AGREEMENT FOR THE PERFORMANCE OF SERVICES BY AND BETWEEN THE CITY OF SANTA CLARA, CALIFORNIA, AND MINTIER HARNISH, LP

PREAMBLE

This agreement for the performance of services ("Agreement") is by and between Mintier Harnish, a California Limited Partnership, with its principal place of business located at 1415 20th Street, Sacramento, California 95811 ("Contractor" or "Consultant"), and the City of Santa Clara, California, a chartered California municipal corporation with its primary business address at 1500 Warburton Avenue, Santa Clara, California 95050 ("City"). 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 professional services more fully described in this Agreement, at Exhibit A, entitled "Scope of Services"; and

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 PROVISIONS

1. EMPLOYMENT OF CONTRACTOR.

City hereby employs Contractor to perform services set forth in this Agreement. To accomplish that end, City may assign a Project Manager to personally direct the Services to be provided by Contractor and will notify Contractor in writing of City's choice. City shall pay for all such materials and services provided which are consistent with the terms of this Agreement.

2. SERVICES TO BE PROVIDED.

Except as specified in this Agreement, Contractor shall furnish all technical and professional services, including labor, material, equipment, transportation, supervision and expertise (collectively referred to as "Services") to satisfactorily complete the work required by City at his/her own risk and expense. Services to be provided to City are

more fully described in Exhibit A entitled "SCOPE OF SERVICES." All of the exhibits referenced in this Agreement are attached and are incorporated by this reference.

3. COMMENCEMENT AND COMPLETION OF SERVICES.

A. Contractor shall begin providing the services under the requirements of this Agreement upon receipt of written Notice to Proceed from City. Such notice shall be deemed to have occurred three (3) calendar days after it has been deposited in the regular United States mail. Contractor shall complete the Services within the time limits set forth in the Scope of Services or as mutually determined in writing by the Parties.

B. When City determines that Contractor has satisfactorily completed the Services, City shall give Contractor written Notice of Final Acceptance. Upon receipt of such notice, Contractor shall not incur any further costs under this Agreement. Contractor may request this determination of completion be made when, in its opinion, the Services have been satisfactorily completed. If so requested by the contractor, City shall make this determination within fourteen (14) days of its receipt of such request.

4. QUALIFICATIONS OF CONTRACTOR - STANDARD OF WORKMANSHIP.

Contractor represents and maintains that it has the necessary expertise in the professional calling necessary to perform 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.

The plans, designs, specifications, estimates, calculations, reports and other documents furnished under Exhibit A shall be of a quality acceptable to City. The criteria for acceptance of the work provided under this Agreement shall be a product of neat appearance, well organized, that is technically and grammatically correct, checked and having the maker and checker identified. The minimum standard of appearance, organization and content of the drawings shall be that used by City for similar projects.

5. 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 the Effective Date of this Agreement and terminate on June 30, 2019.

6. MONITORING OF SERVICES.

City may monitor the Services performed under this Agreement to determine whether Contractor's operation conforms to City policy and to the terms of this Agreement. City may also monitor the Services to be performed to determine whether financial operations are conducted in accord with applicable City, county, state, and federal requirements. If any action of Contractor constitutes a breach, City may terminate this Agreement pursuant to the provisions described herein.

7. 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.

8. PERFORMANCE OF SERVICES.

Contractor shall perform all requested services in an efficient and expeditious manner and shall work closely with and be guided by 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. Contractor will perform all Services in a safe manner and in accordance with all federal, state and local operation and safety regulations.

9. BUSINESS TAX LICENSE REQUIRED.

Contractor must comply with Santa Clara City Code section 3.40.060, as that section may be amended from time to time or renumbered, which requires that any person who transacts or carries on any business in the City of Santa Clara pay business license tax to the City. A business tax certificate may be obtained by completing the Business Tax Affidavit Form and paying the applicable fee at the Santa Clara City Hall Municipal Services Division.

10. RESPONSIBILITY OF CONTRACTOR.

Contractor shall be responsible for the professional quality, technical accuracy and coordination of the Services furnished by it under this Agreement. Neither City's review, acceptance, nor payments for any of the Services required under this Agreement shall be construed 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 and Contractor shall be and remain liable to City in accordance with applicable law for all damages to City caused by Contractor negligent performance of any of the Services furnished under this Agreement.

Any acceptance by City of plans, specifications, construction contract documents, reports, diagrams, maps and other material prepared by Contractor shall not in any respect absolve Contractor from the responsibility Contractor has in accordance with customary standards of good professional practice in compliance with applicable federal, state, county, and/or municipal laws, ordinances, regulations, rules and orders.

11. COMPENSATION AND PAYMENT.

In consideration for Contractor's complete performance of Services, City shall pay Contractor for all materials provided and services rendered by Contractor at the rate per

hour for labor and cost per unit for materials as outlined in Exhibit B, entitled "SCHEDULE OF FEES."

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

12. TERMINATION OF AGREEMENT.

Either Party may terminate this Agreement without cause by giving the other Party written notice ("Notice of Termination") which clearly expresses that Party's intent to terminate the Agreement. Notice of Termination shall become effective no less than thirty (30) calendar days after a Party receives such notice. After either Party terminates the Agreement, Contractor shall discontinue further services as of the effective date of termination, and City shall pay Contractor for all Services satisfactorily performed up to such date.

13. NO ASSIGNMENT OR SUBCONTRACTING OF AGREEMENT.

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.

14. 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.

15. 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, however, to manage its employees in their performance of Services under this Agreement. Contractor is not authorized to bind City to any contracts or other obligations.

16. NO PLEDGING OF CITY'S CREDIT.

Under no circumstances shall Contractor have the authority or power to pledge the credit of City or incur any obligation in the name of City. Contractor shall save and hold harmless the City, its City Council, its officers, employees, boards and commissions for expenses arising out of any unauthorized pledges of City's credit by Contractor under this Agreement.

17. 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.

18. 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.

19. OWNERSHIP OF MATERIAL.

All material, including information developed on computer(s), which shall include, but not be limited to, data, sketches, tracings, drawings, plans, diagrams, quantities, estimates, specifications, proposals, tests, maps, calculations, photographs, reports 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.

20. 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 three (3) years from the date of final payment for goods or services provided under this Agreement, to audit the books and records of Contractor for the purpose of verifying any and all charges made by Contractor in connection with Contractor compensation under this Agreement, including termination of Contractor. Contractor agrees to maintain sufficient books and records in accordance with generally accepted accounting principles to establish the correctness of all charges submitted to City. Any expenses not so recorded shall be disallowed by City.

Contractor shall submit to City any and all reports concerning its performance under this Agreement that may be requested by City in writing. Contractor agrees to assist City in meeting City's reporting requirements to the State and other agencies with respect to Contractor's Services hereunder.

21. CORRECTION OF SERVICES.

Contractor agrees to correct any incomplete, inaccurate or defective Services at no further costs to City, when such defects are due to the negligence, errors or omissions of Contractor.

22. FAIR EMPLOYMENT.

Contractor shall not discriminate against any employee or applicant for employment because of race, color, creed, national origin, gender, sexual orientation, age, disability, religion, ethnic background, or marital status, in violation of state or federal law.

23. HOLD HARMLESS/INDEMNIFICATION.

To the extent permitted by law, Contractor agrees to protect, defend, hold harmless and indemnify City, its City Council, commissions, officers, employees, volunteers and agents from and against any claim, injury, liability, loss, cost, and/or expense or damage, including all costs and reasonable attorney's fees in providing a defense to any claim arising therefrom, for which City shall become liable arising from Contractor's negligent, reckless or wrongful acts, errors, or omissions with respect to or in any way connected with the Services performed by Contractor pursuant to this Agreement.

24. 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 with respect to employees and vehicles assigned to the Performance of Services under this Agreement with coverage amounts, required endorsements, certificates of insurance, and coverage verifications as defined in Exhibit C.

25. AMENDMENTS.

This Agreement may be amended only with the written consent of both Parties.

26. INTEGRATED DOCUMENT.

This Agreement represents the entire agreement between City and Contractor. No other understanding, agreements, conversations, or otherwise, with any representative of City prior to execution of this Agreement shall affect or modify any of the terms or obligations of this Agreement. Any verbal agreement shall be considered unofficial information and is not binding upon City.

27. 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.

28. 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.

29. NOTICES.

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

City of Santa Clara
Attention: Planning Division
1500 Warburton Avenue
Santa Clara, California 95050
or by facsimile at (408) 247-9857

And to Contractor addressed as follows:
Name: Mintier Harnish, LP
Address: 1415 20th Street
Sacramento, CA 95811
or by facsimile at (916) 446-7520

If notice is sent via facsimile, a signed, hard copy of the material shall also be mailed. The workday the facsimile was sent shall control the date notice was deemed given if there is a facsimile machine generated document on the date of transmission. A facsimile transmitted after 1:00 p.m. on a Friday shall be deemed to have been transmitted on the following Monday.

30. CAPTIONS.

The captions of the various sections, paragraphs and subparagraphs of this Agreement are for convenience only and shall not be considered or referred to in resolving questions of interpretation.

31. LAW GOVERNING CONTRACT 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.

32. DISPUTE RESOLUTION.

A. Unless otherwise mutually agreed to by the Parties, any controversies between Contractor and City regarding the construction or application of this Agreement, and claims arising out of this Agreement or its breach, shall be submitted to mediation within thirty (30) days of the written request of one Party after the service of that request on the other Party.

B. The Parties may agree on one mediator. If they cannot agree on one mediator, the Party demanding mediation shall request the Superior Court of Santa Clara County to appoint a mediator. The mediation meeting shall not exceed one day (eight (8) hours). The Parties may agree to extend the time allowed for mediation under this Agreement.

C. The costs of mediation shall be borne by the Parties equally.

D. For any contract dispute, mediation under this section is a condition precedent to filing an action in any court. In the event of mediation which arises out of any

dispute related to this Agreement, the Parties shall each pay their respective attorney's fees, expert witness costs and cost of suit through mediation only. If mediation does not resolve the dispute, the Parties agree that the matter shall be litigated in a court of law, and not subject to the arbitration provisions of the Public Contracts Code.

33. COMPLIANCE WITH ETHICAL STANDARDS.

Contractor shall:

A. Read Exhibit D, entitled "ETHICAL STANDARDS FOR CONTRACTORS SEEKING TO ENTER INTO AN AGREEMENT WITH THE CITY OF SANTA CLARA, CALIFORNIA"; and,

B. Execute Exhibit E, entitled "AFFIDAVIT OF COMPLIANCE WITH ETHICAL STANDARDS."

34. AFFORDABLE CARE ACT OBLIGATIONS

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.

35. CONFLICT OF INTERESTS.

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

36. PROGRESS SCHEDULE.

The Progress Schedule will be as set forth in the attached Exhibit F, entitled "MILESTONE SCHEDULE" if applicable.

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; and, the Parties agree that signatures on this Agreement, including those transmitted by facsimile, shall be sufficient to bind the Parties.

The Parties acknowledge and accept the terms and conditions of this Agreement as evidenced by the following signatures of their duly authorized representatives. The Effective Date is the date that the final signatory executes the Agreement. It is the intent of the Parties that this Agreement shall become operative on the Effective Date.

CITY OF SANTA CLARA, CALIFORNIA
a chartered California municipal corporation

APPROVED AS TO FORM:

BRIAN DOYLE
Interim City Attorney

Dated: 11/16/17

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

ATTEST:

ROD DIRIDON, JR.
City Clerk

"CITY"

MINTIER HARNISH, LP
a California Limited Partnership

Dated: 10/11/17

By: _____
(Signature of Person executing the Agreement on behalf of Contractor)

Name: Jim Harnish

Title: Principal/Owner

Local Address: 1415 20th Street
Sacramento, CA 95811

Email Address: jim@mintierharnish.com

Telephone: (916) 446-0522

Fax: (916) 446-7520

"CONTRACTOR"

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AGREEMENT FOR THE PERFORMANCE OF SERVICES
BY AND BETWEEN THE
CITY OF SANTA CLARA, CALIFORNIA,
AND
MINTIER HARNISH, LP

EXHIBIT A

SCOPE OF SERVICES

The Services to be performed for the City by the Contractor under this Agreement are more fully described in the Contractor's proposal entitled, "City of Santa Clara Zoning Code Update Work Program," which is attached to this Exhibit A.

CITY OF SANTA CLARA ZONING CODE UPDATE

WORK PROGRAM

Phase 1: Information Gathering

At the outset of the Project, the Consultant will develop an in-depth understanding of the City's expectations, needs, and objectives for the Zoning Code Update Project before beginning the work. The Consultant envisions a series of collaborative meetings, work sessions, and interviews to clearly define issues and expectations and build a consensus on the scope and content of the Zoning Code Update. The Consultant will work with the City's Project Manager to schedule these meetings over a three- to four-day period. Some of the meetings or interviews could take place in the evenings or on the weekend if that would provide a more relaxed or convenient time for the participants.

Task 1.1: Initial Kick-Off and Scoping Meeting

The Consultant will facilitate a project kick-off meeting with City staff. The meeting should include the City Project Manager, front line counter staff, application processing staff, code enforcement staff, and the City Attorney (at least for a portion of the meeting). The Consultant will prepare a meeting agenda for the City Project Manager's review at least a week before the meeting. Following the meeting, the Consultant will prepare notes for use by City staff and the Consultant. Topics to be addressed at the meeting include the following:

- Review/clarify the City's expectations and needs for the Zoning Code Update.
- Discuss the deficiencies of the current Administrative Draft Zoning Code and the extent to which the existing Zoning Code (Title 18) should be revisited.
- Refine the project work program, budget, and schedule as necessary.
- Discuss optional tasks and determine which, if any, should be included in the work program.
- Agree on a detailed schedule with key milestones and meetings leading to the adoption of the updated Zoning Code and Zoning Map in a timely manner.
- Discuss problems and issues associated with current City land use and development regulations (including City staff's and City Attorney's "fix-it" list of needed revisions and other regulatory topics that need attention, but are not fully addressed in the current or Administrative Draft Zoning Codes).
- Review and discuss preliminary format, style, and organization options.
- Establish protocols for providing information on the status of the Zoning Code Update Project on the City's website.
- Gather documents relevant to the Zoning Code Update Project including, but not limited to, the 2010-2035 General Plan and FEIR, a Microsoft Word version of the existing and Administrative Draft Zoning Codes marked up with City staff comments using "track-changes," adopted design guidelines, specific plans, environmental guidelines, zoning map, planning fee schedule, any over-the-counter hand-out materials, and other planning policy or regulatory documents.

Following the kick-off meeting, the Consultant will tour Santa Clara with City staff to view examples of key zoning-related issues (i.e., visit projects that did and did not work well) and gain further understanding of the development issues.

Task 1.2: Stakeholder Interviews

An important source of information about how existing zoning regulations are and are not working are the community members most affected by the regulations. The Consultant will conduct approximately 15-20 interviews over two days with individuals and groups (e.g., builders, developers, civil engineers, architects, planners, business owners/managers, and residents) identified by the City's Project Manager as key stakeholders who can identify issues relative to the City's development regulation and review process. Each interview will be approximately an hour in length. The Consultant will provide a list of questions to participants in advance of the interviews. The Consultant will document the interview results in a summary report. The Consultant will identify all interviewees, but not attribute specific comments to individuals.

Task 1.3: All-Hands Joint Study Session

The Consultant will facilitate a Joint Study Session (if consistent with the City's past practice) with the City Council, Planning Commission, Historical and Landmarks Commission, Architectural Committee, and any other interested City commissions, committees, residents, and business owners. The purposes of the Study Session will be to review the overall objectives for the Zoning Code Update, the project work program and schedule, the anticipated products of the effort, and the initial list of issues guiding the Zoning Code Update. The Study Session will also provide the opportunity for individual Council, Commission, and Committee members, as well as the interested public, to express their thoughts on the project and add issues to the list for consideration. The Consultant will summarize the results of the Study Session.

Products:

(The Consultant will provide digital versions in both Microsoft Word (or PowerPoint) and Adobe PDF format of each product):

- Summary of Consultant/City staff kick-off meeting
- Stakeholder Interview Summary
- Joint Study Session PowerPoint Presentation
- Summary of All-Hands Joint Study Session

Phase 2: Diagnosis

The Consultant will conduct a technical and extremely thorough diagnosis of the updated Code, including land use, development standards, and permit processing. The diagnosis will incorporate an analysis of the 2010-2035 General Plan, 2015-2023 Housing Element, 2013 Climate Action Plan, City Council 2017-2019 Zoning Code Strategies, and additional Municipal Code provisions to ensure

consistency between policies and development standards and uses. Once the technical diagnosis is complete, the Consultant will prepare a detailed diagnostic report that combines the findings of the outreach in Phase 1 with the findings of the analysis and provide a range of achievable solutions to highlighted areas of inconsistences or areas of desired change that the City can consider during the update process. The Consultant will present the findings during a Joint Study Session to confirm the approach prior to beginning work on Phase 3.

Task 2.1: Diagnostic Document Review

The Consultant will thoroughly review all City documents relevant to the Zoning Code Update, including (but not limited to):

- Existing Zoning Code (Santa Clara Municipal Code Title 18 [Zoning])
- Administrative Draft Zoning Code
- 2010-2035 General Plan
- 2015-2023 Housing Element
- 2013 Climate Action Plan
- 2014 Single-Family and Duplex Residential Design Guidelines
- 1986 Community Design Guidelines
- City Council 2017-2019 Zoning Code Strategies

The Consultant will also work with City staff to review the overall Municipal Code to identify other provisions that should be included in the Zoning Code Update, or that will at least need to be understood and possibly referenced so that no conflicts occur with the updated Zoning Code provisions. The Consultant will expand upon the initial diagnostic reviews conducted as a part of this proposal and prepare a detailed Zoning Code Diagnostic Report for City staff review.

Task 2.2: Summary Matrix of Zoning Code Issues

Based upon the results of the Joint Study Session, Zoning Code Diagnostic Report, meetings with City staff, and stakeholder interviews, the Consultant will prepare an initial Summary Matrix of Zoning Code Issues. The Matrix will identify deficiencies in the Administrative Draft Zoning Code, the solutions and revisions deemed necessary to correct these deficiencies, and where the revisions will be addressed in the Zoning Code Update. For each solution, the Consultant will identify steps and possibly optional approaches to resolve the issues.

The Consultant will use the Matrix to track revisions to the Administrative Draft Zoning Code and assist in the preparation of a staff report when adopting the updated Zoning Code. It is expected that the Matrix will undergo significant revision prior to project completion. The Consultant will use the Matrix to address options for the overall Zoning Code framework and ensure that the resulting standards and regulations conform to the land use designations and policies of the 2010-2035 General Plan.

Task 2.3: Joint Study Session

Based on the results of Tasks 2.1 and 2.2, the Consultant will facilitate a Joint Study Session with the City Council, Planning Commission, Historical and Landmarks Commission, Architectural Committee, and any other interested City commissions, committees, residents, and business owners to confirm the approach of the updated Zoning Code based on the findings from the Zoning Code Diagnostic Report. The Consultant have provided a per-meeting cost estimate as part of the cost proposal in case the City prefers individual study sessions.

Task 2.4: Draft Zoning Code Format and Outline

Based on the results of Tasks 1.1 through 2.3, the Consultant will prepare a draft annotated Zoning Code outline/Table of Contents, style sheet, and a list of common terms. The Consultant will also prepare a sample chapter format to illustrate the recommended format and style of the Zoning Code Update, which the Consultant will design to improve document organization and readability, resulting in a truly modern "user friendly" updated document. After City staff review, the Consultant will finalize any desired changes. (See an example style sheet with a list of common terms in Appendix B, and an example Table of Contents in Appendix C.)

Products:

(The Consultant will provide digital versions in both Microsoft Word (or PowerPoint) and Adobe PDF format of each product):

- Zoning Code Diagnostic Report
- Matrix of Zoning Issues
- Zoning Code Format, Style Guide with a list of common terms, and Table of Contents

Phase 3: Code Update

The Consultant recommends preparation and delivery of an Administrative Draft of the Zoning Code in several segments, rather than in a single deliverable. The Consultant's experience indicates that it is easier for City staff to give timely feedback and review of the Draft Zoning Code when presented in segments. The order and content of the segments can be modified as desired by City staff. All administrative draft sections will include a screencheck round of review. As an alternative, if City staff prefers, the Consultant can prepare a complete Administrative Draft Zoning Code prior to City staff review.

Task 3.1: Zoning District Provisions

The Consultant will draft the chapters of the updated Zoning Code containing regulations applicable in specific zoning districts (e.g., Residential – Very Low Density (R1), Community Commercial (C-C), Office/Research and Development – Low Intensity (O-L), Planned Development (PD), Santa Clara Station Area (SCS)), and any new districts. To ensure consistency with the 2010-2035 General Plan land use designations and proper implementation of Plan policies, the Consultant will review the land use

designations and 2015-2023 Housing Element programs and policies as a part of this task. At a minimum, these provisions will address the following topics:

- **A description of each zoning district** (including a General Plan driven "purpose" statement), an overview of the land uses allowed within each district, and the type of ministerial or discretionary land use approvals required for each use (some uses may be allowed with no land use permit, subject to compliance with applicable locational, developmental, and operational standards and obtaining any necessary construction permits). The Consultant will give special attention to reviewing each zoning district with City staff to ensure that specific allowable uses are appropriate in each zoning district and consistent with the 2010-2035 General Plan.
- **A land use classification system** that clearly identifies uses allowed in each zoning district with an emphasis on allowing as many by-right uses (together with specific development standards) as is reasonably appropriate. This classification system will consolidate the City's current use categories and descriptions by providing for uses that are not currently addressed and by using clear terminology to define each allowable use. The classification system will employ up-to-date terminology and an appropriate combination of specific and generic land use types. The Consultant will provide definitions of all land use types included within the classification system.
- **Development standards** for each zoning district (e.g., building envelope standards, height limitations, setback requirements, site coverage requirements) organized in tables and graphically illustrated wherever possible.

The Consultant will submit the Administrative Draft Zoning District provisions to City staff for review. Staff will be expected to provide their comments on the draft in Microsoft Word "track- changes" and provide a single consolidated set of comments. The Consultant will then meet or schedule a conference call with City staff to discuss revisions and direction for the work in Task 3.2.

Task 3.2: Administrative Provisions

The Consultant will draft the chapters of the updated Zoning Code containing administration and development application filing and processing procedures. At a minimum, these chapters will address the following:

- **Purpose and adoption of the Zoning Code,** applicability, responsibility and administrative authority, interpretation procedures, and provisions addressing applications deemed complete but not yet decided (e.g., "pipeline projects"), that may be affected by adoption of, and future amendments to, the Zoning Code.
- **Definition of the roles** of each project review authority, including the Community Development Director, the Zoning Administrator, the Planning Commission, the City Council, and all other applicable entities.
- **Procedures for discretionary permits** (by the Community Development Director, Zoning Administrator, Planning Commission, and City Council as needed), conditional and administrative use permits, design review, planned development review, reasonable accommodations, site plan review, transportation demand management plans, variances, and other project review procedures, appeals, public hearings, nonconforming use and structure provisions, and amendments (e.g., General Plan, Zoning Code, and Zoning Map), development agreements, and specific plans. The Consultant will discuss the potential interest in, need for,

and composition of additional types of administrative permits (i.e., home occupations, temporary uses, and zoning clearances). Proposed procedures will emphasize efficiency, simplicity, clarity, and streamlined processing, while ensuring more certainty in the development review process as well as thorough an effective project review to achieve the City's objectives. Additionally, a comprehensive Review Authority table will be included to clearly display the appropriate level of review and appeal required for reach type of application.

- **Enforcement provisions,** including but not limited to, legal remedies (criminal and civil), procedural requirements, recovery of costs directly related to enforcement actions, and the identification of the property owner/violator rights and procedures for appeal.
- **Definitions** of each allowable land use, as well as technical terms and phrases used in the updated Zoning Code, including abbreviations. An initial set of definitions will be included with the first submittal of the Administrative Draft Zoning District provisions and will be supplemented in subsequent draft submittals.

The Consultant will submit the Administrative Draft of the Administrative provisions to City staff for review. Staff will be expected to provide their comments on the draft in Microsoft Word "track-changes" and provide a single consolidated set of comments. The Consultant will then meet or schedule a conference call with City staff to discuss revisions and direction for the work in Task 3.3.

Task 3.3: General Development and Specific Use Standards

The Consultant will draft the chapters of the updated Zoning Code containing regulations that apply in multiple zoning districts and overlay/combining districts, and regulations for specific land uses. At a minimum, these chapters will address the following topics (additional related topics may be included at the direction of City staff):

- **General site planning and development standards.** The Consultant will prepare descriptions of standards that could apply to a variety of land uses regardless of the applicable zoning district. Additionally, these standards will address, as appropriate, site access requirements; fences, hedges, walls, and screening; noise regulations; outdoor lighting standards; performance standards (e.g., air quality, glare, vibration); Crime Prevention Through Environmental Design; undergrounding of utilities; and other topics determined to be appropriate by the City's Project Manager. These standards will be crafted in a comprehensive manner to provide the appropriate tools needed for City staff and decision-makers to evaluate development proposals while providing for as much flexibility and certainty as is determined appropriate by the City.
- **Affordable housing requirements,** including supportive, transitional, and employee housing; density bonus provisions; single room occupancy (SRO) provisions; and standards for large and residential care facilities.
- **Landscaping standards,** including water efficient standards and specific requirements for preliminary and final landscape plan submittal and review.
- **Off-street parking, loading, and bicycle standards,** including contemporary parking and loading area numbers, space, and design requirements; landscaping requirements; pedestrian circulation requirements; and bicycle and motorcycle parking.
- **Sign regulations.** The Consultant will review and evaluate the current sign provisions and recommend revisions in consultation with City staff. The evaluation will concentrate on

providing clear standards for signs by zoning district and by type of sign. All types of allowable/desired signs will be considered for inclusion in the sign provisions, including temporary signs. The Consultant will review and update procedures for sign approval to make the process more understandable and easily administered, including provisions for dealing with nonconforming signs. The Consultant will provide illustrative graphics to clarify sign requirements. The Consultant will ensure that sign provisions comply with content neutrality requirements. Consultation with the City Attorney may be desirable.

- **Standards for specific land uses.** The Consultant will address standards for specific land uses as deemed appropriate by the City, including accessory dwelling units; accessory retail uses; adult entertainment businesses; antennas and other wireless communication facilities; alcohol-related uses (e.g., liquor sales, breweries, taprooms, wineries); cannabis-related uses; childcare facilities; entertainment and recreation uses; home occupations; interim uses in transition areas; massage therapy; mobile food vendors; mobile homes; multi-family housing; outdoor merchandise display and activities; outdoor and personal storage facilities; recycling facilities; and residential accessory uses and structures.
- **Environmental performance-based standards** as determined by City staff to be appropriate.

The Consultant will submit the Administrative Draft of the General Development and Specific Use Standards to City staff for review. Staff will be expected to provide their comments on the draft in Microsoft Word "track- changes" and provide a single consolidated set of comments. The Consultant will then meet or conference call with City staff to discuss revisions and direction for the work in Task 3.4.

Task 3.4: Preliminary Draft Zoning Code

The Consultant will revise the Administrative Draft sections based on City staff discussion and input and will prepare the remaining parts of the Preliminary Draft Zoning Code, including a detailed table of contents, graphics, and illustrations. Graphics will be incorporated throughout the updated Zoning Code wherever they may assist users in visualizing the meaning and applicability of development standards, or otherwise improving understanding or ease of use. The administrative provisions prepared during earlier tasks may incorporate some flowcharts and other graphics if City staff and the Consultant determine that the illustration of procedures would be helpful during the initial review stage. The Consultant will not artificially limit the number of illustrations/graphics to be included in the updated Zoning Code, but will instead provide graphics wherever they will be of value.

The Consultant will submit a complete Preliminary Draft Zoning Code for City staff review and comment. Staff will be expected to provide their comments on the draft in Microsoft Word "track-changes" tools and provide a single set of consolidated comments. The Consultant will meet or schedule a conference call with City staff as necessary to review their comments and desired changes.

Task 3.5: Public Review Draft Zoning Code

Based on direction from City staff, the Consultant will prepare a Public Review Draft Zoning Code which will be provided to the City for review by the community, Planning Commission, Architectural Committee, Historical and Landmarks Commission, City Council, and other applicable groups.

Task 3.6: Updated Zoning Map

The Consultant will update the City Zoning Map consistent with the General Plan and Zoning Code Update. The Consultant will convert the existing zoning districts into the new zoning districts and endeavor to avoid or minimize rezoning of any parcels. The updated Zoning Map will, to the extent possible, match each existing zoning district and the 2010-2035 General Plan land use designations with the most similar new district. The Consultant will create new titles for new zoning districts for which there are no comparable or corresponding existing districts. The Consultant will prepare the Updated Zoning Map in a format compatible with the City's GIS data base.

Products:

(The Consultant will provide digital versions in both Microsoft Word (or PowerPoint) and Adobe PDF format of each product):

- Administrative Draft Zoning District Provisions
- Administrative Draft Zoning Code Administrative Provisions
- Administrative Draft General Development and Specific Use Standards
- Preliminary Draft Zoning Code
- Public Review Draft Zoning Code
- Updated Zoning Map

Phase 4: Public Review

The Consultant will facilitate three community workshops and five study sessions to receive comments and direction on the updated Zoning Code. Following completion of the community engagement, the Consultant will prepare a Revised Public Review Draft Zoning Code for CEQA analysis and adoption.

Task 4.1: Community Workshops

The Consultant will facilitate up to three Community Workshops to present the Public Review Draft Zoning Code and updated Zoning Map. The workshops will be a modified open house format that includes information stations and a formal presentation followed by a question and answer period. The informational stations will allow participants to "drop by" and not necessarily stay for the presentation. Each station would be staffed by a consultant and City staff member to be available to answer questions. At the mid-point of the workshop, the Consultant will make a detailed presentation highlighting the major changes to the Code, the reasons for the changes, and how the City will administer the new Code. The Consultant will emphasize the changes to the existing zoning districts, why the changes were made, and the options considered when making the changes. The Consultant will facilitate a question and answer period and record all public comments. Participants will also have the opportunity to submit written comments. The Consultant will prepare a public comment summary that the Consultant will include in subsequent study session presentations. A sample Workshop Guide for the project is provided in Appendix G.

Task 4.2: Study Sessions

The Consultant will facilitate up to five study sessions to present the Public Review Draft Zoning Code and updated Zoning Map. The Consultant will facilitate study sessions with the Architectural Committee, Historical and Landmarks Commission, the Planning Commission, the City Council, and other applicable groups as determined by the City's Project Manager. The Consultant will make a general presentation of the major changes to the Code, the reasons for the changes, and how the City will administer the updated Code. The Consultant will focus the presentation in each study session on the specific interests of each group. The Consultant will facilitate a question and answer period and record all comments. Committee, Commissioner, Council members, and other participants will have the opportunity to submit written follow-up comments. The Consultant will prepare a summary of all comments which the Consultant will use, in consultation with City staff, to prepare the Revised Public Review Zoning Code and updated Zoning Map.

Task 4.3: Revised Public Review Draft Zoning Code

Based on public and study session comments and direction from City staff, the Consultant will prepare a Revised Public Review Draft Zoning Code and updated Zoning Map, which the Consultant will submit to the City for review by the community, Architectural Committee, Historical and Landmarks Commission, Planning Commission, and City Council.

Products

(The Consultant will provide digital versions in both Microsoft Word (or PowerPoint) and Adobe PDF format of each product):

- Community Workshop PowerPoint Presentation and materials
- Community Workshop Summary of Public Comments
- Joint Study Session PowerPoint Presentations
- Joint Study Session Summary of Comments
- Revised Public Review Draft Zoning Code and updated Zoning Map

Phase 5: CEQA Compliance

The Consultant will conduct an environmental review of the Public Review Draft Zoning Code and updated Zoning Map consistent with the requirements of CEQA. The City certified the Integrated Final Environmental Impact Report for the 2010-2035 General Plan in November 2010. Based on the review of that FEIR and understanding of the likely contents of the Draft Zoning Code Update, any potential environmental effects resulting from Zoning Code and Zoning Map adoption are likely to have been addressed in the FEIR. An addendum to the FEIR may be required. It is also possible to determine that the EIR sufficiently addresses the potential environmental impacts of Zoning Code and Zoning Map adoption. The Consultant will make this determination in consultation with City staff and the City Attorney. The Consultant will prepare either an Addendum to the 2010-2035 General Plan FEIR or a

technical memorandum supporting a finding of consistency of the updated Zoning Code and Zoning Map with the 2010-2035 General Plan FEIR.

Product:

- Addendum to the 2010-2035 General Plan FEIR or a Technical Memorandum supporting a finding of consistency of the updated Zoning Code and Zoning Map with the 2010-2035 General Plan FEIR (One camera-ready printed copy and digital versions in both Microsoft Word and Adobe PDF format)

Phase 6: Adoption

The Consultant, in consultation with the City's Project Manager, will organize and facilitate the public review and adoption of the updated Zoning Code and Zoning Map. The Consultant will prepare PowerPoint presentations and support materials for all meetings and public hearings. City staff will prepare all necessary noticing materials, venue preparation, and staff reports, with support from the Consultant.

Task 6.1: Planning Commission Public Hearing

The Consultant will attend and participate in one public hearing with the Planning Commission on the Revised Public Review Draft Zoning Code and Zoning Map. If desired by the City, the Consultant will attend additional meetings on a time-and-materials basis. Based on the Planning Commission recommendation, the Consultant will prepare an errata sheet describing Planning Commission-recommended changes.

Task 6.2: City Council Public Hearing

The Consultant will attend and participate in one public hearing with the City Council to consider adoption of the Revised Public Review Draft Zoning Code and Zoning Map. If desired by the City, the Consultant will attend additional meetings on a time-and-materials basis.

Task 6.3: Screencheck Final Zoning Code and Zoning Map

After Council adoption of the Zoning Code and Zoning Map and before its effective date, the Consultant will prepare final versions incorporating all changes made by the City Council. The Consultant will provide a screencheck version so that City staff can verify that the document accurately incorporates all changes approved by the Council during the adoption process.

Task 6.4: final Zoning Code and Zoning Map

The Consultant will prepare the Final Zoning Code and Zoning Map for delivery to the City for codification and publication. The team will provide a reproducible camera-ready copy of the adopted documents and a digital copy of the Zoning Code in Microsoft Word software and the Zoning Map in GIS.

Products:

- PowerPoint Presentation (Digital versions in both Microsoft PowerPoint and Adobe PDF format)
- Screencheck Final Zoning Code (Digital versions in both Microsoft Word and Adobe PDF format)
- Final Zoning Code (Digital versions in both Microsoft Word and Adobe PDF format)
- Final Zoning Map (Digital versions in both GIS and Adobe PDF format)

AGREEMENT FOR THE PERFORMANCE OF SERVICES
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MINTIER HARNISH, LP

EXHIBIT B

FEE SCHEDULE

In no event shall the amount billed to City by Contractor for services under this Agreement exceed two hundred one thousand three hundred twenty dollars ($201,320), subject to budget appropriations.

CITY OF SANTA CLARA ZONING CODE UPDATE
Project Budget

August 8,2017

PHASES	Project Director (Harnish)	Principal (Jacobson)	Project Advisor (Payne)	Project Manager (Gibbons)	Admin	TOTAL HOURS	TOTAL COST
PHASE 1: INFORMATION GATHERING							
Task 1.1: Initial Kick-Off and Scoping Meeting	8	8		8		24	$4,320
Task 1.2: Stakeholder Interviews	16	16		16	16	64	$10,000
Task 1.3: All-Hands Joint Study Session	8			8		16	$2,720
Phase 1 Subtotal	***32***	***24***	***0***	***32***	***16***	***104***	***$17,040***
PHASE 2: DIAGNOSIS							
Task 2.1: Diagnostic Document Review	4	16		16		36	$6,240
Task 2.2: Summary Matrix of Zoning Code Issues	4	8		16		28	$4,640
Task 2.3: Joint Study Session	8			8		16	$2,720
Task 2.4: Draft Zoning Code Format and Outline	2	8		8		18	$3,120
Phase 2 Subtotal	***18***	***32***	***0***	***48***	***0***	***98***	***$16,720***
PHASE 3: CODE UPDATE PROCESS							
Task 3.1: Zoning District Provisions	16	40		80		136	$22,400
Task 3.2: Administrative Provisions	8	100		24		132	$24,960
Task 3.3: General Development and Specific Use Standards	16	60		80		156	$26,400
Task 3.4: Preliminary Draft Zoning Code	8	40	8	40		96	$16,560
Task 3.5: Public Review Draft Zoning Code	4	16		16		36	$6,240
Task 3.6: Updated Zoning Map	4	8	8	24		44	$7,120
Phase 3 Subtotal	***56***	***264***	***16***	***264***	***0***	***600***	***$103,680***
PHASE 4: PUBLIC REVIEW							
Task 4.1: Community Workshops (3)	8		24	24	16	72	$10,400
Task 4.2: Study Sessions (5)	40			40	20	100	$15,300
Task 4.3: Revised Public Review Draft Zoning Code	4	8		16		28	$4,640
Phase 4 Subtotal	***52***	***8***	***24***	***80***	***36***	***200***	***$30,340***
PHASE 5: CEQA COMPLIANCE							
Phase 5 Subtotal	***8***	***0***	***0***	***0***	***20***	***28***	***$3,300***
PHASE 6: ADOPTION							
Task 6.1: Planning Commission Public Hearing	8			8		16	$2,720
Task 6.2: City Council Public Hearing	8			8		16	$2,720
Task 6.3: Screencheck Final Zoning Code and Zoning Map	4	12		16		32	$5,440
Task 6.4: Final Zoning Code and Zoning Map	4	8		24		36	$5,760
Phase 6 Subtotal	***24***	***20***	***0***	***56***	***0***	***100***	***$16,640***
PROJECT MANAGEMENT							
Project Management	16		0	24	24	***40***	***$8,600***
TOTAL							
Total Hours	206	348	40	504	96	1170	-
2017 Billing Rates	$200	$200	$170	$140	$85	-	-
Labor Subtotals	$41,200	$69,600	$6,800	$70,560	$8,160	-	$196,320
Direct Expenses (Printing, travel costs)							**$5,000**
TOTAL COST							**$201,320**

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EXHIBIT C

INSURANCE REQUIREMENTS

INSURANCE COVERAGE REQUIREMENTS

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

A. COMMERCIAL GENERAL LIABILITY INSURANCE

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

   $1,000,000 Each Occurrence
   $2,000,000 General Aggregate
   $2,000,000 Products/Completed Operations Aggregate
   $1,000,000 Personal Injury

2. Exact structure and layering of the coverage shall be left to the discretion of Contractor; however, any excess or umbrella policies used to meet the required limits shall be at least as broad as the underlying coverage and shall otherwise follow form.

3. The following provisions shall apply to the Commercial Liability policy as well as any umbrella policy maintained by the Contractor to comply with the insurance requirements of this Agreement:

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

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

   c. Coverage shall apply separately to each insured against whom a claim is made or a suit is brought, except with respect to the limits of liability.

B. BUSINESS AUTOMOBILE LIABILITY INSURANCE

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

In the event that the Work being performed under this Agreement involves transporting of hazardous or regulated substances, hazardous or regulated wastes and/or hazardous or regulated materials, Contractor and/or its subcontractors involved in such activities shall provide coverage with a limit of two million dollars ($2,000,000) per accident covering transportation of such materials by the addition to the Business Auto Coverage Policy of Environmental Impairment Endorsement MCS90 or Insurance Services Office endorsement form CA 99 48, which amends the pollution exclusion in the standard Business Automobile Policy to cover pollutants that are in or upon, being transported or towed by, being loaded onto, or being unloaded from a covered auto.

C. WORKERS' COMPENSATION

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

2. The indemnification and hold harmless obligations of Contractor included in this Agreement shall not be limited in any way by any limitation on the amount or type of damage, compensation or benefit payable by or for Contractor or any subcontractor under any Workers' Compensation Act(s), Disability Benefits Act(s) or other employee benefits act(s).

3. This policy must include a Waiver of Subrogation in favor of the City of Santa Clara, its City Council, commissions, officers, employees, volunteers and agents.

D. COMPLIANCE WITH REQUIREMENTS

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

1. Additional Insureds. City of Santa Clara, its City Council, commissions, officers, employees, volunteers and agents are hereby added as additional insureds in respect to liability arising out of Contractor's work for City, using Insurance Services Office (ISO) Endorsement CG 20 10 11 85 or the combination of CG 20 10 03 97 and CG 20 37 10 01, or its equivalent.

2. Primary and non-contributing. Each insurance policy provided by Contractor shall contain language or be endorsed to contain wording making it primary insurance as respects to, and not requiring contribution from, any other insurance which the

Indemnities may possess, including any self-insurance or self-insured retention they may have. Any other insurance Indemnities may possess shall be considered excess insurance only and shall not be called upon to contribute with Contractor's insurance.

3. Cancellation.

   a. Each insurance policy shall contain language or be endorsed to reflect that no cancellation or modification of the coverage provided due to non-payment of premiums shall be effective until written notice has been given to City at least ten (10) days prior to the effective date of such modification or cancellation. In the event of non-renewal, written notice shall be given at least ten (10) days prior to the effective date of non-renewal.

   b. Each insurance policy shall contain language or be endorsed to reflect that no cancellation or modification of the coverage provided for any cause save and except non-payment of premiums shall be effective until written notice has been given to City at least thirty (30) days prior to the effective date of such modification or cancellation. In the event of non-renewal, written notice shall be given at least thirty (30) days prior to the effective date of non-renewal.

4. Other Endorsements. Other endorsements may be required for policies other than the commercial general liability policy if specified in the description of required insurance set forth in Sections A through D of this Exhibit C, above.

E. ADDITIONAL INSURANCE RELATED PROVISIONS

Contractor and City agree as follows:

1. Contractor agrees to ensure that subcontractors, and any other party involved with the Services who is brought onto or involved in the performance of the Services by Contractor, provide the same minimum insurance coverage required of Contractor, except as with respect to limits. Contractor agrees to monitor and review all such coverage and assumes all responsibility for ensuring that such coverage is provided in conformity with the requirements of this Agreement. Contractor agrees that upon request by City, all agreements with, and insurance compliance documents provided by, such subcontractors and others engaged in the project will be submitted to City for review.

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

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

F. EVIDENCE OF COVERAGE

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

G. EVIDENCE OF COMPLIANCE

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

EBIX Inc.
City of Santa Clara Planning Division
P.O. Box 100085 – S2 or 1 Ebix Way
Duluth, GA 30096 John's Creek, GA 30097

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

H. QUALIFYING INSURERS

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

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AGREEMENT FOR THE PERFORMANCE OF SERVICES
BY AND BETWEEN THE
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AND
MINTIER HARNISH, LP

EXHIBIT D

ETHICAL STANDARDS FOR CONTRACTORS SEEKING TO ENTER INTO AN AGREEMENT WITH THE CITY OF SANTA CLARA, CALIFORNIA

Termination of Agreement for Certain Acts.

A. The City may, at its sole discretion, terminate this Agreement in the event any one or more of the following occurs:

1. If a Contractor[1] does any of the following:

   a. Is convicted[2] of operating a business in violation of any Federal, State or local law or regulation;

   b. Is convicted of a crime punishable as a felony involving dishonesty[3];

   c. Is convicted of an offense involving dishonesty or is convicted of fraud or a criminal offense in connection with: (1) obtaining; (2) attempting to obtain; or, (3) performing a public contract or subcontract;

   d. Is convicted of any offense which indicates a lack of business integrity or business honesty which seriously and directly affects the present responsibility of a City contractor or subcontractor; and/or,

   e. Made (or makes) any false statement(s) or representation(s) with respect to this Agreement.

---

[1] For purposes of this Agreement, the word "Consultant" (whether a person or a legal entity) also refers to "Contractor" and means any of the following: an owner or co-owner of a sole proprietorship; a person who controls or who has the power to control a business entity; a general partner of a partnership; a principal in a joint venture; or a primary corporate stockholder [i.e., a person who owns more than ten percent (10%) of the outstanding stock of a corporation] and who is active in the day to day operations of that corporation.

[2] For purposes of this Agreement, the words "convicted" or "conviction" mean a judgment or conviction of a criminal offense by any court of competent jurisdiction, whether entered upon a verdict or a plea, and includes a conviction entered upon a plea of nolo contendere within the past five (5) years.

[3] As used herein, "dishonesty" includes, but is not limited to, embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, failure to pay tax obligations, receiving stolen property, collusion or conspiracy.

2. If fraudulent, criminal or other seriously improper conduct of any officer, director, shareholder, partner, employee or other individual associated with the Contractor can be imputed to the Contractor when the conduct occurred in connection with the individual's performance of duties for or on behalf of the Contractor, with the Contractor's knowledge, approval or acquiescence, the Contractor's acceptance of the benefits derived from the conduct shall be evidence of such knowledge, approval or acquiescence.

B. The City may also terminate this Agreement in the event any one or more of the following occurs:

1. The City determines that Contractor no longer has the financial capability[4] or business experience[5] to perform the terms of, or operate under, this Agreement; or,

2. If City determines that the Contractor fails to submit information, or submits false information, which is required to perform or be awarded a contract with City, including, but not limited to, Contractor's failure to maintain a required State issued license, failure to obtain a City business license (if applicable) or failure to provide and maintain bonds and/or insurance policies required under this Agreement.

C. In the event a prospective Contractor (or bidder) is ruled ineligible (debarred) to participate in a contract award process or a contract is terminated pursuant to these provisions, Contractor may appeal the City's action to the City Council by filing a written request with the City Clerk within ten (10) days of the notice given by City to have the matter heard. The matter will be heard within thirty (30) days of the filing of the appeal request with the City Clerk. The Contractor will have the burden of proof on the appeal. The Contractor shall have the opportunity to present evidence, both oral and documentary, and argument.

---

[4] Contractor becomes insolvent, transfers assets in fraud of creditors, makes an assignment for the benefit of creditors, files a petition under any section or chapter of the federal Bankruptcy Code (11 U.S.C.), as amended, or under any similar law or statute of the United States or any state thereof, is adjudged bankrupt or insolvent in proceedings under such laws, or a receiver or trustee is appointed for all or substantially all of the assets of Contractor.

[5] Loss of personnel deemed essential by the City for the successful performance of the obligations of the Contractor to the City.

AGREEMENT FOR THE PERFORMANCE OF SERVICES
BY AND BETWEEN THE
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AND
MINTIER HARNISH, LP

EXHIBIT E

AFFIDAVIT OF COMPLIANCE WITH ETHICAL STANDARDS

I hereby state that I have read and understand the language, entitled "Ethical Standards" set forth in Exhibit D. I have the authority to make these representations on my own behalf or on behalf of the legal entity identified herein. I have examined appropriate business records, and I have made appropriate inquiry of those individuals potentially included within the definition of "Contractor" contained in Ethical Standards at footnote 1.

Based on my review of the appropriate documents and my good-faith review of the necessary inquiry responses, I hereby state that neither the business entity nor any individual(s) belonging to said "Contractor" category [i.e., owner or co-owner of a sole proprietorship, general partner, person who controls or has power to control a business entity, etc.] has been convicted of any one or more of the crimes identified in the Ethical Standards within the past five (5) years.

The above assertions are true and correct and are made under penalty of perjury under the laws of the State of California.

MINTIER HARNISH, LP

a California Limited Partnership

By: _____
Signature of Authorized Person or Representative

Name: Jim Harnish

Title: Principal/Owner

NOTARY'S ACKNOWLEDGMENT TO BE ATTACHED

Please execute the affidavit and attach a notary public's acknowledgment of execution of the affidavit by the signatory. If the affidavit is on behalf of a corporation, partnership, or other legal entity, the entity's complete legal name and the title of the person signing on behalf of the legal entity shall appear above. Written evidence of the authority of the person executing this affidavit on behalf of a corporation, partnership, joint venture, or any other legal entity, other than a sole proprietorship, shall be attached.

CALIFORNIA CERTIFICATE OF ACKNOWLEDGMENT

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

State of California)

County of Sacramento)

On October 11, 2017 before me, Yongwen Huang. notary public,
(here insert name and title of the officer)

personally appeared James Harnish

who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/~~are~~ subscribed to the within instrument and acknowledged to me that he/~~she/they~~ executed the same in his/~~her~~/their authorized capacity(ies), and that by his/~~her~~/~~their~~ signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

NRO1 YONG WEN HUANG COMM. #2122730 Notary Public - California Sacramento County My Comm. Expires Aug. 9, 2019 NRO1

Signature _____ (Seal)

Optional Information

Although the information in this section is not required by law, it could prevent fraudulent removal and reattachment of this acknowledgment to an unauthorized document and may prove useful to persons relying on the attached document.

Description of Attached Document

The preceding Certificate of Acknowledgment is attached to a document titled/for the purpose of Affidavit of Compliance with Ethical Standards,

containing 29 of 1 pages, and dated 10/11/2017.

The signer(s) capacity or authority is/are as:

- [x] Individual(s)
- [ ] Attorney-in-Fact
- [ ] Corporate Officer(s) _____ Title(s)
- [ ] Guardian/Conservator
- [ ] Partner - Limited/General
- [ ] Trustee(s)
- [ ] Other: _____

representing: _____ Name(s) of Person(s) or Entity(ies) Signer is Representing

Additional Information

Method of Signer Identification

Proved to me on the basis of satisfactory evidence:
○ form(s) of identification ○ credible witness(es)

Notarial event is detailed in notary journal on:
Page # _____ Entry # _____

Notary contact: _____

Other

- [ ] Additional Signer(s)
- [ ] Signer(s) Thumbprint(s)
- [ ] _____

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AGREEMENT FOR THE PERFORMANCE OF SERVICES
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EXHIBIT F

MILESTONE SCHEDULE

