

**AGREEMENT FOR DESIGN PROFESSIONAL SERVICES  
BY AND BETWEEN THE  
CITY OF SANTA CLARA, CALIFORNIA  
AND  
YEI ENGINEERS, INC.  
FOR  
CITYWIDE EMERGENCY GENERATOR REPLACEMENT – PHASE I**

**PREAMBLE**

This agreement for the performance of services (“Agreement”) is by and between YEI Engineers, Inc., a California Corporation, with its principal place of business located at 7700 Edgewater Drive, Suite 128, Oakland, California 94621 (“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 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 design professional services more fully described in this Agreement, at Exhibit A, entitled “Scope of Services”; and,
- B. “Design professional” includes licensed architects, licensed landscape architects, registered professional engineers, and licensed professional land surveyors; and,
- C. Consultant represents that it, and its subcontractors, if any, have the professional qualifications, expertise, necessary licenses and desire to provide certain goods and/or required services of the quality and type which meet objectives and requirements of City; and,
- D. The Parties have specified herein the terms and conditions under which such services will be provided and paid for.

The Parties agree as follows:

**AGREEMENT PROVISIONS**

**1. SERVICES TO BE PROVIDED.**

Except as specified in this Agreement, Consultant shall furnish all technical and design 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. Consultant acknowledges that the execution of this Agreement by City is predicated upon representations made by Consultant in that certain document entitled “Request for

Proposal for Design Professional Services – Citywide Emergency Generator Replacement Phase I” dated July 7, 2017, and revised on July 21, 2017 (“Proposal”), which constitutes the basis for this Agreement. The City has selected specific services from the Proposal for Consultant to perform, and these specific services, as modified by the City, are set forth in Exhibit A, SCOPE OF SERVICES.

**2. TERM OF AGREEMENT.**

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

**3. CONSULTANT’S SERVICES TO BE APPROVED BY A LICENSED DESIGN PROFESSIONAL.**

- A. All reports, costs estimates, plans and other documentation which may be submitted or furnished by Consultant shall be approved and signed by an appropriate qualified licensed professional in the State of California.
- B. The title sheet for specifications and reports, and each sheet of plans, shall bear the professional seal, certificate number, registration classification, expiration date of certificate and signature of the design professional responsible for their preparation.

**4. QUALIFICATIONS OF CONSULTANT - STANDARD OF WORKMANSHIP.**

Consultant 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 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.

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. MONITORING OF SERVICES.**

City may monitor the Services performed under this Agreement to determine whether Consultant’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 Consultant constitutes a breach, City may terminate this Agreement pursuant to the provisions described herein.

**6. 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.

**7. PERFORMANCE OF SERVICES.**

Consultant shall perform all requested services in an efficient and expeditious manner and shall work closely with and be guided by City. Consultant 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 Consultant is for the acts and omissions of persons directly employed by it. Consultant will perform all Services in a safe manner and in accordance with all federal, state and local operation and safety regulations.

**8. 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.

**9. RESPONSIBILITY OF CONSULTANT.**

Consultant 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 Consultant shall be and remain liable to City in accordance with applicable law for all damages to City caused by Consultant's 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 Consultant shall not in any respect absolve Consultant from the responsibility Consultant 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.

**10. COMPENSATION AND PAYMENT.**

In consideration for Consultant's complete performance of Services, City shall pay Consultant for all materials provided and services rendered by Consultant at the rate per hour for labor and cost per unit for materials as outlined in Exhibit B, entitled "SCHEDULE OF FEES."

Consultant will bill City on a monthly basis for Services provided by Consultant during the preceding month, subject to verification by City. Invoices submitted shall include, but not be limited to, description of work/task performed, percentage of completion for each task, amount for current invoice, invoiced-to-date amount, contract amount, and remaining contract amount (or in format acceptable by the City), and all supporting documentation for amount requested for payments. City will pay Consultant within thirty (30) days of City's receipt of invoice and all supporting documentation.

**11. PROGRESS SCHEDULE.**

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

**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, Consultant shall discontinue further services as of the effective date of termination, and City shall pay Consultant for all Services satisfactorily performed up to such date.

**13. NO ASSIGNMENT OR SUBCONTRACTING OF AGREEMENT.**

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 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 CONSULTANT.**

Consultant and all person(s) employed by or contracted with Consultant to furnish labor and/or materials under this Agreement are independent contractors and do not act as agent(s) or employee(s) of City. Consultant has full rights, however, to manage its

employees in their performance of Services under this Agreement. Consultant is not authorized to bind City to any contracts or other obligations.

**16. NO PLEDGING OF CITY'S CREDIT.**

Under no circumstances shall Consultant have the authority or power to pledge the credit of City or incur any obligation in the name of City. Consultant 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 Consultant 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 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.

**18. 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.

**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 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.

**20. 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 three (3) 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 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.

**21. CORRECTION OF SERVICES.**

Consultant 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 Consultant.

**22. FAIR EMPLOYMENT.**

Consultant 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, 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 reasonable attorney's fees in providing a defense to any claim arising out of, pertaining to, or relating to the negligence, recklessness, or willful misconduct of the Consultant, its employees, subcontractors, or agents in the performance, or non-performance, of services under this Agreement.

**24. 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 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 Consultant. 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.**

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.

**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: Alan Kurotori, Director of Public Works  
1500 Warburton Avenue  
Santa Clara, California 95050  
by email at [engineering@santaclaraca.gov](mailto:engineering@santaclaraca.gov)  
or by facsimile at 1-408-983-0931

and to Consultant addressed as follows:

YEI Engineers, Inc.  
Attention: Joseph Leung, Project Manager  
7700 Edgewater Drive, Suite 128  
Oakland, CA 94621  
or by email at [jleung@yeiengineers.com](mailto:jleung@yeiengineers.com)

If notice is sent via email, a signed, hard copy of the material shall also be mailed. The workday the hard copy was mailed shall control the date notice was deemed given. An email transmitted after 3:00 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 Consultant 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.

### **33. COMPLIANCE WITH ETHICAL STANDARDS.**

Consultant shall:

- A. Read Exhibit D, entitled "ETHICAL STANDARDS FOR CONSULTANTS 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 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.

### **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, 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



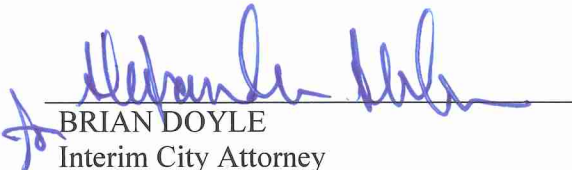
Section 87100 and following, and certifies that it does not know of any facts which would violate these code provisions. Consultant will advise City if a conflict arises.


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:

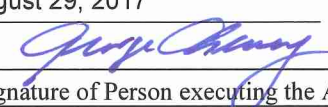
  
BRIAN DOYLE  
Interim City Attorney

Dated: 10/2/17  
  
Deanna J. Santana  
City Manager  
1500 Warburton Avenue  
Santa Clara, CA 95050  
Telephone: 1-408-615-2210  
Fax: 1-408-241-6771

ATTEST:  
  
ROD DIRIDON, JR.  
City Clerk

"CITY"

**YEI ENGINEERS, INC.**  
a California Corporation

Dated: August 29, 2017  
By:   
(Signature of Person executing the Agreement on behalf of Consultant)  
Name: George Cheung  
Title: Executive Vice President  
Local Address: 7700 Edgewater Drive, Suite 128  
Oakland, CA 94621  
Email Address: gcheung@yeiengineers.com  
Telephone: 1-510-957-1619  
Fax: N/A

"CONSULTANT"

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**AGREEMENT FOR DESIGN PROFESSIONAL SERVICES  
BY AND BETWEEN THE  
CITY OF SANTA CLARA, CALIFORNIA  
AND  
YEI ENGINEERS, INC.  
FOR  
CITYWIDE EMERGENCY GENERATOR REPLACEMENT – PHASE I  
  
EXHIBIT A  
  
SCOPE OF SERVICES**

**I. GENERAL**

The City desires to engage a professional Consultant for the services described in the below BASIC SCOPE OF SERVICES.

Consultant is expected to provide complete, professional, high-quality services and products; to provide consultation and work with City staff and others who are involved with the project; and to provide the expertise, guidance, advice, and assistance in accomplishing the work.

**II. BACKGROUND AND PROJECT**

**A. BACKGROUND:**

The City of Santa Clara (City) requires emergency stand-by generators to provide backup power in the event of a major power loss at critical buildings and equipment sites throughout the City. The City also maintains Hazardous Materials Business Plans (HMBPs) and Spill Prevention, Control & Countermeasure (SPCC) plans for some generator locations, which require sufficient secondary containment be provided for tanks of petroleum products. All generators and fuel tank configurations must meet the secondary containment and storage requirements of the SPCC rule and the Certified Unified Program Agency (CUPA) for oil-filled operational equipment and fuel holding tanks. In addition, the City maintains Permits to Operate (PTOs) from the Bay Area Air Quality Management District (BAAQMD) for all non-exempt portable and stationary generators currently in use. Removal of said generators will require All decommissioned sources are removed from associated PTOs and any new sources are added to the appropriate PTOs, as required by BAAQMD.

**B. PROJECT:**

The City wishes to engage the professional services of a Consultant to coordinate and meet with City's staff to review the status of the City's emergency generators with regard to both operational and regulatory performance; provide recommendations for replacement/upgrade of generators and associated equipment such as fuel tanks and automatic transfer switches (ATS); develop Plans, Specifications, and Estimate (PS&E) to remove/replace emergency generator systems for bidding and construction;

coordination and assist in permitting process; and to provide Bid, Award, Construction, and Post-Construction support services for the Citywide Emergency Generator Replacement – Phase I (Project).

Phase I of Emergency Generator Replacement includes the following sites:

Site	Address	Model Year	KW / Hp	Fuel Type
1	1500 Warburton Avenue – City Hall-East Wing	1984	33 / 44	Diesel
2	1990 Walsh Avenue (2 generators) – EOC	1983	278 / 370	Diesel
3	1715 Martin Avenue – Radio Shop-Utility Corp Yrd	1991	60 / 80	Diesel
4	2400 Agnew Road – Fire Station 8	1976	15 / 20	Diesel
5	3401 Victor Street – SD Pump Station	1986	449 / 598	Diesel
6	2900 Old Mountain View/Alviso Road – SD PS	2001	350 / 466	Diesel
7	777 Benton Street – Fire Station 1	1989	100 / 134	Diesel
8	2600 Benton Street – Parks & Rec Serv Cntr	1991	60 / 80	Diesel
9	3495 Benton Street – Fire Station 7	1989	15 / 20	Diesel
10	449 Montague Expressway – SD Pump Station	1988	675 / 900	Diesel

Consultant is to provide professional Project service that meets the City’s needs, is efficient and cost-effective, and is within the approved budget and schedule, meeting the goals of the Project.

### **III. BASIC SCOPE OF SERVICES**

A general description of the services, tasks, and responsibilities required for the Project are as follows:

#### **A. RESPONSIBILITIES OF CITY:**

City to provide the followings:

- A.1 City’s AutoCAD Standard Plan template, Standard Details and Specifications, Benchmark, and Design Criteria.
- A.2 Pertaining Storm Drain (SD), Sanitary Sewer (SS), Electrical, and Water Plat Maps; Assessor Parcel Maps; and record drawings (if available).
- A.3 Contacts for various stakeholders of above-mentioned sites.

#### **B. PREAMBLE TO BASIC SERVICES:**

- B.1 The Consultant shall provide approved personnel and sub-consultants to perform the services described in the paragraphs below:
  - a) Field visits to the Project sites.
  - b) Conduct data collection and evaluation.

- c) Conduct topographic survey.
- d) Provide Evaluation/Recommendation Report.
- e) Assisting in permit applications and obtain approval from various regulatory agencies.
- f) Coordinate, prepare, and attend meetings.
- g) Develop PS&E.
- h) Provide Bid, Award, Construction, and Post-Construction Phase Support Services.

B.2 The Consultant's Basic Services shall consist of the services described in Section C., BASIC SERVICES, below.

### **C. BASIC SERVICES:**

Generally, Consultant shall perform the followings for each major Phase listed below:

- 1) Plan, coordinate, schedule, attend meetings, and produce meeting minutes with action items for all meetings with the City. Provide presentation materials (if needed) for all meetings and presentations.
- 2) Conduct a quality assurance and quality control (QA/QC) review before each and every submittal to ensure all City's and regulatory Agencies' comments have been addressed.
- 3) Provide Review/Plan Check Log summarizing comments received from various City Departments/Divisions and regulatory Agencies. Review/Plan Check Log will include, but not limited to, commenting department/division or agency, comments, response to comments, action items, and person responsible for follow up. Submit log in electronic format with each route of plan check submittal.
- 4) Provide detailed Project Schedule for the entire Project from Data Collection/Evaluation Phase through Post-Construction Phase. Schedule is to be updated and submitted at each submittal or as needed with completed tasks and critical path items clearly identified.
- 5) Submit Plans drawn to scale, on D-size (24" X 36") sheets, at an engineering scale up to 1" = 40' maximum, conforming to City's Design Criteria. Plans are to be drawn by AutoCAD 2014 or earlier versions, using City-provided standard AutoCAD template with background layout from Consultant's topographic survey.

#### **C.1 Data Collection/Evaluation Phase:**

Consultant shall perform the following tasks for this phase:

- a) Attend a kick-off meeting with City staff to review the Project's goals, scope, schedule, costs, team coordination, City process, and plan.

- b) Conduct a detailed field review/investigation to gather critical information for the evaluation and design. Such information shall include, but not be limited to, existing equipment and other equipment associated with the generator site, surrounding areas/spaces/land use at each generator site, existing power connection and load, fuel connection, spill containment setup, etc.
- c) Perform needed topographic survey for plans layout and final approved improvements (from the evaluation/recommendation). Gathered topographic survey information shall be used as base layout for the Project's Plans.
- d) Perform the following evaluations:
  - 1. Evaluate condition of the existing generators and other associated equipment to determine whether it is optimal to reuse the existing equipment with or without modification, or to replace the existing generators.
  - 2. Evaluate the existing generators' physical location for current regulations compliance and to determine whether it is economical to select a new location or to modify the existing location to accommodate new generator and equipment.
  - 3. Evaluate the existing power connection, load requirements, and required switching times, if any, and to determine if a new power connection or a connection upgrade is needed to maintain power supply to the existing and/or new loads immediately after loss of power.
  - 4. Evaluate existing fuel type and available generator run times without requiring refueling and determine if alternative fuel types or different run times are better suited for the location and needs of the City.
  - 5. Evaluate to determine if remote annunciators are required or beneficial for each site.
  - 6. Evaluate and provide recommendation for remote automated monitoring, including the positive/negative impacts and return on investment for this technology.
  - 7. Evaluate enclosure or shelter to protect the generator and associated equipment from the elements and address the physical security of all major components, with regard to theft, vandalism, accidental damage, or noise control.
  - 8. All evaluation and recommendations shall consider compatibility of the new and existing equipment and facilities

## **C.2 Schematic Design Phase:**

Consultant shall perform the following tasks for this phase:

- a) Meet with City staff to obtain additional information and input as needed. Provide all necessary design services including but not limited to, civil, structural, electrical, mechanical, and environmental design according to the evaluation and recommendations. The design shall also include an enclosure or shelter to protect the generator and associated equipment from the elements.
- b) Prepare schematic design documents with consideration of two potential scenarios: 1) removal and replacement of generator with back-up generator in place during construction, 2) removal and replacement of generator without back-up generator in place during construction.
- c) Schematic Plans shall include all existing on-site utilities and immediate surrounding off-site areas.
- d) Design the new generators to meet or exceed all necessary regulatory and emissions requirements for the area.
- e) Design all power connections to City Electric Department (aka Silicon Valley Power (SVP)) to comply with the guidelines and steps for interconnection described in SVP Generating Facility Interconnection Application.
- f) Design for replacement generator, ATS, emergency shut off, power supply, and any other associated equipment if it is determined reusing the existing equipment is not optimal.
- g) Design for all necessary electrical, mechanical, telecommunication for remote automated monitoring should it be determined it would be in the best interest of the City.
- h) Provide a decommission and disposal plan for each generator, including but not limited to fuel storage tanks, ATS, and wiring, for properly close up and disposal of the removed generators and associated equipment/hazardous materials should it be determined that existing generator needs to be replaced.
- i) Provide engineering cost estimate for each site.
- j) Meet with City staff to review City comments on schematic design, and gain concurrence as to how the documents will be revised as appropriate to incorporate City comments into the next design phase.

### **C.3 60% Design Phase:**

Consultant shall perform the following tasks for this phase:

- a) Develop and refine the design, and prepare the 60% Construction Documents.
- b) Project Plans shall include details of the following major design components, but not limited to:
  - 1. Site Plans
  - 2. Telecommunications/Data
  - 3. Electrical Drawings
  - 4. Mechanical Drawings
  - 5. Structural Drawings
  - 6. Civil Drawings
  - 7. Decommission/Disposal Drawings
- c) Provide the Technical Specifications (Division 3) and required inputs to the City's Project Specific Specification Book (Division 0, 1, and 2).
- d) Provide an updated Engineering Cost Estimate. Should the 60% cost estimate exceeds the approved preliminary engineering cost estimate, Consultant shall explain and justify the increase and shall submit a list of proposed modifications to bring the cost within budget.
- e) Plan, coordinate, and assist City to obtain approval and permits from regulatory agencies and City's Building, Electric, and Fire Department. Consultant shall provide needed information and Plans for City to apply for City's Building, Electric, and Fire Department permits, including Above Ground Tank Installation permit, Fuel Tank Removal Permit and Hazardous Material Closure Permit, BAAQMD permit, and all other necessary permits, except installation permits that requires contractor information and signature. Consultant shall respond to permit reviewers' comments, revise, and resubmit permit packages as needed.
- f) Consultant shall meet with City staff to review Response Matrix and gain concurrence as to how the documents will be revised as appropriate to incorporate said comments into the next design phase.

### **C.4 100% Design Phase:**

Consultant shall perform the following tasks for this phase:

- a) Revise the 60% PS&E to produce the 100% PS&E. All major design changes shall be discussed and approved by the City prior to the 100% PS&E submittal.
- b) Assist the City to ensure all needed permits for all sites are obtained.

- c) Meet with City staff to review Response Matrix and gain concurrence as to how the documents will be revised as appropriate to incorporate said comments into the next design phase.

#### **C.5 Bid Documents Phase:**

Consultant shall perform the following tasks for this phase:

- a) Revise the 100% PS&E to produce the Bid Documents.
- b) Bid Plans shall be wet stamped and signed by Consultant's Project Engineer on all sheets. Plans shall be drawn to scale and plotted to D-size on good bond paper.
- c) Bid Specifications shall be wet stamped and signed by Consultant's Project Engineer (Document 30, SEALS, in Division 0). Specifications shall be printed single-size on 8.5" X 11" papers.

#### **C.6 Bid and Award Phase:**

- a) Bid task requires Consultant to provide information and assistance during the bidding phase, to answer questions from bidders, to assist City in its outreach program for obtaining qualified bidders, to prepare addenda when necessary, and to attend and participate in a pre-bid conference (if any).
- b) If the Bidding Phase has not commenced within ninety (90) days after the Consultant submits the Bid Documents to the City, any Project budget or fixed limit of Construction Cost shall be adjusted to reflect changes in the general level of prices in the construction industry between the date of submission of the Bid Documents to the City and the date on which proposals are sought.
- c) Should the lowest responsive and responsible bid for the construction of the Project exceed the last-approved Consultant's engineering cost estimate by more than 10%, and changes are directed by City for the purpose of reducing the Project cost, Consultant shall make said changes with no increase in fee. If the Project is then re-advertised for bid, Consultant shall provide these same Task C.5 services at no extra cost.
- d) Within fourteen (14) days from the Bid Opening date, Consultant shall prepare and submit a conformed set of contract documents (Plans and Specifications) incorporating any and all addenda (if needed)
- e) Should City, after receipt of bids, determine that it is not in its best interests to award the construction contract, City may terminate this Agreement in accordance with Section 12, TERMINATION OF AGREEMENT, of this Agreement.



## **C.7 Construction Phase:**

- a) Consultant's responsibility to provide Basic Services for the Construction Phase under this Agreement shall commence with the "Notice to Proceed" (NTP) of the Contract for Construction and terminates on the date the City Council approves the Certificate of Completion. Consultant shall at all times have access to the Project's sites wherever it is in preparation or progress. Consultant shall assist the City and the Project Manager or City Inspector in providing Administration of the Contract for Construction. Duties, responsibilities and limitation of authority of the Consultant shall not be restricted, modified or extended without written agreement of the City and Consultant.
- b) Consultant shall perform the following tasks for this phase:
  1. Attend the Pre-construction Meeting, conducted by the City, respond to Contractor's inquiries, and assist City in producing and finalizing the meeting minutes.
  2. Visit Project's sites as requested by the City for the benefit of the Project during this phase. During these site visits, the Consultant shall attend job progress meetings, pre-submittal meetings, pre-installation meetings, and other meetings as requested by the City. When visiting the site, the Consultant and its sub-consultant shall prepare a written field report noting their observations and specifically documenting action that should be taken regarding items, such as, but not limited to, contract deficiencies, change orders, Contractor's requests for information, etc.
  3. Review Contractor's submittals, including Shop Drawings, Product Data, and Samples. The Consultant's action shall be taken with such reasonable promptness so as to cause no delay in the work, while allowing sufficient time in the Consultant's judgment to permit adequate review unless otherwise agreed to. Consultant will be allowed a maximum of fourteen (14) calendar days for submittals per review for items that not impacting or on the critical path of the Project's construction schedule and seven (7) calendar days for items that impacting or on the critical path. Consultant's review shall not constitute review of safety precautions, unless otherwise specifically stated by the Consultant, of construction means, methods, techniques, sequences or procedures. The Consultant's review of specific items shall not indicate approval of an assembly of which the item is a component. When professional certification of performance characteristics of materials, systems, or equipment is required by the Contract Documents, Consultant shall be entitled to rely upon such certification to establish that the materials, systems, or equipment will meet the performance criteria required by the Contract Documents.

4. Respond to Contractor's Request for Information (RFI) and Request for Substitution (RFS). Interpretations and decisions of Consultant shall be consistent with the intent of and reasonably inferable from the Contract Documents and shall be in writing or in the form of drawings. Consultant shall be allowed a maximum of seven (7) calendar days to respond to RFIs and RFSs that impact the Project schedule or a maximum of fourteen (14) calendar days to respond to RFIs and RFSs that do not impact the Project schedule.
5. Prepare the Scope of Work, including sketches, for Field Instructions (FIs) issued to the Contractor. Consultant shall be allowed a maximum of seven (7) calendar days to respond to FIs that impact the Project schedule or a maximum of fourteen (14) calendar days to respond to FIs that do not impact the Project schedule.
6. When requested by the City, review proposed Change Order (CO) from Contractor, including its pricing, and provide written responses for the City's review and finalizing said COs.

#### **C.8 Post-Construction Phase:**

Consultant shall perform the following tasks for this phase:

- a) Witness system testing and confirm system performs properly as required per Construction Documents and provide written report.
- b) When requested by the City, conduct reviews to assist the City to determine the date or dates of Substantial Completion and the date of Final Completion.
- c) Upon request by Contractor, in accordance with contract Specifications, for Substantial Completion and later Final Completion, assist City in determining if the Project is ready for the stage of completion requested by the Contractor and provide City with a written recommendation.
- d) Perform a walk-through of the Project sites with City, review Contractor Punch List, provide written response with status and action of items on the Punch List., and provide written response with recommendation regarding Project acceptance and close-out.
- e) Provide City with one set of reproducible Record Drawings (RDs) on reproducible bond that reflect the changes to the work during construction based upon marked up prints, drawings and other data furnished by the Contractor and City. Use the original Title sheet for the RDs set. If additional sheets were added to the Plans, they shall be properly numbered, properly referenced on other affected drawings, and included in the drawing index. Consultant may, at its own expense, prepare and retain a copy of each drawing for its permanent file.

- f) During all one-year period of guarantee of the Work provided for in the Contracts with the Contractor, provide the following services:
1. Act as City's advisor for the purpose of securing correction of any and all defects and deficiencies covered by guarantees. Also assists City by providing interpretations of the Plans and Specifications when requested.
  2. Between ten (10) and eleven (11) months following the issuance of final completion and prior to the expiration of any guarantees, visit the Project sites with City and Contractor to 1) Review the work and identify observable defects and deficiencies, 2) Evaluate the performance, durability and appearance of installed products, materials, and system as they relate to suitability for the intended use, 3) Evaluate the Project's function and City's use of the Project as reflection of the original program intent, and 4) Submit a written memorandum to City concerning the foregoing no later than 345 days (11.5 months) after issuance of final completion.

#### **C.9 Deliverables – Electronic and hard copy format:**

Evaluation/Recommendation Reports. Meeting agendas and minutes. Project Schedules. Presentation Materials. Consultant's response Matrix. P&S&E.

##### Task C.1 – Data Collection/Evaluation Phase:

1. Evaluation Report (Draft and Final) – four (4) of hardbound copies, one (1) PDF, and one (1) Microsoft Word file.
2. Project Schedule – One (1) of hard copy, one (1) PDF, and one (1) Microsoft Project file.
3. Review/Plan Check Log – one (1) PDF and one (1) Microsoft Excel file
4. Miscellaneous Project information (as requested).
5. Meeting minutes – one (1) PDF and one (1) Microsoft Word file.
6. Any required Project documentations for the public information.

##### Task C.2 – Schematic Design Phase:

1. Schematic Plans – Four (4) hardbound copies of D-size (24" X 36"), one (1) PDF, one (1) AutoCAD file.
2. Project Schedule – One (1) of hard copy, one (1) PDF, and one (1) Microsoft Project file.
3. Engineering Cost Estimate, including structural generator/fuel tank foundation/anchorage and reference soil investigation – Four (4) of hard copies, one (1) PDF, and one (1) Microsoft Excel file.
4. Review/Plan Check Log – one (1) PDF and one (1) Microsoft Excel file
5. Meeting minutes – one (1) PDF and one (1) Microsoft Word file.

##### Task C.3 – 60% Design Phase:

1. 60% Plans – Four (4) hardbound copies of D-size (24” X 36”), one (1) PDF, one (1) AutoCAD file.
2. 60% Specifications – Four (4) hardbound A-side (8.4” X 11”) copies, one (1) PDF, and one (1) Microsoft Word file.
3. 60% Engineering Cost Estimate – One (1) of hard copies, one (1) PDF, and one (1) Microsoft Excel file.
4. Updated Project Schedule – One (1) of hard copy, one (1) PDF, and one (1) Microsoft Project file.
5. Permit application packages – Hard copies as required by regulatory agencies and City’s Building, Electric, and Fire Department with all necessary supporting documentations and one (1) PDF of each package.
6. Written response matrix – One (1) PDF and one (1) Microsoft Excel file.
7. Meeting minutes – One (1) PDF and one (1) Microsoft Word file.
8. Miscellaneous Project information (as requested).

Task C.4 – 100% Design Phase:

1. 100% Plans – Eight (8) hardbound copies of D-size (22” X 34”) and two (2) hardbound copies of B-size (11” X 17”), one (1) PDF, one (1) AutoCAD file.
2. 100% Specifications – Eight (8) hardbound A-side (8.4” X 11”) copies, one (1) PDF, and one (1) Microsoft Word file.
3. 100% Engineering Cost Estimate – One (1) of hard copies, one (1) PDF, and one (1) Microsoft Excel file.
4. Updated Project Schedule – One (1) of hard copy, one (1) PDF, and one (1) Microsoft Project file.
5. Structural Calculations – Two (2) hardbound copies and one (1) PDF.
6. Final Building, Electrical, Fire, and BAAQMD permits.
7. Written response matrix – One (1) PDF and one (1) Microsoft Excel file.
8. Meeting minutes – One (1) PDF and one (1) Microsoft Word file.

Task C.5 – Bid Documents Phase:

1. Bid Plans – One (1) wet-signed stamped D-size reproducible bond set, one (1) PDF, and one (1) AutoCAD file.
2. Bid Specifications – One (1) wet-signed stamped A-size hard copy set, one (1) PDF, and one (1) Word file.
3. Written response matrix – One (1) PDF and one (1) Microsoft Word or Excel file.
4. Meeting minutes – One (1) PDF and one (1) Microsoft Word file.

Task C.6 – Bid and Award Phase:

1. Written response to bidder’s inquiries – One (1) original wet signed hard copy and one (1) PDF.
2. Support information for addenda – One (1) original wet signed hard copy and one (1) PDF.
3. Written recommendation letter to award of contract for the Project.
4. Conformed Set (if needed) – One (1) wet-signed stamped D-size

reproducible bond set of Plans and one (1) wet-signed stamped A-size set of Specifications, one (1) PDF of Plans and Specifications, one (1) AutoCAD file of Plans, and one (1) Microsoft Word file of Specification.

Task C.7 – Construction Phase:

1. Reviewed Contractor Submittals, Shop Drawings, RFIs, RFSs, and Field Instructions – One (1) original wet signed hard copy and one (1) PDF.
2. COs' recommendations – One (1) original wet signed hard copy and one (1) PDF.
3. Field reports by Consultant and sub-consultants – One (1) original wet signed hard copy and one (1) PDF.

Task C.8 – Post-Construction Phase:

1. Substantial Completion/Final Completion recommendations and Reviewed Punch List – One (1) original wet signed hard copy and one (1) PDF.
2. Record Drawings – One (1) set of D-size reproducible bond, one (1) PDFs, and one (1) AutoCAD files on CD/DVD or USB Drive.
3. 345-Day Report – One (1) original wet signed hard copy and one (1) PDF.

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AND  
YEI ENGINEERS, INC.  
FOR  
CITYWIDE EMERGENCY GENERATOR REPLACEMENT – PHASE I  
  
EXHIBIT B**

**SCHEDULE OF FEES**

Consultant shall provide a schedule of rates and fees which includes all billing amounts and costs as follows (if applicable), such as:

**I. ORIGINAL PAYMENT AMOUNT**

The total payment to the Consultant for all work necessary for performing all tasks, as stated in **Exhibit A**, shall be Five Hundred Thirty-Four Thousand Nine Hundred Twenty Dollars (\$534,920) plus Additional Services, which shall not exceed the sum of Fifty-Five Thousand Eighty Dollars (\$55,080). Billing shall be on a monthly basis proportionate to the services performed for each task completed. In no event shall the amount billed to City by Consultant for services under this Agreement exceed Five Hundred Ninety Thousand Dollars (\$590,000), subject to budget appropriations.

**II. ADDITIONAL SERVICES**

Additional Services shall be provided at the fixed hourly rates shown below in Section V, RATE SCHEDULE, or at an agreed negotiated price. Additional Services are allowed only if written proposal is received, reviewed, and written authorization is given by the Director of Public Works in advance of the work to be performed. Additional Services shall not exceed \$55,080 without approval by the City.

**III. REIMBURSABLE EXPENSES – NOT USED**

**IV. PAY RATE SCHEDULE**

**Basic Services:**

Compensation shall be in proportion to services rendered and shall be billed monthly as percentages of completion for each phase listed below. Fees shall be lump sum and not-to-exceed per task as listed below:

1. Task C.1 – Data Collection/Evaluation .....	\$84,654
2. Task C.2 – Schematic Design .....	\$56,436
3. Task C.3 – 60% Design .....	\$147,922
4. Task C.4 – 100% Design .....	\$118,720
5. Task C.5 – Bid Documents .....	\$61,410
6. Task C.6 – Bid and Award .....	\$14,778
7. Task C.7 – Construction .....	\$45,000
8. Task C.8 – Post-Construction .....	<u>\$6,000</u>
TOTAL (not-to-exceed).....	\$534,920

## V. RATE SCHEDULE

Name/Title	Rate/Hour
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### **YEI Engineers, Inc. – Electrical/Mechanical Engineer**

7700 Edgewater Drive, Suite 128

Oakland, CA 94621

George Cheung – Principal-In-Charge .....	\$219
Joseph Leung – Project Manager .....	\$188
Lawrence Lam – Lead Electrical Engineer .....	\$188
Patrick Mallillin – Lead Mechanical Engineer .....	\$188
Bryan Hayes – Mechanical Engineer.....	\$175
Josephine Hidalgo – Electrical Design Engineer .....	\$165
Sandy Ao – Electrical Design Engineer.....	\$165
AutoCAD/Drafter .....	\$108
Administration Staff .....	\$76

### **BKF Engineers – Civil Engineer and Surveyors**

1730 N. First Street, Suite 600

San Jose, CA 95112

Dave Richwood – Principal-In-Charge.....	\$206
Davis Thresh – Survey Project Manager .....	\$190
Marty Parissenti – Project Manager.....	\$190
Kyle Brinkman – Engineer I .....	\$124
Administration Staff.....	\$65
Two Person Field Crew .....	\$210
Right-of-Way Determination .....	\$120
CAD Drafter .....	\$93

### **Tuan & Robinson – Structure Engineer**

444 Spear Street, Suite 101

San Francisco, CA 94105

Eugene Tuan – Principal Engineer .....	\$240
Alexandra Godwin – Structural Engineer .....	\$130
Simon Ng – Structural Designer .....	\$110
CAD Drafter .....	\$80
Administration Staff .....	\$65

**Joseph Chow & Associates – Architect**

650 Delancey Street, Suite 211

San Francisco, CA 94107

Joyce Chow – Principal Architect .....	\$190
Baron Gee – Architect .....	\$160
ShiMing Xie – Designer .....	\$150
CAD Drafter .....	\$96
Administration Staff .....	\$65



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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 (ISO) 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, ISO form CA 00 01. Liability coverage shall apply to all owned (if any), non-owned and hired autos.

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

**C. WORKERS’ COMPENSATION**

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

**D. PROFESSIONAL LIABILITY**

Professional Liability or Errors and Omissions Insurance as appropriate shall be written on a policy form coverage specifically designed to protect against negligent acts, errors or omissions of the Consultant. Covered services as designated in the policy must

specifically include work performed under this agreement. Coverage shall be in an amount of not less than one million dollars (\$1,000,000) per claim or two million dollars (\$2,000,000) aggregate. Any coverage containing a deductible or self-retention must first be approved in writing by the City Attorney's Office.

E. COMPLIANCE WITH REQUIREMENTS

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

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

G. EVIDENCE OF COVERAGE

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

H. EVIDENCE OF COMPLIANCE

Consultant or its insurance broker shall provide the required proof of insurance compliance, consisting of 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 – Public Works Department  
P.O. Box 100085 – S2 or 1 Ebix Way  
Duluth, GA 30096 John's Creek, GA 30097

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

#### I. QUALIFYING INSURERS

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

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EXHIBIT D**

**ETHICAL STANDARDS FOR CONSULTANTS 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 Consultant<sup>1</sup> does any of the following:
    - a. Is convicted of operating a business in violation of any Federal, State or local law or regulation;
    - b. Is convicted<sup>2</sup> of a crime punishable as a felony involving dishonesty<sup>3</sup>;
    - 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 consultant or subcontractor; and/or,
    - e. Made (or makes) any false statement(s) or representation(s) with respect to this Agreement.

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<sup>1</sup> 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.

<sup>2</sup> 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.

<sup>3</sup> 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 Consultant can be imputed to the Consultant when the conduct occurred in connection with the individual's performance of duties for or on behalf of the Consultant, with the Consultant's knowledge, approval or acquiescence, the Consultant'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 Consultant no longer has the financial capability<sup>4</sup> or business experience<sup>5</sup> to perform the terms of, or operate under, this Agreement; or,
  2. If City determines that the Consultant 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, Consultant'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.

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<sup>4</sup> Consultant 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 Consultant.

<sup>5</sup> Loss of personnel deemed essential by the City for the successful performance of the obligations of the Contractor to the City.

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**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 “Consultant” 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 “Consultant” 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.

YEI ENGINEERS, INC.

a California Corporation

By:   
Signature of Authorized Person or Representative

Name: George Cheung

Title: Executive Vice President

**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 ALL-PURPOSE ACKNOWLEDGMENT**

**CIVIL CODE § 1189**

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 Alameda )

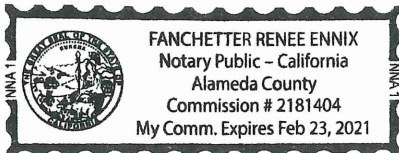
On 8/31/2017 before me, Fanchetter Renee Ennix, Notary  
Date Here Insert Name and Title of the Officer

personally appeared George Cheung  
Name(s) of Signer(s)

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.



Signature Fanchetter Renee Ennix  
Signature of Notary Public

Place Notary Seal Above

**OPTIONAL**

Though this section is optional, completing this information can deter alteration of the document or fraudulent reattachment of this form to an unintended document.

**Description of Attached Document**

Title or Type of Document: \_\_\_\_\_ Document Date: \_\_\_\_\_

Number of Pages: \_\_\_\_\_ Signer(s) Other Than Named Above: \_\_\_\_\_

**Capacity(ies) Claimed by Signer(s)**

Signer's Name: \_\_\_\_\_

☐ Corporate Officer — Title(s): \_\_\_\_\_

☐ Partner — ☐ Limited ☐ General

☐ Individual ☐ Attorney in Fact

☐ Trustee ☐ Guardian or Conservator

☐ Other: \_\_\_\_\_

Signer Is Representing: \_\_\_\_\_

Signer's Name: \_\_\_\_\_

☐ Corporate Officer — Title(s): \_\_\_\_\_

☐ Partner — ☐ Limited ☐ General

☐ Individual ☐ Attorney in Fact

☐ Trustee ☐ Guardian or Conservator

☐ Other: \_\_\_\_\_

Signer Is Representing: \_\_\_\_\_

**AGREEMENT FOR DESIGN PROFESSIONAL SERVICES  
BY AND BETWEEN THE  
CITY OF SANTA CLARA, CALIFORNIA  
AND  
YEI ENGINEERS, INC.  
FOR  
CITYWIDE EMERGENCY GENERATOR REPLACEMENT – PHASE I**

**EXHIBIT F**

**MILESTONE SCHEDULE**

The Consultant shall have up to six (6) months, including City review time in Task C1 through C5, from the day of Notice-to-Proceed (NTP) to complete the final Bid Documents. Depending on date of the NTP, Consultant shall have the following period to complete each milestone schedule:

<b><u>TASK</u></b>	<b><u>WEEKS</u></b>
C 1. Data Collection/Evaluation (including 1 week City review).....	Four (4)
C 2. Schematic Design (including 1 week City review).....	Four (4)
C 3. 60% Design (including 2 weeks City review) .....	Six (6)
C 4. 100% Design (including 2 weeks City review) .....	Six (6)
C 5. Bid Documents (including 1 week City review) .....	Four (4)
C 6. Bid and Award .....	As needed per Contract
C 7. Construction .....	As needed per Contract

Depending on date of the Project completion, Consultant shall have the following period to complete each task listed below:

C 8. Post-Construction .....	Fifty-Two (52)
C 8.e. Record Drawings (from redline marked up received date) .....	Three (3)