

**AGREEMENT FOR SERVICES
BETWEEN THE
CITY OF SANTA CLARA, CALIFORNIA,
AND
CSG CONSULTANTS, INC.**

PREAMBLE

This Agreement is entered into between the City of Santa Clara, California, a chartered California municipal corporation (City) and CSG Consultants, Inc. a California corporation, (Consultant). City and Consultant 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. Consultant represents that it, and its subconsultants, 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 Consultant 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 – Compensation

Exhibit C – Insurance Requirements

Exhibit D – Task Order Form

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

- A. 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 November 1, 2019 and terminate on October 31, 2024.
- B. After the Initial Term, the City reserves the right, at its sole discretion, to extend the term of this Agreement for an additional five-year period ending October 31, 2029 ("Option Period"). City shall provide Consultant with no less than thirty (30) days prior written notice of its intention to exercise its option to extend the term of this Agreement.

3. SCOPE OF SERVICES & PERFORMANCE SCHEDULE

- A. **General:** The Consultant will provide services to the City as set forth in Exhibit A and as further described pursuant to individual task orders (Exhibit D). Each Task Order will describe the services and deliverables (collectively "Work") the Consultant must provide, the time limit within which the Consultant must complete the Work and the compensation for the Work.
- B. **Approved Task Order:** The City will not compensate the Consultant for any Work until the City has executed the task order for such Work ("Approved Task Order").
- C. **Obligation to Issue:** The City has no obligation to issue any Approved Task Orders under this Agreement.
- D. Each Approved Task Order shall be subject to the terms and conditions of this Agreement.

4. WARRANTY

Consultant 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. Consultant 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 Consultant. If Consultant fails to promptly correct or replace materials or services, City may make corrections or replace materials or services and charge Consultant for the cost incurred by City.

5. QUALIFICATIONS OF CONSULTANT - STANDARD OF CARE

Consultant 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 Consultant's representations regarding its skills and knowledge. Consultant 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

Consultant shall be paid in accordance with Exhibit B, Compensation.

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 Consultant.
- B. Termination for Default. If Consultant 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 Consultant.
- 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, Consultant will deliver to City all City information or material that Consultant has in its possession.

8. ASSIGNMENT AND SUBCONTRACTING

City and Consultant 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. Consultant shall not hire subconsultants without express written permission from City.

Consultant shall be as fully responsible to City for the acts and omissions of its subconsultants, and of persons either directly or indirectly employed by them, as Consultant 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 CONSULTANT

Consultant and all person(s) employed by or contracted with Consultant to furnish labor and/or materials under this Agreement are independent Consultants and do not act as agent(s) or employee(s) of City. Consultant 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 Consultant and all other written information submitted to Consultant in connection with the performance of this Agreement shall be held confidential by Consultant 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 Consultant which is otherwise known to Consultant 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 Consultant 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, Consultant 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 CONSULTANT

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 Consultant for the purpose of verifying any and all charges made by Consultant in connection with Consultant compensation under this Agreement, including termination of Consultant. Consultant 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. Consultant 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.

Consultant shall submit to City any and all reports concerning its performance under this Agreement that may be requested by City in writing. Consultant

agrees to assist City in meeting City's reporting requirements to the State and other agencies with respect to Consultant's Services hereunder.

14. HOLD HARMLESS/INDEMNIFICATION

- A. To the extent permitted by law, Consultant 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 Consultant pursuant to this Agreement – including claims of any kind by Consultant's employees or persons contracting with Consultant 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. Consultant'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, Consultants, subconsultants or other agents of Consultant, against City (either alone, or jointly with Consultant), regardless of venue/jurisdiction in which the claim is brought and the manner of relief sought.
- C. To the extent Consultant 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, Consultant 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 Consultant's responsibilities under the Act.

15. INSURANCE REQUIREMENTS

During the term of this Agreement, and for any time period set forth in Exhibit C, Consultant shall provide and maintain in full force and effect, at no cost to City, insurance policies as set forth in Exhibit C.

16. WAIVER

Consultant 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: Public Works Department
1500 Warburton Avenue
Santa Clara, CA 95050
and by e-mail at ajackman@santaclaraca.gov, and
manager@santaclaraca.gov

And to Consultant addressed as follows:

CSG Consultants, Inc.
550 Pilgrim Drive
Foster City, CA 94404
Attention: Cyrus Kianpour
and by e-mail at cyrus@cngengr.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

Consultant 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, Consultant'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 Consultant has read and agrees to comply with City's Ethical Standards (<http://santaclaraca.gov/home/showdocument?id=58299>).

19. CONFLICTS OF INTEREST

Consultant certifies that to the best of its knowledge, no City officer, employee or authorized representative has any financial interest in the business of Consultant and that no person associated with Consultant has any interest, direct or indirect, which could conflict with the faithful performance of this Agreement. Consultant 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. Consultant will advise City if a conflict arises.

20. FAIR EMPLOYMENT

Consultant 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

Consultant 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: _____

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"

CSG CONSULTANTS, INC.
a California corporation

Dated: _____

By (Signature): _____

Name: Cyrus Kianpour

Title: President

Principal Place of Business Address: 550 Pilgrim Drive
Foster City, CA 94404

Email Address: cyrus@csgengr.com

Telephone: (650) 522-2500

Fax: (650) 522-2599

"CONSULTANT"

EXHIBIT A

SCOPE OF SERVICES

The Consultant shall provide plan check review and field inspection consultant services for the following service areas: A) Building; B) Fire; C) Planning and D) Public Works.

1 GENERAL

- 1.1** Consultant shall communicate and coordinate with the City review team and report to the designated City representative(s).
- 1.2** Consultant shall meet with City, other third-party consultant(s), developers, and their design consultants.
- 1.3** Consultant shall review developers' plans specific to the service areas in Section 2 below.
- 1.4** Consultant shall review plan revisions as they are submitted to the City for approval during design and/or construction, and provide plan check review comments, recommendations, and action items summaries.
- 1.5** Consultant shall inspect developers' public and private improvements.
- 1.6** Consultant shall provide construction management as required.

2 SERVICE AREAS

2.1 Building Consultant Services

- 2.1.1** Consultant shall provide a list of the professional(s)-in-charge and plan reviewers affiliated with the third-party consultant, who certify, supervise and/or perform third party plan review.
- 2.1.2** Consultant shall create and maintain a quality assurance plan, describing method or plan that the third-party consultant uses to maintain the quality of all plan review services it provides.
- 2.1.3** Consultant shall meet with City staff or developer as required by City to answer code or project related questions.
- 2.1.4** Any high-rise building or unconventional structural system, such as base isolator, will require an additional independent structural peer review. Consultant shall coordinate with the selected structural peer reviewer and the City.
- 2.1.5** Consultant shall provide construction administration service as required, including, but not limited to, processing requests for information, reviewing deferred submittals and field revisions.
- 2.1.6** Consultant shall provide Building Field Inspection services for developer projects including, but not limited to, verification of compliance with State of California construction codes; verification

of the Contractor's compliance with the City approved plans, City standard details and specifications; ensuring the quality of work; coordination with City departments, other public agencies, and various utilities; maintaining daily reports of items inspected and any other significant items, in the City's Accela permitting software.

2.2 Fire Consultant Services

- 2.2.1** Consultant shall ensure compliance with projects Community Development, Planning Division conditions of approval.
- 2.2.2** Consultant shall conduct Building and Fire Code plan reviews utilizing the current adopted Title 19 and 24 regulations.
- 2.2.3** Consultant shall conduct plan review of fire protection and hazardous materials systems, including smoke control systems.
- 2.2.4** Consultant shall apply any and all local amendments and policies to the California Fire and Building Codes.
- 2.2.5** Consultant shall apply nationally recognized standards (e.g., NFPA, ASHRAE, ASTM, SFM, CSG, ASME, ANSI, UL, etc.).
- 2.2.6** Consultant shall attend meetings requested by the City to answer code or project related questions.
- 2.2.7** Any high-rise building or unconventional structural system, such as base isolator, will require an additional independent structural peer review. Consultant shall coordinate with the selected structural peer reviewer and the City.
- 2.2.8** Consultant shall provide the Fire Prevention & Hazardous Materials Division Field Inspection services for developer projects including, but not limited to, verification of contractors' compliance with the City approved plans, City ordinances, City standard details and specifications (via field inspections and field testing); consultant shall be responsible for the development of corrective action lists, and provide data to fire department QA/QC representative; coordination with City departments, fire departments, certified unified program agency, and outside regulatory agencies; preparation and maintenance of daily reports of work done, contractor's staff, etc.

2.3 Planning Consultant Services

- 2.3.1** Consultant shall review project plans for consistency with approved master plan(s), design guidelines and program environmental impact reports (EIR).
- 2.3.2** Consultant shall provide architecture and urban design comments.
- 2.3.3** Consultant shall coordinate project with City departments through the project completeness committee.

- 2.3.4** Consultant shall attend and/or coordinate meetings with City departments and applicant on project topics.
- 2.3.5** Consultant shall receive public communication on the project, retain communication with project file, and elevate public concerns to Planning Manager.
- 2.3.6** Consultant shall assist applicant to hold community outreach meetings in accordance with City's public outreach policy.
- 2.3.7** Consultant shall prepare staff report and coordinate conditions of approval with various departments.
- 2.3.8** Consultant may present project(s) at architectural committee meetings or on appeal to Planning Commission of City Council.
- 2.3.9** Consultant shall prepare incompleteness/completeness letter pursuant to the Permit Streamlining Act.
- 2.3.10** Consultant shall manage CEQA process and ensure consistency with the program EIR (or if needed creation of a CEQA document that tiers off the EIR through the appropriate CEQA process). If additional documentation is needed, Consultant shall work with an environmental consultant on the preparation of environmental documents or technical reports. Consultant shall coordinate review of CEQA documents with the City departments including the City Attorney's Office.
- 2.3.11** Consultant shall maintain regular office hours at Santa Clara City Hall based on the project's schedule, and in coordination with and approval from the Development Review Officer or Planning Manager; and be present at the Project Completeness Committee, other meetings to coordinate resolution on interdepartmental project topics, and community meeting(s) and public hearing(s).

2.4 Public Works Consultant Services

- 2.4.1** Consultant shall review developers' public improvement plans by utilizing efficient uses of the public right-of-way and utility easements and constructability.
- 2.4.2** Consultant shall provide plan check review comments, recommendations and action items summaries.
- 2.4.3** Consultant shall review plan revisions as they are submitted to the City for approval during design and/or construction.
- 2.4.4** Consultant shall plan and profile underground storm drain and sanitary sewer systems, including positions of manholes, laterals, catch basins, cleanouts, and related facilities.
- 2.4.5** Consultant shall review plans for conflicts and inclusion of underground joint trench and other public utilities (gas, telecom, etc.) and inspection.

- 2.4.6** Consultant shall review developers' on-site drainage plans and calculations as they relate to the off-site storm drain system, including verification by model.
- 2.4.7** Consultant shall provide structural review of bridges, foundations, footings, retaining walls, including geotechnical reports etc., and any necessary quality insurance on special inspection(s).
- 2.4.8** Consultant shall provide traffic signal design review (new and/or modifications), including interconnect system, pre-emption, detection cameras, traffic monitoring cameras, signing/stripping, and construction phase traffic control plans.
- 2.4.9** Consultant shall provide Public Works field inspection services for developer projects including, but not limited to:
 - 2.4.9.1** Verification of the Consultant's compliance with the City approved plans, City standard details and specifications;
 - 2.4.9.2** Ensuring the quality of work (via materials testing or other means as necessary);
 - 2.4.9.3** Coordination with City departments, other public agencies, and various utilities;
 - 2.4.9.4** Preparing and maintaining daily reports of work done, Consultant's staff, equipment, weather, etc.; and
 - 2.4.9.5** Monitoring of construction impacts and safety of construction operations in the City right-of-way, develop punch list items when the work is substantially complete, and interact with the public.
- 2.4.10** Consultant shall provide construction management services as required including, but not limited to processing requests for information and submittals, and signing-off on encroachment permits (indicating all the work has been completed in compliance with City requirements).
- 2.4.11** Consultant shall review and approve developers' record drawings that show what was actually constructed for City records.
- 2.4.12** Consultant shall review and provide recommendations on subdivision maps and plat and legal documents.

EXHIBIT B COMPENSATION

1 GENERAL

- 1.1** The Consultant shall not be compensated for any Work until a task order form for such work has been executed by the City ("Approved Task Order").
- 1.2** The cover page of each task order form will specify the maximum amount payable to the Consultant for all professional fees, costs and expenses related to the Consultant providing the Work under the task order ("Maximum Task Order Compensation").
- 1.3** Attachment C of each task order form is a compensation table setting forth the manner in which the City will pay the Maximum Task Order Compensation. The compensation table shall be completed in accordance with Section 2 below.

2 COMPENSATION TABLE

- 2.1** Compensation Table – Part 1: Part 1 of the Compensation Table addresses compensation for the task(s) to be performed under the task order and shall be completed as follows.
 - 2.1.1** Task Numbers (Column 1): Column 1 sets forth the task number(s) for which the City will compensate the Consultant. Each task number shall correspond to the same task number in Attachment A of the task order form. If a task number included in Attachment A is not included in the Compensation Table, then the City will not compensate the Consultant separately for that task, and payment for such task is deemed included in the other task(s) for which the Consultant is receiving compensation.
 - 2.1.2** Basis of Compensation (Column 2): Column 2 identifies whether the City will pay the Consultant for the task(s) on a time-and-materials basis or on a fixed-fee (lump-sum) basis.
 - 2.1.3** Invoice Period (Column 3): Column 3 identifies when the Consultant must submit its invoice for payment. If invoicing is monthly, the Consultant must submit its invoice to the City by the 10th Business Day of each month for Work completed during the previous month. If invoicing is upon the completion of a task or group of tasks, the Consultant must submit its invoice to the City within 20 Business Days following completion of the task(s) to the City's satisfaction. If invoicing is upon the completion of all Work, the Consultant must submit its invoice to the City within 20 Business Days following completion of all Work to the City's satisfaction.

2.1.4 Compensation (Column 4): Column 4 sets forth the maximum compensation the City will pay the Consultant for completing the task(s).

2.2 Compensation Table – Part 2: Part 2 of the Compensation Table indicates whether the City will reimburse the Consultant separately for expenses incurred in providing the Work. The following conditions will apply if the City reimburses the Consultant separately for expenses.

2.2.1 Expenses That Are Reimbursable: Any reimbursement to the Consultant is limited to the expenses set forth below in the Reimbursable Expense Schedule. The City will reimburse these expenses at actual cost only unless a markup is specified.

Reimbursable Expense Schedule		Mark Up
1.	The cost of mailing, shipping and/or delivery of any documents or materials.	No Markup
2.	The cost of photographing, printing, reproducing and/or copying any documents or materials.	No Markup
3.	Telephone and facsimile transmission charges.	No Markup
4.	The rental of any specialized equipment to the extent the City's contract administrator has preapproved, in writing, the cost of such rental.	As specified, not to exceed 10%
5.	With the written pre-authorization of the City's contract administrator, mileage and other travel-related expenses.	No Markup
6.	Any expenses expressly identified as being reimbursable in the Schedule of Rates and Charges or in an Approved Service Order.	As specified, not to exceed 10%

2.3 Compensation Table – Part 3: Part 3 indicates whether the City will compensate the Consultant separately for subconsultant costs incurred in providing any part of the Work. If the City will compensate the Consultant separately for subconsultant costs, the City will do so in accordance with the following.

- 2.3.1 Actual Costs:** The Consultant can invoice the City for no more than the actual cost of each subconsultant.
- 2.3.2 Maximum Amount:** For each Approved Task Order, the City will compensate the Consultant for all subconsultants in a total amount not to exceed the amount set forth in the last column of Part 3. Any additional subconsultant costs that the Consultant incurs in excess of the specified maximum amount are at no cost to the City.

EXHIBIT C

INSURANCE REQUIREMENTS

Without limiting the Consultant's indemnification of the City, and prior to commencing any of the Services required under this Agreement, the Consultant shall provide and maintain in full force and effect during the period of performance of the Agreement and for twenty-four (24) months following acceptance by the City, at its sole cost and expense, the following insurance policies from insurance companies authorized to do business in the State of California. These policies shall be primary insurance as to the City of Santa Clara so that any other coverage held by the City shall not contribute to any loss under Consultant's insurance. The minimum coverages, provisions and endorsements are as follows:

A. COMMERCIAL GENERAL LIABILITY INSURANCE

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

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

B. BUSINESS AUTOMOBILE LIABILITY INSURANCE

Business automobile liability insurance policy which provides coverage at least as broad as ISO form CA 00 01 with policy limits a minimum limit of not less than one million dollars (\$1,000,000) each accident using, or providing coverage at least as broad as, Insurance Services Office form CA 00 01. Liability coverage shall apply to all owned (if any), non-owned and hired autos.

In the event that the Work being performed under this Agreement involves transporting of hazardous or regulated substances, hazardous or regulated wastes and/or hazardous or regulated materials, Consultant and/or its subconsultants involved in such activities shall provide coverage with a limit of one million dollars (\$1,000,000) per accident covering transportation of such materials by the addition to the Business Auto Coverage Policy of Environmental Impairment Endorsement MCS90 or Insurance Services Office endorsement form CA 99 48, which amends the pollution exclusion in the standard Business Automobile Policy to cover pollutants that are in or upon, being transported or towed by, being loaded onto, or being unloaded from a covered auto.

C. WORKERS' COMPENSATION

1. Workers' Compensation Insurance Policy as required by statute and employer's liability with limits of at least one million dollars (\$1,000,000) policy limit Bodily Injury by disease, one million dollars (\$1,000,000) each accident/Bodily Injury and one million dollars (\$1,000,000) each employee Bodily Injury by disease.
2. The indemnification and hold harmless obligations of Consultant included in this Agreement shall not be limited in any way by any limitation on the amount or type of damage, compensation or benefit payable by or for Consultant or any subconsultant under any Workers' Compensation Act(s), Disability Benefits Act(s) or other employee benefits act(s).
3. This policy must include a Waiver of Subrogation in favor of the City of Santa Clara, its City Council, commissions, officers, employees, volunteers and agents.

D. PROFESSIONAL LIABILITY

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

E. COMPLIANCE WITH REQUIREMENTS

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

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

F. ADDITIONAL INSURANCE RELATED PROVISIONS

Consultant and City agree as follows:

1. Consultant agrees to ensure that subconsultants, and any other party involved with the Services, who is brought onto or involved in the performance of the Services by Consultant, provide the same minimum insurance coverage required of Consultant, except as with respect to limits. Consultant agrees to monitor and review all such coverage and assumes all responsibility for ensuring that such coverage is provided in conformity with the requirements of this Agreement. Consultant agrees that upon request by City, all agreements with, and insurance compliance documents provided by, such subconsultants and others engaged in the project will be submitted to City for review.
2. Consultant agrees to be responsible for ensuring that no contract used by any party involved in any way with the project reserves the right to charge City or Consultant for the cost of additional insurance coverage required by this Agreement. Any such provisions are to be deleted with reference to City. It is not the intent of City to reimburse any third party for the cost of complying with these requirements. There shall be no recourse against City for payment of premiums or other amounts with respect thereto.
3. The City reserves the right to withhold payments from the Consultant in the event of material noncompliance with the insurance requirements set forth in this Agreement.

G. EVIDENCE OF COVERAGE

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

H. EVIDENCE OF COMPLIANCE

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

and other items required to be delivered to City pursuant to this Agreement shall be mailed to:

EBIX Inc.

City of Santa Clara

P.O. Box 100085 – S2

Duluth, GA 30096

or

1 Ebix Way

John's Creek, GA 30097

Telephone number: 951-766-2280

Fax number: 770-325-0409

Email address: ctsantaclara@ebix.com

I. QUALIFYING INSURERS

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

EXHIBIT D - TASK ORDER FORM

Cover Page

1.	Approved Task Order No.:		
2.	Consultant's Name:		
3.	Project Name:		
4.	Project Location:		
5.	The Consultant and the City will implement this Approved Task Order in accordance with the executed Agreement, this cover page and Attachments "A" (Tasks), "B" (Project Staffing), and "C" (Compensation Table), which are incorporated herein by references.		
6.	Budget/Fiscal:		
	a. Previously Approved Compensation for Task Orders XX-XX:	\$	
	b. Maximum Task Order Compensation for this Approved Task Order:	\$	
	c. Total Approved Compensation for Task Orders (XX-XX) (6.a + 6.b):	\$	
7.	Department/Analyst Approval:	<hr/>	Date: <hr/>
8.	Consultant Approval:	<hr/>	Date: <hr/>
9.	Department Director Approval:	<hr/>	Date: <hr/>

ATTACHMENT A: TASKS

The Consultant shall provide the services and deliverables set forth in this **Attachment A**. The Consultant shall provide all services and deliverables required by this **Attachment A** to the satisfaction of the City's contract administrator.

General Description of Project for which Consultant will Provide Services:

Task No. 1:

Consultant will complete the tasks below including Consultant attendance at one meeting with City staff.

A. **Services:**

B. **Deliverable:**

C. **Completion Time:** The Consultant must complete the services and deliverables for this task in accordance with whichever one of the following time is marked:

- ☐ On or before the following date:
☐ On or before ____ Business Days from _____.

Task No. 2:

Consultant will complete the subtasks outlined below.

A. **Services:**

B. **Deliverable:**

C. **Completion Time:** The Consultant must complete the services and deliverables for this task in accordance with whichever one of the following time is marked:

- ☐ On or before the following date:
☐ On or before ____ Business Days from _____.

ATTACHMENT B: STAFFING

1. **City's Contract Manager:** The City's contract manager for this Approved Task Order is:

Name:	Phone No.:
Department:	E-mail:
Address:	

2. **Consultant's Contract Manager and Other Staffing:** Identified below are the following: (a) the Consultant's contract manager for this Approved Task Order, and (b) the Consultant(s) and/or employee(s) of the Consultant who will be principally responsible for providing the services and deliverables. ***If an individual identified below does not have a current Form 700 on file with the City Clerk for a separate agreement with the City, and is required to file a Form 700, the Consultant must submit the required Form 700 in accordance with California Political Reform Act (Government Code Section 81000 et seq.).***

<u>Consultant's Contract Manager</u>		<u>Required to File Form 700?</u>		
		Yes Already Filed (Date Filed)	Yes Need to File	No
Name:	Phone No.:	<u>X (01/09/19)</u>		
Address:	E-mail:			
<u>Other Staffing</u>				
<u>Name:</u>	<u>Assignment:</u>			
1.				
2.				

Consultant:
Task Order No.:

3. **Subconsultants:** Whichever of the following is marked applies to this Approved Task Order:

- ☐ The Consultant cannot use any subconsultants.
- ☐ The Consultant can use the following subconsultants to assist in providing the required services and deliverables:

<u>Subconsultant's Name</u>	<u>Area of Work</u>
1.	
2.	
3.	

ATTACHMENT C: COMPENSATION TABLE

The City will compensate the Consultant for providing the services and deliverables set forth in **Attachment A** in accordance this Compensation Table.

Part 1 – Compensation for Services and Deliverables						
Column 1	Column 2		Column 3			Column 4
Task Nos. from Attachment A	Basis of Compensation		Invoice Period			Compensation
1	<input type="checkbox"/> Time & Materials	<input type="checkbox"/> Fixed Fee	<input type="checkbox"/> Monthly	<input type="checkbox"/> Completion of Task(s)	<input type="checkbox"/> Completion of Work	\$
2	<input type="checkbox"/> Time & Materials	<input type="checkbox"/> Fixed Fee	<input type="checkbox"/> Monthly	<input type="checkbox"/> Completion of Task(s)	<input type="checkbox"/> Completion of Work	\$
3	<input type="checkbox"/> Time & Materials	<input type="checkbox"/> Fixed Fee	<input type="checkbox"/> Monthly	<input type="checkbox"/> Completion of Task(s)	<input type="checkbox"/> Completion of Work	\$
4	<input type="checkbox"/> Time & Materials	<input type="checkbox"/> Fixed Fee	<input type="checkbox"/> Monthly	<input type="checkbox"/> Completion of Task(s)	<input type="checkbox"/> Completion of Work	\$
Part 2 – Reimbursable Expenses						
<input type="checkbox"/> No expenses are separately reimbursable. The amount(s) in Column 4 of Part 1 include(s) payment for all expenses.			<input type="checkbox"/> Expenses are separately reimbursable in the maximum amount of:			\$
Part 3 – Subconsultant Costs						
<input type="checkbox"/> Subconsultant costs are not separately compensable. The amount(s) in Column 4 of Part 1 include(s) subconsultant costs.			<input type="checkbox"/> Subconsultant costs are separately compensable in the maximum amount of:			\$
Maximum Task Order Compensation (sum of Parts 1 through 3):						\$