractor's liability shall be limited to the amount of the applicable insurance policy, ii) for all other claims, except those arising as a result of Contractor's violation of applicable law or patent infringement, Contractor's liability shall in no event exceed three times the price of this Agreement, whether as a result of breach of contract, indemnity, warranty, tort (including negligence), strict liability or otherwise and any liability shall terminate at a reasonable time, not to exceed two (2) years, after provision of the Services. Claims against Contractor are hereby agreed to have accrued not later than the completion of the Services, notwithstanding any laws to the contrary. Contractor shall not be liable for any special, consequential, incidental or punitive damages, including without limitation any loss of profit or revenues, loss of use of products or associated equipment, damage to associated equipment, cost of capital, cost of substitute products, facilities, services or replacement power or downtime costs.

14. 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.

15. 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.

16. NOTICES

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

City of Santa Clara
Attention: Electric Department
1500 Warburton Avenue
Santa Clara, CA 95050
and by e-mail at mrevino@santaclaraca.gov, and
manager@santaclaraca.gov

And to Contractor addressed as follows:

SEL Engineering Services, Inc.
2350 NE Hopkins Court
Pullman, WA 99163
and by e-mail at selcontracts@selinc.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.

17. 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>).

18. 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. This Agreement does not prevent either Party from entering into similar agreements with other parties.

19. 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.

20. 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. Except for the approval from the City's Council and related boards, the City will not use Contractor's name, trademarks, or logo's in any public releases in media.

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. AMENDMENTS

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

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.

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"

SEL ENGINEERIGN SERVICES, INC.
a New York corporation

Dated: November 29, 2018
By (Signature): 
Name: Joseph Nestegard
Title: Secretary & Treasurer
Principal Place of
Business Address: 2350 NE Hopkins Court Pullman, WA 99163
Email Address: selcontracts@selinc.com
Telephone: (509) 332-1890
Fax: (509) 332-7990

"CONTRACTOR"

EXHIBIT A
SCOPE OF SERVICES

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

Service Description
Parker Substation Provide logic diagrams, relay configuration settings, and functional test plans for the following relays: -Qty. (8) SEL-311L Line Current Differential Protection and Automation Systems (includes remote terminals) -Qty. (3) SEL-487E Transformer Protection Relays -Qty. (3) SEL-387E Current Differential and Voltage Relays -Qty. (3) SEL-2411 Programmable Automation Controllers
Serra Substation Provide logic diagrams, relay configuration settings, and functional test plans for the following relays: -Qty. (8) SEL-311L Line Current Differential Protection and Automation Systems (includes remote terminals) -Qty. (2) SEL-487E Transformer Protection Relays -Qty. (2) SEL-387E Current Differential and Voltage Relays -Qty. (8) SEL-587Z High-Impedance Differential Protection Relays -Qty. (22) SEL-451 Protection, Automation, and Bay Control Systems -Qty. (25) SEL-751A Feeder Protection Relays -Qty. (9) SEL-2411 Programmable Automation Controllers
Fairview Substation Provide logic diagrams, relay configuration settings, and functional test plans for the following relays: -Qty. (1) SEL-487E Transformer Protection Relay -Qty. (1) SEL-387E Current Differential and Voltage Relay -Qty. (4) SEL-587Z High-Impedance Differential Protection Relays -Qty. (11) SEL-451 Protection, Automation, and Bay Control Systems -Qty. (12) SEL-751A Feeder Protection Relays -Qty. (3) SEL-2411 Programmable Automation Controllers

Oaks Junction Substation

Provide logic diagrams, relay configuration settings, and functional test plans for the following relays:

- Qty. (8) SEL-311L Line Current Differential Protection and Automation Systems (includes remote terminals)
- Qty. (3) SEL-487E Transformer Protection Relays
- Qty. (3) SEL-587Z High-Impedance Differential Protection Relays
- Qty. (3) SEL-2411 Programmable Automation Controllers

South Loop Expansion Project

Provide logic diagrams, relay configuration settings, and functional test plans for the following relays:

- Qty. (16) SEL-311L Line Current Differential Protection and Automation Systems

Scott Receiving Station (SRS)

Provide logic diagrams, relay configuration settings, and functional test plans for the following relays:

- Qty. (14) SEL-411L Advanced Line Differential Protection, Automation, and Control Systems
- Qty. (1) SEL-321 Phase and Ground Distance Relay
- Qty. (2) SEL-487E Transformer Protection Relays
- Qty. (2) SEL-387E Current Differential and Voltage Relays
- Qty. (1) SEL-487B Bus Differential and Breaker Failure Relay
- Qty. (18) SEL-311L Line Current Differential Protection and Automation Systems (includes remote terminals)
- Qty. (1) high-side overcurrent relay for 66kV-12kV transformers at Raymond Substation (relay model TBD)

Homestead Substation

Provide logic diagrams, relay configuration settings, and functional test plans for the following relays:

- Qty. (8) SEL-311L Line Current Differential Protection and Automation Systems (includes remote terminals)
- Qty. (3) SEL-487E Transformer Protection Relays
- Qty. (3) SEL-387E Current Differential and Voltage Relays
- Qty. (8) SEL-587Z High-Impedance Differential Protection Relays
- Qty. (22) SEL-451 Protection, Automation, and Bay Control Systems
- Qty. (25) SEL-751A Feeder Protection Relays
- Qty. (9) SEL-2411 Programmable Automation Controllers

Esperanca Substation

Provide logic diagrams, relay configuration settings, and functional test plans for the following relays:

- Qty. (8) SEL-311L Line Current Differential Protection and Automation Systems (includes remote terminals)
- Qty. (3) SEL-487E Transformer Protection Relays
- Qty. (3) SEL-387E Current Differential and Voltage Relays
- Qty. (12) SEL-587Z High-Impedance Differential Protection Relays
- Qty. (33) SEL-451 Protection, Automation, and Bay Control Systems
- Qty. (36) SEL-751A Feeder Protection Relays
- Qty. (12) SEL-2411 Programmable Automation Controllers

Laurelwood Substation

Provide logic diagrams, relay configuration settings, and functional test plans for the following relays:

- Qty. (8) SEL-311L Line Current Differential Protection and Automation Systems (includes remote terminals)
- Qty. (3) SEL-487E Transformer Protection Relays
- Qty. (3) SEL-387E Current Differential and Voltage Relays
- Qty. (3) SEL-2411 Programmable Automation Controllers

Northern Receiving Station (NRS)

Provide logic diagrams, relay configurations settings, and functional test plans for the following relays:

- Qty. (14) SEL-311L Line Current Differential Protection and Automation Systems (includes remote terminals)
- Qty. (2) transformer overcurrent relays (relay model TBD)
- Qty. (2) Basler breaker failure relays (relay model TBD)

General Engineering Support

This item is a general fund to support additional customer requests as they arise. Prior to commencing work on any additional requests, SEL ES and SVP will agree on a firm scope of work and associated estimated cost.

Option Description**On-site Commissioning Support**

On-site commissioning support can be provided for additional cost, should the need arise. If commissioning support is required, SEL will provide a change order for services provided on a time and expense basis.

EXHIBIT B
SCHEDULE OF FEES

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.

Service Description	Price
Parker Substation	\$20,394.00
Serra Substation	\$44,496.00
Fairview Substation	\$31,930.00
Oaks Junction Substation	\$21,321.00
South Loop Expansion Project	\$21,733.00
Scott Receiving Station (SRS)	\$54,899.00
Homestead Substation	\$45,320.00
Esperanca Substation	\$50,779.00
Laurelwood Substation	\$20,394.00
Northern Receiving Station (NRS)	\$24,308.00
General Engineering Support	\$51,500.00

Role	Weekday (per hour)	Weekday Overtime (per hour)	Saturday (per hour)	Sunday/ Holiday (per hour)	Travel (per hour)	Travel Expenses
Consultant	\$250	\$375	\$375	\$500	\$250	Actual
Principal Engineer	\$181	\$271.50	\$271.50	\$362	\$181	Actual
Senior Engineer	\$170	\$255	\$255	\$340	\$170	Actual
Project Engineer III	\$150	\$225	\$225	\$300	\$150	Actual
Project Engineer II Project Manager II-III	\$140	\$210	\$210	\$280	\$140	Actual
Project Engineer I Project Manager I Senior Specialist Senior Designer	\$130	\$195	\$195	\$260	\$130	Actual
Specialist II-III	\$116	\$174	\$174	\$232	\$116	Actual
Associate Project Engineer Associate Project Manager	\$112	\$168	\$168	\$224	\$112	Actual

Technician II-III Specialist I Designer IV Project Coordinator	\$107	\$160.50	\$160.50	\$214	\$107	Actual
Technician I Designer I-III	\$86	\$129	\$129	\$172	\$86	Actual
Associate Technician Engineering Intern Drafter I-II Senior Project Administrator	\$74	\$111	\$111	\$148	\$74	Actual
Administrative	\$64	\$96	\$96	\$128	\$64	Actual

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, at its sole cost and expense, the following insurance policies with at least the indicated coverages, provisions and endorsements:

A. COMMERCIAL GENERAL LIABILITY INSURANCE

1. Commercial General Liability Insurance policy which provides coverage at least as broad as Insurance Services Office form CG 00 01. Policy limits are subject to review, but shall in no event be less than, the following:

\$1,000,000 Each Occurrence
\$2,000,000 General Aggregate
\$2,000,000 Products/Completed Operations Aggregate
\$1,000,000 Personal Injury
2. Exact structure and layering of the coverage shall be left to the discretion of 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, 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 two million dollars (\$2,000,000) per accident covering transportation of such materials by the addition to the Business Auto Coverage Policy of Environmental Impairment Endorsement MCS90 or Insurance Services Office endorsement form CA 99 48, which amends the pollution exclusion in the standard Business Automobile Policy to cover pollutants that are in or upon, being transported or towed by, being loaded onto, or being unloaded from a covered auto.

C. WORKERS' COMPENSATION

1. Workers' Compensation Insurance Policy as required by statute and employer's liability with limits of at least one million dollars (\$1,000,000) policy limit Bodily Injury by disease, one million dollars (\$1,000,000) each accident/Bodily Injury and one million dollars (\$1,000,000) each employee Bodily Injury by disease.
2. The indemnification and hold harmless obligations of 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. 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 D of this Exhibit C, above.

E. 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.

F. 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.

G. 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 [Electric Department]

P.O. Box 100085 – S2

or

1 Ebix Way

Duluth, GA 30096

John's Creek, GA 30097

Telephone number: 951-766-2280

Fax number: 770-325-0409

Email address: ctsantaclara@ebix.com

H. 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.