

**AGREEMENT FOR THE PERFORMANCE OF SERVICES
BY AND BETWEEN THE
CITY OF SANTA CLARA, CALIFORNIA,
AND**

BLACK & VEATCH MANAGEMENT CONSULTING, LLC

PREAMBLE

This agreement for the performance of services ("Agreement") is by and between Black & Veatch Management Consulting, LLC a Kansas limited liability company, with its principal place of business located at 11401 Lamar Avenue, Overland Park, Kansas 66211 ("Contractor" or "Black & Veatch"), 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";
- 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. SERVICES TO BE PROVIDED.

City employs Contractor to perform the services ("Services") more fully described in Exhibit A entitled, "SCOPE OF SERVICES." All of the exhibits referenced in this Agreement are attached and incorporated by this reference. Except as otherwise specified in this Agreement, Contractor shall furnish all necessary technical and professional services, including labor, material, equipment, transportation, supervision and expertise to satisfactorily complete the work required by City at his/her own risk and expense.

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, 2018.

3. 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.

4. 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.

5. 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.

6. 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.

7. 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.

8. 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.

9. 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.

10. 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.

11. 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.

12. 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.

13. 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.

14. 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.

15. 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.

16. 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.

17. 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.

18. 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.

19. 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.

20. 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.

21. 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.

22. 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.

23. AMENDMENTS.

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

24. 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.

25. 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.

26. 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.

27. NOTICES.

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

City of Santa Clara
Attention: Water & Sewer Utilities
1500 Warburton Avenue
Santa Clara, California 95050
or by facsimile at (408) 247-0784

And to Contractor addressed as follows:

Name: Ann Bui, Managing Director
Address: 800 Wilshire Boulevard, Suite 600
Los Angeles, CA 90017
or by facsimile at (213) 312-3317

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.

28. 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.

29. 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.

30. 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.

31. 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."

32. 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.

33. 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.

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:

Dated: 12/22/17



BRIAN DOYLE
City Attorney



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”

BLACK & VEATCH MANAGEMENT CONSULTING, LLC
A KANSAS LIMITED LIABILITY COMPANY

Dated: 12/21/17

By: 

(Signature of Person executing the Agreement on behalf of
Contractor)

Name: L. Shane Clark

Title: Chief Financial Officer

Local Address: 11301 Lamar Avenue

Overland Park KS 66211

Email Address: clarkLS@bv.com

Telephone: (913) 458-7029

Fax: ()

“CONTRACTOR”

Legal

Approved

Reviewed 

Date 12/19/17

PM

Approved 

Date 12/21/2017

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EXHIBIT A

SCOPE OF SERVICES

The Services to be performed for the City by the Contractor under this Agreement are set forth below, and more fully described in the Contractor's proposal entitled, "Water and Sewer Rate Study" dated October 27, 2017 ("Proposal"), which is attached to this Exhibit A.

In the event of any conflict between the terms of the main agreement and the terms of this Exhibit A, the terms of the main agreement shall control. In the event of any conflict between the terms of the main agreement and the terms of the Proposal, the terms of the main agreement shall control. In the event of any conflict between the terms of this Exhibit A and the Proposal, the terms of this Exhibit A shall control. Without limiting the foregoing, Black & Veatch hereby waives all of the proposed exceptions to the standard City of Santa Clara Agreement, outlined in Chapter 7.

Water, Sewer, and Recycled Water Rate Study

Task 1 - Project Management

The objective of this task is the overall project management of the study. Management includes items such general discussions, data request and meetings.

1.1 Kick-off Meeting

Black & Veatch will attend a kick-off meeting with City staff to review the goals and objectives, scope, options, strategies and receive direction from the City's point of contact regarding official communication. In addition, the Black & Veatch project team will perform an initial review of the data request.

1.2 Data Request

Black & Veatch will prepare a data request for financial and/or operating data necessary to complete the study. It is anticipated data will be available in a timely manner to support the study timeline.

1.3 Meetings

- Black & Veatch will attend three in-person meetings; one kick-off meeting and two progress meetings/working sessions with City staff.
- Black & Veatch will be attend and participate in up to three public meetings; two City Council meetings, and one Public Hearing to present the study results and recommendations.
- Black & Veatch anticipates several conference calls with staff to discuss minor issues as they arise in the course of the study.

1.4 Deliverables

- Black & Veatch will provide the City with a preliminary draft rate and capacity fee study report for City staff and legal to review and comment. The report shall include an executive summary that summarizes the objectives, purposes, various methodologies analyzed, recommendations and implementation plan.
- Black & Veatch will provide the City with a final study incorporating final City and legal comments. A revised final report may be submitted based on Council recommendation.
- Black & Veatch will provide a summary of findings and recommendation for the existing Cupertino Sanitary District (CuSD) agreement and for temporary discharge fee.
- Black & Veatch will provide the City with an updated or new rate models, one per utility.

Task 2 - Financial Plan

The objective of this task is to develop the financial plans for both the water and wastewater utilities over a five-year study period between fiscal years 2019 to 2023.

2.1 Customer and Usage Projections

Black & Veatch will forecast potential growth in customers and usage during the study

period by incorporating the City's Master Plans, Urban Water Management Plan, growth in City and County and the consequences associated with State of California Governor's Executive Orders.

It is always challenging to forecast customer usage during drought conditions; therefore, we will consider historical water demand, the stress test results, and the City's desire to maintain reduced consumption. Typically, a customer's usage pattern will change during a drought condition and be maintained through a post drought condition. Black & Veatch will utilize historical customer water usage patterns for the City to project future usage.

2.2 Revenue Projections

Black & Veatch will apply the existing rates to projected connections and usage to determine existing revenue. Revenue determined as a result of this analysis will form the basis to assess revenues under existing rates for all customer classes over the study period. The revenue levels generated will provide an understanding of the impact of existing water conservation restrictions on revenue stability and other operating and capital needs.

2.3 Miscellaneous Revenue Projections

Revenues generated from other existing sources including connection fees, interest earnings; late payment penalties and interest; and other miscellaneous revenues will be determined and projected over the study period. These revenue sources are important for determining the net level of future revenue needed from rates.

2.4 Annual Revenue Requirement Projections

Black & Veatch will develop a five-year forecast of annual revenue requirements for water, wastewater, and recycled water based on a cash basis. Black & Veatch will examine historical and current financial reports, operating and capital budgets, operating maintenance records, reserves, and other related financial information. In addition, current market cost escalators will be utilized to forecast applicable cost items over the study period.

Black & Veatch will develop revenue requirements taking into consideration the following factors:

- Operation and maintenance expenditures;
- Debt service coverage on existing and projected bond issues and state loans;
- Cash and bond financing of CIP;
- Use of and contributions to reserves (operating, catastrophes, replacement, etc.);

2.5 Capital Improvement Program and Anticipated Expenditure Requirements

Each utility's existing capital improvement program will be reviewed with City staff. The objective of the CIP review is to gain an understanding of the types of projects scheduled—the timing associated with such projects, changes from prior years' capital budgets, anticipated sources of financing and anticipated timing of proposed revenue bond issues.

2.6 Determination of the Adequacy of Revenues under Existing Rates

Black & Veatch will develop cash flow analyses for each utility over the study period showing a comparison of revenue under existing rates with revenue requirements. As a

part of the cash flow analyses, we will determine the annual revenue increase required.

The cash flow analyses will establish the basis to develop a sound financial plan over the study period and establish the target revenue to be utilized in performing the cost of service and rate design analyses.

Task 3 - Cost of Service Analysis

The objective of this task is to develop a plan for assigning or allocating the functional components of revenue requirements. The approach to be utilized by Black & Veatch is follows American Water Works Association (AWWA) and Water Environment Federation (WEF) principles to identify customer class costs of service requirements. This is the fundamental component in meeting Proposition 218 legal requirements.

3.1 Functionalization and Allocation of Functional Costs to Cost Components

Black & Veatch will identify and determine the utility functional service parameters on which to allocate cost between customer classes. This step recognizes costs incurred by the utility are typically caused by system service requirements. These requirements generally include number of customers, usage, peak demands, billed wastewater usage, recycled water and other services. Black & Veatch will allocate test year cost of service to either one or multiple cost components based on the service requirements of that cost.

3.2 Development of Units of Service

Black & Veatch will develop an estimate of the units of service associated with each of the cost causative elements for service. The units of service will be estimated based on service characteristics defined for each customer class.

These units of service will be developed recognizing the customer usage analysis, available data and engineering judgment about customer class service requirements. At the completion of the unit of service analysis, the Black & Veatch team will align the functional allocation of revenue requirements with the determined units of service.

3.3 Development of Unit Costs of Service

The unit cost of service will be the result of aligning the allocation of functional cost with the estimated units of service. The calculated unit cost of service establishes the basis to understand the cost based functional unit value of services provided by the City. As determined in the analysis, the unit cost of service will be utilized to determine the cost responsibility of all customer classes summarized in the units of service.

3.4 Distribution of Costs to Customer Classes

Black & Veatch will assign the total costs of service for each customer class by applying unit costs of service to each individual customer classes' unit of service. The relative responsibility of each customer class will be specifically determined based on each class' or user's estimated service requirements.

Task 4 - Rate Design

The objective of this task is to design rates that are fair and equitable and meet regulatory

requirements. During the cash flow analyses, proposed revenue targets are determined, and the rate design analysis verifies the ability of proposed rates to achieve revenue targets.

Black & Veatch's recommended approach to the rate design process seeks to establish a reasonable nexus between costs incurred in providing service and the rates and charges that are designed to recover the costs of providing service. Black & Veatch recognizes there needs to be a balance between the rates as determined by the cost of service analysis and the City's objectives. The analysis will take into consideration the items listed below:

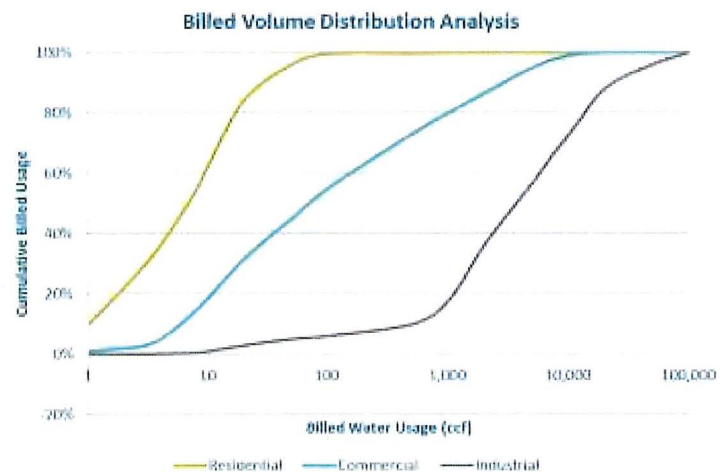
- Decreased consumption due to State conservation requirements and conservation caused by higher utility rates;
- Reserves and fund balances analysis;
- Compliance with Proposition 218;
- Annual inflationary adjustments;
- Compliance with San Juan Capistrano ruling on conservation rate structures.

Black & Veatch envisions the rate design process to be an interactive dialogue and exchange of ideas that thoroughly assesses social and economic benefits to existing customers served.

4.1 Water Rate Structures

Black & Veatch will update the existing water rate structure along with one alternative for the City to examine. The alternative rate structure will be discussed with the City prior to development, but might consist of different tier break points, different number of tiers, larger fixed rates, etc.

Black & Veatch will conduct a customer bill tabulation distribution (shown in graph). The distribution provides insight into customer usage by customer class and provides a basis for developing or adjusting existing tier break points as it relates to cost of water and different supply levels.



4.2 Wastewater Rate Structures

Black & Veatch will update the existing wastewater rate structure along with one alternative for the City to examine. The alternative rate structures will be discussed with the City prior to development, but might consist of fixed and variable for all customers, fixed only, variable only, etc.

4.3 Recycled Water Rate Structures

Black & Veatch will develop a new recycled water rate structure for the City to examine. The rate structures will be discussed with the City prior to development, but might consist of fixed and variable such as water, a variable only, etc.

Task 5 - Sensitivity Analysis

The objective of this task is to conduct a working session that focuses on sensitivity analysis for the water and sewer rate models. The working session will allow the City to:

- Conduct sensitivity analysis on different parameters to examine the effects of the changes to different parameters on the financial plan and rates such as:
 - Continuing reduced water consumption beyond FY 2019.
 - Examining different CIP financing alternatives using pay-as-you-go and bonds.
 - Analyzing of reserve levels and debt service coverage needs.

The updated Capital Fund will indicate whether additional funds might be needed or if the capital improvements plan might need to be changed to have new growth pay its fair share of new capital facilities. This could also affect the total credits calculated in the previous task. Therefore, it is likely that a number of iterations will be conducted in order to refine the cash flow analysis reflecting the capital improvement needs.

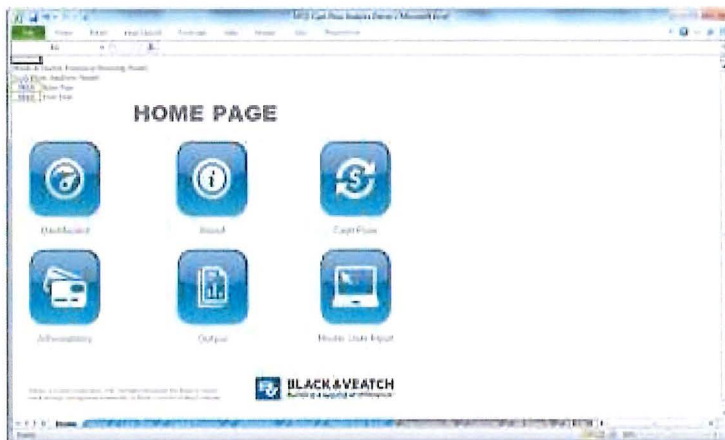
Task 6 - Rate Model

The objective of this task will be to update or develop two independent Microsoft Excel based rate models for each utility that encompasses financial planning, cost of service and rate design. The models will contain the following features:

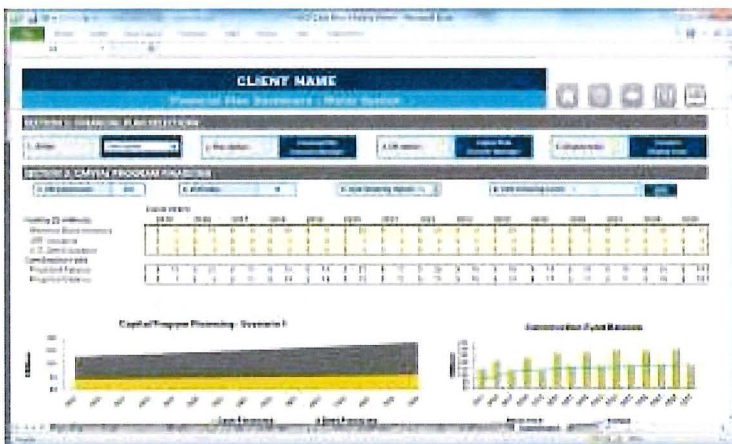
- Specifically tailored and designed to recognize the City's utilities unique needs, characteristics and information base, including matching the City's budgetary and accounting structures.
- Conduct "what-if" analyses reflecting the impact of changes in significant system variables such as water conservation, droughts, revised budgeted revenues and expenditures, changes in capital improvement program schedules, and policy decisions.
- Incorporation of user friendly features, including fully automated preprogrammed print and navigation menus, customized icons for specific model functions, and other features.

The following screen shots are demonstrations of the Black & Veatch model.

- General Navigation – A system of links that allow the user to switch between sections using a simple navigation links.



- Dashboard – A dashboard system that allows users to create scenarios for financial planning and rate revenue increases.



- Black & Veatch will provide the City staff working versions of the rate models during the course of the study in order to provide City staff familiarity with the rate models.
- Black & Veatch will conduct a formal half-day training session with City staff on the rate models.

34. **Water and Sewer Capacity Fees**

35. **Task 7 - Land Use Data/Forecasts**

The objective of this task is to understand the demographics of the City as it relates to growth and development and determine the likely development future for the City.

- Examine the current demographic data and build out projections. Details associated with projections such as population, employment, housing units, commercial, industrial and other nonresidential square footage data will be assessed to determine the demand generated by new development/redevelopment.

36. **Task 8 - Capital Facility Needs and Service Levels**

The objective of this task is to evaluate the capacity of development/redevelopment on the

need for additional facilities, by type, and identify costs eligible for capacity fee funding. Specific subtasks include:

- Review facility plans, fixed asset inventories, and other documents for each facility layer and type thereby establishing the relationship between development and facility needs.
- Identify planned facilities and other capital components eligible for capacity fee funding.
- Prepare forecast of relevant capital facility needs.
- Adjust costs as needed to reflect other funding sources, such as ad valorem assessments, standby charges, general property tax revenues, and developer contributions.
- Review needs analyses and level-of-service levels for each facility type. Activities related to this task include:
 - Apply defined service standards to data on future development to identify the impacts of development on facility and other capital needs. This will include discussions with staff of the existing versus adopted levels of service, as appropriate.
 - Ascertain and evaluate the actual demand factors (measures of capacity) that generate the need for each type of facility to be addressed in the study.
 - Identify actual existing service levels for each facility layer and type. This is typically expressed in the number of demand units served.
 - Define service standards to be used in the capacity fee analysis.
 - Determine appropriate geographic service areas of the capacity fee.

37. Task 9 - Allocation Methodologies

The objective of this task is to determine the methodology most appropriate for the capacity fee. The three basic methodologies that can be applied are plan-based, incremental expansion, and buy-in/cost- recovery approaches. To determine the appropriate methodology, specific subtasks include:

- Prepare the capacity fee for a particular infrastructure category using several methodologies and discuss the trade-offs with the City.
- The trade-offs will identify situations when a specific method is appropriate such as a plan-based approach may be appropriate for a new facility building while an incremental approach may be appropriate for City vehicles and equipment. By testing all possible methodologies, the City will have greater support for a defensible capacity fee structure.

Task 10 - Need for Credits

The objective of this task is to determine the credits, if any, that are applicable. A consideration of "credits" is integral to the development of a legally valid capacity fee methodology. Specific subtasks include:

- Define and explain the term “credits”. There are two types, each with specific, distinct characteristics, but both will be included in the development of capacity fees.
- Calculate the credit for situations of double payment. This could occur when a property owner will make future contributions toward the capital costs of a public facility covered by a capacity fee.
- Calculate the credit for situations of payment of a capacity fee for the required dedication of public sites and improvements provided by the developer.

Task 11 - Cash Flow Analysis

The objective of this task is to develop cash flow analyses based on capital funding sources and uses. The cash flow analyses will determine the annual revenue transferred that will be needed from rates. The cash flow analyses will detail the sources such as capacity fees, transfers, grants, contribution, while the uses will identify capital projects, debt, etc. This will provide the City a better understanding of the interaction between operating and capital funding and expenditures.

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EXHIBIT B

SCHEDULE OF FEES

In no event shall the amount billed to City by Contractor for services under this Agreement exceed one hundred and four thousand dollars (\$104,000).

Based on the Scope of Services, Black & Veatch will perform the scope on a time-and-materials basis for a total cost of eighty-nine thousand, nine hundred and ten dollars (\$89,910) inclusive of anticipated direct expenses for items 1-5 set forth below. Direct expenses include but are not limited to mileage, car rental, hotels, meals, and reproduction costs.

This cost proposal only incorporates attendance at six meetings. Should the City engage Black & Veatch for the additional meetings, then the hourly rates below will be utilized.

Cost items 1-3 below represent the full cost of all 11 tasks in the Scope of Services (Exhibit A). Items 4 & 5 below are ancillary analyses required by the City to complete the cost of service analyses outlined in Exhibit A. For item 6 below, "Additional Services as Requested", upon request and authorization by City, any additional services or meetings not identified in the Scope of Services will be billed on an hourly basis according to the hourly rates schedule below, in an amount not to exceed fourteen thousand and ninety dollars (\$14,090).

ITEM	DESCRIPTION	QUALITY	UNIT	UNIT PRICE	TOTAL
1	Water Utility Rate Study	1	LS	\$44,955	\$44,955
2	Sewer Utility Rate Study	1	LS	\$30,120	\$30,120
3	Recycled Water Rate Study	1	LS	\$9,835	\$9,835
4	CUSD Agreement Evaluation	1	LS	\$2,500	\$2,500
5	Temp. Discharge to Sewer Fee Evaluation	1	LS	\$2,500	\$2,500
6	Additional Services as Requested	1	LS	\$14,090	\$14,090
Total Base Proposal					\$104,000

Job Description	Team Member	Hourly Billing Rates
Project Analyst	Staff	\$160
Sr. Project Analyst	Staff	\$180
Project Manager	Alberto Morales	\$240
Technical Advisor	Pam Lemoine	\$265
Project Director	Ann Bui	\$295

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EXHIBIT C

**INSURANCE COVERAGE REQUIREMENTS
FOR PROFESSIONAL SERVICES**

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

A. COMMERCIAL GENERAL LIABILITY INSURANCE

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

\$1,000,000 Each Occurrence

\$2,000,000 General Aggregate

\$2,000,000 Products/Completed Operations Aggregate

\$1,000,000 Personal Injury
2. Exact structure and layering of the coverage shall be left to the discretion of Consultant; however, any excess or umbrella policies used to meet the required limits shall be at least as broad as the underlying coverage and shall otherwise follow form.
3. The following provisions shall apply to the Commercial Liability policy as well as any umbrella policy maintained by the Consultant to comply with the insurance requirements of this Agreement:

- a. Coverage shall be on a “pay on behalf” basis with defense costs payable in addition to policy limits;
- b. There shall be no cross liability exclusion which precludes coverage for claims or suits by one insured against another; and
- c. Coverage shall apply separately to each insured against whom a claim is made or a suit is brought, except with respect to the limits of liability.

B. BUSINESS AUTOMOBILE LIABILITY INSURANCE

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

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

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 Insurance Services Office (ISO) Endorsement CG 20 10 11 85, or the combination of CG 20 10 03 97 and CG 20 37 10 01, or its equivalent.
2. Primary and non-contributing. Each insurance policy provided by Consultant shall contain language or be endorsed to contain wording making it primary insurance as respects to, and not requiring contribution from, any other insurance which the indemnities may possess, including any self-insurance or self-insured retention they may have. Any other insurance indemnities may possess shall be considered excess insurance only and shall not be called upon to contribute with Consultant's insurance.
3. Cancellation.
 - a. Each insurance policy shall contain language or be endorsed to reflect that no cancellation or modification of the coverage provided due to non-payment of premiums shall be effective until written notice has been given to City at least ten (10) days prior to the effective date of such modification or cancellation. In the event of non-renewal, written notice shall be given at least ten (10) days prior to the effective date of non-renewal.
 - b. Each insurance policy shall contain language or be endorsed to reflect that no cancellation or modification of the coverage provided for any cause save and except non-payment of premiums shall be effective until written notice has been given to City at least thirty (30) days prior to the effective date of such modification or cancellation. In the event of non-renewal, written notice shall be given at least thirty (30) days prior to the effective date of non-renewal.
4. Other Endorsements. Other endorsements may be required for policies other than the commercial general liability policy if specified in the description of required insurance set forth in Sections A through E of this Exhibit C, above.

F. ADDITIONAL INSURANCE RELATED PROVISIONS

Consultant and City agree as follows:

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

EBIX Inc.

City of Santa Clara Water & Sewer Utilities

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 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 Contractor¹ does any of the following:
 - a. Is convicted² 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 dishonesty³;
 - 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 capability⁴ or business experience⁵ 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.

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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 "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.

BLACK & VEATCH Management Consulting, LLC

a Kansas limited liability company

By: L. Shane Clark CGH
Signature of Authorized Person or Representative

Name: L. Shane Clark

Title: Chief Financial Officer

NOTARY'S ACKNOWLEDGMENT TO BE ATTACHED

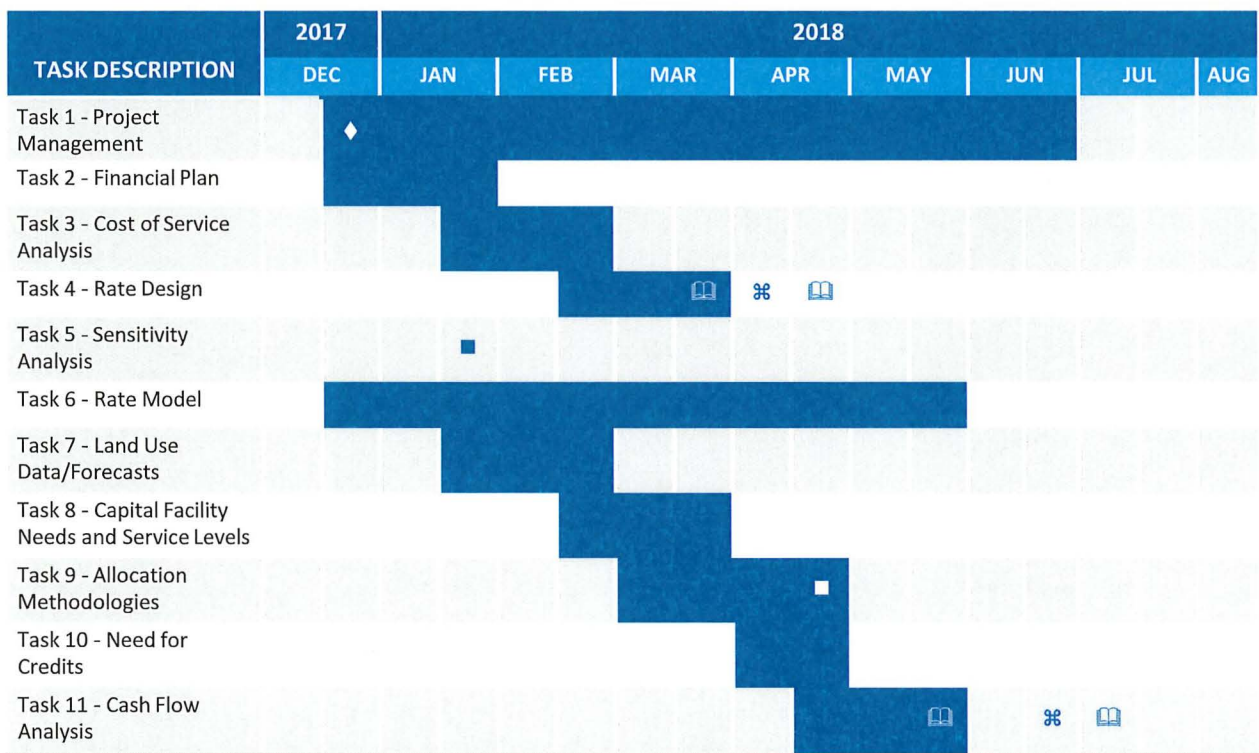
Please execute the affidavit and attach a notary public's acknowledgment of execution of the affidavit by the signatory. If the affidavit is on behalf of a corporation, partnership, or other legal entity, the entity's complete legal name and the title of the person signing on behalf of the legal entity 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.

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EXHIBIT F

MILESTONE SCHEDULE

Black & Veatch prepared the following tentative schedules based on a receipt of written Notice to Proceed by December 19, 2017. The schedules assume timely receipt of requested data, turn-around on materials submitted for review and access to City staff, City Council and other stakeholders for meetings. Meeting schedules are preliminary based on previous experience with studies of similar nature and will be further defined with staff and other stakeholders as the study progresses.



◆ Kick-off Meeting ■ Staff/City Council Meeting 📖 Documentation/Report ⌘ Formal Stakeholder Presentation