



EBIX Insurance No. S200004113

**AGREEMENT FOR DESIGN PROFESSIONAL SERVICES  
BETWEEN THE  
CITY OF SANTA CLARA, CALIFORNIA,  
AND  
BELLECCI & ASSOCIATES, INC.**

**PREAMBLE**

This Agreement is entered into between the City of Santa Clara, California, a chartered California municipal corporation (City) and Bellecci & Associates, 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

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 June 10, 2019 and terminate on December 31, 2023.

## **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.

- 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.
- B. The title sheet for specifications and reports, and each sheet of plans, shall bear the professional seal, certificate number, registration classification, expiration date of certificate and signature of the design professional responsible for their preparation.

## **4. REMEDY OF DEFECTS**

The 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 respond to the documented requests from the City to correct defective services, City may make corrections to 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 professional 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 eighty-six thousand, one hundred fifty-three dollars (\$86,153), 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.

## 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.
- 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.

## 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 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.

**12. OWNERSHIP OF MATERIAL**

All material, which shall include, but not be limited to, data, sketches, tracings, drawings, plans, diagrams, quantities, estimates, specifications, proposals, tests, maps, calculations, photographs, reports, designs, technology, programming, works of authorship and other material developed, collected, prepared or caused to be prepared under this Agreement shall be the property of City but 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.

**13. 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.

**14. 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.

**15. 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.

**16. 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.

**17. NOTICES**

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

City of Santa Clara  
Attention: Department of Electric Utility  
1500 Warburton Avenue  
Santa Clara, CA 95050  
and by e-mail at [dshiles@santaclaraca.gov](mailto:dshiles@santaclaraca.gov), and  
[manager@santaclaraca.gov](mailto:manager@santaclaraca.gov)

And to Contractor addressed as follows:

Bellecci & Associates, Inc.  
Attention: Daniel Leary  
7077 Koll Center Parkway, Suite 210  
Pleasanton, CA 94566

and by e-mail at [daniel@bellecci.com](mailto:daniel@bellecci.com)

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

**18. COMPLIANCE WITH LAWS**

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>).

**19. 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.

**20. 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.

**21. 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.

**22. GOVERNING LAW AND VENUE**

This Agreement shall be governed and construed in accordance with the statutes and laws of the State of California. The venue of any suit filed by either Party

shall be vested in the state courts of the County of Santa Clara, or if appropriate, in the United States District Court, Northern District of California, San Jose, California.

**23. SEVERABILITY CLAUSE**

In case any one or more of the provisions in this Agreement shall, for any reason, be held invalid, illegal or unenforceable in any respect, it shall not affect the validity of the other provisions, which shall remain in full force and effect.

**24. AMENDMENTS**

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

**25. COUNTERPARTS**

This Agreement may be executed in counterparts, each of which shall be deemed to be an original, but both of which shall constitute one and the same instrument.

The Parties acknowledge and accept the terms and conditions of this Agreement as evidenced by the following signatures of their duly authorized representatives.

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

Approved as to Form:

Dated: 6-19-19

  
for BRIAN DOYLE  
City Attorney

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

"CITY"

**BELLECCI & ASSOCIATES, INC.**  
a California corporation

Dated: 5-28-19

By (Signature): 

Name: Frank C. Bellecci

Title: President

Principal Place of Business Address: 2290 Diamond Blvd., Suite 100  
Concord, CA 94520

Email Address: frank@bellecci.com

Telephone: (925) 685-4569

Fax: ( )

"CONTRACTOR"



## EXHIBIT A SCOPE OF SERVICES

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

### **Project Description**

The City of Santa Clara, Silicon Valley Power (SVP) is undertaking improvement work located on the City's off-site property at 2313 Lopes Road, Benicia, CA, known as the "Benicia Ranch". The Benicia property is owned and maintained by the City for the purpose of future energy production. The Property was used as a dairy before the City acquired it. This Project will include existing structure demolition and site utility lateral stub out improvements.

The following structures will be demolished on the Project.

- **Caretakers Dwelling**

The Caretakers Dwelling structure (a 2500 SF single-family home and basement) is to be demolished. The Caretaker Dwelling is assumed to be of no historical value.

- **Milk House and Garage Demolition**

The Property contains two structures that have reached the end of their service life and must be demolished. The first structure is an old cattle milking parlor that has developed a large vertical crack in its cement/cinder block walls that are visible in the front and back making the structure structurally unsound. The second structure is a detached garage that has a cracked foundation. The Milking Parlor acts as a hub for the electrical distribution for the Property.

Part of the demolition plans, prepared by the Civil Engineering Prime, will need to include the selection of a utility shed for this hub to be relocated.

### **1. Demolition of Structures**

#### **A. Service:**

- One field site visit by an Engineer, including travel

#### **B. Deliverables:**

- Demolition plans
- Utility shed plans
- Existing structural conditions narrative

## **2. Well Evaluation – Lordorff & Scalmanini (LSCE)**

### **A. Services:**

- LSCE will evaluate the condition, yield, and water quality of the subject well at Benicia Ranch. It is assumed that the pump is operational and that power is available to run the pump. LSCE will review available State of California Water Well Drillers Completion Reports to determine the construction details of the well.
- LSCE will perform visual inspection of the well head, discharge assembly, well seal, and well pad.
- LSCE will perform a minimum two-hour pump test. During the test, water levels and flowrate will be collected. Water levels will be plotted on a hydrograph and used to calculate yield and 24-hour specific capacity.
- LSCE will collect and submit water samples for Title 22 general physical, general mineral, and drinking water metals analysis.
- The home inspection report says there is no power to the well. Based on this, LSCE will provide temporary power via a generator and install temporary wiring to turn on the pump in order to make a condition evaluation.

### **B. Deliverable**

- LSCE will submit a PDF report detailing the findings and results of the well evaluation and the fitness of the well for domestic supply. The report will also include recommendations of well repair or modification as warranted.

## **3. Electrical Engineering – SEMCO Consultants (SEMCO)**

### **A. Services**

- SEMCO will perform demolition of existing load and PG&E service relocation at the Benicia Ranch.
- SEMCO will perform a field verification of existing electrical as built conditions.
- SEMCO will review the existing building load connected to the system.
- SEMCO will prepare demolition drawings for the existing electrical system based on the site visit findings.
  - Design Relocation of PG&E Service.
  - Complete PG&E application.

- Design site layout plan and PG&E load requirement sheet.
- Design new Service Panel for existing load re-connection.

B. Deliverables:

- Drawings submittal in PDF format, 90%
- stamped drawings submittal in PDF format, 100%

C. Assumptions, Clarifications and Exclusions:

- One (1) site visit is included.
- Bellecci & Associates to provide ACAD backgrounds.
- Arc Flash, Short Circuit and Relay Coordination are not included in the scope of this Project.
- PG&E relocation fees is not included in the scope of work.
- Detail design of the site loads is not included in the scope of work.

#### **4. Asbestos Evaluation - Van Brundt**

A. Services:

- Van Brundt will provide a Building Inspection, Sampling and Report and Laboratory Testing and Evaluation to determine if abatement work will be required prior to any demolition work being performed.
- Van Brundt tests and samples will include 40 PLM/Lead samples, bulk 4 PCB samples and 5 bulk concrete samples).

B. Deliverable(s):

- Van Brundt will provide a written inspection report identifying sample locations and hazardous materials that could impact the planned work. The report will detail our inspection findings, list hazardous materials present, and provide required actions to abate, remove, or stabilize the materials. Attachments to this report will include laboratory reports, COCs, and sample location plans. Van Brundt will also provide CADD abatement drawings and a bid information sheet. CADD drawings will show where hazardous materials are recommended or required for removal and will be used for abatement contractor bidding purposes. Based on the inspection finding they will also generate a hazardous materials cost estimate and man-power loaded schedule for the abatement for budgetary and scheduling purposes.

- Abatement Project Design and Drawings
- Cost Estimates and Schedules
- Abatement Bidding Assistance
- Oversight and Air Monitoring during Abatement (includes 2 TEM area air samples per shift)
- Clearance Air Monitoring (includes 3 TEM samples per contained work area)

**5. Civil Engineering/Base Mapping/Project Management - Bellecci & Associates**

A. Services:

- Aerial Base map
- Project management of the design team
- Regular Project meetings (either in-person or by conference call)
- Overall Site layout plan and cover sheet
- Combined Technical specifications
- Project schedule updates at each submittal
- Combined construction cost estimates
- Grading and backfill requirements at demolished buildings for positive surface drainage. Wet utilities stubs plan
- Demolition plans
- The following information will be noted on the final design:
  - At least 50%, or more if required by local law, of the waste generated through the demolition process must be diverted from landfills and recycled, either in the project or offsite.
  - All debris and waste generated through the demolition process shall be removed from the Property unless recycled for use in the Project.
    - A presentation of the plan set to City personnel before Bid set
    - Coordinate with SVP and subconsultants to research permits required and provide a list of the known permits

- Erosion Control plans
- Specifications for SWPPP to be completed by Contractor
- After the initial submittal to the Solano County Planning Department, the Planning Department will generate a comment letter addressed to the design team that is typically several pages of conditions of approval. The conditions of approval may include items of work not anticipated in the contract scope of work, such as: off-site improvements, added engineering studies (traffic, drainage, etc), and added exhibits. It is understood and agreed by both parties that all of items which may be requested by the permitting agency on a land development project cannot be anticipated during the proposal phase of the project. The scope of work prepared contains the items of work that would be typically required for a residential building project on a large rural parcel, and with enough detail that the plans can be stamped by the California Licensed engineer on the design.

## **6. Design Service during Construction**

The Architect will provide construction support services as needed on a time and materials basis up to the amount included in the attached Fee Schedule. This task includes visits to the site by Engineer's Project Representative at intervals appropriate to the stage of the Work or as otherwise agreed by SVP and Architect in writing to become generally familiar with the progress and quality of the Work completed and to determine, in general, if the Work when completed will be in accordance with Contract Documents. Architect disclaims any and all responsibility for the Contractor's work product and quality of work. Hours will be tracked and communicated to the Client to track the support services budget.

### **A. Examples of Construction Support Services:**

- Attend Pre-Construction Meeting
- Construction Meetings
- Construction Observation & Reports
- Respond to Contractor's Requests for Information (RFI)
- Bulletins / Supplemental Instructions
- Review Contractor's submittals, including Shop Drawings, data for general compliance with Construction
- Conference Calls

- Review of test reports, special inspection reports, & design verification reports as required by building officials
- The above services are assumed to be 32 hours of services, which is typical for a small demolition project in a rural setting.

B. Examples of Civil Engineering Support Service:

- The civil engineering support requirements are expected to be minor and services will be provided on a time & materials basis up to the budget included into the spreadsheet, up to 8 hours

C. Examples of Deliverables:

- Review Contractor's submittals, including Shop Drawings and product data for general compliance with Construction Documents as required
- Respond to Contractor's Requests for Information (RFI)
- Punchlist Visit and Report

D. Excluded Services:

- On-Site Full Time Project Representation
- Materials Testing and Inspection Services (contracted directly to SVP)

## SVP - BENICIA RANCH DEMOLITION and NEW DWELLING PROJECT

### Project Schedule

ID	Task Name	Duration
1	NTP	1 day
2	Mapping, Preliminary Engineering & Studies/Reports	14 weeks
3	Final Design	12 weeks
4	Advertise	4 weeks
5	Award and NTP	6 weeks
6	Construction	10 weeks

**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.

 **Bellecci & Associates**

**TIME AND MATERIALS HOURLY RATE SCHEDULE**

EFFECTIVE TO DECEMBER 31, 2019

**ENGINEERING & PLANNING SERVICES**

Principal	\$ 240
Project Manager	\$ 206
Construction Manager	\$ 206
Professional Engineer	\$ 198
Senior Engineer	\$ 174
Design Engineer/Associate Engineer/Project Engineer	\$ 156
Senior Public Works Inspector	\$ 150
Assistant Engineer	\$ 146
Public Works Inspector	\$ 128
Engineering/Surveying Technician	\$ 138
Clerical	\$ 74

**LAND SURVEYING SERVICES**

Professional Land Surveyor	\$ 206
Survey Coordinator	\$ 170
Survey Technician	\$ 138
Flag Person	\$ 94
1-Man Survey Crew	\$ 198
2-Man Survey Party	\$ 278
3-Man Survey Party	\$ 358

**LEGAL AND EXPERT SERVICES**

Depositions and Trial Testimony	\$ 325
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**REIMBURSABLE EXPENSES**

Mileage (per current IRS reimbursement rate)

In House Printing:	Bond.....	\$0.20/sf
	Mylar.....	\$5.00/sf
	Large Format Color Presentation .....	\$2.50/sf



Color Copies – 8.5” x 11”..... \$1.00/ea  
 - 11” x 17” ..... \$1.90/ea

Outside Printing & Delivery Services: Cost + 10%  
 Subcontractors: Cost + 10%

Overtime work will be charged at 135% of the standard hourly rates, however, no overtime will be charged without prior authorization by the client.



**Silicon Valley Power - Benicia Ranch Demolition & Utility Services Project  
 Final Design - Construction Documents and Construction Support**

Bellecci Team Budget - updated March 2019 rev 11

#	Task	Bellecci	Ware Associates	Van Brunt	Luhdorff & Scalmanini	Semco	Task Total	
		Civil Engineering & PM	Structural Engineering	Asbestos	Well Eval / Mech Engineers	Electrical Engineers		
1	Demo Caretakers House	\$7,000	\$3,000				\$10,000	
2	Asbestos Evaluation/Report			\$4,078			\$4,078	
3	Asbestos Plans			\$2,000			\$2,000	
4	Well Evaluation				\$6,250		\$6,250	
5	Utility Shed Design					\$5,000	\$5,000	
6	Garage Demolition Design	\$3,000					\$3,000	
7	Milk House Demolition Design	\$6,000					\$6,000	
8	Site Civil Design/Specifications	\$25,000					\$25,000	
9	Project Management	\$5,500					\$5,500	
10	Base Mapping	\$4,000					\$4,000	
11	WARE: Bid and Construction Support (T&M Allow)		\$1,000				\$1,000	
12	Bellecci Construction Support (T&M Allow)	\$6,500					\$6,500	
13	Subconsultant Contingency (20%)		\$800	\$1,216	\$1,250	\$1,000	\$4,266	
14	Printing & Delivery (allowance)	\$1,000					\$1,000	
15	Sub Mark-up (10%)		\$480	\$729	\$750	\$600	\$2,559	
SUBTOTAL		\$58,000	\$5,280	\$8,023	\$8,250	\$6,600		
Total Basic Services							\$86,153	

*\*\* note actual distribution of contingency to distribution of effort to vary dueling the project development process*

**EXHIBIT C**  
**INSURANCE REQUIREMENTS**

Without limiting the Consultant's indemnification of the City, and prior to commencing any of the Services required under this Agreement, the Consultant shall provide and maintain in full force and effect 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 Consultant'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 Consultant; however, any excess or umbrella policies used to meet the required limits shall be at least as broad as the underlying coverage and shall otherwise follow form.
3. The following provisions shall apply to the Commercial Liability policy as well as any umbrella policy maintained by the Consultant to comply with the insurance requirements of this Agreement:
  - a. Coverage shall be on a "pay on behalf" basis with defense costs payable in addition to policy limits;
  - b. There shall be no cross liability exclusion which precludes coverage for claims or suits by one insured against another; and
  - c. Coverage shall apply separately to each insured against whom a claim is made or a suit is brought, except with respect to the limits of liability.

**B. BUSINESS AUTOMOBILE LIABILITY INSURANCE**

Business automobile liability insurance policy which provides coverage at least as broad as ISO form CA 00 01 with policy limits a minimum limit of not less than one million dollars (\$1,000,000) each accident using, or providing coverage at

least as broad as, Insurance Services Office form CA 00 01. Liability coverage shall apply to all owned (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, Consultant 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 Consultant included in this Agreement shall not be limited in any way by any limitation on the amount or type of damage, compensation or benefit payable by or for 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 Consultant. Covered services as designated in the policy must specifically include work performed under this agreement. Coverage shall be in an amount of not less than one million dollars (\$1,000,000) per claim or two million dollars (\$2,000,000) aggregate. Any coverage containing a deductible or self-retention must first be approved in writing by the City Attorney's Office.

#### E. COMPLIANCE WITH REQUIREMENTS

All of the following clauses and/or endorsements, or similar provisions, must be part of each commercial general liability policy, and each umbrella or excess policy.

1. Additional Insureds. City of Santa Clara, its City Council, commissions, officers, employees, volunteers and agents are hereby added as additional insureds in respect to liability arising out of Consultant's work for City, using Insurance Services Office (ISO) Endorsement CG 20 10 11 85, or the combination of CG 20 10 03 97 and CG 20 37 10 01, or its equivalent.
2. Primary and non-contributing. Each insurance policy provided by Consultant shall contain language or be endorsed to contain wording making it primary insurance as respects to, and not requiring contribution from, any other insurance which the indemnitied may possess, including any self-insurance or self-insured retention they may have. Any other insurance indemnities may possess shall be considered excess insurance only and shall not be called upon to contribute with Consultant's insurance.
3. Cancellation.
  - a. Each insurance policy shall contain language or be endorsed to reflect that no cancellation or modification of the coverage provided due to non-payment of premiums shall be effective until written notice has been given to City at least ten (10) days prior to the effective date of such modification or cancellation. In the event of non-renewal, written notice shall be given at least ten (10) days prior to the effective date of non-renewal.
  - b. Each insurance policy shall contain language or be endorsed to reflect that no cancellation or modification of the coverage provided for any cause save and except non-payment of premiums shall be effective until written notice has been given to City at least thirty (30) days prior to the effective date of such modification or cancellation. In the event of non-renewal, written notice shall be given at least thirty (30) days prior to the effective date of non-renewal.
4. Other Endorsements. Other endorsements may be required for policies other than the commercial general liability policy if specified in the description of required insurance set forth in Sections A through E of this Exhibit C, above.

#### F. ADDITIONAL INSURANCE RELATED PROVISIONS

Consultant and City agree as follows:

1. Consultant 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 Consultant, provide the same minimum

insurance coverage required of Consultant, except as with respect to limits. Consultant agrees to monitor and review all such coverage and assumes all responsibility for ensuring that such coverage is provided in conformity with the requirements of this Agreement. Consultant agrees that upon request by City, all agreements with, and insurance compliance documents provided by, such subcontractors and others engaged in the project will be submitted to City for review.

2. Consultant agrees to be responsible for ensuring that no contract used by any party involved in any way with the project reserves the right to charge City or Consultant for the cost of additional insurance coverage required by this Agreement. Any such provisions are to be deleted with reference to City. It is not the intent of City to reimburse any third party for the cost of complying with these requirements. There shall be no recourse against City for payment of premiums or other amounts with respect thereto.
3. The City reserves the right to withhold payments from the Consultant in the event of material noncompliance with the insurance requirements set forth in this Agreement.

G. EVIDENCE OF COVERAGE

Prior to commencement of any Services under this Agreement, Consultant, and each and every 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. Consultant shall file with the City all certificates and endorsements for the required insurance policies for City's approval as to adequacy of the insurance protection.

H. EVIDENCE OF COMPLIANCE

Consultant or its insurance broker shall provide the required proof of insurance compliance, consisting of Insurance Services Office (ISO) endorsement forms or their equivalent and the ACORD form 25-S certificate of insurance (or its equivalent), evidencing all required coverage shall be delivered to City, or its representative as set forth below, at or prior to execution of this Agreement. Upon City's request, Consultant shall submit to City copies of the actual insurance policies or renewals or replacements. Unless otherwise required by the terms of this Agreement, all certificates, endorsements, coverage verifications and other items required to be delivered to City pursuant to this Agreement shall be mailed to:

EBIX Inc.

City of Santa Clara – Department of Electric Utility

P.O. Box 100085 – S2

or 1 Ebix Way

Duluth, GA 30096

John's Creek, GA 30097

Telephone number: 951-766-2280  
Fax number: 770-325-0409  
Email address: ctsantaclara@ebix.com

I. QUALIFYING INSURERS

All of the insurance companies providing insurance for Consultant shall have, and provide written proof of, an A. M. Best rating of at least A minus 6 (A- VI) or shall be an insurance company of equal financial stability that is approved by the City or its insurance compliance representatives.