Santa Clara
All-America City
2001

Engineering Department

November 6, 2013

To: Traffic Engineering and Transportation Consultants

Project: Traffic Engineering On-Call Consultant Services

Subject: Request for Qualifications

Dear Consultant,

The City of Santa Clara wishes to request statements of qualifications for Traffic Engineering On-Call Services from Consultants interested in providing professional consulting services for on-call traffic engineering and design services for various transportation projects. The general scope and type of work to be performed by the Consultant is described in the attached Request for Qualifications (RFQ).

Should you desire to respond to this request, please submit five (5) bound copies, plus one (1) unbound original of your proposal to the City of Santa Clara by **3:00 P.M., December 6, 2013**. Please submit a proposal to the RFQ to:
City of Santa Clara
Traffic Engineering Division
Attn: Benison Tran, Senior Civil Engineer
1500 Warburton Avenue
Santa Clara, CA 95050

Please contact Benison Tran at (408) 615-3024 or e-mail at btran@santaclaraca.gov if you have any question regarding this RFQ. Please submit your written questions by **3:00 P.M., November 27, 2013**.

Sincerely,

Rajeev Batra
Director of Public Works/City Engineer

By: Dennis Ng
Traffic Engineer

RB:dn:bt

cc: Benison Tran, Senior Civil Engineer – CSC Traffic Division

Attachments: Request for Qualifications

1500 Warburton Avenue
Santa Clara, CA 95050
(408) 615-3000
FAX (408) 985-7936
www.ci.santa-clara.ca.us

DEPARTMENT OF PUBLIC WORKS
TRAFFIC ENGINEERING DIVISION

REQUEST FOR PROPOSAL
FOR
TRAFFIC ENGINEERING ON-CALL CONSULTANT SERVICES QUALIFICATIONS

PROPOSAL SUBMITTAL DEADLINE:

DATE: **December 6, 2013**

TIME: **3:00 P.M.**

LOCATION: **City of Santa Clara – Traffic Eng. Div.**

1500 Warburton Avenue

San Clara, CA 95050

MANDATORY
PRE-PROPOSAL MEETING: **N/A**

PROJECT MANAGER: **Benison Tran**

CITY OF SANTA CLARA
DEPARTMENT OF PUBLIC WORKS
TRAFFIC ENGNINEERING DIVISION
1500 WARBURTON AVENUE
SANTA CLARA, CA 95050
1-408-615-3000

REQUEST FOR PROPOSAL
FOR PROFESSIONAL SERVICES

TITLE: TRAFFIC ENGINEERING ON-CALL CONSULTANT SERVICES QUALIFICATIONS

1. INTRODUCTION

The City of Santa Clara is seeking proposals from qualified firms to provide statements of qualifications for Traffic Engineering On-Call Services from Consultants interested in providing professional consulting services for on-call traffic engineering and design services for various transportation projects. Minimum requirements of Firms and detailed description of required services are included in Attachment A – Scope of Services.

2. ATTACHMENTS

The attachments below are included with this Request for Qualifications ("RFQ"). The items identified with an asterisk (*) must be completed, signed by the appropriate representative of the company, and returned with the submittal.

Attachment A – Scope of Work/Services*
Attachment B – Proposer's Information Form*
Attachment C – Certification of Non-Discrimination*
Attachment D – Agreement for Services
Attachment E – Cost Proposal Format*
Attachment F – Insurance Requirements
Attachment G – Santa Clara Ethical Standards
Attachment H – Affidavit of Compliance with Ethical Standards*

3. INSTRUCTIONS TO PROPOSERS

3.1. Pre-proposal Conference.
There is NO pre-proposal conference scheduled for this solicitation.

3.2. Examination of Proposal Documents.
The submission of a proposal shall be deemed a representation and certification by the Proposer that they:

3.2.1. Have carefully read and fully understand the information that was provided by the City to serve as the basis for submission of this proposal.
3.2.2. Have the capability to successfully undertake and complete the responsibilities and obligations of the proposal being submitted.
3.2.3. Represent that all information contained in the proposal is true and correct.
3.2.4. Did not, in any way, collude, conspire to agree, directly or indirectly, with any person, firm, corporation or other Proposer in regard to the amount, terms or conditions of this proposal.
3.2.5. Acknowledge that the City has the right to make any inquiry it deems appropriate to substantiate or supplement information supplied by Proposer, and Proposer hereby grants the City permission to make these inquiries, and to provide any and all related documentation in a timely manner.

No request for modification of the proposal shall be considered after its submission on grounds that Proposer was not fully informed of any fact or condition.

3.3. Questions.

Any questions by the Proposer regarding this RFQ must be put in writing and received by the City no later than **3:00 p.m. on Wednesday, November 27, 2013**. Correspondence shall be addressed to:

Benison Tran
Department of Public Works – Traffic Engineering Division
1500 Warburton Avenue
Santa Clara, CA 95050
1-408-615-3024
1-408-985-7636
btran@santaclaraca.gov

The City shall not be responsible for nor be bound by any oral instructions, interpretations or explanations issued by the City or its representatives.

Responses from the City to questions by any Proposer will be communicated in writing to all recipients of this RFQ. Questions received after the date and time stated above will not be accepted, and will be returned to senders without response.

3.4. Addenda.
Any addenda issued by City shall be in writing, shall become a part of this RFQ, and shall be acknowledged and responded to by Proposer.

3.5. Submission of Proposals.
All proposals shall be submitted to:
City of Santa Clara
Engineering Department
Traffic Engineering Division
1500 Warburton Avenue
Santa Clara, CA 95050

Please note that faxes, electronic submissions, or any media other than hard copies are not acceptable.

Proposals must be delivered no later than **3:00 p.m. on Friday, December 6, 2013**. All proposals received after that time will be returned to the Proposer unopened.

The Proposer shall submit five (5) copies of its proposal in a sealed envelope, plus one (1) unbound original, clearly marked "Original", addressed as noted above, bearing the Proposer's name and address clearly marked, **"**RFQ FOR TRAFFIC ENGINEERING ON-CALL CONSULTANT SERVICES QUALIFICATIONS"

///

3.6. Withdrawal of Proposals.
A Proposer may withdraw its proposal at any time before the expiration of the time for submission of proposals as provided in the RFQ by delivering a written request for withdrawal signed by, or on behalf of, the Proposer.

4. RIGHTS OF THE CITY OF SANTA CLARA

This RFQ does not commit the City to enter into a contract, nor does it obligate the City to pay for any costs incurred in preparation and submission of proposals or in anticipation of a contract. The City reserves the right to:

- Make the selection based on its sole discretion;
- Reject any and all proposals;
- Issue subsequent RFQ;
- Postpone opening proposals for its own convenience;
- Remedy errors in the RFQ process;
- Approve or disapprove the use of particular sub-consultants;
- Negotiate with any, all or none of the Proposers;
- Accept other than the lowest offer;
- Waive informalities and irregularities in the Proposals; and/or
- Enter into an agreement with another Proposer in the event the originally selected Proposer defaults or fails to execute an agreement with the City.

An agreement shall not be binding or valid with the City unless and until it is approved by the City Council, if so required, and executed by authorized representatives of the City and of the Proposer.

5. RFQ TIMELINE

The RFQ Timeline is as follows:

RFQ Issued	November 6, 2013
Deadline for questions, clarifications	November 27, 2013
Proposals must be submitted by	December 6, 2013
City evaluates proposals	TBD
City interviews proposers	TBD
City selects successful proposal	TBD
City Council approves successful proposal and award of contract	TBD

The City reserves the right to add, remove or combine steps in the timeline, and/or compress or extend the timeline as the City, in its sole discretion, sees fit.

6. INFORMATION TO BE SUBMITTED

These guidelines govern the format and content of the proposal, and the approach to be used in its development and presentation. The intent of the RFQ is to encourage responses that clearly communicate the Proposer's understanding of the City's

requirements and its approach to successfully provide the products and/or services on time and within budget. Only that information which is essential to an understanding and evaluation of the proposal should be submitted. Items not related to the RFQ and proposal, e.g., generalized brochures, marketing material, etc., will not be considered in the evaluation.

All proposals shall address the following items. The proposals must address the items in the order listed below, and shall be numbered 1 through 8 in the proposal document. Please include a Table of Contents preceding the Chapters.

Chapter 1 – Proposal Summary.
This Chapter shall discuss the highlights, key features and distinguishing points of the Proposal. A separate sheet shall include a list of individuals and contacts for this Proposal and how to communicate with them. Limit this Chapter to a total of three (3) pages, including the separate sheet.

Chapter 2 – Profile on the Proposing Firm(s).
This Chapter shall include a brief description of the Prime Proposer's firm, including firm name, address, phone number, email address and primary contact person; brief firm history, including the current permanent staff size as well as local organization structure; and, a discussion of the firm's financial stability, capacity and resources.

Additionally, this section shall include a listing of any claim, lawsuit or litigation and the result of that action resulting from (a) any public project undertaken by the Proposer either as a contractor or subcontractor or by its subcontractors where litigation is still pending or has occurred within the last five years, or (b) any type of project where claims or settlements were paid by the consultant or its insurers within the last five (5) years.

Chapter 3 – Qualifications of the Firm.
This Chapter shall include a brief description of the Proposer's qualifications and previous five (5) years experience supplying like services and/or equipment to similar public agencies. Include all areas of expertise, scope of services provided, and relevant experience, including description of each project, role of professional for that project and date completed. Include product provided, the total project cost, the period over which the provision and training was completed, and the name, title, phone number and email address of clients to be contacted for references. Give a brief statement of the firm's adherence to the schedule and budget for each project.

Five (5) references from clients with similar projects must be submitted along with the names and telephone numbers of contact persons.

Chapter 4 – Product Description, Work Plan or Proposal.
This Chapter shall present a well-articulated service plan. Include a full description of major services provided, tasks and subtasks. This section of the proposal shall establish that the Proposer understands the City's objectives and work requirements and Proposer's ability to satisfy those objectives and requirements. Succinctly describe the proposed approach for addressing the required services, providing the required product and the firm's ability to meet the City's schedule, outlining the approach that would be

undertaken in providing the requested services. Describe the project understanding, detailed project approach and methodology. List specific proposed services and support and training services to be provided.

Chapter 5 – Project Schedule. Not Used.
~~This Chapter shall include a projected timeline for completing the project including the start date, order dates, delivery time, installation, and training, and shall indicate completion dates from date the order is received.~~

Chapter 6 – Project Staffing.
This Chapter shall discuss how the Proposer would staff a potential City project. Key personnel will be an important factor considered by the review committee. Changes in key personnel may be cause for rejection of the proposal. Include proposed project management structure, including identification of the project consultant and individuals that will be assigned to the project. Qualified and appropriate personnel such as principal, project manager, project engineers, and other key personnel shall have the required licensure, experience, and skills relevant to this RFQ.

Identification and discussion of Proposer's Sub-consultants and contractors for traffic data collection and topographic survey shall be included in this Chapter.

Chapter 7 – Proposal Exceptions.
This Chapter shall discuss any exceptions or requested changes that Proposer has to the City's RFP conditions, requirements and agreement. If there are no exceptions noted, it is assumed the Proposer will accept all conditions and requirements identified in Attachment D, Agreement for Services. Items not excepted will not be open to later negotiation.

Chapter 8 – Proposal Costs Sheet and Rates.
This Chapter shall include the proposed costs to provide the services desired. The Consultant and sub-consultants/contractors, if any, shall provide a complete list of all staff hourly rates by category, i.e., Principal, Project Manager, Senior, Associate, Assistant Engineers, etc. Hourly rates shall be all-inclusive, i.e., base salary, fringe benefits, overhead, profit, etc. Fees must include all anticipated costs, including travel, per diem, and out of pocket expenses. Please note the City of Santa Clara does not pay for services before it receives them. Therefore, do not propose contract terms that call for upfront payments or deposits.

Consultants that are placed on the list of qualified Consultants shall notify the City of any revised billing rates during the duration of the qualification list via in writing referencing this RFQ.

7. CONTRACT TYPE AND METHOD OF PAYMENT

It is anticipated that the agreement resulting from this RFQ, if awarded, will be a Design Professional Services Agreement, a sample of which is included as Attachment D. The method of payment to the successful Proposer shall be for services provided based on established rates for services (Weekly Rates, Monthly Rates, etc.) with a maximum "not to exceed" fee as set by the Proposer in the proposal or as negotiated between the

Proposer and the City as being the maximum cost to perform all work. This figure shall include direct costs and overhead, such as, but not limited to, materials, delivery, transportation, communications, and any subcontracted items of work.

Proposers shall be prepared to accept the terms and conditions of the Agreement, including Insurance Requirements in Attachment F. If a Proposer desires to take exception to the Agreement, Proposer shall provide the following information in Chapter 7 of their submittal package. Please include the following:

- Proposer shall clearly identify each proposed change to the Agreement, including all relevant Attachments.
- Proposer shall furnish the reasons for each proposed change, as well as specific recommendations for alternative language.

The above factors will be taken into account in evaluating proposals. Proposals that take exceptions to the proposed Agreement may be determined by the City, at its sole discretion, to be unacceptable and no longer considered for award.

8. INSURANCE REQUIREMENTS

The selected Proposer(s), at Proposer's sole cost and expense and for the full term of the agreement or any extension thereof, shall obtain and maintain, at a minimum, all of the insurance requirements outlined in Attachment F.

All policies, endorsements, certificates and/or binders shall be subject to the approval of the City of Santa Clara as to form and content. These requirements are subject to amendment or waiver, if so approved in writing by the City of Santa Clara. The selected Proposer agrees to provide the City with a copy of said policies, certificates and/or endorsement upon award of contract.

9. REVIEW AND SELECTION PROCESS - EVALUATION CRITERIA

After the proposals are received, the City will review and evaluate all proposals for responsiveness to the RFQ. All responsive proposals shall be reviewed and evaluated in order to determine which Consultant best meets the City's needs for the On-Call List. The criteria by which the City will evaluate proposals are set forth in this section. The City reserves the right to reject any and all proposals or waive any irregularities in any proposal or the proposal process. A panel consisting of City staff will review all the proposals. This panel will evaluate the proposals and shortlist up to eight firms for oral interviews. The City also reserves the right to shortlist the Consultants without discussion, based upon the initial written proposals.

The Consultants selected for an interview will be notified by telephone and/or in writing. The interviews will last approximately 1 hour, with the time allocated equally between the consultant's presentation and a question-and-answer period. The finalist Consultants shall be prepared to discuss at the interview their estimated work effort in terms of the personnel allocations. The Consultant's proposed Project Manager/City's day to day contact person shall give the presentation and is expected to answer the majority if not all questions from the City. All interviews will be held at the City of Santa Clara offices with exact date, time and location to be determined.

Proposals provided in response to this RFQ will be evaluated based on the following criteria:

- Quality and completeness of proposal;
- Quality, performance and effectiveness of the solution, goods and/or services to be provided by the Proposer;
- Proposer's previous five (5) years experience, including the experience of staff and sub-consultants/contractors to be assigned to the project, with engagements of similar scope and complexity;
- Proposer's quality assurance and control, which demonstrates firm's ability to complete projects, meet critical deadlines, remain within budget estimates while providing a quality project.
- Cost to the City;
- Proposer's financial stability and length of time in business;
- Proposer's ability to perform the work within the time specified;
- Proposer's prior record of performance with City or others;
- Proposer's ability to provide future records, reports, data and/or services;
- Proposer's compliance with applicable laws, regulations, policies (including city council policies), guidelines and orders governing prior or existing contracts performed by the contractor; and
- Proposer's oral interview/presentation to the City.

10. PUBLIC NATURE OF PROPOSAL MATERIAL

Responses to this RFQ become the exclusive property of the City of Santa Clara. At such time as the City establishes the Traffic Consultant On-Call Services Lists, all proposals received in response to this RFQ become a matter of public record and shall be regarded as public records, with the exception of those elements in each proposal which are defined by the Proposer as business or trade secrets and plainly marked as "Confidential," "Trade Secret," or "Proprietary." The City shall not in any way be liable or responsible for the disclosure of any such proposal or portions thereof, if they are not plainly marked as "Confidential," "Trade Secret," or "Proprietary," or if disclosure, in the City's sole discretion, is required under the California Public Records Act as addressed below. Any proposal which contains language purporting to render all or significant portions of the proposal "Confidential," "Trade Secret," or "Proprietary" shall be regarded as non-responsive.

Although the California Public Records Act recognizes that certain confidential trade secret information may be protected from disclosure, the City of Santa Clara may determine, in its sole discretion, that the information that a Proposer submits is not a trade secret. If a request is made for information marked "Confidential," "Trade Secret," or "Proprietary," the City shall provide the Proposer who submitted the information reasonable notice to allow the Proposer to seek protection from disclosure by a court of competent jurisdiction, at the Proposer's sole expense.

11. COLLUSION

By submitting a proposal, each Proposer represents and warrants that its proposal is genuine and made in the interest of or on behalf of any person not named therein; that the

Proposer has not directly induced or solicited any other person to submit a sham proposal or any other person to refrain from submitting a proposal; and that the Proposer has not in any manner sought collusion to secure any improper advantage over any other person submitting a proposal.

12. DISQUALIFICATION

Factors, such as, but not limited to, any of the following, may disqualify a proposal without further consideration:

- Evidence of collusion, directly or indirectly, among Proposers in regard to the amount, terms or conditions of this proposal;
- Any attempt to improperly influence any member of the evaluation team;
- Existence of any lawsuit, unresolved contractual claim or dispute between Proposer and the City;
- Evidence of incorrect information submitted as part of the proposal;
- Evidence of Proposer's inability to successfully complete the responsibilities and obligations of the proposal; and
- Proposer's default under any previous agreement with the City.

13. NON-CONFORMING PROPOSAL

A proposal shall be prepared and submitted in accordance with the provisions of these RFQ instructions and specifications. Any alteration, omission, addition, variance, or limitation of, from or to a proposal may be sufficient grounds for non-acceptance of the proposal, at the sole discretion of the City.

14. GRATUITIES

No person shall offer, give or agree to give any City employee any gratuity, discount or offer of employment in connection with the award of contract by the City. No City employee shall solicit, demand, accept or agree to accept from any other person a gratuity, discount or offer of employment in connection with a City contract.

15. FIRMS OR PERSONS NOT ELIGIBLE TO SUBMIT A PROPOSAL

In order to avoid any conflict of interest or perception of a conflict of interest, Proposer(s) selected to provide professional services under this RFQ will be subject to the following requirements:

15.1. The consultant or other entity who works on the procurement will be precluded from submitting proposals or bids as a prime contractor or subcontractor.

15.2. The consultant or any other entity who participated in the procurement shall not have a financial, ownership or other interest in any potential Proposer.

ATTACHMENT A
Scope of Services

A. Project Description

The City of Santa Clara (hereinafter "City") hereby requests statements of qualifications for Traffic Engineering On-Call Services from Consultants interested in providing professional consulting services for on-call traffic engineering and design services for various transportation projects. The prime consultant in response to this Request for Qualifications (RFQ) shall be a Transportation/Civil Engineering Design firm (hereinafter "Proposer").

The City will select an On-Call List of four (4) or five (5) qualified Consultants to provide the required services, and an agreement will be negotiated with each selected Consultant as work is assigned. The City, at its discretion may choose to develop two (2) independent lists of three (3) to four (4) qualified Consultants. One list may encompass traffic engineering studies and planning, and the other list may encompass traffic engineering design and operations. The On-Call List will remain in effect for three (3) years with an option to extend the period for an additional two (2) years. The City may at its own discretion terminate the established On-Call List at any time and re-establish a new list via issuing another RFQ.

B. Background

The City of Santa Clara, Public Works Department, Traffic Engineering Division handles, designs, and oversees the implementation and construction of a variety of transportation projects. The City desires to retain private consulting services to assist in the delivery of these projects through this on-call services program. These services typically include, but are not limited to, the following tasks: traffic signal timing and coordination; design, preparation, and development of plans, specifications and estimates (PS&E); transportation planning; feasibility studies; and traffic impact and operations analysis.

C. Description of Required Services

Potential projects may typically include:

- Development and implementation of coordinated signal timings
- Traffic signal design for both new and upgrading existing facilities
- Engineering and Traffic Studies
- Intersection control warrant studies
- Intelligent transportation systems [fiber optic/copper communications design, system integration, design for Closed Circuit Television (CCTV)/Pan-Tilt-Zoom (PTZ) camera and Changeable Message Sign (CMS)/Dynamic Message Sign (DMS) operations]
- Traffic Management Center design
- Local street improvements (intersection modifications, bulb-outs, traffic circles, speed tables, related civil improvements, etc.)
- Roadway intersections and corridors modeling and analysis

- Roadway design (widening and realignments)
- Citywide and regional travel demand and forecast modeling
- Integration of signalized intersections onto City's NAZTEC ATMS.now system
- Preparation of signing and striping plans
- Preparation of federal-funded projects' plans
- Pedestrian crosswalk enhancement design (striping, In-roadway pedestrian warning lights, pedestrian activated overhead flashing beacons)
- Neighborhood traffic calming studies
- Public involvement and community outreach
- Bicycle lane planning and design
- On-street parking study, analysis, and design
- Preparation/peer review of Traffic Impact Studies

D. Required Proposal Components

1. All information set forth in Article 6 of the RFQ; and

2. Description of firm's experience as it relates to:

    - Proposer's intent to provide all the professional services necessary to complete any or a combination of proposed transportation projects.
    - Propopser's detailed and comprehensive listing of staff resources and relevant experience, office equipment and capabilities, and work references for similar projects conducted for other agencies.
    - Proposer's resources and ability to provide the services of topographic land surveying and field data collection.

ATTACHMENT B
Proposer's Information Form

PROPOSER (please print): _____

Name: _____

Address: _____

_____

_____

Telephone: _____

FAX: _____

Contact person, title, telephone number, email address and fax number: _____

_____

Proposer, if selected, intends to carry on the business as (check one)

Individual

Joint Venture

Partnership

Corporation

When incorporated? _____

In what state? _____

When authorized to do business in California? _____

Other (explain): _____

_____

ADDENDA

To assure that all Proposers have received each addendum, check the appropriate box(es) below. Failure to acknowledge receipt of an addendum/addenda may be considered an irregularity in the Proposal:

Addendum number(s) received:

1
2
3
4
5
6

Or,

_____No Addendum/Addenda Were Received (check and initial).

PROPOSER'S SIGNATURE

No proposal shall be accepted which has not been signed in ink in the appropriate space below:

> By signing below, the submission of a proposal shall be deemed a representation and certification by the Proposer that they have investigated all aspects of the RFQ, that they are aware of the applicable facts pertaining to the RFQ process, its procedures and requirements, and they have read and understand the RFQ. No request for modification of the proposal shall be considered after its submission on the grounds that the Proposer was not fully informed as to any fact or condition.

(1) If Proposer is *INDIVIDUAL*, sign here:

Date: _____

_____
Proposer's Signature

_____
Proposer's typed name and title

(2) If Proposer is *PARTNERSHIP* or *JOINT VENTURE*, at least (2) Partners or each of the Joint Venturers shall sign here:

_____
Partnership or Joint Venture Name
(type or print)

Date: _____

_____
Member of the Partnership or Joint Venture signature

Date: _____

_____
Member of the Partnership or Joint Venture signature

(3) If Proposer is a *CORPORATION*, the duly authorized officer(s) shall sign as follows:

The undersigned certify that they are respectively:_____(Title) and _____(Title) of the corporation named below; that they are designated to sign the Proposal Cost Form by resolution (attach a certified copy, with corporate seal, if applicable, notarized as to its authenticity or Secretary's certificate of authorization) for and on behalf of the below named CORPORATION, and that they are authorized to execute same for and on behalf of said CORPORATION.

_____
Corporation Name (type or print)

By:_____
Title:_____
Dated:_____

By:_____
Title:_____
Dated:_____

ATTACHMENT C
Certification of Nondiscrimination

As suppliers of goods or services to the City of Santa Clara, the firm and individuals listed below certify that they do not discriminate in employment of any person because of race, color, gender, age, religion, disability, national origin, ancestry, sexual orientation, housing status, marital status, or familial status; and that they are in compliance with all Federal, State and local laws, directives and executive orders regarding nondiscrimination in employment.

(1) If Proposer is *INDIVIDUAL*, sign here:

Date: _____

_____
Proposer's Signature

_____
Proposer's typed name and title

(2) If Proposer is *PARTNERSHIP* or *JOINT VENTURE*, at least (2) Partners or each of the Joint Venturers shall sign here:

_____
Partnership or Joint Venture Name
(type or print)

Date: _____

_____
Member of the Partnership or Joint Venture signature

Date: _____

_____
Member of the Partnership or Joint Venture signature

(3) If Proposer is a *CORPORATION*, the duly authorized officer(s) shall sign as follows:

The undersigned certify that they are respectively:_____(Title) and _____(Title) of the corporation named below; that they are designated to sign the Proposal Cost Form by resolution (attach a certified copy, with corporate seal, if applicable, notarized as to its authenticity or Secretary's certificate of authorization) for and on behalf of the below named CORPORATION, and that they are authorized to execute same for and on behalf of said CORPORATION.

_____
Corporation Name (type or print)

By:_____
Title:_____
Dated:_____

By:_____
Title:_____
Dated:_____

ATTACHMENT D
Agreement for Services

Execution of Attachment D is required, as is set forth in Article 7 of the RFQ.

EBIX Insurance No. *_____

AGREEMENT FOR DESIGN PROFESSIONAL SERVICES
BY AND BETWEEN THE
CITY OF SANTA CLARA, CALIFORNIA
AND
***INSERT NAME OF CONSULTANT**
PREAMBLE

This agreement for the performance of services ("Agreement") is made and entered into on this _____ day of _____, 201*__, ("Effective Date") by and between *insert Consultant's name, a *choose one: a _____ (enter State name) corporation/partnership/individual, with its principal place of business located at *insert Consultant's address ("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

SAMPLE

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 "*insert name of proposal document" dated *insert date of proposal document ("Proposal") set forth in Exhibit A, which constitutes the basis for this Agreement.

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 *insert end date of agreement.

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,

SAMPLE

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. 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.

9. 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."

SAMPLE

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

10. PROGRESS SCHEDULE.

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

11. 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.

12. 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.

13. 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.

14. 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.

15. 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.

SAMPLE

16. 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.

17. 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.

18. 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.

19. 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.

SAMPLE

20. 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.

21. 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.

22. 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.

23. INSURANCE REQUIREMENTS.

During the term of this Agreement, and for any time period set forth in Exhibit C, Consultant shall purchase 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.

24. AMENDMENTS.

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

25. 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.

26. 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.

SAMPLE

27. 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.

28. NOTICES.

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

City of Santa Clara
Attention: *insert City Department
1500 Warburton Avenue
Santa Clara, California 95050
or by facsimile at (408) ___-_____

And to Consultant addressed as follows:

Name: _____
Address: _____
_____
or by facsimile at ( ) ___-____

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.

29. 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.

30. 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.

31. 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,

SAMPLE

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. In the event of litigation, the prevailing party shall recover its reasonable costs of suit, expert's fees and attorney's fees.

32. 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."

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, 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.

SAMPLE

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. 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:

RICHARD E. NOSKY, JR.
City Attorney

ATTEST:

ROD DIRIDON, JR.
City Clerk

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

"CITY"

***INSERT NAME OF CONSULTANT**
*choose one: a _____ (enter State name) corporation/partnership/individual

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

Name: _____

Title: _____

Local Address: _____

_____

Email Address: _____

Telephone: ( ) _____

Fax: ( ) _____

"CONSULTANT"

SAMPLE

AGREEMENT FOR DESIGN PROFESSIONAL SERVICES
BY AND BETWEEN THE
CITY OF SANTA CLARA, CALIFORNIA
AND
***INSERT NAME OF CONSULTANT**

EXHIBIT A

SCOPE OF SERVICES

The Services to be performed for the City by the Consultant under this Agreement are more fully described in the Consultant's proposal entitled, "*insert name of proposal" dated *insert date of proposal, which is attached to this Exhibit A and incorporated by this reference.

SAMPLE

AGREEMENT FOR DESIGN PROFESSIONAL SERVICES
BY AND BETWEEN THE
CITY OF SANTA CLARA, CALIFORNIA
AND
***INSERT NAME OF CONSULTANT**

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:

[NOTE TO CITY DEPARTMENTS: This Exhibit B should contain a schedule of rates and fees which includes all billing amounts and costs as follows (if applicable), such as:
-Fee schedule effective date;
-Hourly billing rates for each Staff position/level;
-Minimum billing hours;
-Charges for equipment by day/week/month;
-Travel time and costs;
-Per diem expenses;
-Expendable material or new parts costs;
-Outside services costs; and,
-Overtime costs.]

In no event shall the amount billed to City by Consultant for services under this Agreement exceed *type out amount ($xx,xxx.xx), subject to budget appropriations.

SAMPLE

AGREEMENT FOR DESIGN PROFESSIONAL SERVICES
BY AND BETWEEN THE
CITY OF SANTA CLARA, CALIFORNIA
AND
***INSERT NAME OF CONSULTANT**

EXHIBIT C

INSURANCE REQUIREMENTS

[This exhibit will contain Insurance Requirements consistent with those set forth in the Attachment F]

SAMPLE

AGREEMENT FOR DESIGN PROFESSIONAL SERVICES
BY AND BETWEEN THE
CITY OF SANTA CLARA, CALIFORNIA
AND
***INSERT NAME OF CONSULTANT**

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[1] 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[2] of a crime punishable as a felony involving dishonesty[3];

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

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

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

SAMPLE

[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 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[4] or business experience[5] 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 purchase and maintain bonds and/or insurance policies required under this Agreement.

C. In the event a prospective Consultant (or bidder) is ruled ineligible (debarred) to participate in a contract award process or a contract is terminated pursuant to these provisions, Consultant 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 Consultant will have the burden of proof on the appeal. The Consultant shall have the opportunity to present evidence, both oral and documentary, and argument.

SAMPLE

[4] 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.

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

AGREEMENT FOR DESIGN PROFESSIONAL SERVICES
BY AND BETWEEN THE
CITY OF SANTA CLARA, CALIFORNIA
AND
***INSERT NAME OF CONSULTANT**

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.

SAMPLE

***INSERT NAME OF CONSULTANT**
*choose one: a corporation/partnership/individual

By: _____
Signature of Authorized Person or Representative

Name: _____

Title: _____

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.

AGREEMENT FOR DESIGN PROFESSIONAL SERVICES
BY AND BETWEEN THE
CITY OF SANTA CLARA, CALIFORNIA
AND
***INSERT NAME OF CONSULTANT**

EXHIBIT F

MILESTONE SCHEDULE

SAMPLE

ATTACHMENT E
Sample Cost Proposal Format

Proposer shall use the following format (or similar) to provide the required information stated in Chapter 8 – Proposal Costs Sheet and Rates of Section 6., INFORMATION TO BE SUBMITTED, of the RFQ.

PROPOSER'S STAFF AND SUB-CONSULTANT

TITLE/CLASSIFICATION	NAME	HOURLY RATE

PROPOSER'S AND SUB-CONSULTANT'S SERVICES

NAME/TYPE	COSTS (LS, HR., DAY, LOCATION)

ATTACHMENT F
Insurance Requirements

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 purchase 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 occurrence 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, purchase 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 [*insert City department name here]

P.O. 12010-S2	or	151 North Lyon Avenue
Hemet, CA 92546-8010		Hemet, CA 92543

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.

ATTACHMENT G
Ethical Standards

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

Termination of Agreement for Certain Acts.

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

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

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

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

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

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

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

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

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[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.

on behalf of the Contractor, with the Contractor's knowledge, approval or acquiescence, the Contractor's acceptance of the benefits derived from the conduct shall be evidence of such knowledge, approval or acquiescence.

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

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

2. If City determines that the Contractor fails to submit information, or submits false information, which is required to perform or be awarded a contract with City, including, but not limited to, Contractor's failure to maintain a required State issued license, failure to obtain a City business license (if applicable) or failure to purchase 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 action to the Director of Public Works Department by filing a written statement of dispute no later than three (3) days after the issuance date of City's termination notice. The matter will be determined by Public Works Director within five (5) days of submittal. Any decision by Director of Public Works Department shall be final.

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[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.

ATTACHMENT H
Affidavit of Compliance with Ethical Standards

I,_____, being first duly sworn, state that I am _____ (title or capacity) of _____ (entity name) and I hereby state that I have read and understand the language, entitled "Ethical Standards" set forth in Attachment G, and 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 made appropriate inquiry of those individuals potentially included within the definition of "Contractor" contained in Ethical Standards, 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.

[INSERT NAME OF COMPANY]
a [insert Corporation, Partnership, etc.]

_____
Signature of Authorized Person or Representative

_____
Title

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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