

**MASTER AGREEMENT FOR SERVICES
BETWEEN THE
CITY OF SANTA CLARA, CALIFORNIA,
AND
C2R ENGINEERING, INC.**

PREAMBLE

This Agreement is entered into between the City of Santa Clara, California, a chartered California municipal corporation (City) and C2R Engineering, 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 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

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 April 1, 2022 and terminate on March 31, 2027.

3. WORK ORDERS

- A. Contractor shall provide the services described in Exhibit A to the City on an as-needed basis and as further described pursuant to individual work orders ("Work Orders") issued in accordance with the Terms and Conditions of this Agreement. Each Work Order shall describe the services and deliverables (collectively "Work") the Contractor must provide, the time limit within which the Contractor must complete the Work, and the compensation for the Work.
- B. Each Work Order shall be substantially in the form specified in Exhibit E. Subject to the terms and conditions of this Agreement, Contractor and City will negotiate the specific requirements of each Approved Work Order.
- C. The City will not compensate the Contractor for any Work until the City has executed the Work Order for such Work ("Approved Work Order").
- D. Each Approved Work Order incorporates the Terms and Conditions of this Agreement, and becomes a part of this Agreement. An Approved Work Order must be consistent with – and cannot alter - the terms and conditions of this Agreement. The terms and conditions of this Agreement control over the terms and conditions contained in an Approved Work Order – even if the Approved Work Order expressly states that it is intended to control. Any conflicting terms and conditions in an Approved Work Order are invalid and unenforceable.
- E. The City has no obligation to issue any Approved Work Orders under this Agreement.

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

Each Approved Work Order will specify the maximum amount payable to the Contractor for all fees related to the Contractor providing the Work ("Maximum Work Order Compensation"). The Contractor shall fully complete all Work required by the Approved Work Order for no more than that Maximum Work Order Compensation. City shall only be liable for charges expressly authorized in an Approved Work Order.

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: Water & Sewer Utilities Department
1500 Warburton Avenue
Santa Clara, CA 95050
and by e-mail at gwelling@santaclaraca.gov

And to Contractor addressed as follows:

C2R Engineering, Inc.
Trevor Connolly
100 Mountain View Avenue
Los Altos, CA 94034
and by e-mail at trevor@c2rengineering.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: _____

Office of the City Attorney
City of Santa Clara

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

"CITY"

C2R ENGINEERING, INC.
a California corporation

Dated: 2.9.2022

By (Signature): 

Name: Trevor Connolly

Title: President

Principal Place of Business Address: 100 Mountain View Avenue
Los Altos, CA 94034

Email Address: trevor@c2rengineering.com

Telephone: (415) 559-2841

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.

1. INTRODUCTION

- 1.1.** Contractor will be responsible for completing work as set forth in Approved Work Orders. The scope of work involves repair and maintenance, on an emergency basis, to all water, recycled water and sewer assets in plant including but not limited to main lines, service connections, valves, fittings, hydrants, instrumentation, backflow assemblies, manholes, collection laterals, system appurtenances, and all associated construction activities including but not limited to emergency pavement restoration, traffic control, and permitting.
- 1.2.** To the extent not inconsistent with this Agreement between the City and Contractor including this Scope of Services, the City's SOQ 21-22-16 (including subsequent updates), and Contractor's proposal response dated November 19, 2021 are hereby incorporated by reference herein, and shall supplement this Scope of Services and be subject to the terms and conditions of the Agreement.

2. APPLICABLE STANDARDS

- 2.1.** All work shall be completed in accordance with the following Water and Sewer and Public Works Design Specifications and Standards:
 - 2.1.1.** <https://www.santaclaraca.gov/our-city/departments-g-z/water-sewer-utilities/technical-documents>
 - 2.1.2.** <https://www.santaclaraca.gov/home/showpublisheddocument?id=70118>

3. PAYMENT BOND

Contractor must submit a payment bond executed by a surety naming the City of Santa Clara as beneficiary for 100% of the total project within five calendar days from receipt of an Approved Work Order that is greater than \$25,000.

4. GENERAL REQUIREMENTS

- 4.1.** Contractor shall provide all labor, tools, equipment, materials, and resources necessary to complete the work set forth herein.
- 4.2.** Contractor shall maintain all paperwork and certification to perform the work, and provide such documents to the City as requested.
- 4.3.** Contractor shall provide all personal protective equipment (PPE) required to perform the work. The use of the safety equipment includes but is not limited to

hard hats, eye protection, safety vests, hearing protection, respirators, and safety boots as required by the California Occupational Safety and Health Administration (OSHA).

- 4.4.** Contractor shall comply with all OSHA and manufacturer's safety requirements including but not limited to the OSHA requirements for confined space entry.
- 4.5.** The City follows all County and State public health orders as well as federal mandates and guidance to protect the community from COVID-19. Requirements may lessen or increase as the situation evolves, and Contractor is expected to comply accordingly including but not limited to implementing and enforcing sanitation procedures and completing the Contractor Vaccination Status Form pursuant to the County of Santa Clara May 18, 2021 Order.
- 4.6.** Contractor shall follow all applicable prevailing wage laws and submit certified payroll through the City's labor compliance software, LCP Tracker.
- 4.7.** Contractor shall utilize the City's Project Management Software E-Builder for general project management. See Appendix A.
- 4.8.** Contractor shall respond to emergency services 24 hours a day, 7 days a week, without exception with a 6-hour response time to address safety considerations.
- 4.9.** The City shall determine the final scope and bill of materials required to complete the work at the time of bid.

5. SCOPE OF WORK

Contractor shall perform the following as directed by the City:

5.1. Water and Recycled Water Distribution System Repair and Maintenance

- 5.1.1.** Main line repair and maintenance including the removal of pressurized utilities and appurtenances. Existing main lines can be of any diameter and material that may have been used for a distribution system. This can include but not limited to asbestos cement, cast iron, copper, P.V.C., wrapped steel, concrete cylinder, cement lined and coated steel, galvanized, lead and yellowmine pipe. Typical system pressures range from 35 PSI (lbs/in²) to 120 PSI. Proposed repair shall be completed with ductile iron pipe, C-900, or approved equivalent which shall be determined at the time of bid.
- 5.1.2.** Installation of valves, fittings, fire hydrants, water and fire service lines from 1" - 10", tie-ins, vertical offsets, fire protection services, backflows, air relief valves, control valves, sampling stations , water system monitoring instrumentation and other appurtenances.

5.2. Sewer Collection System Repair and Maintenance

- 5.2.1.** Sewer collection line repair and maintenance including the removal of damaged above and below ground pressurized and gravity utilities. Existing main line can be of any diameter and materials that is that is used in a sewer collection system. This can include but not limited to reinforced concrete, PVC, and vitrified clay pipe. Proposed repair shall be completed using reinforced concrete pipe, SDR, polyvinyl chloride (PVC), Sanitite or approved equivalent which shall be determined at the time of bid.
- 5.2.2.** Sewer collection line repair using trenchless technologies, including but not limited to CIPP lining, or other approved methods which shall be determined at the time of bid. Lining scope shall include the installation of pre-liners, end seals, epoxy sealants, grouting, mortar repairs needed to facilitate and complete the liner installation and performance.
 - 5.2.2.1.** This scope is optional can be performed under a subcontractor.
- 5.2.3.** Installation of new main lines and all associated piping, manholes and appurtenances; reconnecting or replacing service connections; installing tie-ins, vertical offsets, and other work needed to complete installations.
- 5.2.4.** Installation of new or replacement service connections and appurtenances, including but not limited to, clean-outs, service manholes, and the abandonment of existing service connections.
- 5.2.5.** Installation of new or replacement specialty items and appurtenances such as pressurized force mains and any associated valving, access structures, pumping and sewer system monitoring instrumentation.
- 5.2.6.** Respond to Sanitary Sewer Overflows (SSO) call outs.
 - 5.2.6.1.** Upon call out, the contractor shall assess the overflow and provide all labor, tool, equipment, and materials to stop, contain and remediate per City's discretion.
 - 5.2.6.2.** Upon completion of the remediation, the contractor shall include a report and photos describing the SSO, including the location and quantity of overflow, the measures taken to mitigate the SSO, the potential causes of the SSO, and the current state of the system/service associated with the SSO.
 - 5.2.6.3.** As Builts shall be submitted as follows:
 - 5.2.6.3.1.** As built with pertaining information for City GIS system, after installation pipe dimensions and capacity, and post construction CCTV video shall be provided to the City.
 - 5.2.6.3.2.** All CCTV data shall be generated using itpipes or

compatible software with the itpipes and Lucity. The reports shall be prepared using NASSCO certified PACP defect coding system for sewer mainlines. Media shall be high quality “.wmv” (video files) and “.jpeg” (picture files) correctly referenced in the database.

5.2.6.3.3. As built shall be completed according to the City of Santa Clara Water and Sewer Utilities Standard Drawing and Specification Standard 28 or as directed by City Project Manager.

- 5.3.** Work shall include all ancillary work including but not limited to permitting, trenching, shoring, dewatering, backfilling, compaction, pavement restoration, by-pass operations, temporary/interim services, valving, traffic control, curb, gutter, sidewalk and hardscape restoration, landscape restoration, cleaning, CCTV, and condition assessment.
- 5.4.** Work shall include all testing of all installed materials and facilities, including but not limited to material, compaction, pressure, disinfection, and cross-connection testing.
- 5.5.** Work shall include removal, hauling, and disposal of all materials and construction waste associated with the project.
- 5.6.** Pavement and trench restoration shall include but not limited to:
 - 5.6.1.** removing and replacing asphalt, concrete and other hardscape or paving surfaces;
 - 5.6.2.** saw cutting;
 - 5.6.3.** providing and installing imported backfill;
 - 5.6.4.** providing and installing base rock;
 - 5.6.5.** providing and installing cement slurry;
 - 5.6.6.** providing and applying slurry and chip sealant;
 - 5.6.7.** performing grinding for T-cuts, traffic plates and for trench lines;
 - 5.6.8.** performing patch paving including providing paving materials;
 - 5.6.9.** performing roadway paving including providing paving materials;
 - 5.6.10.** performing custom concrete installation, such as curb & gutter, brick, stamped, etc. including providing materials;
 - 5.6.11.** performing all pressure testing requirements for any improvements that are installed;

- 5.6.12.** performing final lane marking, bike lane, parking and general striping work;
- 5.6.13.** providing all cover removal and replacement, landscaping and other restoration work including plants, shrubs, lawns, trees, and irrigation;
- 5.6.14.** providing traffic control;
- 5.6.15.** providing compaction testing;
- 5.6.16.** providing potholing;
- 5.6.17.** providing all paving and grading-related materials, including sand, backfill, gravel, concrete, slurry, asphalt and striping paint including transporting of materials;
- 5.6.18.** providing off haul of native material and all construction waste;
- 5.6.19.** performing work with asbestos cement pipe including handling, transporting, and disposing asbestos in compliance with applicable laws and standards;
- 5.6.20.** providing final project as built drawings in electronic format via Blue Beam, AutoCad, or approved equivalent;
- 5.6.21.** obtaining encroachment permits and any other permitting required;
- 5.6.22.** obtaining and providing Traffic Control Plans to the City, if applicable;
- 5.6.23.** providing engineering design services; and
- 5.6.24.** coordinating with Underground Service Alert (USA Locates) for identification of below ground infrastructure.

6. OUT OF SCOPE WORK

- 6.1.** Contractor shall not be responsible for environmental reporting of discharges. If at any time, the scope requires reporting, Contractor will coordinate with the City to limit, monitor, and document the discharges. The management of records to the Regional Water Quality Control Board will be bore by the City.
- 6.2.** Contractor shall not be responsible for testing the water quality of the potable or recycled water distribution systems.

**APPENDIX A TO EXHIBIT A
CITY'S PROJECT MANAGEMENT SOFTWARE E-BUILDER**

General Requirements:

- a. Contractor and Subcontractors shall provide at a minimum, the following to its staff:
 - i. **Computer:** Minimum Intel Pentium® 4 Processor 2.4 GHz or equivalent processor with 512MB of RAM; recommended Centrino Duo® Processors 1.6 GHz or equivalent with 2GB of RAM, or higher.
 - ii. **Computer Operation System:** Windows XP, Windows Vista, or Windows 7
 - iii. **Web Browser:** Microsoft Internet Explorer 9
 - iv. **Work and Spreadsheet Processors:** Microsoft Office Word, Excel and Outlook
 - v. **Scheduling Software:** Microsoft Project or Primavera
 - vi. **Internet Service Provider:** A reliable ISP in the area of the Project
 - vii. **Connection Speed/Minimum Bandwidth:** DSL, ADSL or T1 Line for transferring a minimum of 3 Mbps Downstream and 512 Kbps Upstream
- b. Contractor and Subcontractors shall provide its management personnel assigned to this Project with access to personal computers and the Internet on a daily basis.

Project Web Requirements:

- a. This project will utilize a web-based project management tool called e-Builder EnterpriseTM. This web-based application is a collaboration tool, which will allow all project team members continuous access through the Internet to important project data as well as up to the minute decision and approval status information.
- b. Contractor and Subcontractors shall conduct Project controls, outlined by the Owner, Development Manager, and Construction Manager, utilizing e-Builder EnterpriseTM. **This designated web-based application will be provided by the Contractor to the Subcontractors.** No additional software will be required. Furthermore, the Development Manager will assist Contractor in providing training of Subcontractor's personnel.
- c. Contractor and Subcontractors shall have the responsibility for visiting the Project web site on a daily basis, and as necessary to be kept fully apprised of Project developments, for correspondence, assigned tasks and other matters that transpire on the site. These may include but are not limited to: Contracts, Contract Exhibits, Contract Amendments, Drawing Issuances, Addenda, Bulletins, Permits, Insurance & Bonds, Safety Program Procedures, Safety Notices, Accident Reports, Personnel Injury Reports, Schedules, Site Logistics, Progress Reports, Daily Logs, Non-Conformance Notices, Quality Control Notices, Punch Lists, Meeting Minutes, Requests for

Information, Submittal Packages, Substitution Requests, Monthly Payment Request Applications, Supplemental Instructions, Construction Variation Directives, Potential Variation Orders, Variation Order Requests, Variation Orders, and the like. All supporting data including but not limited to shop drawings, product data sheets, manufacturer data sheets and instructions, method statements, safety MSDS sheets, Substitution Requests and the like will be submitted in digital format via e-Builder EnterpriseTM

Electronic File Requirements:

- a. In addition to the standard closeout submittal requirements detailed elsewhere in the Contract Documents, the Contractor and Subcontractors shall also submit all closeout documents including all "As-Built Drawings", catalog cuts and Owner's Operation and Maintenance manuals in digital format. All documents (including as-built drawings) shall be converted or scanned into the Adobe Acrobat (.PDF) file format and uploaded to e-Builder EnterpriseTM.

BUILDER IMPLEMENTATION REQUIREMENTS

e-Builder EnterpriseTM is a comprehensive Project and Program Management system that will be implementing for managing documents, communications and costs between the Contractor, Subcontractors, Design Consultants and Owner. e-Builder EnterpriseTM includes extensive reporting capabilities to facilitate detailed project reporting in a web-based environment that is accessible to all parties and easy to use.

Central Document Vault: e-Builder EnterpriseTM system includes a central database that maintains all project information and manages project communications amongst team members.

Communication/Correspondence: e-Builder provides electronic routable communication forms that provide historical tracking, documentation, and increased accountability of project members.

Project Calendars: Meetings will be scheduled and maintained centrally on e-Builder EnterpriseTM

Reporting: All of the project and program data including documents, communications and costs are accessible through integrated online reports. These reporting tools are completely configurable by each user. All reports can be exported to Excel for added flexibility.

EXHIBIT B SCHEDULE OF FEES

1. MAXIMUM WORK ORDER COMPENSATION

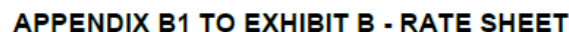
The maximum compensation shall be as set forth in each Approved Work Order (Maximum Work Order Compensation). No services will be performed unless both Parties execute an Approved Work Order outlining the services requested and the compensation agreed for such services.

2. FEES

- 2.1.** Where services are provided on a time and materials basis, the Maximum Work Order Compensation shall be determined in accordance with Contractor's equipment and labor rates, attached hereto as Appendix B1. Contractor may request adjustments to the rates on each anniversary during the term of the agreement.
- 2.2.** Where services are provided for a fixed price, the total project cost shall be the amount set out in the Approved Work Order.
- 2.3.** In the event that additional tools, equipment, and/or third-party services are required, Contractor shall obtain pre-approval from the City describing the additional requirement and the associated cost. City shall reimburse Contractor for any pre-approved additional charge at Contractor's actual cost, plus a maximum of 10% markup.

3. INVOICING

- 3.1.** Contractor shall render invoices in accordance with the fees, payment schedule, and other terms and conditions specified in the applicable Approved Work Order. If Contractor is entitled to reimbursable expenses, the invoice will include such expenses and/or costs associated with the Work completed during the invoice period.
- 3.2.** City will pay Contractor within thirty (30) days of City's receipt of an approved invoice package.



Page No.: 1 OF 1

(See attached sheet)	DATE
(See attached sheet)	DATE

EXHIBIT C

INSURANCE REQUIREMENTS

Without limiting the Contractor's indemnification of the City, and prior to commencing any of the Services required under this Agreement, the Contractor shall provide and maintain in full force and effect, at its sole cost and expense, the following insurance policies with at least the indicated coverages, provisions and endorsements:

A. COMMERCIAL GENERAL LIABILITY INSURANCE

1. Commercial General Liability Insurance policy which provides coverage at least as broad as Insurance Services Office form CG 00 01. Policy limits are subject to review, but shall in no event be less than, the following:
 - \$5,000,000 Each occurrence
 - \$5,000,000 General Aggregate
 - \$5,000,000 Products/Completed Operations Aggregate
 - \$5,000,000 Personal Injury
 - \$5,000,000 Project Aggregate
2. Exact structure and layering of the coverage shall be left to the discretion of Contractor; however, any excess or umbrella policies used to meet the required limits shall be at least as broad as the underlying coverage and shall otherwise follow form.
3. The following provisions shall apply to the Commercial Liability policy as well as any umbrella policy maintained by the Contractor to comply with the insurance requirements of this Agreement:
 - a. Coverage shall be on a "pay on behalf" basis with defense costs payable in addition to policy limits;
 - b. There shall be no cross liability exclusion which precludes coverage for claims or suits by one insured against another; and
 - c. Coverage shall apply separately to each insured against whom a claim is made or a suit is brought, except with respect to the limits of liability.

B. BUSINESS AUTOMOBILE LIABILITY INSURANCE

Business automobile liability insurance policy which provides coverage at least as broad as ISO form CA 00 01 with policy limits a minimum limit of not less than five million dollars (\$5,000,000) each accident using, or providing coverage at least as broad as, Insurance Services Office form CA 00 01. Liability coverage shall apply to all owned, non-owned and hired autos.

C. WORKERS' COMPENSATION

1. Workers' Compensation Insurance Policy as required by statute and employer's liability with limits of at least one million dollars (\$1,000,000) policy limit Bodily

Injury by disease, one million dollars (\$1,000,000) each accident/Bodily Injury and one million dollars (\$1,000,000) each employee Bodily Injury by disease.

2. The indemnification and hold harmless obligations of Contractor included in this Agreement shall not be limited in any way by any limitation on the amount or type of damage, compensation or benefit payable by or for Contractor or any subcontractor under any Workers' Compensation Act(s), Disability Benefits Act(s) or other employee benefits act(s).
3. This policy must include a Waiver of Subrogation in favor of the City of Santa Clara, its City Council, commissions, officers, employees, volunteers and agents.

D. COMPLIANCE WITH REQUIREMENTS

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

1. Additional Insureds. City of Santa Clara, its City Council, commissions, officers, employees, volunteers and agents are hereby added as additional insureds in respect to liability arising out of Contractor's work for City, using Insurance Services Office (ISO) Endorsement CG 20 10 11 85 or the combination of CG 20 10 03 97 and CG 20 37 10 01, or its equivalent.
2. Primary and non-contributing. Each insurance policy provided by Contractor shall contain language or be endorsed to contain wording making it primary insurance as respects to, and not requiring contribution from, any other insurance which the indemnities may possess, including any self-insurance or self-insured retention they may have. Any other insurance indemnities may possess shall be considered excess insurance only and shall not be called upon to contribute with Contractor's insurance.
3. General Aggregate. The general aggregate limits shall apply separately to Contractor's work under this Agreement providing coverage at least as broad as Insurance Services Office (ISO) Endorsement CG 2503, 1985 Edition, or insurer's equivalent (CGL);
4. 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.

5. 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 Document 00820.

E. ADDITIONAL INSURANCE RELATED PROVISIONS

Contractor and City agree as follows:

1. Requirements of specific insurance coverage features described in this Agreement shall not be construed to be a limitation of liability on the part of Contractor or any of its subcontractors, nor to relieve any of them of any liability or responsibility under the Contract Documents, as a matter of law or otherwise. Such requirements are not intended by any Party to be limited to providing coverage for the vicarious liability of the City or to the supervisory role, if any, of City. All insurance coverage provided pursuant to this Agreement in any way relating to City is intended to apply to the full extent of the policies involved.
2. Contractor shall maintain all required insurance policies in full force and effect during entire period of performance of the Services under this Agreement of Contract Documents. Contractor shall also keep such insurance in force during warranty and guarantee periods. At time of making application for extension of time, Contractor shall submit evidence that insurance policies will be in effect during requested additional period of time.
3. City reserves the right, at any time during the term of this Agreement to change the amounts and types of insurance required by giving the Contractor thirty (30) days advance written notice of such change. If such change results in substantial additional cost to the Contractor, the City will negotiate in good faith additional compensation proportional to the increased benefit to City.
4. Any type of insurance or any increase of limits of liability not described in this Exhibit which Contractor requires for its own protection or in compliance with applicable statutes or regulations, shall be Contractors' responsibility and at its own expense.
5. No liability insurance coverage provided by Contractor to comply with the terms of this Agreement shall prohibit Contractor, or Contractor's employees, or agents, from waiving the right of subrogation prior to a loss. Contractor waives its right of subrogation against Indemnitees. Any property insurance policies affected by Contractor shall be endorsed to delete the subrogation condition as to indemnitees or shall specifically allow Contractor to waive subrogation prior to a loss. Contractor hereby waives any right of recovery against the indemnitees and agrees to require any subcontractor to do so.
6. 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.

7. Contractor shall cooperate fully with City and Contractor's insurance companies in any safety and accident prevention program and claims handling procedures as established for the performance of Services under this Agreement.
8. All coverage types and limits required under this Agreement are subject to approval, modification and additional requirements by the City, as the need arises. Contractor shall not make any reductions in scope of coverage which may affect City's protection without City's prior written consent.
9. For purposes of applying insurance coverage only, all contracts pertaining to the performance of services will be deemed to be executed when finalized and any activity commences in furtherance of performance under this agreement.
10. Contractor acknowledges and agrees that any actual or alleged failure on the part of City to inform Contractor of non-compliance with any of the insurance requirements set forth in this Agreement in no way imposes any additional obligations on City nor does it waive any of the City's rights under this Agreement or any other regard.
11. Any provision in this Agreement dealing with the insurance coverage provided pursuant to these requirements, is subordinate to and superseded by the requirements contained herein. These insurance requirements are intended to be separate and distinct from any other provision in this Agreement and are intended by the Parties here to be interpreted as such.
12. 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.
13. Contractor agrees to obtain and provide to City evidence of Professional Liability insurance for Architects or Engineers if engaged by Contractor to perform any of the Services required under this Agreement. City shall determine the minimum coverage and policy limits required, after consultation with Contractor.
14. The City acknowledges that some insurance requirements contained in this Agreement may be fulfilled by self-insurance on the part of the Contractor. The Contractor's insurance obligations under this Agreement under may be satisfied in whole or in part by adequately funded self-insurance retention, but only after approval from the City Attorney's Office upon satisfactory evidence of financial capacity.

15. The City reserves the right to withhold payments from the Contractor in the event of material noncompliance with the insurance requirements set forth in this Agreement.

F. EVIDENCE OF COVERAGE

Prior to commencement of any Services under this Agreement, Contractor, and each and every subcontractor (of every tier) shall, at its sole cost and expense, provide and maintain not less than the minimum insurance coverage with the endorsements and deductibles indicated in this Agreement. Such insurance coverage shall be maintained with insurers, and under forms of policies, satisfactory to City and as described in this Agreement. Contractor shall file with the City all certificates and endorsements for the required insurance policies for City's approval as to adequacy of the insurance protection.

G. EVIDENCE OF COMPLIANCE

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

Or by mail to:

EBIX Inc.

City of Santa Clara – Water & Sewer Utilities Department

P.O. Box 100085 – S2

Duluth, GA 30096

Telephone number: 951-766-2280

Fax number: 770-325-0409

H. QUALIFYING INSURERS

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

EXHIBIT D LABOR COMPLIANCE ADDENDUM

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

I. Prevailing Wage Requirements

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

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

J. Audit Rights

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

K. Enforcement

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

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

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

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

EXHIBIT E
SAMPLE WORK ORDER FORM

This Work Order is issued by the City of Santa Clara acting by and through its **Water & Sewer Utilities Department** (the "Department") to the contractor listed below. This Work Order shall constitute a binding legal contract between the Department and Contractor pursuant to the terms of the Agreement referenced below. In the event of any inconsistency between this Work Order and the Terms and Conditions of the Agreement, the Terms and Conditions of the Agreement shall govern and control.

PART A: GENERAL INFORMATION

Work Order No.:		<input type="checkbox"/> Original <input type="checkbox"/> First Revised <input type="checkbox"/> Second Revised <input type="checkbox"/> Other _____
Contract No.		
Contractor Name/Address:		
Master Agreement Name:		
Expiration Date of Agreement:		
Contractor's Project Manager:	Name:	Email:
City's Project Manager	Name:	Email:
Period of Performance for this Work Order:	Start Date:	Expected Completion Date:
Maximum Work Order Compensation:		
Sufficient funds are available in Fund #: (to be completed by City)		
Signatures:		
Contractor Name [Print]:		Date:
_____ <i>Signature</i>		_____
City's Project Manager [Print]:		Date:
_____ <i>Signature</i>		_____
City's Department Director Name [Print]:		Date:
_____ <i>Signature</i>		_____

PART B: SERVICES TO BE PERFORMED FOR WORK ORDER

1. REVISED WORK ORDER

- ☐ No
☐ If yes, provide a brief description of the change(s).

2. SCOPE OF WORK TO BE PERFORMED

The Contractor shall perform the service(s) described below in accordance with all of the Terms and Conditions of the Agreement. (Insert a detailed scope of work below or attach as a separate file.)

3. COMPENSATION

a. **Basis of Compensation:** ☐ Time & Materials ☐ Fixed Fee

b. **Reimbursable Expenses:**

- ☐ No expenses are reimbursable.
☐ Expenses are separately reimbursable in the maximum amount of: _____

c. **Payment Schedule:** ☐ Monthly ☐ Completion of Deliverable/Milestone ☐ Completion of Work

d. **Payment Terms.** Provide payment terms below or attach as a separate file.