

**City of Santa Clara Electric Department
dba Silicon Valley Power**

Request for Proposal for ADVERTISING/PUBLIC RELATIONS AGENCIES
Proposals due by **5 p.m., Friday, March 14, 2014**

Submit to: Mary Medeiros McEnroe
Public Benefits Program Manager
Silicon Valley Power
City of Santa Clara
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PART I REQUEST FOR PROPOSALS

1.0 GENERAL BACKGROUND

The City of Santa Clara intends to enter into an Agreement with a qualified Proposer to provide a broad range of advertising and public relations services to assist the City of Santa Clara's Electric Department, dba Silicon Valley Power ("SVP"), in its communication needs. Such services include but are not limited to preparing and implementing multimedia campaigns, preparing collateral for various programs, media relations support and general support of communications with all customer and employee audiences.

SVP is a full service electric utility that serves electricity to all residential, commercial and industrial customers within the City of Santa Clara. Ninety percent of the revenue comes from commercial and industrial customers including many leaders in the high-tech industries. Because SVP is a department of the City of Santa Clara, it is nonprofit and exists solely for the benefit of its customers. SVP has a reputation for innovative customer programs and effective communication with all audiences.

Additional information about Silicon Valley Power can be found at www.siliconvalleypower.com.

1.01 INVITATION TO SUBMIT A PROPOSAL

A proposal shall be prepared and submitted in accordance with the provisions of the RFP instructions and specifications in Part III of this Request for Proposals and shall be submitted no later than 5:00 p.m. (PDT) on Friday, March 14, 2014, to:

Mary Medeiros McEnroe
Public Benefits Program Manager
Silicon Valley Power
City of Santa Clara
1601 Civic Center Dr., Suite 102
Santa Clara, CA 95050
PHONE: (408) 615-6646
FAX: (408) 244-2990

1.02 SELECTION PROCESS TIMEFRAME

The proposed 2014 timeframe for the selection of a Proposer(s) is as follows:

January 27	RFP Release Date
February 14	Proposer Questions Due by 5:00 PM PST
February 21	SVP Response to Questions
March 14	Proposals Due by 5:00 PM PDT
April 7-April 10	Oral Interviews for Some or All Proposers
April 18	Final Selection & Begin Contract/Scope Development
May 9	Contract Development Complete
June 10	Contract Approved and Signed
July 1	Contract Begins

1.03 CONSEQUENCE OF SUBMISSION OF PROPOSAL

Receipt of a proposal does not commit the City to pay any costs incurred in the submission of a proposal or in making any necessary studies or designs for the preparation thereof, nor to purchase or contract for the services.

1.04 ACCEPTANCE OR REJECTION OF PROPOSAL

The City reserves the right to award an agreement to the proposer whose proposal most closely satisfies the needs of the City and is deemed to be most advantageous to the City. The City reserves the right to accept or reject any item or group(s) of items of a proposal. The City also reserves the right to waive any minor informality or irregularity in any proposal.

In the City's sole discretion, the City may:

- accept the proposal, the City and the successful proposer shall enter into an agreement consistent with the proposal submitted,
- enter into negotiations with the selected proposer with the intent entering into a mutually acceptable agreement,
- enter into negotiations with any or all of the proposers,
- interview one or more proposers regarding specific areas of their proposals, as part of the evaluation process, or
- take other action that the City deems appropriate including rejecting all proposals.

The City reserves the right to accept or reject any proposal where:

- any of the RFP forms are left blank or are materially altered; or
- any document or item necessary to the proposal is incomplete, improperly executed, indefinite, ambiguous, or is missing.

Additionally, factors such as, but not limited to, the following may also disqualify a proposer without further consideration:

- Evidence of collusion among proposers;
- Any attempt to improperly influence any member of the Evaluation Panel;
- A proposer's default under any type of agreement which resulted in the termination of that agreement; or
- Existence of any unresolved litigation between proposer and the City.

1.05 INQUIRIES AND/OR CLARIFICATIONS

Any requests for clarification of the RFP shall be made IN WRITING via email to:

Mary Medeiros McEnroe
Public Benefits Program Manager
Silicon Valley Power
City of Santa Clara
mmedeiros@svpower.com

All requests for clarification must be received prior to 5:00 PM (PST) on Friday, February 14, 2014. Any City response to a request for clarification by a proposer will be made in the form of a letter and will be sent to all parties to whom the RFP has been issued by February 21, 2014. The proposer should await responses to inquiries prior to submitting a proposal.

1.06 PUBLIC RECORD: PROPOSALS BECOME PROPERTY OF CITY

Responses to this RFP become the exclusive property of the City. At such time as SVP recommends a proposer to the City Council, all proposals received in response to this RFP 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 is made pursuant to the Public Records Act. Any proposal which contains language purporting to render all or significant portions of the proposal "Confidential," "Trade Secret," or "Proprietary," shall be regarded as nonresponsive. Although the California Public Records Act recognizes that certain confidential trade secret information may be protected from disclosure, the City of Santa Clara may not be in a position to establish that the information a proposer submits is a trade secret. If a request is made for information marked "Confidential," "Trade Secret," or "Proprietary", the City will provide the proposer who submitted the information with reasonable notice to allow the proposer to seek protection from disclosure by a court of competent jurisdiction, but shall not have any obligation to seek protection from disclosure on behalf of the firm or person making this submittal or any third party.

2.0 EVALUATION PROCEDURE AND CRITERIA

The evaluation panel will consist of City technical and management personnel and others designated by the City. This panel will evaluate the proposals based on several criteria including, but not limited to the following:

- Quality of proposed service;
- Cost to the City;
- Location of Proposer in relation to the work required;
- Capabilities and expertise of the Proposer;
- Quality and tone of creative work submitted as samples;
- Capacity of the Proposer to perform the service;
- Responsibility of the Proposer;
- Past service record of the Proposer;
- Quality and breadth of experience of Proposer's employees assigned to this account;
- References from other companies served by the Proposer;

Proposers may be interviewed regarding specific areas of their proposals, as part of the evaluation process.

3.0 GENERAL DESCRIPTION OF PROPOSED AGREEMENT

Upon conclusion of the RFP process, the City intends to select a proposer to enter into a professional-services "Call Agreement" with individual one-year "Calls" to perform all or part of the proposal. The term of the Call Agreement is expected to be from July 1, 2014 through June 30, 2017. A copy of a sample Call Agreement and Call is attached to this RFP. Please note the minimum insurance requirements in Exhibit C and the Ethical Standards requirements in Exhibit D.

The City's intent is that an initial Call for a one-year term will include either a monthly retainer, or a time and materials accounting for all Proposer in-house marketing, advertising, media relations and public relations work. All third-party costs will be billed through to the City with no mark-up. The proposal may be incorporated by reference in the initial Call.

Compensation and Payment Schedule for performance under this agreement is described in Part IV of this RFP.

4.0 FINANCIAL STATEMENTS

The City may require financial statements for the last two (2) fiscal years as certified by an independent Certified Public Accountant at any time during the RFP process, and/or during the life of the contract.

PART II CURRENT COMMUNICATION ACTIVITIES, DESIGNS AND GOALS OF SILICON VALLEY POWER

1.0 BACKGROUND

The City of Santa Clara's municipal electric utility, doing business as Silicon Valley Power, has been marketing its customer services and programs through a wide range of material and venues for a number of years. Since 1997, this marketing and public relations effort has included multiple annual contracts with the Carter Israel agency (1997-2003), and subsequently Cintara Corp (2003-2011) and dystrick Design, Inc. (2011-present). The City of Santa Clara seeks to continue a high quality marketing and public relations campaign for its electric utility to customers, employees, and peers.

2.0 PROGRAM DESCRIPTION

2.01 MARKETING COMMUNICATIONS FOR 2014

The Communications for 2014 should focus on the following objectives:

- Good communications with both business and residential customers, as well as employees, to keep them up-to-date on SVP's programs and accomplishments
- Continue branding Silicon Valley Power as the public utility of the City of Santa Clara, reinforcing our core values and leveraging SVP recognition as a world-class utility
- Communicate findings of market research on customer attitudes and perceptions, both qualitative and quantitative.
- Promote customer-focused programs and services emphasizing benefits to the customers and inciting a call to action.
- Improve and promote SVP-sponsored websites (Siliconvalleypower.com, svpfiber.com and MoveToSantaClara.com) and work to improve their effective utilization as a customer communications tool and marketing platforms
- Continue support of the fiber optic network marketing program
- Support customer awareness of system reliability efforts and other technology improvements that increase customer benefit
- Implementation of the SVP MeterConnect (advanced metering) communications plan in coordination with meter deployment

2.02 MARKETING AUDIENCES:

- Business customers, specifically including all business and commercial energy and dark fiber users. This includes the headquarters of remote decision-makers and influencers.
- Residential customers of the City of Santa Clara.
- SVP employees and stakeholders throughout the City government.
- Energy industry peers, including political and governmental agencies, and public influencers of the energy and environmental-related industries and groups.
- Media targets, including, radio, weekly and daily newspapers, trade publications (especially electric, electric contractors, and energy efficiency trades), online and social media, and City communications (including, at a minimum, the Inside Santa Clara, Government-sponsored TV Cable Channel 15, the annual City calendar, and the monthly employee newsletter).
- Selected vertical audiences for specific projects.

2.03 CREATIVE PLATFORM:

The utility has adopted a friendly, human-centric, benefit-focused approach utilizing photograph-based collateral, with the exception of residential rebate programs, which utilize a cast of cartoon characters. These looks should generally remain relatively the same for consistency, with some slow changes to make each piece appealing and readable.

- The residential look uses a cast of cartoon characters to enhance the conspicuousness of brochures. The already-developed bank of product and program materials can be used, with enhancements as necessary.
- The business audience is approached through a photographic, sophisticated approach. The bank of stock photos will continue to be used, with more purchased as necessary.

2.04 BREAKOUT OF CURRENT AND PLANNED ACTIVITIES

Business Customers

AUDIENCE	CHARACTERISTICS
Santa Clara Business groups	Chamber of Commerce, SVLG
Santa Clara top 50 businesses	50 key customer accounts ~ 56% of electric revenues ~ 0.1% of electric customers
Santa Clara other businesses	5,000 businesses small, midsize and large totaling 7,700 meters ~ 34% of electric revenues ~ 16% of electric customers
Greater Silicon Valley businesses, residents and associations	Part of the local energy grid Impacted by regional energy policy

MARCOM ACTIVITY	DESCRIPTION	THEME or GOAL
Outlet Newsletter	4 volumes, 4 pages Qty. 5,500 SVP provides some copy Electronic version for email distribution w/ html links to specific articles	Energy solutions and information for businesses. Promotion of PBC and other utility programs, as well as the utility's values.
Public Benefits Brochure	Double-sided single sheet, mailer size, 4 color, qty. 6,000	Public benefits/info piece
Direct Mail Target Marketing Pieces	2 versions, TBD 4 color, qty. 1,000 ea	Public benefits/info
Case Study Development	2 case studies 4 color, qty. 500 ea Single sheet, 8.5" x 11", two-sided per study	Public benefits/info – energy efficiency or innovation theme repurposed for other mediums

PR ACTIVITY	DESCRIPTION	THEME or GOAL
Bylined articles & op/eds	2 Articles.	CSC's SVP is different & better
Press Releases	6 press releases per year (more if warranted)	Maintain communication flow with editorial community and other communication channels

Residential Customers

AUDIENCE	CHARACTERISTICS
Santa Clara residents and community groups Community Groups: <ul style="list-style-type: none"> ▪ Citizens Advisory Committee ▪ Senior Citizens Advisory ▪ SC Neighborhood Enhancement 	~120,000 total population 42,000 residential dwellings 42% bachelor's degree or higher 11,000 college students ~ 8% of electric revenues ~ 83% of electric customers ~ 85% of all accounts still receive a paper bill

MARCOM ACTIVITY	DESCRIPTION	THEME or GOAL
Bill Inserts	12 inserts -1/3 page 4 color, qty. 50,000	Public benefits/info pieces Billing and Payment options
Direct Mail Postcards	3 versions, 4 color, qty. 120,000	Public benefits/info; may include update to existing programs; billing and payment options; other utility programs
Energy Efficiency Educational Flyers	3 per year - 1 page, single or double-sided in existing template; for use on SVP website and printed in house	Educate customers on energy efficiency to make behavioral changes
Public Benefits Brochure	Redesigned brochure, 4 color, qty. 40,000	Public benefits/info Existing program updates.
Santa Clara Weekly	Create 12 new ads per year 4 color, ¼ page; update old ads from inventory as necessary	Extend reach and frequency to audiences.
Inside Santa Clara	2 Display ads – 1/8 page, 2 color	Promote programs

PR ACTIVITY	DESCRIPTION	THEME or GOAL
Bylined articles & op/ed pieces	2 Articles	Public benefits or local events and energy topics.
Ongoing press releases (including public service/human interest stories)	Target one per month	Maintain communication flow with editorial community and communication channels
Contributions to Inside Santa Clara three times per year	City's Newsletter to all customers	Create added visibility in residential and business community

All Utility Customers

AUDIENCE	CHARACTERISTICS
Santa Clara resident and business utility customers	46,000 bills mailed every month 42,000 residential addresses 5,000 business addresses

MARCOM ACTIVITY	DESCRIPTION	THEME or GOAL
Standard Bill Envelopes (residents and businesses)	46,000 outgoing. Over print in open areas of outside only, standard #10 windowed envelope – 8/yr	Program promotion.
Non-standard Bill Envelopes (residents and businesses)	46,000 outgoing. Over print in open areas of outside, pattern printed on the inside, standard #10 windowed envelope - 4/yr	Program promotion.

Economic Development

AUDIENCE	CHARACTERISTICS
Greater Silicon Valley businesses, residents and associations	Part of the local energy grid impacted by regional energy decisions SVLG–Silicon Valley Leadership Group JVSVN – Joint Venture Silicon Valley Network
Economic development professionals and associations	Assoc. of Silicon Valley Brokers National Association of Industrial and Office Properties Building Owners and Managers Assoc.

MARCOM ACTIVITY	DESCRIPTION	THEME or GOAL
Print Advertising Ongoing/opportunity	3 color or b/w ads Commercial Real Estate Book of Lists, San Jose/SV Business Journal, other Business Journal venues.	Build awareness with Santa Clara County commercial real estate professionals,

PR ACTIVITY	DESCRIPTION	THEME or GOAL
Bylined articles & op/ed	2 Articles	CSC's SVP is different & better
Ongoing press releases with Econ. Dev. theme	2 press releases per year (more if warranted)	Maintain communication with editorial community and other communication channels

Energy Industry (Includes SVP MeterConnect®)

AUDIENCE	CHARACTERISTICS
Energy and public power industry	APPA-American Public Power Assoc. CMUA-California Municipal Utilities Assoc. NCPA-Northern California Power Agency
Trade and local media	Energy, Environment SJMN, SBJJ, SCWeekly
Customers	Residential & Commercial customers located within the City of Santa Clara

PR ACTIVITY	DESCRIPTION	THEME or GOAL
Bylined articles & op/eds	2 Articles	CSC's SVP is different & better
Press Releases	4 per year	Communicate and reinforce items of interest
Story board & Scripting for Videos	1 per year	"How To" videos or promotions

SVP Fiber Optic Enterprise (Dark Fiber Lease)

AUDIENCE	CHARACTERISTICS
High-speed bandwidth providers and large corporate consumers	SVP supplies dark fiber leasing of its multi-ring fiber system to more than a dozen clients. Price and quality competitive

MARCOM ACTIVITY	DESCRIPTION	THEME or GOAL
Identify and create advertising opportunities for Dark Fiber	Develop (2 ads per year) alternative advertising venues (ie. Online ads, trade publications, etc)	Fully lease available dark fiber

PR ACTIVITY	DESCRIPTION	THEME or GOAL
Press Releases	2 per year	Advantages of SVP Dark Fiber
Case Studies	2 per year	Promote advantages of SVP Fiber Enterprise for the customer

Special Project: Events (Ribbon Cuttings, Dedications, Etc.)

AUDIENCE	CHARACTERISTICS
City Staff and elected officials	SVP is part of the City: <ul style="list-style-type: none"> ▪ Municipal Services ▪ Permits & Planning ▪ Other CSC utilities CSC City Managers/Council Members
Energy and public power industry	APPA-American Public Power Assoc. CMUA-California Municipal Utilities Assoc. NCPA-Northern California Power Agency
Trade and local media	Publicize information that influences different audiences. See appendix for media list
Select Silicon Valley businesses	SVLG-Silicon Valley Leadership Group SVASE-Silicon Valley Association Software Engineers CMTA-California Manufacturing & Technology Association
Economic development professionals and associations	Assoc. of Silicon Valley Brokers National Association of Industrial and Office Properties Building Owners and Managers Assoc. Society of Industrial & Office Realtors Northern California CCIM

MARCOM ACTIVITY	DESCRIPTION	THEME or GOAL
Event planning	Provide consultation and planning support	Experienced resource to assist SVP staff in preparing for a key event
Event invitations, fact sheets, programs, and signage	4 color, qty. 400 2 signs 1 giveaway, qty. 300	Basic information pieces required to support the event

PR ACTIVITY	DESCRIPTION	THEME or GOAL
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Media interviews	Arrange and participate in one-on-one interviews with key reporters	Dependent on event
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Websites

AUDIENCE	CHARACTERISTICS
Santa Clara residents and community groups Community Groups: <ul style="list-style-type: none"> ▪ Chamber of Commerce ▪ Citizens Advisory Committee ▪ Senior Citizens Advisory ▪ SC Neighborhood Enhancement Committee 	120,000 total population 42,000 residential dwellings 11,000 college students 16,000 pre-K to HS 42% bachelor's degree or higher ~ 8% of electric revenues ~ 83% of electric customers
Santa Clara top 50 businesses	50 key customer accounts Primary contact: facility manager ~ 56% of electric revenues ~ 0.1% of electric customers
Santa Clara other businesses	5,000 businesses small, midsize and large, totaling 7,700 meters Primary contact: owner or accounts payable ~ 34% of electric revenues ~ 16% of electric customers
Greater Silicon Valley businesses, residents and associations	Part of the local energy grid impacted by regional energy policy

MARCOM ACTIVITY	DESCRIPTION	THEME or GOAL
Website support siliconvalleypower.com svpfiber.com	Provide consultation to SVP to improve web performance.	The websites are critical resources in communicating to customers about SVP and its programs/services

PR ACTIVITY	DESCRIPTION	THEME or GOAL
Website content & support	1 per quarter; Edit from press releases (I.e. greenhouse gas supply)	Communicate and reinforce items of interest to residential and business communities; help underscore key messages

Internal Communication

AUDIENCE	CHARACTERISTICS
City Staff and elected officials	Connects SVP to other City departments: <ul style="list-style-type: none"> ▪ Municipal Services ▪ Permits & Planning ▪ Other CSC utilities CSC City managers/council members
Silicon Valley Power employees	133 SVP staff 75-80% in field service

PR ACTIVITY	DESCRIPTION	THEME or GOAL
Articles for City Corner (internal newsletter)	2 per year	Increase internal communication and employee awareness

Part III GENERAL SCOPE OF SERVICES

The following Scope of Services presents an outline of potential work assignments that may be part of the selected Proposer(s) contract.

If selected, the City and the selected Proposer(s) will prepare a detailed Scope of Services for specific tasks, budgets, and timelines to be included in the negotiated contract. If you do not intend to provide all of the services listed in the Scope of Services, please indicate those that you intend to provide in this proposal as indicated by the instructions in Part IV of this RFP.

1.0 POTENTIAL TASKS:

1.01 CAMPAIGN DEVELOPMENT

Assist City staff with the development of a comprehensive multimedia marketing plan including strategies to: 1) educate residents and businesses about new and existing services, 2) test the effectiveness of each marketing effort, and 3) ensure a smooth transition to each marketing campaign.

- Develop a unified creative theme for delivering the messages of each campaign.
- Present at least three creative solutions to SVP staff and stakeholders for consideration for each campaign.
- Provide samples of how themes are to be applied to a variety of media for a variety of audiences in both residential and commercial program areas, as appropriate.
- Develop and finalize agreed-upon strategies and assign estimated costs and timelines.

- With the assistance of the SVP staff, develop a glossary of key messages suitable for use in all outreach materials, so messages remain consistent.

1.02 COLLATERAL AND ADVERTISING DEVELOPMENT

Provide collateral development services in support of the multimedia campaign. Services may include: graphic design for the development of print collateral (such as bill inserts, posters, service packets, direct mail, service cards), print and broadcast advertising, public meeting presentation materials, and supplemental video productions.

- A. Coordinate production of the above material including: creative development, translation services, writing copy, graphic design, photography, videography, broadcast production, media placement, and print coordination (print specifications, preparation of files, press checks and delivery) according to SVP requirements.
- B. The Proposer will be responsible for the costs of printing, advertising, mailing services, and distribution, then bill through all third party costs to the City without mark-up. NOTE: ownership of all materials including photography created or purchased by Proposer or a third party vendor on City's behalf shall be transferred in full to the City. The exception to this are the utility bill inserts and the bill envelopes, which are printed through the City's utility bill print vendor.
- C. Propose methods for tracking the effectiveness of the marketing plans and their components. Assist in establishing project goals. Monitor and track data for periodic evaluations and provide a final analysis of the success of the campaign to the SVP upon project completion.
- D. Develop a public relations campaign that strives to involve local media and create positive attention to SVP. This could include developing media releases, organizing press events, creating video news releases, providing "B"-rolls, etc. Track results of public relations efforts on a regular basis.
- E. Support SVP staff in preparing for and responding to media inquiries.

For information on current Silicon Valley Power programs, visit this website:
www.siliconvalleypower.com

The list of tasks above is not meant to be exclusive and proposals containing alternative and innovative approaches are encouraged. The City reserves the right to revise or eliminate tasks from the Scope of Services based on the outcome of the proposal evaluation process.

2.0 PROJECT REVIEW PROCESS OF OUTREACH MATERIALS

The selected Proposer(s) will be expected to comply with the project review requirements of the SVP staff, its associated Proposers and applicable City

departments. This process typically includes: 1) review of initial concepts and first draft by a core outreach group with 2) a second revision reviewed by the core outreach group, the service providers and the City Manager's office followed by 3) submittal of the final revision for approval.

Part IV INSTRUCTIONS FOR SUBMITTING A PROPOSAL

A duly authorized officer or agent of proposer shall execute the proposal. Five copies of the proposal shall be submitted no later than 5:00 p.m. (PDT) on Friday, March 14, 2014 to Mary Medeiros McEnroe at Silicon Valley Power as indicated in Part I, Section 1.01. The proposal should be firmly sealed in an envelope, which shall be clearly marked on the outside "RFP Proposal for: Advertising/Public Relations Services; Silicon Valley Power." Any proposal received after the due date and time may be rejected and returned to the proposer unopened at the City's sole discretion. Therefore, the envelope must also have a return address on the outside. *NOTE:* Only that information which is essential to an understanding and evaluation of the proposal should be submitted. Your proposal will demonstrate your firm's ability to communicate clearly and concisely. Successful proposer may be required to submit a copy of its proposal and all supplemental material as a Microsoft Word file.

NOTE: Where the word "shall" or "required" appears, proposers may not take an exception.

1.0 INSTRUCTIONS TO PROPOSERS

These instructions outline the guidelines governing the format and content of the proposal and the approach to be used in its development and presentation. Only that information which is essential to an understanding and evaluation of the proposal should be submitted. No limitation on the content of the proposal is intended in these instructions and inclusion of any pertinent data or information is permitted. However, *the proposal will demonstrate your firm's ability to communicate clearly and concisely.*

The Proposal shall include the following elements in the order listed:

1. **Exhibit A Proposal Form:** Complete and fully executed
2. **Marketing and Communication Plan:** Using PART II "CURRENT COMMUNICATION ACTIVITIES, DESIGNS AND GOALS OF SILICON VALLEY POWER" and Part III "SCOPE OF SERVICES" as a guide, create a detailed Marketing and Communication Plan that includes the following:
 - a) Develop a unified creative theme for delivering the messages of this campaign
 - b) Explain how this theme is the same or different from our current campaign and why
 - c) Provide samples of how themes are to be applied to a variety of media for a variety of audiences in both residential and commercial program areas
 - d) Indicate a breakdown of tasks to be performed by Proposer (Agency) and tasks to be performed by 3rd parties (Outside Vendors)

3. **Detailed Management Plan:** Identify a detailed management plan that supports the Marketing and Communication Plan proposed in item 2 above. The plan shall include the following items:
 - a) Proposer should describe the functional and/or organizational structure of overall organization.
 - b) Describe the staffing plan the Proposer intends to employ in order to provide the required services. Include any relevant qualifications and experience of staff that will be used to provide the services.
 - c) Indicate clearly the normal billing rate for the staffing indicated above in the event other projects are warranted above and beyond the scope of a negotiated retainer
 - c) Outline background, past experience and organizational qualifications that enable Proposer to provide the required services.
 - d) Any innovative management methods or outreach strategies to increase effectiveness of the campaign should be described, as well as their projected value to the overall campaign.

4. **Cost Proposal:** Proposer shall indicate clearly the proposed cost to the City, on a not-to-exceed basis, for implementing the proposed Marketing and Communication Plan presented by proposer in #2 above. This cost proposal shall be broken down as follows:
 - a) Total Overall Cost of proposal (first year only)
 - b) Total Annual Agency fee (fixed monthly retainer or time and materials break down, first year only)
 - c) Total Third-party (outside vendor) costs (not-to-exceed, first year only)
 - d) Provide a breakdown of Agency hours under the monthly retainer accounting, or by costs under time and materials accounting, for each element of the Marketing and Communication Plan
 - e) Provide a breakdown of 3rd Party Costs for each element of the Marketing and Communication Plan

COST PROPOSAL NOTES:

All costs associated with developing and submitting proposals for work contained herein are entirely the responsibility of the proposing Proposer(s); and therefore, the City shall assume no liability.

The Proposer will be responsible for payment of all 3rd Party Costs (all costs not covered by the Agency Retainer, excluding postage), then bill through all third party costs to the City without mark-up or special management fees.

When pieces are mailed, printing and mailing is the responsibility of Proposer and/or its 3rd party mail house. We provide an electronic mailing list and cover postage with a USPS permit numbered account.

Ownership of all materials created or purchased by Proposer or a third party vendor on City's behalf shall be transferred in full to the City and priced accordingly in the proposal.

The final contract amount shall be negotiated with the highest-ranking Proposer(s) after the selection process. The selected Proposer(s)' negotiated contract amount shall be stated in the City's Standard Agreement on a not-to-exceed basis and shall include payment for professional services and reimbursable expenses.

Each month, selected Proposer(s) shall furnish to the City a statement of the work performed for compensation for each task, as described in the Scope of Services or as otherwise agreed to on a contingency basis, completed during the preceding month. The monthly statement shall specify each task, the services performed in association with the task, the number of hours expended for completing all services, the hourly rate for each service, the variation between this rate and the monthly retainer, and the total amount due for the month (inclusive of both retainer and third party charges). Such statement shall also include a detailed record of the month's actual reimbursable expenditures associated with the task. Documentation supporting such expenditures shall be made available upon request.

5. **Additional information:** Any other relevant information that supports the proposal.
6. **Exhibit B PROPOSER'S QUESTIONNAIRE:** Complete and fully executed
7. **Exhibit C INSURANCE REQUIREMENT FORM:** fully executed
8. **Exhibit D AFFIDAVIT OF COMPLIANCE WITH ETHICAL STANDARDS** fully executed
9. **Requested Changes to the Master Agreement:** A detailed list of any requested exceptions or required changes to the Master Agreement or contracting arrangements.
10. **Work Samples:** One set of samples of one of most successful multimedia campaigns. (Samples will not be returned.)

EXHIBIT "A" PROPOSAL FORM

Proposer Name:	Telephone:
Title:	Facsimile:
Agency Name:	Email:
Address:	Website URL:
Contact person (if different):	
Title:	Telephone:
Email:	Facsimile:

Proposer understands, agrees, and warrants:

1. That Proposer has carefully read and fully understands the information that was provided by the City to serve as the basis for submission of this proposal for Advertising/Public Relations Services.
2. That Proposer has the capability, including but not limited to personnel and financial resources, to successfully undertake and complete the responsibilities and obligations outlined in the proposal.
3. That all information contained in the proposal is true and correct to the best of Proposer's knowledge.
4. That Proposer did not, in any way, collude, conspire or agree, directly or indirectly, with any person, firm, corporation or other Proposer in regard to the amount, terms, or conditions of this proposal.
5. That by submission of this proposal, the Proposer acknowledges that the City has the right to make any inquiry it deems appropriate to substantiate or supplement information supplied by Proposer.

PROPOSER'S SIGNATURE

DATE

By signing above, the submission of a proposal shall be deemed a representation and certification by the Proposer that the Proposer has investigated all aspects of the RFP, that the Proposer is aware of the applicable facts pertaining to the RFP process, its procedures and requirements, and that the Proposer has read and understands the RFP and is an authorized representative of the corporation.

EXHIBIT "B" PROPOSER'S QUESTIONNAIRE

All information requested in the Questionnaire shall be furnished by the proposer, and shall be submitted with the proposal. Statements shall be complete and accurate and in the form requested. Omission, inaccuracy or misstatement may be cause for the rejection of a proposal.

1. Name of Proposer exactly as it is to appear on a management services agreement and address which Proposer would designate under the agreement for service of notices:
2. Proposer, if selected, intends to carry on the business as Individual Partnership, Joint Venture, Corporation, or Other. If "Other" attach explanation.
3. If a partnership or joint venture, attach a copy of the partnership agreement or joint venture agreement and identify the participants:
 - A. Provide the NAME, ADDRESS and SHARE of each participant.
 - B. Date of Organization:
 - C. General or Limited Partnership: (if applicable)
 - D. Agreement Recorded: COUNTY, STATE and DATE
 - E. Registered in California? If so, when?
4. If a corporation, answer the following:
 - A. When incorporated?
 - B. In what state?
 - C. Authorized to do business in California?
If so, what date?
5. Are you currently engaged in merger or acquisition negotiations, or do you anticipate entering into merger or acquisition negotiations within the time period of this Request for Proposals?
If yes, give details.
Attach copy of such agreement(s).
6. What is the duration and extent of your experience in Advertising/Public Relations Services? Experience must reflect local office as well as overall organization's experience (i.e., if your local office is part of a larger group, nationwide).
7. What is your experience in creating multimedia marketing campaigns on environmental issues and/or environmentally sensitive projects?
8. Are you now representing or have you represented any clients who provide energy or energy related services?
If yes, give details and attach copy of such agreement(s).

EXHIBIT B - PROPOSER'S QUESTIONNAIRE -Continued-

9. Submit at least three persons, firms and/or governmental bodies, with whom you currently have arrangements or agreements for Advertising/Public Relations Services.

Provide contact person's name and telephone number.

10. Submit at least three persons, firms and/or governmental bodies with whom you have had arrangements or agreements that are now canceled (organizations that are no longer active customers of your (firm)).

Provide contact person's name and phone number for each organization.

The undersigned hereby declares under penalty of perjury that all statements, answers and representations made in this questionnaire are true and accurate, including all supplementary statements hereto attached. In the case of a corporate proposer, the signature of one duly authorized representative is sufficient.

PROPOSER'S SIGNATURE

Title:

Company:

Address:

DATE

EXHIBIT "C" INSURANCE REQUIREMENT FORM

INSURANCE REQUIREMENTS:

Proposer has read the insurance requirements contained in the attached sample of the City of Santa Clara's Master Agreement (Exhibit C) and acknowledges that insurance will be made a part of the Agreement and warrants that Proposer has or will acquire the required insurance coverage by execution of the Agreement.

PROPOSER'S SIGNATURE

DATE

Title:

Company:

Address:

EXHIBIT "D" AFFIDAVIT OF COMPLIANCE WITH ETHICAL STANDARDS

ETHICAL STANDARDS REQUIREMENTS:

Proposer has read the ethical standards requirements set forth in the attached sample of the City of Santa Clara's Master Agreement (Exhibit A & B) and acknowledges that compliance with these standards will be made a part of the Agreement and warrants that Proposer will abide by said standards if an Agreement is executed.

PROPOSER'S SIGNATURE

DATE

Title:
Company:
Address:

SAMPLE CALL AGREEMENT FOR SERVICES

**CALL AGREEMENT BY AND BETWEEN
THE CITY OF SANTA CLARA, CALIFORNIA
AND
(Insert contractor's name here)
for _____ Services**

PREAMBLE

This call agreement (“Agreement”) is made and entered into in the City of Santa Clara, California, on this ____ day of _____ 2014 (“Effective Date”), by and between the City of Santa Clara, California, a chartered California municipal corporation, with its principal place of business located at 1500 Warburton Avenue, Santa Clara, California 95050 (“City”) and _____, a _____ *insert appropriate corporation\contractor\partnership reference as required* _____, with its principal place of business located at _____ (“Contractor”). City and Contractor may be referred to herein individually as a “Party” or collectively as the “Parties” or the “Parties to this Agreement.”

RECITALS

Whereas:

- A. Contractor agrees to provide certain professional services to City on an on-call basis;
- B. Contractor has the ability and desire to provide the quality and type of professional services which meet the objectives and requirements of City as set forth in this Agreement; and,
- C. The Parties have specified in this Agreement the terms and conditions under which such services will be provided to and paid for by the City.

In consideration for the mutual promises contained in this Agreement, the Parties agree as follows:

AGREEMENT PROVISIONS

1. SCOPE OF SERVICES

- 1.1 To the extent possible, the professional services to be provided under this Agreement shall be performed in the City of Santa Clara and the services shall be described in detail by the Contractor and submitted in a written proposal to the City (“Services”). The Contractor’s final proposal will be included as an exhibit entitled, “Scope of Services” attached to a subsequent agreement between the Parties referred to in this Agreement as

a “Call” or a “Call for Services.” Each Call will incorporate the terms of this Agreement by reference and must be signed by both Parties. Contractor agrees to provide professional services to the City as specified in each respective Call, to the extent funds have been authorized by the City.

- 1.2 No Services shall be performed or paid for under this Agreement except as specifically set forth and required in a written Call. No compensation may be sought under this Agreement for work performed prior to the issuance of a Call or for work to be performed or paid for under another contract. No compensation shall be paid in excess of the maximum dollar amount indicated in each respective Call for Services.
- 1.3 The Parties acknowledge that on the Effective Date of this Agreement, they are unaware of the details of all of the services which may be needed by City or provided by Contractor during the term of this Agreement. The Parties intend to specify the details and value of such Services in a subsequent Call, if any. This Agreement does not require that any Call(s) be signed. The Parties intend to provide the details of the contractual relationship between the Parties in this Agreement, so that by incorporating the terms of this Agreement in the Call(s), the Call may be brief and address the specific Services to be provided, the details of the time when the Services are to be provided and the schedule and amount the Contractor is to be paid for such Services.

2. PAYMENT

- 2.1 **Not to Exceed Maximum Amount.** The total amount billed to, and paid by, City for Services provided and authorized expenses incurred under a Call shall not exceed the maximum dollar amount specified in the Call. Contractor shall complete all Services contained within the scope of a Call regardless of whether the not to exceed amount has been reached, at no extra charge to the City. However, Contractor shall not perform any Services outside the scope of the Call without prior written authorization when the amount billed for under a Call exceeds the maximum dollar authorized amounts in the Call.
- 2.2 **Monthly Invoices.** Unless provided otherwise in a particular Call, payment to Contractor shall be in accordance with the procedures in this paragraph 2.2 and in paragraph 2.3. On a monthly basis, Contractor shall prepare an invoice which includes an itemization of all time spent based on the percent of Services complete, as well as any Authorized Expenses incurred (i.e., Out-of-Pocket Costs, Sub-contracted Services and/or Extraordinary Expenses).
 - 2.2.1 If a particular Call directs that an invoice be presented in a format of a time sheet rather than as a percentage of Services completed, the itemization on each monthly invoice shall set forth the amount

of time (recorded in quarter hours), the name of the employee performing the task and a description of each task performed. After setting forth the time spent on a daily basis, the itemization will provide a summary, at its end, of the total hours spent by each employee for the month, the hourly rate charged for that employee, and the total value of the service rendered by that employee for the month. The amount billed for Services shall then be determined by adding the value for the Services rendered by each employee for that particular month.

- 2.2.2 All monthly invoices shall also include a written itemization of the Authorized Expenses incurred, if any, with a detail listing the cost and source of such expenses and when they were incurred.
- 2.2.3 Contractor shall maintain documentation of such time and costs for City inspection for a period of three (3) years from the date of termination of this Agreement.
- 2.2.4 Within thirty (30) days of receipt of an itemized written invoice from the Contractor, City shall pay Contractor the amount billed for Services performed and authorized costs incurred under the Call during that billing period.

2.3 **Authorized Expenses.** The amount billed for Services shall be determined as set forth in paragraph 2.2 above plus the following amounts, if allowed under the Call:

- 2.3.1 **“Out-of-Pocket Costs”.** Contractor’s Out-of-Pocket Costs are those expenditures made by Contractor, other than employees’ salaries and payment for Services of retained specialists, which are directly chargeable to the Services performed and which would not otherwise have been incurred by Contractor. Unless otherwise provided, the Out-of-Pocket Costs must be approved in writing in advance by City and may be billed to the City and reimbursed to the Contractor only as specifically authorized and set forth in each respective Call. Authorized Out-of-Pocket Costs shall be billed without additional markup or administrative charge;
- 2.3.2 **Per Diem.** A Call will state whether or not it includes an estimate for anticipated travel expenses. If the Call does not include an estimate for anticipated travel, then the provisions of this paragraph shall apply. A Party’s travel expenses include airfare, rental car, or mileage, lodging and meals. The Party who is receiving the services pursuant to a particular Call, is the Reimbursing Party. Prior to incurring any charge for travel, the Party planning to travel (“Traveling Party”) shall (1) confirm that the Reimbursing Party is available for meetings on the proposed dates and (2) provide (either verbally or by facsimile) a price quote

to the Reimbursing Party for the anticipated airfare prior to the charge being incurred, the Reimbursing Party shall either verbally or by facsimile confirm that the airfare may be incurred; in the event that the Reimbursing Party verbally confirms that the airfare may be incurred, the Traveling Party *shall* confirm in writing (prior to incurring the charge) that the Reimbursing Party has agreed to the charge. All travel expenses shall be reimbursed at cost, with no mark-up. Hotel rooms shall not exceed a cost of \$125 per night unless otherwise agreed by Reimbursing Party. Airfare and car rentals shall be reimbursed at economy class, unless economy class is unavailable through no fault of the booking party. Mileage, if applicable, shall be reimbursed in accordance with the current IRS guidelines for mileage reimbursement. Reasonable attempts shall be made to make plane reservations in advance in order to take advantage of lower fares. In the event that travel plans must be canceled or re-scheduled due to the fault of the Reimbursing Party, then the Reimbursing Party shall pay for any costs associated therewith; if the travel is canceled or re-scheduled due to the fault of the Traveling Party, then the Traveling Party shall bear the expense. Invoices for travel expenses shall be supported by receipts, and shall be reimbursed in accordance with paragraph 2.2.1. Meals, if reimbursed, shall not exceed fifty dollars (\$50) per day.

2.3.3 **Any authorized “Sub-contracted Services” incurred by Contractor.** Authorized Sub-contracted Services are services provided by a retained specialist or sub-contractor and may be billed to City only if specifically described and authorized in a Call. (Retained specialists and sub-contractors shall include individuals or organizations offering qualified special services to City who are particularly skilled in one or more fields and who may be occasionally employed by the Contractor to fill the need for special or unusual services. Unless otherwise provided, the cost of furnishing such special services must be approved in writing in advance by City and the costs billed to City and reimbursed to the Contractor shall be only the actual charges of the retained specialist or sub-contractor, without additional markup or administrative charge); and/or,

2.3.4 **Any other authorized “Extraordinary Expenses” incurred, if any, as set forth in the Call.** Authorized Extraordinary Expenses shall be billed without additional markup or administrative charge.

2.4 **Retainer or Flat Fee for Services.** The Parties to this Agreement may, from time to time, determine that payment for a certain Scope of Services set forth in a Call pursuant to this Agreement should be made to Contractor on a retainer or flat fee for Services basis (“Stipulated Fee”). If the Parties so agree, then the provisions of this paragraph and the

provisions of paragraph 2.2.1 shall apply, unless the Call provides otherwise. The Call shall set forth the maximum monthly or annual fee agreed to by the Parties as it relates to any Agency Fee or to any Out-of-Pocket Costs, and Contractor shall not exceed the amount(s) agreed to without written approval of City. The maximum Agency Fee agreed upon by the Parties is deemed to fully compensate Contractor for all work necessary for Contractor to complete the Scope of Work set forth in a Call.

3. 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 under this Agreement, to audit Contractor's books and records for the purpose of verifying any and all charges made by Contractor in connection with Contractor's compensation under Calls made pursuant to this Agreement, including termination of Contractor's Services. 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 expense not so recorded shall be disallowed to Contractor.

4. PROSECUTION OF WORK

Contractor shall perform the Services required under this Agreement and the Call(s) made pursuant to it in an efficient and expeditious manner. Contractor shall commence work on the Effective Date specified in the applicable Call. Contractor is responsible for any delays caused by Contractor, its agents or subcontractors, or caused by factors directly or indirectly under its control. No extension of time for performance shall be given for such delays.

5. QUALIFICATIONS OF CONTRACTOR; STANDARD OF WORKMANSHIP

Contractor represents that it has sufficient qualified personnel to furnish the Services described under this Agreement and that the Services will be furnished in accordance with generally accepted professional standards and practices in the industry.

The work furnished to the City pursuant to any of the Calls under this Agreement shall be of a quality acceptable to the City. The criteria for acceptance of the work provided under this Agreement shall be a product of neat appearance, well-organized, technically and grammatically correct. The minimum standard of appearance, organization and content of the documents shall be that used by the City for similar projects.

6. SUSPENSION OR TERMINATION

City may suspend or terminate this Agreement or any or all work covered under any Call under this Agreement at any time upon thirty (30) days' prior written notice. Contractor may terminate this Agreement as set forth in paragraph 6.4. Said termination or suspension shall be effective as of the thirtieth day after the date of the notice ("Effective Date of Termination"). This Agreement, and any portion of the Scope of Services described in any Call including but not limited to any specific task, project, study, advertisement or campaign, may be terminated by the City upon written notice delivered personally or by registered mail or equivalent mail or delivery service which provides for an office signature of receipt. With regard to termination of any portion of the Scope or any specific task, termination will be effective immediately, unless economic or practical considerations result in the Parties mutually agreeing to a specific termination date.

- 6.1 If such termination is due to the fault of Contractor, and if City agrees to make payment for all work and Services satisfactorily rendered up to the Effective Date of Termination, payment will be made within thirty (30) days of receipt of a statement for work and Services performed. Contractor shall immediately take proper steps to effect City's instructions, canceling any commitments previously authorized by City, if City so requires. City may deduct from such payment the amount of actual damage, if any, sustained by City by virtue of the failure to perform the Services or for breach of this Agreement by Contractor.
- 6.2 If such termination is not due to the fault of Contractor, then City agrees to make payment for all work and Services rendered up to the Effective Date of Termination within thirty (30) days from receipt of a statement for work and Services performed. Contractor shall immediately take proper steps to effect City's instructions, canceling any commitments previously authorized by City, if City so requires. City shall reimburse Contractor for any costs, expenses or service charges incurred by Contractor as a result of canceling previously authorized outsourced services.
- 6.3 Upon termination of this Agreement, Contractor shall transfer, assign and make available to City or City's representative, all property and materials in Contractor's possession belonging to and paid for by City.
- 6.4 Contractor may suspend or terminate this Agreement upon completion of work on all outstanding Call(s). Contractor may terminate work under a particular Call if the City is in default of the terms of this Agreement or any Call.

7. AVAILABILITY OF FUNDS

City represents that adequate funds will be available to make payments for Services received as required by each Call.

8. CONTRACTOR IS AN INDEPENDENT CONTRACTOR

In performing work under this Agreement, Contractor is not an agent or employee of City, but is an independent contractor for professional Services with full rights to manage its employees subject to the requirements of the law. All persons employed by Contractor in connection with this Agreement will be employees of Contractor and not employees of City in any respect.

9. AMENDMENTS

No alteration or variation of the terms of this Agreement shall be valid unless made in writing and signed by the Parties.

10. HOLD HARMLESS/INDEMNIFICATION

To the extent permitted by law, Contractor agrees to protect, defend, hold harmless and indemnify City, its City Council, commissioners, officers, employees, volunteers and agents from and against any claim, injury, liability, loss, cost and/or expense or damage (“Claim”), including all costs and reasonable attorney’s fees in providing a defense to any such Claim which arises from Contractor’s acts, errors or omissions with respect to, or in any way connected with, the prosecution of the work performed by Contractor pursuant to this Agreement.

11. 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 be three (3) years, beginning on the Effective Date and terminating three years later. However, this Agreement shall be deemed extended for such time as is necessary for Contractor to complete work on any Call which is issued prior to the termination date of this Agreement, but is still in progress on the termination date of this Agreement. Any incomplete Call(s) which have been issued pursuant to the terms of a previous agreement between the Parties is/are hereby reaffirmed and each such Call shall remain in full force and effect under this Agreement, subject to the terms of such Call.

12. INSURANCE REQUIREMENTS

During the term of this Agreement, and for any period following the termination date as set forth in this Agreement, Contractor shall purchase and maintain in full force and effect the following insurance policies:

- 12.1 commercial general liability (including bodily injury and property damage);
- 12.2 business automobile liability insurance;

12.3 worker's compensation employer's liability; and

12.4 if applicable, professional liability insurance.

Said policies shall be maintained with respect to employees and vehicles assigned to the performance of work under this Agreement with coverage amounts and with the required endorsements, certificates of insurance and coverage verifications as defined in Exhibit C, attached and incorporated by this reference. Contractor shall make its best effort to secure, and thereafter maintain in effect, such insurance policies. In the event that any required insurance policy expires or is terminated for any reason, Contractor agrees to replace the policy prior to any lapse in coverage. In the event any policy required under this Agreement is allowed to lapse, City may, in its sole discretion, elect to purchase the required insurance policy and the cost of such policy shall be charged to Contractor or withheld from the payments due to Contractor from City under this Agreement.

CONTRACTOR AGREES THAT, PRIOR TO EXECUTION OF THIS AGREEMENT, CONTRACTOR SHALL PROVIDE ITS INSURANCE BROKER WITH A COPY OF THIS PAGE OF THE AGREEMENT AS WELL AS WITH A COMPLETE COPY OF EXHIBIT C, AND WILL OBTAIN ASSURANCE FROM ITS CARRIER THAT ITS INSURANCE CARRIER WILL PROVIDE: (1) THE EXACT COVERAGES IN THE REQUIRED DOLLAR AMOUNTS STATED THEREIN, (2) AN ENDORSEMENT NAMING THE CITY OF SANTA CLARA, ITS COUNCIL, EMPLOYEES AND OFFICERS AS ADDITIONAL INSURED ON THE CGL AND BAL, AND (3) AN ACCORD EXPLICITLY STATING THAT "THE CITY OF SANTA CLARA, ITS COUNCIL, EMPLOYEES, AND OFFICERS ARE HEREBY ADDED AS ADDITIONAL INSURED IN RESPECT TO ALL LIABILITIES ARISING OUT OF CONTRACTOR'S PERFORMANCE OF WORK UNDER THIS AGREEMENT" AS REQUIRED BY PARAGRAPH 2 OF EXHIBIT C.

13. **OWNERSHIP OF DATA AND INFORMATION**

City shall own any written reports or other items deemed deliverables by the respective Call, as well as any documents, data or other information supplied by City to Contractor during the course of this Agreement. Contractor shall deliver said data and information to City whenever requested to do so, but in any event within thirty (30) calendar days of the completion of the task. All material, including information developed on computer(s), which shall include, but not be limited to, data, artwork, sketches, tracings, drawings, plans, diagrams, quantities, estimates, specifications, proposals, tests, maps, calculations, photographs, reports, advertisements, pamphlets, mailers and other material developed, collected, prepared or caused to be prepared under this Agreement shall be the property of City whether or not used, so long as that material has been paid for by the City. City shall not be limited in any way or at any time in its use of said material. City acknowledges that it shall not own any of Contractor's proprietary,

confidential or trade secret information, such as formulas, patterns, compilations, programs, devices, methods, techniques or processes through which Contractor derives independent economic value because the foregoing item[s] is not generally known to the public and is the subject of reasonable efforts to maintain its secrecy.

14. **CONFIDENTIALITY OF DATA AND MATERIAL**

14.1 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. Such data information or reports may be viewed by or distributed to third parties only after prior written approval of City. Nothing furnished to Contractor which is otherwise known to Contractor or becomes generally known to the related industry shall be deemed confidential.

14.2 Contractor shall take reasonable efforts to safeguard any and all City property entrusted to Contractor's custody or control; however, Contractor shall not be liable to City for any loss, damage, or destruction of any such property unless Contractor's actions constitute negligence or reckless disregard of City's property.

14.3 A Party disclosing information to the other which it considers to be Confidential Information, shall clearly label that information "Confidential" before disclosing it to the other Party. Confidential Information means information which is of a non-public, proprietary or confidential nature belonging to the Disclosing Party, including without limitation, all reports and analyses, technical and economic data, studies, forecasts, trade secrets, research or business strategies, financial or contractual information, gas or coal reserve information, rates, loads, energy requirements, certain sales market information, research, developmental, engineering, manufacturing, technical, marketing, sales, financial, operating, performance, cost, business and process information or data, know-how, and computer programming or other written or oral information. Confidential Information may be in any form whatsoever, including without limitation writings, recordings, electronic or oral data, computer programs, logic diagrams, component specifications, drawings or other media. Only that information disclosed by a Party and clearly designated in writing as Confidential Information prior to its disclosure shall be deemed to be Confidential Information. Verbal information that is intended to be treated as Confidential Information shall be described in writing and identified as Confidential Information.

- 14.4 Contractor acknowledges that City is a public agency subject to the requirements of the California Public Records Act Cal. Gov. Code section 6250 et seq. City acknowledges that Contractor may submit information to City that Contractor considers confidential, proprietary, or trade secret information pursuant the Uniform Trade Secrets Act (Cal. Civ. Code section 3426 et seq.), or otherwise protected from disclosure pursuant to exemptions to the California Public Records Act (Government Code sections 6254 and 6255). Contractor acknowledges that City may submit to Contractor information that City considers confidential or proprietary or protected from disclosure pursuant to exemptions to the California Public Records Act (Government Code sections 6254 and 6255). Upon request or demand of any third person or entity not a party to this Agreement (“Requestor”) for production, inspection and/or copying of information designated by a Disclosing Party as Confidential Information, the Receiving Party as soon as practical but within three (3) days of receipt of the request, shall notify the Disclosing Party that such request has been made by telephone call, letter sent via facsimile and/or by US Mail to the address and facsimile number listed at the end of the Agreement. The Disclosing Party shall be solely responsible for taking whatever legal steps are necessary to protect information deemed by it to be Confidential Information and to prevent release of information to the Requestor by the Receiving Party. If the Disclosing Party takes no such action, after receiving the foregoing notice from the Receiving Party, the Receiving Party shall be permitted to comply with the Requestor’s demand and is not required to defend against it.
- 14.5 The Receiving Party may cooperate with the Disclosing Party in any efforts to prevent release of the Confidential Information; however, the Receiving Party shall not be required to expend any monies in excess of the cost of notifying the Disclosing Party by telephone, facsimile and/or mail of the pendency of a demand for the Confidential Information. So long as the Receiving Party complies with the provisions of notification set forth in this Agreement, the Receiving Party shall not be liable for, and Customer and City hereby release each other from, any liability for any damages arising from any requirement under the law that the Receiving Party release Confidential Information to a Requestor, and such release includes the officers, commissioners, employees, agents, council members, and directors, as those terms may apply to each Party hereto, without limitation.
- 14.6 The Receiving Party may, at its sole expense, institute, or intervene in any proceeding, in order to protect the Confidential Information from disclosure, and if the Disclosing Party requests and agrees in writing to indemnify the Receiving Party from any expense or liability for expenses,

the Receiving Party may cooperate actively in any such action or proceeding; provided, however, that the Receiving Party shall have no duty to the Disclosing Party to actively cooperate, notwithstanding an offer by the Receiving Party to provide a complete indemnity.

15. **CORRECTION OF WORK**

The performance of Services by Contractor shall not relieve Contractor from any obligation to correct any incomplete, inaccurate or defective work at no further cost to City.

16. **NOTICES**

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

City of Santa Clara
1500 Warburton Avenue
Santa Clara, California 95050,
or by facsimile at (408) [insert fax number]

and to Contractor addressed as follows:

or by facsimile at (____) ____-____

17. **CHANGES**

City may, from time to time, request changes in the "Scope of Services" to be performed pursuant to a Call issued under this Agreement. Such changes, including any increase or decrease in the amount of Contractor's compensation, which are mutually agreed upon by and between City and Contractor, shall be incorporated in written amendments to the Call, or included in a subsequent Call.

18. **CONTRACT FOR ADMINISTRATIVE SERVICES**

To the extent that this Agreement is a contract authorizing Calls to be made for Administrative Services, the City Council entered into such Agreement upon the recommendation of the City Manager pursuant to Section 1108 of City's Charter. The policy decision with respect to the Services to be provided under this Agreement was made exclusively by the City Council.

19. **SUB-CONTRACTING AND ASSIGNMENT**

Except as specifically provided in this Agreement, the City intends that the work described in each Call must be performed by the Contractor and not by a

subcontractor or agent of the Contractor. Contractor shall not assign any interest in this Agreement, or any Call issued pursuant to this Agreement, and shall not transfer any interest in same (whether by assignment or novation) without prior written approval of City. Inclusion of a subcontractor in a proposal attached to a Call, once signed by the City, constitutes written approval.

However, claims for money due to or to become due to Contractor from City under this Agreement may be assigned to a bank, trust company or other financial institution, or to a trustee in bankruptcy, provided that written notice of any such assignment or transfer shall be first furnished to City. In case of the death of one or more members of Contractor's firm, the surviving member or members shall complete the Services covered by this Agreement or any incomplete Call. Any such assignment shall not relieve Contractor from any of its obligations or liability under the terms of this Agreement.

20. **OTHER AGREEMENTS**

This Agreement shall not prevent either Party from entering into similar agreements with others.

21. **TOTALITY OF AGREEMENT**

This Agreement embodies the entire Agreement between City and Contractor and all the terms and conditions agreed upon by the Parties to this Agreement. No other understanding, agreements, conversations, oral or otherwise, with any officer, agent, or employee of the City prior to the execution of this Agreement, regarding the subject matter of this Agreement shall affect or modify any of the forms or obligations contained in any documents comprising this Agreement. Any such verbal agreement shall be considered as unofficial information and in no way binding on either Party to this Agreement.

22. **SERVICE WARRANTY**

Contractor warrants that Services provided hereunder shall conform with the generally accepted professional practices and standards appropriate to the nature of the Services rendered, that the personnel furnishing said Services shall be qualified to perform the Services assigned to them and that the recommendations, guidance and performance of such personnel shall meet the standard of care normally practiced by engineers or contractors performing the same or similar Services. Contractor shall be required to correct, at no expense to City, all deficiencies in the performance of the contract service that results from Contractor's failure to observe and adhere to the above warranty and which are detected within one (1) year from the date of completion of the Services. Work performed under this warranty shall also be warranted for a one (1) year period from the date of completion of such work. Contractor shall be required to reimburse City for all misexpenditure of funds resulting from Contractor's deficient performance of its Services.

23. DISPUTE RESOLUTION

Any documented dispute between the Parties which arises during the performance of this Agreement and which the Parties cannot then resolve, shall be subject to the following administrative remedy prior to any litigation occurring between the Parties.

23.1 Internal Resolution. Both Parties shall attempt to resolve any controversy claim, problem or dispute arising out of, or related to, this Agreement through good faith consultation in the ordinary course of business. In the event that any problem or dispute is not resolved, by the project managers of each Party, either Party may upon written notice to the other request that the matter be referred to senior management officials within each respective organization with express authority to resolve the problem or issue. Such representatives shall meet or confer at least once in good faith, to negotiate a mutually acceptable resolution within ten (10) business days of such written notice. If the parties cannot reach a mutually agreeable resolution, then the dispute or issue shall be submitted to mediation within thirty (30) calendar days of the written request of one Party after the service of that request on the other Party.

23.2 Notice. A Party with claims arising under this Agreement shall, within thirty (30) days of knowledge of said claim, begin the process of exhausting all administrative remedies, as well as any other administrative remedies required by law. If the final decision or outcome of any administrative proceeding is unacceptable to a Party, then within thirty (30) days of the date of that final decision, the dissatisfied Party shall give written notice (certified mail-return receipt requested) to the other Party of the issues it deems outstanding that must be submitted to mediation (Request for Mediation).

23.3 Mediation. Any controversies between City and Contractor regarding the construction or application of this Agreement, and claims arising out of this Agreement or its breach, except those for which the appropriate remedy should be injunctive relief shall be mediated within sixty (60) days of the date on the written Request for Mediation, or the soonest date thereafter that the mediator is available.

23.4 Mediator. Within twenty (20) days or less of the written Request for Mediation, the Parties shall agree on one mediator. If they cannot agree on one mediator within such twenty-day period each Party shall list the names of three (3) potential mediators affiliated with the Judicial Arbitration and Mediation Service (“JAMS”) and shall supply them to the Party demanding the mediation. The Party demanding the mediation shall merge the names of all the potential mediators into a single list, not indicating which Party submitted the name. On that same date as all names are received by the demanding Party, the Parties shall jointly sign a letter directed to the San Jose office of JAMS, requesting that JAMS appoint a

mediator from the enclosed list. If a Party refuses or fails to submit three (3) names within the three day period to the Party preparing the letter, then the letter shall be sent on the fifth day without input from the Party failing to submit names. 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.

23.5 **Costs.** The costs of mediation shall be borne by the Parties equally.

23.6 **Discovery.** If, during any dispute between the Parties, a demand is made by Contractor for documents under the Public Records Act, the City shall have reciprocal rights to demand documents from Contractor.

23.7 **Condition Precedent to Filing Suit.** Except as provided in Article 23.3, mediation under this section is a condition precedent to a Party filing an action in any court, unless that Party has made demand for mediation and the other Party has failed or refused to engage in mediation. In the event of litigation arising out of any dispute related to this Agreement, the Parties shall each pay their respective attorneys fees, expert witness costs and cost of suit, regardless of the outcome of the litigation.

23.8 **Work Through Disputes.** If the City and the Contractor are unable to reach agreement on disputed work, the Contractor shall nevertheless proceed with the disputed work, and Payment therefore shall be as subsequently determined pursuant to this Article.

24. CAPTIONS

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

25. APPLICABLE LAW

Any dispute regarding this Agreement, including without limitation, its validity, interpretation, performance, enforcement and damages shall be determined in accordance with the laws of the State of California without regard to California's choice of law principles.

26. 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.

27. NO PLEDGING OF CITY'S CREDIT

Under no circumstances shall Contractor have the authority or power to pledge the credit of the City of Santa Clara, or to incur any obligation in the name of the City without City's prior written agreement or confirmation. 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 or its subcontractors under this Agreement. Contractor agrees to obtain City's approval of all expenditures in connection with any materials to be purchased, projects to be performed, advertising to be placed, work to be "outsourced" or other items or Services which will or might be charged to the City. Such approval, if verbal, shall be confirmed by the City in a written letter sent via facsimile and U.S. mail to Contractor in accordance with the terms of this Agreement.

28. USE OF CITY NAME OR LOGO

Contractor shall not use City of Santa Clara's or Silicon Valley Power's name, insignia, trademark, logo or distribute exploitative publicity pertaining to the Services rendered under this Agreement in any magazine, trade paper, newspaper or other medium without the express written consent of City.

29. MONITORING AND EVALUATION 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 accordance with applicable City, county, state and federal requirements. If, in the course of monitoring and evaluation, City believes it has discovered any practice, actions, procedure or policy of Contractor which deviates from the terms of this Agreement, City may notify Contractor in writing and Contractor agrees to respond in writing to City within seven (7) calendar days regarding such action, procedure or policy. However, if any action of Contractor constitutes a breach of this Agreement, City may notify contractor in writing that the Agreement has been terminated pursuant to the provisions set forth in this Agreement.

30. 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.

31. SEVERABILITY CLAUSE

In case any one or more of the provisions contained herein 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.

32. WAIVER

Waiver by a Party of any one or more of the conditions of performance under this Agreement shall not be construed as a subsequent waiver(s) of that condition or of any other condition of performance under this Agreement. No delay in exercising, partial exercise, or complete failure to exercise any right, power, or privilege under this Agreement shall operate as a waiver.

33. CONFLICT OF INTEREST

Contractor certifies that to the best of its knowledge, no City employee or officer of any public agency has any pecuniary interest in the business of Contractor and that no person associated with Contractor has any interest that would conflict in any manner or degree with the performance of this Agreement. Contractor represents that it presently has no interest and shall not acquire any interest, direct or indirect, which could conflict in any manner or degree 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 constitute a violation of said provisions. Contractor will advise City if a conflict arises.

34. CONSTRUCTION AND INTERPRETATION OF AGREEMENT

This Agreement, and each of its provisions, terms and conditions, has been reached as a result of negotiations between the Parties. Accordingly, each of the Parties expressly acknowledges and agrees that this Agreement shall not be deemed to have been authored by, prepared by, or drafted by, any particular party, and that the rule of construction to the effect that ambiguities are to be resolved against the drafting party shall not be employed in the interpretation of this Agreement or in the resolution of disputes.

35. COMPLIANCE WITH ETHICAL STANDARDS

As a condition precedent to entering into this Agreement, Contractor shall:

35.1. Read Exhibit A, entitled “ETHICAL STANDARDS FOR CONTRACTORS SEEKING TO ENTER INTO AN AGREEMENT WITH THE CITY OF SANTA CLARA, CALIFORNIA” incorporated by this reference; and,

35.2. Execute the affidavit included in Exhibit B, entitled “AFFIDAVIT OF COMPLIANCE WITH ETHICAL STANDARDS” incorporated by this reference.

The Parties acknowledge and accept the terms and conditions stated herein as evidenced by the following signatures of their duly authorized representatives. It is the intent of City and Contractor that this Agreement shall become operative on the Effective Date first set forth in the Preamble, above.

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.

**CITY OF SANTA CLARA, CALIFORNIA,
a chartered California municipal corporation**

APPROVED AS TO FORM:

RICHARD E. NOSKY, JR.
City Attorney

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

ATTEST:

ROD DIRIDON, JR.
City Clerk

“CITY”

***INSERT CONTRACTOR’S NAME**

*choose one: corporation/partnership/individual

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

Name: _____

Title: _____

Local Address: _____

Email Address: _____

Telephone: () _____

Fax: () _____

“CONTRACTOR”

**CALL AGREEMENT BY AND BETWEEN
THE CITY OF SANTA CLARA, CALIFORNIA
AND
[INSERT NAME OF COMPANY]**

EXHIBIT A

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

Termination of Agreement for Certain Acts

- A. 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 sub-contract;
 - 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 sub-contractor; 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 “Contractor” (whether a person or a legal entity) 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. City may also terminate this Agreement in the event any one or more of the following occurs:
1. If 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 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 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.

**CALL AGREEMENT BY AND BETWEEN
THE CITY OF SANTA CLARA, CALIFORNIA
AND
[INSERT COMPANY NAME]**

EXHIBIT B

**AFFIDAVIT OF COMPLIANCE WITH ETHICAL STANDARDS
[CITY OF SANTA CLARA]**

I, _____, being first duly sworn, depose and say that I am the _____ (title or capacity) of _____ and I hereby state that I have read and understand the language, entitled “*ETHICAL STANDARDS FOR CONTRACTORS SEEKING TO ENTER INTO AN AGREEMENT WITH THE CITY OF SANTA CLARA, CALIFORNIA*” (herein “Ethical Standards”) set forth in Exhibit A. I have 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 inquiry of those individuals potentially included within the definition of “Contractor” contained in the Ethical Standards.

Based on my review of the appropriate documents and the necessary inquiry responses, I hereby state that neither the business entity nor any individual(s) belonging to a category identified in footnote #1 of Exhibit A [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 Exhibit A 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.

[Name of Company]

By: _____

Type 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.

**CALL AGREEMENT BY AND BETWEEN
THE CITY OF SANTA CLARA, CALIFORNIA
AND
[INSERT COMPANY NAME]**

EXHIBIT C

INSURANCE COVERAGE REQUIREMENTS

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

A. COMMERCIAL GENERAL LIABILITY INSURANCE

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

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

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

B. BUSINESS AUTOMOBILE LIABILITY INSURANCE

Business automobile liability insurance policy which provides coverage at least as broad as ISO form CA 00 01 with policy limits a minimum limit of not less than

one million dollars (\$1,000,000) each accident using, or providing coverage at least as broad as, Insurance Services Office form CA 00 01. Liability coverage shall apply to all owned, non-owned and hired autos.

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

C. WORKERS' COMPENSATION

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

D. COMPLIANCE WITH REQUIREMENTS

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

1. Additional Insureds. City of Santa Clara, its City Council, commissions, officers, employees, volunteers and agents are hereby added as additional insureds in respect to liability arising out of Contractor's work for City, using Insurance Services Office (ISO) Endorsement CG 20 10 11 85 or the combination of CG 20 10 03 97 and CG 20 37 10 01, or its equivalent.
2. Primary and non-contributing. Each insurance policy provided by Contractor shall contain language or be endorsed to contain wording making it primary insurance as respects to, and not requiring contribution from, any other insurance which the Indemnities may possess, including

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

3. Cancellation.

- a. Each insurance policy shall contain language or be endorsed to reflect that no cancellation or modification of the coverage provided due to non-payment of premiums shall be effective until written notice has been given to City at least ten (10) days prior to the effective date of such modification or cancellation. In the event of non-renewal, written notice shall be given at least ten (10) days prior to the effective date of non-renewal.
- b. Each insurance policy shall contain language or be endorsed to reflect that no cancellation or modification of the coverage provided for any cause save and except non-payment of premiums shall be effective until written notice has been given to City at least thirty (30) days prior to the effective date of such modification or cancellation. In the event of non-renewal, written notice shall be given at least thirty (30) days prior to the effective date of non-renewal.

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

E. **ADDITIONAL INSURANCE RELATED PROVISIONS**

Contractor and City agree as follows:

1. Contractor agrees to ensure that subcontractors, and any other party involved with the Services who is brought onto or involved in the performance of the Services by Contractor, provide the same minimum insurance coverage required of Contractor, except as with respect to limits. Contractor agrees to monitor and review all such coverage and assumes all responsibility for ensuring that such coverage is provided in conformity with the requirements of this Agreement. Contractor agrees that upon request by City, all agreements with, and insurance compliance documents provided by, such subcontractors and others engaged in the project will be submitted to City for review.
2. Contractor agrees to be responsible for ensuring that no contract used by any party involved in any way with the project reserves the right to charge City or Contractor for the cost of additional insurance coverage required by this Agreement. Any such provisions are to be deleted with reference to City. It is not the intent of City to reimburse any third party for the cost of

complying with these requirements. There shall be no recourse against City for payment of premiums or other amounts with respect thereto.

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

F. EVIDENCE OF COVERAGE

Prior to commencement of any Services under this Agreement, Contractor, and each and every subcontractor (of every tier) shall, at its sole cost and expense, 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. Contractor shall file with the City all certificates and endorsements for the required insurance policies for City's approval as to adequacy of the insurance protection.

G. EVIDENCE OF COMPLIANCE

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

EBIX Inc.	
City of Santa Clara Electric Department	
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

H. QUALIFYING INSURERS

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

Sample Call

**CALL NO. *ENTER NUMBER
FOR PROFESSIONAL SERVICES
TO BE PROVIDED TO THE
CITY OF SANTA CLARA, CALIFORNIA
BY (INSERT CONTRACTOR'S NAME HERE)**

The Parties to this Call No. *ENTER NUMBER (“Call”) agree that on this _____ day of *ENTER MONTH AND YEAR, this Call is made pursuant to the terms of a Call Agreement between the Parties entitled, “Call Agreement by and between the City of Santa Clara, California and *INSERT CONTRACTOR’S NAME,” dated *ENTER EFFECTIVE DATE OF CALL AGREEMENT, the terms of which are incorporated by this reference. This Call describes the Services to be provided to the City of Santa Clara, California (“City”) by *INSERT CONTRACTOR’S NAME (“Contractor”), which are more fully described in Contractor’s proposal to City entitled “*INSERT TITLE OF PROPOSAL HERE” dated *ENTER DATE OF PROPOSAL (“Proposal”), attached to this Call as Exhibit A and incorporated by this reference. The Services to be performed under this Call shall be completed within the time period beginning on *ENTER DATE and ending on *ENTER DATE. The attached Proposal contains a complete description of the Services, and performance dates for the completion of such Services, to be performed by the Contractor under this Call. In no event shall the amount paid to the Contractor for the Services provided to City by the Contractor under this Call, including all fees or pre-approved costs and/or expenses, exceed *SPELL OUT DOLLAR AMOUNT dollars (*INSERT NUMERICAL DOLLAR AMOUNT), subject to budgetary appropriations.

The Parties acknowledge and accept the terms and conditions of this Call as evidenced by the following signatures of their duly authorized representatives.

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.

**CITY OF SANTA CLARA, CALIFORNIA,
a chartered California municipal corporation**

APPROVED AS TO FORM:

RICHARD E. NOSKY, JR.
City Attorney

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

ATTEST:

ROD DIRIDON, JR.
City Clerk

“CITY”

***INSERT CONTRACTOR’S NAME**

*choose one: corporation/partnership/individual

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

Name: _____

Title: _____

Local Address: _____

Email Address: _____

Telephone: () _____

Fax: () _____

“CONTRACTOR”