

EBIX Insurance No. S200004043

**AMENDED AND RESTATED AGREEMENT FOR SERVICES
BETWEEN THE
CITY OF SANTA CLARA, CALIFORNIA,
AND
ENVIRONMENTAL RISK SERVICES, INC.**

PREAMBLE

This Agreement is entered into between the City of Santa Clara, California, a chartered California municipal corporation (City) and Environmental Risk Services, Inc., a California corporation, with its principal place of business located at 1515 Oakland Blvd., Ste 250, Walnut Creek, CA 94596 ("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

Exhibit D – Labor Compliance Addendum (if applicable)

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 July 17, 2018 and terminate on June 30, 2019.

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 fit for the purpose intended, shall be free from defect and shall conform to the specifications, requirements and instructions upon which this Agreement is based. Contractor agrees to promptly replace or correct any incomplete, inaccurate or defective Services at no further cost to City when defects are due to the negligence, errors or omissions of Contractor. If Contractor fails to promptly correct or replace materials or services, City may make corrections or replace materials or services and charge Contractor for the 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. 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 Ninety Thousand Dollars (\$90,000.00), 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.

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

- 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 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.

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: City Manager's Office
1500 Warburton Avenue
Santa Clara, CA 95050
and by e-mail at: manager@santaclaraca.gov, and
manager@santaclaraca.gov

And to Contractor addressed as follows:

Mark O'Brien
Environmental Risk Services, Inc.
P.O. Box 1209
Alamo, CA. 94507
and by e-mail at: mobrien@erscorp.us

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:

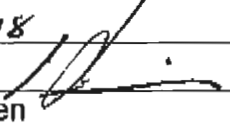
Dated: 12/12/18


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"

ENVIRONMENTAL RISK SERVICES, INC.
a California corporation

Dated: 11/30/18
By (Signature): 
Name: Mark O'Brien
Title: CEO
Principal Place of
Business Address: P.O. Box 1209, Alamo, CA 94507
Email Address: mobrien@erscorp.us
Telephone: (925) 878-3771
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.

Environmental Risk Services (ERS) will provide environmental risk assessment support activities for the City Place Santa Clara development (the Site).

The City of Santa Clara (City) is the current owner of the former Class III *Santa Clara All-Purpose Landfill*. The former landfill covers approximately 210 acres (of which approximately 175 acres underlies planned construction) and is bounded by Highway 237 to the north, the Guadalupe River to the east, Tasman Drive to the south, and Great America Parkway and Saratoga Creek to the West.

The Landfill was operated until 1993 by the City and several contractors such as Mission Trail Waste Systems and Purpose. ERS also understands that the landfill was closed by the San Francisco Regional Water Quality Control Board (RWQCB) in 1994.

The City plans to lease the property to Related Santa Clara, LLC (Related LLC) who plans to develop a mixed-use complex including retail, restaurant, entertainment, and residential uses.

Based on the information provided to ERS will complete the following tasks:

Document Review

ERS will perform a review of the following documents provided by the City:

- Development and Disposition Agreement
- Development Agreement
- WDRs Santa Clara LF - R2-2017-0021
- Final PCLUP Text Figures and Appendices A and B.
- Final PCLUP Appendix C as revised.
- Final PCLUP Appendices G through L.
- Final PCLUP RWQCB Comments on PCLUP 2016-10-28.
- Final PCLUP as revised RWQCB Comments on Revised Final PCLUP 2016-12-09.
- O and M Term Sheet Regarding Obligations for Landfill Post-Closure O and M.
- 2016-12-22 Landfill WDR Letter.
- Final Site Investigation and Environmental Risk Assessment.
- RWQCB Concurrence with Final Site Investigation - Environmental Risk Assessment.
- DEIR Volume I.
- DEIR Volume II.
- DEIR Appendix 1_NOP Comments.
- DEIR Appendix 3.3_Transportation Data.
- DEIR Appendix 3.4_AQ_GHG Data.

- DEIR Appendix 3.6_Noise Data.
- DEIR Appendix 3.7_Native American Consultation.
- DEIR Appendix 3.8_TreeAssessmentReport.
- DEIR Appendix 3.14_Water Supply Assessment.
- DEIR Appendix 4_Urban Decay Analysis.
- FEIR.
- FEIR Exhibit A - Impact Analysis for City Place Enhanced Open Space Variant.
- FEIR Exhibit B - Additional Responses to Comments and Revisions.
- FEIR Appendix 3.1_Final BUOW Committee Report.
- FEIR Appendix 3.2_San José Burrowing Owl Population Increases by 54 Percent in a Year.
- FEIR Appendix 4.1_Attachments to Comments.
- FEIR Appendix 5.1_Revised Transportation Tables.
- FEIR Appendix 5.2_Revised DEIR Appendix 3.3-K - Mitigated Intersection LOS.
- Master Community Plan Volume 1 - Revised December 2, 2016.
- Master Community Plan Volume 2 - Infrastructure June 2016.

Analysis of Current Environmental Site Conditions and prior Site Investigations and Environmental Risk Assessments

An analysis of existing environmental conditions, including interpretation of data from groundwater, landfill gas, refuse, and foundation soils, will be included. ERS will review available consultants' reports to assess previous field investigations including:

- Landfill Gas Investigation (April 2014)
- Geotechnical Investigation (March 2014)
- Soil, Groundwater, and Landfill Gas Characterization (October 2014 and March 2016)

ERS will assess the previous investigations with respect to completeness of historical information, field methods and completeness of sampling, Quality Assurance/Quality Control, the development of a conceptual site model and human health risk assessment, modeling of potential exposures such as vapor intrusion, uncertainties, and recommended mitigation and remediation measures.

Impact to Landfill from Proposed Development

ERS will review the proposed development to assess potential risks to human health or the environment specifically related to the Development and Disposition Agreement as well as construction plan documents (e.g., potential compromises to the landfill cap or low-permeability liner).

Project Management/Risk Management Support

ERS will provide project management support and participate in discussions regarding overall risk management strategy for the project during the period of the scope of work described here.

The assessment to be performed as outlined in the Scope of Work described above will be conducted to ensure compliance with applicable Local, State, and Federal Landfill Regulations including:

- *Federal Regulations*
 - Part 258 ("Criteria for Municipal Solid Waste Landfills") of Title 40 of the *Code of Federal Regulations* (CFR).
 - Part 136 ("Guidelines Establishing Test Procedures for the Analysis of Pollutants") of Title 40 of the CFR.
 - Part 445 ("Landfills Point Source Category") of Title 40 of the CFR.
 - Subpart 60 Cc ("Emission Guidelines and Compliance Times for Municipal Solid Waste Landfills") of Title 40 of the CFR.
 - Subpart 60 GG ("Standards of Performance for Stationary Gas Turbines") and Subpart 60 WWW ("Standards of Performance for Municipal Solid Waste Landfills") of Title 40 of the CFR.
 - Subpart 63 AAAA ("National Emission Standards for Hazardous Air Pollutants: Municipal Solid Waste Landfills") of Title 40 of the CFR (these are proposed regulations that may be finalized in 2002).
 - Part 51.165 ("Review of New Sources and Modifications") and Part 52.21 ("Prevention of Significant Deterioration") of Title 40 of the CFR.
 - "Final Modification of the National Pollutant Discharge Elimination System (NPDES) Stormwater Multi-Sector General Permit for Industrial Activities" (Federal Register, Volume 63, Part VII, 30 September 1998).
- *State of California Regulations*
 - Title 27 ("Environmental Protection") of the *California Code of Regulations* (CCR).
 - Resolution Number 93-62 ("Policy for Regulation of Discharges of Municipal Solid Waste")—State Water Resources Control Board (SWRCB).
 - Order Number 97-03-DWQ ("National Pollution Discharge Elimination System General Permit No. CAS 000001")—SWRCB.
 - Title 14, Section 15000 et seq. (California Environmental Quality Act guidelines) of the CCR.
- *Local Regulations*
 - Air quality regulations related to MSW landfills for California AQMDs.
 - Available California County and city codes, ordinances, and regulations.
 - A sample of conditional use permit requirements (CUPs).

Site Visit

ERS will visit the landfill site to observe the current site conditions, proximity to surface water, drainage, soil conditions, operation of infrastructure and remediation equipment, leachate collection systems, venting systems, etc. The information obtained from the site visit will be summarized in the final report.

Meetings

ERS will participate in meetings as needed with the City, regulatory agencies, developers, attorneys, and technical consultants.

Report Preparation

ERS will develop a written report of our findings for use by the City. The report will detail each of the items in the scope of work described above, and include recommendation for further steps the City may take to reduce future risks associated with the project.

As-Needed Services

ERS will participate in Council closed and/or study sessions and prepare necessary material as directed by the City. ERS will also participate in meeting as necessary with Related LLC.

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.

TIME AND MATERIALS RATE SHEET Calendar Year 2018

Personnel	Rates
Principal Risk Program Manager	\$250 / hour
Senior Engineer	\$255 / hour
Senior Scientist	\$225 / hour
Lead Engineer (incl. GIS / CAD)	\$185 / hour
Lead Scientist	\$165 / hour
Project Engineer	\$175 / hour
Project Scientist	\$165 / hour
Staff Engineer	\$125 / hour
Staff Scientist	\$100 / hour
Junior Engineer	\$95 / hour
Junior Scientist	\$85 / hour
Technical Editor	\$80 / hour
Field Technician	\$75 / hour
Project Assistant	\$65 / hour
Administrator	\$60 / hour
Expenses	Rates
Office supplies, computers, telephones, routine copy, etc.	No charge
Project specific support materials and services	Cost plus 10%
Subcontractors and equipment vendors	Cost plus 15%
Equipment rental from ERS	Varies per item/time

Report Preparation Materials	\$50 / binder
Field Support Vehicles/Sampling Trucks	\$185 / day

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:

COMMERCIAL GENERAL LIABILITY INSURANCE

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

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.

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:

Coverage shall be on a "pay on behalf" basis with defense costs payable in addition to policy limits;

There shall be no cross liability exclusion which precludes coverage for claims or suits by one insured against another; and

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.

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.

WORKERS' COMPENSATION

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.

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).

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.

PROFESSIONAL LIABILITY

Professional Liability or Errors and Omissions Insurance as appropriate shall be written on a policy form coverage specifically designed to protect against negligent acts, errors or omissions of the Contractor. Covered services as designated in the policy must specifically include work performed under this agreement. Coverage shall be in an amount of not less than one million dollars (\$1,000,000) per claim or two million dollars (\$2,000,000) aggregate. Any coverage containing a deductible or self-retention must first be approved in writing by the City Attorney's Office.

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.

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.

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 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 Contractor's insurance.

Cancellation.

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.

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.

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.

ADDITIONAL INSURANCE RELATED PROVISIONS

Contractor and City agree as follows:

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.

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.

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.

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.

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 [City Manager's Office]

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

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.

**AMENDMENT NO. 1
TO THE AMENDED AND RESTATED AGREEMENT FOR SERVICES
BETWEEN THE
CITY OF SANTA CLARA, CALIFORNIA,
AND
ENVIRONMENTAL RISK SERVICES, INC.**

PREAMBLE

This agreement ("Amendment No. 1") is entered into between the City of Santa Clara, California, a chartered California municipal corporation (City) and Environmental Risk Services, 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. The Parties previously entered into an agreement entitled "Amended and Restated Agreement for Services between the City of Santa Clara, California, and Environmental Risk Services, Inc." dated December 12, 2018 (the "Original Agreement"); and
- B. The Parties entered into the Original Agreement for the purpose of having Contractor provide environmental risk assessment support activities for the City Place Santa Clara, and the Parties now wish to amend the Original Agreement to include review of environmental documents and permits as identified on the attached Pre-construction schedule, and tasks required by provisions of the WDRs.

The Parties agree as follows:

AGREEMENT TERMS AND CONDITIONS

1. AMENDMENT TERMS AND CONDITIONS

- A. That Exhibit A of the Original Agreement, entitled "Amended and Restated Agreement for Services between the City of Santa Clara, California, and Environmental Risk Services, Inc." is hereby amended to include the attached Exhibit A-1.
- B. That Section 6 of the Original Agreement, entitled "COMPENSATION AND PAYMENT" is hereby amended to read as follows:

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 Fifty Thousand Dollars (\$350,000.00), 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.

- C. That Exhibit B of the Original Agreement, entitled "Amended and Restated Agreement for Services between the City of Santa Clara, California, and Environmental Risk Services, Inc." is replaced with the attached Exhibit B.
- D. That section 2 of the Original Agreement, entitled "Term of Agreement" is hereby amended to read as follows:

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 July 17, 2018 and terminate on January 31, 2020.

2. TERMS

All other terms of the Original Agreement which are not in conflict with the provisions of this Amendment No. 1 shall remain unchanged in full force and effect. In case of a conflict in the terms of the Original Agreement and this Amendment No. 1, the provisions of this Amendment No. 1 shall control.

3. 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.

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The Parties acknowledge and accept the terms and conditions of this Amendment No. 1 as evidenced by the following signatures of their duly authorized representatives.

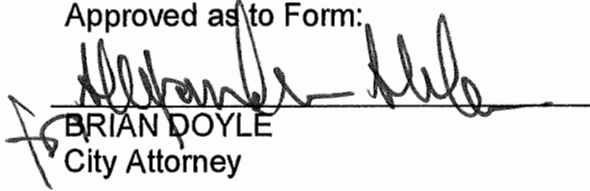
CITY OF SANTA CLARA, CALIFORNIA
a chartered California municipal corporation

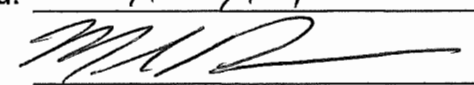
APPROVED AS TO FORM:

Approved as to Form:

Dated:

2/12/19


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"

ENVIRONMENTAL RISK SERVICES, INC.
a California corporation

Dated:

1/31/19

By (Signature):

Name: Mark O'Brien

Title: CEO

Principal Place of
Business Address: P.O. Box 1209, Alamo, CA 94507

Email Address: mobrien@erscorp.us

Telephone: (925) 878-3771

"CONTRACTOR"

EXHIBIT A-1 SCOPE OF SERVICES

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

Environmental Review - Third-party review of environmental documents and permits as identified on the attached Pre-construction schedule, and tasks required by provisions of the WDRs as detailed below:

Provisions 4 and 5: Supplemental Leachate/Groundwater Evaluation and Landfill Penetration Evaluation

ERS has been actively involved in reviewing and commenting on both of these tasks over the last few months. ERS involvement has highlighted issues of ground water flow that had previously not been considered. These issues include the anomalously low ground water elevations found within the Landfill, as well as the potential for dewatering facilities in the vicinity to have affected the occurrence of ground water in the Landfill. These factors are now being incorporated into the planning done by the consultants who are responsible for completing these ongoing tasks. ERS will continue to assist the City in reviewing and commenting on these tasks to ensure that the interests of the City are protected. We will do this by rigorously reviewing the data for its accuracy and completeness, and not just in terms of whether or not it is acceptable to the reviewing regulatory agencies.

Provisions 6 through 9: Post Closure Maintenance Plan Detection Monitoring Program (DMP) Review; Well Installation or Destruction Report; Phase Investigations and Designs

ERS is well qualified to assist the City in reviewing and commenting on these tasks. ERS' review of the landfill has led to the development of an integrated conceptual model of the site that takes into account all of the landfill features, both natural and engineered. Because of this, we are uniquely positioned to review the many documents and studies that will be required under these Provisions. For example, the groundwater monitor network will need to be protected in the Post-Closure Maintenance Plan; it will be a primary topic in the Detection Monitoring Plan; and any additions or removals from the network will be subject of the applicable report.

Provision 13: Landfill Gas/Vapor System

ERS has reviewed the existing landfill gas/vapor systems at the landfill and have identified a number of areas of concern. The scale of the proposed development will necessitate a complete overhaul of these systems. ERS staff have the expertise to assist in reviewing and optimizing performance of these systems.

Provision 15, 16, and 17: Emergency Response Contingency Plan, Earthquake Inspection Report, Corrective Action Plan

All of these Provisions include a requirement to assess the condition of the groundwater monitor network and other systems after an earthquake or other failure that may lead to a release of contaminants from the Landfill. ERS is able to make these assessments as well as to design and implement corrective actions.

Engineering Design Review

ERS is well qualified to perform design review for the Landfill Gas Collection and Landfill Gas Mitigation System design included in the Post-closure Maintenance Plan.

Development of Risk Management Plan

Environmental Insurance:

- Prepare technical presentations for insurance brokers,
- Prepare brokers' scope of work,
- Design policy parameters and endorsements for environmental insurance program,
- Prepare and present technical information to underwriters, and provide ongoing support and communication to underwriters, and
- Place policy.

Owner-controlled Insurance Program (OCIP):

- Design OCIP Program,
- Present to Insurers,
- Place Policy.

Owner's and Director's Insurance Policy:

- Design Director's Insurance Program
- Present to Insurers,
- Place Policy.

Review Legal Documents

- Coordination of review and legal agreements, insurance policies, work plans, and agency correspondence.

City, Developer, and Regulator Meetings and Other Ongoing Tasks

ERS understands that regular meetings will be held between representatives of the City and regulatory agencies in order to facilitate the review and approval process for the many tasks that will be undertaken as the proposed development proceeds. ERS has been a strong advocate for the City in many meetings with the developer and we would continue that advocacy in meeting with regulators. In that capacity we will defend the interests of the City and ensure that regulatory approvals do not ignore potential City liabilities.

**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.

**TIME AND MATERIALS RATE SHEET
Calendar Year 2019**

Personnel	Rates
Principal Risk Program Manager	\$265 / hour
Senior Engineer	\$270 / hour
Senior Scientist	\$235 / hour
Lead Engineer (incl. GIS / CAD)	\$195 / hour
Lead Scientist	\$170 / hour
Project Engineer	\$180 / hour
Project Scientist	\$170 / hour
Staff Engineer	\$130 / hour
Staff Scientist	\$105 / hour
Junior Engineer	\$100 / hour
Junior Scientist	\$90 / hour
Technical Editor	\$85 / hour
Field Technician	\$80 / hour
Project Assistant	\$70 / hour
Administrator	\$60 / hour
Expenses	Rates
Office supplies, computers, telephones	No charge
Routine copies	10c/page
Plotter copies	\$10/page
Project specific support materials and services	Cost plus 10%

Subcontractors and equipment vendors	Cost plus 15%
Equipment rental from ERS	Varies per item/time
Report Preparation Materials	\$50 / binder
Field Support Vehicles/Sampling Trucks	\$185 / day
Deposition and testimony rate = 1.5 times regular rate	

**AMENDMENT NO. 2
TO THE AMENDED AND RESTATED AGREEMENT FOR SERVICES
BETWEEN THE
CITY OF SANTA CLARA, CALIFORNIA,
AND
ENVIRONMENTAL RISK SERVICES, INC.**

PREAMBLE

This agreement ("Amendment No. 2") is entered into between the City of Santa Clara, California, a chartered California municipal corporation (City) and Environmental Risk Services, 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. The Parties previously entered into an agreement entitled "Amended and Restated Agreement for Services between the City of Santa Clara, California, and Environmental Risk Services, Inc." dated December 12, 2018 (the "Original Agreement"); and
- B. The Original Agreement was previously amended by Amendment No. 1, dated February 12, 2019, and is again amended by this Amendment No. 2. The Original Agreement and all previous amendments are collectively referred to herein as the "Original Agreement as Amended"; and
- C. The Parties entered into the Original Agreement for the purpose of having Contractor provide environmental risk assessment support activities for the City Place Santa Clara, and the Parties now wish to amend the Original Agreement to include review of environmental documents and permits as identified on the attached Pre-construction schedule, and tasks required by provisions of the WDRs.

The Parties agree as follows:

AGREEMENT TERMS AND CONDITIONS

1. AMENDMENT TERMS AND CONDITIONS

- A. That Section 6 of the Original Agreement, entitled "COMPENSATION AND PAYMENT" is hereby amended to read as follows:

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 Six Hundred Fifty Thousand Dollars (\$650,000.00), 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.

All other terms of the Original Agreement which are not in conflict with the provisions of this Amendment No. 2 shall remain unchanged in full force and effect. In case of a conflict in the terms of the Original Agreement and this Amendment No. 2, the provisions of this Amendment No. 1 shall control.

2. 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.

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The Parties acknowledge and accept the terms and conditions of this Amendment No. 2 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:

Approved as to Form:

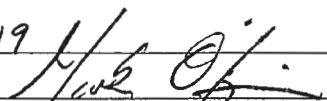
Dated: 7-25-19


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"

ENVIRONMENTAL RISK SERVICES, INC.
a California corporation

Dated: 7/8/19
By (Signature): 
Name: Mark O'Brien
Title: CEO
Principal Place of
Business Address: P.O. Box 1209, Alamo, CA 94507
Email Address: mobrien@erscorp.us
Telephone: (925) 878-3771

"CONTRACTOR"

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.

TIME AND MATERIALS RATE SHEET
Calendar Year 2019

Personnel	Rates
Principal Risk Program Manager	\$265 / hour
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Lead Scientist	\$170 / hour
Project Engineer	\$180 / hour
Project Scientist	\$170 / hour
Staff Engineer	\$130 / hour
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Field Technician	\$80 / hour
Project Assistant	\$70 / hour
Administrator	\$60 / hour
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Routine copies	10c/page
Plotter copies	\$10/page
Project specific support materials and services	Cost plus 10%

Subcontractors and equipment vendors	Cost plus 15%
Equipment rental from ERS	Varies per item/time
Report Preparation Materials	\$50 / binder
Field Support Vehicles/Sampling Trucks	\$185 / day
Deposition and testimony rate = 1.5 times regular rate	

**AMENDMENT NO. 3
TO THE AMENDED AND RESTATED AGREEMENT FOR SERVICES
BETWEEN THE
CITY OF SANTA CLARA, CALIFORNIA,
AND
ENVIRONMENTAL RISK SERVICES, INC.**

PREAMBLE

This agreement ("Amendment No. 3") is entered into between the City of Santa Clara, California, a chartered California municipal corporation (City) and Environmental Risk Services, 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. The Parties previously entered into an agreement entitled "Amended and Restated Agreement for Services between the City of Santa Clara, California, and Environmental Risk Services, Inc." dated December 12, 2018 (the "Original Agreement"); and
- B. The Original Agreement was previously amended by Amendment No. 1, dated February 12, 2019, Amendment No. 2, dated July 25, 2019, and again by this Amendment No. 3. The Original Agreement and all previous amendments are collectively referred to herein as the "Original Agreement as Amended"; and
- C. The Parties entered into the Original Agreement for the purpose of having Contractor provide environmental risk assessment support activities for the Related Santa Clara project, and the Parties now wish to amend the Original Agreement as Amended to extend the term.

The Parties agree as follows:

AGREEMENT TERMS AND CONDITIONS

1. AMENDMENT TERMS AND CONDITIONS

- A. That Section 2 of the Original Agreement as Amended, entitled "Term of Agreement" is hereby amended to read as follows:

Unless otherwise set forth in this Agreement or unless this paragraph is subsequently modified by a written amendment to this Agreement, the term of the Agreement shall begin on July 17, 2018 and terminate on December 31, 2020.

2. TERMS

All other terms of the Original Agreement as Amended which are not in conflict with the provisions of this Amendment No. 3 shall remain unchanged in full force and effect. In case of a conflict in the terms of the Original Agreement as Amended and this Amendment No. 3, the provisions of this Amendment No. 3 shall control.

3. 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 Amendment No. 3 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:

Approved as to Form:


BRIAN DOYLE
City Attorney

Dated:

4/15/2020


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

"CITY"

ENVIRONMENTAL RISK SERVICES, INC.
a California corporation

Dated:

1/27/20

By (Signature):

Name: Mark O'Brien

Title: CEO

Principal Place of

Business Address: P.O. Box 1209, Alamo, CA 94507

Email Address: mobrien@erscorp.us

Telephone: (925) 878-3771

"CONTRACTOR"

**AMENDMENT NO. 3
TO THE AMENDED AND RESTATED AGREEMENT FOR SERVICES
BETWEEN THE
CITY OF SANTA CLARA, CALIFORNIA,
AND
ENVIRONMENTAL RISK SERVICES, INC.**

PREAMBLE

This agreement ("Amendment No. 3") is entered into between the City of Santa Clara, California, a chartered California municipal corporation (City) and Environmental Risk Services, 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. The Parties previously entered into an agreement entitled "Amended and Restated Agreement for Services between the City of Santa Clara, California, and Environmental Risk Services, Inc." dated December 12, 2018 (the "Original Agreement"); and
- B. The Original Agreement was previously amended by Amendment No. 1, dated February 12, 2019, Amendment No. 2, dated July 25, 2019, and again by this Amendment No. 3. The Original Agreement and all previous amendments are collectively referred to herein as the "Original Agreement as Amended"; and
- C. The Parties entered into the Original Agreement for the purpose of having Contractor provide environmental risk assessment support activities for the Related Santa Clara project, and the Parties now wish to amend the Original Agreement as Amended to extend the term.

The Parties agree as follows:

AGREEMENT TERMS AND CONDITIONS

1. AMENDMENT TERMS AND CONDITIONS

- A. That Section 2 of the Original Agreement as Amended, entitled "Term of Agreement" is hereby amended to read as follows:

Unless otherwise set forth in this Agreement or unless this paragraph is subsequently modified by a written amendment to this Agreement, the term of the Agreement shall begin on July 17, 2018 and terminate on December 31, 2020.

2. TERMS

All other terms of the Original Agreement as Amended which are not in conflict with the provisions of this Amendment No. 3 shall remain unchanged in full force and effect. In case of a conflict in the terms of the Original Agreement as Amended and this Amendment No. 3, the provisions of this Amendment No. 3 shall control.

3. 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 Amendment No. 3 as evidenced by the following signatures of their duly authorized representatives.

CITY OF SANTA CLARA, CALIFORNIA
a chartered California municipal corporation

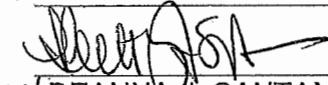
APPROVED AS TO FORM:

Approved as to Form:


BRIAN DOYLE
City Attorney

Dated:

4/15/2020


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

"CITY"

ENVIRONMENTAL RISK SERVICES, INC.
a California corporation

Dated:

1/27/20

By (Signature):

Name: Mark O'Brien

Title: CEO

Principal Place of

Business Address: P.O. Box 1209, Alamo, CA 94507

Email Address: mobrien@erscorp.us

Telephone: (925) 878-3771

"CONTRACTOR"

**AMENDMENT NO. 4
TO THE AGREEMENT FOR SERVICES
BETWEEN THE
CITY OF SANTA CLARA, CALIFORNIA,
AND
ENVIRONMENTAL RISK SERVICES, INC.**

PREAMBLE

This agreement ("Amendment No. 4") is entered into between the City of Santa Clara, California, a chartered California municipal corporation (City) and Environmental Risk Services, 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. The Parties previously entered into an agreement entitled "Agreement for the Performance of Services by and between the City of Santa Clara, California, and Environmental Risk Services, Inc." dated July 17, 2018
- B. The Agreement was previously amended by Amended and Restated Agreement for Services between the City of Santa Clara, California, and Environmental Risk Services, Inc. (Amended and Restated Agreement), dated December 12, 2018, Amendment No. 1 to the Amended and Restated Agreement, dated February 12, 2019, Amendment No. 2 to the Amended and Restated Agreement, dated July 25, 2019, Amendment No. 3 to the Amended and Restated Agreement, dated April 15, 2020, and is again amended by this Amendment No. 4. The Agreement and all previous amendments are collectively referred to herein as the "Agreement as Amended"; and
- C. The Parties entered into the Agreement as Amended for the purpose of having Contractor provide environmental risk assessment support activities for the Related Santa Clara project, and the Parties now wish to amend the Original Agreement as Amended to extend the term.

NOW, THEREFORE, the Parties agree as follows:

AMENDMENT TERMS AND CONDITIONS

- 1. Section 2 of the Agreement as Amended, entitled "Term of Agreement" is amended to read as follows:
Unless otherwise set forth in this Agreement or unless this paragraph is subsequently modified by a written amendment to this Agreement, the term of

the Agreement shall begin on July 17, 2018 and terminate on December 31, 2021.

2. Except as set forth herein, all other terms and conditions of the Agreement as Amended shall remain in full force and effect. In case of a conflict in the terms of the Agreement as Amended and this Amendment No. 4, the provisions of this Amendment No. 4 shall control.

The Parties acknowledge and accept the terms and conditions of this Amendment No. 4 as evidenced by the following signatures of their duly authorized representatives.

CITY OF SANTA CLARA, CALIFORNIA
a chartered California municipal corporation

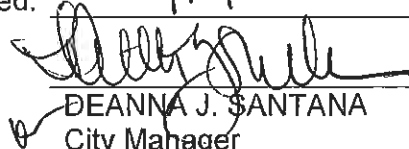
Approved as to Form:

 for

BRIAN DOYLE
City Attorney

Dated:

7/12/2021



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

"CITY"

ENVIRONMENTAL RISK SERVICES, INC.
a California corporation

Dated: 12/7/2020

By (Signature):

Name: Mark O'Brien

Title: CEO

Principal Place of
Business Address: P.O. Box 1209, Alamo, CA 94507

Email Address: mobrien@erscorp.us

Telephone: (925) 878-3771

"CONTRACTOR"