



SPECIAL MEETING OF THE MILPITAS CITY COUNCIL

AGENDA

TUESDAY, DECEMBER 12, 2023

CITY COUNCIL CHAMBER, 455 E. CALAVERAS BLVD, MILPITAS, CA
5:30 PM

For assistance in the following languages, you may call:

Đối với Việt Nam, gọi 408-586-2400

Para sa Tagalog, tumawag sa 408-586-3051

Para español, llame 408-586-3072

The City Council meeting is held in the City Council Chamber at City Hall, 455 E. Calaveras Blvd., Milpitas and via teleconference/Zoom webinar.

You may watch the Council meeting without providing public comment by accessing it via links here.

Meeting shall be livestreamed - Go to:

Facebook: <https://www.facebook.com/CityofMilpitas/>

YouTube: <https://www.milpitas.gov/youtube>

Web Streaming: <https://www.milpitas.gov/webstreaming>

PUBLIC COMMENT INSTRUCTIONS

Oral public comments may only be provided live during the City Council meeting in person. All comments provided shall be limited to three minutes or less as determined by the Mayor. All members of the public will be limited to one comment per agenda item, and one comment for non-agenda items. Members of the public may submit written comments by email to CityClerk@milpitas.gov

The meeting will be streamed via Zoom for viewing purposes only. To watch via Zoom, please register at:

https://ci-milpitas-ca-gov.zoom.us/webinar/register/WN_BTXRuJacQOSG5SaK3m8LIA

NOTE: If a member of the public wishes to share any presentation materials for Council consideration, they must be submitted to the Clerk's Office by email to CityClerk@milpitas.gov by 12:00 p.m. on the day of the meeting. No presentations will be accepted in person in the Council Chambers.

MILPITAS CITY COUNCIL CODE OF CONDUCT

- Be respectful and courteous (words, tone, and body language).
- Model civility.
- Avoid surprises.
- Praise publicly and criticize privately.
- Focus on the issue, not the person.
- Refrain from using electronic devices while on the Council dais.
- Disclose conflicts of interest and affiliations related to agenda items.
- Separate governing from campaigning.
- The Council speaks with one voice after making policy on issues.
- Respect the line between policy and administration.
- Council will hold one another accountable to comply with this Code of Conduct.

CALL MEETING TO ORDER by Mayor and ROLL CALL by City Clerk (5:30 PM)

ADJOURN TO CLOSED SESSION

(a) CONFERENCE WITH LABOR NEGOTIATORS

Pursuant to Government Code Section 54957.6

Agency designated representative: Rick Bolanos, LCW

Bargaining unit: LIUNA, UPEC (Pro-Tech, MEA, MidCon), IAFF, MPOA

(b) CONFERENCE WITH LEGAL COUNSEL – Anticipated Litigation

Significant Exposure to Litigation Pursuant to Government Code Section 54956.9(d)(2)

Facts and circumstances related to Claim against the City

CLOSED SESSION ANNOUNCEMENT:

Report on action taken in Closed Session, if required per Government Code Section 54957.1, including the vote or abstention of each member present.

PLEDGE OF ALLEGIANCE

INVOCATION (Vice Mayor Chua)

PRESENTATIONS

PUBLIC FORUM (6:00 PM)

Members of the public are invited to speak on any item that does not appear on today's agenda. Comments will be limited to three minutes or less at the Mayor's discretion. When called to speak, you are encouraged to state your name for the record. As an item not listed on the agenda, no action can be taken, however the City Council may instruct the City Manager to place the item on a future meeting agenda.

ANNOUNCEMENT OF CONFLICT OF INTEREST AND CAMPAIGN CONTRIBUTIONS

READING OF THE CITY COUNCIL CODE OF CONDUCT

APPROVAL OF AGENDA

CONSENT CALENDAR (6:05 PM)

Consent calendar items are considered to be routine and will be considered for adoption by one motion. There will be no separate discussion of these items unless a City Councilmember, member of the audience or staff requests the Council to remove an item from (or be added to) the consent calendar. Any person desiring to speak on any item on the consent calendar should ask to have that item removed from the consent calendar.

C1. Receive City Council Calendar of Meetings for December 2023 and January 2024 (Staff Contact: Suzanne Guzzetta, City Clerk, 408-586-3001)

Recommendation: Receive City Council Calendar of Meetings for December 2023 and January 2024.

C2. Approve City Council City Council Meeting Minutes of December 5, 2023 (Staff Contact: Suzanne Guzzetta, City Clerk, 408-586-3001)

Recommendation: Approve City Council Meeting minutes of December 5, 2023.

C3. Receive the Preview List of Anticipated Items for the Next Regular City Council Meeting (Staff Contact: Suzanne Guzzetta, City Clerk, 408-586-3001)

Recommendation: Receive the list of anticipated agenda items for the next regular City Council meeting.

C4. Receive and Review the List of Agenda Items Requested by City Councilmembers (Staff Contact: Suzanne Guzzetta, City Clerk, 408-586-3001)

Recommendation: Review the list of items that have been requested by City Councilmembers and provide direction to staff as necessary. No substantive discussion about any specific item shall occur and the City Council shall hold all debate about the item until it is scheduled as a full agenda item.

C5. Accept Commissioner Resignation (Staff Contact: Suzanne Guzzetta, City Clerk, 408-586-3001)

Recommendation: Accept the resignation of Peter Felix from the Parks, Recreation and Cultural Resources Commission effective January 1, 2024, and direct the City Clerk to post the notice of unscheduled vacancy.

C6. Approve Appointments to the Cities Association of Santa Clara County Joint Powers Authority (Staff Contact: Matt Cano, Deputy City Manager, 408-586-3012)

Recommendation: (1) Approve the appointment of Mayor Montano as board member to the Cities Association of Santa Clara County Joint Powers Authority; and (2) Approve the appointment of Vice Mayor Chua as alternate board member to the Cities Association of Santa Clara County Joint Powers Authority.

C7. Approve and Authorize the City Manager to Negotiate and Execute Amendment No. 2 to the Professional Services Agreement with David J. Powers & Associates, Inc. in an Amount Not-to-Exceed \$400,000.00 for Completing the Environmental Review pursuant to the National Environmental Policy Act (NEPA) and requirements of the California Department of Transportation Office of Local Assistance (Caltrans) for S. Milpitas Blvd Vehicle Bridge at Penitencia Creek, Project No. 2016 (Staff Contact: Matt Cano, Deputy City Manager / Interim City Engineer, 408-586-3012)

Recommendation: Approve and authorize the City Manager to negotiate and execute Amendment No. 2 to the Professional Services Agreement with David J. Powers in an amount not-to-exceed \$400,000.00 for completing the environmental review pursuant to the National Environmental Policy Act (NEPA) and requirements of the California Department of Transportation Office of Local Assistance (Caltrans) for S. Milpitas Blvd Vehicle Bridge at Penitencia Creek, Project No. 2016.

C8. Approve and Authorize the City Manager to Execute the Five-Year Software as a Service (SaaS) Agreement with Tyler Technologies for Financial System Enterprise Resource Planning (ERP) and Human Resources Information System (HRIS) (Staff Contact: Lauren Lai, Finance Director 408-586-3111; and Vicky Lien, Acting Human Resources Director 408-586-3085)

Recommendation: Approve and authorize the City Manager to execute the five-year Software as a Service Agreement with Tyler Technologies for Financial System Enterprise Resource Planning (ERP) and Human Resources Information System (HRIS) for an amount not to exceed \$2,123,588 and delegate authority to the City Manager for additional optional 5 years and change order authority up to 10%.

C9. Report on Bids and Adopt a Resolution Authorizing the City Manager to Award the Construction Contract to PCD in the Amount of \$835,768.08 for the Council Chamber AV System Replacement Project (Staff Contact: Daniel Nam, Information Technology Director, 408-586-2712)

Recommendation: (1) Receive report on bids and adopt a resolution authorizing the City Manager to award a construction contract to the lowest responsible and responsive bidder, PCD, in the amount of \$835,768.08 for the Council Chamber AV System Replacement Project, including \$752,559.08 for the Council Chamber AV replacement and \$83,209.00 for the Committee Conference Room AV

replacement; and (2) Authorize the City Manager to negotiate and execute contract change order(s) in an aggregate amount not to exceed \$79,231.92 for the Council Chamber AV System Replacement Project.

C10. Adopt a Resolution Authorizing the City Manager to Execute the Sole Source Services Agreement with Flock Group Inc. for Automated License Plate Reader (ALPR) Cameras in an Amount Not-to-Exceed \$732,000.00 (Staff Contact: Jared Hernandez, Chief of Police, 408-586-2406)

Recommendation: Adopt a resolution authorizing the City Manager to execute the extension of the Sole Source Services Agreement with Flock Group, Inc. for Automated License Plate Reader (ALPR) Cameras in an amount not-to-exceed \$732,000, which includes a contingency of \$91,500.00; and Authorize the Chief of Police to execute contract change orders in an aggregate amount not to exceed \$91,500.00.

C11. Approve Three Utility Boxes for Repainting During FY 2024 (Staff Contact: Renee Lorentzen, Recreation and Community Services Director, 408-586-3409; and Tegan McLane, Recreation and Community Services Assistant Director, 408-586-3212)

Recommendation: Approve locations for three (3) Utility Box murals for the FY 24 Mural Program.

LEADERSHIP AND SUPPORT SERVICES (6:15 PM)

12. Adopt a Resolution to Amend the City of Milpitas' Classification Plan to Establish the Classifications of City Engineer and Public Works Division Manager, Aligned with the Realignment of the Engineering and Public Works Departments (Staff Contact: Matt Cano, Deputy City Manager, 408-586-3012; and Christian Di Renzo, Public Works Director, 408-586-2602)

Recommendation: Adopt a resolution to amend the City of Milpitas' Classification Plan to establish the classification of City Engineer, reclassify CIP Manager and Transportation & Traffic Manager to Public Works Division Manager – Engineering, reclassify one Public Works Manager to Public Works Division Manager – Operations, and delete the classifications of Engineering Director and Assistant City Engineer.

13. Elect Vice Mayor (Contact: Matt Cano, Deputy City Manager, 408-586-3012)

Recommendation: Move to nominate and appoint by majority vote the Vice Mayor for the City of Milpitas to serve a one year term.

ANNOUNCEMENTS AND FUTURE AGENDA ITEMS (7:15 PM)

Members of the City Council or City Manager may make brief announcements at this time. Members of the City Council may also suggest future agenda items. For future agenda items, the City Council shall not debate the topic or engage in discussion but shall simply state a “yes” or “no” as whether to move the item forward. If a majority of the City Council agrees to move the item forward, the City Manager shall place the item on a future agenda.

ADJOURNMENT (7:30 PM)

KNOW YOUR RIGHTS UNDER THE OPEN GOVERNMENT ORDINANCE

Government's duty is to serve the public, reaching its decisions in full view of the public. Commissions and other City agencies exist to conduct the people's business. This ordinance assures that deliberations are conducted before the people and City operations are open to the people's review. For more information on

your rights under the Open Government Ordinance or to report a violation, contact the City Attorney's office at Milpitas City Hall, 455 E. Calaveras Blvd., Milpitas, CA 95035
e-mail: mmutalipassi@milpitas.gov / Phone: 408-586-3040

The Open Government Ordinance is codified in the Milpitas Municipal Code as Title I Chapter 310 and is available online at the City's website www.milpitas.gov by selecting the Milpitas Municipal Code link.

Materials related to an item on this agenda submitted to the City Council after initial distribution of the agenda packet are available for public inspection at the City Clerk's office at Milpitas City Hall, 3rd floor 455 E. Calaveras Blvd., Milpitas and on City website. City Council agendas and related materials can be viewed online: www.milpitas.gov/129/Agendas-Minutes (select meeting date)

APPLY TO SERVE ON A CITY COMMISSION

Commission application forms are available online at www.milpitas.gov or at Milpitas City Hall.
Contact the City Clerk's Office at 408-586-3001 for more information.

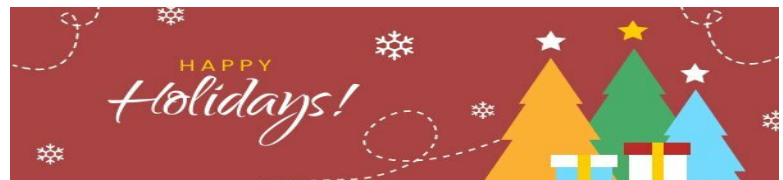
If you need assistance, per the Americans with Disabilities Act, for any City of Milpitas public meeting, please call the City Clerk at 408-586-3001 or send an e-mail to CityClerk@milpitas.gov prior to the meeting. You may request a larger font agenda.

November 2023						
S	M	T	W	T	F	S
	5	6	7	1	2	3
	12	13	14	8	9	10
	19	20	21	15	16	17
	26	27	28	22	23	24
				29	30	25

Milpitas City Council Calendar

December 2023

January 2024						
S	M	T	W	T	F	S
	1	2	3	4	5	6
7	8	9	10	11	12	13
14	15	16	17	18	19	20
21	22	23	24	25	26	27
28	29	30	31			

Sunday	Monday	Tuesday	Wednesday	Thursday	Friday	Saturday
					1 7:00 PM-Tree Lighting Ceremony	2
3	4 7:00 PM-Parks, Recreation & Cultural Resources Commission (HL)	5 6:00 PM-Closed Session 7:00 PM-City Council	6 1:00 PM-Santa Clara VTA Monthly Briefing - Northeast Group (CM) 5:30 PM-Veterans Commission (CM) 7:00 PM-Community Advisory Commission (EC)	7 5:30 PM-Milpitas Chamber of Commerce Board (GB) 5:30 PM-Santa Clara VTA Board of Directors (CM)	8	9
10	11	12 5:30 PM-Special Council Meeting with Closed Session at 5:30 PM	13 7:00 PM-Silicon Valley Clean Energy Board of Directors (EC) (Cupertino)	14 4:00 PM-Treatment Plant Advisory Committee (CM) (San Jose) 4:00 PM-Santa Clara VTA Policy Advisory Committee (EC) 6:00 PM-Youth Advisory Commission (HL)	15	16
17	18	19	20 6:00 PM-Energy and Environmental Sustainability Commission (EC)	21 3:00 PM-VTA Security, and Transit Planning and Operations Committee (CM) (San Jose)	22	23
24	25  City Observed Holiday	26  City Observed Holiday	27  City Hall and City Facilities Closed (Fire and Police are not affected)			
31						

December 2023						
S	M	T	W	T	F	S
					1	2
3	4	5	6	7	8	9
10	11	12	13	14	15	16
17	18	19	20	21	22	23
24	25	26	27	28	29	30
31						

Milpitas City Council Calendar

January 2024

February 2024						
S	M	T	W	T	F	S
				1	2	3
4	5	6	7	8	9	10
11	12	13	14	15	16	17
18	19	20	21	22	23	24
25	26	27	28	29		

Sunday	Monday	Tuesday	Wednesday	Thursday	Friday	Saturday
	1  CITY OBSERVED HOLIDAY CITY OFFICES CLOSED	2	3 1:00 PM -Santa Clara VTA Monthly Briefing - Northeast Group (CM) (Santa Clara) 7:00 PM -Community Advisory Commission (EC)	4 5:30 PM -Santa Clara VTA Board of Directors (CM) 5:30 PM -Milpitas Chamber of Commerce Board (GB)	5	6
7	8 4:30 PM -Economic Development and Trade Commission (CM) 7:00 PM - Parks, Recreation and Cultural Resources Commission (HL)	9 5:30 PM -Special City Council Meeting	10 4:30 PM -City Council Finance Subcommittee (CM/EC) 7:00 PM -Planning Commission 7:00 PM -Silicon Valley Clean Energy Board of Directors (EC) (Cupertino)	11 4:00 PM -Santa Clara VTA Policy Advisory Committee (EC) 4:00 PM -Treatment Plant Advisory Committee (CM) (San Jose) 6:00 PM -Youth Advisory Commission (HL) 7:00 PM -Cities Assoc of SCC (CM)	12	13
14	15  MARTIN LUTHER KING JR. BIRTHDAY CITY OFFICES CLOSED	16 6:00 PM -Closed Session 7:00 PM -City Council	17 6:00 PM -Energy and Environmental Sustainability Commission (EC)	18 6:30 PM -Bay Area Water Supply Conserv Agency (CM) (Burlingame Community Center-Sequoia Room) 7:00 PM -Public Safety and Emergency Preparedness Commission (HL)	19	20
21	22 7:00 PM -Arts Commission (EC)	23 5:30 PM -Special City Council Meeting Comprehensive Zoning Update Study Session	24 12:00 PM -Santa Clara Valley Water District - Water Commission (CM) 7:00 PM -Planning Commission	25 4:00 PM -Silicon Valley Regional Interoperability Authority (SVRIA) (GB)	26	27
28	29	30 5:30 PM -Special City Council Meeting Preliminary FY24-25 Budget Study Session	31			



REGULAR MEETING OF THE MILPITAS CITY COUNCIL

MINUTES
TUESDAY, DECEMBER 5, 2023

The City Council of the City of Milpitas convened on the regular City Council meeting day in a Regular Meeting of the Milpitas City Council on December 5, 2023, in the City Council Chamber, 455 E. Calaveras Blvd, Milpitas, CA, and via teleconference/Zoom webinar.

CALL MEETING TO ORDER by Mayor and ROLL CALL by City Clerk

Mayor Montano called the Regular City Council meeting to order at 6:02 PM. Roll Call was taken by City Clerk Guzzetta.

PRESENT: Mayor Montano, Vice Mayor Chua, Councilmember Barbadillo (6:05 PM), Councilmember Lien, Councilmember Phan (6:03 PM)

ABSENT: None

City Attorney Mutalipassi announced the closed session items. The City Council adjourned to Closed Session at 6:04 PM.

ADJOURN TO CLOSED SESSION

(a) CONFERENCE WITH LABOR NEGOTIATORS

Pursuant to Government Code Section 54957.6

Agency designated representative: Rick Bolanos, LCW

Bargaining unit: LIUNA, UPEC (Pro-Tech, MEA, MidCon), IAFF, MPOA

The City Council reconvened at 7:35 PM

CLOSED SESSION ANNOUNCEMENT:

City Attorney Mutalipassi reported that there was no action taken on Closed Session items.

PLEDGE OF ALLEGIANCE

Mayor Montano led the Pledge of Allegiance.

INVOCATION

Vice Mayor Chua introduced a video of the St. John the Baptist School Choir.

PRESENTATIONS

Posthumous Commendation for Navy Veteran Phil Coneeny

Mayor Montano presented a posthumous commendation in recognition of Phil Coneeny. Jim Arthur accepted the commendation and, joined by Bruce Coneeny, provided remarks.

PUBLIC FORUM

The following people spoke under Public Forum:

1. Stephen Balsbaugh
2. Voltaire Montemayor

ANNOUNCEMENT OF CONFLICT OF INTEREST AND CAMPAIGN CONTRIBUTIONS

City Attorney Mutalipassi asked the Mayor and City Councilmembers if they had any personal conflicts of interest. By roll call, there were no conflicts of interest. City Attorney Mutalipassi asked the Mayor and City Councilmembers if they had any reportable campaign contributions. By roll call, there were no reportable campaign contributions.

READING OF THE CITY COUNCIL CODE OF CONDUCT

Mayor Montano read the Code of Conduct.

APPROVAL OF AGENDA

Motion: to approve the December 5, 2023 Regular Meeting Agenda.

Motion/Second: Vice Mayor Chua / Councilmember Lien

Motion carried by the following:

AYES: Mayor Montano, Vice Mayor Chua, Councilmember Barbadillo, Councilmember Lien,
Councilmember Phan

NOES: None

CONSENT CALENDAR

There were no public speakers.

Motion: to approve the Consent Calendar.

Motion/Second: Vice Mayor Chua / Councilmember Lien

Motion carried by the following:

AYES: Mayor Montano, Vice Mayor Chua, Councilmember Barbadillo, Councilmember Lien,
Councilmember Phan

NOES: None

1. **Receive City Council Calendar of Meetings for December 2023 (Staff Contact: Suzanne Guzzetta, City Clerk, 408-586-3001)**

Received City Council Calendar of Meetings for December 2023.

2. **Approve City Council City Council Meeting Minutes of November 7 and 14, 2023 (Staff Contact: Suzanne Guzzetta, City Clerk, 408-586-3001)**

Approved City Council Meeting minutes of November 7 and 14, 2023.

3. **Receive the Preview List of Anticipated Items for the Next Regular City Council Meeting (Staff Contact: Suzanne Guzzetta, City Clerk, 408-586-3001)**

Received the list of anticipated agenda items for the next regular City Council meeting.

4. Receive and Review the List of Agenda Items Requested by City Councilmembers (Staff Contact: Suzanne Guzzetta, City Clerk, 408-586-3001)

Reviewed the list of items that have been requested by City Councilmembers and provided direction to staff as necessary.

5. Consider the Recommendation from Mayor Montano for Appointments to and Removals from City Commissions (Contact: Mayor Montano, 408-586-3024)

Received the recommendation from Mayor Montano and approved commission appointments and removals, as follows, and directed the City Clerk to post a notice of unscheduled vacancy.

Arts Commission:

1. Reappoint Cheryl Oldham to a term ending October 2026
2. Appoint Vickie Young to a term ending October 2026
3. Appoint Darra Cacao to a term ending October 2026
4. Remove America Yulissa Irineo from the non-voting student member (CHHS) seat with an unexpired term ending October 2026
5. Remove Christine Lee from the non-voting student member (MHS) seat with an unexpired term ending October 2024

Community Advisory Commission:

1. Appoint Tien H. Mai as Alternate No. 1 with an unexpired term ending January 2026

Economic Development and Trade Commission:

1. Appoint Vasista Ramachandrani as a non-voting student member with an unexpired term ending April 2024

Energy and Environmental Sustainability Commission:

1. Appoint Pranav Parikh as the Business representative to a term ending October 2026
2. Appoint Mario Cayabyab as Alternate No. 2 with an unexpired term ending October 2024

Parks, Recreation and Cultural Resources Commission:

1. Appoint Becky Strauss to an unexpired term ending June 2025
2. Appoint Sedrick Ashby as Alternate No. 1 with an unexpired term ending June 2026

Public Safety and Emergency Preparedness Commission:

1. Reappoint Joe Nichols to a term ending June 2026

Science, Technology and Innovation Commission:

1. Appoint Simon Chu to a term ending January 2027
2. Appoint Eric Bernal to an unexpired term ending January 2026
3. Appoint Kulwant Viridi as Alternate No. 1 with a term ending January 2027

Senior Advisory Commission:

1. Appoint Neelam Wadhwani as Alternate No. 1 with an unexpired term ending December 2024.

6. Accept the FY 2022-23 Commissioners Annual Report for Three (3) Commissions and Approve Three (3) City of Milpitas Commission Work Plans for FY 2023-24 (Staff Contact: Suzanne Guzzetta, City Clerk, 408-586-3001)

(1) Accepted the 2022-23 Commissioners Annual Report; and (2) Approved proposed Fiscal Year 2023-24 Work Plans for (a) Energy and Environmental Sustainability Commission, (b) Planning

Commission, and (c) Public Safety and Emergency Preparedness Commission.

7. **Accept the City's Annual Comprehensive Financial Report and Other Related Annual Audited Reports for the Fiscal Year Ended June 30, 2023 (Staff Contact: Lauren Lai, Finance Director, 408-586-3111)**

Accepted the City's Annual Comprehensive Financial Report (ACFR) and other related annual audited reports for the Fiscal Year ended June 30, 2023.

8. **FY 2023-24 1st Quarter Financial Status Report for the Quarter Ended September 30, 2023 (Staff Contact: Lauren Lai, Finance Director, 408-586-3111)**

Reviewed the FY 2023-24 Quarterly Financial Status Report for the quarter ended September 30, 2023.

9. **Adopt a Resolution Reviewing and Accepting the Annual Development Impact Fee Annual Report for the Calaveras Boulevard Widening Traffic Impact Fee, the Transit Area Specific Plan (TASP) Impact Fee, and the Storm Drain Fee for the Fiscal Year Ended June 30, 2023 (Staff Contact: Lauren Lai, Finance Director, 408-586-3111)**

Adopted **Resolution No. 9285** consistent with the Mitigation Fee Act to review and accept the annual development impact fee disclosure information for the Calaveras Blvd Widening Traffic Impact Fee, Transit Area Specific Plan Impact Fee and Storm Drain Fee for the Fiscal Year Ended June 30, 2023.

10. **Adopt a Resolution Approving a Site Development Permit and PUD Amendment Permit to Develop a New One-and-a-Half Story Single-Family Residence and to Deviate from the Approved Designs, on a Vacant 1.1-acre Lot Located in the R1-H Single-family Residential Zoning District with a Hillside Combining District at 1321 Terra Vista Court (Staff Contact: Jay Lee, Planning Director, 408-586-3077)**

Considered the exemption in accordance with CEQA and adopted **Resolution No. 9286** approving Site Development Permit No. SD22-0013 and Planned Unit Development Amendment No. PA23-0001 to allow the development of a new single-family residence at 1321 Terra Vista Court, subject to the attached Conditions of Approval.

11. **Adopt a Resolution Approving a Site Development Permit to Develop a New Two-Story, Single-Family Residence with an Attached Accessory Dwelling Unit, an In-Ground Swimming Pool, and Associated Site Improvements on a Vacant 1.3-Acre Lot Located in the R1-H Single-Family Residential Zoning District with a Hillside Combining District at 490 Vista Ridge Drive (Staff Contact: Jay Lee, Planning Director, 408-586-3077)**

Considered the exemption in accordance with CEQA and adopted **Resolution No. 9287** approving Site Development Permit SD23-0003 to allow development of a new single-family residence with an attached ADU, an in-ground swimming pool, and associated site improvements at 490 Vista Ridge Drive, subject to the attached Conditions of Approval.

12. **Waive the Second Reading and Adopt Ordinance No. 38.854 Amending the Zoning Code Contained in Title XI, Chapter 10, Section 3.03 of the Milpitas Municipal Code to Allow a Zoning Designation Change of a Certain Parcel (APN 022-38-007) Within the Zoning Map (Staff Contact: Jay Lee, Planning Director, 408-586-3077; and Lillian VanHua, Senior Planner, 408-586-3073)**

Waived the second reading and adopted **Ordinance 38.854** amending the Zoning Code contained in Title XI, Chapter 10, Section 3.03 of the Milpitas Municipal Code to allow a Zoning Designation change of a Certain Parcel (APN 022-38-007), located on the west side of California Circle, from the MP Industrial Park Zoning District to the MXD Mixed Use Zoning District.

13. **Receive an Update on Storm Drain System Emergency Repairs and Improvements at Evans Road and Piedmont Creek and Determine that the Condition Continues to Constitute an Emergency (Staff Contact: Christian Di Renzo, Public Works Director, 408-586-2602)**
- (1) Received an update on the storm drain system emergency repairs and improvements at Evans Road and Piedmont Creek (in the amount of \$137,519); and (2) Determined by a four-fifths vote that the condition continues to constitute an emergency.
14. **Receive an Update on the Emergency Repairs to the HVAC System and Equipment at City Hall and at the Public Works/Information Technology/Police Department Buildings (Staff Contact: Christian DiRenzo, Public Works Director, 408-586-2602)**
- (1) Received an update on the emergency repairs to the HVAC system and equipment at City Hall and at the Public Works/Information Technology/Police Department Buildings; and (2) Approved the termination of the emergency declaration.
15. **Approve and Authorize the City Manager to Execute an Agreement with Imperial Maintenance Services, Inc. For a Five-Year Term in an Amount Not-to-Exceed \$2,486,863.50 to Provide Janitorial Services for City Facilities, Subject to Annual Appropriation of Funds (Staff Contact: Christian Di Renzo, Public Works Director, 408-586-2602)**
- (1) Approved and authorize the City Manager to execute an agreement with Imperial Maintenance Services, Inc. for a five-year term in an amount not-to-exceed \$2,486,863.50 to provide janitorial services for city facilities, subject to the annual appropriation of funds; and (2) Approved a budget amendment to appropriate \$50,000.00 to the Department of Public Works FY 2023-24 Operating Budget.

LEADERSHIP AND SUPPORT SERVICES

16. **Legislative Update from California State Senator Aisha Wahab (Staff Contact: Matt Cano, Deputy City Manager, 408-586-3012)**
- City Manager Thomas introduced the item and California State Senator Aisha Wahab gave the presentation.
- There were the following public speakers:
1. Voltaire Montemayor
- Mayor Montano thanked the Senator for the presentation and her service in the State Senate and the Senator responded to questions from the City Council.
17. **Consider A Request from the Cities Association of Santa Clara County and Adopt a Resolution Supporting a Formal Agreement to Establish the Cities Association of Santa Clara County Joint Powers Authority (Staff Contact: Ned Thomas, City Manager, 408-586-3059)**
- City Manager Thomas introduced the item. Cities Association of Santa Clara County Incoming Chair Los Altos Councilmember Neysa Fligor presented the report on transitioning from an unincorporated association to a JPA.
- Vice Mayor Chua offered thanks for the presentation and voiced support for the JPA.
- Councilmember Lien asked about the makeup of the Board of Directors. CASC Incoming Chair Fligor provided details on representatives to the Board, Cities Selection Committee, and Legislative Action Committee.

Mayor Montano noted the members of the executive board are elected from among the city representatives.

There were the following public speakers:

1. Voltaire Montemayor

After discussion, motion: to authorize the City Manager to execute the JPA.

Motion/Second: Mayor Montano / Vice Mayor Chua

Motion carried by the following:

AYES: Mayor Montano, Vice Mayor Chua, Councilmember Barbadillo, Councilmember Lien,
Councilmember Phan

NOES: None

ANNOUNCEMENTS AND FUTURE AGENDA ITEMS

City Manager Thomas announced the award of the Land Water Conservation Fund Grant to complete the Delano Manongs Dog Park.

Mayor Montano requested adding consideration of the 20% Low Income Below Market Rate Housing to the prioritization list. There was consensus to add the item to the prioritization list (Noes: Lien).

ADJOURNMENT

Mayor Montano adjourned the meeting at: 8:49 PM.

Draft meeting minutes submitted by City Clerk, Suzanne Guzzetta

TENTATIVE CITY COUNCIL AGENDA ITEM LIST

as of 12/8/2023

January 9, 2024 – Special Meeting (5:30 PM)

CLOSED SESSION

- Labor Relations

INVOCATION (Councilmember Lien)

PRESENTATION

CONSENT CALENDAR

1. Receive City Council calendar for January 2024 (City Clerk)
2. Approve City Council Meeting minutes of December 12, 2023 (City Clerk)
3. Preview list of items for January 16, 2024 (City Clerk)
4. Councilmember Request List (City Clerk)
5. Commission Appointments (City Clerk)
6. Bicycle Lane Enhancement Project (Engineering)
7. On-Call CEQA Consultants Contracts (Planning)

COMMUNITY DEVELOPMENT

8. Citywide Traffic Study (Engineering)

LEADERSHIP AND SUPPORT SERVICES

9. Council Handbook (City Manager/City Clerk)

**MILPITAS CITY COUNCIL
AGENDA ITEM REQUESTS**

OPEN ITEMS				
Request No.	Topic	Submitted by:	Date Requested	STATUS and/or DATE scheduled on City Council meeting agenda:
1	Consideration of the 20% Low Income Below Market Rate Housing	Montano	12/5/2023	This item will be reviewed for potential prioritization at the next report.

ACTIVE ITEMS				
Request No.	Topic	Submitted by:	Date Requested	STATUS and/or DATE scheduled on City Council meeting agenda:
2	Bring back Bingo and the Tour at the Senior Center	Chua	11/7/2023	This item was included in the November 14, 2023 council prioritization list as an item that is underway as it is less than 4 hours work.
3	Referral for utility infrastructure cost on Main Street from Carlo to Corning Streets	Montano	10/17/2023	This item was included in the November 14, 2023 council prioritization list as an item that is underway as it is less than 4 hours work.
4	Graywater Rebates Program	Montano	10/17/2023	This item was included in the November 14, 2023 council prioritization list as an item that is underway as it is less than 4 hours work.
5	Consider a possible ordinance or policy regarding solicitations at home	Barbadillo	10/3/2023	This item was included in the November 14, 2023 council prioritization list as an item that is underway as it is less than 4 hours work.
6	Discussion of what the City Council can do regarding shoplifting	Barbadillo	10/3/2023	This item was included in the November 14, 2023 council prioritization list as an item that
7	Main Street International Festival	Lien	10/3/2023	Approved to move forward as part of the November 14, 2023 Council prioritization.
8	Bring back Capital Projects that haven't yet been named for the Council to review and as an overview of CIP Projects in the works	Phan	9/19/2023	This item was included in the November 14, 2023 council prioritization list as an item that is underway as it is less than 4 hours work.
9	Have the Police Chief direct staff to complete an analysis in partnership with the County to	Chua	9/5/2023	This item was included in the November 14, 2023 council prioritization list as an item that
10	Explore taking steps towards becoming a Charter City	Phan	9/5/2023	Approved to move forward as part of the November 14, 2023 Council prioritization.
11	Look into what would be needed to convert the unused Teen Center space at the Sports Center to	Chua	8/8/2023	An update was included in the November 14th Council prioritization reprt.
12	Human Resources Director to conduct a job fair specific to the job openings at City Hall	Chua	5/2/2023	An update was included in the November 14th Council prioritization reprt.
13	Satellite Consulate Office	Montano	2/28/2023	An update was included in the November 14th Council prioritization reprt.
14	Have the City look into the possibility of a Citywide Senior Discount	Barbadillo	2/7/2023	An update was included in the November 14th Council prioritization reprt.
15	City Manager to look into defining either a standalone teen center or updating information to indicate the Senior Center also functions as a Teen Center	Chua	9/20/2022	An update was included in the November 14th Council prioritization reprt.
16	Discuss converting vacant lot that was a basketball court into a community garden at Vasona and Adobe	Montano	8/16/2022	An update was included in the November 14th Council prioritization reprt.
17	City Manager look into implementing a workshop for small businesses on the bidding process for	Chua	8/9/2022	An update was included in the November 14th Council prioritization reprt.

NOTE: Deferred and Completed Items are not listed

**MILPITAS CITY COUNCIL
AGENDA ITEM REQUESTS**

ACTIVE ITEMS				
Request No.	Topic	Submitted by:	Date Requested	STATUS and/or DATE scheduled on City Council meeting agenda:
18	Quarterly or Monthly crime statistics on Homekey Project	Chua	6/7/2022	An update was included in the November 14th Council prioritization reprt.
19	Memorial Plaque in honor of youth skateboarder that passed away	Montano	6/7/2022	An update was included in the November 14th Council prioritization reprt.
20	Explore an ordinance or policy to reduce thefts and increase security in the commercial retail parking	Chua	4/5/2022	An update was included in the November 14th Council prioritization reprt.
21	Evaluate reopening the childcare center with a non-profit organization running the center	Montano	2/1/2022	An update was included in the November 14th Council prioritization reprt.
22	Staff to look into mural Art on Great Mall Parkway on the VTA owned Light rail pillars	Montano	11/16/2021	An update was included in the November 14th Council prioritization reprt.
23	Have a picture of Albert Vogel Sr. put up in the Senior Center	Montano	10/19/2021	An update was included in the November 14th Council prioritization reprt.
24	Include a bust of Maria Lemire on the Mural in front of the Senior Center	Montano	8/17/2021	An update was included in the November 14th Council prioritization reprt.
25	Staff to create a plan on how to increase the number of local businesses doing business with the City	Chua	4/6/2021	An update was included in the November 14th Council prioritization reprt.
26	Consider Community Museum and Park on Main St.	Phan	8/20/2019	to Rules Subcommittee 8/23/2019. Moved to Specific Plan Community Conversation events.

NOTE: Deferred and Completed Items are not listed



CITY OF MILPITAS AGENDA REPORT (AR)

Item Title:	Accept Commissioner Resignation (Staff Contact: Suzanne Guzzetta, City Clerk, 408-586-3001)
Category:	Consent Calendar-Leadership and Support Services
Meeting Date:	12/12/2023
Recommendation:	Accept the resignation of Peter Felix from the Parks, Recreation and Cultural Resources Commission effective January 1, 2024, and direct the City Clerk to post the notice of unscheduled vacancy.

BACKGROUND:

In accordance with the City of Milpitas Commission By-Laws adopted as Resolution No. 7702, any member or alternate member of a Commission who is no longer available to serve, must submit a resignation in writing by sending a written communication to the Mayor and the City Clerk. The written resignation must then be accepted and confirmed by City Council via action on the consent calendar at a regularly scheduled City Council meeting. Peter Felix submitted a notice of resignation from the Parks, Recreation and Cultural Resources Commission effective January 1, 2024.

ANALYSIS:

By state law, a Notice of an Unscheduled Vacancy must be posted by the City Clerk to advertise the vacant Commission seat. Final appointment to the board, commission, or committee for the Unscheduled Vacancy shall not be made by the legislative body for at least ten working days after the posting of the notice in the Clerk's office. The notice of the unscheduled vacancy for the Parks, Recreation and Cultural Resources Commission will be posted Wednesday, December 13, 2023.

FISCAL IMPACT:

There is no fiscal impact associated with this item.

CEQA:

The action is an organizational or administrative activity of the City government that will not result in direct or indirect physical changes in the environment and is not a project pursuant to Cal. Code of Regs., tit. 14, § 15378.

RECOMMENDATION:

Accept the resignation of Peter Felix from the Parks, Recreation and Cultural Resources Commission effective January 1, 2024, and direct the City Clerk to post the notice of unscheduled vacancy.

Attachments:

Email from Parks, Recreation and Cultural Resources Commissioner Peter Felix

Suzanne Guzzetta

From: sguzzetta@milpitas.gov
Subject: FW: Parks & Rec Committee

From: Peter Felix [REDACTED]
Sent: Tuesday, December 5, 2023 11:07 AM
To: Joshua Clevenger <jclevenger@milpitas.gov>
Subject: Parks & Rec Committee

CAUTION: EXTERNAL SENDER

This email originated from outside the organization. Do NOT click links or open attachments unless you recognize the sender and know the content is safe. Report suspicious messages to the IT Helpdesk.

Hi Josh, good morning.

This is to inform you that starting January 1, 2024, I'll need to remove myself from sitting as a Commissioner on the Parks & Recreation committee as I'll no longer be a resident of the City Of Milpitas.

It's been a great experience, thank you for the opportunity. I wish you, the committee members, and the City Of Milpitas all the best. It's been a wonderful place to live and work!

Have a great day,

[Wanna know what your home's worth? Click me!](#)



P e t e r
F e l i x

*Assistant Manager Intero Los Gatos
Broker Associate*



dre# 01174513

INTERO
A Berkshire Hathaway Affiliate



REALTrends



CITY OF MILPITAS AGENDA REPORT (AR)

Item Title:	Approve Appointments to the Cities Association of Santa Clara County Joint Powers Authority (Staff Contact: Matt Cano, Deputy City Manager, 408-586-3012)
Category:	Consent Calendar-Leadership and Support Services
Meeting Date:	12/12/2023
Recommendation:	(1) Approve the appointment of Mayor Montano as board member to the Cities Association of Santa Clara County Joint Powers Authority; and (2) Approve the appointment of Vice Mayor Chua as alternate board member to the Cities Association of Santa Clara County Joint Powers Authority.

Background:

Over thirty years ago, the cities and towns in Santa Clara County (“Member Agencies”) established the Cities Association of Santa Clara County (CASCC) to improve cooperation and collaboration on issues of common interest. The intent was to consolidate and maintain the functions and purposes of the Inter-City Council, the Santa Clara County Mayor’s Conference, and the City Selection Committee for Santa Clara County. In 1990, the Member Agencies entered into an agreement to provide some structure and outline the purpose and function of the CASCC, eventually adopting bylaws and operating as an unincorporated association.

Over the past two years, the CASCC has conducted outreach and solicited input on a proposed draft Joint Powers Authority (JPA) Agreement. Following significant review and updates in response to concerns from Member Agencies, the CASCC Board approved the agreement on September 14, 2023.

To form the JPA, a formal JPA Agreement must be approved by the CASCC Board of Directors and then executed by each Member Agency that wishes to join the JPA. To date, thirteen cities in Santa Clara County have voted to support the new JPA, including the City of Milpitas, and formation of the new JPA is expected in February 2024.

Analysis:

The City of Milpitas approved entering into the JPA agreement on December 5, 2023. With the formation of the JPA, the original organization will be dissolved and new board members must be appointed to the Joint Powers Authority. As the 2023 appointees to the Cities Association of Santa Clara County, it is recommended that Mayor Carmen Montano be appointed as the City of Milpitas board member to the JPA and Vice Mayor Evelyn Chua be appointed as the alternate board member.

Fiscal Impact:

There is no fiscal impact with this item appointment of members to the CASCC JPA.

California Environmental Quality Act:

By the definition provided in the California Environmental Quality Act (CEQA) Guidelines Section 15378, this action does not qualify as a “project” for the purpose of CEQA.

Recommendation(s):

- (1) Approve the appointment of Mayor Montano as board member to the Cities Association of Santa Clara County Joint Powers Authority;
- (2) Approve the appointment of Vice Mayor Chua as alternate board member to the Cities Association of Santa Clara County Joint Powers Authority.

Attachment:

None



CITY OF MILPITAS AGENDA REPORT (AR)

Item Title:	Approve and Authorize the City Manager to Negotiate and Execute Amendment No. 2 to the Professional Services Agreement with David J. Powers & Associates, Inc. in the Amount of Not To Exceed \$400,000 for Completing the Environmental Review pursuant to the National Environmental Policy Act (NEPA) and requirements of the California Department of Transportation Office of Local Assistance (Caltrans) for S. Milpitas Blvd Vehicle Bridge at Penitencia Creek, Project No. 2016 (Staff Contact: Matt Cano, Deputy City Manager / Interim City Engineer, 408-586-3012)
Category:	Consent Calendar-Community Development
Meeting Date:	12/12/2023
Recommendation:	Approve and authorize the City Manager to negotiate and execute Amendment No. 2 to the Professional Services Agreement with David J. Powers in the Amount of not to exceed \$400,000 for completing the environmental review pursuant to the National Environmental Policy Act (NEPA) and requirements of the California Department of Transportation Office of Local Assistance (Caltrans) for S. Milpitas Blvd Vehicle Bridge at Penitencia Creek, Project No. 2016.

BACKGROUND:

The S. Milpitas Boulevard Bridge at Penitencia Creek, Project No. 2016 ("Projects") is included in the adopted 2024-2028 Capital Improvement Program (CIP).

On April 20, 2021, the City Council authorized the City Manager to execute a Professional Services Agreement (**Attachment A**) with David J Powers in an amount not-to-exceed \$184,785 to perform environment review of the S. Milpitas Boulevard Bridge at Penitencia (VOC) and the Pedestrian Overcrossing at Montague Expressway and Penitencia Creek Project (POC) pursuant to the California Environmental Quality Act. On June 6, 2023.

In March 2022, the VOC project was selected to receive a \$3-million federal grant earmarked through the Community Project Funding/Congressionally Directed Spending. As part of the federal grant requirements, the Project will need to complete a separate environmental review process pursuant to the National Environmental Policy Act (NEPA) which will be administered by Caltrans. The additional work required under NEPA was not included in the original consultant agreement. With a funding obligation expiration date of 9/30/2025, the NEPA environmental review must begin immediately.

On January 6 2023, the City Council authorized Amendment No.1 for additional environmental review including updating the CEQA Initial Study and Mitigated Negative Declaration, completing the permitting process with regulatory agencies, and begin Caltrans's NEPA process for the amount of \$150,000 (**Attachment B**).

ANALYSIS:

The project is currently in design phase. Per Grant requirements, NEPA and related federal statutes will be required prior to issuing the project for bid. The level of environment study needed for the project is still unknown. Caltrans will identify the type of environmental documents and technical studies needed for the project after

Caltrans completes the review of Project Preliminary Environmental Study (PES) and conducts the field review of the site, which anticipated to be completed by January 2024.

Staff engaged with David J Powers to obtain the cost proposal for the additional services needed to complete NEPA process. Pending on the final determination by Caltrans on the level of study required, David J Powers estimated a budget of \$400,000 to complete the work with the assumption that the project is qualified for Categorical Exclusion that include the following studies:

- Natural Environment Study Minimal Impacts
- Visual Impact Assessment Memorandum
- Archaeological Survey Report
- Historic Resources Evaluation Report
- Historic Properties Survey Report
- Paleontological Investigation Report/Paleontological Evaluation Report
- Noise Study Report
- Air Quality Report
- Air Quality Transportation Conformity Documentation Package
- Energy Study
- Transportation data

The process can take up to 18 months. Additional studies may be needed if more higher environment study is required. Due to schedule constraint and to meet the grant obligation deadline, it is critical that the studies begins as soon as they are identified by Caltrans. Staff is asking for authority for the City Manager to negotiate and execute amendments up to an additional \$400,000 in value to cover the costs of these additional studies.

POLICY ALTERNATIVE(S):

Alternative: Deny approval of the amendment no.2 and do not proceed with NEPA process for the project.

Pros: None.

Cons: As part of the federal grant funding requirement, compliance with NEPA is required and must be completed prior to the grant obligation deadline. Without meeting the deadline, the City is at risk of losing the \$3 million grant.

Reason for Not Recommending: NEPA approval is required to receive the \$3 million grant to supplement the overall project funding.

FISCAL IMPACT:

Sufficient funds are available in the project budgets. CIP 2016's funding source is from Transit Area Specific Plan (TASP) Impact Fees. As of December 7, 2023, the balance in S. Milpitas Blvd. Vehicle Bridge at Penitencia CIP 2016 is \$4,405,966.

CALIFORNIA ENVIRONMENTAL QUALITY ACT (CEQA):

The environmental consultant is currently finalizing the initial study to support the adoption of a Mitigated Negative Declaration (MND) pursuant to CEQA and is planning to bring to the Council for adoption in Spring 2024.

RECOMMENDATION:

Approve and authorize the City Manager to negotiate and execute Amendment No. 2 to the Professional Services Agreement with David J. Powers in the Amount of Not To Exceed \$400,000 for completing environmental review pursuant to the National Environmental Policy Act (NEPA) and requirements of the

California Department of Transportation Office of Local Assistance (Caltrans) Services for S. Milpitas Blvd Vehicle Bridge at Penitencia, Project No. 2016.

ATTACHMENT(S):

- A. Original Agreement
- B. Amendment No. 1 approval



City of Milpitas

PR 3937

Purchase Order Requisition

Date Requested 05/10/2021	Requesting Department Engineering	Requestor Julie Waldron	Extension 3314	Fiscal Year 2021
Contract Name / Description Montague Pedestrian over crossing at Penitencia Creek CP2018				
Vendor Number 13221	Vendor Name David J Powers & Associates	Vendor Email adanielsen@davidjpowers.com	Vendor Telephone (408) 248-3500	
Vendor Address 1885 The Alameda, Suite 200 San Jose CA 95126		Ship to Address City of Milpitas-City Hall 455 E. Calaveras Blvd. Milpitas, CA 95035-5411		

	APPROVAL SIGNATURE	APPROVAL DATE	REVIEWER INITIALS	REVIEW DATE
Department Head		May-14-2021 05/13/2021	SB	May-13-2021
Finance Director		May-14-2021	IS	May-13-2021
City Manager		May-14-2021	Vmay	05/13/2021

Line	Qty	Unit	Description	Account Number	Unit Price	Extended Price
1	1	LS	Montague Pedestrian Overcrossing at Penitencia Creek, CP 2018	CP2016-1/4237	5,000.00	5,000.00
2	1	LS	S. Milpitas Blvd Veh. Bridge, CP 2016	CP2018-1/4237	179,795.00	179,795.00
Notes				Sub Total:		184,795.00
Applicable Terms and Conditions				Tax:		0.00
				Total:		184,795.00

Terms of the Contract (must be completed)			
Solicitation process required?	☐ YES ☒ NO	If conducted, total number of Proposals/ Bids received:	Release Date:
Initial Not-to-Exceed Contract Amount	\$184,785.00	Start Date:	End Date: Extend to Date:
Previous Amendments' Contract Amount (If any)	.00	4/20/2021	12/30/2023
Current Amendment Contract Amount (If any)	.00	Did the Contract/ Amendment go to Council for Approval? ☒ YES ☐ NO	
Total Contract Amount with Amendments	\$184,785.00	If yes, on what date? 4/20/2021	

For Accounting Use Only			
CIP Budget/Acct Code Check:	PO Entered on:	PO #:	PO Entered By:

**CITY OF MILPITAS
PROFESSIONAL SERVICES AGREEMENT**

This Agreement is made and entered into as of April 20, 2021 (“Effective Date”) by and between the City of Milpitas, a municipal corporation organized and operating under the laws of the State of California with its principal place of business at 455 E. Calaveras Boulevard, Milpitas, California 95035 (“City”), and David J. Powers & Associates, Inc. a corporation with its principal place of business at 1871 The Alameda, Suite 200, San Jose, CA 95126 (hereinafter referred to as “Consultant”). City and Consultant are sometimes individually referred to as “Party” and collectively as “Parties” in this Agreement.

RECITALS

A. City is a public agency of the State of California and is in need of professional services for the following projects:

South Milpitas Blvd. vehicular bridge at Penitencia Creek, Project No. 2018, and a pedestrian Overcrossing at Montague and East Penitencia Creek Channel, Project No. 2016 (hereinafter referred to as “the Project”).

B. Consultant is duly licensed and has the necessary qualifications to provide such services.

C. The Parties desire by this Agreement to establish the terms for City to retain Consultant to provide the services described herein.

AGREEMENT

NOW, THEREFORE, IT IS AGREED AS FOLLOWS:

1. Services.

Consultant shall provide the City with the services described in the Scope of Services attached hereto as Exhibit A.

2. Compensation.

a. Subject to paragraph 2(b) below, the City shall pay for such services in accordance with the Schedule of Charges set forth in Exhibit B.

b. In no event shall the total amount paid for services rendered by Consultant under this Agreement exceed the sum of one hundred eighty-four thousand, seven hundred eighty five dollars and zero cents (\$184,795). This amount is to cover all printing and related costs, and the City will not pay any additional fees for printing expenses. Periodic payments shall be made within thirty (30) days of receipt of an invoice which includes a detailed description of the work performed. Payments to Consultant for work performed will be made on a monthly billing basis.

3. Additional Work.

If changes in the work seem merited by Consultant or the City, and informal consultations with the other party indicate that a change is warranted, it shall be processed in the following manner: a letter outlining the changes shall be forwarded to the City by Consultant with a statement of estimated changes in fee or time schedule. An amendment to this Agreement shall be prepared by the City and executed by

both Parties before performance of such services, or the City will not be required to pay for the changes in the scope of work. Such amendment shall not render ineffective or invalidate unaffected portions of this Agreement.

4. Maintenance of Records.

Books, documents, papers, accounting records, and other evidence pertaining to costs incurred shall be maintained by Consultant and made available at all reasonable times during the Agreement term and for four (4) years from the date of final payment under the Agreement for inspection by City.

5. Term

The term of this Agreement shall be from **April 20, 2021** to **December 31, 2023**, unless earlier terminated as provided herein. The City reserves the right to review the Consultant's performance at the end of each year and cancel all or part of the Agreement.

Consultant shall perform its services in a prompt and timely manner and shall commence performance upon the Effective Date.

6. Delays in Performance.

a. Neither City nor Consultant shall be considered in default of this Agreement for delays in performance caused by circumstances beyond the reasonable control of the non-performing party. For purposes of this Agreement, such circumstances include but are not limited to, abnormal weather conditions; floods; earthquakes; fire; epidemics; war; riots and other civil disturbances; strikes, lockouts, work slowdowns, and other labor disturbances; sabotage or judicial restraint.

b. Should such circumstances occur, the non-performing party shall, within a reasonable time of being prevented from performing, give written notice to the other party describing the circumstances preventing continued performance and the efforts being made to resume performance of this Agreement.

7. Compliance with Law.

a. Consultant shall comply with all applicable laws, ordinances, codes and regulations of the federal, state and local government, including Cal/OSHA requirements.

b. If required, Consultant shall assist the City, as requested, in obtaining and maintaining all permits required of Consultant by federal, state and local regulatory agencies.

c. If applicable, Consultant is responsible for all costs of clean up and/ or removal of hazardous and toxic substances spilled as a result of his or her services or operations performed under this Agreement.

8. Standard of Care

Consultant's services will be performed in accordance with generally accepted professional practices and principles and in a manner consistent with the level of care and skill ordinarily exercised by members of the profession currently practicing under similar conditions.

9. Assignment and Subconsultant

Consultant shall not assign, sublet, or transfer this Agreement or any rights under or interest in this Agreement without the written consent of the City, which may be withheld for any reason. Any attempt to so assign or so transfer without such consent shall be void and without legal effect and shall constitute grounds for termination. Subcontracts, if any, shall contain a provision making them subject to all provisions stipulated in this Agreement. Nothing contained herein shall prevent Consultant from employing independent associates, and subconsultants as Consultant may deem appropriate to assist in the performance of services hereunder.

10. Independent Consultant

Consultant is retained as an independent contractor and is not an employee of City. No employee or agent of Consultant shall become an employee of City. The work to be performed shall be in accordance with the work described in this Agreement, subject to such directions and amendments from City as herein provided.

11. Insurance. Consultant shall not commence work for the City until it has provided evidence satisfactory to the City it has secured all insurance required under Exhibit D (Insurance Requirements), attached hereto and incorporated herein by this reference. In addition, Consultant shall not allow any subcontractor to commence work on any subcontract until it has secured all insurance required therein.

12. Indemnification.

a. To the fullest extent permitted by law, Consultant shall defend (with counsel of City's choosing), indemnify and hold the City, its officials, officers, employees, volunteers, and agents free and harmless from any and all claims, demands, causes of action, costs, expenses, liability, loss, damage or injury of any kind, in law or equity, to property or persons, including wrongful death, in any manner arising out of, pertaining to, or incident to any acts, errors or omissions, or willful misconduct of Consultant, its officials, officers, employees, subcontractors, consultants or agents in connection with the performance of the Consultant's services, the Project or this Agreement, including without limitation the payment of all damages, expert witness fees and attorney's fees and other related costs and expenses. Consultant's obligation to indemnify shall not be restricted to insurance proceeds, if any, received by Consultant, the City, its officials, officers, employees, agents, or volunteers.

b. If Consultant's obligation to defend, indemnify, and/or hold harmless arises out of Consultant's performance of "design professional" services (as that term is defined under Civil Code section 2782.8), then, and only to the extent required by Civil Code section 2782.8, which is fully incorporated herein, Consultant's indemnification obligation shall be limited to claims that arise out of, pertain to, or relate to the negligence, recklessness, or willful misconduct of the Consultant, and, upon Consultant obtaining a final adjudication by a court of competent jurisdiction, Consultant's liability for such claim, including the cost to defend, shall not exceed the Consultant's proportionate percentage of fault.

13. California Labor Code Requirements.

a. Consultant is aware of the requirements of California Labor Code Sections 1720 et seq. and 1770 et seq., which require the payment of prevailing wage rates and the performance of other requirements on certain "public works" and "maintenance" projects ("Prevailing Wage Laws"). If the services are being performed as part of an applicable "public works" or "maintenance" project, as defined by the Prevailing Wage Laws, and if the total compensation is One Thousand Dollars and Zero Cents (\$1,000.00) or more, Consultant agrees to fully comply with such Prevailing Wage Laws. Consultant shall defend, indemnify and hold the City, its officials, officers, employees and agents free and harmless from any claims, liabilities, costs, penalties or interest arising out of any failure or alleged failure to comply with

the Prevailing Wage Laws. It shall be mandatory upon the Consultant and all subconsultants to comply with all California Labor Code provisions, which include but are not limited to prevailing wages (Labor Code Sections 1771, 1774 and 1775), employment of apprentices (Labor Code Section 1777.5), certified payroll records (Labor Code Sections 1771.4 and 1776), hours of labor (Labor Code Sections 1813 and 1815) and debarment of contractors and subcontractors (Labor Code Section 1777.1). The requirement to submit certified payroll records directly to the Labor Commissioner under Labor Code section 1771.4 shall not apply to work performed on a public works project that is exempt pursuant to the small project exemption specified in Labor Code Section 1771.4.

b. If the services are being performed as part of an applicable “public works” or “maintenance” project, then pursuant to Labor Code Sections 1725.5 and 1771.1, the Consultant and all subconsultants performing such services must be registered with the Department of Industrial Relations. Consultant shall maintain registration for the duration of the Project and require the same of any subconsultants, as applicable. Notwithstanding the foregoing, the contractor registration requirements mandated by Labor Code Sections 1725.5 and 1771.1 shall not apply to work performed on a public works project that is exempt pursuant to the small project exemption specified in Labor Code Sections 1725.5 and 1771.1.

c. This Agreement may also be subject to compliance monitoring and enforcement by the Department of Industrial Relations. It shall be Consultant’s sole responsibility to comply with all applicable registration and labor compliance requirements. Any stop orders issued by the Department of Industrial Relations against Consultant or any subcontractor that affect Consultant’s performance of services, including any delay, shall be Consultant’s sole responsibility. Any delay arising out of or resulting from such stop orders shall be considered Consultant caused delay and shall not be compensable by the City. Consultant shall defend, indemnify and hold the City, its officials, officers, employees and agents free and harmless from any claim or liability arising out of stop orders issued by the Department of Industrial Relations against Consultant or any subcontractor.

14. Verification of Employment Eligibility.

By executing this Agreement, Consultant verifies that it fully complies with all requirements and restrictions of state and federal law respecting the employment of undocumented aliens, including, but not limited to, the Immigration Reform and Control Act of 1986, as may be amended from time to time, and shall require all subconsultants and sub-subconsultants to comply with the same.

15. Laws and Venue.

This Agreement shall be interpreted in accordance with the laws of the State of California. If any action is brought to interpret or enforce any term of this Agreement, the action shall be brought in a state or federal court situated in the County of Santa Clara, State of California.

16. Termination or Abandonment

a. City has the right to terminate or abandon any portion or all of the work under this Agreement by giving ten (10) calendar days written notice to Consultant. In such event, City shall be immediately given title and possession to all original field notes, drawings and specifications, written reports and other documents produced or developed for that portion of the work completed and/or being abandoned. City shall pay Consultant the reasonable value of services rendered for any portion of the work completed prior to termination. If said termination occurs prior to completion of any task for the Project for which a payment request has not been received, the charge for services performed during such task shall be the reasonable value of such services, based on an amount mutually agreed to by City and Consultant of

the portion of such task completed but not paid prior to said termination. City shall not be liable for any costs other than the charges or portions thereof which are specified herein. Consultant shall not be entitled to payment for unperformed services and shall not be entitled to damages or compensation for termination of work.

b. Consultant may terminate its obligation to provide further services under this Agreement upon thirty (30) calendar days' written notice to City only in the event of substantial failure by City to perform in accordance with the terms of this Agreement through no fault of Consultant.

c. The Consultant understands and accepts that at all times; the Agreement is subject to appropriation of funds by the Milpitas City Council. The Agreement may terminate without penalty, liability or expense of any kind to the City at the end of Agreement term. The City has no obligation to make appropriations for the Agreement in lieu of appropriations for new or other contracts. City budget decisions are subject to the discretion of the Mayor and City Council. Consultant's assumption of risk of possible non-appropriation is a part of the consideration for the Agreement. This section controls against any and all other provisions of the Agreement.

17 Documents. Except as otherwise provided in "Termination or Abandonment," above, all original field notes, written reports, Drawings and Specifications and other documents, produced or developed for the Project shall, upon payment in full for the services described in this Agreement, be furnished to and become the property of the City.

18. Organization

Consultant shall assign Natalie Noyes as Project Manager. The Project Manager shall not be removed from the Project or reassigned without the prior written consent of the City.

19. Limitation of Agreement.

This Agreement is limited to and includes only the work included in the Project described above.

20. Notice

Any notice or instrument required to be given or delivered by this Agreement may be given or delivered by depositing the same in any United States Post Office, certified mail, return receipt requested, postage prepaid, addressed to:

CITY:

City of Milpitas

455 E. Calaveras Boulevard

Milpitas, California 95035

Attn: City Engineer

CONSULTANT:

David J. Powers & Associates, Inc.

1871 The Alameda, Suite 200

San Jose, CA 95126

Attn: Demetri Loukas, Principal Project Manager

and shall be effective upon receipt thereof.

21. Third Party Rights

Nothing in this Agreement shall be construed to give any rights or benefits to anyone other than the City and the Consultant.

22. Equal Opportunity Employment.

Consultant represents that it is an equal opportunity employer and that it shall not discriminate against any employee or applicant for employment because of race, religion, color, national origin, ancestry, sex, age or other interests protected by the State or Federal Constitutions. Such non-discrimination shall include, but not be limited to, all activities related to initial employment, upgrading, demotion, transfer, recruitment or recruitment advertising, layoff or termination.

23. Entire Agreement

This Agreement, with its exhibits, represents the entire understanding of City and Consultant as to those matters contained herein, and supersedes and cancels any prior or contemporaneous oral or written understanding, promises or representations with respect to those matters covered hereunder. Each party acknowledges that no representations, inducements, promises or agreements have been made by any person which are not incorporated herein, and that any other agreements shall be void. This Agreement may not be modified or altered except in writing signed by both Parties hereto. This is an integrated Agreement.

24. Severability

The unenforceability, invalidity or illegality of any provision(s) of this Agreement shall not render the provisions unenforceable, invalid or illegal.

25. Successors and Assigns

This Agreement shall be binding upon and shall inure to the benefit of the successors in interest, executors, administrators and assigns of each party to this Agreement. However, Consultant shall not assign or transfer by operation of law or otherwise any or all of its rights, burdens, duties or obligations without the prior written consent of City. Any attempted assignment without such consent shall be invalid and void.

26. Non-Waiver

None of the provisions of this Agreement shall be considered waived by either party, unless such waiver is specifically specified in writing.

27. Time of Essence

Time is of the essence for each and every provision of this Agreement.

28. City's Right to Employ Other Consultants

City reserves its right to employ other consultants, including engineers, in connection with this Project or other projects.

29. Prohibited Interests

Consultant maintains and warrants that it has not employed nor retained any company or person, other than a bona fide employee working solely for Consultant, to solicit or secure this Agreement. Further, Consultant warrants that it has not paid nor has it agreed to pay any company or person, other than a bona

vide employee working solely for Consultant, any fee, commission, percentage, brokerage fee, gift or other consideration contingent upon or resulting from the award or making of this Agreement. For breach or violation of this warranty, City shall have the right to rescind this Agreement without liability. For the term of this Agreement, no director, official, officer or employee of City, during the term of his or her service with City, shall have any direct interest in this Agreement, or obtain any present or anticipated material benefit arising therefrom.

30. Wage Theft Prevention

a. Consultant, and any subconsultant it employs to complete work under this Agreement, shall comply with all applicable federal, state and local wage and hour laws. Applicable laws may include, but are not limited to, the Federal Fair Labor Standards Act, the California Labor Code and the Milpitas Minimum Wage Ordinance.

b. BY SIGNING THIS AGREEMENT, CONSULTANT AFFIRMS THAT IT HAS DISCLOSED ANY FINAL JUDGMENTS, DECISIONS OR ORDERS FROM A COURT OR INVESTIGATORY GOVERNMENT AGENCY, FINDING IN THE FIVE (5) YEARS PRIOR TO EXECUTING THIS AGREEMENT THAT CONSULTANT OR ITS SUBCONSULTANTS HAS VIOLATED ANY APPLICABLE WAGE AND HOUR LAWS. CONSULTANT FURTHER AFFIRMS THAT IT OR ITS SUBCONSULTANT(S) HAS EITHER FULLY SATISFIED EACH JUDGMENT, DECISION OR ORDER, OR, IF ANY JUDGMENT, DECISION OR ORDER HAS NOT BEEN FULLY SATISFIED, CONSULTANT AFFIRMS THAT IT OR ITS SUBCONSULTANT(S) IS CURRENTLY SATISFYING SAID JUDGMENT, DECISION OR ORDER THROUGH A PAYMENT OR ALTERNATIVE PLAN APPROVED BY THE APPLICABLE COURT/GOVERNMENT AGENCY AND THAT CONSULTANT OR ITS SUBCONSULTANT(S) ARE IN COMPLIANCE WITH SAID PLAN AS OF THE DATE OF EXECUTING THIS AGREEMENT.

c. If at any time during the term of this Agreement, a court or investigatory government agency issues a final judgment, decision or order finding that Consultant or a subconsultant it employs to perform work under this Agreement has violated any applicable wage and hour law, or Consultant learns of such a judgment, decision, or order that was not previously disclosed in its bid/proposal, Consultant shall inform the City no more than fifteen (15) calendar days after the judgment, decision or order becomes final or from the date of learning of the final judgment, decision or order. Consultant or its subconsultant(s) shall, within thirty (30) calendar days after notifying the City, either (i) fully satisfy any such judgment, decision, or order and provide the City with documentary evidence of satisfying said judgment, decision or order; or (ii) provide the City documentary evidence of a payment or other alternative plan approved by the court/government agency to satisfy the judgment, decision or order. If the Consultant or its subconsultant is subject to a payment or other alternative plan, the Consultant or its subconsultant shall continue to submit documentary evidence every thirty (30) calendar days during the term of the Agreement demonstrating continued compliance with the plan until the judgment, decision or order has been fully satisfied.

d. For purposes of this Section, a "final judgment, decision, or order" refers to one for which all appeals have been exhausted or the time period to appeal has expired. Relevant investigatory government agencies include: The United States Department of Labor, the California Division of Labor Standards Enforcement, the City, or any other governmental entity or division tasked with the investigation and enforcement of wage and hour laws.

e. Failure to comply with any part of this Section constitutes a material breach of this Agreement. Such breach may serve as a basis for immediate termination of this Agreement and/or any other remedies available under this Agreement and/or law.

f. Notice provided to the City shall be addressed to: Attention: Finance Director, 455 E. Calaveras Blvd. Milpitas, CA 95035. The Notice provisions of this Section are separate from any other notice provisions in this Agreement and, accordingly, only notice provided to the above address satisfies the notice requirements in this Section.

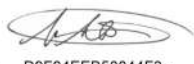
[SIGNATURES ON FOLLOWING PAGE]

**SIGNATURE PAGE FOR PROFESSIONAL SERVICES AGREEMENT
BETWEEN THE CITY OF MILPITAS
AND DAVID J. POWERS & ASSOCIATES, INC.**

IN WITNESS WHEREOF, the Parties have executed this Agreement as of the date first written above.

CITY OF MILPITAS

Approved By:

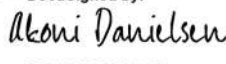
DocuSigned by:

D9F94EEB56844F3...

Steven G. McHarris, City Manager

May-14-2021

Date

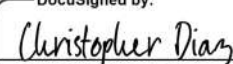
**DAVID J. POWERS & ASSOCIATES,
INC.**

DocuSigned by:

6ED4A3519B9447E...

Signature

Name

Approved As To Form:

DocuSigned by:

328681A93071F44B3...

Christopher J. Diaz, City Attorney

Title

Date

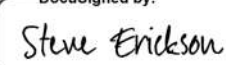
DocuSigned by:
Approved:

8C79D33218B7434...

Lauren Lai, Finance Director /Risk Manager

DIR Registration Number (If Applicable)

Approved As To Content:

DocuSigned by:

2278381D96134D7...

Steven P. Erickson, Engineering Director/City
Engineer

EXHIBIT A
Scope of Services



April 2, 2021

Julie Waldron
City of Milpitas
455 East Calaveras Boulevard
Milpitas, CA 95035

Sent via email to jwaldron@ci.milpitas.ca.gov

**RE: REVISED SCOPE OF WORK FOR ENVIRONMENTAL REVIEW SERVICES FOR MULTIPLE
BRIDGE PROJECTS**

Dear Ms. Waldron:

David J. Powers & Associates (DJP&A) is pleased to provide you with this scope of work to complete environmental review consulting services in compliance with the California Environmental Quality Act (CEQA) for the following two projects: 1) Montague Expressway Pedestrian Overcrossing and 2) the proposed extension of S. Milpitas Boulevard over Penitencia Creek. This scope is based upon a review of the information you have provided, as well as DJP&A's experience in Milpitas and with projects of similar size.

Under this scope, DJP&A will complete separate environmental review for each of the above-described projects. Based on our current understanding of the Montague Expressway Pedestrian Overcrossing project and its potential environmental impacts, DJP&A proposes to prepare a Notice of Exemption (NOE) for the project. The proposed pedestrian bridge project would be eligible for a statutory exemption for pedestrian and bicycle facilities, pursuant to Public Resources Code Section 21080.25. Projects exempt under Section 21080.25 must meet be located on or within an existing public right-of-way. If it cannot be determined that a dedicated easement qualifies as a public right-of-way, DJP&A can prepare a NOE documenting that the project qualifies for an Existing Facilities Categorical Exemption under CEQA Guidelines Section 15301, and none of the exceptions listed in CEQA Guidelines Section 15300.2 disqualifying the use of the Categorical Exemption are applicable to the project.

DJP&A proposes to prepare an Initial Study for the proposed extension of S. Milpitas Boulevard over Penitencia Creek project. DJP&A anticipates that the Initial Study would support adoption of a Mitigated Negative Declaration (MND). This scope assumes that all potentially significant impacts could be mitigated to a less than significant level. If a significant unavoidable impact is identified for the project, an Environmental Impact Report could be prepared under an amended scope.

Milpitas Boulevard Extension
April 2, 2021

Please do not hesitate to contact me or Natalie Noyes, Senior Project Manager, if you have any questions regarding this proposed Scope of Work or if there is any additional information you may need. We look forward to working with you on this project.

Best Regards,

A handwritten signature in black ink that reads "Demetri S. Loukas". The signature is fluid and cursive, with the first name "Demetri" and last name "Loukas" clearly legible.

Demetri Loukas, Principal Project Manager

Attachment: Scope of Work



Multiple Bridge Projects Environmental Review Services

April 2, 2021

Primary Contact

The primary David J. Powers & Associates, Inc. (DJP&A) contact information is provided below.

Name: Natalie Noyes, Senior Project Manager

Direct: (510) 902-5852

Email: nnoyes@davidjpowers.com

Project Understanding

The City of Milpitas seeks to obtain environmental clearances for two bridge projects identified in the Transit Area Specific Plan (TASP).

Montague Expressway Pedestrian Overcrossing

This project provides for design and construction of a pedestrian overcrossing (POC) over Montague Expressway at the east levee of Penitencia Creek. The pedestrian overcrossing is part of the Transit Area Specific Plan (TASP) circulation infrastructure improvement to provide safe and convenient pedestrian connectivity between TASP residential developments, schools, parks, Great Mall, and the BART Station.

Milpitas Boulevard Extension

The proposed project is part of the TASP to provide vehicular, bicycle, and pedestrian connectivity between metro developments, the Milpitas BART Station, Great Mall, and surrounding residential developments. The project will construct a bridge over Penitencia Creek and roadways connecting the proposed extension to Tarob Court and Sango Court.

Scope of Services

Montague Expressway Pedestrian Overcrossing Project

David J. Powers & Associates, Inc. (DJP&A) will prepare a Notice of Exemption (NOE) for the Montague Expressway Pedestrian Overcrossing project. Based on review of the site plans provided

to us, we believe the project is eligible for a Statutory Exemption for pedestrian and bicycle facilities, pursuant to Public Resources Code Section 21080.25. Projects exempt under Section 21080.25 must meet the following criteria:

- A public agency is carrying out the project and is the lead agency for the project.
- The project is located in an urbanized area.
- The project is located on or within an existing public right-of-way.

If it cannot be determined that a dedicated easement qualifies as a public right-of-way, DJP&A can prepare a NOE documenting that the project qualifies for an Existing Facilities Categorical Exemption under CEQA Guidelines Section 15301, and none of the exceptions listed in CEQA Guidelines Section 15300.2 disqualifying the use of the Categorical Exemption are applicable to the project.

Our scope would include preparing the NOE and filing it with the Office of Planning and Research and County Clerk and paying the \$50 filing fee on behalf of the City. Please note that projects subject to this exemption must certify that the project will be completed by a skilled and trained workforce.

Milpitas Boulevard Extension Project

DJP&A will prepare an Initial Study for the Milpitas Boulevard Extension project. Our scope includes preparation of the Initial Study, draft Mitigated Negative Declaration (MND), and draft Mitigation Monitoring and Reporting Program (MMRP), attendance of meetings and hearings, and project management and contract administration. These tasks are described below.

Initial Study

DJP&A will prepare an Initial Study consistent with the requirements of the California Environmental Quality Act (CEQA) and the City of Milpitas. This scope is based on the understanding the project would be eligible for a MND, assuming there are no significant impacts, or mitigation measures are included in the project to reduce any impacts to a less than significant level.

The Initial Study will include a project description, discussion of consistency with applicable plans and policies, and a section that includes a description of existing conditions on the site, the CEQA environmental checklist, and an explanation of project effects and mitigations, as described below.

Project Description

The Initial Study will provide a detailed description of the proposed project, including the physical characteristics (maximum width and lane configuration) of the roadway extension. Maps and graphics will be provided to illustrate the text.

Consistency with Plans and Policies

A discussion of the proposed project's consistency with the City's General Plan, Transit Area Specific Plan, Milpitas Metro Specific Plan, Municipal Code, and other applicable plans and policies will be included. As required by CEQA and CEQA Guidelines, particular attention will be given to inconsistencies, if any are identified.

Environmental Setting, CEQA Checklist, and Mitigations

The Initial Study will be divided into subsections for each environmental resource. The subsections will be formatted to include a description of the existing environmental setting followed by the relevant CEQA checklist section. The sources of information for determining impacts will be identified. Mitigation measures will be identified to reduce significant impacts as appropriate.

The Initial Study will include a discussion of the project's potential aesthetics impacts consistent with the CEQA checklist. For projects located in urbanized areas, CEQA requires consideration of a project's potential conflicts with applicable zoning and other regulations governing scenic quality. Since the project is located in an urbanized area, there is no CEQA requirement to analyze whether the project would substantially degrade the existing visual character or quality of public views of the site and its surroundings.

Based upon our current understanding of the project, we anticipate the key environmental issues for the project will include the following resources:

- Air Quality
- Biological Resources
- Cultural Resources
- Greenhouse Gas Emissions
- Transportation and Traffic

The technical work to be completed for the proposed project is outlined below.

Air Quality

Community Risk Assessment

The primary air quality issues associated with the project would be community risk impacts associated with project construction and operation on existing nearby sensitive receptors. Project construction activities would emit toxic air contaminants (TACs) and has the potential to cause elevated health risks for nearby sensitive receptors, including nearby residents. *Illingworth & Rodkin*, under contract to DJP&A, would evaluate potential air quality impacts following Bay Area Air Quality Management District (BAAQMD) published methodology. *Illingworth & Rodkin* will model health risks and identify mitigation measures, as needed. The community risks associated with modeled construction-period diesel particulate matter concentrations would be computed

following the BAAQMD risk management policy guidance. The risks would be compared against BAAQMD CEQA thresholds (i.e., cancer risk, non-cancer hazards, and PM_{2.5} concentration).

The project would change the distribution of traffic in the area. Therefore, a community risk assessment is proposed to assess the risk and hazards from the redistributed traffic. Roadway community risks would be computed and compared against BAAQMD CEQA thresholds. Cumulative health risks will also be evaluated.

Operational Criteria Pollutants (Optional Task)

It is possible that the operational component of the project was covered under the TASP DEIR and would, therefore, not require additional analysis. As part of this scope, *Illingworth & Rodkin* will evaluate what was analyzed under the TASP Environmental Impact Report (EIR) and determine whether the project was adequately covered under the TASP EIR. If the proposed project is found to be not adequately covered under the TASP EIR, *Illingworth & Rodkin* will model operational period emissions (ROG, NO_x, and PM) for the project.

Biological Resources

Biological Resources Technical Report

H.T. Harvey & Associates, as a subconsultant to DJP&A, will assess the project area for biological resources and prepare a Biological Resources Report describing the existing biological conditions, the regulatory setting potential impacts, and any mitigation measures that would be necessary to reduce impacts to less-than-significant levels. This report will also include a brief summary of potential regulatory permitting issues associated with the project.

USACE Section 404 Nationwide Permit Application Package

If the project requires that fill be placed below the ordinary high-water mark (OHWM) or other impacts to U.S. Army Corps of Engineers (USACE) jurisdiction, a USACE Nationwide Permit would be required. It is assumed the project would qualify for a USACE Nationwide Permit Number 14 for Linear Transportation Projects. In the event that the project would place fill below the OHWM, *H.T. Harvey* will assemble a Nationwide Permit application package that includes Eng. Form 4345, a project description, summary of previous environmental studies, and an assessment of impacts and discussion of suitable mitigation measures.

H.T. Harvey & Associates will submit a first-review administrative draft USACE permit package to the City for review and comment. After incorporation of any changes, the package will be submitted to the USACE. *H.T. Harvey* will maintain regular contact with the USACE to monitor processing of the permit application. This task includes time for one site visit with a USACE representative, if necessary. Time has been included to respond to comments received on the draft application and to generate a final report and process this permit application. If the USACE determines that project

improvements cannot be permitted under a Nationwide Permit and an Individual Permit is needed, then a budget amendment will be necessary.

RWQCB 401 Certification/Waste Discharge Requirement Application Package

H. T. Harvey & Associates will prepare a water quality certification/waste discharge requirement application to submit to the Regional Water Quality Control Board (RWQCB). The complete permit package includes much of the same information that is submitted to the USACE as described above and will also include Form R2C502-E and several additional materials. The submittal will include all copies of the CEQA documents, all correspondence with USACE and RWQCB staff, impact assessment, and project drawings. This scope assumes the City will pay the required RWQCB permit application processing fee.

H. T. Harvey & Associates will submit a first-review administrative draft RWQCB permit package to the project team for review and comment. After incorporation of any changes, the package will be submitted to the RWQCB. *H. T. Harvey & Associates* will maintain regular contact with the RWQCB to monitor processing of the permit application. This task includes time for one site visit with a RWQCB representative, if necessary. Time has been included to respond to comments received on the draft application and to generate a final report and process the permit application.

CDFW 1600 Notification Application Package

H. T. Harvey & Associates will prepare permit materials in support of a 1600 Streambed Alteration Agreement for submittal to the California Department of Fish and Wildlife (CDFW). This includes completion of Form FG 2023, Lake and Streambed Alteration Program Project Questionnaire, all copies of environmental documentation, all correspondence with USACE, RWQCB, and USFWS staff (as applicable), impact assessment, and project drawings. This task includes time for a vegetation survey required by CDFW to assess impacts to riparian vegetation. This scope assumes the City will pay the CDFW permit application processing fee.

H. T. Harvey & Associates will submit a first-review administrative draft CDFW permit package to the project team for review and comment. After incorporation of any changes, the packages will be submitted to the CDFW. *H. T. Harvey & Associates* will maintain regular contact with the CDFW to monitor processing of the permit application. This task includes time for one site visit with a CDFW representative, if necessary. Time has been included to respond to comments received on the draft application and to generate a final report.

Cultural Resources

Subsurface Resources

An archaeological literature review will be completed by *PaleoWest* under contract to DJP&A to address potential subsurface archaeological resources within the project alignment. Mitigation measures will be identified to lessen or avoid the impacts, as necessary. This scope of work assumes

the City will handle all AB 52 consultation. If AB 52 assistance is requested, it could be completed under an amended scope.

Historic Resources

The project would demolish the existing building at 1831 Tarob Court. Based on a review of availability information on the City's website, it appears the structure was constructed in 1980 and, therefore, does need to be evaluated as a historic resource under CEQA.

Greenhouse Gas Emissions

Optional Task

It is possible that the greenhouse gas (GHG) emissions associated with the project were covered under the TASP DEIR and, therefore, would not require additional analysis. As part of this scope, *Illingworth & Rodkin* will evaluate what was analyzed under the TASP EIR and determine whether the project was adequately covered. If the proposed project is found to be not adequately covered under the TASP EIR, *Illingworth & Rodkin* will evaluate the project's GHG emissions in accordance with the BAAQMD thresholds and guidelines. GHG emissions would be computed for the proposed project (assuming full build-out) using available traffic data.

Hazardous Materials

Based on information provided by City staff, the project site is located in an area where cleanup activities have occurred, and monitoring is on-going. Impacted soil and/or groundwater in the subsurface could pose an unacceptable risk under certain site development activities, including excavation. The Initial Study will evaluate potential impacts to project construction workers, nearby sensitive receptors, and the environment based on studies (i.e., Phase I/II Environmental Site Assessment) to be provided to DJP&A by the City.

Noise

The Initial Study will assess potential noise impacts based on a report prepared by *Illingworth & Rodkin, Inc.*, under contract to DJP&A. *Illingworth & Rodkin* will visit the site and quantify existing ambient noise levels. The focus of the noise monitoring survey will be to quantify ambient noise levels at areas that may be developed with noise-sensitive uses as well as at existing sensitive land uses in the project vicinity. *Illingworth & Rodkin* anticipates conducting one to two long-term noise measurements at representative sites to establish the baseline noise environment. Short-term noise measurements will be made as necessary over periods of 10 to 15-minutes. If shelter-in-place restrictions persist, available General Plan noise data or other data supplied by the City will be reviewed in combination with I&R file data to establish ambient noise levels in the project vicinity. Noise generated by the construction of the project will be calculated at nearby uses based on data contained in *Illingworth & Rodkin's* files. Vibration levels expected from demolition and construction activities will be based on published data. Traffic noise will be calculated based on data contained in the project's traffic study. Noise levels will be compared to applicable local noise

thresholds to identify any potential noise impacts at sensitive receptors in the area resulting from the proposed project. Vibration impacts will be assessed with respect damage criteria established by Caltrans. Mitigation measures will be identified for significant noise and vibration impacts, as appropriate.

Transportation and Traffic

It is possible that, by increasing the connectivity of local roadways, the proposed project could decrease overall vehicle miles traveled (VMT) in the project vicinity. The potential for the project to result in a VMT impact will be based on a VMT analysis to be completed by Hexagon Transportation Consultants, under contract to DJP&A. The City has yet to adopt a formal VMT policy. In the absence of an adopted VMT policy, Hexagon will rely on Office of Planning and Research suggested guidance. Hexagon will employ the Valley Transportation Authority (VTA) Travel Demand Forecast (TDF) model to estimate VMT. The TDF model is the most accurate tool available for estimating VMT and is particularly useful at estimating area-wide changes in VMT as a result of roadway improvements. This model has recently been updated using current land use data as part of the City's General Plan update. Hexagon will utilize the model to quantify the VMT change and compare it applicable thresholds. Mitigation measures for significant VMT impacts will be identified, if applicable, to reduce the impacts to less than significant levels.

Optional Task – LOS Analysis

If requested, *Hexagon* will conduct an AM and PM peak hour level of service analysis to demonstrate the reductions in vehicular delays achieved by the proposed project. This task will analyze up to 5 intersections in the project vicinity, with and without the proposed project, under baseline (2021) and far term (2040) conditions. The analysis will utilize pre-Covid traffic counts for baseline conditions, where available, and includes budget to conduct AM and PM peak hour counts at up to three intersections. Traffic volumes for future conditions will be estimated from the VTA TDF model. The study intersections will be selected in consultation with City staff.

Revisions and Copies

Once the project description is finalized, the technical studies described above will be completed and DJP&A will prepare the Administrative Draft Initial Study (ADIS). Upon completion of the ADIS, DJP&A will submit up to 5 hard copies of the document to the City for review and comment. DJP&A will then revise the ADIS based on comments received from the City and submit an electronic copy of the Screencheck version to the City for final review and comment. DJP&A will make any final revisions to the Screencheck Initial Study and prepare the Initial Study for public circulation. DJP&A will provide the City with up to 20 hard copies of the Initial Study for public distribution and a PDF of the document for posting on the City's website.

Draft Mitigated Negative Declaration

DJP&A will prepare a draft MND in conformance with the CEQA Guidelines and City of Milpitas requirements. The draft MND will describe the proposed project, present findings related to the

environmental conditions, and include a copy of the Initial Study and mitigation measures to support the findings.

Preparation of Mitigation Monitoring and Reporting Program

In accordance with state law and CEQA Guidelines, DJP&A will draft a Mitigation Monitoring and Reporting Program (MMRP) identifying when mitigation measures will be implemented, who will be responsible for implementing them, and who will provide oversight. The draft MMRP will be submitted to the City prior to the hearing on the project.

Meetings and Hearings

This scope of work includes DJP&A attendance at one project/community meeting and two public hearings (e.g., one Planning Commission hearing and one City Council hearing) for the Milpitas Boulevard Extension project. DJP&A can attend additional public hearings or meetings requested on a time and materials basis.

This scope does not include attendance by DJP&A staff at internal meetings, community meetings, and/or Planning Commission or City Council hearings for the Montague Expressway Pedestrian Overcrossing project.

Project Management and Contract Administration

DJP&A will provide general Initial Study project management, contract administration, and coordination with the City and project team throughout the Initial Study process. The DJP&A Project Manager will coordinate with the City on a regular basis using email and telephone communications.

Estimated Schedule

Montague Expressway Pedestrian Overcrossing Project

DJP&A proposes the following optimum schedule for preparation of the Notice of Exemption. DJP&A can commit to maintain the schedule in the areas that are within our control. Completion of the Notice of Exemption, as outlined in the schedule below, is based upon receipt of project information listed on the following page in accordance with the schedule. Delays in receiving requested information or responses by others will result in at least day-for-day delays in the overall schedule.

Project Information Required

The project scopes and schedules are based on the assumption that we will receive the below project information concurrent with the authorization to proceed for each project.

Montague Expressway Pedestrian Overcrossing Project

Plans (in PDF)

- ☐ Project plans and cross-sections

Project Details

- ☐ Written description of the project

Milpitas Boulevard Extension Project

Plans (in PDF)

- ☐ Project plans and cross-sections, including stormwater control, utility, and grading plans

Project Details

- ☐ Written description of the project
- ☐ Construction details, including duration, maximum depth of excavation, and total amount of cut/fill
- ☐ Utility improvements (if any)
- ☐ Right of way improvements (if any)
- ☐ List of Best Management Practices to conform to Provisions C.3 of the NPDES permit

Technical Reports

- ☐ Phase I/II Environmental Site Assessment Reports

EXHIBIT B

Schedule of Charges/Payments

Consultant will invoice City on a monthly cycle. Consultant will include with each invoice a detailed progress report that indicates the amount of budget spent on each task. Consultant will inform City regarding any out-of-scope work being performed by Consultant. This is a time-and-materials Agreement.

Cost Estimate

Montague Expressway Pedestrian Overcrossing Project

The cost to complete the Notice of Exemption will be \$5,000 Lump Sum.

A. David J. Powers & Associates, Inc.

- | | |
|--|---------|
| • Preparation of the Notice of Exemption | \$5,000 |
|--|---------|

Milpitas Boulevard Extension Project

Based on our understanding of the project and technical reports required, the cost for preparation of the Initial Study and Permitting Support is estimated not to exceed \$144,110 or \$165,385 with the optional tasks. In addition, this contract includes a 10 percent contingency of \$14,400, which brings the total to \$158,510 or \$179,785. The intent of the contingency is to cover unanticipated tasks that may arise during the environmental review process and avoid potential delays related to contract amendments. The contingency will not be used unless authorized by (enter client name) in writing. A breakdown of the cost estimate is provided below. Costs will be charged on a time and materials basis, commensurate with work completed, in accordance with the attached charge rate schedule.

A. David J. Powers & Associates, Inc.

- | | |
|--|----------|
| • Preparation of the Initial Study, project management, attendance at meetings | \$40,485 |
| • Reimbursables (travel, printing, etc.)* | \$1,400 |

B. Subconsultants*

- | | |
|--|----------|
| • H.T. Harvey & Associates (Biological Resources Report) | \$15,140 |
| • H.T. Harvey & Associates (Permitting) | \$35,730 |
| • Hexagon Transportation Consultants (VMT Analysis) | \$29,900 |
| • Illingworth & Rodkin (Community Risk Assessment) | \$8,970 |
| • Illingworth & Rodkin (Noise) | \$9,430 |
| • PaleoWest (Cultural) | \$3,055 |

Subtotal	\$144,110
-----------------	------------------

Optional Task(s)	
• Illingworth & Rodkin (Operational Criteria Pollutants/GHG Analysis)	\$2,875
• Hexagon Transportation Consultants (LOS Analysis)	\$18,400
Total with Optional Tasks:	\$165,385
C. 10 Percent Contingency	\$14,400
Total w/out Optional Tasks	\$158,510
Total with Optional Tasks	\$179,785
Total for Both Projects	\$184,785

The total contract amount (including the 10 percent contingency) for both projects is estimated not to exceed \$184,785, including the optional tasks.

Please note that the cost estimate shown is a not-to-exceed total amount for all tasks combined. DJP&A will complete the IS and Permitting Support for the not-to-exceed total. Within this not-to-exceed total, actual amounts spent on individual tasks/items may be more or less than the estimates. If DJP&A does not need all the time that has been budgeted, we will only bill for the time actually spent completing the work. Our invoices will be submitted on a monthly basis and are payable upon receipt.

DJP&A provides regular, clear and accurate invoices as the work on this project proceeds, in accordance with normal company billing procedures. The cost estimate prepared for this project does not include special accounting or bookkeeping procedures, nor does it include preparation of extraordinary or unique statements or invoices. If a special invoice or accounting process is requested, the service can be provided on a time and materials basis. Any fees charged to DJP&A for Client's third-party services related to invoicing, insurance certificate maintenance, or other administrative functions will be billed as a reimbursable expense.

This scope is valid for 90 days and assumes that no issues arise that would require any additional technical analysis or documentation. In the event additional technical analysis is required, we can complete that work on a time and materials basis, upon your authorization. Project description changes after our notice to proceed is received may have schedule and budget implications.

Charge Rate Schedule¹

Title	Hourly Rate
Senior Principal	\$300
Principal Project Manager	\$275
Senior Environmental Specialist	\$240
Senior Project Manager	\$215
Environmental Specialist	\$200
Biologist	\$190
Project Manager	\$190
Associate Project Manager	\$160
Assistant Project Manager	\$130
Researcher	\$115
Draftsperson/Graphic Artist	\$120
Document Processor/Quality Control	\$110
Administrative Manager	\$110
Office Support	\$95

Notes: Materials, outside services, and subconsultants include a 15 percent administration fee. Mileage will be charged per the current IRS standard mileage rate at the time costs occur. Subject to revision June 1, 2021.

¹ David J. Powers & Associates, Inc. provides regular, clear and accurate invoices as the work on this project proceeds, in accordance with normal company billing procedures. The cost estimate prepared for this project does not include special accounting or bookkeeping procedures, nor does it include preparation of extraordinary or unique statements or invoices. If a special invoice or accounting process is requested, the service can be provided on a time and materials basis. Any fees charged to DJP&A for Client's third-party services related to invoicing, insurance certificate maintenance, or other administrative functions will be billed as a reimbursable expense.

EXHIBIT C
Activity Schedule

Task	Duration of Task	Time Elapsed
1. DJP&A receives authorization to proceed and requested project information	---	1 day
2. DJP&A completes Administrative Draft NOE and submits to the City for review	2 weeks	2 weeks
3. City completes review of NOE and provides DJP&A with questions/comments/revisions	1 week	3 weeks
4. DJP&A finalizes, prints, and submits the NOE for posting to the City's website and files the NOE at the State Clearinghouse and County Clerk	0.5 week	3.5 weeks
Total		+/- 3.5 weeks

Milpitas Boulevard Extension Project

DJP&A proposes the following optimum schedule for preparation of the Initial Study. DJP&A can commit to maintain the schedule in the areas that are within our control. Completion of the Initial Study, as outlined in the schedule below, is based upon receipt of project information listed on the following page in accordance with the schedule. Delays in receiving requested information or responses by others will result in at least day-for-day delays in the overall schedule.

Task	Duration of Task	Time Elapsed
1. DJP&A receives authorization to proceed and requested project information	---	1 day
2. Project kickoff meeting with City of Milpitas, DJP&A, and subconsultants	---	1 day
3. DJP&A works with City to prepare project description	---	1 week
4. DJP&A receives technical studies (Air Quality/Biological Resources/Cultural Resources/GHG/Noise & Vibration/Transportation)	8 weeks	9 weeks
5. DJP&A completes Administrative Draft Initial Study (ADIS) and submits to the City for review	3 weeks	12 weeks
6. City completes review of ADIS and provides DJP&A with questions/comments/revisions	3 weeks	15 weeks

7. DJP&A revises ADIS, and prepares and submits the "Screencheck" Initial Study, draft MMRP and the MND to the City for review	2 weeks	17 weeks
8. City completes review of the Screencheck Initial Study and MND and provides DJP&A with final round of questions/comments/revisions	2 weeks	19 weeks
9. DJP&A finalizes, prints, and submits the Initial Study/MND to the City for public circulation	1 week	20 weeks
10. Circulation of the Initial Study/MND	4 weeks	24 weeks
11. Public Hearing	TBD	TBD
Total		+/- 24 weeks

EXHIBIT “D”

INSURANCE REQUIREMENTS

Please refer to the insurance requirements listed below. **Those that have an “X” indicated in the space before the requirement apply to Contractor’s or Consultant’s Agreement.**

Contractor or Consultant shall procure and maintain for the duration of the Agreement insurance against claims for injuries to persons or damages to property which may arise from or in connection with the performance of the work hereunder and the results of that work by the Contractor or Consultant, its agents, representatives, employees or subcontractors.

Contractor or Consultant shall provide its insurance broker(s)/agent(s) with a copy of these requirements and request that they provide Certificates of Insurance complete with copies of all required endorsements.

Contractor or Consultant shall furnish City with copies of original endorsements affecting coverage required by this Exhibit D. The endorsements are to be signed by a person authorized by that insurer to bind coverage on its behalf. All endorsements and certificates are to be received and approved by City before work commences. City has the right to require Contractor’s or Consultant’s insurer to provide complete, certified copies of all required insurance policies, including endorsements affecting the coverage required by these specifications.

Commercial General Liability (CGL):

 Coverage at least as broad as Insurance Services Office (“ISO”) Form CG 00 01 covering CGL on an “occurrence” basis, including products and completed operations, property damage, bodily injury and personal and advertising injury with limits no less than \$2,000,000.00 per occurrence. If a general aggregate limit applies, either the general aggregate limit shall apply separately to this project/location or the general aggregate limit shall be twice the required occurrence limit.

X Coverage at least as broad as ISO Form CG 00 01 covering CGL on an “occurrence” basis, including products and completed operations, property damage, bodily injury and personal and advertising injury with limits no less than \$1,000,000.00 per occurrence. If a general aggregate limit applies, either the general aggregate limit shall apply separately to this project/location or the general aggregate limit shall be twice the required occurrence limit.

 Coverage at least as broad as ISO Form CG 00 01 covering CGL on an “occurrence” basis, including products and completed operations, property damage, bodily injury and personal and advertising injury with limits no less than \$5,000,000.00 per occurrence. If a general aggregate limit applies, either the general aggregate limit shall apply separately to this project/location or the general aggregate limit shall be twice the required occurrence limit.

Automobile Liability:

X Coverage at least as broad as ISO Form Number CA 0001 covering, Code 1 (any auto), of if Contractor or Consultant has no owned autos, Code 8 (hired) and 9 (non-owned), with limits no less than \$1,000,000.00 combined single limit for bodily injury and property damage.

___ Coverage at least as broad as ISO Form Number CA 0001 covering, Code 1 (any auto), with limits no less than \$5,000,000.00 combined single limit for bodily injury and property damage.

___ Garage keepers' extra liability endorsement to extend coverage to all vehicles in the care, custody and control of the Contractor or Consultant, regardless of where the vehicles are kept or driven.

Professional Liability (Errors and Omissions):

X Insurance appropriate to the Contractor or Consultant's profession, with limit no less than \$1,000,000.00 per occurrence or claim, \$2,000,000.00 aggregate.

___ (If Design/Build), with limits no less than \$1,000,000.00 per occurrence or claim, and \$2,000,000.00 policy aggregate.

___ Insurance appropriate to the Contractor or Consultant's profession, with limit no less than _____ per occurrence or claim, _____ aggregate

Workers' Compensation Insurance:

X Insurance as required by the State of California, with Statutory Limits, and Employer's Liability Insurance with limit of no less than \$1,000,000.00 per accident for bodily injury or disease. *(Not required if Contractor or Consultant provides written verification it has no employees)*

The Employer's Liability policy shall be endorsed to waive any right of subrogation as respects the City, its elected and appointed officials, officers, attorneys, agents, and employees.

Builder's Risk (Course of Construction):

___ Insurance utilizing an "All Risk" (Special Perils) coverage form, with limits equal to the completed value of the project and no coinsurance penalty provisions. If the project does not involve new or major reconstruction, at the option of the City, an Installation Floater may be acceptable. For such projects, a Property Installation Floater shall be obtained that provides for the improvement, remodel, modification, alteration, conversion or adjustment to existing buildings, structures, processes, machinery and equipment. The Property Installation Floater shall provide property damage coverage for any building, structure, machinery or equipment damaged, impaired, broken, or destroyed during the performance of the Work, including during transit, installation, and testing at the City's site.

Contractor's or Consultant's Pollution Legal Liability:

____ Contractor's or Consultant's pollution legal liability and/or Asbestos Legal Liability and/or Errors and Omissions (if project involves environmental hazards) with limits no less than \$1,000,000.00 per occurrence or claim and \$2,000,000.00 policy aggregate.

If the Contractor or Consultant maintains higher limits than the minimums shown above, the City requires and shall be entitled to coverage for the higher limits maintained by the Contractor or Consultant. Any available insurance proceeds in excess of the specified minimum limits of insurance and coverage shall be available to City.

Cyber Liability Insurance

____ Cyber Liability Insurance with limits not less than \$1,000,000 per claim.

Coverage shall be sufficiently broad to respond to the duties and obligations as is undertaken by Contractor or Consultant in this Agreement and shall include, but not be limited to, claims involving infringement of intellectual property, including but not limited to infringement of copyright, trademark, trade dress, invasion of privacy violations, information theft, damage to or destruction of electronic information, release of private information, alteration of electronic information, extortion, and network security.

The policy shall provide coverage for breach response costs as well as regulatory fines and penalties, and credit monitoring expenses with limits sufficient to respond to these obligations.

Surety Bonds:

Contractor shall provide the following Surety Bonds:

____ Bid Bond
 ____ Performance Bond
 ____ Payment Bond

The Payment Bond and Performance Bond shall be in a sum equal to the contract price. Bonds shall be duly executed by a responsible corporate surety, authorized to issue such bonds in the State of California and secured through an authorized agent with an office in California.

Other Insurance Provisions:

The insurance policies are to contain, or be endorsed to contain the following provisions:

X Additional Insured Status and Primary/Non-Contributory Language:

Contractor's general liability and automobile liability policies shall be primary and shall not seek contribution from the City's coverage and be endorsed to add the City and its officers, officials, employees, and agents as additional insureds under such policies using Insurance Services Office form CG 20 10 (or equivalent) on the general liability policy. For construction projects, an

endorsement providing completed operations coverage for the additional insured on the general liability policy, ISO form CG 20 37 (or equivalent), is also required.

The limits of insurance required in this Agreement may be satisfied by a combination of primary and umbrella or excess insurance. Any umbrella or excess insurance shall contain or be endorsed to contain a provision that such coverage shall also apply on a primary and non-contributory basis for the benefit of City (if agreed to in a written contract or agreement) before the City's own insurance or self-insurance shall be called upon to protect it as a named insured.

____ **Loss Payee Status – Builder's Risk/Course of Construction Insurance (applicable to Construction Contracts only)**

Contractor or Consultant may submit evidence of Builder's Risk insurance in the form of Course of Construction coverage. Such coverage shall name the City as a loss payee as their interest may appear.

X Notice of Cancellation, Suspension or Otherwise Voiding Policies:

Each insurance policy required above shall contain or be endorsed to contain that coverage shall not be suspended, voided, canceled or reduced in coverage or in limits except with thirty (30) days' prior written notice by certified mail, return receipt requested to the City.

X Waiver of Subrogation:

Contractor or Consultant hereby grants to City a waiver of any right to subrogation which any insurer of said Contractor or Consultant may acquire against the City by virtue of the payment of any loss under such insurance. Contractor or Consultant agrees to obtain any endorsement that may be necessary to affect this waiver of subrogation, but this provision applies regardless of whether or not the City has received a waiver of subrogation endorsement from the insurer. The Workers' Compensation Policy shall be endorsed with a waiver of subrogation in favor of the City for all work performed by Contractor or Consultant, its employees, agents and subcontractors.

____ **Completed Operations**

For Construction Agreements, Contractor shall maintain insurance as required by this Agreement to the fullest amount allowed by law and shall maintain insurance for a minimum of five (5) years following the completion of this project. In the event Contractor fails to obtain or maintain completed operations coverage as required by this Agreement, the City at its sole discretion may purchase the coverage required and the cost will be paid by Contractor.

THE FOLLOWING PROVISIONS APPLY TO ALL AGREEMENTS

Deductibles and Self-Insured Retentions ("SIR"):

Any deductibles or self-insured retentions must be declared to and approved by City. The City may require the Contractor or Consultant to purchase coverage with a lower deductible or retention

or provide proof of ability to pay losses and related investigations, claim administration, and defense expenses within the retention. At the option of the City, either (1) the insurer shall reduce or eliminate such deductibles or self-insured retentions as respects the City, its elected and appointed officials, officers, attorneys, agents, and employees; or (2) the Contractor or Consultant shall procure a bond guaranteeing payment of losses and related investigations, claim administration and defense expenses.

All SIRs must be disclosed to Risk Management for approval and shall not reduce the limits of liability.

Policies containing any SIR provision shall provide or be endorsed to provide that the SIR may be satisfied by either the named insured or the City.

City reserves the right to obtain a full-certified copy of any insurance policy and endorsements. Failure to exercise this right shall not constitute a waiver of right to exercise later.

Acceptability of Insurers:

Insurance is to be placed with insurers with a current A.M. Best's rating of no less than A-:VII, unless otherwise acceptable to City.

Claims Made Policies: (note - should be applicable only to professional liability, see below)

1. The Retroactive Date must be shown and must be before the date of the contract or the beginning of contract work.
2. Insurance must be maintained, and evidence of insurance must be provided for at least five (5) years after completion of contract of work.
3. If coverage is canceled or non-renewed, and not replaced with another claims-made policy form with a Retroactive Date prior to the contract effective date, the Contractor or Consultant must purchase "extended reporting" coverage for a minimum of five (5) years after completion of work.
4. A copy of the claims reporting requirements must be submitted to the City for review.
5. If the services involve lead-based paint or asbestos identification/remediation, the Contractor's Pollution Liability Policy shall not contain lead-based paint or asbestos exclusions. If the services involve mold identification/remediation, the Contractors Pollution Liability Policy shall not contain a mold exclusion, and the definition of Pollution shall include microbial matter, including mold.

Subcontractors:

Contractor or Consultant shall require and verify that all subcontractors maintain insurance meeting all the requirements stated herein, and Contractor shall ensure that City is an additional insured on insurance required from subcontractors.

Subcontractor agrees to be bound to Contractor and City in the same manner and to the same extent as Contractor is bound to City under this Agreement and any other contract documents. Subcontractor further agrees to include the same requirements and provisions of this Agreement, including the indemnity and insurance requirements, with any sub-subcontractor to the extent they apply to the scope of the sub-subcontractor's work. A copy of the City indemnity and insurance provisions will be furnished to the subcontractor upon request.

Verification of Coverage:

Contractor or Consultant shall furnish the City with original certificates and amendatory endorsements or copies of the applicable policy language effecting coverage required by this clause. All certificates and endorsements are to be received and approved by the City before work commences. However, failure to obtain the required documents prior to the work beginning shall not waive the Contractor or Consultant's obligation to provide them. The City reserves the right to require complete, certified copies of all required insurance policies, including endorsements required by these specifications, at any time.

Special Risks or Circumstances

City reserves the right to modify these requirements, including limits, based on the nature of the risk, prior experience, insurer, coverage or other special circumstances.

Failure to Comply:

Each insurance policy required above shall contain or be endorsed to contain that any failure to comply with reporting provisions of the policies shall not affect coverage provided to the City, its elected and appointed officials, officers, attorneys, agents, and employees.

Applicability of Coverage:

Each insurance policy required above shall contain or be endorsed to contain that the Contractor's or Consultant's insurance shall apply separately to each insured against whom claim is made or suit is brought, except with respect to the limits of the insurer's liability.



California Secretary of State Electronic Filing

FILED
Secretary of State
State of California

Corporation - Statement of Information

Entity Name: DAVID J. POWERS & ASSOCIATES, INC.

Entity (File) Number: C1638288

File Date: 04/03/2020

Entity Type: Corporation

Jurisdiction: CALIFORNIA

Document ID: GE62493

Detailed Filing Information

1. Entity Name: DAVID J. POWERS & ASSOCIATES, INC.
2. Business Addresses:
 - a. Street Address of Principal Office in California: 1871 The Alameda #200
San Jose, California 95126
United States of America
 - b. Mailing Address: 1871 The Alameda #200
San Jose, California 95126
United States of America
 - c. Street Address of Principal Executive Office: 1871 The Alameda #200
San Jose, California 95126
United States of America
3. Officers:
 - a. Chief Executive Officer: Uilama Akoni Danielsen
1871 The Alameda #200
San Jose, California 95126
United States of America
 - b. Secretary: Julie Wright
1871 The Alameda #200
San Jose, California 95126
United States of America

Document ID: GE62493



California Secretary of State Electronic Filing

Officers (cont'd):

c. Chief Financial Officer:

Martha Silveira
1871 The Alameda #200
San Jose, California 95126
United States of America

4. Director:

Demetrios Loukas
1871 The Alameda #200
San Jose, California 95126
United States of America

Number of Vacancies on the Board of
Directors:

0

5. Agent for Service of Process:

Uilama Danielsen
1871 The Alameda #200
San Jose, California 95126
United States of America

6. Type of Business:

Environmental consultants and planners

By signing this document, I certify that the information is true and correct and that I am authorized by California law to sign.

Electronic Signature: Uilama Akoni Danielsen

Use bizfile.sos.ca.gov for online filings, searches, business records, and resources.

Document ID: GE62493



California Secretary of State Electronic Filing

Corporation - Attachment to Statement of Information

List of Additional Directors:

1. Michael Lisenbee
1871 The Alameda #200
San Jose, California 95126
United States of America
2. Julie Wright
1871 The Alameda #200
San Jose, California 95126
United States of America
3. Martha Silveira
1871 The Alameda #200
San Jose, California 95126
United States of America
4. Uilama Akoni Danielsen
1871 The Alameda #200
San Jose, California 95126
United States of America
- 5.
- 6.
- 7.

Document ID: GE62493

CITY COUNCIL MEETING**4/20/2021****SUMMARY OF ACTIONS**

<u>Item</u>		<u>Staff</u>
C15.	<u>EXECUTE A PROFESSIONAL SERVICES AGREEMENT WITH DAVID J. POWERS & ASSOCIATES, INC. IN THE AMOUNT OF \$184,785 FOR ENVIRONMENTAL REVIEW AND PERMITTING SERVICES FOR THE S. MILPITAS BOULEVARD BRIDGE, PROJECT NO. 2016 AND THE PEDESTRIAN OVERCROSSING AT MONTAGUE EXPRESSWAY AND PENITENCIA CREEK, PROJECT NO. 2018</u> Approved and authorized the City Manager to Execute a Professional Services Agreement with David J. Powers in the amount of \$184,785 for Environmental Review and Permitting Services for the S. Milpitas Boulevard Bridge and the Pedestrian Overcrossing at Montague Expressway and Penitencia Creek Projects, Project No. 2016 and 2018. Motion: Mayor Tran / Councilmember Dominguez Vote: 5-0	Steve Erickson
C16.	<u>INCREASE THE PURCHASING AMOUNT WITH CRAYON SOFTWARE EXPERTS LLC FOR MICROSOFT OFFICE 365 LICENSES FROM \$277,620 BY \$32,285 FOR A TOTAL CONTRACT AMOUNT OF \$309,905 TO COVER THE COST OF 75 ADDITIONAL LICENSES</u> Increased the purchasing amount for \$277,620.00 with Crayon Software Experts LLC by \$32,285 to cover cost of 75 additional Microsoft Office 365 licenses. Motion: Mayor Tran / Councilmember Dominguez Vote: 5-0	Mike Luu
C17.	<u>AUTHORIZE AUCTION OF ONE SURPLUS FORD 675D TRACTOR/BACKHOE (300U)</u> Authorized the Purchasing Agent to sell a Ford 675D Tractor/Backhoe (300U) at auction as surplus City property. Motion: Mayor Tran / Councilmember Dominguez Vote: 5-0	Tony Ndah
C18.	<u>ACCEPT ROBSON HOMES DONATION OF \$5,000 AND APPROVE APPROPRIATION OF \$5,000 FROM DONATIONS TO COMMUNITY PROMOTIONS FOR FY 2021-22</u> Accepted a \$5,000 donation from Robson Homes to Recreation and Community Services' Social Services Programs for the purpose of providing emergency housing for unhoused persons. Approve appropriation of \$5,000 from donations to community promotions for FY 2021-22. Motion: Mayor Tran / Councilmember Dominguez Vote: 5-0	Renee Lorenzten
C19.	<u>AUTHORIZE THE MAYOR TO SEND A LETTER OPPOSING SENATE BILL 278 - PUBLIC EMPLOYEES' RETIREMENT SYSTEM: DISALLOWED COMPENSATION. BENEFIT ADJUSTMENTS.</u> Authorized the Mayor to send a letter opposing Senate Bill 278 - Public Employees' Retirement System: Disallowed Compensation. Benefit Adjustments. Motion: Mayor Tran / Councilmember Dominguez Vote: 5-0	Jeannine Seher
C20.	<u>AUTHORIZE THE MAYOR TO SEND A LETTER OPPOSING SENATE BILL 210 RELATING TO AUTOMATED LICENSE PLATE RECOGNITION SYSTEMS: USE OF DATA</u> Authorized the Mayor to send a letter opposing Senate Bill 210 relating to Automated License Plate Recognition Systems: Use of Data Motion: Mayor Tran / Councilmember Dominguez Vote: 5-0	Jared Hernandez and John Torrez

City of Milpitas
Insurance Requirement Checklist

Vendor: David J Powers

All of the standard insurance requirements for the City of Milpitas are contained in the BBK contract documents. Those items that are required are marked with an "X" but vary per contract. All items so marked must be met unless specifically exempted in writing by the Risk Manager. Insurance coverage required by the City varies depending on the contract; carefully read the contract to be sure all the necessary endorsements are included below.

X if required Check Mark if supplied

Proof of Liability on Policy		☒	☒	☒	☒	☒	☒
Endorsement Required		General Liability		Auto Liability		Workers Comp	
1	Additional Insured**	☒	☒	☒	☒	Professional Liability*** Additional Engineering Requirements	
2	Completed Operations	☐	☐	☐	☐		
3	Contractors Insurance shall be:						
3	Primary	☒	Yes	☒	Yes		
3	Non-Contrib.	☒	☒	☒	☒		
4	Waiver of Subrogation	☒	☒	☒	☒	☒	☒

Other:	
Other:	
Other:	
Other:	
Other:	

* Most commonly required for BBK agreements and contracts

** Additional Insured language must be stated as follows: "The City, its elected and appointed officials, officers, attorneys, agents, and employees."

*** Required for all Engineering projects

Exceptions:

Prepared By: _____

Date: _____

Reviewed By: _____

Date: _____

Approved By: Chris Schroeder

Date: 4/27/21

Note:

Most insurance companies will provide certificates and endorsement for the requirements listed above, but frequently not until specifically asked.

The City always prefers stand alone endorsements. However, depending on the insurance company, it may be their practice to issue a standardized blanket endorsement form/document(s). Alternatively, they may submit excerpts from a policy document, this is also acceptable to the City. However, be sure to ask the company to put the specific policy number on the document and clearly mark the specific clause(s) that reflect each endorsement and to send you those pages only, or you will likely wind up with a 50 page policy and no easy way to determine which clauses apply to the certificate.



CERTIFICATE OF LIABILITY INSURANCE

DATE (MM/DD/YYYY)

4/12/2021

THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AFFIRMATIVELY OR NEGATIVELY AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW. THIS CERTIFICATE OF INSURANCE DOES NOT CONSTITUTE A CONTRACT BETWEEN THE ISSUING INSURER(S), AUTHORIZED REPRESENTATIVE OR PRODUCER, AND THE CERTIFICATE HOLDER.

IMPORTANT: If the certificate holder is an ADDITIONAL INSURED, the policy(ies) must have ADDITIONAL INSURED provisions or be endorsed. If SUBROGATION IS WAIVED, subject to the terms and conditions of the policy, certain policies may require an endorsement. A statement on this certificate does not confer rights to the certificate holder in lieu of such endorsement(s).

PRODUCER (HD) Heffernan Insurance Brokers 1350 Carback Avenue Walnut Creek CA 94596	CONTACT NAME: Elizabeth Lee PHONE (A/C, No, Ext): 925-934-8500 FAX (A/C, No): 925-934-8278 E-MAIL ADDRESS: elizabethl@heffins.com														
INSURED David J. Powers & Associates, Inc. 1871 The Alameda, Suite 200 San Jose CA 95126	<table border="1" style="width: 100%; border-collapse: collapse;"> <tr> <th style="text-align: center;">INSURER(S) AFFORDING COVERAGE</th> <th style="text-align: center;">NAIC #</th> </tr> <tr> <td>INSURER A : Travelers Property Casualty Company of America</td> <td style="text-align: center;">25674</td> </tr> <tr> <td>INSURER B : The Hanover American Insurance Company</td> <td style="text-align: center;">36064</td> </tr> <tr> <td>INSURER C : Continental Casualty Company</td> <td style="text-align: center;">20443</td> </tr> <tr> <td>INSURER D : The Travelers Indemnity Company of Connecticut</td> <td style="text-align: center;">25682</td> </tr> <tr> <td>INSURER E :</td> <td></td> </tr> <tr> <td>INSURER F :</td> <td></td> </tr> </table>	INSURER(S) AFFORDING COVERAGE	NAIC #	INSURER A : Travelers Property Casualty Company of America	25674	INSURER B : The Hanover American Insurance Company	36064	INSURER C : Continental Casualty Company	20443	INSURER D : The Travelers Indemnity Company of Connecticut	25682	INSURER E :		INSURER F :	
INSURER(S) AFFORDING COVERAGE	NAIC #														
INSURER A : Travelers Property Casualty Company of America	25674														
INSURER B : The Hanover American Insurance Company	36064														
INSURER C : Continental Casualty Company	20443														
INSURER D : The Travelers Indemnity Company of Connecticut	25682														
INSURER E :															
INSURER F :															

COVERAGES**CERTIFICATE NUMBER:** 997567141**REVISION NUMBER:**

THIS IS TO CERTIFY THAT THE POLICIES OF INSURANCE LISTED BELOW HAVE BEEN ISSUED TO THE INSURED NAMED ABOVE FOR THE POLICY PERIOD INDICATED. NOTWITHSTANDING ANY REQUIREMENT, TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THIS CERTIFICATE MAY BE ISSUED OR MAY PERTAIN, THE INSURANCE AFFORDED BY THE POLICIES DESCRIBED HEREIN IS SUBJECT TO ALL THE TERMS, EXCLUSIONS AND CONDITIONS OF SUCH POLICIES. LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS.

INSR LTR	TYPE OF INSURANCE	ADDL INSD	SUBR WVD	POLICY NUMBER	POLICY EFF (MM/DD/YYYY)	POLICY EXP (MM/DD/YYYY)	LIMITS
A	☒ COMMERCIAL GENERAL LIABILITY ☐ CLAIMS-MADE ☒ OCCUR GEN'L AGGREGATE LIMIT APPLIES PER: ☐ POLICY ☒ PROJECT ☐ LOC OTHER:	Y	Y	6809N8316252047	12/3/2020	12/3/2021	EACH OCCURRENCE \$ 2,000,000 DAMAGE TO RENTED PREMISES (Ea occurrence) \$ 1,000,000 MED EXP (Any one person) \$ 5,000 PERSONAL & ADV INJURY \$ 2,000,000 GENERAL AGGREGATE \$ 4,000,000 PRODUCTS - COMP/OP AGG \$ 4,000,000 \$
D	AUTOMOBILE LIABILITY ☒ ANY AUTO ☐ OWNED AUTOS ONLY ☐ SCHEDULED AUTOS ☐ HIRED AUTOS ONLY ☐ NON-OWNED AUTOS ONLY	Y	Y	BA2R124741	12/3/2020	12/3/2021	COMBINED SINGLE LIMIT (Ea accident) \$ 1,000,000 BODILY INJURY (Per person) \$ BODILY INJURY (Per accident) \$ PROPERTY DAMAGE (Per accident) \$ \$
A	☒ UMBRELLA LIAB ☒ OCCUR ☐ EXCESS LIAB ☐ CLAIMS-MADE DED RETENTION \$			CUP9N8319262047	12/3/2020	12/3/2021	EACH OCCURRENCE \$ 2,000,000 AGGREGATE \$ 2,000,000 \$
B	WORKERS COMPENSATION AND EMPLOYERS' LIABILITY ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? (Mandatory in NH) If yes, describe under DESCRIPTION OF OPERATIONS below	Y/N	N/A	WH3981630008	1/13/2021	1/13/2022	☒ PER STATUTE ☐ OTHER E.L. EACH ACCIDENT \$ 1,000,000 E.L. DISEASE - EA EMPLOYEE \$ 1,000,000 E.L. DISEASE - POLICY LIMIT \$ 1,000,000
C	Professional Liability Pollution Incident Liability			EEH288347490	3/26/2021	3/26/2022	PER CLAIM \$ 2,000,000 AGGREGATE \$ 2,000,000

DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES (ACORD 101, Additional Remarks Schedule, may be attached if more space is required)

Re: DJP&A Job #21-011, Penetentia Creek Vehicle Bridge; and #21-054, Montague Expressway POC.
 City of Milpitas, its officers, officials, employees, and agents are included as an additional insured (primary and non-contributory) on General Liability and Auto Liability policy per the attached endorsement, if required. Waivers of Subrogation are included on General Liability, Auto Liability and Worker's Compensation Policies per the attached endorsements, if required.

CERTIFICATE HOLDER**CANCELLATION**

City of Milpitas
 455 E. Calaveras Boulevard
 Milpitas, CA 95035

SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, NOTICE WILL BE DELIVERED IN ACCORDANCE WITH THE POLICY PROVISIONS.

AUTHORIZED REPRESENTATIVE

© 1988-2015 ACORD CORPORATION. All rights reserved.

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

BLANKET ADDITIONAL INSURED (ARCHITECTS, ENGINEERS AND SURVEYORS)

This endorsement modifies insurance provided under the following:
COMMERCIAL GENERAL LIABILITY COVERAGE PART

1. The following is added to SECTION II – WHO IS AN INSURED:

Any person or organization that you agree in a "written contract requiring insurance" to include as an additional insured on this Coverage Part, but:

- a. Only with respect to liability for "bodily injury", "property damage" or "personal injury"; and
- b. If, and only to the extent that, the injury or damage is caused by acts or omissions of you or your subcontractor in the performance of "your work" to which the "written contract requiring insurance" applies, or in connection with premises owned by or rented to you.

The person or organization does not qualify as an additional insured:

- c. With respect to the independent acts or omissions of such person or organization; or
- d. For "bodily injury", "property damage" or "personal injury" for which such person or organization has assumed liability in a contract or agreement.

The insurance provided to such additional insured is limited as follows:

- e. This insurance does not apply on any basis to any person or organization for which coverage as an additional insured specifically is added by another endorsement to this Coverage Part.
- f. This insurance does not apply to the rendering of or failure to render any "professional services".
- g. In the event that the Limits of Insurance of the Coverage Part shown in the Declarations exceed the limits of liability required by the "written contract requiring insurance", the insurance provided to the additional insured shall be limited to the limits of liability required by that "written contract requiring insurance". This endorsement does not increase the limits of insurance described in Section III – Limits Of Insurance.

- h. This insurance does not apply to "bodily injury" or "property damage" caused by "your work" and included in the "products-completed operations hazard" unless the "written contract requiring insurance" specifically requires you to provide such coverage for that additional insured, and then the insurance provided to the additional insured applies only to such "bodily injury" or "property damage" that occurs before the end of the period of time for which the "written contract requiring insurance" requires you to provide such coverage or the end of the policy period, whichever is earlier.

2. The following is added to Paragraph 4.a. of SECTION IV – COMMERCIAL GENERAL LIABILITY CONDITIONS:

The insurance provided to the additional insured is excess over any valid and collectible other insurance, whether primary, excess, contingent or on any other basis, that is available to the additional insured for a loss we cover. However, if you specifically agree in the "written contract requiring insurance" that this insurance provided to the additional insured under this Coverage Part must apply on a primary basis or a primary and non-contributory basis, this insurance is primary to other insurance available to the additional insured which covers that person or organizations as a named insured for such loss, and we will not share with the other insurance, provided that:

- (1) The "bodily injury" or "property damage" for which coverage is sought occurs; and
- (2) The "personal injury" for which coverage is sought arises out of an offense committed;

after you have signed that "written contract requiring insurance". But this insurance provided to the additional insured still is excess over valid and collectible other insurance, whether primary, excess, contingent or on any other basis, that is available to the additional insured when that person or organization is an additional insured under any other insurance.

PNC

COMMERCIAL GENERAL LIABILITY

3. The following is added to Paragraph 8., **Transfer Of Rights Of Recovery Against Others To Us**, of **SECTION IV – COMMERCIAL GENERAL LIABILITY CONDITIONS**:

We waive any right of recovery we may have against any person or organization because of payments we make for "bodily injury", "property damage" or "personal injury" arising out of "your work" performed by you, or on your behalf, done under a "written contract requiring insurance" with that person or organization. We waive this right only where you have agreed to do so as part of the "written contract requiring insurance" with such person or organization signed by you before, and in effect when, the "bodily injury" or "property damage" occurs, or the "personal injury" offense is committed.

4. The following definition is added to the **DEFINITIONS** Section:

"Written contract requiring insurance" means that part of any written contract under which you are required to include a person or organization as an additional insured on this Coverage Part, provided that the "bodily injury" and "property damage" occurs and the "personal injury" is caused by an offense committed:

- a. After you have signed that written contract;
- b. While that part of the written contract is in effect; and
- c. Before the end of the policy period.

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

BLANKET ADDITIONAL INSURED – PRIMARY AND NON-CONTRIBUTORY WITH OTHER INSURANCE

This endorsement modifies insurance provided under the following:

BUSINESS AUTO COVERAGE FORM

PROVISIONS

1. The following is added to Paragraph **A.1.c., Who Is An Insured**, of **SECTION II – COVERED AUTOS LIABILITY COVERAGE**:

This includes any person or organization who you are required under a written contract or agreement between you and that person or organization, that is signed by you before the "bodily injury" or "property damage" occurs and that is in effect during the policy period, to name as an additional insured for Covered Autos Liability Coverage, but only for damages to which this insurance applies and only to the extent of that person's or organization's liability for the conduct of another "insured".

2. The following is added to Paragraph **B.5., Other Insurance** of **SECTION IV – BUSINESS AUTO CONDITIONS**:

Regardless of the provisions of paragraph a. and paragraph d. of this part **5. Other Insurance**, this insurance is primary to and non-contributory with applicable other insurance under which an additional insured person or organization is the first named insured when the written contract or agreement between you and that person or organization, that is signed by you before the "bodily injury" or "property damage" occurs and that is in effect during the policy period, requires this insurance to be primary and non-contributory.

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

AUTO COVERAGE PLUS ENDORSEMENT

This endorsement modifies insurance provided under the following:

BUSINESS AUTO COVERAGE FORM

GENERAL DESCRIPTION OF COVERAGE – This endorsement broadens coverage. However, coverage for any injury, damage or medical expenses described in any of the provisions of this endorsement may be excluded or limited by another endorsement to the Coverage Part, and these coverage broadening provisions do not apply to the extent that coverage is excluded or limited by such an endorsement. The following listing is a general coverage description only. Limitations and exclusions may apply to these coverages. Read all the provisions of this endorsement and the rest of your policy carefully to determine rights, duties, and what is and is not covered.

A. BLANKET ADDITIONAL INSURED

B. EMPLOYEE HIRED AUTO

C. EMPLOYEES AS INSURED

D. SUPPLEMENTARY PAYMENTS – INCREASED LIMITS

E. TRAILERS – INCREASED LOAD CAPACITY

F. HIRED AUTO PHYSICAL DAMAGE

G. PHYSICAL DAMAGE – TRANSPORTATION EXPENSES – INCREASED LIMIT

H. AUDIO, VISUAL AND DATA ELECTRONIC EQUIPMENT – INCREASED LIMIT

I. WAIVER OF DEDUCTIBLE – GLASS

J. PERSONAL PROPERTY

K. AIRBAGS

L. AUTO LOAN LEASE GAP

M. BLANKET WAIVER OF SUBROGATION

A. BLANKET ADDITIONAL INSURED

The following is added to Paragraph **A.1., Who Is An Insured**, of **SECTION II – COVERED AUTOS LIABILITY COVERAGE**:

Any person or organization who is required under a written contract or agreement between you and that person or organization, that is signed and executed by you before the "bodily injury" or "property damage" occurs and that is in effect during the policy period, to be named as an additional insured is an "insured" for Covered Autos Liability Coverage, but only for damages to which this insurance applies and only to the extent that person or organization qualifies as an "insured" under the Who Is An Insured provision contained in Section II.

B. EMPLOYEE HIRED AUTO

1. The following is added to Paragraph **A.1., Who Is An Insured**, of **SECTION II – COVERED AUTOS LIABILITY COVERAGE**:

An "employee" of yours is an "insured" while operating a covered "auto" hired or rented under a contract or agreement in an "employee's" name, with your permission, while

performing duties related to the conduct of your business.

2. The following replaces Paragraph **b.** in **B.5., Other Insurance**, of **SECTION IV – BUSINESS AUTO CONDITIONS**:

- b.** For Hired Auto Physical Damage Coverage, the following are deemed to be covered "autos" you own:

- (1) Any covered "auto" you lease, hire, rent or borrow; and
- (2) Any covered "auto" hired or rented by your "employee" under a contract in an "employee's" name, with your permission, while performing duties related to the conduct of your business.

However, any "auto" that is leased, hired, rented or borrowed with a driver is not a covered "auto".

C. EMPLOYEES AS INSURED

The following is added to Paragraph **A.1., Who Is An Insured**, of **SECTION II – COVERED AUTOS LIABILITY COVERAGE**:

POLICY NUMBER: BA-2R124741
COMMERCIAL AUTO

Any "employee" of yours is an "insured" while using a covered "auto" you don't own, hire or borrow in your business or your personal affairs.

D. SUPPLEMENTARY PAYMENTS – INCREASED LIMITS

1. The following replaces Paragraph **A.2.a.(2)** of **SECTION II – COVERED AUTOS LIABILITY COVERAGE**:
 - (2) Up to \$3,000 for cost of bail bonds (including bonds for related traffic law violations) required because of an "accident" we cover. We do not have to furnish these bonds.
2. The following replaces Paragraph **A.2.a.(4)** of **SECTION II – COVERED AUTOS LIABILITY COVERAGE**:
 - (4) All reasonable expenses incurred by the "insured" at our request, including actual loss of earnings up to \$500 a day because of time off from work.

E. TRAILERS – INCREASED LOAD CAPACITY

The following replaces Paragraph **C.1.** of **SECTION I – COVERED AUTOS**:

1. "Trailers" with a load capacity of 3,000 pounds or less designed primarily for travel on public roads.

F. HIRED AUTO PHYSICAL DAMAGE

The following is added to Paragraph **A.4., Coverage Extensions**, of **SECTION III – PHYSICAL DAMAGE COVERAGE**:

Hired Auto Physical Damage Coverage

If hired "autos" are covered "autos" for Covered Autos Liability Coverage but not covered "autos" for Physical Damage Coverage, and this policy also provides Physical Damage Coverage for an owned "auto", then the Physical Damage Coverage is extended to "autos" that you hire, rent or borrow subject to the following:

- (1) The most we will pay for "loss" to any one "auto" that you hire, rent or borrow is the lesser of:
 - (a) \$50,000;
 - (b) The actual cash value of the damaged or stolen property as of the time of the "loss"; or
 - (c) The cost of repairing or replacing the damaged or stolen property with other property of like kind and quality.

- (2) An adjustment for depreciation and physical condition will be made in determining actual cash value in the event of a total "loss".
- (3) If a repair or replacement results in better than like kind or quality, we will not pay for the amount of betterment.
- (4) A deductible equal to the highest Physical Damage deductible applicable to any owned covered "auto".
- (5) This Coverage Extension does not apply to:
 - (a) Any "auto" that is hired, rented or borrowed with a driver; or
 - (b) Any "auto" that is hired, rented or borrowed from your "employee".

G. PHYSICAL DAMAGE – TRANSPORTATION EXPENSES – INCREASED LIMIT

The following replaces the first sentence in Paragraph **A.4.a., Transportation Expenses**, of **SECTION III – PHYSICAL DAMAGE COVERAGE**:

We will pay up to \$50 per day to a maximum of \$1,500 for temporary transportation expense incurred by you because of the total theft of a covered "auto" of the private passenger type.

H. AUDIO, VISUAL AND DATA ELECTRONIC EQUIPMENT – INCREASED LIMIT

Paragraph **C.1.b.** of **SECTION III – PHYSICAL DAMAGE COVERAGE** is deleted.

I. WAIVER OF DEDUCTIBLE – GLASS

The following is added to Paragraph **D., Deductible**, of **SECTION III – PHYSICAL DAMAGE COVERAGE**:

No deductible for a covered "auto" will apply to glass damage if the glass is repaired rather than replaced.

J. PERSONAL PROPERTY

The following is added to Paragraph **A.4., Coverage Extensions**, of **SECTION III – PHYSICAL DAMAGE COVERAGE**:

Personal Property Coverage

We will pay up to \$400 for "loss" to wearing apparel and other personal property which is:

- (1) Owned by an "insured"; and
- (2) In or on your covered "auto".

This coverage only applies in the event of a total theft of your covered "auto".

No deductibles apply to Personal Property coverage.

K. AIRBAGS

The following is added to Paragraph **B.3., Exclusions**, of **SECTION III – PHYSICAL DAMAGE COVERAGE**:

Exclusion **3.a.** does not apply to "loss" to one or more airbags in a covered "auto" you own that inflate due to a cause other than a cause of "loss" set forth in Paragraphs **A.1.b.** and **A.1.c.**, but only:

- a. If that "auto" is a covered "auto" for Comprehensive Coverage under this policy;
- b. The airbags are not covered under any warranty; and
- c. The airbags were not intentionally inflated.

We will pay up to a maximum of \$1,000 for any one "loss".

L. AUTO LOAN LEASE GAP

The following is added to Paragraph **A.4., Coverage Extensions**, of **SECTION III – PHYSICAL DAMAGE COVERAGE**:

Auto Loan Lease Gap Coverage for Private Passenger Type Vehicles

In the event of a total "loss" to a covered "auto" of the private passenger type shown in the Schedule or Declarations for which Physical Damage Coverage is provided, we will pay any unpaid amount due on the lease or loan for such covered "auto" less the following:

- (1) The amount paid under the Physical Damage Coverage Section of the policy for that "auto"; and

(2) Any:

- (a) Overdue lease or loan payments at the time of the "loss";
- (b) Financial penalties imposed under a lease for excessive use, abnormal wear and tear or high mileage;
- (c) Security deposits not returned by the lessor;
- (d) Costs for extended warranties, Credit Life Insurance, Health, Accident or Disability Insurance purchased with the loan or lease; and
- (e) Carry-over balances from previous loans or leases.

M. BLANKET WAIVER OF SUBROGATION

The following replaces Paragraph **A.5., Transfer Of Rights Of Recovery Against Others To Us**, of **SECTION IV – BUSINESS AUTO CONDITIONS**:

5. Transfer Of Rights Of Recovery Against Others To Us

We waive any right of recovery we may have against any person or organization to the extent required of you by a written contract executed prior to any "accident" or "loss", provided that the "accident" or "loss" arises out of the operations contemplated by such contract. The waiver applies only to the person or organization designated in such contract.

WAIVER OF OUR RIGHT TO RECOVER FROM OTHERS ENDORSEMENT-CALIFORNIA

We have the right to recover our payments from anyone liable for an injury covered by this policy. We will not enforce our right against the person or organization named in the Schedule. (This agreement applies only to the extent that you perform work under a written contract that requires you to obtain this agreement from us.)

You must maintain payroll records accurately segregating the remuneration of your employees while engaged in the work described in the Schedule.

The additional premium for this endorsement shall be 2% % of the California workers' compensation premium otherwise due on such remuneration.

Schedule
Person or Organization
Job Description
WHERE REQUIRED PER WRITTEN
CONTRACT

This endorsement changes the policy to which it is attached and is effective on the date issued unless otherwise stated. (The information below is required only when this endorsement is issued subsequent to preparation of the policy.)

Endorsement Effective
Insured

Policy No. WH3 - 9816300 - 08

Endorsement No.

Insurance Company THE HANOVER INSURANCE COMPANY

Countersigned By



POLICY NUMBER: BA-2R124741-20-47-G

ISSUE DATE: 04-19-21

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

DESIGNATED PERSON OR ORGANIZATION – NOTICE OF CANCELLATION PROVIDED BY US

This endorsement modifies insurance provided under the following:

ALL COVERAGE PARTS INCLUDED IN THIS POLICY

SCHEDULE

CANCELLATION: **Number of Days Notice:** 30

PERSON OR

ORGANIZATION: ANY PERSON OR ORGANIZATION TO WHOM YOU HAVE AGREED IN A WRITTEN CONTRACT THAT NOTICE OF CANCELLATION OF THIS POLICY WILL BE GIVEN, BUT ONLY IF:

1. YOU SEND US A WRITTEN REQUEST TO PROVIDE SUCH NOTICE, INCLUDING THE NAME AND ADDRESS OF SUCH PERSON OR ORGANIZATION, AFTER THE FIRST NAMED INSURED RECEIVES NOTICE FROM US OF THE CANCELLATION OF THIS POLICY; AND
2. WE RECEIVE SUCH WRITTEN REQUEST AT LEAST 14 DAYS BEFORE THE BEGINNING OF THE APPLICABLE NUMBER OF DAYS SHOWN IN THIS SCHEDULE.

ADDRESS:

THE ADDRESS FOR THAT PERSON OR ORGANIZATION INCLUDED IN SUCH WRITTEN REQUEST FROM YOU TO US.

PROVISIONS

If we cancel this policy for any legally permitted reason other than nonpayment of premium, and a number of days is shown for Cancellation in the Schedule above, we will mail notice of cancellation to the person or organization shown in such Schedule. We will mail such notice to the address shown in the Schedule above at least the number of days shown for Cancellation in such Schedule before the effective date of cancellation.

POLICY NUMBER: 680-9N831625-20-47

ISSUE DATE: 10/19/2020

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.**DESIGNATED PERSON OR ORGANIZATION – NOTICE OF CANCELLATION OR NONRENEWAL PROVIDED BY US**

This endorsement modifies insurance provided under the following:

ALL COVERAGE PARTS INCLUDED IN THIS POLICY

SCHEDULE**CANCELLATION:** Number of Days Notice: 30**WHEN WE DO NOT RENEW (Nonrenewal):** Number of Days Notice: 30**PERSON OR ORGANIZATION:**

ANY PERSON OR ORGANIZATION TO WHOM YOU HAVE AGREED IN A WRITTEN CONTRACT THAT NOTICE OF CANCELLATION OR NONRENEWAL OF THIS POLICY WILL BE GIVEN, BUT ONLY IF:

1. YOU SEND US A WRITTEN REQUEST TO PROVIDE SUCH NOTICE, INCLUDING THE NAME AND ADDRESS OF SUCH PERSON OR ORGANIZATION, AFTER THE FIRST NAMED INSURED RECEIVES NOTICE FROM US OF THE CANCELLATION OR NONRENEWAL OF THIS POLICY; AND
2. WE RECEIVE SUCH WRITTEN REQUEST AT LEAST 14 DAYS BEFORE THE BEGINNING OF THE APPLICABLE NUMBER OF DAYS SHOWN IN THIS SCHEDULE.

ADDRESS:

THE ADDRESS FOR THAT PERSON OR ORGANIZATION INCLUDED IN SUCH WRITTEN REQUEST FROM YOU TO US.

PROVISIONS

- A. If we cancel this policy for any legally permitted reason other than nonpayment of premium, and a number of days is shown for Cancellation in the Schedule above, we will mail notice of cancellation to the person or organization shown in such Schedule. We will mail such notice to the address shown in the Schedule above at least the number of days shown for Cancellation in such Schedule before the effective date of cancellation.
- B. If we do not renew this policy for any legally permitted reason other than nonpayment of premium, and a number of days is shown for When We Do Not Renew (Nonrenewal) in the Schedule above, we will mail notice of nonrenewal to the person or organization shown in such Schedule. We will mail such notice to the address shown in the Schedule above at least the number of days shown for When We Do Not Renew (Nonrenewal) in such Schedule before the effective date of nonrenewal.

POLICY NUMBER: BA-2R124741-20-47-G

ISSUE DATE: 04-19-21

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

DESIGNATED PERSON OR ORGANIZATION – NOTICE OF CANCELLATION PROVIDED BY US

This endorsement modifies insurance provided under the following:

ALL COVERAGE PARTS INCLUDED IN THIS POLICY

SCHEDULE

CANCELLATION: **Number of Days Notice:** 30

PERSON OR

ORGANIZATION: ANY PERSON OR ORGANIZATION TO WHOM YOU HAVE AGREED IN A WRITTEN CONTRACT THAT NOTICE OF CANCELLATION OF THIS POLICY WILL BE GIVEN, BUT ONLY IF:

1. YOU SEND US A WRITTEN REQUEST TO PROVIDE SUCH NOTICE, INCLUDING THE NAME AND ADDRESS OF SUCH PERSON OR ORGANIZATION, AFTER THE FIRST NAMED INSURED RECEIVES NOTICE FROM US OF THE CANCELLATION OF THIS POLICY; AND
2. WE RECEIVE SUCH WRITTEN REQUEST AT LEAST 14 DAYS BEFORE THE BEGINNING OF THE APPLICABLE NUMBER OF DAYS SHOWN IN THIS SCHEDULE.

ADDRESS:

THE ADDRESS FOR THAT PERSON OR ORGANIZATION INCLUDED IN SUCH WRITTEN REQUEST FROM YOU TO US.

PROVISIONS

If we cancel this policy for any legally permitted reason other than nonpayment of premium, and a number of days is shown for Cancellation in the Schedule above, we will mail notice of cancellation to the person or organization shown in such Schedule. We will mail such notice to the address shown in the Schedule above at least the number of days shown for Cancellation in such Schedule before the effective date of cancellation.

Certificate Of Completion

Envelope Id: 0FCA4AB1833F4505B63849B270FA7611

Status: Completed

Subject: Please DocuSign: 505881-Item 15 04-20-2021 SA.pdf, 506285-PR3937_vm.pdf, approved insurance DJP...

Source Envelope:

Document Pages: 51

Signatures: 8

Envelope Originator:

Certificate Pages: 6

Initials: 3

Mirna McGaughey

AutoNav: Enabled

455 E Calaveras Blvd

Enveloped Stamping: Enabled

Milpitas, CA 95035

Time Zone: (UTC-08:00) Pacific Time (US & Canada)

mmcgaughey@ci.milpitas.ca.gov

IP Address: 50.59.22.2

Record Tracking

Status: Original

Holder: Mirna McGaughey

Location: DocuSign

May 13, 2021 | 17:11

mmcgaughey@ci.milpitas.ca.gov

Signer Events**Signature****Timestamp**

Susan Barrett

sbarrett@ci.milpitas.ca.gov

Security Level: Email, Account Authentication
(None)

Sent: May 13, 2021 | 18:28

Viewed: May 13, 2021 | 18:36

Signed: May 13, 2021 | 18:36

Signature Adoption: Pre-selected Style

Using IP Address: 50.59.22.2

Electronic Record and Signature Disclosure:

Accepted: May 13, 2021 | 18:36

ID: 7ed4b320-eb81-48d4-82ca-54db71bc47e3

Chris Schroeder

cschroeder@ci.milpitas.ca.gov

Purchasing Agent

City of Milpitas

Security Level: Email, Account Authentication
(None)

Sent: May 13, 2021 | 18:36

Viewed: May 13, 2021 | 18:41

Signed: May 13, 2021 | 18:42

Signature Adoption: Pre-selected Style

Using IP Address: 50.59.22.2

Electronic Record and Signature Disclosure:

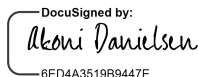
Not Offered via DocuSign

Akoni Danielsen

adanielsen@davidjpowers.com

President

David J. Powers & Associates, Inc.

Security Level: Email, Account Authentication
(None)

Sent: May 14, 2021 | 08:37

Viewed: May 14, 2021 | 08:42

Signed: May 14, 2021 | 08:43

Signature Adoption: Pre-selected Style

Using IP Address: 76.216.1.59

Electronic Record and Signature Disclosure:

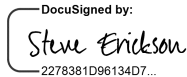
Accepted: May 14, 2021 | 08:42

ID: 298773e1-b8a2-469d-a6e7-6ad9fe84f9ca

Steve Erickson

serickson@ci.milpitas.ca.gov

City of Milpitas

Security Level: Email, Account Authentication
(None)

Sent: May 14, 2021 | 08:43

Viewed: May 14, 2021 | 09:35

Signed: May 14, 2021 | 09:35

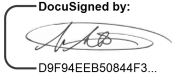
Signature Adoption: Pre-selected Style

Using IP Address: 174.194.131.190

Electronic Record and Signature Disclosure:

Accepted: April 13, 2020 | 11:44

ID: e8919c8d-3d7d-4a9b-8ace-d7481f0ff8df

Signer Events	Signature	Timestamp
Lauren Lai llai@ci.milpitas.ca.gov Finance Director/Risk Manager City of Milpitas Security Level: Email, Account Authentication (None) Electronic Record and Signature Disclosure: Not Offered via DocuSign	DocuSigned by:  8C79D33218B7434... Signature Adoption: Drawn on Device Using IP Address: 71.198.223.128	Sent: May 14, 2021 09:35 Viewed: May 14, 2021 12:32 Signed: May 14, 2021 12:33
Christopher Diaz cdiaz@ci.milpitas.ca.gov Security Level: Email, Account Authentication (None) Electronic Record and Signature Disclosure: Accepted: May 14, 2021 14:56 ID: d91c6042-c0d4-4548-8b3c-ecd56d44686b	DocuSigned by:  3286B08D07EF4B3... Signature Adoption: Pre-selected Style Using IP Address: 74.116.243.2	Sent: May 14, 2021 12:33 Viewed: May 14, 2021 14:56 Signed: May 14, 2021 14:57
Walter C. Rossmann wrossmann@ci.milpitas.ca.gov Deputy City Manager City of Milpitas Security Level: Email, Account Authentication (None) Electronic Record and Signature Disclosure: Not Offered via DocuSign	DocuSigned by:  D9F94EEB50844F3... Signature Adoption: Uploaded Signature Image Using IP Address: 73.158.176.148	Sent: May 14, 2021 14:57 Viewed: May 14, 2021 16:14 Signed: May 14, 2021 16:20
Account Payable Accountspayable@ci.milpitas.ca.gov City Employee City of Milpitas Security Level: Email, Account Authentication (None) Electronic Record and Signature Disclosure: Not Offered via DocuSign	DS  Signature Adoption: Pre-selected Style Using IP Address: 98.239.110.130	Sent: May 14, 2021 16:20 Viewed: May 17, 2021 09:56 Signed: May 17, 2021 09:56
In Person Signer Events	Signature	Timestamp
Editor Delivery Events	Status	Timestamp
Agent Delivery Events	Status	Timestamp
Intermediary Delivery Events	Status	Timestamp
Certified Delivery Events	Status	Timestamp
Carbon Copy Events	Status	Timestamp
Demetri Loukas dloukas@davidjpowers.com Security Level: Email, Account Authentication (None) Electronic Record and Signature Disclosure: Not Offered via DocuSign	COPIED	Sent: May 14, 2021 08:37 Viewed: May 14, 2021 08:37

Carbon Copy Events	Status	Timestamp
Rachelle Currie rcurrie@ci.milpitas.ca.gov Senior Executive Assistant City of Milpitas Security Level: Email, Account Authentication (None) Electronic Record and Signature Disclosure: Not Offered via DocuSign	COPIED	Sent: May 14, 2021 14:57 Viewed: May 14, 2021 15:45
Julie Waldron jwaldron@ci.milpitas.ca.gov Security Level: Email, Account Authentication (None) Electronic Record and Signature Disclosure: Not Offered via DocuSign	COPIED	Sent: May 17, 2021 09:56
Witness Events	Signature	Timestamp
Notary Events	Signature	Timestamp
Envelope Summary Events	Status	Timestamps
Envelope Sent	Hashed/Encrypted	May 13, 2021 18:28
Certified Delivered	Security Checked	May 17, 2021 09:56
Signing Complete	Security Checked	May 17, 2021 09:56
Completed	Security Checked	May 17, 2021 09:56
Payment Events	Status	Timestamps
Electronic Record and Signature Disclosure		

ELECTRONIC RECORD AND SIGNATURE DISCLOSURE

From time to time, Carahsoft OBO City of Milpitas (we, us or Company) may be required by law to provide to you certain written notices or disclosures. Described below are the terms and conditions for providing to you such notices and disclosures electronically through the DocuSign system. Please read the information below carefully and thoroughly, and if you can access this information electronically to your satisfaction and agree to this Electronic Record and Signature Disclosure (ERSD), please confirm your agreement by selecting the check-box next to 'I agree to use electronic records and signatures' before clicking 'CONTINUE' within the DocuSign system.

Getting paper copies

At any time, you may request from us a paper copy of any record provided or made available electronically to you by us. You will have the ability to download and print documents we send to you through the DocuSign system during and immediately after the signing session and, if you elect to create a DocuSign account, you may access the documents for a limited period of time (usually 30 days) after such documents are first sent to you. After such time, if you wish for us to send you paper copies of any such documents from our office to you, you will be charged a \$0.00 per-page fee. You may request delivery of such paper copies from us by following the procedure described below.

Withdrawing your consent

If you decide to receive notices and disclosures from us electronically, you may at any time change your mind and tell us that thereafter you want to receive required notices and disclosures only in paper format. How you must inform us of your decision to receive future notices and disclosure in paper format and withdraw your consent to receive notices and disclosures electronically is described below.

Consequences of changing your mind

If you elect to receive required notices and disclosures only in paper format, it will slow the speed at which we can complete certain steps in transactions with you and delivering services to you because we will need first to send the required notices or disclosures to you in paper format, and then wait until we receive back from you your acknowledgment of your receipt of such paper notices or disclosures. Further, you will no longer be able to use the DocuSign system to receive required notices and consents electronically from us or to sign electronically documents from us.

All notices and disclosures will be sent to you electronically

Unless you tell us otherwise in accordance with the procedures described herein, we will provide electronically to you through the DocuSign system all required notices, disclosures, authorizations, acknowledgements, and other documents that are required to be provided or made available to you during the course of our relationship with you. To reduce the chance of you inadvertently not receiving any notice or disclosure, we prefer to provide all of the required notices and disclosures to you by the same method and to the same address that you have given us. Thus, you can receive all the disclosures and notices electronically or in paper format through the paper mail delivery system. If you do not agree with this process, please let us know as described below. Please also see the paragraph immediately above that describes the consequences of your electing not to receive delivery of the notices and disclosures electronically from us.

How to contact Carahsoft OBO City of Milpitas:

You may contact us to let us know of your changes as to how we may contact you electronically, to request paper copies of certain information from us, and to withdraw your prior consent to receive notices and disclosures electronically as follows:

To contact us by email send messages to: mluu@ci.milpitas.ca.gov

To advise Carahsoft OBO City of Milpitas of your new email address

To let us know of a change in your email address where we should send notices and disclosures electronically to you, you must send an email message to us at mluu@ci.milpitas.ca.gov and in the body of such request you must state: your previous email address, your new email address. We do not require any other information from you to change your email address.

If you created a DocuSign account, you may update it with your new email address through your account preferences.

To request paper copies from Carahsoft OBO City of Milpitas

To request delivery from us of paper copies of the notices and disclosures previously provided by us to you electronically, you must send us an email to mluu@ci.milpitas.ca.gov and in the body of such request you must state your email address, full name, mailing address, and telephone number. We will bill you for any fees at that time, if any.

To withdraw your consent with Carahsoft OBO City of Milpitas

To inform us that you no longer wish to receive future notices and disclosures in electronic format you may:

- i. decline to sign a document from within your signing session, and on the subsequent page, select the check-box indicating you wish to withdraw your consent, or you may;
- ii. send us an email to mluu@ci.milpitas.ca.gov and in the body of such request you must state your email, full name, mailing address, and telephone number. We do not need any other information from you to withdraw consent.. The consequences of your withdrawing consent for online documents will be that transactions may take a longer time to process..

Required hardware and software

The minimum system requirements for using the DocuSign system may change over time. The current system requirements are found here: <https://support.docusign.com/guides/signer-guide-signing-system-requirements>.

Acknowledging your access and consent to receive and sign documents electronically

To confirm to us that you can access this information electronically, which will be similar to other electronic notices and disclosures that we will provide to you, please confirm that you have read this ERSD, and (i) that you are able to print on paper or electronically save this ERSD for your future reference and access; or (ii) that you are able to email this ERSD to an email address where you will be able to print on paper or save it for your future reference and access. Further, if you consent to receiving notices and disclosures exclusively in electronic format as described herein, then select the check-box next to ‘I agree to use electronic records and signatures’ before clicking ‘CONTINUE’ within the DocuSign system.

By selecting the check-box next to ‘I agree to use electronic records and signatures’, you confirm that:

- You can access and read this Electronic Record and Signature Disclosure; and
- You can print on paper this Electronic Record and Signature Disclosure, or save or send this Electronic Record and Disclosure to a location where you can print it, for future reference and access; and
- Until or unless you notify Carahsoft OBO City of Milpitas as described above, you consent to receive exclusively through electronic means all notices, disclosures, authorizations, acknowledgements, and other documents that are required to be provided or made available to you by Carahsoft OBO City of Milpitas during the course of your relationship with Carahsoft OBO City of Milpitas.



JOINT MEETING OF THE MILPITAS CITY COUNCIL, HOUSING AUTHORITY, AND PUBLIC FINANCING AUTHORITY

SUMMARY
TUESDAY, JUNE 6, 2023

ADJOURN TO CLOSED SESSION

(a) CONFERENCE WITH LABOR NEGOTIATORS

Pursuant to Government Code Section 54957.6

Agency designated representative: Nick Raisch, Human Resources Director

Bargaining unit: LIUNA, UPEC (Pro-Tech, MEA, MidCon), IAFF, MPOA

PUBLIC FORUM

There were the following public speakers:

1. Jacob Abeytia
2. Rob Means
3. Voltaire Montemayor
4. Tom Valore
5. Matthew Tinsley

CONSENT CALENDAR

C1. Receive City Council Calendar of Meetings for June 2023 (Staff Contact: Suzanne Guzzetta, City Clerk, 408-586-3001)

Received City Council Calendar of Meetings for June 2023.

Motion/Second: Vice Mayor Chua / Councilmember Lien

Vote: 5-0

C2. Approve City Council City Council Meeting Minutes of May 9, 16, and 23, 2023 (Staff Contact: Suzanne Guzzetta, City Clerk, 408-586-3001)

Approved City Council Special Meeting minutes of May 9 and 23, 2023 and Regular Meeting minutes of May 16, 2023.

Motion/Second: Vice Mayor Chua / Councilmember Lien

Vote: 5-0

C3. Receive the Preview List of Anticipated Items for the Next Regular City Council Meeting (Staff Contact: Suzanne Guzzetta, City Clerk, 408-586-3001)

Received the list of anticipated agenda items for the next regular City Council meeting.

Motion/Second: Vice Mayor Chua / Councilmember Lien

Vote: 5-0

C4. Receive and Review the List of Agenda Items Requested by City Councilmembers (Staff Contact: Suzanne Guzzetta, City Clerk, 408-586-3001)

Reviewed the list of items that have been requested by City Councilmembers and provide direction to staff as necessary.

Motion/Second: Vice Mayor Chua / Councilmember Lien
Vote: 5-0

- C5. Accept the Report for Key 2022 Approved State Laws Impacting Municipal Operations and an Update on 2023 State and Federal Earmark Requests (Staff Contact: Matt Cano, Deputy City Manager, 408-586-3012)**

Item pulled from consent calendar.

- C6. American Rescue Plan Act (ARPA) Workforce Development Program Funding (Staff Contact: Alex Andrade, Economic Development Director, 408-586-3046; and Margaret Tamisiea, Senior Special Projects Associate, 408-586-3047)**

Item pulled from consent calendar.

- C7. Adopt a Resolution Granting Acceptance of Delano Manongs Park Sports Field (Formerly known as McCandless Park Sports Field), Project No. 5102, Authorizing the City Engineer to File a Notice of Completion, and Authorize the City to Issue a Notice of Final Acceptance after the One-Year Warranty (Staff Contact: Michael Silveira, Capital Improvement Program Manager, 408-586-3303)**

Adopted **Resolution No. 9248** granting acceptance of Delano Manongs Park Sports Field (formerly known as McCandless Park Sports Field), Project No. 5102, authorizing the City Engineer to file a Notice of Completion, and authorizing the City Engineer to issue a Notice of Final Acceptance after the one-year warranty.

Motion/Second: Vice Mayor Chua / Councilmember Lien
Vote: 5-0

- C8. Adopt a Resolution to Approve Project Plans and Specifications, Award Construction Contract to Joseph J Albanese, Inc for Street Resurfacing 2023 Project No. 4283, 4303, 4304; and Approve Budget Change Form (Staff Contact: Matt Cano, Deputy City Manager, 408-586-3012)**

Adopted **Resolution No. 9249** to approve project plans & specifications; award the construction contract to the lowest responsible, and responsive bidder, Joseph J. Albanese Inc, in the amount of \$2,899,299.75 for the Street Resurfacing Project No. 4283, 4303, 4304; Authorize the City Manager to execute the construction contract with Joseph J. Albanese Inc; Authorize the Engineering Director/City Engineer to negotiate and execute Contract Change Order(s) in an aggregate amount not to exceed \$434,894.96 for the project; and Approve the Budget Change Form to appropriate funding for CP 4303 and CP 4304.

Motion/Second: Vice Mayor Chua / Councilmember Lien
Vote: 5-0

- C9. Adopt Resolutions of the Milpitas City Council and Milpitas Public Financing Authority Board Authorizing Investment of Monies in the Local Agency Investment Fund and Updating Officers' Information (Staff Contact: Lauren Lai, Finance Director, 408-586-3111)**

Adopted **Resolution No. 9250 / PFA Resolution No. 28** of the Milpitas City Council and Milpitas Public Financing Authority Board authorizing investment of monies in the Local Agency Investment Fund and updating officers' information.

Motion/Second: Vice Mayor Chua / Councilmember Lien
Vote: 5-0

C10. Approve and Authorize the City Manager to Execute the Purchase Order with Code 3 Technology for Police Mobile Computer Replacement (Staff Contact: Daniel Nam, Information Technology Director, 408-586-2712)

Approved and authorized the City Manager to execute the purchase order with Code 3 Technology for 32 Getac ruggedized laptop computers for a total amount not-to-exceed \$199,991.45.

Motion/Second: Vice Mayor Chua / Councilmember Lien
Vote: 5-0

C11. Receive an Update on the Emergency Repairs to the HVAC System and Equipment at City Hall and at the Public Works/Information Technology/Police Department Buildings and Determine that the Condition Continues to Constitute an Emergency (Staff Contact: Christian Di Renzo, Public Works Director, 408-586-2602)

(1) Received an update on the emergency repairs to the HVAC system and equipment at City Hall and at the Public Works/Information Technology/Police Department Buildings; and (2) Determined by a four-fifths vote that the condition continues to constitute an emergency.

Motion/Second: Vice Mayor Chua / Councilmember Lien
Vote: 5-0

C12. Approve Parks and Recreation and Community Services Programs Donation for a Memorial Bench in Honor of Mikhaila Saso (Staff Contact: Renee Lorentzen, Recreation and Community Services Director, 408-586-3409)

Approved the Parks and Recreation Donation for a Memorial Bench for Mikhaila Saso.

Motion/Second: Vice Mayor Chua / Councilmember Lien
Vote: 5-0

C13. Consider Two Fee Waiver Requests from the Samuel Ayer High School Alumni Association and the Filipino Chamber of Commerce (Staff Contact: Renee Lorentzen, Recreation and Community Services Director, 408-586-3409)

(1) Approved a Fee Waiver of \$1,500.00 for the Samuel Ayer High School Annual Reunion at Murphy Park on September 16, 2023; and (2) Approved a Fee Waiver of \$1,485.00 for the Filipino Chamber of Commerce Business Seminar at the Milpitas Community Center on June 24, 2023.

Motion/Second: Vice Mayor Chua / Councilmember Lien
Vote: 5-0

C14. Adopt a Resolution Approving the Application for \$301,516.00 Land and Water Conservation Fund Grant from the State Department of Parks and Recreation and Designating the Acting City Manager or Designee as the Authorized Agent on the Grant Agreement with the State of California (Staff Contact: Renee Lorentzen, Recreation and Community Services Director, 408-586-3409)

Adopted **Resolution No. 9251** approving the submittal of an application for Land and Water Conservation Grant Funds from the State Department of Parks and Recreation and designating the

Acting City Manager or Designee as the Authorized Agent on the Grant Agreement with the State of California.

Motion/Second: Vice Mayor Chua / Councilmember Lien
Vote: 5-0

PUBLIC HEARINGS

15. **Open the Public Hearing and Adopt Resolutions to Approve the Fiscal Year 2023-24 Operating Budget for the City of Milpitas and the Milpitas Housing Authority, Approve the Fiscal Year 2023-24 Gann Appropriations Limit, Authorize Various Financial Actions, Fiscal Policies and Budget Guidelines, Amend the Classification Plan for Alignment with the FY 2023-24 Budget, the Minimum Wage Increase, and Salary Schedules Consistent with Previous Council Action (Staff Contact: Matt Cano, Deputy City Manager, 408-586-3012; and Lauren Lai, Finance Director, 408-586-3111)**

- (1) Conducted the public hearing;
- (2) Adopted the following resolutions:
 - (a) **Resolution No. 9252 / HA Resolution No. 32** Joint Resolution of the City Council and Milpitas Housing Authority to approve the Fiscal Year 2023-24 Operating Budget the City of Milpitas and the Milpitas Housing Authority, approve the Appropriations Limit, Fiscal Policies and Budget Guidelines and authorizing various financial actions by the City Manager, including Approving and Authorizing the Execution of Various Contracts and Payments over \$100,000;
 - (b) **Resolution No. 9253** Amending Resolution No. 1626, the Classification Plan, to authorize additional positions and amend budgeted allocated positions;
 - (c) **Resolution No. 9254** Amending Resolution No. 1626, the Classification Plan, to adjust the hourly rate ranges for classifications due to a minimum wage increase pursuant to Ordinance No. 292;
 - (d) **Resolution No. 9255** Amending Resolution No. 1626, the Classification Plan of Unrepresented Management Employees and Authorizing Fringe Benefits;
 - (e) **Resolution No. 9256** Amending Resolution No. 1626, the Classification Plan, to adjust the Salary Schedules for various classifications to align with the current memorandums of understandings (MOUs);
- (3) And incorporate the following direction:
 - (a) Add language to fiscal policies regarding “instilling a culture of service”, revenue generation, and revenue preservation; and
 - (b) Reduce the use of ARPA Unallocated Funds to offset General Fund costs and transfer funds from General Government CIP previously proposed for the City Attorney’s Office.

Motion/Second: Vice Mayor Chua / Councilmember Lien
Vote: 5-0

- (f) Adopted **Resolution No. 9257** Amending Resolution No. 1626, the Classification Plan, to authorize additional positions and amend budgeted allocated positions for Human Resources Manager.

Motion/Second: Vice Mayor Chua / Councilmember Barbadillo
Vote: 4-0-1 (Abstain: Lien)

Councilmembers Barbadillo, Phan, and Vice Mayor Chua asked to look at the organizational structure of the City Manager’s Office and City Attorney’s Office and bring back a discuss at the Mid-Year Budget review.

16. **Conduct a Public Hearing and Adopt a Resolution Approving a General Plan Amendment (GP23-0002) to Change the Land Use Designations for 168 Parcels on South Main Street, Generally Located South of Great Mall Parkway and North of Montague Expressway, for Consistency with the Boundaries of the Metro Specific Plan and the Proposed Boundaries of the Draft Gateway-Main Street Specific Plan; and Introduce an Ordinance Amending the Milpitas Zoning Map (ZA23-0001) in Accordance with the Provisions of Section 3.03 of Chapter 10 of Title XI (Zoning) of the Milpitas Municipal Code to Change the Zoning Classification of Certain Parcels (APNs: 083-40-044 and 083-40-045) for Consistency with the New General Plan Land Use Designations (Staff Contact: Ned Thomas, Planning Director, 408-586-3273; and Holly Pearson, Senior Special Projects Associate, 408-609-0072)**

(1) Conducted a public hearing and received public comments; (2) Determined that potential environmental impacts associated with the proposed General Plan Map and Zoning Map changes have been previously analyzed under the Environmental Impact Report (EIR) for the Milpitas 2040 General Plan certified on March 9, 2021 (per Resolution 9047) and the Subsequent EIR for the Milpitas Metro Specific Plan certified on February 7, 2023 (per Resolution 9217), and find that since the proposed General Plan Map and Zoning Map changes are consistent with the General Plan and Metro Specific Plan, no further environmental analysis is required; (3) Determined that these actions are exempt from environmental review under the California Environmental Quality Act (CEQA) per CEQA Guidelines Section 15183 (Projects Consistent with a General Plan, Community Plan, or Zoning); (4) Adopted **Resolution No. 9258** approving General Plan Amendment GP23-0002; (5) City Attorney read aloud title of the Ordinance; and (6) Waived the first reading beyond the title and introduced **Ordinance No. 38.853** amending the Zoning Map of the City of Milpitas in accordance with the provisions of Section 3.03 of Chapter 10 of Title XI (Zoning Ordinance) of the Milpitas Municipal Code to change the zoning classification of two parcels (APNs: 083-40-044 and 083-40-045) for consistency with the new General Plan land use designations.

Motion/Second: Mayor Montano / Councilmember Barbadillo
Vote: 5-0

LEADERSHIP AND SUPPORT SERVICES (9:30 PM)

17. **Adopt a Resolution to Appoint Ashwini Kantak as Acting City Manager Effective Upon Adoption and Continuing Until a Permanent Appointment is Made (Staff Contact: Nick Raisch, Human Resources Director, 408-586-3086)**

Appointed Ashwini Kantak as Acting City Manager until council takes further action and considers the appointment and incentives in Closed Session.

Motion/Second: Mayor Montano / Councilmember Lien
Vote: 5-0

ITEMS PULLED FROM CONSENT CALENDAR

- C6. **American Rescue Plan Act (ARPA) Workforce Development Program Funding (Staff Contact: Alex Andrade, Economic Development Director, 408-586-3046; and Margaret Tamisiea, Senior Special Projects Associate, 408-586-3047)**

Approved American Rescue Plan Act (ARPA) Workforce Development grant for Milpitas Unified School District's Adult Education Career Training Center to support workforce development programming and education services in the amount of \$30,000.00.

Motion/Second: Vice Mayor Chua / Councilmember Phan
Vote: 5-0

Vice Mayor Chua asked to transfer the remaining \$100,000.00 from the ARPA Workforce Grant funds and combine with the ARPA fund remaining after the budget adoption to be allocated at a later date.

C5. Accept the Report for Key 2022 Approved State Laws Impacting Municipal Operations and an Update on 2023 State and Federal Earmark Requests (Staff Contact: Matt Cano, Deputy City Manager, 408-586-3012)

Accepted the report for Key 2022 Approved State Laws impacting municipal operations and the 2023 State and Federal Legislative Earmark requests.

Motion/Second: Mayor Montano / Councilmember Barbadillo
Vote: 5-0.

ANNOUNCEMENTS AND FUTURE AGENDA ITEMS

Councilmember Phan spoke on and recognized the Month of June as Pride Month.

Vice Mayor Chua reported on attending the Pride Celebration over the weekend.

ADJOURNMENT

Mayor Montano adjourned the meeting at 10:58 PM

Park Improvement	CIP 3491 Cardoza Park Softball Fields Improvement	New Design/Professional Services Agreement to obtain a consultant to provide design services including community outreach and environmental review for new softball fields at Cardoza Park.	\$500,000	General Gov. CIP Fund, Park Improvement Fund
Park Improvement	CIP 3505 - Sports Center Football Bleacher Replacement	New Design/Professional Services Agreement to obtain a consultant to provide design services for the replacement of home field football bleachers including ADA path of travel improvements at the Sports Center Complex.	\$150,000	Park Fund
Park Improvement	CIP 5108 - Sports Fields Turf Rehabilitation Program	Rehabilitation of the infields and warming tracks at Dixon Landing and Peter Gill Memorial Parks and soccer fields at Murphy Park.	\$300,000	Park Fund
Park Improvement	CIP 5113 - Minor Sports Courts Rehabilitation Program	Resurfacing and restriping of tennis courts at Dixon Landing, Browne, and Pinewood Parks.	\$155,000	Park Fund
Sewer Improvement	CIP 6137 - Forca Main "A" Project Sanitary Sewer Cathodic Protection Improvements	Design/Professional Service Agreement to obtain a consultant to provide an assessment of the sewer force main "A" from Milpitas Main Sewer Lift Station to San Jose/Santa Clara Regional Waste Water Facility.	\$1,500,000	Sewer Infrastructure Fund, Sewer Fund
Street Improvement	CIP 2016 S. Milpitas Blvd. Vehicle Bridge at Penitencia	New Design/Professional Services Agreement with Cornerstone Structural Engineering group, Inc. to provide design services for a new vehicle bridge over Penitencia Creek including the roadway between Sango Ct. and Tarob Ct.	\$700,000	TASP Impact Fees
Street Improvement	CIP 2016 S. Milpitas Blvd. Vehicle Bridge at Penitencia	New Design/Professional Services Agreement with Artik to provide design services for artwork on the new vehicle bridge over Penitencia Creek.	\$400,000	TASP Impact Fees
Street Improvement	CIP 2016 S. Milpitas Blvd. Vehicle Bridge at Penitencia & CIP 2018 Montague Ped. Overcrossing at Penitencia	Amendment to the Professional Service Agreement between the City and David J. Powers & Associates for additional environmental review and permitting, and update the Initial Study and Mitigated Negative Declaration. The aggregate contract amount exceeds \$100,000.	\$150,000	TASP Impact Fees
Street Improvement	CIP 3426 - Annual Sidewalk, Curb, and Gutter Repair	Construction contracts for repair and replacement of sidewalk, curb, and gutters.	\$890,000	Gas Tax Fund

AMENDMENT NO. 1
TO PROFESSIONAL SERVICES AGREEMENT BETWEEN CITY OF MILPITAS
AND
DAVID J. POWERS & ASSOCIATES, INC.

This Amendment is entered into this 20th day of November, 2023 by and between the City of Milpitas, a municipal corporation of the State of California (hereafter referred to as "CITY") and David J. Powers & Associates, Inc., a California Corporation (hereafter referred to as "CONSULTANT"). City and Consultant are sometimes individually referred to as "Party" and collectively as "Parties" in this Amendment No 1.

RECITALS

WHEREAS, on April 20, 2021, the parties entered into an Agreement entitled "Professional Services Agreement between the City of Milpitas and David J. Powers & Associates" ("Agreement") for professional services in the total amount of \$184,795.00; and

WHEREAS, the parties now desire to amend the Agreement to increase the compensation by \$150,000 and to extend the contract term to December 31, 2027 to allow CONSULTANT to provide additional professional services for S. Milpitas Blvd. Vehicle Bridge Project as described in Exhibit A-1, attached hereto, for a new total amount of \$334,795.00; and

NOW THEREFORE, in consideration of the mutual covenants and conditions herein contained, the parties agree to amend the Agreement as follows:

1. Section 2.b., entitled "Compensation," the first line is hereby amended to read as follows:

"In no event shall the total amount paid for services rendered by Consultant under this Agreement exceed the sum of three hundred thirty-four thousand seven hundred ninety-five dollars and zero cents (**\$334,795.00**) (Total Compensation)."
2. **Exhibit A-1**, attached hereto and incorporated herein by this reference, are hereby added to the Agreement.
3. The Consultant agrees to maintain and pay for all insurance policies as stated in Section 11, entitled "Insurance" of the Agreement dated April 20, 2021. The Consultant shall provide the City with renewal certificates of the current policies upon the expiration of the current policies
4. Except as amended by this Amendment No. 1, all provisions of the Agreement shall remain unchanged and in full force and effect. From and after the date of this Amendment No. 1, whenever the term "Agreement" appears in the Agreement, it shall mean the Agreement as amended by this Amendment No. 1.

5. The parties hereto irrevocably stipulate and agree that they have each received adequate and independent consideration for the performance of the obligations they have undertaken pursuant to this Amendment No. 1.
6. If any provision of this Amendment No. 1 shall be held invalid or unenforceable by a court of competent jurisdiction, such holding shall not invalidate or render unenforceable any other provision of this Amendment No. 1 unless elimination of such provision materially alters the rights and obligations set forth herein.

[SIGNATURES ON FOLLOWING PAGE]

EXHIBIT A-1



November 16, 2023

Arthur Valderrama, P.E.
City of Milpitas
455 East Calaveras Boulevard
Milpitas, CA 95035

Sent via email to avalderrama@milpitas.gov

RE: Milpitas Boulevard Extension Project – Contract Amendment

Dear Arthur Valderrama:

David J. Powers & Associates (DJP&A) is submitting a request to amend our existing contract for the Milpitas Boulevard Extension Project. This request would provide additional budget for DJP&A to finalize the California Environmental Quality Act (CEQA) environmental review for the project. In addition, this contract amendment also includes DJP&A's assistance with completing environmental review pursuant to the National Environmental Policy Act (NEPA) and the requirements of the California Department of Transportation Office of Local Assistance (Caltrans). Per our discussion on October 26, 2023, we have revised our scope to reduce the budget to \$150,000. After the Caltrans field review and PES process is completed, a budget amendment will be submitted to the City to complete any additional technical studies required by Caltrans that are not included under this scope of work.

Please do not hesitate to contact me or Natalie Noyes, Senior Project Manager, if you have any questions regarding this proposed Scope of Work or if there is any additional information you may need. We look forward to working with you on this project.

Best Regards,

Demetri Loukas, Principal Project Manager

Demetri Loukas

Attachment: Scope of Work – Contract Amendment



S. Milpitas Bridge Project Contract Amendment November 2023

Scope of Services

California Environmental Quality Act

Circulate Initial Study/Mitigated Negative Declaration and Complete CEQA Process

Under our existing contract, DJP&A prepared an Initial Study/Mitigated Negative Declaration (IS/MND) for public circulation. However, due to reasons beyond DJP&A's control, the IS/MND was not circulated. DJP&A will update the IS/MND to account for the minor revisions to the project description (i.e., in-water work) and changes to regulatory requirements (i.e., air quality guidelines) and submit a Screencheck IS/MND to the City for review. DJP&A will then revise the IS/MND per City comments and provide the City with up to 20 paper copies of the IS/MND for public circulation and a PDF copy for posting on the City's website. The City will file the document with the State Clearinghouse and County. Upon project approval, DJP&A will prepare the Notice of Determination (NOD), which will also be filed with the State Clearinghouse and County by the City. This scope does not include payment of the County Recorder and California Department of Fish and Wildlife CEQA filing fees.

This scope includes budget for Illingworth & Rodkin, under contract to DJP&A, to prepare a qualitative memo describing the updated Bay Area Air Quality Management District (BAAQMD) Guidelines that have been adopted since the Air Quality and GHG Assessment were prepared in 2021. A qualitative discussion of the methodology and differences in the modeling will be presented as well as an explanation of how emission may change but no new impacts will occur.

In addition, this scope includes budget for H.T. Harvey, under contract to DJP&A, to update the CEQA biological resources report to reflect the project changes (i.e., in-water work).

Responses to Comments

Following completion of the public circulation period, DJP&A will assist the City with preparation of responses to the substantive comments received on the Draft MND. The form of the responses will be a memorandum addressing all substantive and procedural issues raised concerning the project's environmental review. This scope includes up to 30 hours to respond to comments. Any additional

DJP&A hours and/or support from technical subconsultants would require a budget amendment based on the required level of effort.

Preparation of Mitigation Monitoring and Reporting Program

In accordance with state law and CEQA Guidelines, DJP&A will draft a Mitigation Monitoring and Reporting Program (MMRP) identifying when mitigation measures will be implemented, who will be responsible for implementing them, and who will provide oversight. The draft MMRP will be submitted to the City with the IS/MND.

National Environmental Policy Act

Since the project will utilize federal grant funds, compliance with the National Environmental Policy Act (NEPA) and related federal statutes will be required. DJP&A will undertake the studies specified below, following the Caltrans Office of Local Assistance procedures and utilizing the formats published on the Caltrans Standard Environmental Reference (SER) website. This scope assumes that the appropriate NEPA environmental document will be a Categorical Exclusion (CATEX). The Caltrans Office of Local Assistance environmental review process for the project will include completion of the following tasks:

- Preparation, Review, and Approval of Preliminary Environmental Study
- Preparation, Review, and Approval of Technical Studies
- Preparation, Review, and Approval of Categorical Exclusion

Caltrans Preliminary Environmental Study (PES) and Field Review

DJP&A will prepare the Caltrans' Preliminary Environmental Study (PES) form and attend one formal Caltrans Field Review for the proposed project. The PES form will include the visual impact assessment questionnaire, USFWS list of federally listed species, Federal Emergency Management Agency (FEMA) floodplain map, and hazardous materials database mapping.

Environmental Technical Studies

Upon completion of the PES process, Caltrans will provide the City with a signed PES letter, PES form, and Request for Studies (RFS) memo, which will identify the type of environmental document and technical studies to be completed for the project. Based on preliminary discussions with Caltrans and our technical subconsultants, it is anticipated preparation of the following studies will be required by Caltrans:

- Natural Environment Study Minimal Impacts (H.T. Harvey)
- Visual Impact Assessment Memorandum (Earthview Science)¹

¹ The VIA Memorandum does not include visual simulations.

- Archaeological Survey Report (Chronicle Heritage)
- Historic Resources Evaluation Report (Chronicle Heritage)
- Historic Properties Survey Report (Chronicle Heritage)
- Paleontological Investigation Report/Paleontological Evaluation Report (Earthview Science)
- Noise Study Report (Illingworth & Rodkin)
- Air Quality Report (Illingworth & Rodkin)
- Air Quality Transportation Conformity Documentation Package (Illingworth & Rodkin)
- Energy Study (Illingworth & Rodkin)
- Transportation data²

As discussed with City Staff on October 26, 2023, this scope of work does not include preparing all of the NEPA studies listed above; it only includes preparing the Natural Environment Study Minimal Impacts (NESMI) and the cultural resource studies (i.e., Archaeological Survey Report, Historic Resources Evaluation Report, and Historic Properties Survey Report), which typically require the longest lead times to complete. After conclusion of the Caltrans field review and PES process, a budget amendment will be submitted to the City to complete any additional technical studies required by Caltrans that are not included under this scope of work.

For the technical reports, this scope is based on the following assumptions:

- Two draft versions and a final version of each technical report will be prepared.
- The technical reports will be prepared in accordance with Caltrans SER Volume 8.

Categorical Exclusion

After all the technical reports required by Caltrans are deemed complete and signed by Caltrans, Caltrans will issue the NEPA CATEX for use by the City in obtaining federal funding. This scope includes preparation of the draft CATEX and/or Environmental Compliance Report (ECR), if requested by Caltrans.

Permits

H.T. Harvey is currently under contract to prepare the following permit applications for the project:

- USACE Section 404 Nationwide Permit Application Package
- RWQCB 401 Certification/Waste Discharge Requirement Application Package
- CDFW 1600 Notification Application Package

² The transportation data needed to support the air quality, noise, and energy studies will be provided by Hexagon Transportation Consultants, Inc., under contract to DJP&A. The data will be obtained from the transportation modeling previously completed for the project by Hexagon as part of the CEQA environmental review process.

Given the amount of time that has passed since H.T. Harvey prepared the project permitting proposal, this contract amendment includes budget for H.T. Harvey to prepare the permit application packages using their current rates. This amendment does not include preparation of a Mitigation and Monitoring Plan (MMP), if requested by regulatory agencies during the permitting process.

Meetings and Hearings

This scope of work includes DJP&A attendance at two public hearings (e.g., one Planning Commission hearing and one City Council hearing) for the project. DJP&A can attend additional public hearings or meetings requested on a time and materials basis.

Project Management and Contract Administration

DJP&A will provide general project management, contract administration, and coordination with the City and project team throughout the environmental review process.

Contract Amendment Request

This contract amendment would increase our existing total budget by \$150,000. A breakdown of the contract amendment request is provided below. Approval of this contract amendment request would increase our existing total budget from \$184,795 to \$334,795. A breakdown of the cost estimate is provided below.

Consistent with our existing contract, all work would be billed on a time and materials basis. If we do not need all the time that has been budgeted, we will only charge for the time that we have actually spent completing the work.

A. Existing Contract	\$184,795
Amount Remaining	\$46,433
David J. Powers & Associates	\$10,703
Subconsultants*	
H.T. Harvey & Associates	\$35,730
B. Contract Amendment Request	
• David J. Powers & Associates	
○ Complete CEQA process	\$22,175
○ NEPA Environmental Review (CATEX)	\$55,190 ¹
○ Reimbursables	\$1,265
• Subconsultants*	
• H.T. Harvey & Associates (Updated CEQA Biological Report)	\$5,185
• H.T. Harvey & Associates (Permitting)	\$5,930
• H.T. Harvey & Associates (NES – Minimal Impacts)	\$12,260
• Illingworth & Rodkin (CEQA Air Quality Update Memo)	\$1,725
• Chronicle Heritage (APE Map, ASR, HPSR, HRER, XP1 Proposal)	\$46,270
	\$150,000
Total Contract with Amendment	334,795

* All subconsultants include our standard 15 percent administrative fee.

¹This is not DJP&A's total estimated in-house budget to complete NEPA environmental review. The estimated additional in-house budget to complete NEPA environmental review is \$20,425, which will be requested under a separate future contract amendment.

Charge Rate Schedule³

Title	Hourly Rate
Senior Principal	\$330
Principal Project Manager	\$304
Senior Environmental Specialist	\$258
Senior Project Manager	\$237
Environmental Specialist	\$221
Project Manager	\$211
Associate Project Manager	\$185
Assistant Project Manager	\$155
Researcher	\$134
Graphic Artist	\$124

Notes: Materials, outside services and subconsultants include a 15% administration fee. Mileage will be charged per the current IRS standard mileage rate at the time costs occur. Subject to revision January 1, 2024.

³ David J. Powers & Associates, Inc. provides regular, clear and accurate invoices as the work on this project proceeds, in accordance with normal company billing procedures. The cost estimate prepared for this project does not include special accounting or bookkeeping procedures, nor does it include preparation of extraordinary or unique statements or invoices. If a special invoice or accounting process is requested, the service can be provided on a time and materials basis. Any fees charged to DJP&A for Client's third-party services related to invoicing, insurance certificate maintenance, or other administrative functions will be billed as a reimbursable expense.

**SIGNATURE PAGE FOR AMENDMENT NO. 1
TO PROFESSIONAL SERVICES AGREEMENT BETWEEN THE CITY OF MILPITAS
AND
DAVID J. POWERS & ASSOCIATES, INC.**

This Amendment No. 1 is executed as of the date first written above.

APPROVED BY:

CITY OF MILPITAS

CONSULTANT
**DAVID J. POWERS &
ASSOCIATES, INC.**

APPROVED BY:

Ned Thomas, City Manager

By: _____
Akoni Danielsen, President

Date

Date

APPROVED AS TO FORM:

Michael Mutalipassi, City Attorney

APPROVED

Lauren Lai, Director of Finance/Risk Manager

APPROVED AS TO CONTENT:

Matt Cano, Deputy City Manager/Interim City Engineer



CITY OF MILPITAS AGENDA REPORT (AR)

Item Title:	Approve and Authorize the City Manager to Execute the Five-Year Software as a Service (SaaS) Agreement with Tyler Technologies for Financial System Enterprise Resource Planning (ERP) and Human Resources Information System (HRIS) (Staff Contact: Lauren Lai, Finance Director 408-586-3111; and Vicky Lien, Acting Human Resources Director 408-586-3085)
Category:	Consent Calendar-Leadership and Support Services
Meeting Date:	12/12/2023
Recommendation:	Approve and authorize the City Manager to execute the five-year Software as a Service Agreement with Tyler Technologies for Financial System Enterprise Resource Planning (ERP) and Human Resources Information System (HRIS) for an amount not to exceed \$2,123,588 and delegate authority to the City Manager for additional optional 5 years and change order authority up to 10%.

Background:

Currently, the City has an obsolete financial system with limited human resources functionality. The City utilizes Cayenta System which is 26 years old (installed in 1996) and by any standard, this is considered extremely outdated. While the City implemented multiple upgrades throughout the years, the current system is obsolete, resulting in paper-intensive, manual procedures; higher risks of error; insufficient information for informed labor relations/management; insufficient reporting for fiscal management and transparency; and impacts services to the community.

On April 18, 2023, the City Council deliberated on this information system challenge and approved CIP Project 3466 Financial System Enterprise Resource Planning (ERP) and CIP Project 3467 Human Resources Information System (HRIS) in the adopted the 2024-2028 Capital Improvement Program.

In November 2022, the City entered into an agreement with Plante & Moran, PLLC (Plante Moran), a consulting firm that specializes in helping clients to perform ERP assessment. Plante Moran designed this assessment project in five phases, which includes the following:

1. Phase One: Project Management: Identify project key personnel in the City and develop detail project plan.
2. Phase Two: ERP Needs Assessment: Review City's procedural documentation and conduct stakeholder interviews. The goal is to document and analyze the current state of the system and business processes, and to identify gaps in functionalities, inaccuracies and inefficiencies.
3. Phase Three: Request for Proposal (RFP): Based on the Needs Assessment result, Plante Moran assisted to develop a request for proposal (RFP) document for an ERP solution.
4. Phase Four: Solution Selection: Plante Moran assisted in solution selection and assisted to identify the finalist of the RFP process.
5. Phase Five: ERP contract negotiation: Plante Moran assisted with contract negotiation to achieve optimal terms and conditions for the recommended contract.

The City conducted and successfully completed the solicitation through a request for proposal (RFP) RFP 23-078 for Enterprise Resource Planning (ERP) Services, which was published in May 2023.

Analysis:

On May 24, 2023, the City's Purchasing Division released RFP No. 23-078 for ERP Services. The scope of work was developed working in concert with Plante Moran. The scope of work identified the core (required) and expanded (optional) components of the solution and related implementation services. The core/required application software includes the following:

1. Finance
 - a. Accounts Payable
 - b. Accounts Receivable
 - c. Budget
 - d. Cash Receipting
 - e. Contract Management
 - f. Fixed Assets
 - g. General Ledger
 - h. Grant and Project Accounting
 - i. Purchasing
 - j. Payroll
 - k. Time and Attendance
2. Human Resources
 - a. Core HR
 - b. Employee Benefits
 - c. Employee Self Service
 - d. Learning and Training Management
 - e. Performance Management
 - f. Personnel Actions
 - g. Position Control
 - h. Leave Management
3. General and Technical
4. Reporting, Dashboards, and Data Analytics tools
5. Any other necessary software components to support the proposed Core Application Software and solution

The expanded /optional application software includes the following:

1. Human Resources
 - a. Applicant Tracking
 - b. Onboarding/Offboarding
 - c. Recruiting
2. Utility Billing
 - a. Account Management
 - b. Billing
 - c. Cash Receipting
 - d. Customer Portal
 - e. Delinquency Processing
 - f. Bill Rate Management
 - g. Service Requests

The RFP was publicly noticed in accordance with the City's Municipal Code, advertised on the City's website, emailed to companies registered with the City via Procurement.OpenGov.com (the City's eProcurement system). Upon release, 1268 firms received notification of the RFP. Sixty-nine (69) firms downloaded the RFP documents. Five (5) addendums were issued and forty-one (41) clarifying questions were answered by City staff. Six (6) firms responded to the RFP by the published closing date of July 13, 2023.

The RFP was evaluated and scored in three rounds of evaluation. The first round of scoring was performed by City of Milpitas Purchasing staff to review the RFP response completeness, and to confirm the RFP was submitted timely. Based on the result of the first-round scoring, the City selected the following five (5) vendors for further evaluation:

1. Avaap (Workday/SpryPoint)
2. Collaborative (Workday/SpryPoint)
3. Cayenta, A Division of Harris Computer
4. Cogsdale
5. Tyler Technologies (Tyler)

The second and third rounds of the scoring were performed by the selection committee with assistance provided by Plante Moran. The selection committee is comprised of City staff members in Finance, Human Resources, and Information Technology Departments. The second and third round of the scoring were based on the following five criteria: 1) System functionality, 2) Cost, 3) Vendor viability, 4) Implementation services and ongoing support, and 5) Technical requirement. Five (5) proposals were reviewed by the selection committee, and three (3) vendors were invited to participate in a virtual interview process. The final top two (2) vendors Tyler Technologies and Collaborative (Workday/SpryPoint) were identified as the two highest ranked submissions after round 2 scoring. They were invited to attend an in-person demonstration session. These information sessions were to gather further information regarding their proposals and offer the selection committee the opportunity to ask clarifying questions.

Round 2 Scoring: The table below shows the Round 2 (Proposal based) scores with the recommended vendors who were invited to Round 3 (On-site Demonstrations) highlighted in bold:

Enterprise Resource Planning Services RFP No. 23-078	Avvap (Workday/SpryPoint)	Collaborative (Workday/SpryPoint)	Cayenta	Cogsdale	Tyler Technologies (Tyler)
Functionality	3.40	3.60	3.50	1.40	4.10
Cost	1.60	1.80	2.50	4.10	4.00
Vendor Viability	3.40	4.00	3.20	2.60	4.10
Implementation services and ongoing support	3.20	4.00	3.40	3.20	3.50
Technical Requirements	4.00	4.00	1.00	2.00	5.00
Weighted Score	61.20	68.80	59.40	52.00	81.00

Round 3 Scoring: The table below shows the final scores with the recommended vendor highlighted in green:

ERP Services RFP No. 23-078	Collaborative (Workday/ Sprypoint)	Tyler Technologies
Functionality	3.5	4.5
Cost	2.3	4
Vendor Viability	4	4.3
Implementation services and ongoing support	3.8	3.8
Technical Requirements	3	4
Weighted Score	65.00	82.25

Throughout the RFP process, Tyler Technologies consistently excelled in four out of the five scoring criteria. They are Functionality, Cost, Vendor Viability, and Technical Requirements. Tyler Technologies provides ERP support and solutions exclusively to the government marketplace since 1982. Currently, Tyler serves 65 local governments in the State of California. During the demonstration session, Tyler demonstrated a modern and configurable reporting dashboard, integrated and customizable reporting capabilities, digitized workflows and content management. Tyler offers an integrated solution for a broad portfolio of financial and human resources functions. This integrated aspect includes automated workflow to improve operational efficiency by eliminating numerous repetitive tasks. The integrated aspect will also significantly improve reporting functionality for data-driven decisions, enhance transparency and fiscal sustainability and improve customer services to the Council and Milpitas community.

Based on the proposal submitted and subsequent negotiations, staff recommends awarding a contract to Tyler Technologies. If the Council approves this contract, Tyler will begin the planning stage with the City no later than forty five (45) calendar days following agreement execution. This ERP implementation is a two-phased project. The first phase is to implement Finance core functionalities with a target go live date in July 2025. The second phase is to implement Human Resources/Payroll core functionalities with a target go live date in January 2026. Moreover, City staff will continue to explore utility billing solutions to improve operations and enhance customer services.

Also, effective project management and temporary staff augmentation are critical components of a successful ERP implementation and organizational change management. On behalf of the City, the project manager will work closely with City staff and Tyler team to monitor the project progress and resolve issues. Temporary staff augmentation will enable the Finance, Human Resources and Information Technology Departments to properly engage in this project to design, implement, test and train for a successful implementation, while ensuring the essential day-to-day duties are performed within these respective functions.

This Tyler contract and ERP solution will enable the City to modernize the Financial and Human Resources solutions to digitize workflows; reduce risks of error; access information for labor relations/management; access reporting for fiscal management and transparency; and especially improve the customer service experience for our community.

Policy Alternatives:

Alternative 1: Not award ERP contract to Tyler Technologies.

Pros: Fund would be not spent on this priority.

Cons: The City will continue using the current system Cayenta for the ERP solutions. Staff will continue to perform manual entry and use spreadsheets for tracking and reporting purposes. In addition, Human Resources will not have a real ERP solution to help alleviate the manual workload in order to improve processes and increase operational efficiencies.

Reason not recommended: The City will not be able to benefit from utilizing the modern system with integrated workflow and reporting capabilities. As mentioned above, Human Resources will not have a real ERP solution to help alleviate the manual workload in order to improve processes and increase operational efficiencies. Ultimately, the City will not be able to sustain the expected level of superior customer service to our residents and employees if we do not have the technology systems to support our required workflows and workload.

Fiscal Impact:

Should Council approve this contract, the five-year SaaS agreement with Tyler Technologies for ERP and HRIS is for an amount not to exceed \$2,123,588. Moreover, the City Manager may authorize the optional 5 years and change order authority up to 10%. The CIP FY23-24 Adopted Budget appropriated sufficient funding for this contract and the cost of project management.

Fiscal Summary of Contract (5-years):

	One time Fee	Recurring Fee	Total
Total SaaS Fee	\$ -	\$ 247,754	\$ 1,238,770
Total Tyler Services	\$ 839,380	\$ -	\$ 839,380
Total Third-Party Hardware, Software, Services	\$ 5,338	\$ 220	\$ 6,438
Travel Cost	\$ 39,000		\$ 39,000
Total Contract Cost (5 years)	\$ 883,718	\$ 247,974	\$ 2,123,588

Fiscal Summary of CIP projects:

The CIP FY23-24 Adopted Budget includes \$2,950,000 for projects CIP 3466 Financial System Enterprise Resource Planning (\$1,850,000) and CIP 3467 Human Resources Information System (\$1,100,000). This funding will be utilized to pay for the initial one time costs, initial recurring costs, future optional/expanded applications and project management. The funding sources include: ARPA Federal Fund, Technology Replacement Fund, General Fund Technology Replace Reserve, Water and Sewer Funds and General Government CIP Fund.

Moreover, the CIP FY24-25 budget would request Council's funding appropriation for the required temporary staff augmentation as is programmed in the City Council adopted 2024-2028 Capital Improvement Program. Subsequent to year 3, the annual SaaS would be incorporated into the annual operating budget development.

California Environmental Quality Act:

The action is an organizational or administrative activity of the City government that will not result in direct or indirect physical changes in the environment and is not a project pursuant to Cal. Code of Regs., tit. 14, § 15378.

Recommendation:

Approve and Authorize the City Manager to Execute, with the approval of the City Attorney, the Five-Year Software as a Service Agreement with Tyler Technologies for Financial System Enterprise Resource Planning

(ERP) and Human Resources Information System (HRIS) for an amount not to exceed \$2,123,588 and delegate authority to the City Manager for additional optional 5 years and change order authority up to 10%

Attachments:

- A. Software as a Service Agreement with Tyler Technologies
- B. 23-078 Bid Tab



SOFTWARE AS A SERVICE AGREEMENT

This Software as a Service Agreement is made between Tyler Technologies, Inc. and Client.

WHEREAS, Client selected Tyler to provide certain products and services set forth in the Investment Summary, including providing Client with access to Tyler's proprietary software products, and Tyler desires to provide such products and services under the terms of this Agreement;

NOW THEREFORE, in consideration of the foregoing and of the mutual covenants and promises set forth in this Agreement, Tyler and Client agree as follows:

SECTION A – DEFINITIONS

- **"Agreement"** means this Software as a Service Agreement.
- **"Business Travel Policy"** means our business travel policy. A copy of our current Business Travel Policy is attached as Schedule 1 to Exhibit B.
- **"City" or "Client"** means City of Milpitas, California.
- **"Data"** means your data necessary to utilize the Tyler Software.
- **"Data Storage Capacity"** means the contracted amount of storage capacity for your Data identified in the Investment Summary.
- **"Defect"** means a failure of the Tyler Software to substantially conform to the functional descriptions set forth in our written proposal to you, or their functional equivalent. Future functionality may be updated, modified, or otherwise enhanced through our maintenance and support services, and the governing functional descriptions for such future functionality will be set forth in our then-current Documentation.
- **"Defined Users"** means the number of users that are authorized to use the SaaS Services. The Defined Users for the Agreement are as identified in the Investment Summary. If Exhibit A contains Enterprise Permitting & Licensing labeled software, defined users mean the maximum number of named users that are authorized to use the Enterprise Permitting & Licensing labeled modules as indicated in the Investment Summary.
- **"Developer"** means a third party who owns the intellectual property rights to Third Party Software.
- **"Documentation"** means any online or written documentation related to the use or functionality of the Tyler Software that we provide or otherwise make available to you, including instructions, user guides, manuals and other training or self-help documentation.
- **"Effective Date"** means the date by which both your and our authorized representatives have signed the Agreement.
- **"Force Majeure"** means an event beyond the reasonable control of you or us, including, without limitation, governmental action, war, riot or civil commotion, fire, natural disaster, or any other cause that could not with reasonable diligence be foreseen or prevented by you or us.
- **"Investment Summary"** means the agreed upon cost proposal for the products and services attached as Exhibit A.
- **"Invoicing and Payment Policy"** means the invoicing and payment policy. A copy of our current



Invoicing and Payment Policy is attached as Exhibit B.

- **“Order Form”** means an ordering document that includes a quote or investment summary and specifying the items to be provided by Tyler to Client, including any addenda and supplements thereto.
- **“SaaS Fees”** means the fees for the SaaS Services identified in the Investment Summary.
- **“SaaS Services”** means software as a service consisting of system administration, system management, and system monitoring activities that Tyler performs for the Tyler Software and includes the right to access and use the Tyler Software, receive maintenance and support on the Tyler Software, including Downtime resolution under the terms of the SLA, and Data storage and archiving. SaaS Services do not include support of an operating system or hardware, support outside of our normal business hours, or training, consulting, or other professional services.
- **“SLA”** means the service level agreement. A copy of our current SLA is attached hereto as Exhibit C.
- **“Statement of Work”** means the industry standard implementation plan describing how our professional services will be provided to implement the Tyler Software and outlining your and our roles and responsibilities in connection with that implementation. The Statement of Work is attached as Exhibit E.
- **“Support Call Process”** means the support call process applicable to all of our customers who have licensed the Tyler Software. A copy of our current Support Call Process is attached as Schedule 1 to Exhibit C.
- **“Third Party Hardware”** means the third party hardware, if any, identified in the Investment Summary.
- **“Third Party Products”** means the Third Party Software and Third Party Hardware.
- **“Third Party SaaS Services”** means software as a service provided by a third party, if any, identified in the Investment Summary.
- **“Third Party Services”** means the third party services, if any, identified in the Investment Summary.
- **“Third Party Software”** means the third party software, if any, identified in the Investment Summary.
- **“Third Party Terms”** means, if any, the end user license agreement(s) or similar terms for the Third Party Products or other parties’ products or services, as applicable, and attached or indicated at Exhibit D.
- **“Tyler” or “Contractor”** means Tyler Technologies, Inc., a Delaware corporation.
- **“Tyler Software”** means our proprietary software, including any integrations, custom modifications, and/or other related interfaces identified in the Investment Summary and licensed by us to you through this Agreement.
- **“we”, “us”, “our”** and similar terms mean Tyler.
- **“you”** and similar terms mean Client.

SECTION B – SAAS SERVICES

1. Rights Granted. We grant to you the non-exclusive, non-assignable limited right to use the SaaS Services solely for your internal business purposes for the number of Defined Users only. The Tyler Software will be made available to you according to the terms of the SLA. You acknowledge that we have no delivery obligations, and we will not ship copies of the Tyler Software as part of the SaaS Services. You may use the SaaS Services to access updates and enhancements to the Tyler Software, as further described in Section C(9). The foregoing notwithstanding, to the extent we have sold you perpetual licenses for Tyler Software, if and listed in the Investment Summary, for which you are receiving SaaS Services, your rights to use such Tyler Software are perpetual, subject to the terms and conditions of this Agreement including, without limitation, Section B(4). We will make any such software available to you for download.

2. SaaS Fees. You agree to pay us the SaaS Fees. Those amounts are payable in accordance with our Invoicing and Payment Policy. The SaaS Fees are based on the number of Defined Users and amount of Data Storage Capacity. You may add additional users or additional data storage capacity on the terms set forth in Section H(1). In the event you regularly and/or meaningfully exceed the Defined Users or Data Storage Capacity, we reserve the right to charge you additional fees commensurate with the overage(s).
3. Ownership.
 - 3.1 We retain all ownership and intellectual property rights to the SaaS Services, the Tyler Software, and anything developed by us under this Agreement. You do not acquire under this Agreement any license to use the Tyler Software in excess of the scope and/or duration of the SaaS Services.
 - 3.2 The Documentation is licensed to you and may be used and copied by your employees for internal, non-commercial reference purposes only. For the avoidance of doubt, use by your employees shall also be construed to include your contractors performing duties ordinarily performed by employees. Client agrees that it will ensure that any such contractors will be bound by the terms of this Agreement. Additionally, Client will provide advance notice to Tyler regarding each such contractor so that Tyler can execute a non-disclosure agreement directly with the contractor.
 - 3.3 You retain all ownership and intellectual property rights to the Data. You expressly recognize that except to the extent necessary to carry out our obligations contained in this Agreement, we do not create or endorse any Data used in connection with the SaaS Services.
4. Restrictions. You may not: (a) make the Tyler Software or Documentation resulting from the SaaS Services available in any manner to any third party for use in the third party's business operations; (b) modify, make derivative works of, disassemble, reverse compile, or reverse engineer any part of the SaaS Services; (c) access or use the SaaS Services in order to build or support, and/or assist a third party in building or supporting, products or services competitive to us; or (d) license, sell, rent, lease, transfer, assign, distribute, display, host, outsource, disclose, permit timesharing or service bureau use, or otherwise commercially exploit or make the SaaS Services, Tyler Software, or Documentation available to any third party other than as expressly permitted by this Agreement.
5. Software Warranty. We warrant that the Tyler Software will perform without Defects during the term of this Agreement. If the Tyler Software does not perform as warranted, we will use all reasonable efforts, consistent with industry standards, to cure the Defect in accordance with the maintenance and support process set forth in Section C(9), below, the SLA and our then current Support Call Process.
6. Functionality Replacement. For the duration of the five (5) year initial term of this Agreement, if a new release of the Tyler Software removes functionality that was originally provided to you, we will provide alternative means for performing the same function, at no additional cost to you beyond payment of the annual SaaS Fees.
7. SaaS Services.
 - 6.1 Our SaaS Services are audited at least yearly in accordance with the AICPA's Statement on Standards for Attestation Engagements ("SSAE") No. 21. We have attained, and will maintain, SOC 1 and SOC 2 compliance, or its equivalent, for so long as you are timely paying for SaaS Services. The scope of audit coverage varies for some Tyler Software solutions. Upon request, and, without limitation, subject to the terms of this Agreement governing Documentation and confidentiality of information, we will provide you with a summary of our compliance report(s) or its equivalent. If our SaaS Services are provided using a 3rd party data center, we will provide available compliance reports for that data

center.

- 6.2 You will be hosted on shared hardware in a Tyler data center or in a third-party data center physically located within the continental United States. Tyler will not transfer Client data outside territorial limits of the United States of America without prior permission from Client. In either event, databases containing your Data will be dedicated to you and inaccessible to our other customers.
- 6.3 Our Tyler data centers have fully-redundant telecommunications access, electrical power, and the required hardware to provide access to the Tyler Software in the event of a disaster or component failure. In the event of a data center failure, we reserve the right to employ our disaster recovery plan for resumption of the SaaS Services. In that event, we commit to a Recovery Point Objective (“RPO”) of 24 hours and a Recovery Time Objective (“RTO”) of 24 hours. RPO represents the maximum duration of time between the most recent recoverable copy of your hosted Data and subsequent data center failure. RTO represents the maximum duration of time following data center failure within which your access to the Tyler Software must be restored.
- 6.4 We conduct annual penetration testing of either the production network and/or web application to be performed. We will maintain industry standard intrusion detection and prevention systems to monitor malicious activity in the network and to log and block any such activity. We will provide you with a written or electronic record of the actions taken by us in the event that any unauthorized access to your database(s) is detected as a result of our security protocols. We will undertake an additional security audit, on terms and timing to be mutually agreed to by the parties, at your written request. You may not attempt to bypass or subvert security restrictions in the SaaS Services or environments related to the Tyler Software. Unauthorized attempts to access files, passwords or other confidential information, and unauthorized vulnerability and penetration test scanning of our network and systems (hosted or otherwise) is prohibited without the prior written approval of our IT Security Officer.
- 6.5 We test our disaster recovery plan on an annual basis. Our standard test is not client-specific. Should you request a client-specific disaster recovery test, we will work with you to schedule and execute such a test on a mutually agreeable schedule. At your written request, we will provide test results to you within a commercially reasonable timeframe after receipt of the request.
- 6.6 We will be responsible for importing back-up and verifying that you can log-in. You will be responsible for running reports and testing critical processes to verify the returned Data.
- 6.7 We provide secure Data transmission paths between each of your workstations and our servers.
- 6.8 Tyler data centers are accessible only by authorized personnel with a unique key entry. All other visitors to Tyler data centers must be signed in and accompanied by authorized personnel. Entry attempts to the data center are regularly audited by internal staff and external auditors to ensure no unauthorized access.
- 6.9 Where applicable with respect to our applications that take or process card payment data, we are responsible for the security of cardholder data that we possess, including functions relating to storing, processing, and transmitting of the cardholder data and affirm that, as of the Effective Date, we comply with applicable requirements to be considered PCI DSS compliant and have performed the necessary steps to validate compliance with the PCI DSS. We agree to supply the current status of our PCI DSS compliance program in the form of an official Attestation of Compliance, which can be found at <https://www.tylertech.com/about-us/compliance>, and in the event of any change in our status, will comply with applicable notice requirements.

SECTION C – PROFESSIONAL SERVICES

1. Professional Services. We will provide you the various implementation-related services itemized in the Investment Summary and described in the Statement of Work.

2. Professional Services Fees. You agree to pay us the professional services fees in the amounts set forth in the Investment Summary. Those amounts are payable in accordance with our Invoicing and Payment Policy. You acknowledge that the fees stated in the Investment Summary are good-faith estimates of the amount of time and materials required for your implementation. We will bill you the actual fees incurred based on the in-scope services provided to you. Any discrepancies in the total values set forth in the Investment Summary will be resolved by multiplying the applicable hourly rate by the quoted hours.
3. Additional Services. The Investment Summary contains, and the Statement of Work describes, the scope of services and related costs (including programming and/or interface estimates) required for the project based on our understanding of the specifications you supplied. If additional work is required, or if you use or request additional services, we will provide you with an addendum or change order, as applicable, outlining the costs for the additional work. The price quotes in the addendum or change order will be valid for thirty (30) days from the date of the quote.
4. Personnel. We agree to maintain an adequate staff of experienced and qualified employees for timely performance of the implementation services required pursuant to this Agreement.
5. Assignment and Removal of Staff. After the Effective Date, and in coordination with the project kick-off activities identified in the Statement of Work, we will make our project staffing assignments. Upon request, we will provide you with project resumes, demonstrating relevant past project experience, for project team members that are allocated for onsite services on the project.

In the event Tyler personnel is/are not providing services consistent with our services warranty or are otherwise negatively impacting the project, you will notify us of that deficiency and give us a reasonable opportunity to correct it. In the event the deficiency persists, we will replace that project member, upon written request. At no cost to the Client, Tyler will use best efforts to identify replacement staff within ten (10) business days, and replacement staff will otherwise be assigned following the same processes set forth above and shall have, at minimum, sufficient experience and project knowledge to provide the services required pursuant to this Agreement. Client and Tyler agree to reasonably cooperate in the event of a change in personnel, including managing the effect upon the timelines and milestones set forth in the SOW and any project plans. Tyler will use commercially reasonable efforts to maintain the consistency of project personnel.

6. Cancellation. If you cancel services less than four (4) weeks in advance (other than for Force Majeure or breach by us), you will be liable for all (a) daily fees associated with cancelled professional services if we are unable to reassign our personnel and (b) any non-refundable travel expenses already incurred by us on your behalf. We will make all reasonable efforts to reassign personnel in the event you cancel within four (4) weeks of scheduled commitments.
7. Services Warranty. We will perform the services in a professional, workmanlike manner, consistent with industry standards. In the event we provide services that do not conform to this warranty, we will re-perform such services at no additional cost to you. For the avoidance of doubt, this provision shall not be construed to prevent Client from invoking dispute resolution for repeated instances of a failure by Tyler to conform services to this services warranty.
8. Site Access and Requirements. At no cost to us, you agree to provide us with full and free access to your personnel, facilities, and equipment as may be reasonably necessary for us to provide implementation

services, subject to any reasonable security protocols or other written policies provided to us as of the Effective Date, and thereafter as mutually agreed to by you and us. Any employee on the Client's premises shall comply with applicable laws and regulations. We agree to reasonably cooperate with you in confirming background checks for Tyler personnel providing onsite services and will rerun those checks for any such personnel who have not had a background check performed within the last two (2) years.

9. Background Checks. , All of our employees undergo criminal background checks prior to hire. All employees sign our confidentiality agreement and security policies.
10. Client Assistance. You acknowledge that the implementation of the Tyler Software is a cooperative process requiring the time and resources of your personnel. You agree to use all reasonable efforts to cooperate with and assist us as may be reasonably required to meet the agreed upon project deadlines and other milestones for implementation. This cooperation includes at least working with us to schedule the implementation-related services outlined in this Agreement. We will not be liable for failure to meet any deadlines and milestones when such failure is due to Force Majeure or to the failure by your personnel to provide such cooperation and assistance (either through action or omission).
11. Maintenance and Support. For so long as you timely pay your SaaS Fees according to the Invoicing and Payment Policy, then in addition to the terms set forth in the SLA and the Support Call Process, we will:
 - 11.1 perform our maintenance and support obligations in a professional, good, and workmanlike manner, consistent with industry standards, to resolve Defects in the Tyler Software (subject to any applicable release life cycle policy);
 - 11.2 provide support during our established support hours;
 - 11.3 maintain personnel that are sufficiently trained to be familiar with the Tyler Software and Third Party Software, if any, in order to provide maintenance and support services;
 - 11.4 make available to you all releases to the Tyler Software (including updates and enhancements) that we make generally available without additional charge to customers who have a maintenance and support agreement in effect; and
 - 11.5 provide non-Defect resolution support of prior releases of the Tyler Software in accordance with any applicable release life cycle policy.

We will use all reasonable efforts to perform support services remotely. Currently, we use a third-party secure unattended connectivity tool called Bomgar, as well as GotoAssist by Citrix. Therefore, you agree to maintain a high-speed internet connection capable of connecting us to your PCs and server(s). You agree to provide us with a login account and local administrative privileges as we may reasonably require to perform remote services. We will, at our option, use the secure connection to assist with proper diagnosis and resolution, subject to any reasonably applicable security protocols. If we cannot resolve a support issue remotely, we may be required to provide onsite services. In such event, we will be responsible for our travel expenses, unless it is determined that the reason onsite support was required was a reason outside our control. Either way, you agree to provide us with full and free access to the Tyler Software, working space, adequate facilities within a reasonable distance from the equipment, and use of machines, attachments, features, or other equipment reasonably necessary for us to provide the maintenance and support services, all at no charge to us. We strongly recommend that you also maintain your VPN for backup connectivity purposes.

For the avoidance of doubt, and notwithstanding any language in a Support Call Process regarding support services available after hours, SaaS Fees do not include the following services: (a) onsite support (unless Tyler cannot remotely correct a Defect in the Tyler Software, as set forth above); (b) application design; (c)

other consulting services; or (d) support outside our normal business hours as listed in our then-current Support Call Process. Requested services such as those outlined in this section will be billed to you on a time and materials basis at our then current rates. You must request those services with at least one (1) weeks' advance notice.

12. Compliance with Rules and Regulations. We agree that all persons working for or on behalf of us whose duties bring them upon your premises shall obey the rules and regulations that are established by you and shall comply with the reasonable directions of your representatives in accordance with such rules and regulations. You may, at any time and solely to protect your safety and property due to the unique circumstances on the City's property, require the removal and replacement of any of our employees if such employee disregards your policies, rules, and regulations. Any employee involved in egregious or unlawful misconduct while on Client premises shall be subject to immediate removal by the Client's Safety Officer or local law enforcement.
13. Compliance with Federal and State Laws. Tyler, in the provision of software and services pursuant to this Agreement, shall comply with all laws, rules and regulations applicable to our performance under this Agreement in effect as of the Effective Date and those that may become effective thereafter; the software, services, and fees set forth in the Investment Summary account for the entirety of our compliance efforts based on the mutually agreed scope of the project.
14. Project Plan. Unless otherwise agreed to by the parties, within thirty (30) business days of the commencement of Phase 1 of the project, and provided you timely provide all responses for information and confirmations for such plan, we will deliver to you a detailed Project Plan for that phase that details both our and your responsibilities to accomplish the tasks set forth in the Statement of Work as well as the specific start and end dates for each activity. The Project Plan will be in sufficient detail to specify the installation, conversion, training, testing, acceptance, and live operation activities for each phase, including the planned phase go-live date. The parties understand and agree that the Project Plan(s) may be modified, as necessary, by mutual agreement and in accordance with the processes set forth in the Statement of Work.
15. Tyler Software Acceptance. The Client will use the following acceptance process for each Phase, as defined in the SOW. Client will have a maximum of a thirty (30) calendar days "Test Period" to test the System in a live production environment and report documented Defects. If there are no Defects reported during the Test Period, the Client shall issue "Acceptance." Upon Acceptance of the last Phase of the project, Client shall also grant "Project Closure." If Client reports a documented Defect during the Test Period, Client will notify Tyler in writing. Tyler will correct the Defect(s) or provide a mutually agreeable plan for future resolution of any Defect(s). A dispute with respect to the plan shall be addressed pursuant to the Dispute Resolution Process of this Agreement. Upon resolution of a Defect during the Test Period, Client may re-perform testing for a maximum of fifteen (15) calendar days. This procedure shall repeat until all Defects have either been resolved or the Client and Tyler, reasonably cooperating, have developed a mutually agreeable schedule for Defect resolution, at which point the Client shall issue Project Closure. The foregoing notwithstanding, the Client may request an extension of the Test Period or any fifteen (15) day retesting period as a result of city closures scheduled, work stoppages, or other unforeseen events occurring during such periods, and Tyler will not unreasonably refuse such request. The requested extension shall be reasonably equivalent to the duration of the city closure(s).
16. Video and Audio Recording. Subject to Section H (17), Tyler is willing to permit the Client to record trainings and or presentations, subject to the following conditions and requirements:

- 16.1 Client's use of said recordings are for Client's internal purposes only;
- 16.2 Client shall not disclose such recordings unless required by applicable law;
- 16.3 Client acknowledges that the information contained in such recordings is provided "as is" and may not accurately depict the functioning of the software for certain configurations or versions of the Tyler Software;
- 16.4 Client is wholly responsible for ensuring its recording, handling, and storage of such recordings conforms to applicable laws and regulations. For the avoidance of doubt, and without limiting the foregoing, Client is responsible for ensuring the confidentiality of any personally identifiable information contained in such recordings.

SECTION D – THIRD PARTY PRODUCTS

- 1. Third Party Hardware. We will sell, deliver, and install onsite the Third Party Hardware, if you have purchased any, for the price set forth in the Investment Summary. Those amounts are payable in accordance with our Invoicing and Payment Policy.
- 2. Third Party Software. As part of the SaaS Services, you will receive access to the Third Party Software and related documentation for internal business purposes only. Your rights to the Third Party Software will be governed by the Third Party Terms.
- 3. Third Party Products Warranties.
 - 3.1 We are authorized by each Developer to grant access to the Third Party Software.
 - 3.2 The Third Party Hardware will be new and unused, and upon payment in full, you will receive free and clear title to the Third Party Hardware.
 - 3.3 You acknowledge that we are not the manufacturer of the Third Party Products. We do not warrant or guarantee the performance of the Third Party Products. However, we grant and pass through to you any warranty that we may receive from the Developer or supplier of the Third Party Products.
- 4. Third Party Services. If you have purchased Third Party Services, those services will be provided independent of Tyler by such third-party at the rates set forth in the Investment Summary and in accordance with our Invoicing and Payment Policy.

SECTION E - INVOICING AND PAYMENT; INVOICE DISPUTES

- 1. Invoicing and Payment. We will invoice you the SaaS Fees and fees for other professional services in the Investment Summary per our Invoicing and Payment Policy, subject to Section E(2).
- 2. Invoice Disputes. If you believe any delivered software or service does not conform to the warranties in this Agreement, you will provide us with written notice within thirty (30) days of your receipt of the applicable invoice. The written notice must contain reasonable detail of the issues you contend are in dispute so that we can confirm the issue and respond to your notice with either a justification of the invoice, an adjustment to the invoice, or a proposal addressing the issues presented in your notice. We will work with you as may be necessary to develop an action plan that outlines reasonable steps to be taken by each of us to resolve any issues presented in your notice. You may withhold payment of the amount(s) actually in dispute, and only those amounts, until we complete the action items outlined in the plan. If we are unable to complete the action items outlined in the action plan because of your failure to complete the items agreed to be done by you, then you will remit full payment of the invoice. We reserve the right to suspend delivery of all SaaS Services, including maintenance and support services, if you fail to

pay an invoice not disputed as described above within thirty (30) calendar days of notice of our intent to do so. For the avoidance of doubt, Tyler will not suspend services until Client's fees are more than ninety (90) days overdue, and after Tyler has pursued commercially reasonable efforts to collect the unpaid fees.

SECTION F – TERM AND TERMINATION

1. Term. The initial term of this Agreement is equal to the number of years indicated for SaaS Services in Exhibit A, commencing on the first day of the first month following the Effective Date, unless earlier terminated as set forth below. If no duration is indicated in Exhibit A, the initial term is one (1) year. Upon expiration of the initial term, this Agreement will renew upon mutual agreement of the parties for additional one (1) year renewal terms at our then-current SaaS Fees. Client may indicate its agreement to a renewal term by timely notice of intent to renew or by timely payment of an invoice for SaaS fees for an applicable renewal term. Your right to access or use the Tyler Software and the SaaS Services will terminate at the end of this Agreement.
2. Termination. This Agreement may be terminated as set forth below. In the event of termination, you will pay us for all undisputed fees and expenses related to the software, products, and/or services you have received, or we have incurred or delivered, prior to the effective date of termination. Disputed fees and expenses in all terminations other than your termination for cause must have been submitted as invoice disputes in accordance with Section E(2).
 - 2.1 Failure to Pay SaaS Fees. You acknowledge that continued access to the SaaS Services is contingent upon your timely payment of SaaS Fees. If you fail to timely pay the SaaS Fees, we may discontinue the SaaS Services and deny your access to the Tyler Software. We may also terminate this Agreement if you don't cure such failure to pay within sixty (60) calendar days of receiving written notice of our intent to terminate.
 - 2.2 For Cause. If you believe we have materially breached this Agreement, you will invoke the Dispute Resolution clause set forth in Section H(3). You may terminate this Agreement for cause in the event we do not cure, or create a mutually agreeable action plan to address, a material breach of this Agreement within the thirty (30) day window set forth in Section H(3).
 - 2.3 Force Majeure. Either party has the right to terminate this Agreement if a Force Majeure event suspends performance of the SaaS Services for a period of forty-five (45) days or more.
 - 2.4 Lack of Appropriations. If you should not appropriate or otherwise make available funds sufficient to utilize the SaaS Services, you may unilaterally terminate this Agreement upon thirty (30) days written notice to us. You will not be entitled to a refund or offset of previously paid, but unused SaaS Fees. You agree not to use termination for lack of appropriations as a substitute for termination for convenience.
 - 2.5 Service Levels. Client may elect to terminate this Agreement upon thirty (30) days notice if Actual Attainment, as defined and determined by the SLA, is lower than ninety-five and half percent (95.5%) for at least two months in any six month period.
3. Transition Services. In the event of termination by either party, Client may request that Tyler provide reasonable transition services to assist with Client's migration to a new vendor of choice. The parties agree to work together in good faith to create a mutually agreeable scope for those services, to be provided at Tyler's then-current pricing. Tyler will reasonably cooperate in response to reasonable requests to provide information as such is commercially and reasonably available.
4. Return of Client Data. In the event of termination or expiration of this Agreement, and upon reasonable

advance notice, Tyler shall promptly make all Client Data securely available to Client in the form of a copy of the database(s) hosted by Tyler or such other format as may be mutually agreed upon. Such Client Data will be provided no later than sixty (60) days prior to the date of expiration or termination, as applicable, (provided at least 10 days advance notice by Client) and again seven (7) days after date of expiration or termination, as applicable.

SECTION G – INDEMNIFICATION, LIMITATION OF LIABILITY AND INSURANCE

1. Intellectual Property Infringement Indemnification.

- 1.1 We will defend you against any third party claim(s) that the Tyler Software or Documentation infringes that third party's patent, copyright, or trademark, or misappropriates its trade secrets, and will pay the amount of any resulting adverse final judgment (or settlement to which we consent). You must notify us promptly in writing of the claim and give us sole control over its defense or settlement. You agree to provide us with reasonable assistance, cooperation, and information in defending the claim at our expense.
- 1.2 Our obligations under this Section G(1) will not apply to the extent the claim or adverse final judgment is based on your use of the Tyler Software in contradiction of this Agreement, including with non-licensed third parties, or your willful infringement.
- 1.3 If we receive information concerning an infringement or misappropriation claim related to the Tyler Software, we may, at our expense and without obligation to do so, either: (a) procure for you the right to continue its use; (b) modify it to make it non-infringing; or (c) replace it with a functional equivalent, in which case you will stop running the allegedly infringing Tyler Software immediately. Alternatively, we may decide to litigate the claim to judgment, in which case you may continue to use the Tyler Software consistent with the terms of this Agreement.
- 1.4 If an infringement or misappropriation claim is fully litigated and your use of the Tyler Software is enjoined by a court of competent jurisdiction, in addition to paying any adverse final judgment (or settlement to which we consent), we will, at our option, either: (a) procure the right to continue its use; (b) modify it to make it non-infringing; or (c) replace it with a functional equivalent. This section provides your exclusive remedy for third party copyright, patent, or trademark infringement and trade secret misappropriation claims.

2. General Indemnification.

- 2.1 We will indemnify and hold harmless you and your agents, officials, and employees from and against any and all third-party claims, losses, liabilities, damages, costs, and expenses (including reasonable attorney's fees and costs) for (a) personal injury or property damage to the extent caused by our negligence or willful misconduct; or (b) our violation of PCI-DSS requirements or a law applicable to our performance under this Agreement. You must notify us promptly in writing of the claim and give us sole control over its defense or settlement. You agree to provide us with reasonable assistance, cooperation, and information in defending the claim at our expense.

3. DISCLAIMER. EXCEPT FOR THE EXPRESS WARRANTIES PROVIDED IN THIS AGREEMENT AND TO THE MAXIMUM EXTENT PERMITTED BY APPLICABLE LAW, WE HEREBY DISCLAIM ALL OTHER WARRANTIES AND CONDITIONS, WHETHER EXPRESS, IMPLIED, OR STATUTORY, INCLUDING, BUT NOT LIMITED TO, ANY IMPLIED WARRANTIES, DUTIES, OR CONDITIONS OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE. CLIENT UNDERSTANDS AND AGREES THAT TYLER DISCLAIMS ANY LIABILITY FOR ERRORS THAT RELATE TO USER ERROR.

4. **LIMITATION OF LIABILITY.** EXCEPT AS OTHERWISE EXPRESSLY SET FORTH IN THIS AGREEMENT, OUR LIABILITY FOR DAMAGES ARISING OUT OF THIS AGREEMENT, WHETHER BASED ON A THEORY OF CONTRACT OR TORT, INCLUDING NEGLIGENCE AND STRICT LIABILITY, SHALL BE LIMITED TO YOUR ACTUAL DIRECT DAMAGES, NOT TO EXCEED (A) DURING THE INITIAL TERM, AS SET FORTH IN SECTION F(1), TWO (2) TIMES THE TOTAL FEES LISTED IN THE INVESTMENT SUMMARY; OR (B) DURING ANY RENEWAL TERM, TWO (2) TIMES THE THEN-CURRENT ANNUAL SAAS FEES PAYABLE IN THAT RENEWAL TERM. THE PARTIES ACKNOWLEDGE AND AGREE THAT THE PRICES SET FORTH IN THIS AGREEMENT ARE SET IN RELIANCE UPON THIS LIMITATION OF LIABILITY AND TO THE MAXIMUM EXTENT ALLOWED UNDER APPLICABLE LAW, THE EXCLUSION OF CERTAIN DAMAGES, AND EACH SHALL APPLY REGARDLESS OF THE FAILURE OF AN ESSENTIAL PURPOSE OF ANY REMEDY. THE FOREGOING LIMITATION OF LIABILITY SHALL NOT APPLY TO CLAIMS THAT ARE SUBJECT TO SECTIONS G(1) AND G(2).
5. **EXCLUSION OF CERTAIN DAMAGES.** TO THE MAXIMUM EXTENT PERMITTED BY APPLICABLE LAW, IN NO EVENT SHALL WE BE LIABLE FOR ANY SPECIAL, INCIDENTAL, PUNITIVE, INDIRECT, OR CONSEQUENTIAL DAMAGES WHATSOEVER, EVEN IF WE HAVE BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES.
6. **Insurance.** During the course of performing services under this Agreement, we agree to maintain the following levels of insurance: (a) Commercial General Liability of at least \$1,000,000; (b) Automobile Liability of at least \$1,000,000; (c) Professional Liability (inclusive of cyber liability) of at least \$2,000,000 per claim and \$2,000,000 in the aggregate; (d) Workers Compensation complying with applicable statutory requirements; and (e) Excess/Umbrella Liability of at least \$5,000,000. We will add you as an additional insured to our Commercial General Liability and Automobile Liability policies, which will automatically add you as an additional insured to our Excess/Umbrella Liability policy as well. We will provide you with copies of certificates of insurance upon your written request.

SECTION H – GENERAL TERMS AND CONDITIONS

1. **Additional Products and Services.** You may purchase additional products and services at the rates set forth in the Investment Summary for twelve (12) months from the Effective Date by executing a mutually agreed addendum. If no rate is provided in the Investment Summary, or those twelve (12) months have expired, you may purchase additional products and services at our then-current list price, also by executing a mutually agreed addendum. The terms of this Agreement will control any such additional purchase(s), unless otherwise specifically provided in the addendum.
2. **Optional Items.** Pricing for any listed optional products and services in the Investment Summary will be valid for twenty-four (24) months from the Effective Date.
3. **Dispute Resolution.** You agree to provide us with written notice within thirty (30) days of becoming aware of a dispute. You agree to cooperate with us in trying to reasonably resolve all disputes, including, if requested by either party, appointing a senior representative to meet and engage in good faith negotiations with our appointed senior representative. Senior representatives will use commercially reasonable efforts to convene as soon as possible but will do so, in any event, within thirty (30) days of the written dispute notice, unless otherwise agreed. All meetings and discussions between senior representatives will be deemed confidential settlement discussions not subject to disclosure under Federal

Rule of Evidence 408 or any similar applicable state rule. If we fail to resolve the dispute, then the parties shall participate in non-binding mediation in an effort to resolve the dispute. Each party shall use best efforts to cooperate and schedule such mediation to occur within thirty (30) days of the written notice or the right to such mediation shall be waived and the parties shall be free to seek redress in a court of competent jurisdiction. If the dispute remains unresolved after mediation, then either of us may assert our respective rights and remedies in a state or federal court of competent jurisdiction in Santa Clara County, in the Northern District of California. Nothing in this section shall prevent you or us from seeking necessary injunctive relief during the dispute resolution procedures.

4. Taxes. The fees in the Investment Summary do not include any taxes, including, without limitation, sales, use, or excise tax. If you are a tax-exempt entity, you agree to provide us with a tax-exempt certificate. Otherwise, we will pay all applicable taxes to the proper authorities, and you will reimburse us for such taxes. If you have a valid direct-pay permit, you agree to provide us with a copy. For clarity, we are responsible for paying our income taxes, both federal and state, as applicable, arising from our performance of this Agreement.
5. Nondiscrimination. We will not discriminate against any person employed or applying for employment concerning the performance of our responsibilities under this Agreement. This discrimination prohibition will apply to all matters of initial employment, tenure, and terms of employment, or otherwise with respect to any matter directly or indirectly relating to employment concerning race, color, religion, national origin, age, sex, sexual orientation, ancestry, disability that is unrelated to the individual's ability to perform the duties of a particular job or position, height, weight, marital status, or political affiliation. We will post, where appropriate, all notices related to nondiscrimination as may be required by applicable law.
6. E-Verify. We have complied, and will comply, with the E-Verify procedures administered by the U.S. Citizenship and Immigration Services Verification Division for all of our employees assigned to your project.
7. Subcontractors. We will not subcontract any services under this Agreement without your prior written consent, not to be unreasonably withheld.
8. Binding Effect; No Assignment. This Agreement shall be binding on, and shall be for the benefit of, either your or our successor(s) or permitted assign(s). Neither party may assign this Agreement without the prior written consent of the other party; provided, however, your consent is not required for an assignment by us as a result of a corporate reorganization, merger, acquisition, or purchase of substantially all of our assets.
9. Force Majeure. Neither party will be liable for delays in performing its obligations under this Agreement to the extent that the delay is caused by Force Majeure; provided, however, that within ten (10) business days of the Force Majeure event, the party whose performance is delayed provides the other party with written notice explaining the cause and extent thereof, as well as a request for a reasonable time extension equal to the estimated duration of the Force Majeure event.
10. No Intended Third Party Beneficiaries. This Agreement is entered into solely for the benefit of you and us. No third party will be deemed a beneficiary of this Agreement, and no third party will have the right to make any claim or assert any right under this Agreement. This provision does not affect the rights of third parties under any Third Party Terms.

11. Entire Agreement; Amendment. This Agreement represents the entire agreement between you and us with respect to the subject matter hereof, and supersedes any prior agreements, understandings, and representations, whether written, oral, expressed, implied, or statutory. Purchase orders submitted by you, if any, are for your internal administrative purposes only, and the terms and conditions contained in those purchase orders will have no force or effect. This Agreement may only be modified by a written amendment signed by an authorized representative of each party.
12. Severability. If any term or provision of this Agreement is held invalid or unenforceable, the remainder of this Agreement will be considered valid and enforceable to the fullest extent permitted by law.
13. No Waiver. In the event that the terms and conditions of this Agreement are not strictly enforced by either party, such non-enforcement will not act as or be deemed to act as a waiver or modification of this Agreement, nor will such non-enforcement prevent such party from enforcing each and every term of this Agreement thereafter.
14. Independent Contractor. We are an independent contractor for all purposes under this Agreement.
15. Notices. All notices or communications required or permitted as a part of this Agreement, such as notice of an alleged material breach for a termination for cause or a dispute that must be submitted to dispute resolution, must be in writing and will be deemed delivered upon the earlier of the following: (a) actual receipt by the receiving party; (b) upon receipt by sender of a certified mail, return receipt signed by an employee or agent of the receiving party; (c) upon receipt by sender of proof of email delivery; or (d) if not actually received, five (5) days after deposit with the United States Postal Service authorized mail center with proper postage (certified mail, return receipt requested) affixed and addressed to the other party at the address set forth on the signature page hereto or such other address as the party may have designated by proper notice. The consequences for the failure to receive a notice due to improper notification by the intended receiving party of a change in address will be borne by the intended receiving party.
16. Client Lists. You agree that we may identify you by name in client lists. We may also identify you in marketing presentations and promotional materials after obtaining your prior written consent in each case.
17. RESERVED.
18. Quarantining of Client Data. Some services provided by Tyler require us to be in possession of your Data. In the event we detect malware or other conditions associated with your Data that are reasonably suspected of putting Tyler resources or other Tyler clients' data at risk, we reserve the absolute right to move your Data from its location within a multi-tenancy Tyler hosted environment to an isolated "quarantined" environment without advance notice. Your Data will remain in such quarantine for a period of at least six (6) months during which time we will review the Data, and all traffic associated with the Data, for signs of malware or other similar issues. If no issues are detected through such reviews during the six (6) month period of quarantine, we will coordinate with you the restoration of your Data to a non-quarantined environment. In the event your Data must remain in quarantine beyond this six (6) month period through no fault of Tyler's, we reserve the right to require payment of additional fees for the extended duration of quarantine. We will provide an estimate of what those costs will be upon your request.
19. Business License. In the event a local business license is required for us to perform services hereunder,

you will promptly notify us and provide us with the necessary paperwork and/or contact information so that we may timely obtain such license.

20. RESERVED

21. Multiple Originals and Authorized Signatures. This Agreement may be executed in multiple originals, any of which will be independently treated as an original document. Any electronic, faxed, scanned, photocopied, or similarly reproduced signature on this Agreement or any amendment hereto will be deemed an original signature and will be fully enforceable as if an original signature. Each party represents to the other that the signatory set forth below is duly authorized to bind that party to this Agreement.

22. Cooperative Procurement. To the maximum extent permitted by applicable law, we agree that this Agreement may be used as a cooperative procurement vehicle by eligible jurisdictions. We reserve the right to negotiate and customize the terms and conditions set forth herein, including but not limited to pricing, to the scope and circumstances of that cooperative procurement.

23. Data & Insights Solution Terms. Your use of certain Tyler solutions includes Tyler's Data & Insights data platform. Your rights, and the rights of any of your end users, to use Tyler's Data & Insights data platform is subject to the Data & Insights SaaS Services Terms of Service, available at <https://www.tylertech.com/terms/data-insights-saas-services-terms-of-service>. By signing a Tyler Agreement or Order Form, or accessing, installing, or using any of the Tyler solutions listed at the linked terms, you certify that you have reviewed, understand, and agree to said terms.

24. Contract Documents. This Agreement includes the following exhibits:

Exhibit A	Investment Summary
Exhibit B	Invoicing and Payment Policy
	Schedule 1: Business Travel Policy
Exhibit C	Service Level Agreement
	Schedule 1: Support Call Process
Exhibit D	Third Party Terms
Exhibit E	Statement of Work

25. California Labor Code Requirements.

25.1 Proposer is aware of the requirements of California Labor Code Sections 1720 et seq. and 1770 et seq., which require the payment of prevailing wage rates and the performance of other requirements on certain "public works" and "maintenance" projects ("Prevailing Wage Laws"). If the services are being performed as part of an applicable "public works" or "maintenance" project, as defined by the Prevailing Wage Laws, and if the total compensation is One Thousand Dollars and Zero Cents (\$1,000.00) or more, Proposer agrees to fully comply with such Prevailing Wage Laws. Proposer shall defend, indemnify, and hold the City, its officials, officers, employees, and agents free and harmless from any claims, liabilities, costs, penalties, or interest arising out of any failure or alleged failure to comply with the Prevailing Wage Laws. It shall be mandatory upon the Proposer and all subconsultants to comply with all California Labor Code provisions, which include but are not limited to prevailing wages (Labor Code Sections 1771, 1774 and 1775), employment of apprentices (Labor Code Section 1777.5), certified payroll records (Labor Code Sections 1771.4 and 1776), hours of labor (Labor Code Sections 1813 and 1815) and debarment of contractors and subcontractors (Labor Code Section 1777.1). The requirement to submit certified payroll records directly to the Labor

Commissioner under Labor Code section 1771.4 shall not apply to work performed on a public works project that is exempt pursuant to the small project exemption specified in Labor Code Section 1771.4.

25.2 If the services are being performed as part of an applicable “public works” or “maintenance” project, then pursuant to Labor Code Sections 1725.5 and 1771.1, the Proposer and all subconsultants performing such services must be registered with the Department of Industrial Relations. Proposer shall maintain registration for the duration of the Project and require the same of any subconsultants, as applicable. Notwithstanding the foregoing, the contractor registration requirements mandated by Labor Code Sections 1725.5 and 1771.1 shall not apply to work performed on a public works project that is exempt pursuant to the small project exemption specified in Labor Code Sections 1725.5 and 1771.1.

25.3 This Agreement may also be subject to compliance monitoring and enforcement by the Department of Industrial Relations. It shall be Proposer’s sole responsibility to comply with all applicable registration and labor compliance requirements. Any stop orders issued by the Department of Industrial Relations against Proposer or any subcontractor that affect Proposer’s performance of services, including any delay, shall be Proposer’s sole responsibility. Any delay arising out of or resulting from such stop orders shall be considered Proposer caused delay and shall not be compensable by the City. Proposer shall defend, indemnify, and hold the City, its officials, officers, employees, and agents free and harmless from any claim or liability arising out of stop orders issued by the Department of Industrial Relations against Proposer or any subcontractor.

26. Laws and Venue. This Agreement shall be interpreted in accordance with the laws of the State of California. If any action is brought to interpret or enforce any term of this Agreement, the action shall be brought in a state or federal court situated in the County of Santa Clara, State of California.

27. Wage Theft Prevention

27.1 Proposer, and any subconsultant it employs to complete work under this Agreement, shall comply with all applicable federal, state, and local wage and hour laws. Applicable laws may include, but are not limited to, the Federal Fair Labor Standards Act, the California Labor Code and the Milpitas Minimum Wage Ordinance.

27.2 BY SIGNING THIS AGREEMENT, PROPOSER AFFIRMS THAT IT HAS DISCLOSED ANY FINAL JUDGMENTS, DECISIONS OR ORDERS FROM A COURT OR INVESTIGATORY GOVERNMENT AGENCY, FINDING IN THE FIVE (5) YEARS PRIOR TO EXECUTING THIS AGREEMENT THAT PROPOSER OR ITS SUBCONSULTANTS HAS VIOLATED ANY APPLICABLE WAGE AND HOUR LAWS. PROPOSER FURTHER AFFIRMS THAT IT OR ITS SUBCONSULTANT(S) HAS EITHER FULLY SATISFIED EACH JUDGMENT, DECISION OR ORDER, OR, IF ANY JUDGMENT, DECISION OR ORDER HAS NOT BEEN FULLY SATISFIED, PROPOSER AFFIRMS THAT IT OR ITS SUBCONSULTANT(S) IS CURRENTLY SATISFYING SAID JUDGMENT, DECISION OR ORDER THROUGH A PAYMENT OR ALTERNATIVE PLAN APPROVED BY THE APPLICABLE COURT/GOVERNMENT AGENCY AND THAT PROPOSER OR ITS SUBCONSULTANT(S) ARE IN COMPLIANCE WITH SAID PLAN AS OF THE DATE OF EXECUTING THIS AGREEMENT.

27.3 If at any time during the term of this Agreement, a court or investigatory government agency issues a final judgment, decision or order finding that Proposer or a subconsultant it employs to perform work under this Agreement has violated any applicable wage and hour law, or Proposer learns of such a judgment, decision, or order that was not previously disclosed in its bid/proposal, Proposer shall inform the City no more than fifteen (15) calendar days after the judgment, decision or order becomes final or from the date of learning of the final judgment, decision or order. Proposer or its subconsultant(s) shall, within thirty (30) calendar days after notifying the City, either (i) fully satisfy any such judgment, decision, or order and provide the City with documentary evidence of satisfying said

judgment, decision, or order; or (ii) provide the City documentary evidence of a payment or other alternative plan approved by the court/government agency to satisfy the judgment, decision, or order. If the Proposer or its subconsultant is subject to a payment or other alternative plan, the Proposer or its subconsultant shall continue to submit documentary evidence every thirty (30) calendar days during the term of the Agreement demonstrating continued compliance with the plan until the judgment, decision or order has been fully satisfied.

- 27.4 For purposes of this Section, a "final judgment, decision, or order" refers to one for which all appeals have been exhausted or the time period to appeal has expired. Relevant investigatory government agencies include: the United States Department of Labor, the California Division of Labor Standards Enforcement, the City, or any other governmental entity or division tasked with the investigation and enforcement of wage and hour laws.
- 27.5 Failure to comply with any part of this Section constitutes a material breach of this Agreement. Such breach may serve as a basis for immediate termination of this Agreement and/or any other remedies available under this Agreement and/or law.
- 27.6 Notice provided to the City shall be addressed to: Attention: Finance Director, 455 E. Calaveras Blvd. Milpitas, CA 95035. The Notice provisions of this Section are separate from any other notice provisions in this Agreement and, accordingly, only notice provided to the above address satisfies the notice requirements in this Section.

28. Confidentiality.

- 28.1. Confidential Information. "Confidential Information" means information in any form or medium (whether oral, written, electronic, or other) that the Disclosing Party considers confidential or proprietary, including information relating to the Disclosing Party's technology, trade secrets, know-how, business operations, plans, strategies, customers, and information with respect to which the Disclosing Party has contractual or other confidentiality obligations. In connection with this Agreement each party (as the "Disclosing Party") may disclose or make available Confidential Information to the other party (as the "Receiving Party").
- 28.2. Exclusions. Confidential Information does not include information that: (a) was rightfully known to the Receiving Party without restriction on use or disclosure prior to being disclosed or made available to the Receiving Party in connection with this Agreement; (b) was or becomes generally known by the public other than by the Receiving Party or any of its Representatives' noncompliance with this Agreement; (c) was or is received by the Receiving Party on a non-confidential basis from a third party that was or is independently developed by the Receiving Party without reference or use of any Confidential Information; (d) was or is subject to disclosure pursuant to public sunshine laws including the California Public Records Act.
- 28.3. Protection of Confidential Information. As a condition to being provided with any disclosure of or access to Confidential Information, the Receiving Party shall:
- 28.3.1. not access or use Confidential Information other than as necessary to exercise its rights or perform its obligations under and in accordance with this Agreement;
- 28.3.2. not disclose or permit access to Confidential Information other than to its representatives who: (i) need to know such Confidential Information for purposes of the Receiving Party's exercise of its rights or performance of its obligations under and in accordance with this Agreement; (ii) have been informed of the confidential nature of the Confidential Information and the Receiving Party's obligations under this Section; and (iii) are bound by written confidentiality or restricted use obligations at least as protective of the Confidential Information as the terms in this Section;
- 28.3.3. safeguard the Confidential Information from unauthorized use, access, or disclosure using at least the degree of care it uses to protect its sensitive information and in no event less than a reasonable degree of care;

28.3.4. ensure its Representatives' compliance with and be responsible and liable for any of its Representatives' non-compliance with, the terms of this Section.

28.4. Compelled Disclosures. If the either Party is compelled by applicable law to disclose any Confidential Information then, to the extent permitted by law, that Party shall: (a) promptly, and prior to such disclosure, notify the other Party in writing of such requirement so that the Disclosing Party can seek a protective order or other remedy; and (b) provide reasonable assistance to the Disclosing Party at the Disclosing Party's expense in opposing such disclosure or seeking a protective order or other limitations on disclosure. If the Disclosing Party waives compliance or, after providing the notice and assistance required under this Section, the Receiving Party remains required by law to disclose any Confidential Information, the Receiving Party shall disclose only that portion of the Confidential Information that the Receiving Party is legally required to disclose.

29. Security.

29.1. Contractor will implement commercially reasonable administrative, technical, organizational, and physical safeguards designed to ensure the security and confidentiality of City data, protect against anticipated threats or hazards to the security or integrity of City data, and protect against unauthorized access or use of City data or its accidental loss, destruction, or damage. The Contractor will review and test such safeguards on no less than an annual basis.

29.2. If a breach of security or confidentiality of personal data or personal information occurs, and it requires notification to the City's users/customers under any state or federal law, then the City shall have sole control over the timing, content, and method of such notification provided that Contractor is given notice as soon as commercially reasonable and prior to any Contractor notification to users in order to take any steps related to mitigation. If Contractor or its subcontractors is responsible for the breach, then Contractor shall reimburse the City for its reasonable costs in providing the notification. For the avoidance of doubt, this provision only applies to breach notifications applying only to City's users or customers. Additionally, this provision shall not prevent Contractor from complying with applicable law.

30. Assignment and Subcontracting. The Parties recognize that a substantial inducement to City for entering into this Agreement is the professional reputation, experience, and competence of Contractor. Assignments of any or all rights, duties or obligations of Contractor under this Agreement will be permitted only with the City's express consent. The foregoing notwithstanding, Contractor reserves the right to assign this Agreement, without City's consent, as a result of a corporate reorganization, merger, acquisition, or purchase of substantially all of Contractor's assets. Contractor shall not subcontract any portion of the services to be performed under this Agreement without City's written authorization. If City consents to such subcontract, Contractor shall be fully responsible to City for all acts or omissions of the subcontractor. Nothing in this Agreement shall create any contractual relationship between City and subcontractor nor shall it create any obligation on the part of the City to pay or to see to the payment of any monies due to any such subcontractor other than as is otherwise required by law.

31. Audit Rights. During the Term and for five (5) years after the termination of this Contract, Proposer shall retain, and the City and its authorized representatives shall have the right to audit, examine, and make copies of, all of Proposer's books, accounts, and other records related to this Contract and Proposer's costs for providing goods to the City, including, but not limited to those kept by the Proposer's agents, assigns, successors, and Subcontractors. Proposer shall have no authority to audit any of City's systems without prior written approval from the City Manager.

IN WITNESS WHEREOF, a duly authorized representative of each party has executed this Agreement as of the date(s) set forth below.

Tyler Technologies, Inc.

City of Milpitas, California

By: _____

By: _____

Name: _____

Name: _____

Title: _____

Title: _____

Date: _____

Date: _____

Address for Notices:

Tyler Technologies, Inc.
One Tyler Drive
Yarmouth, ME 04096
Attention: Chief Legal Officer

Address for Notices:

City of Milpitas
455 E Calaveras Boulevard
Milpitas, CA 95035
Attention: _____





Exhibit A

Investment Summary

The following Investment Summary details the software and services to be delivered by us to you under the Agreement. This Investment Summary is effective as of the Effective Date, despite any expiration date in the Investment Summary that may have lapsed as of the Effective Date. Capitalized terms not otherwise defined will have the meaning assigned to such terms in the Agreement. In the event of conflict between the Agreement and terms in the Comments section of this Investment Summary, the language in the Agreement will prevail.

Tyler sales quotation follows this page.

REMAINDER OF PAGE INTENTIONALLY LEFT BLANK



Sales Quotation For:
City of Milpitas
455 E Calaveras Blvd
Milpitas CA 95035-5411

Quoted By: Jennifer Wahlbrink
Quote Expiration: 12/31/23
Quote Name: City of Milpitas-EERP
Quote Description: 11-30-23 City of Milpitas, CA v.3
(NTE Hours)
Saas Term 5.00

Tyler SaaS and Related Services

Description	Qty	Imp. Hours	Annual Fee
Financial Management			
Accounting	1	300	\$ 61,994.00
Accounts Payable	1	88	\$ 17,516.00
Bid Management	1	64	\$ 7,603.00
Budgeting	1	108	\$ 17,516.00
Capital Assets	1	128	\$ 16,141.00
Cash Management	1	88	\$ 12,079.00
Contract Management	1	64	\$ 7,507.00
eProcurement (Vendor Access and Punch-Out)	1	56	\$ 12,600.00
Project & Grant Accounting	1	108	\$ 10,961.00
Purchasing	1	300	\$ 28,998.00
Human Resources Management			
Employee Expense Reimbursement	1	72	\$ 6,463.00
Human Resources & Talent Management	1	88	\$ 4,883.00
Payroll with Employee Access	1	168	\$ 7,134.00
Time & Attendance w Mobile Access - Up to 750 Employees	1	176	\$ 8,851.00

2023-408800-C7D0G7

Page 1

Revenue Management			
Accounts Receivable	1	192	\$ 14,083.00
Cashiering	1	80	\$ 20,431.00
General Billing	1	108	\$ 7,517.00
Content Management			
Content Manager Core includes Onboarding	1	64	\$ 21,305.00
Data Insights			
Enterprise Analytics and Reporting w Executive Insights	1	144	\$ 25,183.00
Additional			
ACFR Statement Builder	1	32	\$ 8,877.00
Enterprise Forms Processing Software (including Common Form Set)	1	0	\$ 9,750.00
Sub-Total:			\$ 327,392.00
<i>Less Discount:</i>			<i>\$ 79,638.00</i>
TOTAL		2428	\$ 247,754.00

Professional Services

Description	Quantity	Unit Price	Ext Discount	Extended Price	Maintenance
Capital Assets Import Hours	24	\$ 200.00	\$ 0.00	\$ 4,800.00	\$ 0.00
Executive Insights Implementation	1	\$ 10,500.00	\$ 0.00	\$ 10,500.00	\$ 0.00
Foundation Change Management	96	\$ 255.00	\$ 0.00	\$ 24,480.00	\$ 0.00
Not-to-Exceed Contingency Hours (remote)	480	\$ 200.00	\$ 0.00	\$ 96,000.00	\$ 0.00
P-Card Import Format	1	\$ 5,500.00	\$ 0.00	\$ 5,500.00	\$ 0.00
Post Go-Live Support	60	\$ 200.00	\$ 0.00	\$ 12,000.00	\$ 0.00
Project Management	392	\$ 200.00	\$ 0.00	\$ 78,400.00	\$ 0.00
Report Development Assistance (remote)	160	\$ 200.00	\$ 0.00	\$ 32,000.00	\$ 0.00
Conversions – See Detailed Breakdown Below				\$ 74,500.00	\$ 0.00
Onsite Implementation	624	\$ 225.00	\$ 0.00	\$ 140,400.00	\$ 0.00
Remote Implementation	1804	\$ 200.00	\$ 0.00	\$ 360,800.00	\$ 0.00
TOTAL				\$ 839,380.00	\$ 0.00

2023-408800-C7D0G7

Page 2

3rd Party Hardware, Software and Services

Description	Qty	Unit Price	Unit Discount	Total Price	Unit Maint/SaaS	Unit Maint/SaaS Discount	Total Maint/SaaS
Cash Drawer	4	\$ 260.00	\$ 0.00	\$ 1,040.00	\$ 0.00	\$ 0.00	\$ 0.00
Hand Held Scanner - Model 1950GSR	1	\$ 450.00	\$ 0.00	\$ 450.00	\$ 0.00	\$ 0.00	\$ 0.00
Hand Held Scanner Stand	1	\$ 30.00	\$ 0.00	\$ 30.00	\$ 0.00	\$ 0.00	\$ 0.00
Printer (TM-S9000II)	1	\$ 1,623.00	\$ 0.00	\$ 1,623.00	\$ 0.00	\$ 0.00	\$ 0.00
Touchscreen 7: Barcode Reader	1	\$ 2,195.00	\$ 0.00	\$ 2,195.00	\$ 220.00	\$ 0.00	\$ 220.00
TOTAL				\$ 5,338.00			\$ 220.00

Summary**One Time Fees****Recurring Fees**

Total Tyler License Fees

\$ 0.00

\$ 0.00

Total SaaS

\$ 0.00

\$ 247,754.00

Total Tyler Services

\$ 839,380.00

\$ 0.00

Total Third-Party Hardware, Software, Services

\$ 5,338.00

\$ 220.00

Summary Total**\$ 844,718.00****\$ 247,974.00****Contract Total****\$ 2,083,708.00****Estimated Travel Expenses excl in Contract****Total****\$ 39,000.00**

Unless otherwise indicated in the contract or amendment thereto, pricing for optional items will be held
For six (6) months from the Quote date or the Effective Date of the Contract, whichever is later.

Customer Approval: _____ Date: _____

Print Name: _____ P.O.#: _____

All Primary values quoted in US Dollars

2023-408800-C7D0G7

Page 3

Detailed Breakdown of Conversions (Included in Summary Total)

Description	Qty	Unit Price	Unit Discount	Extended Price
Financials				
Accounting	1	\$ 9,500.00	\$ 0.00	\$ 9,500.00
Accounts Payable	1	\$ 14,700.00	\$ 0.00	\$ 14,700.00
Contracts	1	\$ 6,000.00	\$ 0.00	\$ 6,000.00
Project Accounting	1	\$ 9,500.00	\$ 0.00	\$ 9,500.00
Purchase Orders	1	\$ 8,000.00	\$ 0.00	\$ 8,000.00
Human Resources Management				
Human Resources Management	1	\$ 14,300.00	\$ 0.00	\$ 14,300.00
Revenue Management				
General Billing	1	\$ 12,500.00	\$ 0.00	\$ 12,500.00
TOTAL				\$ 74,500.00

Optional Tyler SaaS and Related Services

Description	Qty	Imp. Hours	Annual Fee
Human Resources Management			
Advanced Scheduling w Mobile Access - Up to 800 Employees	1	96	\$ 12,840.00
Recruiting	1	16	\$ 1,170.00
Revenue Management			
Resident Access	1	104	\$ 14,400.00
Utility Billing CIS including Graphing Agent	1	168	\$ 17,710.00
Utility Billing Meter Interface	1	32	\$ 4,713.00
Civic Services			
My Civic	1	96	\$ 12,000.00
Data Insights			
Capital Projects Explorer	1	0	\$ 12,000.00
Open Finance	1	0	\$ 22,800.00

2023-408800-C7D0G7

Page 4

TOTAL: **512** **\$ 97,633.00**

Optional Professional Services

Description	Quantity	Unit Price	Ext. Discount	Extended Price	Maintenance
Applicant Tracking Import Hours	8	\$ 175.00	\$ 0.00	\$ 1,400.00	\$ 0.00
Install Fee - Capital Projects Explorer	1	\$ 4,200.00	\$ 0.00	\$ 4,200.00	\$ 0.00
Install Fee - Open Finance	1	\$ 7,000.00	\$ 0.00	\$ 7,000.00	\$ 0.00
Conversion – See Detailed Breakdown Below				\$ 32,900.00	\$ 0.00
Onsite Implementation	132	\$ 225.00	\$ 0.00	\$ 29,700.00	\$ 0.00
Remote Implementation	380	\$ 200.00	\$ 0.00	\$ 76,000.00	\$ 0.00
TOTAL				\$ 151,200.00	\$ 0.00

Optional Transaction Fees

Description

Enterprise ERP Payments
Utility Access Payments

Optional 3rd Party Hardware, Software and Services

Description	Qty	Unit Price	Unit Discount	Total Price	Unit Maint/SaaS	Unit Maint/SaaS Discount	Total Maint/SaaS
Pattern Stream Automated Document System - Implementation	80	\$ 185.00	\$ 0.00	\$ 14,800.00	\$ 0.00	\$ 0.00	\$ 0.00
Pattern Stream Automated Document System - SaaS	1	\$ 0.00	\$ 0.00	\$ 0.00	\$ 12,500.00	\$ 0.00	\$ 12,500.00
TOTAL				\$ 14,800.00			\$ 12,500.00

2023-408800-C7D0G7

Page 5

Optional Conversion Details (Prices Reflected Above)

Description	Quantity	Unit Price	Discount	Total
Revenue Management				
Utility Billing	1	\$ 32,900.00	\$ 0.00	\$ 32,900.00
TOTAL				\$ 32,900.00

Tyler Annual Discount Detail (Excludes Optional Products)

Description	Annual Fee	Annual Fee Discount	Annual Fee Net
Financial Management			
Accounting	\$ 61,994.00	\$ 15,499.00	\$ 46,495.00
Accounts Payable	\$ 17,516.00	\$ 4,379.00	\$ 13,137.00
Bid Management	\$ 7,603.00	\$ 1,901.00	\$ 5,702.00
Budgeting	\$ 17,516.00	\$ 4,379.00	\$ 13,137.00
Capital Assets	\$ 16,141.00	\$ 4,035.00	\$ 12,106.00
Cash Management	\$ 12,079.00	\$ 3,020.00	\$ 9,059.00
Contract Management	\$ 7,507.00	\$ 1,877.00	\$ 5,630.00
eProcurement (Vendor Access and Punch-Out)	\$ 12,600.00	\$ 3,150.00	\$ 9,450.00
Project & Grant Accounting	\$ 10,961.00	\$ 2,740.00	\$ 8,221.00
Purchasing	\$ 28,998.00	\$ 7,250.00	\$ 21,748.00
Human Resources Management			
Employee Expense Reimbursement	\$ 6,463.00	\$ 1,616.00	\$ 4,847.00
Human Resources & Talent Management	\$ 4,883.00	\$ 1,221.00	\$ 3,662.00
Payroll with Employee Access	\$ 7,134.00	\$ 1,784.00	\$ 5,350.00
Time & Attendance w Mobile Access - Up to 750 Employees	\$ 8,851.00	\$ 0.00	\$ 8,851.00
Revenue Management			
Accounts Receivable	\$ 14,083.00	\$ 3,521.00	\$ 10,562.00
Cashiering	\$ 20,431.00	\$ 5,108.00	\$ 15,323.00
General Billing	\$ 7,517.00	\$ 1,879.00	\$ 5,638.00
Content Management			
Content Manager Core includes Onboarding	\$ 21,305.00	\$ 5,326.00	\$ 15,979.00
Data Insights			

2023-408800-C7D0G7

Page 6

Enterprise Analytics and Reporting w Executive Insights	\$ 25,183.00	\$ 6,296.00	\$ 18,887.00
Additional			
ACFR Statement Builder	\$ 8,877.00	\$ 2,219.00	\$ 6,658.00
Enterprise Forms Processing Software (including Common Form Set)	\$ 9,750.00	\$ 2,438.00	\$ 7,312.00
TOTAL	\$ 327,392.00	\$ 79,638.00	\$ 247,754.00

Comments

Tyler's quote contains estimates of the amount of services needed, based on our preliminary understanding of the scope, level of engagement, and timeline as defined in the Statement of Work (SOW) for your project. The actual amount of services required may vary, based on these factors.

Tyler's pricing is based on the scope of proposed products and services contracted from Tyler. Should portions of the scope of products or services be altered by the Client, Tyler reserves the right to adjust prices for the remaining scope accordingly.

Unless otherwise noted, prices submitted in the quote do not include travel expenses incurred in accordance with Tyler's then-current Business Travel Policy.

Tyler's prices do not include applicable local, city or federal sales, use excise, personal property or other similar taxes or duties, which you are responsible for determining and remitting. Installations are completed remotely but can be done onsite upon request at an additional cost.

In the event Client cancels services less than four (4) weeks in advance, Client is liable to Tyler for (i) all non-refundable expenses incurred by Tyler on Client's behalf; and (ii) daily fees associated with the cancelled services if Tyler is unable to re-assign its personnel.

The Implementation Hours included in this quote assume a work split effort of 70% Client and 30% Tyler.

Implementation Hours are scheduled and delivered in four (4) or eight (8) hour increments.

Tyler provides onsite training for a maximum of 15 people per class. In the event that more than 15 users wish to participate in a training class or more than one occurrence of a class is needed, Tyler will either provide additional days at then-current rates for training or Tyler will utilize a Train-the-Trainer approach whereby the client designated attendees of the initial training can thereafter train the remaining users.

As a new Tyler client, you are entitled to a 14-day or a 30-day trial of the Managed Detection and Response cybersecurity service. Please reference <https://www.tylertech.com/services/tyler-detect> for more information on the service and contact CybersecuritySales@tylertech.com to initiate the trial.

Tyler currently supports the following identity providers (IdP's) for use with Tyler back-office solutions: Microsoft Active Directory through Azure AD, ADFS or Okta AD agent, Google Cloud Identity, Okta, and Identity Automation Rapid Identity. Any requirement by you to use an IdP not supported by Tyler will require additional costs, available upon request.

Content Manager Core includes up to 1TB of storage. Should additional storage be needed it may be purchased as needed at an annual fee of \$5,000 per TB.

The SaaS fees for product that are not named users are based on 150 concurrent users. Should the number of concurrent users be exceeded, Tyler reserves the right to re-negotiate the SaaS fees based upon any resulting changes in the pricing categories.

General Billing conversion includes: Standard - CID, Recurring Invoices, Bills(Header, Detail), Payment History, Invoices - up to 5 years

Financial library includes: standard A/P check, standard EFT/ACH, standard Purchase order, standard Contract, 1099M, 1099INT, 1099S, 1099NEC and 1099G.

General Billing library includes: standard invoice, standard statement, standard general billing receipt and standard miscellaneous receipt.

Personnel Actions Forms Library includes: standard Personnel Action form - New and standard Personnel Action Form - Change.

Standard Project Management responsibilities include project plan creation, initial stakeholder presentation, bi-weekly status calls, updating of project plan task statuses, and go-live planning activities.

Your rights, and the rights of any of your end users, to use Tyler's Data & Insights SaaS Services, or certain Tyler solutions which include Tyler's Data & Insights data platform, are subject to the Terms of Services, available at <https://www.tylertech.com/terms/data-insights-saas-services-terms-of-service>. By signing this sales quotation, or accessing, installing, or using any of the Tyler solutions listed at the linked terms, you certify that you have reviewed, understand, and agree to said terms.

Your acquisition of clocks and/or clock maintenance is subject to the following terms: <https://www.tylertech.com/terms/executime-clock-terms>.

Utility Billing CIS includes the Graphing Agent. Utility billing library includes: standard Utility bill, standard UB receipt, standard UB delinquent notice, standard door hanger and standard final utility bill.

Payroll library includes: standard PR check, standard direct deposit, standard vendor from payroll check, standard vendor from payroll direct deposit, W2, W2c, ACA 1095B, ACA 1095C and 1099 R.

Accounting conversion includes: Actuals (total balances only) up to 5 years, Budgets (total balances only) up to 5 years

Accounts Payable conversion includes: Standard - Vendors, Remit Addresses, 1099 Amounts, Check History(Header, Detail) - up to 5 years, Invoices (Header, Detail) - up to 5 years

Contracts conversion includes: Standard

Human Resources Management conversion includes: Standard - Employee Master, Address, Accumulators (Earnings & Deduction totals by period) - up to 5 years, Check History - up to 5 years, Earning/Deduction History - up to 5 years, PM Action History - up to 5 years, Certifications, Education

Project Accounting conversion includes: Standard, Actuals - up to 5 years, Budgets - up to 5 years

Purchase Orders conversion includes: Standard - Open POs, Closed POs - up to 5 years

Utility Billing conversion includes: Standard - UB Account, CID's, Services/Meter Inventory, Assessments, Consumption History - up to 5 years, Balance Forward AR, Service Orders, Backflow, Budget Billing, Flat Inventory/Containers

In the event Client acquires from Tyler any edition of Content Manager software other than Enterprise Edition, the license for Content Manager is restricted to use with Tyler applications only. If Client wishes to use Content Manager software with non-Tyler applications, Client must purchase or upgrade to Content Manager Enterprise Edition.

Your use of Payments and any related items included on this order is subject to the terms found at: <https://www.tylertech.com/terms/payment-card-processing-agreement>. By signing this order or the agreement in which it is included, you agree you have read, understand, and agree to such terms. Please see attached Payments fee schedule.



Exhibit B

Invoicing and Payment Policy

We will provide you with the software and services set forth in the Investment Summary of the Agreement. Capitalized terms not otherwise defined will have the meaning assigned to such terms in the Agreement.

Invoicing: We will invoice you for the applicable software and services in the Investment Summary as set forth below. Your rights to dispute any invoice are set forth in the Agreement.

1. **SaaS Fees.** SaaS Fees are invoiced on an annual basis, beginning on the commencement of the initial term as set forth in Section F (1) of this Agreement. Your annual SaaS fees for the initial term are payable as set at the end of this section. Upon expiration of the initial term, your annual SaaS fees will be at our then-current rates. The foregoing notwithstanding, Tyler agrees to limit increases to annual SaaS Fees for the first five renewals following the end of the initial five (5)-year term (i.e., years six through ten) as follows:
 - Year 6: 3%
 - Year 7: 3%
 - Year 8: 5%
 - Year 9: 5%
 - Year 10: 5%.

Payment Due Date	Payment Amount
1/1/24	\$57,681
4/1/24	\$57,681
7/1/24	\$61,938
10/1/24	\$61,938
1/1/25	\$61,938
4/1/25	\$61,938
7/1/25	\$61,939
10/1/25	\$61,939
1/1/26	\$247,754
1/1/27	\$247,754
1/1/28	\$247,754

2. **Other Tyler Software and Services.**

2.1 Implementation and Other Professional Services (including training): Implementation and other professional services (including training) are billed and invoiced as delivered, at the rates set forth in the Investment Summary. Hours invoiced during a project phase may not exceed the hours allocated to phase as represented in the project plan without your advanced written consent, not to be unreasonably withheld. The foregoing



- notwithstanding, the Client may retain ten percent (10%) of the implementation and other professional fees payable for services delivered during a phase identified in the Statement of Work (a “Retention”), with such Retention to be paid sixty (60) days following the applicable phase live date. The foregoing notwithstanding, Tyler has the right to invoice Client for a Retention if the Client delays a phase live date by more than ninety (90) days and such delay is not caused by Force Majeure or Tyler’s failure to perform.
- 2.2 *Consulting Services*: If you have purchased any Business Process Consulting services, if they have been quoted as fixed-fee services, they will be invoiced 50% upon your acceptance of the Best Practice Recommendations, by module, and 50% upon your acceptance of custom desktop procedures, by module. If you have purchased any Business Process Consulting services and they are quoted as an estimate, then we will bill you the actual services delivered on a time and materials basis.
 - 2.3 *Conversions*: Fixed-fee conversions are invoiced 50% upon initial delivery of the converted Data, by conversion option, and 50% upon Client acceptance of the converted Data into Live/Production environment, by conversion option. Where conversions are quoted as estimated, we will bill you the actual services delivered on a time and materials basis.
 - 2.4 *Requested Modifications to the Tyler Software*: Requested modifications to the Tyler Software are invoiced 50% upon delivery of specifications and 50% upon delivery of the applicable modification. You must report any failure of the modification to conform to the specifications within thirty (30) days of delivery; otherwise, the modification will be deemed to be in compliance with the specifications after the 30-day window has passed. You may still report Defects to us as set forth in this Agreement.
 - 2.5 *Other Fixed Price Services*: Other fixed price services are invoiced as delivered, at the rates set forth in the Investment Summary. For the avoidance of doubt, where “Project Planning Services” are provided, payment will be due upon delivery of the Implementation Planning document. Dedicated Project Management services, if any, will be billed monthly in arrears, beginning on the first day of the month immediately following initiation of project planning.
 - 2.6 *Web Services*: Annual fees for web services are payable in advance, commencing upon the availability of the service. Your annual fees for the initial term are set forth in the Investment Summary. Upon expiration of the initial term, your annual fees will be at our then-current rates.
 - 2.7 *Annual Services*: Unless otherwise indicated in this Exhibit B, fees for annual services are due annually, in advance, commencing on the availability of the service. Your annual fees for the initial term are set forth in the Investment Summary. Upon expiration of the initial term, your annual fees will be at our then-current rates.
3. Third Party Products and Hardware.
 - 3.1 *Third Party Software License Fees*: License fees for Third Party Software, if any, are invoiced when we make it available to you for downloading.
 - 3.2 *Third Party Software Maintenance*: The first year maintenance fee for the Third Party Software is invoiced when we make it available to you for downloading. Subsequent annual maintenance fees for Third Party Software are invoiced annually, in advance, at then-current rates, upon each anniversary thereof.
 - 3.3 *Hardware*: Third Party Hardware costs, if any, are invoiced upon delivery.
 - 3.4 *Hardware Maintenance*: The first year maintenance fee for Hardware is invoiced upon delivery of the hardware. Subsequent annual maintenance fees for hardware are invoiced annually, in advance, at then-current rates, upon each anniversary thereof.
 - 3.5 *Third Party Services*: Fees for Third Party Services, if any, are invoiced as delivered, along

with applicable expenses, at the rates set forth in the Investment Summary. For the avoidance of doubt, Finite Matters will invoice Client directly for any services fees for Pattern Stream.

- 3.6 *Third Party SaaS*: Third Party SaaS Services fees, if any, are invoiced annually, in advance, commencing with availability of the respective Third Party SaaS Services. Pricing for the first year of Third Party SaaS Services is indicated in the Investment Summary. Pricing for subsequent years will be at the respective third party's then-current rates.
4. Transaction Fees. Unless paid directly by an end user at the time of transaction, per transaction (call, message, etc.) fees are invoiced on a quarterly basis. Fees are indicated in the Investment Summary and may be increased by Tyler upon notice of no less than ninety (90) days.
5. Expenses. The service rates in the Investment Summary do not include travel expenses. Expenses for Tyler delivered services will be billed as incurred and only in accordance with our then-current Business Travel Policy, Our current Business Travel Policy is attached to this Exhibit B as Schedule 1. Copies of receipts will be provided upon request; we reserve the right to charge you an administrative fee depending on the extent of your requests. Receipts for miscellaneous items less than twenty-five dollars and mileage logs are not available.

Payment. Payment for undisputed invoices is due within forty-five (45) days of the invoice date. We prefer to receive payments electronically. Our electronic payment information is available by contacting AR@tylertech.com.



Exhibit B
Schedule 1
Business Travel Policy

1. Air Travel

A. Reservations & Tickets

The Travel Management Company (TMC) used by Tyler will provide an employee with a direct flight within two hours before or after the requested departure time, assuming that flight does not add more than three hours to the employee's total trip duration and the fare is within \$100 (each way) of the lowest logical fare. If a net savings of \$200 or more (each way) is possible through a connecting flight that is within two hours before or after the requested departure time and that does not add more than three hours to the employee's total trip duration, the connecting flight should be accepted.

Employees are encouraged to make advanced reservations to take full advantage of discount opportunities. Employees should use all reasonable efforts to make travel arrangements at least two (2) weeks in advance of commitments. A seven (7) day advance booking requirement is mandatory. When booking less than seven (7) days in advance, management approval will be required.

Except in the case of international travel where a segment of continuous air travel is six (6) or more consecutive hours in length, only economy or coach class seating is reimbursable. Employees shall not be reimbursed for "Basic Economy Fares" because these fares are non-refundable and have many restrictions that outweigh the cost-savings.

B. Baggage Fees

Reimbursement of personal baggage charges are based on trip duration as follows:

- Up to five (5) days = one (1) checked bag
- Six (6) or more days = two (2) checked bags

Baggage fees for sports equipment are not reimbursable.

2. Ground Transportation

A. Private Automobile

Mileage Allowance – Business use of an employee's private automobile will be reimbursed at the current IRS allowable rate, plus out of pocket costs for tolls and parking. Mileage will be calculated by using the employee's office as the starting and ending point, in compliance with IRS regulations. Employees who have been designated a home office should calculate miles from their home.

B. Rental Car

Employees are authorized to rent cars only in conjunction with air travel when cost, convenience, and the specific situation reasonably require their use. When renting a car for Tyler business, employees should select a "mid-size" or "intermediate" car. "Full" size cars may be rented when three or more employees are traveling together. Tyler carries leased vehicle coverage for business car rentals; except for employees traveling to Alaska and internationally (excluding Canada), additional insurance on the rental agreement should be declined.

C. Public Transportation

Taxi or airport limousine services may be considered when traveling in and around cities or to and from airports when less expensive means of transportation are unavailable or impractical. The actual fare plus a reasonable tip (15-18%) are reimbursable. In the case of a free hotel shuttle to the airport, tips are included in the per diem rates and will not be reimbursed separately.

D. Parking & Tolls

When parking at the airport, employees must use longer term parking areas that are measured in days as opposed to hours. Park and fly options located near some airports may also be used. For extended trips that would result in excessive parking charges, public transportation to/from the airport should be considered. Tolls will be reimbursed when receipts are presented.

3. Lodging

Tyler's TMC will select hotel chains that are well established, reasonable in price, and conveniently located in relation to the traveler's work assignment. Typical hotel chains include Courtyard, Fairfield Inn, Hampton Inn, and Holiday Inn Express. If the employee has a discount rate with a local hotel, the hotel reservation should note that discount and the employee should confirm the lower rate with the hotel upon arrival. Employee memberships in travel clubs such as AAA should be noted in their travel profiles so that the employee can take advantage of any lower club rates.

"No shows" or cancellation fees are not reimbursable if the employee does not comply with the hotel's cancellation policy.

Tips for maids and other hotel staff are included in the per diem rate and are not reimbursed separately.

Employees are not authorized to reserve non-traditional short-term lodging, such as Airbnb, VRBO, and HomeAway. Employees who elect to make such reservations shall not be reimbursed.

4. Meals and Incidental Expenses

Employee meals and incidental expenses while on travel status within the continental U.S. are in accordance with the federal per diem rates published by the General Services Administration. Incidental expenses include tips to maids, hotel staff, and shuttle drivers and other minor travel expenses. Per diem rates are available at www.gsa.gov/perdiem.

Per diem for Alaska, Hawaii, U.S. protectorates and international destinations are provided separately by the Department of State and will be determined as required.

A. Overnight Travel

For each full day of travel, all three meals are reimbursable. Per diems on the first and last day of a trip are governed as set forth below.

Departure Day

Depart before 12:00 noon	Lunch and dinner
Depart after 12:00 noon	Dinner

Return Day

Return before 12:00 noon	Breakfast
Return between 12:00 noon & 7:00 p.m.	Breakfast and lunch
Return after 7:00 p.m.*	Breakfast, lunch, and dinner

*7:00 p.m. is defined as direct travel time and does not include time taken to stop for dinner.

The reimbursement rates for individual meals are calculated as a percentage of the full day per diem as follows:

Breakfast	15%
Lunch	25%
Dinner	60%

B. Same Day Travel

Employees traveling at least 100 miles to a site and returning in the same day are eligible to claim lunch on an expense report. Employees on same day travel status are eligible to claim dinner in the event they return home after 7:00 p.m.*

*7:00 p.m. is defined as direct travel time and does not include time taken to stop for dinner.

5. Internet Access – Hotels and Airports

Employees who travel may need to access their e-mail at night. Many hotels provide free high speed internet access and Tyler employees are encouraged to use such hotels whenever possible. If an employee's hotel charges for internet access it is reimbursable up to \$10.00 per day. Charges for internet access at airports are not reimbursable.

6. International Travel

All international flights with the exception of flights between the U.S. and Canada should be reserved through TMC using the "lowest practical coach fare" with the exception of flights that are six (6) or more consecutive hours in length. In such event, the next available seating class above coach shall be reimbursed.

When required to travel internationally for business, employees shall be reimbursed for photo fees, application fees, and execution fees when obtaining a new passport book, but fees related to passport renewals are not reimbursable. Visa application and legal fees, entry taxes and departure taxes are reimbursable.

The cost of vaccinations that are either required for travel to specific countries or suggested by the U.S. Department of Health & Human Services for travel to specific countries, is reimbursable.

Section 4, Meals & Incidental Expenses, and Section 2.b., Rental Car, shall apply to this section.



Exhibit C

SERVICE LEVEL AGREEMENT

I. Agreement Overview

This SLA operates in conjunction with, and does not supersede or replace any part of, the Agreement. It outlines the information technology service levels that we will provide to you to ensure the availability of the application services that you have requested us to provide. All other support services are documented in the Support Call Process. This SLA does not apply to any Third Party SaaS Services. All other support services are documented in the Support Call Process.

II. Definitions. Except as defined below, all defined terms have the meaning set forth in the Agreement.

Actual Attainment: The percentage of time the Tyler Software is available during a calendar month, calculated as follows: $(\text{Service Availability} - \text{Downtime}) \div \text{Service Availability}$.

Client Error Incident: Any service unavailability resulting from your applications, content or equipment, or the acts or omissions of any of your service users or third-party providers over whom we exercise no control.

Downtime: Those minutes during Service Availability, as defined below, when all users cannot launch, login, search or save primary data in the Tyler Software. Downtime does not include those instances in which only a Defect is present.

Emergency Maintenance Window: (1) maintenance that is required to patch a critical security vulnerability; (2) maintenance that is required to prevent an imminent outage of Service Availability; or (3) maintenance that is mutually agreed upon in writing by Tyler and the Client.

Planned Downtime: Downtime that occurs during a Standard or Emergency Maintenance window.

Service Availability: The total number of minutes in a calendar month that the Tyler Software is capable of receiving, processing, and responding to requests, excluding Planned Downtime, Client Error Incidents, denial of service attacks and Force Majeure. Service Availability only applies to Tyler Software being used in the live production environment.

Standard Maintenance: Routine maintenance to the Tyler Software and infrastructure. Standard Maintenance is limited to five (5) hours per week.

III. Service Availability

a. Your Responsibilities

Whenever you experience Downtime, you must make a support call according to the procedures outlined in the Support Call Process. You will receive a support case number.

b. Our Responsibilities



When our support team receives a call from you that Downtime has occurred or is occurring, we will work with you to identify the cause of the Downtime (including whether it may be the result of Planned Downtime, a Client Error Incident, denial of service attack or Force Majeure). We will also work with you to resume normal operations.

c. Client Relief

Our targeted Attainment Goal is 100%. You may be entitled to credits as indicated in the Client Relief Schedule found below. Your relief credit is calculated as a percentage of the SaaS Fees paid for the calendar month.

In order to receive relief credits, you must submit a request through one of the channels listed in our Support Call Process within fifteen days (15) of the end of the applicable month. We will respond to your relief request within thirty (30) day(s) of receipt.

The total credits confirmed by us will be applied to the SaaS Fee for the next billing cycle. Issuing of such credit does not relieve us of our obligations under the Agreement to correct the problem which created the service interruption.

Credits are only payable when Actual Attainment results in eligibility for credits in consecutive months and only for such consecutive months.

Client Relief Schedule	
Actual Attainment	Client Relief
99.99% - 99.70%	Remedial action will be taken
99.69% - 98.50%	2% of SaaS Fees paid for applicable month
98.49% - 97.50%	4% of SaaS Fees paid for applicable month
97.49% - 96.50%	6% of SaaS Fees paid for applicable month
96.49% - 95.50%	8% of SaaS Fees paid for applicable month
Below 95.50%	10% of SaaS Fees paid for applicable month

* Notwithstanding language in the Agreement to the contrary, Recovery Point Objective is one (1) hour.

IV. **Maintenance Notifications**

We perform Standard Maintenance during limited windows that are historically known to be reliably low-traffic times. If and when maintenance is predicted to occur during periods of higher traffic, we will provide advance notice of those windows and will coordinate to the greatest extent possible with you.

Not all maintenance activities will cause application unavailability. However, if Tyler anticipates that activities during a Standard or Emergency Maintenance window may make the Tyler Software unavailable, we will provide advance notice, as reasonably practicable, that the Tyler Software will be unavailable during the maintenance window.



Exhibit C Schedule 1 Support Call Process

Support Channels

Tyler Technologies, Inc. provides the following channels of software support for authorized users*:

- (1) On-line submission (portal) – for less urgent and functionality-based questions, users may create support incidents through the Tyler Customer Portal available at the Tyler Technologies website. A built-in Answer Panel provides users with resolutions to most “how-to” and configuration-based questions through a simplified search interface with machine learning, potentially eliminating the need to submit the support case.
- (2) Email – for less urgent situations, users may submit emails directly to the software support group.
- (3) Telephone – for urgent or complex questions, users receive toll-free, telephone software support.

** Channel availability may be limited for certain applications.*

Support Resources

A number of additional resources are available to provide a comprehensive and complete support experience:

- (1) Tyler Website – www.tylertech.com – for accessing client tools, documentation, and other information including support contact information.
- (2) Tyler Search -a knowledge based search engine that lets you search multiple sources simultaneously to find the answers you need, 24x7.
- (3) Tyler Community –provides a venue for all Tyler clients with current maintenance agreements to collaborate with one another, share best practices and resources, and access documentation.
- (4) Tyler University – online training courses on Tyler products.

Support Availability

Tyler Technologies support is available during the local business hours of 8 AM to 5 PM (Monday – Friday) across four US time zones (Pacific, Mountain, Central and Eastern). Tyler’s holiday schedule is outlined below. There will be no support coverage on these days.

New Year’s Day	Labor Day
Martin Luther King, Jr. Day	Thanksgiving Day
Memorial Day	Day after Thanksgiving
Independence Day	Christmas Day

For support teams that provide after-hours service, we will provide you with procedures for contacting



support staff after normal business hours for reporting Priority Level 1 Defects only. Upon receipt of such a Defect notification, we will use commercially reasonable efforts to meet the resolution targets set forth below.

We will also make commercially reasonable efforts to be available for one pre-scheduled Saturday of each month to assist your IT staff with applying patches and release upgrades, as well as consulting with them on server maintenance and configuration of the Tyler Software environment.

Incident Handling

Incident Tracking

Every support incident is logged into Tyler’s Customer Relationship Management System and given a unique case number. This system tracks the history of each incident. The case number is used to track and reference open issues when clients contact support. Clients may track incidents, using the case number, through Tyler’s Customer Portal or by calling software support directly.

Incident Priority

Each incident is assigned a priority level, which corresponds to the Client’s needs. Tyler and the Client will reasonably set the priority of the incident per the chart below. This chart is not intended to address every type of support incident, and certain “characteristics” may or may not apply depending on whether the Tyler software has been deployed on customer infrastructure or the Tyler cloud. The goal is to help guide the Client towards clearly understanding and communicating the importance of the issue and to describe generally expected response and resolution targets in the production environment only.

References to a “confirmed support incident” mean that Tyler and the Client have successfully validated the reported Defect/support incident.

Priority Level	Characteristics of Support Incident	Resolution Targets*	
1 Critical	Support incident that causes (a) complete application failure or application unavailability; (b) application failure or unavailability in one or more of the client’s remote location; or (c) systemic loss of multiple essential system functions.	Tyler shall provide an initial response to Priority Level 1 incidents within one (1) business hour of receipt of the incident. Once the incident has been confirmed, Tyler shall use commercially reasonable efforts to resolve such support incidents or provide a circumvention procedure within one (1) business day. For non-hosted customers, Tyler’s responsibility for lost or corrupted data is limited to assisting the Client in restoring its last available database.	

Priority Level	Characteristics of Support Incident	Resolution Targets*	
2 High	Support incident that causes (a) repeated, consistent failure of essential functionality affecting more than one user or (b) loss or corruption of data.	Tyler shall provide an initial response to Priority Level 2 incidents within four (4) business hours of receipt of the incident. Once the incident has been confirmed, Tyler shall use commercially reasonable efforts to resolve such support incidents or provide a circumvention procedure within ten (10) business days. For non-hosted customers, Tyler's responsibility for loss or corrupted data is limited to assisting the Client in restoring its last available database.	
3 Medium	Priority Level 1 incident with an existing circumvention procedure, or a Priority Level 2 incident that affects only one user or for which there is an existing circumvention procedure.	Tyler shall provide an initial response to Priority Level 3 incidents within one (1) business day of receipt of the incident. Once the incident has been confirmed, Tyler shall use commercially reasonable efforts to resolve such support incidents without the need for a circumvention procedure with the next published maintenance update or service pack, which shall occur at least quarterly. For non-hosted customers, Tyler's responsibility for lost or corrupted data is limited to assisting the Client in restoring its last available database.	
4 Non-critical	Support incident that causes failure of non-essential functionality or a cosmetic or other issue that does not qualify as any other Priority Level.	Tyler shall provide an initial response to Priority Level 4 incidents within two (2) business days of receipt of the incident. Once the incident has been confirmed, Tyler shall use commercially reasonable efforts to resolve such support incidents, as well as cosmetic issues, with a future version release.	

**Response and Resolution Targets may differ by product or business need*

Incident Escalation

If Tyler is unable to resolve any priority level 1 or 2 defect as listed above or the priority of an issue has elevated since initiation, you may escalate the incident to the appropriate resource, as outlined by each product support team. The corresponding resource will meet with you and any Tyler staff to establish a mutually agreeable plan for addressing the defect.

Remote Support Tool

Some support calls may require further analysis of the Client's database, processes, or setup to diagnose a problem or to assist with a question. Tyler will, at its discretion, use an industry-standard remote support tool. Tyler's support team must have the ability to quickly connect to the Client's system and view the site's setup, diagnose problems, or assist with screen navigation. More information about the remote support tool Tyler uses is available upon request.



Exhibit D

Third Party Terms

ThinPrint Terms. Your use of Tyler Forms software and forms is subject to the End User License Agreement terms for ThinPrint Engine, ThinPrint License Server, and Connected Gateway found here: <https://www.thinprint.com/en/legal-notes/eula/>. By signing a Tyler Agreement or Order Form, or accessing, installing, or using Tyler Forms software or forms, you agree that you have read, understood, and agree to such terms.

DocOrigin Terms. Your use of Tyler Forms software and forms is subject to the DocOrigin End User License Agreement available for download here: <https://eclipsecorp.us/eula/>. By signing a Tyler Agreement or Order Form including Tyler forms software or forms, or accessing, installing, or using Tyler Forms software or forms, you agree that you have read, understood, and agree to such terms.



Exhibit E
Statement of Work

Statement of Work follows this page.

City of Milpitas, CA

SOW from Tyler Technologies, Inc.

11/2/2023

Presented to:
City of Milpitas
455 E Calaveras Blvd
Milpitas, CA 95035-5411

Contact:
Katharina Howard
Email: Katharina.Howard@TylerTech.com
1 Tyler Drive Yarmouth, Maine 04096

Table of Contents

PART 1: EXECUTIVE SUMMARY	1
1. Project Overview.....	1
1.1 Introduction	1
1.2 Project Goals	1
1.3 Methodology.....	1
PART 2: PROJECT FOUNDATION.....	3
2. Project Governance.....	3
3. Project Scope Control.....	4
3.1 Managing Scope and Project Change.....	4
3.2 Change Control.....	4
3.3 Change Request Management.....	4
4. Acceptance Process.....	6
5. Roles and Responsibilities	6
5.1 Tyler Roles & Responsibilities	6
5.1.1 Tyler Executive Manager	7
5.1.2 Tyler Implementation Manager	7
5.1.3 Tyler Project Manager	7
5.1.4 Tyler Implementation Consultant	8
5.1.5 Tyler Sales.....	8
5.1.6 Tyler Technical Services.....	8
5.2 City of Milpitas Roles & Responsibilities	9
5.2.1 City of Milpitas Executive Sponsor	9
5.2.2 City of Milpitas Steering Committee	9
5.2.3 City of Milpitas Project Manager.....	10
5.2.4 City of Milpitas Functional Leads.....	11
5.2.5 City of Milpitas Power Users	11
5.2.6 City of Milpitas End Users	12
5.2.7 City of Milpitas Technical Lead.....	12
5.2.8 City of Milpitas Change Management Lead	13
PART 3: PROJECT PLAN.....	14
6. Project Stages	14
6.1 Initiate and Plan	15
6.1.1 Initial Coordination.....	15
6.1.2 Project/Phase Planning	16
6.1.3 Infrastructure Planning	17



6.1.4	Stakeholder Meeting	18
6.1.5	Intentionally left blank.	19
6.1.6	Control Point 1: Initiate & Plan Stage Acceptance	19
6.2	Assess & Define	20
6.2.1	Solution Orientation	20
6.2.2	Current & Future State Analysis	20
6.2.3	Data Assessment	22
6.2.4	Conversion Assessment.....	23
6.2.5	Intentionally left blank.	24
6.2.6	Intentionally left blank.	24
6.2.7	Control Point 2: Assess & Define Stage Acceptance	24
6.3	Prepare Solution.....	24
6.3.1	Initial System Deployment	24
6.3.2	Configuration	26
6.3.3	Process Refinement.....	27
6.3.4	Conversion Delivery	28
6.3.5	Intentionally left blank.	30
6.3.6	Intentionally left blank.	30
6.3.7	Control Point 3: Prepare Solution Stage Acceptance	30
6.4	Production Readiness.....	30
6.4.1	Solution Validation	30
6.4.2	Go-Live Readiness	31
6.4.3	End User Training	32
6.4.4	Control Point 4: Production Readiness Stage Acceptance	33
6.5	Production.....	34
6.5.1	Go-Live	34
6.5.2	Transition to Client Services	35
6.5.3	Post Go-Live Activities	36
6.5.4	Control Point 5: Production Stage Acceptance	37
6.6	Close.....	37
6.6.1	Phase Closeout	38
6.6.2	Project Closeout	39
6.6.3	Control Point 6: Close Stage Acceptance	40
7.	General Assumptions	40
7.1	Project	40
7.2	Organizational Change Management.....	40
7.3	Resources and Scheduling.....	41
7.4	Data.....	41
7.5	Facilities.....	42
8.	Glossary	43
PART 4:	APPENDICES	46
9.	Conversion	46



9.1	Enterprise ERP Conversion Summary.....	46
9.1.1	Accounting	46
9.1.2	Accounts Payable	46
9.1.3	Contracts	46
9.1.4	Project Accounting	47
9.1.5	Purchase Orders	47
9.1.6	Human Resources Management	47
9.1.7	General Billing	48
10.	Additional Appendices.....	49
10.1	Intentionally left blank.	49
11.	Project Timeline	50
11.1	ERP Project Timeline	50
11.2	Data & Insights Project Plan.....	50
11.3	Intentionally left blank.	50



Part 1: Executive Summary

1. Project Overview

1.1 Introduction

Tyler Technologies (“Tyler”) is the largest and most established provider of integrated software and technology services focused solely on the public sector. Tyler’s end-to-end solutions empower public sector entities including local, state, provincial and federal government, to operate more efficiently and connect more transparently with their constituents and with each other. By connecting data and processes across disparate systems, Tyler’s solutions transform how clients gain actionable insights that solve problems in their communities.

1.2 Project Goals

This Statement of Work (“SOW”) documents the methodology, implementation stages, activities, and roles and responsibilities, and project scope listed in the Investment Summary of the Agreement between Tyler and the City of Milpitas (collectively the “Project”).

The overall goals of the project are to:

- Successfully implement the contracted scope on time and on budget
- Increase operational efficiencies and empower users to be more productive
- Improve accessibility and responsiveness to external and internal customer needs
- Overcome current challenges and meet future goals

1.3 Methodology

This is accomplished by the City of Milpitas and Tyler working as a partnership and Tyler utilizing its depth of implementation experience. While each Project is unique, all will follow Tyler’s six-stage methodology. Each of the six stages is comprised of multiple work packages, and each work package includes a narrative description, objectives, tasks, inputs, outputs/deliverables, assumptions, and a responsibility matrix.

Tailored specifically for Tyler’s public sector clients, the project methodology contains Stage Acceptance Control Points throughout each Phase to ensure adherence to scope, budget, timeline controls, effective communications, and quality standards. Clearly defined, the project methodology repeats consistently across Phases, and is scaled to meet the City of Milpitas’s complexity and organizational needs.



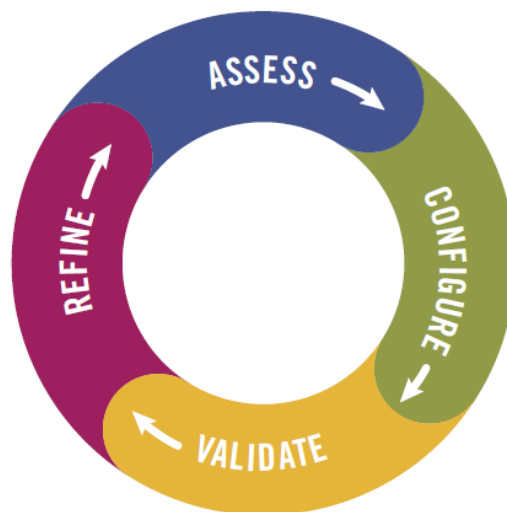
Tyler's Six Stage Project Methodology



The methodology adapts to both single-phase and multiple-phase projects.

To achieve Project success, it is imperative that both the City of Milpitas and Tyler commit to including the necessary leadership and governance. During each stage of the Project, it is expected that the City of Milpitas and Tyler Project teams work collaboratively to complete tasks. An underlying principle of Tyler's Implementation process is to employ an iterative model where the City of Milpitas's business processes are assessed, configured, validated, and refined cyclically in line with the project budget. This approach is used in multiple stages and work packages as illustrated in the graphic below.

Iterative Project Model



The delivery approach is systematic, which reduces variability and mitigates risks to ensure Project success. As illustrated, some stages, along with work packages and tasks, are intended to be overlapping by nature to complete the Project efficiently and effectively.

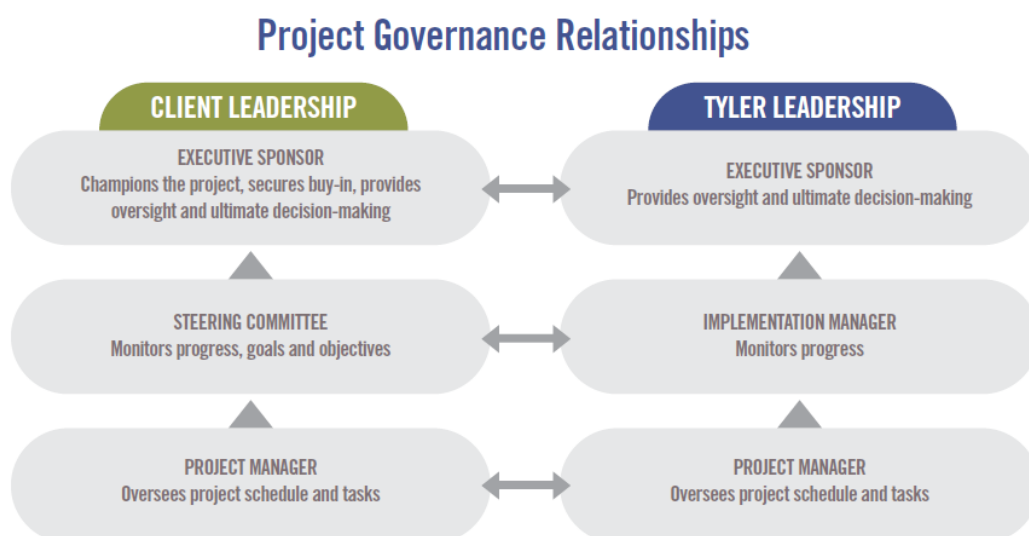
Part 2: Project Foundation

2. Project Governance

Project governance is the management framework within which Project decisions are made. The role of Project governance is to provide a decision-making approach that is logical, robust, and repeatable. This allows organizations to have a structured approach for conducting its daily business in addition to project related activities.

This section outlines the resources required to meet the business needs, objectives, and priorities for the Project, communicate the goals to other Project participants, and provide support and guidance to accomplish these goals. Project governance defines the structure for escalation of issues and risks, Change Control review and authority, and Organizational Change Management activities. Throughout the Statement of Work Tyler has provided RACI Matrices for activities to be completed throughout the implementation which will further outline responsibilities of different roles in each stage. Further refinement of the governance structure, related processes, and specific roles and responsibilities occurs during the Initiate & Plan Stage.

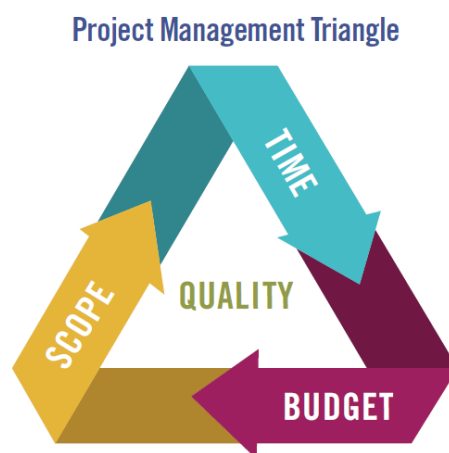
The chart below illustrates an overall team perspective where Tyler and the City of Milpitas collaborate to resolve Project challenges according to defined escalation paths. If project managers do not possess authority to determine a solution, resolve an issue, or mitigate a risk, Tyler implementation management and the City of Milpitas Steering Committee become the escalation points to triage responses prior to escalation to the City of Milpitas and Tyler executive sponsors. As part of the escalation process, each Project governance tier presents recommendations and supporting information to facilitate knowledge transfer and issue resolution. The City of Milpitas and Tyler executive sponsors serve as the final escalation point.



3. Project Scope Control

3.1 Managing Scope and Project Change

Project Management governance principles contend that there are three connected constraints on a Project: budget, timeline, and scope. These constraints, known as the “triple constraints” or project management triangle, define budget in terms of financial cost, labor costs, and other resource costs. Scope is defined as the work performed to deliver a product, service or result with the specified features and functions, while time is simply defined as the schedule. The Triple Constraint theory states that if you change one side of the triangle, the other two sides must be correspondingly adjusted. For example, if the scope of the Project is increased, cost and time to complete will also need to increase. The Project and executive teams will need to remain cognizant of these constraints when making impactful decisions to the Project. A simple illustration of this triangle is included here, showing the connection of each item and their relational impact to the overall Scope.



A pillar of any successful project is the ability to properly manage scope while allowing the appropriate level of flexibility to incorporate approved changes. Scope and changes within the project will be managed using the change control process outlined in the following section.

3.2 Change Control

It may become necessary to change the scope of this Project due to unforeseeable circumstances (e.g., new constraints or opportunities are discovered). This Project is being undertaken with the understanding that Project scope, schedule, and/or cost may need to change to produce optimal results for stakeholders. Changes to contractual requirements will follow the change control process specified in the final contract, and as described below.

3.3 Change Request Management

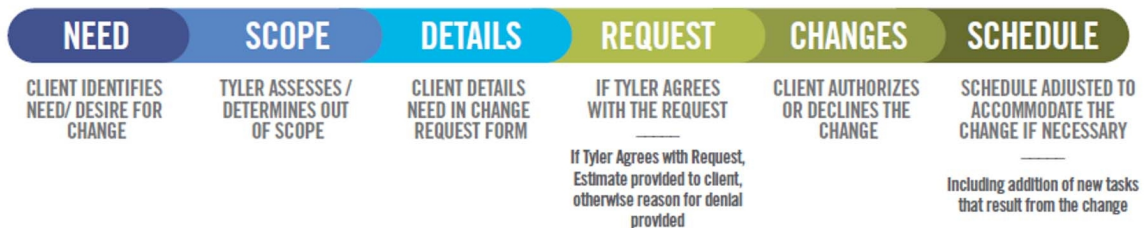
Should the need for a change to Project scope, schedule, and/or cost be identified during the Project, the change will be brought to the attention of the Steering Committee and an assessment of the change will occur. While such changes may result in additional costs and delays relative to the schedule, some changes may result in less cost to the City of Milpitas; for example, the City of Milpitas may decide it no

longer needs a deliverable originally defined in the Project. The Change Request will include the following information:

- The nature of the change.
- A good faith estimate of the additional cost or associated savings to the City of Milpitas, if any.
- The timetable for implementing the change.
- The effect on and/or risk to the schedule, resource needs or resource responsibilities.

The City of Milpitas will use its good faith efforts to either approve or disapprove any Change Request within ten (10) Business Days (or other period as mutually agreeable between Tyler and the City of Milpitas). Any changes to the Project scope, budget, or timeline must be documented and approved in writing using a Change Request form. These changes constitute a formal amendment to the Statement of Work and will supersede any conflicting term in the Statement of Work.

Change Request Process



4. Acceptance Process

The implementation of a Project involves many decisions to be made throughout its lifecycle. Decisions will vary from higher level strategy decisions to smaller, detailed Project level decisions. It is critical to the success of the Project that each City of Milpitas office or department designates specific individuals for making decisions on behalf of their offices or departments.

Both Tyler and the City of Milpitas will identify representative project managers. These individuals will represent the interests of all stakeholders and serve as the primary contacts between the two organizations.

The coordination of gaining City of Milpitas feedback and approval on Project deliverables will be critical to the success of the Project. The City of Milpitas project manager will strive to gain deliverable and decision approvals from all authorized City of Milpitas representatives. Given that the designated decision-maker for each department may not always be available, there must be a designated proxy for each decision point in the Project. Assignment of each proxy will be the responsibility of the leadership from each City of Milpitas department. The proxies will be named individuals that have the authorization to make decisions on behalf of their department.

The following process will be used for accepting Deliverables and Control Points:

- The City of Milpitas shall have ten (10) business days from the date of delivery, or as otherwise mutually agreed upon by the parties in writing, to accept each Deliverable or Control Point. If the City of Milpitas does not provide acceptance or acknowledgement within ten (10) business days, or the otherwise agreed upon timeframe, not to be unreasonably withheld, Tyler deems the Deliverable or Control Point as accepted.
- If the City of Milpitas does not agree the Deliverable or Control Point meets requirements, the City of Milpitas shall notify Tyler project manager(s), in writing, with reasoning within ten (10) business days, or the otherwise agreed-upon timeframe, not to be unreasonably withheld, of receipt of the Deliverable.
- Tyler shall address any deficiencies and redeliver the Deliverable or Control Point. The City of Milpitas shall then have five (5) business days from receipt of the redelivered Deliverable or Control Point to accept or again submit written notification of reasons for rejecting the milestone. If the City of Milpitas does not provide acceptance within five (5) business days, or the otherwise agreed upon timeframe, not to be unreasonably withheld, Tyler deems the Deliverable or Control Point as accepted.

5. Roles and Responsibilities

The following defines the roles and responsibilities of each Project resource for the City of Milpitas and Tyler. Roles and responsibilities may not follow the organizational chart or position descriptions at the City of Milpitas, but are roles defined within the Project. It is common for individual resources on both the Tyler and City of Milpitas project teams to fill multiple roles. Similarly, it is common for some roles to be filled by multiple people.



5.1 Tyler Roles & Responsibilities

Tyler assigns a project manager 45 days prior to the start of each Phase of the Project (some Projects may only be one Phase in duration). Additional Tyler resources are assigned as the schedule develops and as needs arise.

5.1.1 Tyler Executive Manager

Tyler executive management has indirect involvement with the Project and is part of the Tyler escalation process. This team member offers additional support to the Project team and collaborates with other Tyler department managers as needed to escalate and facilitate implementation Project tasks and decisions.

- Provides clear direction for Tyler staff on executing on the Project Deliverables to align with satisfying the City of Milpitas 's overall organizational strategy.
- Authorizes required Project resources.
- Resolves all decisions and/or issues not resolved at the implementation management level as part of the escalation process.
- Acts as the counterpart to the City of Milpitas 's executive sponsor.

5.1.2 Tyler Implementation Manager

- Tyler implementation management has indirect involvement with the Project and is part of the Tyler escalation process. The Tyler project managers consult implementation management on issues and outstanding decisions critical to the Project. Implementation management works toward a solution with the Tyler Project Manager or with City of Milpitas management as appropriate. Tyler executive management is the escalation point for any issues not resolved at this level.
- Assigns Tyler Project personnel.
- Provides support for the Project team.
- Provides management support for the Project to ensure it is staffed appropriately and staff have necessary resources.
- Monitors Project progress including progress towards agreed upon goals and objectives.

5.1.3 Tyler Project Manager

- The Tyler project manager(s) provides oversight of the Project, coordination of Tyler resources between departments, coordination of third parties for interface execution, management of the Project budget and schedule, effective risk, and issue management, and is the primary point of contact for all Project related items. As requested by the City of Milpitas, the Tyler Project Manager provides regular updates to the City of Milpitas Steering Committee and other Tyler governance members. Tyler Project Manager's role includes responsibilities in the following areas:

5.1.3.1 Contract Management

- Validates contract compliance throughout the Project.
- Ensures Deliverables meet contract requirements.
- Acts as primary point of contact for all contract and invoicing questions.



- Prepares and presents contract milestone sign-offs for acceptance by the City of Milpitas project manager(s).
- Coordinates Change Requests, if needed, to ensure proper Scope and budgetary compliance.

5.1.3.2 Planning

- Delivers project planning documents.
- Defines Project tasks and resource requirements.
- Develops initial Project schedule and Project Management Plan.
- Collaborates with the City of Milpitas project manager(s) to plan and schedule Project timelines to achieve on-time implementation.

5.1.3.3 Implementation Management

- Tightly manages Scope and budget of Project to ensure Scope changes and budget planned versus actual are transparent and handled effectively and efficiently.
- Establishes and manages a schedule and Tyler resources that properly support the Project Schedule and are also in balance with Scope/budget.
- Establishes risk/issue tracking/reporting process between the City of Milpitas and Tyler and proactively manages the resolution of the issues/risks with the assigned Tyler staff and City stakeholders.
- .
- Collaborates with the City of Milpitas 's project manager(s) to establish key business drivers and success indicators that will help to govern Project activities and key decisions to ensure a quality outcome of the project.
- Collaborates with the City of Milpitas 's project manager(s) to set a routine communication plan that will aide all Project team members, of both the City of Milpitas and Tyler, in understanding the goals, objectives, status, and health of the Project.
- Prepares for project status meetings by creating meeting agendas, status reports, and facilitating the meetings

5.1.3.4 Resource Management

- Acts as liaison between Project team and Tyler manager(s).
- Identifies and coordinates all Tyler resources across all applications, Phases, and activities including development, forms, installation, reports, implementation, and billing.
- In case of a resource replacement, will coordinate and ensure an internal knowledge transfer that will facilitate a smooth transition from one resource to another.
- Provides direction and support to Project team.
- Manages the appropriate assignment and timely completion of tasks as defined in the Project Schedule, task list, and Go-Live Checklist.
- Assesses team performance and adjusts as necessary.
- Coordinates with City and in Scope 3rd party providers to align activities, including interface development, with ongoing Project tasks.

5.1.4 Tyler Implementation Consultant

- Completes tasks as assigned by the Tyler project manager(s).

- Communicates with Tyler project manager(s) regarding any issues requiring additional project activities, changes to previous actions, or that may create project risks.
- Documents activities for services performed by Tyler.
- Creates and delivers a site implementation report for each session delivered that captures topics covered, decisions made, issues encountered, agenda items not covered, as well as potential homework items resulting from the training session.
- Guides the City of Milpitas through software validation process following configuration.
- Provides recommendations on configuration and business processes to follow best practices and best utilize the Tyler software.
- Assists during Go-Live process and provides support until the City of Milpitas transitions to Client Services.
- Facilitates training sessions and discussions with the City of Milpitas and Tyler staff to ensure adequate discussion of the appropriate agenda topics during the allotted time.
- Possesses in-depth understanding of functionality within the software products in the scope of their sessions.
- Possesses an understanding of how decisions within the software products in the scope of their sessions may affect other purchased software products, or when to contact another Tyler resource to discuss these decisions.
- May provide conversion review and error resolution assistance.

5.1.5 Tyler Sales

- Supports Sales to Implementation knowledge transfer during Initiate & Plan.
- Provides historical information, as needed, throughout implementation.
- Participates in pricing activities if additional licensing and/or services are needed.

5.1.6 Tyler Technical Services

- Maintains Tyler infrastructure requirements and design document(s).
- Involved in system infrastructure planning/review(s).
- Provides first installation of licensed software with initial database on servers.
- Supports and assists the project team with technical/environmental issues/needs, such as database refreshes, upgrades, loading conversion data, amongst others
- Deploys Tyler products.

5.2 City of Milpitas Roles & Responsibilities

City of Milpitas resources will be assigned prior to the start of each Phase of the Project. One person may be assigned to multiple Project roles.

5.2.1 City of Milpitas Executive Sponsor

The City of Milpitas executive sponsor provides support to the Project by providing strategic direction and communicating key issues about the Project and its overall importance to the organization. When called upon, the executive sponsor also acts as the final authority on all escalated Project issues. The executive sponsor engages in the Project, as needed, to provide necessary support, oversight, guidance, and escalation, but does not participate in day-to-day Project activities. The executive sponsor empowers the



City of Milpitas steering committee, project manager(s), and functional leads to make critical business decisions for the City of Milpitas.

- Champions the project at the executive level to secure buy-in.
- Authorizes required project resources.
- Actively participates in organizational change communications.

5.2.2 City of Milpitas Steering Committee

The City of Milpitas steering committee understands and supports the cultural change necessary for the Project and fosters an appreciation for the Project's value throughout the organization. The steering committee oversees the City of Milpitas project manager and Project through participation in regular internal meetings. The City of Milpitas steering committee remains updated on all Project progress, Project decisions, and achievement of Project milestones. The City of Milpitas steering committee also serves as primary level of issue resolution for the Project.

- Works to resolve all decisions and/or issues not resolved at the project manager level as part of the escalation process.
- Attends all scheduled steering committee meetings.
- Provides support for the project team.
- Assists with communicating key project messages throughout the organization.
- Prioritizes the project within the organization.
- Ensures the project staffed appropriately and that staff have necessary resources.
- Monitors project progress including progress towards agreed upon goals and objectives.
- Has the authority to approve or deny changes impacting the following areas:
 - Cost
 - Scope
 - Schedule
 - Project Goals
 - City of Milpitas Policies
 - Needs of other client projects

5.2.3 City of Milpitas Project Manager

The City of Milpitas shall assign project manager(s) prior to the start of this project with overall responsibility and authority to make decisions related to Project Scope, scheduling, and task assignment. The City of Milpitas Project Manager should communicate decisions and commitments to the Tyler project manager(s) in a timely and efficient manner. When the City of Milpitas project manager(s) do not have the knowledge or authority to make decisions, he or she engages the necessary resources to participate in discussions and make decisions in a timely fashion to avoid Project delays. The City of Milpitas project manager(s) are responsible for reporting to the City of Milpitas steering committee and determining appropriate escalation points.

5.2.3.1 Contract Management

- Validates contract compliance throughout the project.
- Ensures that invoicing and Deliverables meet contract requirements.
- Acts as primary point of contact for all contract and invoicing questions. Collaborates on and approves Change Requests, if needed, to ensure proper scope and budgetary compliance.



5.2.3.2 Planning

- Reviews and accepts project planning documents.
- Defines project tasks and resource requirements for the City of Milpitas project team.
- Collaborates in the development and approval of the project schedule.
- Collaborates with Tyler project manager(s) to plan and schedule project timelines to achieve on-time implementation.

5.2.3.3 Implementation Management

- Tightly manages project budget and scope.
- Collaborates with Tyler project manager(s) to establish a process and approval matrix to ensure that scope changes and budget (planned versus actual) are transparent and handled effectively and efficiently.
- Collaborates with Tyler project manager to establish and manage a schedule and resource plan that properly supports the project schedule as a whole and is also in balance with scope and budget.
- Collaborates with Tyler project manager(s) to establish risk and issue tracking and reporting process between the City of Milpitas and Tyler and takes all necessary steps to proactively mitigate these items or communicate with transparency to Tyler any items that may impact the outcomes of the project.
- Collaborates with Tyler project manager(s) to establish key business drivers and success indicators that will help to govern project activities and key decisions to ensure a quality outcome of the project.
- Routinely communicates with both the City of Milpitas staff and Tyler, aiding in the understanding of goals, objectives, current status, and health of the project by all team members.
- Manages the requirements gathering process and ensure timely and quality business requirements are being provided to Tyler.

5.2.3.4 Resource Management

- Acts as liaison between project team and stakeholders.
- Identifies and coordinates all City of Milpitas resources across all modules, phases, and activities including data conversions, forms design, hardware and software installation, reports building, and satisfying invoices.
- Provides direction and support to project team.
- Builds partnerships among the various stakeholders, negotiating authority to move the project forward.
- Manages the appropriate assignment and timely completion of tasks as defined.
- Assesses team performance and takes corrective action, if needed.
- Provides guidance to City of Milpitas technical teams to ensure appropriate response and collaboration with Tyler Technical Support Teams to ensure timely response and appropriate resolution.
- Owns the relationship with in-Scope 3rd party providers and aligns activities with ongoing project tasks.
- Ensures that users have appropriate access to Tyler project toolsets as required.
- Conducts training on proper use of toolsets.
- Validates completion of required assignments using toolsets.



5.2.4 City of Milpitas Functional Leads

- Makes business process change decisions under time sensitive conditions.
- Communicates existing business processes and procedures to Tyler consultants.
- Assists in identifying business process changes that may require escalation.
- Contributes business process expertise for Current & Future State Analysis.
- Identifies and includes additional subject matter experts to participate in Current & Future State Analysis.
- Validates that necessary skills have been retained by end users.
- Provides End Users with dedicated time to complete required homework tasks.
- Acts as an ambassador/champion of change for the new process and provide business process change support.
- Identifies and communicates any additional training needs or scheduling conflicts to the City of Milpitas project manager.
- Actively participates in all aspects of the implementation, including, but not limited to, the following key activities:
 - Task completion
 - Stakeholder Meeting
 - Project Management Plan development
 - Schedule development
 - Maintenance and monitoring of risk register
 - Escalation of issues
 - Communication with Tyler project team
 - Coordination of City of Milpitas resources
 - Attendance at scheduled sessions
 - Change management activities
 - Modification specification, demonstrations, testing and approval assistance
 - Data analysis assistance
 - Decentralized end user training
 - Process testing
 - Solution Validation

5.2.5 City of Milpitas Power Users

- Participate in project activities as required by the project team and project manager(s).
- Provide subject matter expertise on the City of Milpitas business processes and requirements.
- Act as subject matter experts and attend Current & Future State Analysis sessions as needed.
- Attend all scheduled training sessions.
- Participate in all required post-training processes as needed throughout project.
- Test all application configuration to ensure it satisfies business process requirements.
- Become application experts.
- Participate in Solution Validation.
- Adopt and support changed procedures.
- Complete all deliverables by the due dates defined in the project schedule.
- Demonstrate competency with Tyler products processing prior to Go-live.
- Provide knowledge transfer to the City of Milpitas staff during and after implementation.
- Participate in conversion review and validation.



5.2.6 City of Milpitas End Users

- Attend all scheduled training sessions.
- Become proficient in application functions related to job duties.
- Adopt and utilize changed procedures.
- Complete all deliverables by the due dates defined in the project schedule.
- Utilize software to perform job functions at and beyond Go-live.

5.2.7 City of Milpitas Technical Lead

- Coordinates updates and releases with Tyler as needed.
- Coordinates the copying of source databases to training/testing databases as needed for training days.
- Coordinates and adds new users, printers and other peripherals as needed.
- Validates that all users understand log-on process and have necessary permission for all training sessions.
- Coordinates interface development for City of Milpitas third party interfaces.
- Develops or assists in creating reports as needed.
- Ensures on-site system meets specifications provided by Tyler.
- Assists with software installation as needed.
- Extracts and transmits conversion data and control reports from the City of Milpitas's legacy system per the conversion schedule set forth in the project schedule.

5.2.7.1 City of Milpitas Upgrade Coordination

- Becomes familiar with the software upgrade process and required steps.
- Becomes familiar with Tyler's releases and updates.
- Utilizes Tyler resources to stay abreast of the latest Tyler releases and updates, as well as the latest helpful tools to manage the City of Milpitas's software upgrade process.
- Assists with the software upgrade process during implementation.
- Manages software upgrade activities post-implementation.
- Manages software upgrade plan activities.
- Coordinates software upgrade plan activities with City of Milpitas and Tyler resources.
- Communicates changes affecting users and department stakeholders.
- Obtains department stakeholder acceptance to upgrade production environment.

5.2.8 City of Milpitas Change Management Lead

- Validates that users receive timely and thorough communication regarding process changes.
- Provides coaching to supervisors to prepare them to support users through the project changes.
- Identifies the impact areas resulting from project activities and develops a plan to address them proactively.
- Identifies areas of resistance and develops a plan to reinforce the change.
- Monitors post-production performance and new process adherence.



Part 3: Project Plan

6. Project Stages

Work Breakdown Structure

The Work Breakdown Structure (WBS) is a hierarchical representation of a Project or Phase broken down into smaller, more manageable components. The top-level components are called “Stages” and the second level components are called “Work Packages”. The work packages, shown below each stage, contain the high-level work to be done. The detailed Project Schedule, developed during Project/Phase Planning and finalized during subsequent stages, lists the tasks to be completed within each work package. Each stage ends with a “Control Point”, confirming the work performed during that stage of the Project has been accepted by the City of Milpitas.

Work Breakdown Structure (WBS)

1. Initiate & Plan	2. Assess & Define	3. Prepare Solution	4. Production Readiness	5. Production	6. Close
1.1 Initial Coordination	2.1 Solution Orientation	3.1 Initial System Deployment	4.1 Solution Validation	5.1 Go Live	6.1 Phase Close Out
1.2 Project/Phase Planning	2.2 Current & Future State Analysis	3.2 Configuration	4.2 Go Live Readiness	5.2 Transition to Client Services	6.2 Project Close Out
1.3 GIS Planning*	2.3 Modification Analysis	3.3 Process Refinement	4.3 End User Training	5.3 Post Go Live Activities	
1.4 Infrastructure Planning	2.4 Conversion Assessment	3.4 Conversion Delivery			
1.5 Stakeholder Meeting	2.5 Data Assessment	3.5 Data Delivery			
		3.6 Modifications*			

**Items noted with an asterisk in the graphic above relate to specific products and services. If those products and services are not included in the scope of the contract, these specific work packages will be noted as “Intentionally Left Blank” in Section 6 of the Statement of Work.*

6.1 Initiate and Plan

The Initiate and Plan stage involves Project initiation, infrastructure, and planning. This stage creates a foundation for the Project by identifying and establishing sequence and timing for each Phase as well as verifying scope for the Project. This stage will be conducted at the onset of the Project, with a few unique items being repeated for the additional Phases as needed.

6.1.1 Initial Coordination

Prior to Project commencement, Tyler management assigns project manager(s). Additional Project resources will be assigned later in the Project as a Project schedule is developed. Tyler provides the City of Milpitas with initial Project documents used to gather names of key personnel, their functional role as it pertains to the Project, as well as any blackout dates to consider for future planning. The City of Milpitas gathers the information requested by the provided deadline ensuring preliminary planning and scheduling can be conducted moving the Project forward in a timely fashion. Internally, the Tyler Project Manager(s) coordinate with sales to ensure transfer of vital information from the sales process prior to scheduling a Project Planning Meeting with the City of Milpitas's team. During this step, Tyler will work with the City of Milpitas to establish the date(s) for the Project and Phase Planning session.

Objectives:

- Formally launch the project.
- Establish project governance.
- Define and communicate governance for Tyler.
- Identify City of Milpitas project team.

STAGE 1	Initial Coordination																
	Tyler								City of Milpitas								
RACI MATRIX KEY: R = Responsible A = Accountable C = Consulted I = Informed	Executive Manager	Implementation Manager	Project Manager	Implementation Consultant	Data Experts	Modification Services	Technical Services	Client Services	Executive Sponsor	Steering Committee	Project Manager	Functional Leads	Change Management Leads	Subject Matter Experts (Power	Department Heads	End Users	Technical Leads
Tyler project team is assigned (Project Manager to be assigned 45 days prior to start of each phase, and resume provided).	A	R	C	I	I	I	I		I		I						
City of Milpitas project team is assigned									A	I	R	I	I	I			
Provide initial project documents to the City of Milpitas		A	R	C			C		I		I						

Gather preliminary information requested			I						A		R	C		C		C	C
Sales to implementation knowledge transfer		A	R	I	I	I	I				I						
Create Project Portal to store project artifacts and facilitate communication		A	R								I						

Inputs	Contract documents
	Statement of Work

Outputs/Deliverables	Working initial project documents
	Project portal

Work package assumptions:

- Project activities begin after the agreement has been fully executed.

6.1.2 Project/Phase Planning

Project and Phase planning provides an opportunity to review the contract, software, data conversions and services purchased, identify applications to implement in each Phase (if applicable), and discuss implementation timeframes.

During this work package Tyler will work with the City of Milpitas to coordinate and plan a formal Project planning meeting(s). This meeting signifies the start of the Project and should be attended by all City of Milpitas Project team members and the Tyler Project Manager. The meeting provides an opportunity for Tyler to introduce its implementation methodology, terminology, and Project management best practices to the City of Milpitas's Project Team. This will also present an opportunity for project managers and Project sponsors to begin to discuss Project communication, metrics, status reporting and tools to be used to measure Project progress and manage change.

Tyler will work with the City of Milpitas Project Team to prepare and deliver the Project Management Plan as an output of the planning meeting. This plan will continue to evolve and grow as the Project progresses and will describe how the project will be executed, monitored, and controlled.

During project planning, Tyler will introduce the tools that will be used throughout the implementation. Tyler will familiarize the City of Milpitas with these tools during project planning and make them available for review and maintenance as applicable throughout the project. Some examples are Solution validation plan, issue log, and go-live checklist.

STAGE 1	Project/Phase Planning	
	Tyler	City of Milpitas

RACI MATRIX KEY: R = Responsible A = Accountable C = Consulted I = Informed	Executive Manager	Implementation Manager	Project Manager	Implementation Consultant	Data Experts	Modification Services	Technical Services	Client Services	Executive Sponsor	Steering Committee	Project Manager	Functional Leads	Change Management Leads	Subject Matter Experts (Power)	Department Heads	End Users	Technical Leads
Schedule and conduct planning session(s)		A	R						I		C	C	I				
Develop Project Management Plan		A	R						I		C	C	I				
Develop initial project schedule		A	R	I	I	I	I		I	I	C	C	I	I	C		I

Inputs	Contract documents
	Statement of Work
	Guide to Starting Your Project

Outputs / Deliverables		Acceptance Criteria [only] for Deliverables
	Project Management Plan	Delivery of document
	Project Operational Plan	Delivery of document
	Initial Project Schedule	City of Milpitas provides acceptance of schedule based on resource availability, project budget, and goals.

Work package assumptions:

- City of Milpitas has reviewed and completed the Guide to Starting Your Project document.

6.1.3 Infrastructure Planning

Procuring required hardware and setting it up properly is a critical part of a successful implementation. This task is especially important for Tyler-hosted/SaaS deployment models. Tyler will be responsible for building the environments for a hosted/SaaS deployment, unless otherwise identified in the Agreement. Tyler will install Licensed Software on application server(s) or train the City of Milpitas to install License Software. The City of Milpitas is responsible for the installation and setup of all peripheral devices.

Objectives:

- Ensure the City of Milpitas's infrastructure meets Tyler's application requirements.
- Ensure the City of Milpitas's infrastructure is scheduled to be in place and available for use on time.

STAGE 1	Infrastructure Planning	
	Tyler	City of Milpitas

RACI MATRIX KEY: R = Responsible A = Accountable C = Consulted I = Informed	Executive Manager	Implementation Manager	Project Manager	Implementation Consultant	Data Experts	Modification Services	Technical Services	Client Services	Executive Sponsor	Steering Committee	Project Manager	Functional Leads	Change Management Leads	Subject Matter Experts	Department Heads	End Users	Technical Leads
Provide Infrastructure Requirements and Design Document		A	R		C		C				I						I
Initial Infrastructure Meeting		A	R		C		C				C						C
Schedule SaaS Environment Availability		A	R				C				I						
Schedule Installation of All Licensed Software		A	R				C				I						I
Infrastructure Audit		A	R				C				I						C

Inputs	Initial Infrastructure Requirements
--------	-------------------------------------

Outputs / Deliverables		Acceptance Criteria [only] for Deliverables
	Completed Infrastructure Requirements	Delivery of Requirements
	Infrastructure Audit	System Passes Audit Criteria

6.1.4 Stakeholder Meeting

Communication of the Project planning outcomes to the City of Milpitas Project team, executives and other key stakeholders is vital to Project success. The Stakeholder meeting is a strategic activity to inform, engage, gain commitment, and instill confidence in the City of Milpitas team. During the meeting, the goals and objectives of the Project will be reviewed along with detail on Project scope, implementation methodology, roles and responsibilities, Project timeline and schedule, and keys to Project success.

Objectives:

- Formally present and communicate the project activities and timeline.
- Communicate project expectations.

STAGE 1	Stakeholder Meeting	
	Tyler	City of Milpitas

RACI MATRIX KEY: R = Responsible A = Accountable C = Consulted I = Informed	Executive Manager	Implementation Manager	Project Manager	Implementation Consultant	Data Experts	Modification Services	Technical Services	Client Services	Executive Sponsor	Steering Committee	Project Manager	Functional Leads	Change Management Leads	Subject Matter Experts (Power)	Department Heads	End Users	Technical Leads
Create Stakeholder Meeting Presentation	I	A	R	I	I				I	I	C		I				
Review Stakeholder Meeting Presentation		I	C						A		R		C				
Perform Stakeholder Meeting Presentation	I	A	R	I	I				I	I	C	I	I	I	I	I	I

Inputs	Agreement
	SOW
	Project Management Plan

Outputs / Deliverables		Acceptance Criteria [only] for Deliverables
	Stakeholder Meeting Presentation	

Work package assumptions:

- None

6.1.5 Intentionally left blank.

6.1.6 Control Point 1: Initiate & Plan Stage Acceptance

Acceptance criteria for this stage includes completion of all criteria listed below.

Note: Advancement to the Assess & Define stage is not dependent upon Tyler's receipt of this stage acceptance.

Initiate & Plan Stage Deliverables:

- Project Management Plan
- Initial Project Schedule

Initiate & Plan stage acceptance criteria:

- All stage deliverables accepted based on acceptance criteria previously defined
- Project governance defined
- Project portal made available to the City of Milpitas
- Stakeholder meeting complete

6.2 Assess & Define

The Assess & Define stage will provide an opportunity to gather information related to current City of Milpitas business processes. This information will be used to identify and define business processes utilized with Tyler software. The City of Milpitas collaborates with Tyler providing complete and accurate information to Tyler staff and assisting in analysis, understanding current workflows and business processes.

6.2.1 Solution Orientation

The Solution Orientation provides the Project stakeholders a high-level understanding of the solution functionality prior to beginning the current and future state analysis. The primary goal is to establish a foundation for upcoming conversations regarding the design and configuration of the solution.

Tyler utilizes a variety of tools for the Solution Orientation, focusing on City of Milpitas team knowledge transfer such as: eLearning, documentation, or walkthroughs. The City of Milpitas team will gain a better understanding of the major processes and focus on data flow, the connection between configuration options and outcome, integration, and terminology that may be unique to Tyler's solution.

Objectives:

- Provide a basic understanding of system functionality.
- Prepare the City of Milpitas for current and future state analysis.

STAGE 2	Solution Orientation																
	Tyler								City of Milpitas								
RACI MATRIX KEY: R = Responsible A = Accountable C = Consulted I = Informed	Executive Manager	Implementation Manager	Project Manager	Implementation Consultant	Data Experts	Modification Services	Technical Services	Client Services	Executive Sponsor	Steering Committee	Project Manager	Functional Leads	Change Management Leads	Subject Matter Experts (Power	Department Heads	End Users	Technical Leads
Provide pre-requisites			A	R							I	I		I	I		I
Complete pre-requisites											A	R		C			C
Conduct orientation			A	R							I	I		I	I		I

Inputs	Solution orientation materials
	Training Plan

6.2.2 Current & Future State Analysis

The Current & Future State Analysis provides the Project stakeholders and Tyler an understanding of process changes that will be achieved with the new system.

The City of Milpitas and Tyler will evaluate current state processes, options within the new software, pros and cons of each based on current or desired state and make decisions about the future state configuration and processing. This may occur before or within the same timeframe as the configuration work package. The options within the new software will be limited to the scope of this implementation and will make use of standard Tyler functionality.

The City of Milpitas will adopt the existing Tyler solution wherever possible to avoid project schedule and quality risk from over customization of Tyler products. It is the City of Milpitas's responsibility to verify that in-scope requirements are being met throughout the implementation if functional requirements are defined as part of the contract. The following guidelines will be followed when evaluating if a modification to the product is required:

- A reasonable business process change is available.
- Functionality exists which satisfies the requirement.
- Configuration of the application satisfies the requirement.
- An in-scope modification satisfies the requirement.

Requirements that are not met and not responded with a "Y" or "F" or "R" in Tyler's Requirements response of the RFP will follow the agreed upon change control process and can have impacts on the project schedule, scope, budget, and resource availability.

STAGE 2	Current & Future State Analysis																
	Tyler								City of Milpitas								
RACI MATRIX KEY: R = Responsible A = Accountable C = Consulted I = Informed	Executive Manager	Implementation Manager	Project Manager	Implementation Consultant	Data Experts	Modification Services	Technical Services	Client Services	Executive Sponsor	Steering Committee	Project Manager	Functional Leads	Change Management Leads	Subject Matter Experts (Power	Department Heads	End Users	Technical Leads
Current State process review			A	R	I	I	I				C	C	C	C			C
Discuss future-state options			A	R	C	C	C				C	C	C	C			C
Make future-state decisions (non-COTS)			C	C	C	C	C				A	R	I	C			C
Document anticipated configuration options required to support future state			A	R	C	C	C				I	I	I	I			I

Inputs	City of Milpitas current state documentation
	Solution Orientation completion

Outputs / Deliverables	Acceptance Criteria [only] for Deliverables
------------------------	---

	Documentation that describes future-state decisions and configuration options to support future-state decisions.	Delivery of document
--	--	----------------------

Work package assumptions:

- City of Milpitas attendees possess sufficient knowledge and authority to make future state decisions.
- The City of Milpitas is responsible for any documentation of current state business processes.
- The City of Milpitas can effectively communicate current state processes.

6.2.3 Data Assessment

Given the completion of the Current & Future State Analysis, the Data Assessment will provide the implementation team the design for data delivery prior to configuration. The data Assessment will also allow the Tyler and the City of Milpitas teams to identify the data that will be configured within the Tyler System. The team will develop and map out dataset structures to ensure that data is structured in a way that allows maximum utility.

The teams will review any existing data publish and metadata standards for the City of Milpitas's current data program to determine any necessary adjustments or configuration needs. Finally, the implementation team develops data workflows to map data from the source system(s) into the Tyler system, discussing any additional data requirements as needed.

Objectives:

- Communicate a common understanding of the project goals with respect to data.
- Ensure complete and accurate source data is available for review/transfer.
- Map the data from the source to the Tyler system.
- Document the data conversion/loading approach.

STAGE 2	Data Conversion Assessment																
	Tyler								City of Milpitas								
RACI MATRIX KEY: R = Responsible A = Accountable C = Consulted I = Informed	Executive Manager	Implementation Manager	Project Manager	Implementation Consultant	Data Experts	Modification Services	Technical Services	Client Services	Executive Sponsor	Steering Committee	Project Manager	Functional Leads	Change Management Leads	Subject Matter Experts (Power	Department Heads	End Users	Technical Leads
Extract Data from Source Systems			I		C						A						R
Complete Data Analysis/Mapping		A	R	C	C						I	C		C			I
Review and Scrub Source Data			C	C	C						A	R		C			I

Build/Update Data Conversion Plan			R	C	C						C	I	I	I			I
-----------------------------------	--	--	---	---	---	--	--	--	--	--	---	---	---	---	--	--	---

Inputs	City of Milpitas Source data
	City of Milpitas Source data Documentation (if available)

Outputs / Deliverables		Acceptance Criteria [only] for Deliverables
	Data Conversion Plan built/updated (if applicable)	City of Milpitas Acceptance of Data Conversion Plan, if Applicable
		City of Milpitas acceptance of Solution Design Document

Work package assumptions:

- Tyler will be provided with data from the Legacy system(s) in a mutually agreed upon format.
- Tyler will work with the City of Milpitas representatives to identify business rules before writing the conversion.
- City of Milpitas subject matter experts and resources most familiar with the current data will be involved in the data conversion planning effort.

6.2.4 Conversion Assessment

Data Conversions are a major effort in any software implementation. Tyler's conversion tools facilitate the predictable, repeatable conversion process that is necessary to support a successful transition to the Tyler system. The first step in this process is to perform an assessment of the existing ("legacy") system(s), to better understand the source data, risks, and options available. Once the data has been analyzed, the plan for data conversion is completed and communicated to the appropriate stakeholders.

Objectives:

- Communicate a common understanding of the project goals with respect to data.
- Ensure complete and accurate source data is available for review/transfer.
- Map the data from the source to the Tyler system.
- Document the data conversion/loading approach.

STAGE 2	Data Conversion Assessment																	
	Tyler								City of Milpitas									
RACI MATRIX KEY: R = Responsible A = Accountable C = Consulted I = Informed	Executive Manager	Implementation Manager	Project Manager	Implementation Consultant	Data Experts	Modification Services	Technical Services	Client Services	Executive Sponsor	Steering Committee	Project Manager	Functional Leads	Change Management Leads	Subject Matter Experts (Power	Department Heads	End Users	Technical Leads	

Extract Data from Source Systems			I		C						A						R
Review and Scrub Source Data			I	I	I						A	R		C			I
Build/Update Data Conversion Plan			R	C	C						C	I	I	I			I

Inputs	City of Milpitas Source data
	City of Milpitas Source data Documentation (if available)

Outputs / Deliverables		Acceptance Criteria [only] for Deliverables
	Data Conversion Plan built/updated that includes conversion options chosen and due dates for each conversion option selected.	City of Milpitas Acceptance of Data Conversion Plan, if Applicable

Work package assumptions:

- Tyler will be provided with data from the Legacy system(s) in a mutually agreed upon format.
- Tyler will work with the City of Milpitas representatives to identify business rules before writing the conversion.
- City of Milpitas subject matter experts and resources most familiar with the current data will be involved in the data conversion planning effort.

6.2.5 Intentionally left blank.

6.2.6 Intentionally left blank.

6.2.7 Control Point 2: Assess & Define Stage Acceptance

Acceptance criteria for this Stage includes completion of all criteria listed below.

Note: Advancement to the Prepare Solution Stage is dependent upon Tyler's receipt of the Stage Acceptance.

Assess & Define Stage Deliverables:

- Documentation of future state decisions and configuration options to support future state decisions.
- Modification specification document, if applicable.
- Assess & Define Stage Acceptance Criteria:
- All stage deliverables accepted based on criteria previously defined.
- Solution Orientation is delivered.
- Conversion data extracts are received by Tyler.
- Data conversion plan built.

6.3 Prepare Solution

During the Prepare Solution stage, information gathered during the Initiate & Plan and Assess & Define stages will be used to install and configure the Tyler software solution. Software configuration will be validated by the City of Milpitas against future state decisions defined in previous stages and processes refined as needed to ensure business requirements are met.

6.3.1 Initial System Deployment

The timely availability of the Tyler Solution is important to a successful Project implementation. The success and timeliness of subsequent work packages are contingent upon the initial system deployment of Tyler Licensed Software on an approved network and infrastructure. Delays in executing this work package can affect the project schedule.

Objectives:

- All licensed software is installed and operational.
- The City of Milpitas can access the software.

STAGE 3	Initial System Deployment (Hosted/SaaS)*																
	Tyler							City of Milpitas									
RACI MATRIX KEY: R = Responsible A = Accountable C = Consulted I = Informed	Executive Manager	Implementation Manager	Project Manager	Implementation Consultant	Data Experts	Modification Services	Technical Services	Client Services	Executive Sponsor	Steering Committee	Project Manager	Functional Leads	Change Management Leads	Subject Matter Experts (Power Users)	Department Heads	End Users	Technical Leads
Prepare hosted environment			A				R				I						C
Install Licensed Software with Initial Database on Server(s) for Included Environments			A				R				I						C
Install Licensed Software on City of Milpitas Devices (if applicable)			I				C				A						R
Tyler System Administration Training (if applicable)			A				R				I						C

Outputs / Deliverables		Acceptance Criteria [only] for Deliverables
	Licensed Software is Installed on the Server(s)	Software is accessible
	Licensed Software is Installed on City of Milpitas Devices (if applicable)	Software is accessible
	Installation Checklist/System Document	System meets prescribed checklist
	Infrastructure Design Document (C&J – If Applicable)	

Work package assumptions:

- The most current available version of the Tyler Licensed Software will be installed.
- The City of Milpitas will provide network access for Tyler modules, printers, and Internet access to all applicable City of Milpitas and Tyler Project staff.

6.3.2 Configuration

The purpose of Configuration is to prepare the software product for validation.

Tyler staff collaborates with the City of Milpitas to complete software configuration based on the outputs of the future state analysis performed during the Assess and Define Stage. The City of Milpitas collaborates with Tyler staff iteratively to validate software configuration.

Objectives:

- Software is ready for validation.
- Educate the City of Milpitas Power User how to configure and maintain software.
- Prepare standard interfaces for process validation (if applicable).

STAGE 3	Configuration																
	Tyler								City of Milpitas								
RACI MATRIX KEY: R = Responsible A = Accountable C = Consulted I = Informed	Executive Manager	Implementation Manager	Project Manager	Implementation Consultant	Data Experts	Modification Services	Technical Services	Client Services	Executive Sponsor	Steering Committee	Project Manager	Functional Leads	Change Management Leads	Subject Matter Experts (Power	Department Heads	End Users	Technical Leads
Conduct configuration training			A	R							I	C		C			
Complete Tyler configuration tasks (where applicable)			A	R							I	I		I			
Complete City of Milpitas configuration tasks (where applicable)			I	C							A	R		C			

Standard interfaces configuration and training (if applicable)			A	R			C				I	C		C			C
Updates to Solution Validation testing plan			C	C							A	R		C			C

Inputs	Documentation that describes future state decisions and configuration options to support future state decisions.
--------	--

Outputs / Deliverables		Acceptance Criteria [only] for Deliverables
	Configured System	

Work package assumptions:

- Tyler provides guidance for configuration options available within the Tyler software. The City of Milpitas is responsible for making decisions when multiple options are available.

6.3.3 Process Refinement

Tyler will educate the City of Milpitas users on how to execute processes in the system to prepare them for the validation of the software. The City of Milpitas collaborates with Tyler staff iteratively to validate software configuration options to support future state.

Objectives:

- Ensure that the City of Milpitas understands future state processes and how to execute the processes in the software.
- Refine each process to meet the business requirements.
- Validate standard interfaces, where applicable.
- Validate forms and reports, where applicable.

STAGE 3	Process Refinement																
	Tyler								City of Milpitas								
RACI MATRIX KEY: R = Responsible A = Accountable C = Consulted I = Informed	Executive Manager	Implementation Manager	Project Manager	Implementation Consultant	Data Experts	Modification Services	Technical Services	Client Services	Executive Sponsor	Steering Committee	Project Manager	Functional Leads	Change Management Leads	Subject Matter Experts (Power Users)	Department Heads	End Users	Technical Leads
Conduct process training			A	R							I	C	I	C			
Confirm process decisions			I	C						A	R	C	I	C			
Test configuration			I	C							A	R		C			

Refine configuration (City of Milpitas Responsible)			I	C							A	R		C			
Refine configuration (Tyler Responsible)			A	R							I	I		I			
Validate interface process and results			I	C				C			A	R		C			C
Update City of Milpitas-specific process documentation (if applicable)			I	C							A	R		C			
Updates to Solution Validation testing plan			C	C							A	R		C			C

Inputs	Initial Configuration
	Documentation that describes future state decisions and configuration options to support future state decisions.
	Solution validation test plan

Outputs / Deliverables		Acceptance Criteria [only] for Deliverables
	Updated solution validation test plan	
	Completed City of Milpitas-specific process documentation (completed by City of Milpitas)	

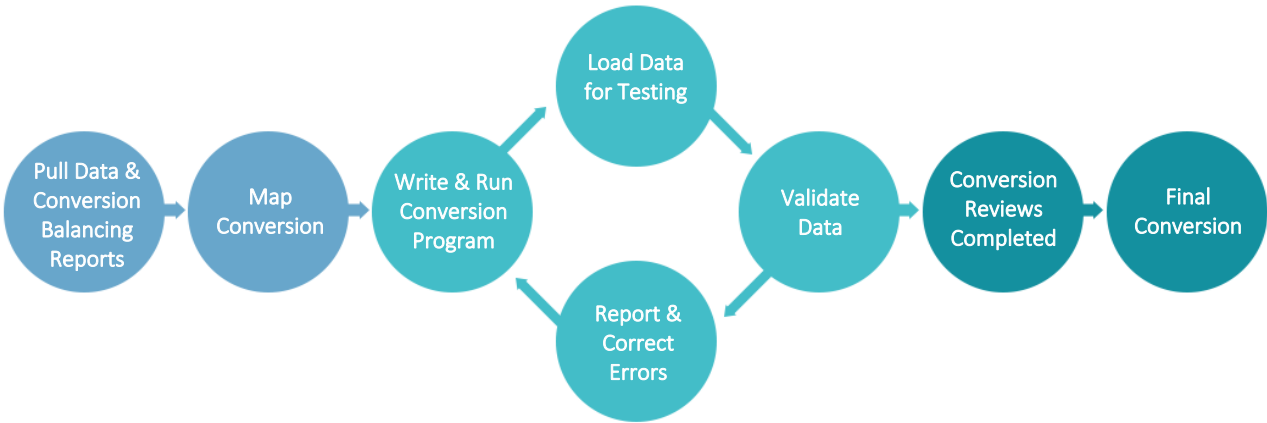
Work package assumptions:

- None

6.3.4 Conversion Delivery

The purpose of this task is to transition the City of Milpitas's data from their source ("legacy") system(s) to the Tyler system(s). The data will need to be mapped from the legacy system into the new Tyler system format. A well-executed data conversion is key to a successful cutover to the new system(s).

With coordination from Tyler, the City of Milpitas will review specific data elements within the system and identify / report discrepancies. Iteratively, Tyler will collaborate with the City of Milpitas to address conversion discrepancies. This process will allow for clean, reconciled data to transfer from the source system(s) to the Tyler system(s). Reference Conversion Appendix for additional detail.



Objectives:

- Data is ready for production (Conversion).

STAGE 3	Data Delivery & Conversion																
	Tyler							City of Milpitas									
RACI MATRIX KEY: R = Responsible A = Accountable C = Consulted I = Informed	Executive Manager	Implementation Manager	Project Manager	Implementation Consultant	Data Experts	Modification Services	Technical Services	Client Services	Executive Sponsor	Steering Committee	Project Manager	Functional Leads	Change Management Leads	Subject Matter Experts (Power Users)	Department Heads	End Users	Technical Leads
Provide data crosswalks/code mapping tool			A	C	R						I	I		I			
Populate data crosswalks/code mapping tool			I	C	C						A	R		C			
Iterations: Conversion Development			A	C	R						I						I
Iterations: Deliver converted data			A		R		I				I						I
Iterations: Proof/Review data and reconcile to source system			C	C	C						A	R		C			C

Inputs	
	Data Conversion Plan
	Configuration

Outputs / Deliverables		Acceptance Criteria [only] for Deliverables
	Code Mapping Complete / Validated	
	Conversion Iterations / Reviews Complete	Conversion complete, verified, and ready for final pass

Work package assumptions:

- The City of Milpitas will provide a single file layout per source system as identified in the investment summary.
- The City of Milpitas subject matter experts and resources most familiar with the current data will be involved in the data conversion effort.
- The City of Milpitas project team will be responsible for completing the code mapping activity, with coordination from Tyler.

6.3.5 Intentionally left blank.

6.3.6 Intentionally left blank.

6.3.7 Control Point 3: Prepare Solution Stage Acceptance

Acceptance criteria for this Stage includes all criteria listed below in each Work Package.

Note: Advancement to the Production Readiness Stage is dependent upon Tyler's receipt of the Stage Acceptance.

Prepare Solution Stage Deliverables:

- Licensed software is installed.
- Installation checklist/system document.
- Updated solution design document (Data & Insights only).
- Prioritized data sets for review in Tyler system (Data & Insights only).
- Conversion iterations and reviews complete.

Prepare Solution Stage Acceptance Criteria:

- All stage deliverables accepted based on criteria previously defined.
- Software is configured.
- Solution validation test plan has been reviewed and updated if needed.

6.4 Production Readiness

Activities in the Production Readiness stage will prepare the City of Milpitas team for go-live through solution validation, the development of a detailed go-live plan and end user training. A readiness

assessment will be conducted with the City of Milpitas to review the status of the project and the organizations readiness for go-live.

6.4.1 Solution Validation

Solution Validation is the end-to-end software testing activity to ensure that the City of Milpitas verifies all aspects of the Project (hardware, configuration, business processes, etc.) are functioning properly, and validates that all features and functions per the contract have been deployed for system use.

Objectives:

- Validate that the solution performs as indicated in the solution validation plan.
- Ensure the City of Milpitas organization is ready to move forward with go-live and training (if applicable).

STAGE 4	Solution Validation																
	Tyler								City of Milpitas								
RACI MATRIX KEY: R = Responsible A = Accountable C = Consulted I = Informed	Executive Manager	Implementation Manager	Project Manager	Implementation Consultant	Data Experts	Modification Services	Technical Services	Client Services	Executive Sponsor	Steering Committee	Project Manager	Functional Leads	Change Management Leads	Subject Matter Experts (Power	Department Heads	End Users	Technical Leads
Update Solution Validation plan			A	R	C						C	C		C			
Update test scripts (as applicable)			C	C	C						A	R		C			
Perform testing			C	C	C						A	R		C			
Document issues from testing			C	C	C						A	R		C			
Perform required follow-up on issues			A	R	C						C	C		C			

Inputs	Solution Validation plan
	Completed work product from prior stages (configuration, business process, etc.)

Outputs / Deliverables		Acceptance Criteria [only] for Deliverables
	Solution Validation Report	City of Milpitas updates report with testing results

Work package assumptions:

- Designated testing environment has been established.
- Testing includes current phase activities or deliverables only.

6.4.2 Go-Live Readiness

Tyler and the City of Milpitas will ensure that all requirements defined in Project planning have been completed and the Go-Live event can occur, as planned. A go-live readiness assessment will be completed identifying risks or actions items to be addressed to ensure the City of Milpitas has considered its ability to successfully Go-Live. Issues and concerns will be discussed, and mitigation options documented. Tyler and the City of Milpitas will jointly agree to move forward with transition to production. Expectations for final preparation and critical dates for the weeks leading into and during the Go-Live week will be planned in detail and communicated to Project teams.

Objectives:

- Action plan for go-live established.
- Assess go-live readiness.
- Stakeholders informed of go-live activities.

STAGE 4	Go-Live Readiness																
	Tyler								City of Milpitas								
RACI MATRIX KEY: R = Responsible A = Accountable C = Consulted I = Informed	Executive Manager	Implementation Manager	Project Manager	Implementation Consultant	Data Experts	Modification Services	Technical Services	Client Services	Executive Sponsor	Steering Committee	Project Manager	Functional Leads	Change Management Leads	Subject Matter Experts (Power	Department Heads	End Users	Technical Leads
Perform Readiness Assessment	I	A	R	C	C	I	C	I	I	I		I					I
Conduct Go-Live planning session		A	R	C							C	C	C	C	C		C
Order peripheral hardware (if applicable)			I							A	R						C
Confirm procedures for Go-Live issue reporting & resolution		A	R	I	I	I	I				C	C	I	I	I	I	I
Develop Go-Live checklist		A	R	C	C						C	C	I	C			C
Final system infrastructure review (where applicable)			A				R				C						C

Inputs	Future state decisions
	Go-live checklist

Outputs / Deliverables	Acceptance Criteria [only] for Deliverables
------------------------	---

	Updated go-live checklist Tyler go-live recommendation (readiness assessment)	Updated Action plan and Checklist for go-live delivered to the City of Milpitas
--	--	---

Work package assumptions:

- City has signed off on the agreed upon go-live conversions
- If applicable, two payroll parallels have matched the legacy system and the City has signed off on this as part of acceptance testing.

6.4.3 End User Training

End User Training is a critical part of any successful software implementation. Using a training plan previously reviewed and approved, the Project team will organize and initiate the training activities.

Train the Trainer: Tyler provides one occurrence of each scheduled training or implementation topic. City of Milpitas users who attended the Tyler sessions may train additional users. Additional Tyler led sessions may be contracted at the applicable rates for training.

Tyler will provide standard application documentation for the general use of the software. It is not Tyler's responsibility to develop City of Milpitas specific business process documentation. City of Milpitas-led training labs using City of Milpitas specific business process documentation if created by the City of Milpitas can be added to the regular training curriculum, enhancing the training experiences of the end users.

Objectives:

- End users are trained on how to use the software prior to go-live.
- The City of Milpitas is prepared for on-going training and support of the application.

STAGE 4	End User Training																
	Tyler								City of Milpitas								
RACI MATRIX KEY: R = Responsible A = Accountable C = Consulted I = Informed	Executive Manager	Implementation Manager	Project Manager	Implementation Consultant	Data Experts	Modification Services	Technical Services	Client Services	Executive Sponsor	Steering Committee	Project Manager	Functional Leads	Change Management Leads	Subject Matter Experts (Power	Department Heads	End Users	Technical Leads
Update training plan		A	R	C							C		I		C		
End User training (Tyler-led)		A	R	C							C	C	I	C	C	C	
Train-the-trainer		A	R	C							C	C	I	C			
End User training (City of Milpitas-led)			C	C							A	R	I	C	C	C	

Inputs	Training Plan
--------	---------------

	List of End Users and their Roles / Job Duties
	Configured Tyler System

Outputs / Deliverables	Acceptance Criteria [only] for Deliverables
Train-the trainer Training	City of Milpitas signoff that pilot (train-the trainer) training was delivered

Work package assumptions:

- The City of Milpitas project team will work with Tyler to jointly develop a training curriculum that identifies the size, makeup, and subject-area of each of the training classes.
- Tyler will work with the City of Milpitas as much as possible to provide end-user training in a manner that minimizes the impact to the daily operations of City of Milpitas departments.
- The City of Milpitas will be responsible for training new users after go-live (exception—previously planned or regular training offerings by Tyler).

6.4.4 Control Point 4: Production Readiness Stage Acceptance

Acceptance criteria for this stage includes all criteria listed below. Advancement to the Production stage is dependent upon Tyler’s receipt of the stage acceptance.

Production Readiness stage deliverables:

- Solution Validation Report.
- Update go-live action plan and/or checklist.
- End user training.

Production Readiness stage acceptance criteria:

- All stage deliverables accepted based on criteria previously defined.
- Go-Live planning session conducted.

6.5 Production

Following end user training the production system will be fully enabled and made ready for daily operational use as of the scheduled date. Tyler and the City of Milpitas will follow the comprehensive action plan laid out during Go-Live Readiness to support go-live activities and minimize risk to the Project during go-live. Following go-live, Tyler will work with the City of Milpitas to verify that implementation work is concluded, post go-live activities are scheduled, and the transition to Client Services is complete for long-term operations and maintenance of the Tyler software.

6.5.1 Go-Live

Following the action plan for Go-Live, defined in the Production Readiness stage, the City of Milpitas and Tyler will complete work assigned to prepare for Go-Live.

The City of Milpitas provides final data extract and Reports from the Legacy System for data conversion and Tyler executes final conversion iteration, if applicable. If defined in the action plan, the City of

Milpitas manually enters any data added to the Legacy System after final data extract into the Tyler system.

Tyler staff collaborates with the City of Milpitas during Go-Live activities. The City of Milpitas transitions to Tyler software for day-to day business processing.

Some training topics are better addressed following Go-Live when additional data is available in the system or based on timing of applicable business processes and will be scheduled following Go-Live per the Project Schedule.

Objectives:

- Execute day to day processing in Tyler software.
- City of Milpitas data available in Production environment.

STAGE 5	Go-Live																
	Tyler								City of Milpitas								
RACI MATRIX KEY: R = Responsible A = Accountable C = Consulted I = Informed	Executive Manager	Implementation Manager	Project Manager	Implementation Consultant	Data Experts	Modification Services	Technical Services	Client Services	Executive Sponsor	Steering Committee	Project Manager	Functional Leads	Change Management Leads	Subject Matter Experts (Power	Department Heads	End Users	Technical Leads
Provide final source data extract, if applicable			C		C						A						R
Final source data pushed into production environment, if applicable			A	C	R						I	C		C			C
Proof final converted data, if applicable			C	C	C						A	R		C			
Complete Go-Live activities as defined in the Go-Live action plan			C	C	C					A	R	C	I	C			
Provide Go-Live assistance At minimum (one week of pre go-live assistance, one week of go-live assistance (onsite, if desired), and one week of post- go live assistance)			A	R	C	C		I			C	C	I	C		I	C

Inputs	Comprehensive Action Plan for Go-Live
--------	---------------------------------------

	Final source data (if applicable)	
Outputs / Deliverables		Acceptance Criteria [only] for Deliverables
	Data is available in production environment	City of Milpitas confirms data is available in production environment

Work package assumptions:

- The City of Milpitas will complete activities documented in the action plan for Go-Live as scheduled.
- External stakeholders will be available to assist in supporting the interfaces associated with the Go-Live live process.
- The City of Milpitas business processes required for Go-Live are fully documented and tested.
- The City of Milpitas Project team and subject matter experts are the primary point of contact for the end users when reporting issues during Go-Live.
- The City of Milpitas Project Team and Power User's provide business process context to the end users during Go-Live.

6.5.2 Transition to Client Services

This work package signals the conclusion of implementation activities for the Phase or Project with the exception of agreed-upon post Go-Live activities. The Tyler project manager(s) schedules a formal transition of the City of Milpitas onto the Tyler Client Services team, who provides the City of Milpitas with assistance following Go-Live, officially transitioning the City of Milpitas to operations and maintenance.

Objectives:

- Ensure no critical issues remain for the project teams to resolve.
- Confirm proper knowledge transfer to the City of Milpitas teams for key processes and subject areas.

STAGE 5	Transition to Client Services																
	Tyler								City of Milpitas								
RACI MATRIX KEY: R = Responsible A = Accountable C = Consulted I = Informed	Executive Manager	Implementation Manager	Project Manager	Implementation Consultant	Data Experts	Modification Services	Technical Services	Client Services	Executive Sponsor	Steering Committee	Project Manager	Functional Leads	Change Management Leads	Subject Matter Experts (Power	Department Heads	End Users	Technical Leads
Transfer City of Milpitas to Client Services and review	I	I	A	I	I			R	I	I	C	C		C			

issue reporting and resolution processes																	
Review long term maintenance and continuous improvement			A					R				C	C		C		

Inputs	Open item/issues List
--------	-----------------------

Outputs / Deliverables		Acceptance Criteria [only] for Deliverables
	Client Services Support Document	

Work package assumptions:

- No material project issues remain without assignment and plan.

6.5.3 Post Go-Live Activities

Some implementation activities are provided post-production due to the timing of business processes, the requirement of actual production data to complete the activities, or the requirement of the system being used in a live production state.

Objectives:

- Schedule activities that are planned for after Go-Live.
- Ensure issues have been resolved or are planned for resolution before phase or project close.

STAGE 5	Post Go-Live Activities																
	Tyler								City of Milpitas								
RACI MATRIX KEY: R = Responsible A = Accountable C = Consulted I = Informed	Executive Manager	Implementation Manager	Project Manager	Implementation Consultant	Data Experts	Modification Services	Technical Services	Client Services	Executive Sponsor	Steering Committee	Project Manager	Functional Leads	Change Management Leads	Subject Matter Experts (Power	Department Heads	End Users	Technical Leads
Schedule contracted activities that are planned for delivery after go-live		A	R	C	C	C	C	I			C	C	I	C			C
Determine resolution plan in preparation for phase or project close out		A	R	C	C	C		I			C	C	I	C			

Inputs	List of post Go-Live activities
--------	---------------------------------

Outputs / Deliverables		Acceptance Criteria [only] for Deliverables
	Updated issues log	

Work package assumptions:

- System is being used in a live production state.

6.5.4 Control Point 5: Production Stage Acceptance

Acceptance criteria for this Stage includes completion of all criteria listed below:

- Advancement to the Close stage is not dependent upon Tyler's receipt of this Stage Acceptance.
- Converted data is available in production environment.

Production Stage Acceptance Criteria:

- All stage deliverables accepted based on criteria previously defined.
- Go-Live activities defined in the Go-Live action plan completed.
- Client services support document is provided.

6.6 Close

The Close stage signifies full implementation of all products purchased and encompassed in the Phase or Project. The City of Milpitas transitions to the next cycle of their relationship with Tyler (next Phase of implementation or long-term relationship with Tyler Client Services).

6.6.1 Phase Closeout

This work package represents Phase completion and signals the conclusion of implementation activities for the Phase. The Tyler Client Services team will assume ongoing support of the City of Milpitas for systems implemented in the Phase.

Objectives:

- Agreement from Tyler and the City of Milpitas teams that activities within this phase are complete.

STAGE 6	Phase Close Out	
	Tyler	City of Milpitas



RACI MATRIX KEY: R = Responsible A = Accountable C = Consulted I = Informed	Executive Manager	Implementation Manager	Project Manager	Implementation Consultant	Data Experts	Modification Services	Technical Services	Client Services	Executive Sponsor	Steering Committee	Project Manager	Functional Leads	Change Management Leads	Subject Matter Experts (Power Users)	Department Heads	End Users	Technical Leads
Reconcile project budget and status of contract Deliverables	I	A	R						I	I	C						
Hold post phase review meeting		A	R	C	C	C	C				C	C	C	C			C
Release phase-dependent Tyler project resources	A	R	I								I						

Participants	Tyler	City of Milpitas
	Project Leadership	Project Manager
	Project Manager	Project Sponsor(s)
	Implementation Consultants	Functional Leads, Power Users, Technical Leads
	Technical Consultants (Conversion, Deployment, Development)	
	Client Services	

Inputs	Contract
	Statement of Work
	Project artifacts

Outputs / Deliverables		Acceptance Criteria [only] for Deliverables
	Final action plan (for outstanding items)	
	Reconciliation Report	
	Post Phase Review	

Work package assumptions:

- Tyler deliverables for the phase have been completed.

6.6.2 Project Closeout

Completion of this work package signifies final acceptance and formal closing of the Project.

At this time the City of Milpitas may choose to begin working with Client Services to look at continuous improvement Projects, building on the completed solution.

Objectives:



- Confirm no critical issues remain for the project teams to resolve.
- Determine proper knowledge transfer to the City of Milpitas teams for key processes and subject areas has occurred.
- Verify all deliverables included in the Agreement are delivered.

STAGE 6	Project Close Out																
	Tyler								City of Milpitas								
RACI MATRIX KEY: R = Responsible A = Accountable C = Consulted I = Informed	Executive Manager	Implementation Manager	Project Manager	Implementation Consultant	Data Experts	Modification Services	Technical Services	Client Services	Executive Sponsor	Steering Committee	Project Manager	Functional Leads	Change Management Leads	Subject Matter Experts (Power	Department Heads	End Users	Technical Leads
Conduct post project review		A	R	C	C	C	C				C	C	C	C			C
Deliver post project report to City of Milpitas and Tyler leadership	I	A	R						I	I	C						
Release Tyler project resources	A	R	I								I						

Inputs	Contract
	Statement of Work

Outputs / Deliverables		Acceptance Criteria [only] for Deliverables
	Post Project Report	City of Milpitas acceptance; Completed report indicating all project Deliverables and milestones have been completed

Work package assumptions:

- All project implementation activities have been completed and approved.
- No critical project issues remain that have not been documented and assigned.
- Final project budget has been reconciled and invoiced.
- All Tyler deliverables have been completed.

6.6.3 Control Point 6: Close Stage Acceptance

Acceptance criteria for this Stage includes completion of all criteria listed below.

Close Stage Deliverables:

- Post Project Report.

Close Stage Acceptance Criteria:

- Completed report indicating all Project deliverables and milestones have been completed.

7. General Assumptions

Tyler and the City of Milpitas will use this SOW as a guide for managing the implementation of the Tyler Project as provided and described in the Agreement. There are a few assumptions which, when acknowledged and adhered to, will support a successful implementation. Assumptions related to specific work packages are documented throughout the SOW. Included here are general assumptions which should be considered throughout the overall implementation process.

7.1 Project

- Project activities will begin after the Agreement has been fully executed.
- The City of Milpitas Project Team will complete their necessary assignments in a mutually agreed upon timeframe to meet the scheduled go-live date, as outlined in the Project Schedule.
- Sessions will be scheduled and conducted at a mutually agreeable time.
- Additional services, software modules and modifications not described in the SOW or Agreement will be considered a change to this Project and will require a Change Request Form as previously referenced in the definition of the Change Control Process.
- Tyler will provide a written agenda and notice of any prerequisites to the City of Milpitas project manager(s) ten (10) business days or as otherwise mutually agreed upon time frame prior to any scheduled on-site or remote sessions, as applicable.
- Tyler will provide guidance for configuration and processing options available within the Tyler software. If multiple options are presented by Tyler, the City of Milpitas is responsible for making decisions based on the options available.
- Implementation of new software may require changes to existing processes, both business and technical, requiring the City of Milpitas to make process changes.
- The City of Milpitas is responsible for defining, documenting, and implementing their policies that result from any business process changes.

7.2 Organizational Change Management

Unless otherwise contracted by Tyler, City of Milpitas is responsible for managing Organizational Change. Impacted City of Milpitas resources will need consistent coaching and reassurance from their leadership team to embrace and accept the changes being imposed by the move to new software. An important part of change is ensuring that impacted City of Milpitas resources understand the value of the change, and why they are being asked to change.

7.3 Resources and Scheduling

- City of Milpitas resources will participate in scheduled activities as assigned in the Project Schedule.
- The City of Milpitas team will complete prerequisites prior to applicable scheduled activities. Failure to do so may affect the schedule.
- Tyler and the City of Milpitas will provide resources to support the efforts to complete the Project as scheduled and within the constraints of the Project budget.



- Abbreviated timelines and overlapped Phases require sufficient resources to complete all required work as scheduled.
- Changes to the Project Schedule, availability of resources or changes in Scope will be requested through a Change Request. Impacts to the triple constraints (scope, budget, and schedule) will be assessed and documented as part of the change control process.
- The City of Milpitas will ensure assigned resources will follow the change control process and possess the required business knowledge to complete their assigned tasks successfully. Should there be a change in resources, the replacement resource should have a comparable level of availability, change control process buy-in, and knowledge.
- The City of Milpitas makes timely Project related decisions to achieve scheduled due dates on tasks and prepare for subsequent training sessions. Failure to do so may affect the schedule, as each analysis and implementation session is dependent on the decisions made in prior sessions.
- The City of Milpitas will respond to information requests in a comprehensive and timely manner, in accordance with the Project Schedule.
- The City of Milpitas will provide adequate meeting space or facilities, including appropriate system connectivity, to the project teams including Tyler team members.
- For on-site visits, Tyler will identify a travel schedule that balances the needs of the project and the employee.

7.4 Data

- Data will be converted as provided and Tyler will not create data that does not exist.
- The City of Milpitas is responsible for the quality of legacy data and for cleaning or scrubbing erroneous legacy data.
- Tyler will work closely with the City of Milpitas representatives to identify business rules before writing the conversion. The City of Milpitas must confirm that all known data mapping from source to target have been identified and documented before Tyler writes the conversion.
- All in-scope source data is in data extract(s).
- Each legacy system data file submitted for conversion includes all associated records in a single approved file layout.
- The City of Milpitas will provide the legacy system data extract in the same format for each iteration unless changes are mutually agreed upon in advance. If not, negative impacts to the schedule, budget and resource availability may occur and/or data in the new system may be incorrect.
- The City of Milpitas Project Team is responsible for reviewing the converted data and reporting issues during each iteration, with assistance from Tyler.
- The City of Milpitas is responsible for providing or entering test data (e.g., data for training, testing interfaces, etc.)

7.5 Facilities

- The City of Milpitas will provide dedicated space for Tyler staff to work with City of Milpitas resources for both on-site and remote sessions. If Phases overlap, City of Milpitas will provide multiple training facilities to allow for independent sessions scheduling without conflict.
- The City of Milpitas will provide staff with a location to practice what they have learned without distraction.

8. Glossary

Word or Term	Definition
Acceptance	Confirming that the output or deliverable is suitable and conforms to the agreed upon criteria.
Accountable	The one who ultimately ensures a task or deliverable is completed; the one who ensures the prerequisites of the task are met and who delegates the work to those responsible. [Also see RACI]
Application	A computer program designed to perform a group of coordinated functions, tasks, or activities for the benefit of the user.
Application Programming Interface (API)	A defined set of tools/methods to pass data to and received data from Tyler software products
Agreement	This executed legal contract that defines the products and services to be implemented or performed.
Business Process	The practices, policy, procedure, guidelines, or functionality that the client uses to complete a specific job function.
Business Requirements Document	A specification document used to describe Client requirements for contracted software modifications.
Change Request	A form used as part of the Change Control process whereby changes in the scope of work, timeline, resources, and/or budget are documented and agreed upon by participating parties.
Change Management	Guides how we prepare, equip and support individuals to successfully adopt change in order to drive organizational success & outcomes
Code Mapping [where applicable]	An activity that occurs during the data conversion process whereby users equate data (field level) values from the old system to the values available in the new system. These may be one to one or many to one. Example: Old System [Field = eye color] [values = BL, Blu, Blue] maps to New Tyler System [Field = Eye Color] [value = Blue].
Consulted	Those whose opinions are sought, typically subject matter experts, and with whom there is two-way communication. [Also see RACI]
Control Point	This activity occurs at the end of each stage and serves as a formal and intentional opportunity to review stage deliverables and required acceptance criteria for the stage have been met.
Data Mapping [where applicable]	The activity determining and documenting where data from the legacy system will be placed in the new system; this typically involves prior data analysis to understand how the data is currently used in the legacy system and how it will be used in the new system.

Deliverable	A verifiable document or service produced as part of the Project, as defined in the work packages.
Go-Live	The point in time when the Client is using the Tyler software to conduct daily operations in Production.
Informed	Those who are kept up-to-date on progress, often only on completion of the task or deliverable, and with whom there is just one-way communication. [Also see RACI]
Infrastructure	The composite hardware, network resources and services required for the existence, operation, and management of the Tyler software.
Interface	A connection to and potential exchange of data with an external system or application. Interfaces may be one way, with data leaving the Tyler system to another system or data entering Tyler from another system, or they may be bi-directional with data both leaving and entering Tyler and another system.
Integration	A standard exchange or sharing of common data within the Tyler system or between Tyler applications
Legacy System	The software from which a client is converting.
Modification	Custom enhancement of Tyler's existing software to provide features or functions to meet individual client requirements documented within the scope of the Agreement.
On-site	Indicates the work location is at one or more of the client's physical office or work environments.
Organizational Change	The process of changing an organization's strategies, processes, procedures, technologies, and culture, as well as the effect of such changes on the organization.
Output	A product, result or service generated by a process.
Peripheral devices	An auxiliary device that connects to and works with the computer in some way. Some examples: scanner, digital camera, printer.
Phase	A portion of the Project in which specific set of related applications are typically implemented. Phases each have an independent start, Go-Live and closure dates but use the same Implementation Plans as other Phases of the Project. Phases may overlap or be sequential and may have different Tyler resources assigned.
Project	The delivery of the software and services per the agreement and the Statement of Work. A Project may be broken down into multiple Phases.

RACI	A matrix describing the level of participation by various roles in completing tasks or Deliverables for a Project or process. Individuals or groups are assigned one and only one of the following roles for a given task: Responsible (R), Accountable (A), Consulted (C), or Informed (I).
Remote	Indicates the work location is at one or more of Tyler's physical offices or work environments.
Responsible	Those who ensure a task is completed, either by themselves or delegating to another resource. [Also see RACI]
Scope	Products and services that are included in the Agreement.
Solution	The implementation of the contracted software product(s) resulting in the connected system allowing users to meet Project goals and gain anticipated efficiencies.
Stage	The top-level components of the WBS. Each Stage is repeated for individual Phases of the Project.
Standard	Software functionality that is included in the base software (off-the-shelf) package; is not customized or modified.
Statement of Work (SOW)	Document which will provide supporting detail to the Agreement defining Project-specific activities, services, and Deliverables.
System	The collective group of software and hardware that is used by the organization to conduct business.
Test Scripts	The steps or sequence of steps that will be used to validate or confirm a piece of functionality, configuration, enhancement, or Use Case Scenario.
Training Plan	Document(s) that indicate how and when users of the system will be trained relevant to their role in the implementation or use of the system.
Validation (or to validate)	The process of testing and approving that a specific Deliverable, process, program, or product is working as expected.
Work Breakdown Structure (WBS)	A hierarchical representation of a Project or Phase broken down into smaller, more manageable components.
Work Package	A group of related tasks within a project.

Part 4: Appendices

9. Conversion

9.1 Enterprise ERP Conversion Summary

9.1.1 Accounting

9.1.1.1 Accounting - Actuals

- Summary account balances
- Up to 5 years

9.1.1.2 Accounting - Budgets

- Original budget, budget adjustments, revised budget summaries for accounts
- Up to 5 years

9.1.2 Accounts Payable

9.1.2.1 Vendors

- Vendor Master file including names, addresses, SSN/FID, contacts, phone numbers
- Multiple remittance addresses
- Year-to-date 1099 amounts

9.1.2.2 Accounts Payable - Checks

- Check header data including vendor, warrant, check number, check date, overall check amount, GL cash account and clearing information
- Check detail data including related document and invoice numbers for each check
- Up to 5 years

9.1.2.3 Accounts Payable - Invoices

- Invoice header data containing general information for the invoice
- Invoice detail data containing line-specific information for the invoice
- Up to 5 years

9.1.3 Contracts

- Contract header detail with many fields available to convert including fiscal year and period, vendor number, department code, description, enforcement method code, dates for award, approval, entry and expiration, retention information, user-defined type and review codes, status code, user id for entry and approver. Additional fields are also available. A balance forward contract amount is converted, if original amount is required there will be an additional charge and contracts, po's and invoices must be converted together.



9.1.4 Project Accounting

9.1.4.1 Project Accounting Master Tables

- Segments, account strings and fund string allocation table
- Requires the use of a Tyler provided (Chart of Accounts) spreadsheet for design and entry of the data to be converted

9.1.4.2 Project Accounting - Actuals

- Summary project ledger string balances. If linking to GL, must be converted at the same time.
- Up to 5 years

9.1.4.3 Project Accounting – Budget

- Original project ledger budget amounts. If linking to GL, must be converted at the same time.
- Up to 3 years

9.1.5 Purchase Orders

- Open purchase orders header data including vendor, buyer, date, accounting information, etc.
- Open purchase orders detail data including line-item descriptions, quantities, amounts, etc.
- Closed purchase orders detail data, up to 5 years, including line-item descriptions, quantities, amounts, etc.

9.1.6 Human Resources Management

9.1.6.1 HRM Employee Master Information

- Payroll Employee Master data including data such as name, address, SSN, legacy employee ID, date of birth, hire date, activity status (such as active/inactive), leave/termination code and date, phone(s), e-address, marital status, gender, race, personnel status (such as full-time, part-time, etc.), highest degree, advice-delivery (print/email/both) and check location, plus primary group, job, location, and account information

9.1.6.2 Accumulators

- YTD, QTD, MTD amounts for employee pay and deductions
- Needed for mid-calendar-year go-live
- May not be needed if converting earnings/deductions history
- Up to 5 years
- Accumulators are converted with check history and earning/deduction history as a default. No accumulator files are necessary to submit when converting history.

9.1.6.3 Check History

- Up to 5 years, additional years must be quoted. We convert amounts for earnings and deductions in employee check history, check number and date.



9.1.6.4 Earning/Deduction Hist.

- Up to 5 years, additional years must be quoted. Earning and deduction history broken down by individual codes (earnings and deduction) and amounts per pay period, the detail of these lines, sums the check history in opt 4.

9.1.6.5 Personnel Action History

- A variety of Personnel actions, such as job or salary changes and dates these events occurred.
- Up to 5 years

9.1.6.6 Certifications

- Certification area and certification type codes, certification number and effective date, expiration date, and required-by date, codes for certification level and subjects

9.1.6.7 Education

- Codes, for institution, type of degree, and area(s) of study

9.1.7 General Billing

9.1.7.1 Customer Master Files

- Customer information

9.1.7.2 General Billing – Recurring Invoices

- General Billing Invoices that are sent on a regular basis
- Header records with general information about the invoice
- Detail records with line-specific information

9.1.7.3 General Billing – Bills

- 5 years of open and closed invoices
- General Ledger information so open invoices can be processed in Enterprise ERP

10. Additional Appendices

10.1 Change Management Services – Foundation

10.1.1 General Assumptions

- The Client will identify all stakeholders impacted by the project at the start of the project.
- The Client will encourage invited staff to participate in surveys used for the Organizational Change Readiness Assessment.
- The Organizational Change Assessment data may be gathered remotely.
- The Tyler Change Management Lead will use results of the Change Assessment of the Client to develop the Change Management Plan.
- A Change Management Lead will be part of the Client project team or the Client Project Manager will act in this role.
- The Client core project team will act as the Change Management Team.
- The Client Change Management Lead will execute the Change Management Plan.
- The Tyler Change Management Lead will not be involved in the project beyond Stage 1 – Assess and Define, unless the Client contracts for additional Change Management consulting days.

10.1.2 Roles and Responsibilities

10.1.2.1 Tyler Change Management Lead

- Performs a Change Management Assessment of the Client and provides results.
- Presents a Change Management Plan and related Communication strategies to Client Change Management Lead.
- Delivers Change Management Fundamentals training to Client Change Management Lead.
- Delivers a Change Management coaching presentation to the Sponsor and Change Management Team.
- Trains the Client Change Management Lead in setting up and maintaining the Change Management Tracking Templates.
- Provides presentation for Client Change Management Lead to use in training Change Management concepts and methodologies to Departmental Managers.
-

10.1.2.2 Client Change Management Lead

- Executes Change Management Plan.
- Validates users receive timely and thorough communication regarding process changes.
- Provides coaching to supervisors to prepare them to support users through the project changes.

- Uses Change Management Guide to steer activities and communications.
- Identifies the impact areas resulting from project activities and develops a plan to address them proactively using the Tyler provided Procedural Change tool.
- Identifies areas of resistance and develops a plan to reinforce the change using the Tyler provided Resistance Management Guide and tool.
- Monitors post-production performance and new process adherence.
- Notifies Tyler if additional Change Management assistance is needed.

10.2 Change Management

The following Change Management sections follow the same implementation methodology as defined in Section 6: Project Stages. Each deliverable and acceptance criteria outlined in the Change Management section therefore becomes part of the overall Project Acceptance and Acknowledgement process for each Stage.

10.2.1 Initiate and Plan (Stage 1)

- N/A

10.2.2 Assess and Define (Stage 2)

10.2.2.1 Organizational Change Readiness Assessment

Tyler Change Management Lead will use survey tools and interviews to gather information and data to understand the scope and organizational readiness for the planned implementation of the project. These surveys may be administered remotely, depending on project conditions and timing.

RACI MATRIX KEY: **R** = Responsible **A** = Accountable **C** = Consulted **I** = Informed

	Tyler Executive Manager	Tyler Implementation Manager	Tyler Project Manager	Tyler Change Management Lead	Tyler Implementation Consultant	Tyler Data Conversion Experts	Tyler Forms & Reports Experts	Tyler Modification Programmers	Tyler Technical Support	Client Executive Sponsor	Client Steering Committee	Client Project Manager	Client Functional Leads	Client Change Management Lead	Client Power Users	Client Department Heads	Client End Users	Client Technical Leads	Client Project Toolset Coordinator	Client Change Management Team
Prepare CM Capacity Surveys for Analysis			C	R						C		C		A						
Take Surveys			A							R	R	R	R	R	R	R	R	R	R	R

Prepare and Deliver Assessment			A	R						I		I		I					I
--------------------------------	--	--	---	---	--	--	--	--	--	---	--	---	--	---	--	--	--	--	---

10.2.2.2 Fundamentals Change Management Introduction

The Tyler Change Management Lead will meet and conduct presentations to the Client CM Lead, the Client Sponsor, and the Client CM Team. The Client CM Lead will also attend a change management fundamentals training session provided by the Tyler CM Lead. These presentations and the training will form the foundation and initial Change Management capacity building for the organization.

RACI MATRIX KEY: **R** = Responsible **A** = Accountable **C** = Consulted **I** = Informed

	Tyler Executive Manager	Tyler Implementation Manager	Tyler Project Manager	Tyler Change Management Lead	Tyler Implementation Consultant	Tyler Data Conversion Experts	Tyler Forms & Reports Experts	Tyler Modification Programmers	Tyler Technical Support	Client Executive Sponsor	Client Steering Committee	Client Project Manager	Client Functional Leads	Client Change Management Lead	Client Power Users	Client Department Heads	Client End Users	Client Technical Leads	Client Project Toolset Coordinator	Client Change Management Team
Sponsor Meeting			A	R						R		A		I						
CM Lead Meeting			A	R								A		R						
CM Team Meeting			A	R								A		I						R

10.2.2.3 Change Management Plan Preparation

The Tyler Change Management Lead will prepare and provide to the Client CM Lead the Change Management Plan and tools templates.

RACI MATRIX KEY: **R** = Responsible **A** = Accountable **C** = Consulted **I** = Informed

	Tyler Executive Manager	Tyler Implementation Manager	Tyler Project Manager	Tyler Change Management Lead	Tyler Implementation Consultant	Tyler Data Conversion Experts	Tyler Forms & Reports Experts	Tyler Modification Programmers	Tyler Technical Support	Client Executive Sponsor	Client Steering Committee	Client Project Manager	Client Functional Leads	Client Change Management Lead	Client Power Users	Client Department Heads	Client End Users	Client Technical Leads	Client Project Toolset Coordinator	Client Change Management Team

Change Management Preparation			A	R							A		I						I
-------------------------------	--	--	---	---	--	--	--	--	--	--	---	--	---	--	--	--	--	--	---

10.2.2.3 **Control Point 2: Assess & Define Stage Acceptance**

10.2.2.4 **Assess & Define Stage Deliverables**

- Organizational Change Readiness Assessment
 - Objective: Determine the organizations preparedness for change activities and determine the ability of the various stakeholders impacted by the change to adopt the change and move toward the future state.
 - Scope: Utilize in-person or remote surveys, interviews, and evaluation methodologies to gauge and score the readiness for change, risk of change, and sponsor positioning for the project.
 - Acceptance criteria: Added to the control point for the project level Stage 2 acceptance.
- Fundamentals Change Management Introduction
 - Objective: Develop capacity for change within the organization by helping the organization gain an understanding of Change Management concepts and the various roles utilized to assist in successful Change Management
 - Scope: Provide three presentations and reference documents to different audiences; 1) Sponsor, CM Lead, and the Change Management Team, as an overview of their specific roles in Change Management.
 - Acceptance criteria: Added to the control point for the project level Stage 2 acceptance.
- Change Management Plan Preparation
 - Objective: Deliver Change Management Plan with strategies, tactics, and best practices to address specific areas of Change Management based on the Organizational Change Readiness Assessment to the Client CM Lead for execution throughout the remainder of the project.
 - Scope: Sponsor Strategy, CM Lead Strategy, Coach Strategy, Team Leads Strategy, Communication Strategy, Resistance Management Strategy, Lessons Learned Strategy, and Project Reinforcement Strategy. Sponsor Guide with a Sponsor Messaging Template. Procedural Change Management Guide with a Process Change Tracking Template. Resistance Management Guide with a Resistance Management Tracking Template. Recognition and Lessons Learned Guide with a Lessons Learned Review Template.
 - Acceptance criteria: Added to the control point for the project level Stage 2 acceptance.

10.2.2.5 **Assess & Define Stage Acceptance Criteria**

-
- Sponsor Role Presentation

- Change Management Lead Role Development Presentation
- Change Management Team Coaching Presentation
- Organizational Change Readiness Assessment

10.3 Interfaces in scope

The following interfaces were included in the City of Milpitas' RFP and were identified as being available via imports/exports (using compatible file formats) or standard interfaces. Items denoted with an asterisk can only be accomplished via API's (not currently in scope) or by way of leveraging Tyler's Resident Access portal (currently quoted as optional).

- 1 ACH and positive pay files
- 2 Benefits information to/from Blue Shield
- 3 Benefits information to/from Delta Dental
- 4 Benefits information to/From IGOE for FSA and COBRA
- 5 Benefits information to/from Lincoln
- 6 Benefits information to/from Mission Square
- 7 Budgeting information
- 8 Budgeting information and history (if not replaced)
- 9 Payment revenue
- 10 Capital budgeting requests to the ERP
- 11 Data from the ERP to KNIME to perform data analytics and reporting for workforce planning
- 12 Data from the ERP to PowerBI to perform data analytics and data visualization
- 13 Data from the ERP to Tableau to perform data analytics and data visualization
- 14 Electronic signatures (DocuSign)*
- 15 Enrollment information from the California Public Employees' Retirement System to the ERP and ERP information about new hires to CalPERS
- 16 Fire scheduling information
- 17 Harassment prevention training information from Trust Mineral to the ERP with enrollment/completion information back into Trust Mineral
- 18 IT learning data/history
- 19 Learning and training information with course information from LinkedIn into the ERP with enrollment information into LinkedIn*
- 20 Online background checks for recruitment to report back to the ERP
- 21 Online background checks information
- 22 Payment information for CRW and Permits
- 23 Pre-employment physicals and drug screens information
- 24 Procurement information and history
- 25 Purchasing card transaction information and receipts
- 26 Utility billing revenue to the ERP and payment information from the ERP to the CIS (if not replaced)
- 27 Human resources management system used for recruitment, applicant tracking, onboarding/offboarding, etc. Applicant information into the ERP and vacancy information into NeoGov (if not replaced) *
- 28 Billing and payment data/history
- 29 Customer consumption data/history
- 30 Service order and work order data*

- 31 Online payment data/history with open receivables being sent to invoice cloud and receiving payment information and customer account information changes in the ERP*
- 32 Utility billing revenue to the ERP and payment information from the ERP to the CIS (if not replaced)*

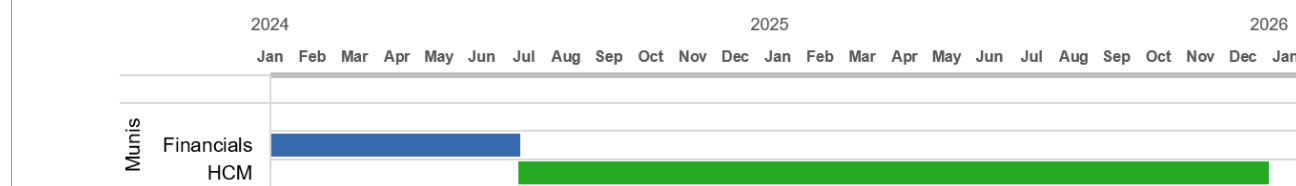
11. Project Timeline

11.1 ERP Project Timeline

The Project Timeline establishes a target start and end date for each Phase of the Project. The timeline needs to account for resource availability, business goals, size and complexity of the Project, and task duration requirements. These will be reviewed and adjusted, if needed, during the Initiate and Plan Stage. Refer to the Project Stages section of this SOW for information on work packages associated with each stage of the implementation.

The following dates may be revised based on the date the Agreement is signed and further refined during the course of the project. Tyler will begin the Initiate & Plan Stage activities with the City no later than forty five (45) calendar days following agreement signing .

PROJECT TIMELINE



Phase	Functional Areas	Modules	Start Date	Go-Live Date
1	Financials	- Accounting - Accounts Payable - Bid Management - Budgeting - Capital Assets - Cash Management - Contract Management - E-procurement - Project and Grant Accounting - Purchasing - Accounts Receivable - General Billing - ACFR Statement Builder - Cashiering	January 2024	July 2025
	System Wide	- Enterprise Analytics & Reporting - Tyler Reporting Services - Munis Office - HUB - Enterprise Forms Processing - Content Manager Core		

2	Human Resource Management	• Payroll w/Employee Access • HR & Talent Management • Time and Attendance • Employee Expense Reimbursement	July 2024	January 2026
---	----------------------------------	--	-----------	--------------

11.2 Data & Insights Project Plan

Data & Insights Project Plan												
	Week											
	<u>1</u>	<u>2</u>	<u>3</u>	<u>4</u>	<u>5</u>	<u>6</u>	<u>7</u>	<u>8</u>	<u>9</u>	<u>10</u>	<u>11</u>	<u>12</u>
Initiate and Plan												
Assess and Define												
Prepare Solution												
Production Readiness												
Production												
Close												

11.3 Intentionally left blank.



PURCHASING DIVISION

RFP FOR: Enterprise Resource Services

RFP NO: 23-078

DUE DATE: July 13, 2023

BUYER: R. Yamashita

	Collaborative Solutions	Tyler Technologies	Avaap.com	Cayenta	Cogsdale	*Oracle	
	1	2	3	4	5	6	
Round 2 Scoring	68.8	81	61.2	59.4	52	X	
Round 3 Scoring	65	82.25	x	x	x	X	
* Disqualified – Minimum Criteria was not met							

****BID AWARD NOTICE**** City Council Date: December 5, 2023

AWARD TO: Tyler Technologies

CODE KEY: INA = Information Not Available NS = Not Stated NB = No Bid DY = Days WK = Weeks HR = Hours



CITY OF MILPITAS AGENDA REPORT (AR)

Item Title:	Report on Bids and Adopt a Resolution Authorizing the City Manager to Award the Construction Contract to PCD in the Amount of \$835,768.08 for the Council Chamber AV System Replacement Project (Staff Contact: Daniel Nam, Information Technology Director, 408-586-2712)
Category:	Consent Calendar-Leadership and Support Services
Meeting Date:	12/12/2023
Recommendation:	(1) Receive report on bids and adopt a resolution authorizing the City Manager to award a construction contract to the lowest responsible and responsive bidder, PCD, in the amount of \$835,768.08 for the Council Chamber AV System Replacement Project, including \$752,559.08 for the Council Chamber AV replacement and \$83,209.00 for the Committee Conference Room AV replacement; and (2) Authorize the City Manager to negotiate and execute contract change order(s) in an aggregate amount not to exceed \$79,231.92 for the Council Chamber AV System Replacement Project.

BACKGROUND:

The Council Chambers Audio Visual (AV) system is over 11 years old and past the end of its useful life. Several technology components of the AV system have failed in the last two years and have been replaced by temporary solutions. Since the time the AV system was installed, not only have some of the technology components become obsolete, but the City has also transitioned to hosting hybrid meetings, which requires complex interfaces with the virtual meeting platform and streaming services. This has created system glitches on several occasions, resulting in interruptions to public meetings.

In addition to the AV system in the Council Chambers, the AV system in the Committee Conference room also requires replacement to modernize the technology and support the Sub-Committee and Commission meetings that are held in this room.

ANALYSIS:

On October 26, 2023, the City issued an Invitation for Bid (IFB) 24-030 for the Council Chambers AV Replacement Project. The IFB also included the Committee Conference Room AV Replacement as Add Alternate No.1 and one year of maintenance support for both the Council Chambers and the Committee Conference Room as Add Alternate No. 2. The IFB was publicly noticed in accordance with the City's municipal code and advertised on the City's website. Email notifications were sent to companies registered with the City via OpenGov Procurement, the City's eProcurement system. A mandatory pre-bid conference was held at Milpitas City Hall on November 13, 2023, with five (5) contractors in attendance. Three (3) bids were received at the bid close on November 29, 2023, with the base bid ranging from \$743,761.88 to \$857,735.73.

#	Contractor	Base Bid	Add Alt. No. 1	Add Alt. No. 2
1	Coda Technology Group	\$857,735.73	\$96,214.87	\$14,250.00
2	EIDIM Group, Inc. (dba EIDIM AV Technology)	\$854,847.60	\$116,461.27	\$32,185.71
3	PCD	\$743,761.88	\$83,209.00	\$8,797.20

After reviewing the required bid documents, PCD was the lowest responsible bidder submitting a responsive bid. The bid submitted was within the City's estimate for these services. Bids for Add Alternates 1 and 2 were also submitted and deemed reasonable for the scope of work.

Staff is requesting authority to execute change order contingencies related to this project for the not-to-exceed amount of \$79,231.92 (9.5% of base bid). This authority will allow for more effective administration and timely completion of the work outlined in this project caused by the unexpected discovery of other issues that may arise during the project.

The project bids are within the available project budget. Staff recommends the City Council award the contract for the Project to PCD for the base bid amount of \$743,761.88 and two Add Alternates for a total contract amount of \$835,768.08 and authorize the City Manager to execute contract change orders in an aggregate amount not-to-exceed \$79,231.92.

POLICY ALTERNATIVE(S):

Alternative 1: Direct City staff to reject all bids and not proceed with the project.

Pros: The City would be able to use the \$835,768.08 for other projects.

Cons: Rejecting all bids and deferring the replacement of the AV systems in the Council Chambers and the Committee Conference Room will result in continued system failures and interruptions to public meetings.

Reason for Not Recommending: Not proceeding with the project would result in continued system failures and interruptions to public meetings. It would also result in expensive temporary fixes, which would divert staff from other high-priority projects.

FISCAL IMPACT:

There are sufficient funds available in Capital Improvement Project No. 3498 – Council Chamber AV Replacement Project for the base scope and Add Alternate No. 2, and in Capital Improvement Project No. 3427 – Technology Projects for Add Alternate 1. As of December 5, 2023, the balance in CIP No. 3498 is \$800,000 and CIP No. 3427 is \$388,875. Funding source for CIP No. 3498 is General Fund Facilities Replacement Reserve and funding source for CIP 3427 is General Government CIP and Permit Automation Fund.

California Environmental Quality Act (CEQA):

The project entails replacement or reconstruction of existing structures and facilities where the new structure will be located on the same site as the structure replaced and will have substantially the same purpose and capacity as the structure replaced and is exempt from CEQA pursuant to Cal. Code Regs., tit. 14, § 15302.

RECOMMENDATION:

- (1) Receive report on bids and adopt a resolution authorizing the City Manager to award a construction contract to the lowest responsible and responsive bidder, PCD, in the amount of \$835,768.08, including \$752,559.08 for the Council Chamber AV Replacement and \$83,209.00 for the Committee Conference Room AV Replacement; and
- (2) Authorize the City Manager to negotiate and execute contract change order(s) in an aggregate amount not to exceed \$79,231.92 for the Council Chamber AV System Replacement Project.

Attachment(s):

- (a) Resolution
- (b) Agreement
- (c) Final Bid Tab



CITY OF MILPITAS

MILPITAS, CALIFORNIA

CONTRACT DOCUMENTS AND SPECIFICATIONS FOR 24-030 COUNCIL CHAMBER AV SYSTEM REPLACEMENT

Recommended for Bidding:

Daniel
Nam

Digitally signed by Daniel Nam
DN: C=US, OU=IT, O=City of Milpitas, CN
=Daniel Nam, E=dnam@ci.milpitas.ca.gov
Reason: I am approving this document
Location: Milpitas, CA
Date: 2023.10.26 09:50:28-0700
Foxit PDF Editor Version: 13.0.0

Daniel Nam, Director of Information Technology

Approved for Bidding:

Matt Cano

Matt Cano, Deputy City Manager/Interim City Engineer

TABLE OF CONTENTS

Page

00 11 16 – NOTICE INVITING BIDS	1
00 21 13 – INSTRUCTIONS TO BIDDERS	4
00 41 43 – BID FORMS	13
00 52 13 – CONTRACT	39
00 61 13 – BOND FORMS.....	44
00 72 13 – GENERAL CONDITIONS	56
00 73 13 – SPECIAL CONDITIONS	113
01 00 00 – GENERAL REQUIREMENTS	116
EXHIBIT "A" CHANGE ORDER FORM	A-1
EXHIBIT "B" PHASE #1 AND PHASE #2 TIME SCHEDULE	B-1

00 11 16 – NOTICE INVITING BIDS

NOTICE IS HEREBY GIVEN that the City Council of the City of Milpitas ("City") invites and will receive sealed Bids up to **but not later than 2:00 p.m. on Wednesday, November 29, 2023** via procurement.opengov.com, the City's eProcurement website, for the furnishing to City of all labor, equipment, materials, tools, services, transportation, permits, utilities, and all other items necessary for **Council Chamber AV System Replacement** (the "Project"). At said time, Bids will be publicly opened and read aloud at the City Office. Bids received after said time shall be returned unopened. Bids shall be valid for a period of 90 calendar days after the Bid opening date.

Bids must be submitted on the City's Bid Forms. Bidders may obtain a copy of the Contract Documents from procurement.opengov.com and no other method of obtaining documents may be accepted. To the extent required by section 20103.7 of the Public Contract Code, upon request from a contractor plan room service, the City shall provide an electronic copy of the Contract Documents at no charge to the contractor plan room.

It is the responsibility of each prospective bidder to download and print all Bid Documents for review and to verify the completeness of Bid Documents before submitting a bid. Any Addenda will be posted on procurement.opengov.com. It is the responsibility of each prospective bidder to check procurement.opengov.com on a daily basis through the close of bids for any applicable addenda or updates. The City does not assume any liability or responsibility based on any defective or incomplete copying, excerpting, scanning, faxing, downloading or printing of the Bid Documents. Information on procurement.opengov.com may change without notice to prospective bidders. The Contract Documents shall supersede any information posted or transmitted by procurement.opengov.com.

Each Bid shall be accompanied by a Bid Bond secured from a surety company satisfactory to the City Council, the amount of which shall not be less than ten percent (10%) of the submitted Total Bid Price, made payable to City of Milpitas as bid security. The bid security shall be provided as a guarantee that within five (5) working days after the City provides the successful bidder the Notice of Award, the successful Bidder will enter into a contract and provide the necessary bonds and certificates of insurance. The bid security will be declared forfeited if the successful Bidder fails to comply within said time. No interest will be paid on funds deposited with City.

A **MANDATORY** Pre-Bid Conference is scheduled for **Monday November 13, 2023 at 2:00 p.m.** to review the Project's existing conditions at Milpitas City Hall Council Chambers, 455 E. Calaveras Blvd, Milpitas, CA 95035. Representatives of the City and consulting engineers, if any, will be present. Bidders need only to attend one Pre-Bid Conference. Questions asked by Bidders at the Pre-Bid Conference not specifically addressed within the Contract Documents shall be answered in writing, and issued as an Addendum. Bids will not be accepted from any bidder who did not attend one of the mandatory Pre-Bid Conferences.

The successful Bidder will be required to furnish a Faithful Performance Bond and a Labor and Material Payment Bond each in an amount equal to one hundred percent (100%) of the Contract Price. Each bond shall be in the forms set forth herein, shall be secured from a surety company that meets all State of California bonding requirements, as defined in California Code of Civil Procedure Section 995.120, and that is a California admitted surety insurer.

Pursuant to Section 22300 of the Public Contract Code of the State of California, the successful Bidder may substitute certain securities for funds withheld by City to ensure its performance under the contract.

Pursuant to Labor Code Section 1773, City has obtained the prevailing rate of per diem wages and the prevailing wage rate for holiday and overtime work applicable in Santa Clara County from the Director of the Department of Industrial Relations for each craft, classification, or type of worker needed to execute this contract. A copy of these prevailing wage rates may be obtained via the internet at: www.dir.ca.gov/dlsr/

In addition, a copy of the prevailing rate of per diem wages is available at the City's Finance Department and shall be made available to interested parties upon request. The successful bidder shall post a copy of the prevailing wage rates at each job site. It shall be mandatory upon the Bidder to whom the Contract is awarded, and upon any subcontractors, to comply with all Labor Code provisions, which include but are not limited to the payment of not less than the said specified prevailing wage rates to all workers employed by them in the execution of the Contract, employment of apprentices, hours of labor and debarment of contractors and subcontractors.

Pursuant to Labor Code sections 1725.5 and 1771.1, all contractors and subcontractors that wish to bid on, be listed in a bid proposal, or enter into a contract to perform public work must be registered with the Department of Industrial Relations. No Bid will be accepted nor any contract entered into without proof of the contractor's and subcontractors' current registration with the Department of Industrial Relations to perform public work. If awarded a contract, the Bidder and its subcontractors, of any tier, shall maintain active registration with the Department of Industrial Relations for the duration of the Project. Notwithstanding the foregoing, the contractor registration requirements mandated by Labor Code Sections 1725.5 and 1771.1 shall not apply to work performed on a public works project that is exempt pursuant to the small project exemption specified in Labor Code Sections 1725.5 and 1771.1.

This Project is subject to compliance monitoring and enforcement by the Department of Industrial Relations. In bidding on this Project, it shall be the Bidder's sole responsibility to evaluate and include the cost of complying with all labor compliance requirements under this contract and applicable law in its Bid.

Unless otherwise provided in the Instructions for Bidders, each Bidder shall be a licensed contractor pursuant to sections 7000 et seq. of the Business and Professions Code in the following classification(s) throughout the time it submits its Bid and for the duration of the contract: C7 and/or C10.

Substitution requests shall be made within 35 calendar days after the award of the contract. Pursuant to Public Contract Code Section 3400(b), the City may make findings designating that certain additional materials, methods or services by specific brand or trade name other than those listed in the Standard Specifications be used for the Project. Such findings, if any, as well as the materials, methods or services and their specific brand or trade names that must be used for the Project may be found in the Special Conditions.

Pursuant to Public Contract Code section 7201, the City has made a determination that the project described herein is substantially complex, and therefore a retention of 5% will be withheld from payment until after the work is complete.

City shall award the contract for the Project to the lowest responsive, responsible Bidder as determined by the City from the BASE BID PLUS SPECIFIED ALTERNATES. City reserves the right to reject any or all bids or to waive any irregularities or informalities in any bids or in the bidding process.

For further information, contact Rosanne Yamashita, Buyer, at City of Milpitas City Hall, 455 E. Calaveras Boulevard, Milpitas, CA 95035 or (408) 586-3162.

END OF NOTICE INVITING BIDS

00 21 13 – INSTRUCTIONS TO BIDDERS

1. SECURING DOCUMENTS

Bids must be submitted to the City on the Bid Forms which are a part of the Bid Package for the Project. Bid and Contract Documents may be obtained from the City as specified in the Notice Inviting Bids. Prospective bidders are encouraged to telephone in advance to determine the availability of Contract Documents. Any charge for the Contract Documents is stated in the Notice Inviting Bids.

The City may also make the Contract Documents available for review at one or more plan rooms, as indicated in the Notice Inviting Bids. Please Note: Prospective Bidders who choose to review the Contract Documents at a plan room must contact the City via Prints Charles Reprographics to obtain the required Contract Documents if they decide to submit a bid for the Project.

Addenda, if any, issued during the bid period will be posted on procurement.opengov.com. Failure to acknowledge addenda may make a bid nonresponsive and not eligible for award of the contract.

2. EXAMINATION OF SITE AND CONTRACT DOCUMENTS

At its own expense and prior to submitting its Bid, each Bidder shall visit the site of the proposed work and fully acquaint itself with the conditions relating to the construction and labor required so that the Bidder may fully understand the work, including but not limited to difficulties and restrictions attending the execution of the work under the contract. Each Bidder shall carefully examine the Drawings, and shall read the Specifications, Contract, and all other documents referenced herein. Each Bidder shall also determine the local conditions which may in any way affect the performance of the work, including local tax structure, contractors' licensing requirements, availability of required insurance, the prevailing wages and other relevant cost factors, shall familiarize itself with all federal, state and local laws, ordinances, rules, regulations and codes affecting the performance of the work, including the cost of permits and licenses required for the work, and shall make such surveys and investigations, including investigations of subsurface or latent physical conditions at the site or where work is to be performed as may be required. Bidders are responsible for consulting the standards referenced in the Contract. The failure or omission of any Bidder to receive or examine any contract documents, forms, instruments, addenda, or other documents, or to visit the site and acquaint itself with conditions there existing shall in no way relieve any Bidder from any obligation with respect to its Bid or to the contract and no relief for error or omission will be given except as required under State law. The submission of a Bid shall be taken as conclusive evidence of compliance with this Article.

Storm, surface, nuisance, or other waters may be encountered at various times during construction of the Project. Federal and State laws require the City and its contractors to appropriately manage such waters pursuant to the requirements of California State Water Resources Control Board Order Number 2009-0009-DWQ and any amendment or renewal thereof, the Federal Clean Water Act, and the California Porter Cologne Water Quality Control Act. By submitting a Bid, each Bidder acknowledges that it has investigated the risk arising from such waters, has prepared its Bid accordingly, and assumes any and all risks and liabilities arising therefrom.

3. INTERPRETATION OF DRAWINGS AND DOCUMENTS

Prospective Bidders unclear as to the true meaning of any part of the Drawings, Specifications or other proposed contract documents may submit to the Engineer of the City a written request for interpretation. The prospective Bidder submitting the request is responsible for prompt delivery. Interpretation of the Drawings, Specifications or other proposed contract documents will be made only by a written addendum duly issued and a copy of such addenda will be mailed or delivered to each prospective Bidder who has purchased a set of Drawings and Specifications. The City will not be responsible for any other explanation or interpretations of the proposed documents. If a Prospective Bidders becomes aware of any errors or omissions in any part of the Contract Documents, it is the obligation of the Prospective Bidder to promptly bring it to the attention of the City.

4. INSPECTION OF SITE; PRE-BID CONFERENCE

Each prospective bidder is responsible for fully acquainting itself with the conditions of the Project Site (which may include more than one site), as well as those relating to the construction and labor of the Project, to fully understand the facilities, difficulties and restrictions which may impact the cost or effort required to complete the Project. To this end, a Pre-Bid Meeting and Site Walk will be held on the date(s) and time(s) indicated in the Notice Inviting Bids.

5. ADDENDA

The City reserves the right to revise the Contract Documents prior to the Bid opening date. Revisions, if any, shall be made by written Addenda. All Addenda issued by the City shall be included in the Bid and made part of the Contract Documents. Pursuant to Public Contract Code Section 4104.5, if the City issues an Addendum which includes material changes to the Project less than 72 hours prior to the deadline for submission of Bids, the City will extend the deadline for submission of Bids. The City may determine, in its sole discretion, whether an Addendum warrants postponement of the Bid submission date. Each prospective Bidder shall provide City a name, address, email address, and facsimile number to which Addenda may be sent, as well as a telephone number by which the City can contact the Bidder. Any Addenda will be posted on procurement.opengov.com. Please Note: Bidders are responsible for ensuring that they have received any and all Addenda. To this end, each Bidder should contact Rosanne Yamashita, Buyer, at City of Milpitas City Hall, 455 E. Calaveras Boulevard, Milpitas, CA 95035 or (408) 586-3162 to verify that it has received all Addenda issued, if any, prior to the Bid opening. The Bidder shall indicate the Addenda received prior to bidding in the space provided in the Bid Form. Failure to indicate all Addenda may be sufficient cause for rejecting the Bid.

6. ALTERNATE BIDS

If alternate bid items are called for in the Contract Documents, the time required for completion of the alternate bid items has already been factored into the Contract duration and no additional Contract time will be awarded for any of the alternate bid items. The City may elect to include one or more of the alternate bid items, or to otherwise remove certain work from the Project scope of work. Accordingly, each bidder must ensure that each bid item contains a proportionate share of profit, overhead, and other costs or expenses which will be incurred by the bidder.

7. COMPLETION OF BID FORMS

Bids shall only be prepared using copies of the Bid Forms which are included in the Contract Documents. The use of substitute Bid Forms other than clear and correct photocopies of those provided by the City will not be permitted. Bids shall be executed by an authorized signatory as described in these Instructions to Bidders. In addition, Bidders shall fill in all blank spaces (including inserting "N/A" where applicable), and initial all interlineations, alterations, or erasures to the Bid Forms. Bidders shall neither delete, modify, nor supplement the printed matter on the Bid Forms nor make substitutions thereon. **USE OF BLACK OR BLUE INK, INDELIBLE PENCIL, OR A TYPEWRITER IS REQUIRED.** Deviations in the Bid Forms may result in the Bid being deemed non-responsive.

8. MODIFICATIONS OF BIDS

Each Bidder shall submit its Bid in strict conformity with the requirements of the Contract Documents. Unauthorized additions, modifications, revisions, conditions, limitations, exclusions or provisions attached to a Bid may render it non-responsive and may cause its rejection. Bidders shall not delete, modify, or supplement the printed matter on the Bid Forms, or make substitutions thereon. Oral, telephonic and electronic modifications will not be considered.

9. SUBCONTRACTORS

Bidder shall set forth the name, address of the place of business, and contractor license number of each subcontractor who will perform work, labor, furnish materials or render services to the bidder on said contract and each subcontractor licensed by the State of California who, under subcontract to bidder, specially fabricates and installs a portion of the Work described in the Drawings and Specifications in an amount in excess of one half of one percent (0.5%) of the total bid price, and shall indicate the portion of the work to be done by such subcontractor in accordance with Public Contract Code Section 4104.

The successful bidder will be required to self-perform at least 80% of the work.

10. LICENSING REQUIREMENTS

Pursuant to Business and Professions Code Section 7028.15 and Public Contract Code Section 3300, all bidders must possess proper licenses for performance of this Contract. Subcontractors must possess the appropriate licenses for each specialty subcontracted. Pursuant to Business and Professions Code Section 7028.5, the City shall consider any bid submitted by a contractor not currently licensed in accordance with state law and pursuant to the requirements found in the Contract Documents to be nonresponsive, and the City shall reject the Bid. The City shall have the right to request, and Bidders shall provide within ten (10) calendar days, evidence satisfactory to the City of all valid license(s) currently held by that Bidder and each of the Bidder's subcontractors, before awarding the Contract.

Notwithstanding anything contained herein, if the Work involves federal funds, the Contractor shall be properly licensed by the time the Contract is awarded, pursuant to the provisions of Public Contract Code section 20103.5.

11. BID GUARANTEE (BOND)

Each bid shall be accompanied by: (a) cash; (b) a certified or cashier's check made payable to City of Milpitas; or (c) a Bid Bond secured from a surety company satisfactory to the City Council, the amount of which shall not be less than ten percent (10%) of the Total Bid Price, made payable to City of Milpitas as bid security. Personal sureties and unregistered surety companies are unacceptable. The surety insurer shall be California admitted surety insurer, as defined in Code of Civil Procedure Section 995.120. The bid security shall be provided as a guarantee that within ten (10) working days after the City provides the successful bidder the Notice of Award, the successful bidder will enter into a contract and provide the necessary bonds and certificates of insurance. The bid security will be declared forfeited if the successful bidder fails to comply within said time, and City may enter into a contract with the next lowest responsive responsible bidder, or may call for new bids. No interest shall be paid on funds deposited with the City. City will return the security accompanying the bids of all unsuccessful bidders no later than 60 calendar days after award of the contract.

12. IRAN CONTRACTING ACT OF 2010

In accordance with Public Contract Code Section 2200 *et seq.*, the City requires that any person that submits a bid or proposal or otherwise proposes to enter into or renew a contract with the City with respect to goods or services of one million dollars (\$1,000,000) or more, certify at the time the bid is submitted or the contract is renewed, that the person is not identified on a list created pursuant to subdivision (b) of Public Contract Code Section 2203 as a person engaging in investment activities in Iran described in subdivision (a) of Public Contract Code Section 2202.5, or as a person described in subdivision (b) of Public Contract Code Section 2202.5, as applicable.

The form of such Iran Contracting Certificate is included with the bid package and must be signed and dated under penalty of perjury.

13. NONCOLLUSION DECLARATION

Bidders on all public works contracts are required to submit a declaration of noncollusion with their bid. This form is included with the bid package and must be signed and dated under penalty of perjury.

14. PUBLIC WORKS CONTRACTOR REGISTRATION CERTIFICATION

Pursuant to Labor Code sections 1725.5 and 1771.1, all contractors and subcontractors that wish to bid on, be listed in a bid proposal, or enter into a contract to perform public work must be registered with the Department of Industrial Relations. No bid will be accepted nor any contract entered into without proof of the contractor's and subcontractors' current registration with the Department of Industrial Relations to perform public work. If awarded a contract, the bidder and its subcontractors, of any tier, shall maintain active registration with the Department of Industrial Relations for the duration of the Project. To this end, Bidder shall sign and submit with its Bid the Public Works Contractor Registration Certification on the form provided, attesting to the facts contained therein. Failure to submit this form may render the bid non-responsive. In addition, each Bidder shall provide the registration number for each listed subcontractor in the space provided in the Designation of Subcontractors form.

15. WAGE THEFT CERTIFICATION

Bidders on public works contracts are required to submit a certification disclosing whether the Bidder or any of its proposed subcontractors has been found by a final court order or administrative action of an investigatory government agency to have violated federal, state or local wage and hour laws, including but not limited to the federal Fair Labor Standards Act, the California Labor Code and the Milpitas Minimum Wage Ordinance, within the past five (5) years from the bid submission deadline.

16. BIDDER INFORMATION AND EXPERIENCE FORM

Each Bidder shall complete the questionnaire provided herein and shall submit the questionnaire along with its Bid. Failure to provide all information requested within the questionnaire along with the Bid may cause the bid to be rejected as non-responsive. The City reserves the right to reject any Bid if an investigation of the information submitted does not satisfy the Engineer that the Bidder is qualified to properly carry out the terms of the contract.

17. WORKERS' COMPENSATION CERTIFICATION

In accordance with the provisions of Labor Code Section 3700, Contractor shall secure the payment of compensation to its employees. Contractor shall sign and file with the City the following certificate prior to performing the work under this Contract:

I am aware of the provisions of Section 3700 of the Labor Code, which require every employer to be insured against liability for workers' compensation or to undertake self-insurance in accordance with the provisions of that code, and I will comply with such provisions before commencing the performance of the work of this contract.

The form of such Workers' Compensation Certificate is included as part of this document.

18. SIGNING OF BIDS

All Bids submitted shall be executed by the Bidder or its authorized representative. Bidders may be asked to provide evidence in the form of an authenticated resolution of its Board of Directors or a Power of Attorney evidencing the capacity of the person signing the Bid to bind the Bidder to each Bid and to any Contract arising therefrom.

If a Bidder is a joint venture or partnership, it may be asked to submit an authenticated Power of Attorney executed by each joint venturer or partner appointing and designating one of the joint venturers or partners as a management sponsor to execute the Bid on behalf of Bidder. Only that joint venturer or partner shall execute the Bid. The Power of Attorney shall also: (1) authorize that particular joint venturer or partner to act for and bind Bidder in all matters relating to the Bid; and (2) provide that each venturer or partner shall be jointly and severally liable for any and all of the duties and obligations of Bidder assumed under the Bid and under any Contract arising therefrom. The Bid shall be executed by the designated joint venturer or partner on behalf of the joint venture or partnership in its legal name.

19. SUBMISSION OF SEALED BIDS

Once the bid and supporting documents have been completed and signed as set forth herein, they shall be electronically uploaded, along with the bid guarantee and other required materials,

to procurement.opengov.com before the time and day set for the receipt of bids. No oral, paper, or telephonic bids will be considered. No forms transmitted via e-mail, facsimile, or any other non-approved electronic means will be considered unless specifically authorized by the city as provided herein. Bids received after the time and day set for the receipt of bids shall be returned to the bidder unopened.

Only where expressly permitted in the notice inviting bids may bidders submit their bids via electronic transmission pursuant to public contract code sections 1600 and 1601. Any acceptable method(s) of electronic transmission shall be stated in the notice inviting bids. City may reject any bid not strictly complying with city's designated methods for delivery.

20. OPENING OF BIDS

At the time and place set for the opening and reading of bids, or any time thereafter, each and every bid received prior to the time and day set for the receipt of bids will be publicly opened and read. The City will leave unopened any Bid received after the specified date and time, and any such unopened Bid will be returned to the bidder. It is the bidder's sole responsibility to ensure that its Bid is received as specified. Bids may be submitted earlier than the date(s) and time(s) indicated.

The public reading of each bid will include the following information:

- A. The name and business location of the bidder.
- B. The nature and amount of the bid security furnished by bidder.
- C. The bid amount.

Bidders or their representatives and other interested persons may be present at the opening of the bids. The City may, in its sole discretion, elect to postpone the opening of the submitted Bids. The City reserves the right to reject any or all Bids and to waive any informality or irregularity in any Bid.

21. WITHDRAWAL OF BID

Any bid may be withdrawn either personally or by written request, incurring no penalty, at any time prior to the scheduled closing time for receipt of bids. Requests to withdraw bids shall be worded so as not to reveal the amount of the original bid. Withdrawn bids may be resubmitted until the time and day set for the receipt of bids, provided that resubmitted bids are in conformance with the instructions herein.

Bids may be withdrawn after bid opening only by providing written notice to City within five (5) working days of the bid opening and in compliance with Public Contract Code Section 5100 *et seq.*, or as otherwise may be allowed with the consent of the City.

22. BIDDERS INTERESTED IN MORE THAN ONE BID

No Bidder shall be allowed to make, file or be interested in more than one bid for the same work unless alternate bids are specifically called for. A person, firm or corporation that has submitted a sub-proposal to a Bidder, or that has quoted prices of materials to a Bidder, is not thereby disqualified from submitting a sub-proposal or quoting prices to other bidders. No person, firm,

corporation, or other entity may submit a sub-proposal to a Bidder, or quote prices of materials to a Bidder, when also submitting a prime Bid on the same Project.

23. SUBSTITUTION OF SECURITY

The Contract Documents call for monthly progress payments based upon the percentage of the Work completed. The City will retain a percentage of each progress payment as provided by the Contract Documents. At the request and expense of the successful Bidder, the City will substitute securities for the amount so retained in accordance with Public Contract Code Section 22300.

24. PREVAILING WAGES

The City has obtained from the Director of the Department of Industrial Relations the general prevailing rate of per diem wages in the locality in which this work is to be performed for each craft or type of worker needed to execute the Contract. These rates are available at the City or may be obtained online at <http://www.dir.ca.gov>. Bidders are advised that a copy of these rates must be posted by the successful Bidder at the job site(s).

25. DEBARMENT OF CONTRACTORS AND SUBCONTRACTORS

In accordance with the provisions of the Labor Code, contractors or subcontractors may not perform work on a public works project with a subcontractor who is ineligible to perform work on a public project pursuant to Labor Code Sections 1777.1 or 1777.7. Any contract on a public works project entered into between a contractor and a debarred subcontractor is void as a matter of law. A debarred subcontractor may not receive any public money for performing work as a subcontractor on a public works contract. Any public money that is paid to a debarred subcontractor by the Contractor for the Project shall be returned to the City. The Contractor shall be responsible for the payment of wages to workers of a debarred subcontractor who has been allowed to work on the Project.

26. INSURANCE REQUIREMENTS

Prior to commencing work, the successful bidder shall purchase and maintain insurance as set forth in the General Conditions.

27. PERFORMANCE BOND AND PAYMENT BOND REQUIREMENTS

The successful bidder will be required to furnish a Labor and Material Payment Bond and a Faithful Performance Bond each in an amount equal to one hundred percent (100%) of the contract price. Each bond shall be secured from a surety company that meets all State of California bonding requirements, as defined in California Code of Civil Procedure Section 995.120 and is admitted by the State of California. Each bond shall be accompanied, upon the request of City, with all documents required by California Code of Civil Procedure Section 995.660 to the extent required by law. All bonding and insurance requirements shall be completed and submitted to City within ten (10) working days from the date the City provides the successful bidder with the Notice of Award.

28. SALES AND OTHER APPLICABLE TAXES, PERMITS, LICENSES AND FEES

Contractor and its subcontractors performing work under this Contract will be required to pay California sales tax and other applicable taxes, and to pay for permits, licenses and fees required by the agencies with authority in the jurisdiction in which the Work will be located, unless otherwise expressly provided by the Contract Documents.

29. FILING OF BID PROTESTS

Bidders may file a “protest” of a Bid with the City of Milpitas City Engineer. In order for a Bidder’s protest to be considered valid, the protest must:

- A. Be filed in writing within five (5) calendar days after the bid opening date;
- B. Clearly identify the specific irregularity or accusation;
- C. Specify in detail the grounds for protest and the facts supporting the protest; and
- D. Include all relevant, supporting documentation with the protest at time of filing.

If the protest does not comply with each of these requirements, the City may reject the protest without further review.

If the protest is timely and complies with the above requirements, the City Engineer, or other designated City staff member, shall review the protest, any response from the challenged Bidder(s), and all other relevant information. The City Engineer will provide a written decision to the protestor.

The procedure and time limits set forth in this Article are mandatory and are the sole and exclusive remedy in the event of a Bid protest. Failure to comply with these procedures shall constitute a failure to exhaust administrative remedies and a waiver of any right to further pursue the Bid protest, including filing a Government Code Claim or legal proceedings.

30. BASIS OF AWARD; BALANCED BID

The City shall award the Contract to the lowest responsible Bidder submitting a responsive Bid. The lowest Bid will be determined on the basis of the Total Base Bid alone unless otherwise set forth in the Notice Inviting Bids.

The City may reject any Bid which, in its opinion when compared to other Bids received or to the City’s internal estimates, does not accurately reflect the cost to perform the Work. The City may reject as non-responsive any Bid which unevenly weights or allocates costs, including but not limited to overhead and profit to one or more particular bid items.

31. AWARD PROCESS

Once all Bids are opened and reviewed to determine the lowest responsive and responsible Bidder, the City Council may award the contract. The apparent successful Bidder should begin to prepare the following documents: (1) the Performance Bond; (2) the Payment Bond; and (3) the required insurance certificates and endorsements. Once the City notifies the Bidder of the award, the Bidder will have fourteen (14) calendar days from the date of this notification to

execute the Contract and supply the City with all of the required documents and certifications. Regardless of whether the Bidder supplies the required documents and certifications in a timely manner, the Contract time will begin to run twenty-one (21) calendar days from the date of the Notice of Award. Once the City receives all of the properly drafted and executed documents, certifications from the Bidder, and any other documents as maybe specified in the Contract Documents, the City shall issue a Notice to Proceed to that Bidder.

32. EXECUTION OF CONTRACT

As required herein the Bidder to whom an award is made shall execute the Contract in the amount determined by the Contract Documents. The City may require appropriate evidence that the persons executing the Contract are duly empowered to do so. The Contract and bond forms to be executed by the successful Bidder are included within these Specifications and shall not be detached.

00 41 43 – BID FORMS

1.1 Bid Acknowledgement.

NAME OF BIDDER: PCD

To the Honorable City Council of the City of Milpitas, attn City Clerk:

The undersigned hereby declare that we have carefully examined the location of the proposed Work, and have read and examined the Contract Documents, including all plans, specifications, and all addenda, if any for the following Project

24-030 COUNCIL CHAMBER AV SYSTEM REPLACEMENT

- A We hereby propose to furnish all labor, materials, equipment, tools, transportation, and services, and to discharge all duties and obligations necessary and required to perform and complete the Project, as described and in strict conformity with the Contract Documents for the Total Bid Price indicated herein.
- B The undersigned agrees that this Bid constitutes a firm offer to the City which cannot be withdrawn for the number of calendar days indicated in the Notice Inviting Bids from and after the Bid opening, or until a Contract for the Work is fully executed by the City and a third party, whichever is earlier.
- C The undersigned has by careful examination of the Contract Documents and any addenda thereto, and by examination of the actual Site conditions, satisfied itself as to the nature and location of all Work, the plans and specifications, and the general and local conditions to be encountered in the performance of any Work, the requirements of the Contract and all other matters which can in any way affect the Work or the cost thereof.
- D The undersigned acknowledges receipt, understanding, and full consideration of the following addenda to the Contract Documents:

List Addenda No's. Addendum 1 date:11/20/2023,
Addendum 2 date:11/21/2023
- E Attached hereto and by this reference incorporated herein and made a part of this Bid are the following forms which have been completed and executed by undersigned Bidder:
 - 1. Designation of Subcontractors form.
 - 2. Bidder Information and Experience form.
 - 3. Noncollusion Declaration form.
 - 4. Iran Contracting Act Certification form.
 - 5. Public Works Contractor Registration Certification form.

6. Attached is the completed Wage Theft Certification form.
 7. Contractor's Certificate Regarding Workers' Compensation form.
 8. Bid Guarantee in the amount of not less than 10% of the Total Bid Price.
- F If awarded a contract, the undersigned hereby agrees to sign the contract and furnish the necessary bonds and certificates of insurance within fourteen (14) days after the City provides the successful bidder with the Notice of Award.
- G Upon receipt of the signed contract and other required documents, the contract will be executed by the City, after which the City will prepare a letter giving Contractor Notice to Proceed. The official starting date shall be the date of the Notice to Proceed, unless otherwise specified. The undersigned agrees to begin the Work within ten (10) working days of the date of the Notice to Proceed, unless otherwise specified.
- H Bidder is an individual _____, or corporation X , or partnership _____, organized under the laws of the State of _____.
- I Bidder represents and confirms that license(s) required by California State Contractor's License Law for the performance of the subject project are in full effect and proper order. The following are the Bidder's applicable license number(s), with their expiration date(s) and class of license(s):

CSLB#527657, expires: 4/30/2024, C-7 Low Voltage

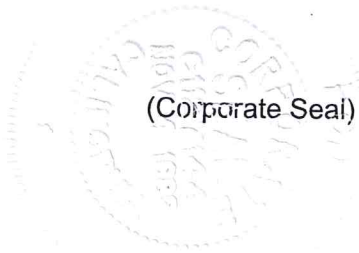
If the Bidder is a joint venture, each member of the joint venture must include the required licensing information.

(SIGNATURES CONTINUED ON NEXT PAGE)

J The undersigned that the representations made herein herein are true and correct and all of the information submitted in connection with this Bid are made under penalty of perjury under the laws of the State of California.

Executed at Santa Rosa, on this 27 day of November 2023.

(Bidder's Name – Print or Type)



(Corporate Seal)

John - President / Secretary
(Name and Title)

[Signature]
(Signature)

Names of individual members of firm or names and titles of all officers of corporation and their addresses are listed below:

Name Henry Beaumont Title Chairman of the Board / Treasurer

Complete Address 1032 Maxwell Drive, Santa Rosa, CA 95401

Phone 707-546-3633 Fax 707-575-6818

Name _____ Title _____

Complete Address _____

Phone _____ Fax _____

Name _____ Title _____

Complete Address _____

Phone _____ Fax _____

Name _____ Title _____

Complete Address _____

Phone _____ Fax _____

1.2 BID SCHEDULE

NO.	ITEM DESCRIPTION	UNIT OF MEASURE	EST. QTY.	UNIT PRICE	TOTAL ITEM PRICE
1.	Conduit, Backboxes and Electrical Systems Verification Letter : • Within 30 days of contract award, the AV contractor shall review all relevant information pertaining to the AV systems low-voltage conduit, backboxes, and line voltage electrical work to be performed by Division 26. A formal memo, indicating acceptance (or desired changes) of the Contract Drawings shall be provided. Failure to provide this memo indicates acceptance of, and liability for, the conduit, backboxes and electrical systems as indicated in the Contract Drawings. • Coordinate conduit/wire routing, sizing, and quantities with Division 26. Routing shall be designed to minimize overall conduit/wire length. Refer to industry and manufacturer requirements regarding maximum wire length for all AV systems and indicated operating formats. Submit RFI's for any wire/conduit runs that are anticipated to be over recommended maximum lengths. If installed lengths exceed maximum wire length recommendations, the Contractor is required to provide alternative infrastructure or equipment to meet the AV systems operational requirements. • If the contractor chooses to exercise the option to place conduit in-slab and on-grade or under-slab and in-grade, the contractor shall submit a revised	LS	1	1,429.00	1,429.00

	AV conduit riser with new conduit size calculations using cables from the "wet-rated" AV cable schedule. See section 260535 for additional information				
2.	Shop Drawings: - Submit full-size (minimum 30" x 42") scaled shop drawings that show the following: - Installation requirements and mounting conditions. - Provide stamped structural drawings by a structural engineer licensed in the state in which the project takes place showing complete mounting details for all AV devices over 20 pounds. - Full system riser diagram(s) illustrating interconnection of system components, wiring requirements, back box sizes and any special installation considerations. - Block diagrams, showing equipment interconnection. - Equipment rack and patchpanel drawings. - Full-scale drawings of custom plates. - Run sheets or field wiring drawings. - Equipment modification drawings, including statement of purpose for modification and agreement to provide full manufacturer warranty, if modifications cause a voided warranty. - Final schematic drawings of any custom circuitry	LS	1	33,303.13	33,303.13
3.	AV Control System Touchpanels: Provide a hosted web link for approval of working touchpanel	LS	1	30,759.98	30,759.98

	files. - This generally requires the contractor to setup and host an active control system processor, with a secure web link to allow remote parties to view & control. - The AV contractor is responsible for design of touchpanel layouts, but shall be subject to consultant and Architect approval. - If the organization has an existing template, the AV contractor shall use that template and modify as needed to suit the project.				
4.	Product Data: - Submit a detailed equipment list, including manufacturer, model number, description and quantity for each item. - Do not submit equipment cut sheets, except for custom or non-standard devices.	LS	1	657,769.77	657,769.77
5.	Color Data: - Submit spreadsheet with color schedule for all equipment and devices, including custom plates, speakers, racks, furniture, etc. Room name and number shall be listed. - Show standard color options to allow design team to select. - Where no option for color is available, indicate as much.	LS	1	1,500.00	1,500.00
6.	DSP Programming: Internal DSP programming (submit as software file)	LS	1	15,000.00	15,000.00
7.	Samples: - Submit samples for review if requested. Samples may include, but are not limited to: - Connector, panel and	LS	1	1,500.00	1,500.00

	cable assemblies • Panel finish samples • Custom switch, button or similar assemblies				
8.	Record Documents: Submit record documents in accordance with Section 01. • At time of final acceptance, submit regulatory listings and certifications as required by prevailing building codes. • Submit electronic "as-builts" including: • Shop drawings, product data, operations and instructions manuals for all products provided. • Equipment list, with manufacturer, model number, and serial number for all installed devices. • Electronic backup of control system programming. • Electronic backup of DSP systems programming. • Care and maintenance instructions, service line and online contacts. • Warranty documents. • Key list, showing the following for all keys in the system: device name and model number, system controlled, key model number or other replacement identifier, tech support number for equipment manufacture, and thumbnail picture of device. • Additionally, a USB thumb drive with all final configuration files for all system equipment (ie- control system, DSP system, etc.) shall be provided to the job site. The	LS	1	2,500.00	2,500.00

	drive should be labeled and zip-tied inside the rear of the equipment rack.				
TOTAL BASE BID PRICE					743,761.88

Bidders must provide pricing for every bid item. The costs for any Work shown or required in the Contract Documents, but not specifically identified as a line item are to be included in the related line items and no additional compensation shall be due to Contractor for the performance of the Work.

In case of discrepancy between the Unit Price and the Total Item Price set forth for a unit basis item, the unit price shall prevail and shall be utilized as the basis for determining the lowest responsive, responsible Bidder. However, if the amount set forth as a unit price is ambiguous, unintelligible or uncertain for any cause, or is omitted, or is the same amount as the entry in the "Item Price" column, then the amount set forth in the "Item Price" column for the item shall prevail and shall be divided by the estimated quantity for the item and the price thus obtained shall be the Unit Price.

For purposes of evaluating Bids, the City will correct any apparent errors in the extension of unit prices and any apparent errors in the addition of lump sum and extended prices.

The estimated quantities for Unit Price items are for purposes of comparing Bids only and the City makes no representation that the actual quantities of work performed will not vary from the estimates. Final payment shall be determined by the Engineer from measured quantities of work performed based upon the Unit Price.

TOTAL BID PRICE BASED ON BID SCHEDULE TOTAL OF UNIT PRICES FOR 24-030 Council Chamber AV System Replacement	
\$	<u>743,761.88</u>
Total Bid Price in Numbers	
Seven hundred forty-three thousand, seven hundred sixty-one dollars and eighty-eight cents	
Total Bid Price in Written Form	
In case of discrepancy between the written price and the numerical price, the written price shall prevail.	

If the Contract Documents specify Alternate Bid items, the following Alternate Bid amounts shall be added to or deducted from the Total Bid Price entered above (please check the appropriate box), in the City's sole discretion. The City can choose to include any, all, or none of the Alternate Bid items in the Work. If the City selects any of the Alternate Bid items, the corresponding Alternate Bid prices shall be added to or deducted from Base Bid Price for the Work. The City can award/select Alternate Bid items at any time(s).

ALTERNATE BIDS	BID PRICE (IN WRITTEN FORM)	BID PRICE (IN NUMBERS)
ALTERNATE #1 ☒ Add ☐ Deduct		83,209.00
ALTERNATE #2 ☒ Add ☐ Deduct		8,797.20
ALTERNATE #3 ☐ Add ☐ Deduct		
ALTERNATE #4 ☐ Add ☐ Deduct		
ALTERNATE #5 ☐ Add ☐ Deduct		
ALTERNATE #6 ☐ Add ☐ Deduct		

Milpitas City Council Chambers AV Replacement PCD Itemized Pricing					
Manufacturer	Part#	Description	Quantity	Unit Price	Ext. Price
COUNCIL CHAMBERS - PHASE 1					
Discussion System					
Dais/Staff					
Televic Quote # TCS-23288					
Televic	Plixus MME + Dante	Central Control Unit - Dante On Board	1.00	9,697.79	9,697.79
Televic	Dante Audio Networking Card	Central Control Unit, Dante Card (SEE ABOVE)	1.00		
		Programming/Tech	1.00	172.03	172.03
Televic	Plixus NEXT	Central Control Unit, Network Splitter	3.00	1,693.16	5,079.48
		Programming/Tech	3.00	172.03	516.08
Televic	Plixus PS	Central Control Unit, Power Supply	1.00	2,698.04	2,698.04
		Programming/Tech	1.00	172.03	172.03
Televic	uniCOS T/MM10	Mic/Speaker/10" screen unit	2.00	3,888.76	7,777.51
		Programming/Tech	2.00	172.03	344.06
Televic	Confidea FLEX	Mic/Speaker button unit	11.00	936.05	10,296.59
		Programming/Tech	11.00	172.03	1,892.31
Televic	Confidea D-MIC 50SL	Gooseneck Mic, 50cm length	12.00	188.59	2,263.05
		Programming/Tech	12.00	172.03	2,064.33
Televic	A/R	Discussion System - On-Site Certification & Training	1.00	4,817.93	4,817.93
		Programming/Tech	8.00	172.03	1,376.22
Software/License					
Televic	CoCon Nameplate	Discussion System - Nameplate Software	1.00	2,998.80	2,998.80
Televic	CoCon Signage	Discussion System - Signage Software	1.00	1,915.20	1,915.20
Televic	CoCon Discussion	Discussion System - Conference Software	1.00	4,095.00	4,095.00
		Programming/Tech	8.00	172.03	1,376.22
		NETWORK/CATEGORY CABLE	1,000.00	0.99	993.19
		AV Install Labor	10.00	153.85	1,538.46
COUNCIL CHAMBERS - PHASE 2					
Audio System - Reinforcement					
DSP					
QSC	CORE 8 FLEX	Unified Core with 8 local audio I/O channels, 64x64 network I/O channels wi	1.00	2,540.98	2,540.98
		Install Labor	1.00	153.85	153.85
		Programming/Tech	8.00	172.03	1,376.22
QSC	I/O USB Bridge	Q-SYS PoE bridging endpoint for AV-to-USB Bridging. Delivers driverless usb	1.00	1,808.17	1,808.17
		Install Labor	1.00	153.85	153.85
QSC	SLDAN-32-P	Q-SYS Software-based Dante 32x32 Channel License, Perpetual.	1.00	797.85	797.85
		Programming/Tech	1.00	172.03	172.03
Wireless Mics					
Shure	ULXD4Q--G50	Quad Digital Wireless Receiver with internal power supply, 1/2 Wave Antenna	1.00	6,528.77	6,528.77
		Install Labor	1.00	153.85	153.85
Shure	ULXD2/SM58--G50	Handheld Transmitter with SM58® Microphone	2.00	615.73	1,231.46
Shure	ULXD1--G50	Digital Wireless Bodypack Transmitter with Miniature 4-Pin Connector	2.00	573.82	1,147.64
	B3	Countryman Mic	2.00	325.22	650.43
Shure	SB900B	RECHARGEABLE BATTERY	8.00	115.63	925.04
Shure	SBC220-US	2 Bay Networked Docking Station	2.00	417.72	835.43
		Install Labor	1.00	153.85	153.85
Shure	UA864US	Wall-Mounted Wideband Antenna	2.00	489.99	979.97
		Install Labor	4.00	153.85	615.38
Reinforcement Systems - Chambers					
QSC	AD-S162T-BK	2.75" Full-range (x16) element column surface speaker, 70/100V transformer	2.00	1,001.65	2,003.30
		Install Labor	6.00	153.85	923.08
QSC	CX-Q 2K4	4-Channel 500W/CH Q-SYS Network Amplifier, Lo-Z, 70V, 100V direct drive, FI	1.00	2,566.99	2,566.99
		Install Labor	1.50	153.85	230.77
Digital Nameplates					
Televic Quote # TCS-23288					
Televic	Plixus NP-1	Single-Side Digital Nameplate	11.00	1,271.93	13,991.25
		Programming/Tech	11.00	172.03	1,892.31
Public Speaker's Lectern					
Televic Quote # TCS-23288					
Televic	Confidea F-DM	Mic unit, flush-mount	4.00	578.15	2,312.60
Televic	Confidea D-MIC 70SL	Gooseneck Mic, 70cm length (extra long)	4.00	206.48	825.93
		Programming/Tech	4.00	172.03	688.11
Utility					
		3' Audio Patch Cord	10.00	108.40	1,084.04
TBD	Custom	Audio Patchbay	2.00	1,445.38	2,890.76
		In Shop Assembly	16.00	153.85	2,461.54
RDL	STD-600	Passive Audio Divider/Combiner - 600 Ohm	4.00	81.87	327.47
		Install Labor	4.00	153.85	615.38
RDL	TX-AT1	Audio Isolation Transformer - 600 Ohm 1:1	4.00	130.23	520.92
		Install Labor	4.00	153.85	615.38
		3' Data Patch Cord	20.00	108.40	2,168.07
TBD	Custom	Data Patchbay	3.00	722.69	2,168.07
		In Shop Assembly	24.00	153.85	3,692.30
Assistive Listening					

Listen Tech	LW-150P-02-01-D	Listen Tech Listen EVERYWHERE 2 Channel Wi-Fi Audio Server (Dante)	1.00	1,308.06	1,308.06
Listen Tech	LA-326	Universal Rack Mounting Kit	1.00	75.17	75.17
		Install Labor	1.00	153.85	153.85
Listen Tech	LWR-1020-A1	Listen tech Listen EVERYWHERE WiFi Audio Receiver 1020	12.00	375.80	4,509.58
Listen Tech	LA-481-01	Docking Station Case 16	1.00	698.34	698.34
	LA-438	Listen Tech Advanced Neck Loop (Adult)	4.00	86.72	346.89
Listen Tech	LA-165	Stereo Headphones	12.00	22.72	272.69
		Install Labor	3.00	153.85	461.54
		VIDEO SYSTEMS - PRESENTATION			
		Switching & Transport			
Crestron	DM-NVX-360C	DM NVX™ 4K60 4:4:4 HDR Network AV Encoder/Decoder Card	6.00	1,430.92	8,585.54
Crestron	DM-NVX-D30C	DM NVX™ 4K60 4:4:4 HDR Network AV Decoder Card	7.00	1,033.44	7,234.11
Crestron	DM-NVX-E30C	DM NVX™ 4K60 4:4:4 HDR Network AV Encoder Card	3.00	1,033.44	3,100.33
Crestron	DMF-CI-8	DigitalMedia™ Card Chassis for DM-NVX-C & DMCF, 8 Slots	3.00	1,589.92	4,769.75
		Install Labor	3.00	153.85	461.54
		Programming/Tech	24.00	172.03	4,128.67
Crestron	DM-NVX-DIR-80	DM NVX Director™ Virtual Switching Appliance for 80 Endpoints	1.00	4,571.73	4,571.73
		Install Labor	1.00	153.85	153.85
		Programming/Tech	8.00	172.03	1,376.22
		Sources			
Crestron	AM-3200	AirMedia® Series 3 Receiver 200	1.00	1,748.91	1,748.91
		Install Labor	1.00	153.85	153.85
		Programming/Tech	1.00	172.03	172.03
		Rack Monitor			
Marshall	V-702W-12G	Marshall Dual 7-Inch 3RU Rackmount 12G Monitor with Waveform / HDMI and 12G	1.00	2,457.14	2,457.14
		Install Labor	1.00	153.85	153.85
		LED DisplayATS PRO QUOTE 4266***			
ATS PRO	CUSTOM	ATS PRO 9'x16' LED WALL Package W/Spares, Monting, Processor	1.00	80,248.75	80,248.75
ATS PRO		ATS PRO Freight	1.00	2,657.34	2,657.34
ATS PRO		ATS PRO Onsite Commissioning	1.00	5,594.40	5,594.40
		Finish	80.00	153.85	12,307.68
		Programming/Tech	16.00	172.03	2,752.44
		Flat Panel Display - Chambers			
Panasonic	TH-86CQE2U	Panasonic 86-inch UHD 400cd/m2 LED LCD w/Tuner	2.00	5,203.36	10,406.72
CHIEF	PDRUB	LARGE DUAL ARM W/ UNIVERSAL	2.00	921.08	1,842.16
		Install Labor	16.00	153.85	2,461.54
Crestron	DM-NVX-D30	DM NVX™ 4K60 4:4:4 HDR Network AV Decoder	2.00	1,033.45	2,066.90
		Install Labor	2.00	153.85	307.69
		Dais			
Elo	E511214	Elo Touch 2270L 22" Full HD Touchscreen Commercial Monitor (Black)	9.00		6,374.12
CHIEF	K1D220BXRH	K1D220 REDUCED HEIGHT BLK	9.00	428.41	3,855.69
		Install Labor	13.50	153.85	2,076.92
Crestron	DM-NVX-D30	DM NVX™ 4K60 4:4:4 HDR Network AV Decoder	1.00	1,033.45	1,033.45
		Install Labor	1.00	153.85	153.85
Crestron	HD-DA8-4KZ-E	1:8 HDMI® Distribution Amplifier w/4K60 4:4:4 & HDR Support	2.00	794.96	1,589.92
		Install Labor	2.00	153.85	307.69
Extron	60-1603-01	SW2 HD 4K PLUS	9.00	462.52	4,162.69
Extron	70-212-01	MBU 123	9.00	44.81	403.26
		Install Labor	9.00	153.85	1,384.61
		Dais - Input Panel			
Crestron	HD-TX-4KZ-101-1G-W	DM Lite® 4K60 4:4:4 Transmitter for HDMI® Signal Extension over CATx Cable,	1.00	325.21	325.21
		Install Labor	1.00	153.85	153.85
Crestron	HD-TX-4KZ-111-1G-B	DM Lite® 4K60 4:4:4 Transmitter for USB-C® DisplayPort™ Signal Extension ov	1.00	375.80	375.80
		Install Labor	1.00	153.85	153.85
Crestron	DM-NVX-E760C	DM NVX® 4K60 4:4:4 HDR Network AV Encoder Card with DM® Input	2.00	1,510.42	3,020.85
		Install Labor	2.00	153.85	307.69
		Clerk			
CHIEF	K1D220BXRH	K1D220 REDUCED HEIGHT BLK	1.00	428.41	428.41
		Install Labor	1.50	153.85	230.77
Crestron	DM-NVX-351	DM NVX® 4K60 4:4:4 HDR Network AV Encoder/Decoder with Downmixing	1.00	1,828.40	1,828.40
		Install Labor	1.00	153.85	153.85
		Presenter's Podium			
TBD	HDMI+USB	Custom Panels	1.00	216.81	216.81
		Interior Labor/Trim	1.00	153.85	153.85
Crestron	HD-PS401	4x1 4K60 4:4:4 HDR Presentation System	1.00	2,543.86	2,543.86
		Install Labor	1.00	153.85	153.85
Crestron	DM-NVX-E760C	DM NVX® 4K60 4:4:4 HDR Network AV Encoder Card with DM® Input	1.00	1,510.42	1,510.42
		Install Labor	1.00	153.85	153.85
TBD	TBD	22" Display	1.00	322.29	322.29
		Install Labor	1.00	153.85	153.85
FSR	OWB-X3-SM-GNG	Outdoor Wall Box - Surface Mount - 2 x 3Gang and 2 2/4 Gang Openings	1.00	1,965.36	1,965.36
		Install Labor	1.00	153.85	153.85
		BROADCAST SYSTEMS			
		Video Switcher - Frame			
		NewTek Quote#**			
Newtek	TC1 Pro	Video Switcher	1.00	19,822.32	19,822.32
Newtek	Flex	Video Switcher Control Surface, IP	1.00	11,769.51	11,769.51
Newtek	RR2RU3RU	Video Switcher- Rack Rails	1.00	324.87	324.87
		Install Labor	1.00	153.85	153.85
		Programming/Tech	40.00	172.03	6,881.11

		Video Switcher - Monitoring			
BMD	BMD-HDL-SMTV4K12G2	SmartView 4K 2	2.00	1,382.06	2,764.11
		Install Labor	2.00	153.85	307.69
TBD	TBD	42" Display	1.00	757.11	757.11
		Install Labor	1.00	153.85	153.85
Extron	26-650-175	HDMI Pro/175 - 175' (53.2 m)	1.00	791.52	791.52
		Install Labor	4.00	153.85	615.38
		Video Switcher - Training & Set Up			
JB&A	JBA-NTK-TRN-ONL-INTRO	Production Video Switcher- Remote User Training 3.5 Hour Training	2.00	3,150.00	6,300.00
JB&A	JBA-NTK-RMT-COMTC	Production Video Switcher- Remote Setup	1.00	3,150.00	3,150.00
		Video Switcher- Warranty/Subscriptions			
Newtek	NPSUBA	Video Switcher- Premium Access (includes live panel)	1.00	2,318.40	2,318.40
Newtek	Live Panel	Video Switcher- Live Panel (SEE ABOVE)	1.00		
Newtek	PTUTC1	Switcher - 1 year warranty professional	5.00	1,910.16	9,550.80
Newtek	PTUFCP	Control Surface - 1 year warranty professional	5.00	1,154.16	5,770.80
		Programming/Tech	8.00	154.98	1,239.84
		Routing			
BMD	BMD-VHUBSMARTE12G4040	Smart Videohub 12G 40x40	1.00	5,500.69	5,500.69
		Install Labor	1.00	153.85	153.85
		Programming/Tech	4.00	172.03	688.11
BMD	BMD-VHUB/WSC/PRO	Videohub Smart Control Pro	1.00	765.36	765.36
		Install Labor	1.00	153.85	153.85
		Signal Processing			
Aja	GEN10	AJA GEN10 SD/HD/AES Sync Generator	1.00	529.97	529.97
		Install Labor	1.00	153.85	153.85
Aja	C10da	AJA C10DA Analog Video/Tri-Level Sync 1x6 Distribution Amplifier	2.00	275.31	550.62
		Install Labor	2.00	153.85	307.69
Decimator	12G-CROSS	Decimator Design HDMI/SDI 4K Ultra HD Cross Converter with Scaling and Fram	2.00	633.22	1,266.43
		Install Labor	2.00	153.85	307.69
Newtek	Spark 4k	Newtek NDI to/from HDMI	2.00	1,101.24	2,202.48
		Install Labor	2.00	153.85	307.69
		Audio			
Harman	C2PS	Control 2P Stereo Set. Includes one C2PM powered master, one Passive Extens	2.00	280.41	560.81
		Install Labor	1.00	153.85	153.85
		Camera - Chambers			
Panasonic	AW-UE100	PTZ Camera, NDI + 12G SDI output, Black	6.00	8,895.14	53,370.81
Panasonic	FEC-100WM	PTZ Camera Mount, Black	6.00	277.17	1,663.01
		Install Labor	15.00	153.85	2,307.69
Mardhall	CV-370	HD Color Camera, Fixed, NDI	1.00	1,101.24	1,101.24
TBD	A/R	HD Color Camera Lens	1.00	206.49	206.49
TBD	A/R	Camera Mount	1.00	48.18	48.18
		Install Labor	2.50	153.85	384.62
Black Magic	Micro Converter HDMI to SDI 12G	4k HDMI to SDI 12G	1.00	220.25	220.25
		Install Labor	1.00	153.85	153.85
		Streamer/Recorder			
Crestron	DM-NVX-D30	DM NVX™ 4K60 4:4:4 HDR Network AV Decoder	1.00	1,033.45	1,033.45
		Install Labor	1.00	153.85	153.85
Decimator	Decimator 2	SDI to CV scaler w/ CC support	1.00	447.38	447.38
		Install Labor	1.00	153.85	153.85
TBD	A/R	256GB SD Card	2.00	48.18	96.36
Aja	Helo Plus	Stream/Record unit - SD	1.00	2,243.78	2,243.78
		Install Labor	1.00	153.85	153.85
Crestron	DM-NVX-D30	DM NVX™ 4K60 4:4:4 HDR Network AV Decoder	1.00	1,033.45	1,033.45
		Install Labor	1.00	153.85	153.85
		Zoom/Teams Integration			
TBD	A/R	HDMI to/from USB	2.00	68.83	137.66
TBD	A/R	SDI to/from USB	2.00	68.83	137.66
		Install Labor	2.00	153.85	307.69
Decimator	12G-CROSS	12GSDI to/from HDMI	2.00	633.22	1,266.43
		Install Labor	2.00	153.85	307.69
NDI	NDI Tools	NDI Software	2.00	126.00	252.00
Audinate	DVS	DVS Software	2.00	126.00	252.00
		Programming/Tech	4.00	172.03	688.11
		Broadcast Desk			
Crestron	DM-NVX-D30	DM NVX™ 4K60 4:4:4 HDR Network AV Decoder	1.00	1,033.45	1,033.45
		Install Labor	1.00	153.85	153.85
TBD	HDMI * USB * Audio	Custom Panels	1.00	344.14	344.14
		Interior Labor/Trim	1.00	153.85	153.85
Crestron	DM-NVX-351	DM NVX® 4K60 4:4:4 HDR Network AV Encoder/Decoder with Downmixing	1.00	1,828.40	1,828.40
		Install Labor	1.00	153.85	153.85
		Utility			
TBD		3' Video Patch Cord	10.00	103.24	1,032.42
TBD		Looping plug	4.00	61.95	247.78
TBD	Custom	Custom Video Patchbay	2.00	2,597.55	5,195.10
		In Shop Assembly	16.00	153.85	2,461.54
TBD		3' Patch Cord	8.00	103.24	825.93
TBD	Custom	AVP Bulkhead Patchbay	2.00	344.14	688.28
		In Shop Assembly	16.00	153.85	2,461.54
		CONTROL SYSTEM			
		Programming/Tech - ALLOWANCE PER SPECS	50.00	172.03	8,601.39
Crestron	CP4N	4-Series™ Control System	1.00	2,225.88	2,225.88

		Install Labor	1.00	153.85	153.85
		Programming/Tech	8.00	172.03	1,376.22
Crestron	TS-1070-B-S	10.1 in. Tabletop Touch Screen, Black Smooth	2.00	2,623.37	5,246.73
		Install Labor	4.00	153.85	615.38
		Programming/Tech	16.00	172.03	2,752.44
Crestron	C2N-CBD-E-B-S	Cameo® Express Keypad, Standard Mount, Black Smooth	9.00	222.59	2,003.30
Extron	70-1097-01	SMB 111 One-gang, Black	9.00	158.99	1,430.93
		Install Labor	9.00	153.85	1,384.61
Crestron	CEN-IO-RY-104	Wired Ethernet Module with 4 Relay Ports	1.00	294.86	294.86
		Install Labor	1.00	153.85	153.85
		iPad Controls			
iPort	TBD	iPort iPad Cas for OFE Device	1.00	481.80	481.80
		Speaker Timer			
DSAN	PSL-20v	DSAN Public Speakeing Timer	4.00	302.84	1,211.36
		Install Labor	4.00	153.85	615.38
DSAN	ASL4-ND3	DSAN Public Speakeing Timer	1.00	1,135.65	1,135.65
		Install Labor	1.00	153.85	153.85
Tripplite	DWF1327M	Tripplite Wall Bracket	2.00	34.42	68.83
		Install Labor	2.00	153.85	307.69
		Speaker Timer - Video Clock			
DSAN	VC-2000LT	DSAN Timer Video/Clock Interface	1.00	392.31	392.31
		Install Labor	1.00	153.85	153.85
MAP	TBD	MAP Rack Shlf for PC	1.00	206.49	206.49
		In Shop Assembly	1.00	153.85	153.85
		Utility Plates & Panels			
Middle Atlantic	PD-915R	9OUT,15A,RCKMNT POWER CEN	2.00	143.10	286.19
		In Shop Assembly	2.00	153.85	307.69
Middle Atlantic	PD-DC-	DC PWR DIST,125W RKMNT	2.00	505.88	1,011.76
		In Shop Assembly	2.00	153.85	307.69
Middle Atlantic	UPX-RLNK-1000R-2	UPS, 1000VA, Fanless, LAN	2.00	1,626.06	3,252.11
		In Shop Assembly	4.00	153.85	615.38
Middle Atlantic	UPX-RLNK-2000R-2	UPS, 2000VA, Fanless, LAN	1.00	2,016.30	2,016.30
		In Shop Assembly	2.00	153.85	307.69
		Furniture			
Laguna	Custom	Laguna Design	1.00	13,110.00	13,110.00
		In Shop Assembly	24.00	153.85	3,692.30
		Power Conditioner - Hardwired in Electrical Scope			
SurgeX	PF-420	SurgeX 4-Circuit Power Conditioner	1.00	4,625.21	4,625.21
		LOBBY/PRE-FUNCTION/SIGNAGE (PHASE 2)			
		audio System			
		Reinforcement and Playback			
Shure	ULXD4D=G50	Dual Digital Wireless Receiver with internal power supply, 1/2 Wave Antenna	1.00	3,263.67	3,263.67
		Install Labor	1.00	153.85	153.85
Shure	ULXD2/B87A=G50	Handheld Transmitter with BETA 87A Microphone	1.00	820.97	820.97
		Install Labor	1.00	153.85	153.85
Shure	ULXD1=G50	Digital Wireless Bodypack Transmitter with Miniature 4-Pin Connector	1.00	573.81	573.81
	B3	Countryman Mic	2.00	325.22	650.43
Shure	SB900B	RECHARGEABLE BATTERY	4.00	115.63	462.52
Shure	SBC220-US	2 Bay Networked Docking Station	1.00	417.71	417.71
		Install Labor	0.50	153.84	76.92
QSC	CX-Q 4K8	8-Channel 500W/CH Q-SYS Network Amplifier, Lo-Z, 70V, 100V direct drive, FI	1.00	5,047.26	5,047.26
		Install Labor	2.00	153.85	307.69
		Video System			
		Display - Lobby/Prefunction			
Panasonic	TH-55CQE1W	55" LCD Flat Panel Display (Lobby)	1.00	1,031.32	1,031.32
		Install Labor	2.00	153.85	307.69
Panasonic	TH-65CQE1WA	65" LCD Flat Panel Display (Pre-Function)	1.00	1,327.83	1,327.83
		Install Labor	2.00	153.85	307.69
Crestron	DM-NVX-D30	DM NVX™ 4K60 4:4:4 HDR Network AV Decoder	2.00	1,033.45	2,066.90
		Install Labor	2.00	153.85	307.69
		Control System			
Crestron	TSW-570-B-S	5 in. Wall Mount Touch Screen, Black Smooth	1.00	1,188.11	1,188.11
		Install Labor	1.00	153.85	153.85
		Programming/Tech	8.00	172.03	1,376.22
		FFE/LOOSE EQUIPMENT (PHASE 2)			
		Accessories			
PSC	FPSC0015	PSC Press Train - Passive Audio Distribution Box	1.00	780.05	780.05
Audio Adpter Kit	APPKIT PRO	audio adapter kit, remote audio	1.00	314.64	314.64
Video Adapter Kit	VDAP-1	VIDEO ADAPTER KIT, COMPREHENSIVE,	1.00	83.86	83.86
Liberty	DL-ARDA	Universal HDMI Adapter Ring 2.0 with 5 Cable Adapters	4.00	334.31	1,337.22
Neutrik	NA3MM-B	NEUTRIK, XLR-M/M Barrel Adapter	10.00	19.57	195.73
Neutrik	NA3FF-B	NEUTRIK,XLR-F/F Barrel Adapter	10.00	21.84	218.41
Musson	TBD	MUSSON THEATRICAL, COTTON TIE LIN 600' ROLL, 1/8"	1.00	45.89	45.89
Sony	MDR-7506	SONY, HEADPHONES	2.00	131.09	262.18
		CABLES-AV			
Whirlwind	MK410	Cable - Microphone, MK4, XLRf to XLRM, 10', Accusonic+2	4.00	37.10	148.40
Whirlwind	MK425	Cable - Microphone, MK4, XLRf to XLRM, 25', Accusonic+2	10.00	45.03	450.32
Whirlwind	MK450	Cable - Microphone, MK4, XLRf to XLRM, 50', Accusonic+2	4.00	69.99	279.97

Whirlwind	MK4100	Cable - Microphone, MK4, XLR to XLRM, 100', Accusonic+2	2.00	115.66	231.31
Whirlwind	BNCRG6HD-010	Cable - BNC, RG6 HD/SDI, 75 Ohm, Belden 1694A, 10'	4.00	43.41	173.63
Whirlwind	BNCRG6HD-025	Cable - BNC, RG6 HD/SDI, 75 Ohm, Belden 1694A, 25'	4.00	65.93	263.72
Whirlwind	BNCRG6HD-050	Cable - BNC, RG6 HD/SDI, 75 Ohm, Belden 1694A, 50'	4.00	102.84	411.34
Extron	26-650-25	HDMI Pro/25 - 25' (7.6 m)	4.00	157.32	629.28
Bittree	LPCXM3600-110	Bittree 1/4 Inch Long-Frame to Male XLR Patchcord - 36 Inch - Black	4.00	74.73	298.91
Bittree	LPCXF3600-110	Bittree Female XLR to 1/4 Inch 110 Ohm Audio Adaptor Cable - Black	4.00	74.73	298.91
Bittree	VPBM3600-75	Bittree VPBM3600-75 Mini-WECO to BNC Patchcord - 3G SDI - 36 Inch	4.00	41.95	167.81
Lex	PE7000-25-515	LEX NEMA L5-20 to NEMA L5-20 25'	4.00	117.99	471.96
Lex	PE7000-50-515	LEX NEMA L5-20 to NEMA L5-20 50'	4.00	209.76	839.04
Whirlwind	MST2XM06US	Cable - Adapter, 1/8" TRS male to (2) XLRM, 6', Canare MR202-2AT	2.00	43.17	86.34
Whirlwind	MST06US	Cable - 3.5mm TRS, male to male, 6'	2.00	13.32	26.64
		NETWORK/CATEGORY CABLE	3,000.00	0.94	2,818.49
		AV Install Labor	39.00	153.85	5,999.99
		AUDIO LINE LEVEL CABLE	1,000.00	0.90	903.36
		AV Install Labor	13.00	153.85	2,000.00
		VIDEO CABLE	2,000.00	1.08	2,168.07
		AV Install Labor	26.00	153.85	4,000.00
		ANTENNA CABLE	1,000.00	1.95	1,951.27
		AV Install Labor	13.00	153.85	2,000.00
		CONTROL CABLE	1,000.00	0.72	722.69
		AV Install Labor	13.00	153.85	2,000.00
		Custom Panels	1.00	3,441.38	3,441.38
		Interior Labor/Trim	24.00	153.85	3,692.30
		Misc. Connectors & Accessories	1.00	2,175.47	2,175.47
		Estimated Freight	1.00	9,956.38	9,956.38
		Owner Training - CHECK SPEC REQUIREMENTS	48.00	172.03	8,257.33
		Equipment Rental	1.00	1,575.00	1,575.00
		Structural Engineering & Misc.	1.00	5,250.00	5,250.00
		DEMO	1.00	6,153.84	6,153.84
		RE-BUILD WALL SCOPE	1.00	12,600.00	12,600.00
		ELECTRICAL SCOPE	1.00	5,750.00	5,750.00
		PERMITS	1.00	1,150.00	1,150.00
		Estimated Travel Cost	1.00	24,227.50	24,227.50
		SHOP Drawings/Submittals	1.00	33,303.13	33,303.13
		Bonds	1.00	14,396.40	14,396.40
					743,761.88
		2 ADD/ALT - AV#1: COMMITTEE ROOM 168			
		Audio System			
QSC	CORE 8 FLEX	Unified Core with 8 local audio I/O channels, 64x64 network I/O channels wi	1.00	2,540.98	2,540.98
		Install Labor	1.00	153.85	153.85
		Programming/Tech	8.00	172.03	1,376.22
QSC	SLDAN-32-P	Q-SYS Software-based Dante 32x32 Channel License, Perpetual.	1.00	797.85	797.85
		Programming/Tech	1.00	172.03	172.03
		Wireless Mics			
Shure	ULXD4D=G50	Dual Digital Wireless Receiver with internal power supply, 1/2 Wave Antenna	1.00	3,263.67	3,263.67
		Install Labor	1.00	153.85	153.85
Shure	ULXD2/B87A=G50	Handheld Transmitter with BETA 87A Microphone	1.00	820.97	820.97
		Install Labor	1.00	153.85	153.85
Shure	ULXD1=G50	Digital Wireless Bodypack Transmitter with Miniature 4-Pin Connector	1.00	573.81	573.81
	B3	Countryman Mic	2.00	325.22	650.43
Shure	S8900B	RECHARGEABLE BATTERY	4.00	115.63	462.52
Shure	SBC220-US	2 Bay Networked Docking Station	1.00	417.71	417.71
		Install Labor	0.50	153.84	76.92
		Loudspeaker System			
QSC	SPA2-60	1/2 RU 2 Channel ENERGY STAR amplifier / Stereo operation 60 watts into 8Ω	1.00	611.40	611.40
		Install Labor	1.00	153.85	153.85
		ALS			
Listen Tech	LW-150P-02-01-D	Listen Tech Listen EVERYWHERE 2 Channel Wi-Fi Audio Server (Dante)	1.00	1,308.06	1,308.06
Listen Tech	LA-326	Universal Rack Mounting Kit	1.00	75.17	75.17
		Install Labor	1.00	153.85	153.85
		Video System			
		Switching & Transport			
Crestron	HD-PS621	8x1 4K60 4:4:4 HDR Presentation System	1.00	3,497.81	3,497.81
		Install Labor	1.00	153.85	153.85
		Programming/Tech	8.00	172.03	1,376.22
Crestron	HD-TX-4KZ-101-1G-B	DM Lite® 4K60 4:4:4 Transmitter for HDMI® Signal Extension over CATx Cable,	2.00	325.22	650.43
		Install Labor	2.00	153.85	307.69
Crestron	HD-RXC-4KZ-101	DM Lite® 4K60 4:4:4 Receiver for HDMI®, RS-232, and IR Signal Extension ove	1.00	339.67	339.67
		Install Labor	1.00	153.85	153.85
Crestron	DM-NVX-D30	DM NVX™ 4K60 4:4:4 HDR Network AV Decoder	1.00	1,033.45	1,033.45
		Install Labor	1.00	153.85	153.85

1.3 List of Subcontractors

In compliance with the Subletting and Subcontracting Fair Practices Act Chapter 4 (commencing at Section 4100), Part 1, Division 2 of the Public Contract Code of the State of California and any amendments thereof, Bidder shall set forth below: (a) the name and the location of the place of business, (b) the California contractor license number, (c) the DIR public works contractor registration number unless exempt pursuant to Labor Code Sections 1725.5 and 1771.1, and (d) the portion of the work which will be done by each subcontractor who will perform work or labor or render service to the Bidder in or about the construction of the work or improvement to be performed under this Contract in an amount in excess of one-half of one percent (0.5%) of the Bidder's Total Bid Price. Notwithstanding the foregoing, if the work involves the construction of streets and highways, then the Bidder shall list each subcontractor who will perform work or labor or render service to the Bidder in or about the work in an amount in excess of one-half of one percent (0.5%) of the Bidder's Total Bid Price or \$10,000, whichever is greater. No additional time shall be granted to provide the below requested information.

If a Bidder fails to specify a subcontractor or if a contractor specifies more than one subcontractor for the same portion of work, then the Bidder shall be deemed to have agreed that it is fully qualified to perform that portion of work and that it shall perform that portion itself.

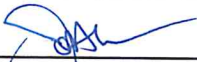
As stated in the Instructions to Bidders, Bidder is required to complete at least 90% of the contract value with its own forces. Bidder shall indicate the value of each subcontractor's work and the sum may not exceed the allowable amount.

Work to be done by Subcontractor	Name of Subcontractor	Location of Business	CSLB Contractor License No.	DIR Registration Number	% of the Work
General Contracting	VR Construction	Sebastopol, CA	1066326		1.5%

Work to be done by Subcontractor	Name of Subcontractor	Location of Business	CSLB Contractor License No.	DIR Registration Number	% of the Work

(Attach additional sheets if necessary)

Name of Bidder PCD

Signature 

Name and Title John Rudolph- President

Dated 11/27/2023

Bidder Experience Statement

**THIS FORM MUST BE PRINTED OUT, COMPLETED AND UPLOADED BACK INTO THE
PROCURENOW SYSTEM**

Bidder submits, as a part of its Bid, the following statements as to its experience qualifications. Bidder certifies that all statements and information set forth below are true and accurate. Bidder hereby authorizes the City to make inquiry as appropriate regarding its experience.

- a. Bidder has been engaged in business under its present business name for 42 years.
- b. Bidder's experience in Work of a nature similar in type and magnitude to that set forth in the Specification extends over a period of years.
- c. Bidder has satisfactorily completed all contracts awarded to it, except as follows:

(Name any and all exceptions and reasons therefor. Bidder shall attach and designate additional pages if necessary.)

- d. Within the last three years Bidder has satisfactorily completed the following contracts covering Work similar in type and magnitude to that set forth in the specifications for the following owners: (person, firms, or authorities)

Owner's Name, Address & Telephone	Name of Owner's Representative	Type of Work and Year	Contract Amount (rounded to closest thousand dollars)
SEE ATTACHED			

(Bidder shall attach and properly identify additional pages if necessary.)

1.4 Bidder Information and Experience Form

A. INFORMATION ABOUT BIDDER

NOTE: Indicate not applicable ("N/A") where appropriate. If Bidder is a joint venture, pages shall be duplicated and information provided for all parties to the joint venture.

1.0 Name of Bidder: PCD

2.0 Type, if Entity: Corporation

3.0 Bidder Address: 1032 Maxwell Drive, Santa Rosa, CA 95401

707-575-6818

Facsimile Number

707-376-3633

Telephone Number

bids@pcdinc.net

Email Address

4.0 How many years has Bidder's organization been in business as a Contractor?
41

5.0 How many years has Bidder's organization been in business under its present name? 41

5.1 Under what other or former names has Bidder's organization operated?
N/A

6.0 If Bidder's organization is a corporation, answer the following:

6.1 Date of Incorporation: 11/4/1982

6.2 State of Incorporation: California

6.3 President's Name: John Rudolph

6.4 Vice-President's Name(s): Bill Graham

6.5 Secretary's Name: John Rudolph

6.6 Treasurer's Name: Henry Beaumont

7.0 If an individual or a partnership, answer the following: N/A

7.1 Date of Organization: N/A

7.2. Name and address of all partners (state whether general or limited partnership):

N/A

8.0 If other than a corporation or partnership, describe organization and name principals:

N/A

9.0 List other states in which Bidder's organization is legally qualified to do business.

N/A

10.0 What type of work does the Bidder normally perform with its own forces?

Public Address Systems, Assistive Listening Systems, Clock/Bell Systems
Sound Masking Systems

11.0 Has Bidder ever failed to complete any work awarded to it? If so, note when, where, and why:

N/A

12.0 Within the last five years, has any officer or partner of Bidder's organization ever been an officer or partner of another organization when it failed to complete a contract? If so, attach a separate sheet of explanation:

N/A

13.0 List Trade References:

Harman Professional, Inc - customer #104507 - ann.harrison@haraman.com

Crestron Electronics - cust# 1001404, mmartin@crestron.com

QSC - cust# PCD , ar@biamp.com

Extron Electronics - cust#01*4228, cdombi@extron.com

14.0 List Bank References (Bank and Branch Address):

Exchange Bank

545 Fourth St., PO Box 403, Santa Rosa, CA 95402

Acct# 009-0013756

Ramsay.Brown@exchangebank.com 707-524-3254

15.0 Name of Bonding Company and Name and Address of Agent:

Liberty Mutual

4949 SW Meadows, Suite 650, Lake Oswego, OR 97035

Phone: 503-430-2670

regina.wicks@libertymutual.com

[REMAINDER OF THIS PAGE INTENTIONALLY LEFT BLANK]

B. LIST OF CURRENT PROJECTS (BACKLOG)

[**Duplicate Page if needed for listing additional current projects.**]

Project Name, & Owner Contact Information	Description of Bidder's Work	Completion Date	Cost of Bidder's Work
Sonoma Academy PAC	Provide sound system in main auditorium actors studio, classroom/greenroom, comprising Allen Heath mixing console, QSC DSP, video processing etc.	12/18/2023	\$758,838.00
Cong. Rodef Sholom	Bose System	2/8/2024	\$457,946.00
Ellis Elementry School	Provide projection screen, projector mount, Assistive Listening System in Multipurpose room, Classroom AV System in 34 classroom, including voice lift system	6/7/2024	\$612,000.00
Calvin Simmons Theater	Production AV	5/1/2024	\$918,899.00
Kensington Fire	Integrated AV systems in meeting room 111, kitchen/ dining room 206, day room 207, exercise room, and dorm rooms, CATV broadband systems, PA & Mass notification	1/22/2024	\$183,818.00
Palo Verde	Provide integrated AV systems for 9 classrooms with Extron Wall Vault Systems and Assistive Listening Systems, MPR projector, screen, speakers and Extron system	12/29/2023	\$204,666.58
SRJC Lindley STEM AV	Provide AV system package in various classrooms, meeting rooms and labs	12/29/2023	\$1,819,252.80

C. LIST OF COMPLETED PROJECTS – LAST THREE YEARS

[**Duplicate Page if needed for listing additional completed projects.**]

[illegible]

D. EXPERIENCE AND TECHNICAL QUALIFICATIONS QUESTIONNAIRE

Personnel:

The Bidder shall identify the key personnel to be assigned to this project in a management, construction supervision or engineering capacity.

1. List each person's job title, name and percent of time to be allocated to this project:

John Rudolph - President

Christan Velasquez - Estimator / PM

Jim Jones - Procurement Manager

2. Summarize each person's specialized education:

SEE ATTACHED

3. List each person's years of construction experience relevant to the project:

SEE ATTACHED

4. Summarize such experience:

SEE ATTACHED

Bidder agrees that personnel named in this Bid will remain on this Project until completion of all relevant Work, unless substituted by personnel of equivalent experience and qualifications approved in advance by the City.

Additional Bidder's Statements:

If the Bidder feels that there is additional information which has not been included in the questionnaire above, and which would contribute to the qualification review, it may add that information in a statement here or on an attached sheet, appropriately marked:

PCD Key Company Personnel 2023

President / Sales Manager- John Rudolph, CTS

After many years as a licensed low voltage contractor designing AV systems for residential and commercial to include sales at Pacific Stereo, Soundworks and Shoreline Stereo, John migrated into Commercial / Professional sales at Sound Genesis in 1979 – 1983 in San Francisco focusing on building and designing radio stations, recording studios broadcast TV and private production systems, as well as commercial audio video systems. John then went back to consumer AV and worked for The Good Guys starting in 1987, first in sales, then as a store manager. John then created the custom installation division of the Good Guys and rolled it out to all of the California stores until 1999 when he left to join PCD as General Manager and Vice President.

- CTS Certified
- Extron - School of Emerging Technologies Certified
- Extron - School of Emerging Technologies 4K Certified
- Biamp Certified
- Crestron Certified
- THX Level I and Level II Certified
- Listen Technologies Loop System Assisted Listening Designer Certified
- Graduated from Recording Arts School
- Licensed C-7 contractor since 1990

Vice President - Bill Graham

Bill has an extensive background in multi-unit management within the consumer electronics and retail environments - Good Guys, Best Buy, Sears and owner of a Consumer Electronics business. As Director of Custom Installation for the Good Guys, 53 retail locations were serviced. Possesses a California Real Estate Broker's license, managing branch offices.

- 8+ years with PCD
- 36+ years of experience
- Human Resources

Operations Manager - Joe Koppy

Joe manages installation schedule, service calls and vehicle fleet. He is also responsible for inventory accuracy and moving equipment to the job sites. He organizes Safety Trainings on Smartsheet's for the field team.

- Safety Officer

Procurement Manager – Jim Jones

Jim owned and operated Shoreline Audio Video in Mill Valley until 2009 when he joined Summit Electronic Systems in Petaluma overseeing creation of proposals, managing projects and carrying through projects to completion for high end clients. He was hired at PCD as Project Manager in 2011, and was promoted to Purchasing Manager in 2018. Jim is responsible for scheduling, purchasing, labor assignment and client contact during production.

- 12+ years with PCD
- 22+ years of experience

Master Technician / Programmer – Angelo Scalese

Angelo worked in professional audio from 2001 – 2007 for HomeTech and Best Buy as a Lead Technician. He was responsible for running large and small residential home integration Projects. Angelo joined PCD in in 2007, and is currently running large commercial projects that include conference rooms with video and voice reinforcement with DSP and Crestron and AMX programming. Highly certified, he is one of the Senior Technicians at PCD.

- Crestron – Programmer Level 1 & 2
- Crestron – DigitalMedia Networking Certification (DM-NVX-N)
- Crestron – Crestron DigitalMedia Certification (DM-NVX)
- Crestron - Fusion Programmer (CTI-FUSION-P)
- Symetrix – Symnet Composer
- QSC – Q-SYS DSP platform
- Extron Control Specialist certified
- Extron – GC3 Programmer & Touchlink Certified Control Associate
- CEDIA – Installer Level I & II
- AXIS - Communications Academy AXIS Boot Camp Certified
- BIAMP Systems - BIAMP VOCIA Certified
- BIAMP Systems - BIAMP TESIRAFORTE Certified
- Extron - GC PRO Certified
- CA State VDV #160978

Systems Engineer – Gordon Barnes

Worked for Furman Sound and EMG, both manufacturers of quality professional audio components. Started with PCD in 2008 and holds responsibility for design documents, custom fabrication and closeout documents. In early 2017, Gordon relocated to the San Francisco Bay Area and worked as a Project Engineer for a large AV integrator. He worked there for about a year and a half and in late 2018 he moved back to the North Bay and came back to PCD.

- 13+ Years with PCD
- 28+ Years in Electrical Engineering/Construction
- Crestron – Crestron DigitalMedia Certification (DM-NVX)
- Crestron – Crestron DMC D-4K Certified
- Extron - XTP Systems Technician Certified
- Biamp - Tesira Forte Certified
- QSC – Q-SYS Level 1 Certified
- QSC – Q-SYS Level 2 Certified
- OSHA 10 Certified

Design-Build Consultant – Joe Laxague

For over 20 years, Joe Laxague has been a notable AV professional who has worked with key industry professionals from fortune 500 companies, government, education, to large scale event production and more. Joe was the production manager for concerts featuring multiple high-profile national touring acts. Joe also has a deep knowledge of Commercial AV & Design-holding an extensive list of key industry credentials from Extron, Biamp, QSC, Shure, OSHA and more. He studied Audio Engineering at Butte College and was their founder and first president of the Music and Audio Production Club.

- CTS Certified
- AVIXA Essentials of AV Technology
- AVIXA AV Technologist
- AVIXA Networking Technology
- AVIXA AV Math for Design
- AVIXA Drawings and Documentation
- BiAmp Tesira Forte
- Extron AV Associate
- Extron Control Specialist
- QSC Q-SYS Level 1
- Shure Integrated Systems Certification Level 1 & 2
- OSHA 30
- Audinate Dante Certification Level 1 & 2
- SynAudCon Course 110 – Transformer Distributed Loudspeaker Systems
- SynAudCon Course 100 – Principles of Audio
- SynAudCon Course 50 – How Sound Systems Work

General Manager – Ted Sprague

Ted is involved with managing operations, engineering, marketing, human resources, field personnel, procurement and bid/estimating. He has worked in the system integration industry since 2002 and has previously held positions in: field operations, systems design, project management, sales, and senior management. While most of his experience has been on the residential side of the industry, he also has experience with small commercial projects, outsourced IT managed services, and manufacturing for a speaker company.

Boardroom / City Council Projects

Project Name:	Rohnert Park Council Chambers (PCD#21481)
Project Address/Location:	130 Avram Ave., Rohnert Park, CA 94928
Project Owner / Contact / Telephone:	City of Rohnert Park, Laura Luchini (Project Coordinator, lluchini@rpcity.org, 707-588-3308)
Project Architect / Telephone:	The Shalleck Collaborative, 415-956-4100
General Contractor / Telephone:	N/A worked with owner
Scope of Work:	Provided upgrades to City Council Chambers Audiovisual systems including new Winsted Broadcast furniture, Middle Atlantic racks, a Da-Lite projection screen, NewTek TriCaster live production system, Panasonic laser projectors and PTZ cameras, QSC control and DSP systems, VSI video over IP encoders/decoders, DSAN speaker clocks/timer, and Televis Discussion system.
Initial Completion:	8/25/2023
Actual Completion:	8/25/2023
Initial Contract Value	\$429,883.00
Final Contract Value	\$447,681.87
Project Name:	Town of Windsor (PCD#22045 & PCD#21179)
Project Address/Location:	9291 Old Redwood Hwy, Windsor, CA 95492
Project Owner / Contact / Telephone:	Town of Windsor, Jule Taylor, jtaylor@townofwindsor.com, 707-838-5365
Project Architect / Telephone:	N/A
General Contractor / Telephone:	N/A worked with owner
Scope of Work:	Several upgrades over the past few years; Upgrade of city council chambers for streaming and conference room two hall meetings, and also upgrade AVAAS tricast upgrade
Initial Completion:	5/10/2022
Actual Completion:	5/10/2022
Initial Contract Value	\$87,567.00
Final Contract Value	\$104,320.75
Project Name:	SoCo BOS Chamber AV Upgrade (PCD#22201)
Project Address/Location:	575 Administration Drive, Santa Rosa, CA 95403
Project Owner / Contact / Telephone:	County of Sonoma, 707-565-7500
Project Architect / Telephone:	Worked with General Contractor
General Contractor / Telephone:	Danco Builders, Charles Barnhart (PM) & Zach Niehaus, cbarnhart@danco-group.com; zniehaus@danco-group.com, 707-822-9000, 707-825-1534
Scope of Work:	PCD was requested to provide a formal RFP to update and upgrade the Sonoma County Board of Supervisors chambers where there is a existing broadcast system with cameras and microphones, projection, loudspeakers and monitors. PCD designed a new upgrade to bring the system to the "state of the art" technology utilizing Newtek Tricaster, Biamp DSP, Panasonic NDI HD cameras and a new Extron control system to operate the system. PCD successfully completed the installation late December 2022 followed up with small adjustments in early January 2023. The client is pleased with the system upgrades and streaming and recording are now clean and clear and trouble free.
Initial Completion:	1/3/2023
Actual Completion:	1/3/2023
Initial Contract Value	\$242,796.11
Final Contract Value	\$238,385.90
Project Name:	Los Altos City Council Chambers (PCD#20061)
Project Address/Location:	1 North San Antonio Road, Los Altos, CA 94022
Project Owner / Contact / Telephone:	City of Los Altos, (650) 947-2700
Project Architect / Telephone:	Co+Ed Architecture
General Contractor / Telephone:	Integra Construction Services Inc, Alexander Giammona, alex@integra-csi.com, (925) 398-8290
Scope of Work:	Provided upgrades to City Council Chambers Audiovisual systems including new Winsted Broadcast furniture, Middle Atlantic racks, a custom Draper fixed/curved projection screen, NewTek TriCaster live production system, Panasonic flat panel displays, Digital Projection laser projector, Panasonic PTZ cameras, QSC DSP systems, Crestron video over IP encoders/decoders, DSAN speaker clocks/timer, Shure wireless microphone systems, Listen Tech assisted listening system, Telview custom bulletin board system, and Taiden Discussion system.
Initial Completion:	1/24/2023
Actual Completion:	1/24/2023
Initial Contract Value	\$180,000.00
Final Contract Value	\$193,216.65
Project Name:	City of Santa Rosa UFO (PCD# 19117)
Project Address/Location:	City of Santa Rosa, 635 First Street, 2nd Floor, Santa Rosa, CA 95404
Project Owner / Contact / Telephone:	City of Santa Rosa, Brian Kilkenny (PM), 707-543-3116, BKilkenny@srcity.org
Project Architect / Telephone:	n/a - PCD

General Contractor / Telephone:	n/a - PCD
Scope of Work:	Provided and installed upgrade of AV Systems for three meeting rooms and control room including removal and replacement of three projectors, screens and PTZ video cameras, and ceiling speakers. Installed six owner furnished TVs and mounts, and associated wiring.
Initial Completion:	2/5/2020
Actual Completion:	2/5/2020
Initial Contract Value	\$422,429.98
Final Contract Value	\$422,429.98
Project Name:	Eureka City Council AV Upgrade (PCD#21387)
Project Address/Location:	531 K Street, Eureka, CA 95501
Project Owner / Contact / Telephone:	City of Eureka, Brian Gerving, bgerving@ci.eureka.ca.gov, (707) 441-4203
Project Architect / Telephone:	N/A
General Contractor / Telephone:	N/A
Scope of Work:	Installed 2 new 5000 lumen laser projectors, new wiring and tricester for screaming, along with 9 new 10" table top Dais and Staff monitors.
Initial Completion:	8/27/2021
Actual Completion:	8/27/2021
Initial Contract Value	\$119,811.27
Final Contract Value	\$119,811.27
Project Name:	Finley Community Center (PCD#19141)
Project Address/Location:	635 First Street, 2nd Floor, Santa Rosa, Ca 95401
Project Owner / Contact / Telephone:	City of Santa Rosa, Jennifer Myles, JMyles@srcity.org, 707-543-3709
Project Architect / Telephone:	N/A - worked directly with Owner
General Contractor / Telephone:	N/A - worked directly with Owner
Scope of Work:	PCD designed and provided a new AV Upgrade to allow HD projection of presentation content along with an upgrade for the sound system to better control the sound in the highly reflective surfaces. PCD also included a touch panel control system to allow users a intuitive macro based touch panel that sequentially turns on and switches sources for ease of use by end users. The system is now more user friendly and operates and performs with the latest in technology for video presentations as well as much better sound quality to the audience with minimized reflections from the hardwood floors and walls.
Initial Completion:	1/31/2020
Actual Completion:	1/31/2020
Initial Contract Value	109,380.00
Final Contract Value	109,380.00
Project Name:	Milpitas City Hall (PCD#19152, #19160)
Project Address/Location:	455 East Calavares Blvd., Milpitas, CA 95035
Project Owner / Contact / Telephone:	City of Milpitas, Eliren Pasion, 408-586-3160 , epasion@ci.milpitas.ca.gov
Project Architect / Telephone:	N/A
General Contractor / Telephone:	N/A
Scope of Work:	PCD added Sharp Commercial Digital Signage Displays, along with Crestron Systems. Upgraded several Conference rooms for City Hall as well as modernizing the city Lobby with displays
Initial Completion:	1/8/2020
Actual Completion:	1/8/2020
Initial Contract Value	\$45,583.74
Final Contract Value	\$45,583.74
Project Name:	Mountain View Whisman School District Boardroom (PCD# 19108)
Project Address/Location:	1400 Montecito Ave, Mountain View, CA 94043
Project Owner / Contact / Telephone:	Consultant: Greystone West - Jason Cave - jason@greystonewest.com - 650-933-0624 , Novotny, Theresa , theresa@greystonewest.com, :707-933-0624
Project Architect / Telephone:	DTA Architects - Alice Ader - aa@dtbarch.com
General Contractor / Telephone:	worked along with Greystone West, Mikael Estrada (PM), mikael@greystonewest.com
Scope of Work:	Boardroom AV Systems
Initial Completion:	2/6/2020
Actual Completion:	2/6/2020
Initial Contract Value	\$199,883.00
Final Contract Value	\$205,381.69
Project Name:	SCOE ANNEX Building - Sonoma County Office of Education (PCD #17149)
Project Address/Location:	5340 Skylane Blvd., Santa Rosa, CA 95403
Project Owner / Contact / Telephone:	Contact- Daniel Bienkowski , dbienkowski@scoe.org, 707-524-8324
Project Architect / Telephone:	n/a - PCD

General Contractor / Telephone:	n/a - PCD
Scope of Work:	PCD to provide & install Audio/Video System including 3 video wall pop out Premeir Mount LMVS bracket along with installation totally 27 mounts.
Initial Completion:	8/2/2018
Actual Completion:	8/2/2018
Initial Contract Value	\$220,202.00
Final Contract Value	\$232,467.26
Project Name:	Healdsburg City Council Chambers (PCD#17068)
Project Address/Location:	401 Grove Street, Healdsburg, CA 95448
Project Owner / Contact / Telephone:	City of Healdsburg - Heather Ippoliti - hippoliti@ci.healdsburg.ca.us - 707-431-3319
Project Architect / Telephone:	n/a
General Contractor / Telephone:	n/a - PCD
Scope of Work:	PCD provided and installed a new Streaming Broadcast System for the City Council Chambers which includes upgraded equipment capabilities allowing cleaner live feeds, smoother signal flow for microphones and archival storage of all broadcasts.
Original Completion Date:	2018
Date Completed:	2018
Initial Contract Value:	\$132,509.00
Final Contract Value:	\$137,725.00
Project Name:	Sonoma County Office of Education (PCD#17149)
Project Address/Location:	5340 Skylane Blvd., Santa Rosa, CA 95403
Project Owner / Contact / Telephone:	Sonoma County Office of Education, Daniel Bienowski, dbienkoski@scoe.org, 707-524-8324
Project Architect / Telephone:	n/a
General Contractor / Telephone:	n/a - PCD
Scope of Work:	PCD to provided & install Audio/ Video System including 3 video wall pop out Premier Mount LMVS bracket along with installation totally 27 mounts
Initial Completion:	8/2/2018
Actual Completion:	8/2/2018
Initial Contract Value:	\$220,202.00
Final Contract Value:	\$232,467.26
Project Name:	Windsor Town Council AV Chamber (PCD#20056)
Project Address/Location:	9291 Old Redwood HWY, Windsor, CA 95492
Project Owner / Contact / Telephone:	Town of Windsor City Council, Jule Taylor, jtaylor@townofwindsor.com, (707) 838-5365
Project Architect / Telephone:	N/A
General Contractor / Telephone:	N/A - worked with Owner
Scope of Work:	Upgrade of city council chambers for streaming and conference room two hall meetings
Initial Completion:	4/2/2018
Actual Completion:	4/2/2018
Initial Contract Value	\$39,600.52
Final Contract Value	\$42,418.02
Project Name:	Traditional Medicinals (PCD#16127)
Project Address/Location:	4515 Ross Road, Sebastopol, CA 95472
Project Owner / Contact / Telephone:	Jeffrey Flasher - jeffreylasher@tradmed.com - 707-823-8911
Project Architect / Telephone:	n/a - PCD
General Contractor / Telephone:	n/a - PCD
Scope of Work:	Video Wall and Room 101 DSP ceiling microphone, AV systems for rooms#104, 106, 109, 115, provided projects for room 101, and 121.
Initial Completion:	7/7/2017
Actual Completion:	7/7/2017
Initial Contract Value	\$110,984.10
Final Contract Value	\$103,548.30
Project Name:	Covia (formerly Episcopal Senior Communities) PCD #18071
Project Address/Location:	2185 N California Blvd. #575, Walnut Creek, CA 94596
Project Owner / Contact / Telephone:	Chris Dana - 925-956-7400
Project Architect / Telephone:	N/A
General Contractor / Telephone:	N/A
Scope of Work:	Provided AV Systems for new office spaces: Huddle rooms- OFCI Prowise displays, Boardroom & Fishbowl - 75" LG Pro HD display NuReva sound /microphone bar and polycom Trio 8880, in the Gathering Space- provided and installed 3x3 video wall, Vaddio Matrix Pro AV Bridge, two Vaddio Roboshot cameras, wireless microphones and associated equipment.
Initial Completion:	6/27/2018
Actual Completion:	6/27/2018

Initial Contract Value	\$170,684.94
Final Contract Value	\$156,873.00
Project Name:	Keysight Technologies - Fire Damage AV Replacements at Multiple Locations (PCD#18029)
Project Address/Location:	1400 Fountaingrove Parkway, Santa Rosa, CA 95403
Project Owner / Contact / Telephone:	Keysight/CBRE - Steve Howard (PM), Steve.howard@cbre.com, 707-799-8637
Project Architect / Telephone:	N/A
General Contractor / Telephone:	Worked directly with the Owner
Scope of Work:	Provided and installed a new Laser 5000 Lumen projector mount in various rooms. Also added a Kramer wireless collaboration device and new screen.
Initial Completion:	6/1/2018
Actual Completion:	6/1/2018
Initial Contract Value	\$276,978.14
Final Contract Value	\$276,978.14
Project Name:	Old Solano Courthouse (#21073)
Project Address/Location:	600 Union Ave, Fairfield, CA 94533
Project Owner / Contact / Telephone:	Judicial Council of California
Project Architect / Telephone:	Hornberger + Worstell - Jim Degener - degener@hwiarchitects.com - 415-391-1080
General Contractor / Telephone:	Plant Construction Company - Aaron Holm - aaronh@plantco.com
Scope of Work:	PCD was awarded the contract for the rebuild of the historic courthouse for Solano County. In the three courtrooms, PCD provided and installed projection systems along with sound reinforcement systems and assisted listening in each.
Initial Completion:	December 2014
Actual Completion:	December 2014
Initial Contract Value	\$406,889.00
Final Contract Value	\$406,889.00
Project Name:	Brentwood Community Center (#20879)
Project Address/Location:	150 City Park Way, Brentwood, CA 94513
Project Owner / Contact / Telephone:	City of Brentwood
Project Architect / Telephone:	Yun Cho - 925-516-5104 - ycho@brentwoodca.gov
General Contractor / Telephone:	n/a - PCD
Scope of Work:	PCD provided a design assist on the new city government complex including city council chambers, video conferencing meeting hall and park stage sound reinforcement system used for summer concerts for the community. All systems were provided and installed by PCD and, since the initial installation date, have been requested to provide and install additional add-on features and improvements to the initial design to enhance the facilities for meetings and events. This has turned out to be a great working relationship with the City of Brentwood and PCD.
Initial Completion:	2013
Actual Completion:	2013
Initial Contract Value	\$997,000.00
Final Contract Value	\$997,000.00
Project Name:	Milpitas Council Chambers (#15023)
Project Address/Location:	455 East Calaveras Boulevard, Milpitas, California 95035
Project Owner / Contact / Telephone:	Julie Waldron - 408-586-3314 - jwaldron@ci.milpitas.ca.gov
Project Architect / Telephone:	n/a
General Contractor / Telephone:	n/a - PCD
Scope of Work:	Milpitas City Hall is a shining example of a state-of-the-art city council chamber. This facility was transformed from an older technology standard definition system to a six-camera high definition multi-faceted system. It is now capable of incredibly sharp presentations with rear projection video and ultra-clear audio in the comfortable theatre-like atmosphere in the council chamber. Then they can take those meetings to the high definition level and broadcast them out to the world, keeping up with the studio quality you see from the big networks. This is the benchmark for any modern city council chamber.
Date Completed:	2012
Initial Contract Value	\$1,036,945.82
Final Contract Value	\$1,036,945.82
Project Name:	Claybank Adult Detention Facility (PCD#14035)
Project Address/Location:	675 Texas Street, Suite 2500, Fairfield, CA 94533
Project Owner / Contact / Telephone:	Solano County Department of General Services
Project Architect / Telephone:	n/a
General Contractor / Telephone:	Collins Electrical Company Inc

Scope of Work:	PCD was awarded the AV package for the new correctional facility to include Conference Room AV systems, video conference room and the AV for the prison TV sets in the day rooms and the meeting rooms to distribute self driven content and some TV channels to the inmates.
Initial Completion:	2014
Actual Completion:	2014
Initial Contract Value:	\$577,348.00
Final Contract Value:	\$577,348.00
Project Name:	Cal Fire Academy (PCD#13158)
Project Address/Location:	4501 Highway 104, Lone, CA 95640
Project Owner / Contact / Telephone:	State of California Forestry & Fire Protection, Peter Billing, Peter.Billing@fire.ca.gov, 209-274-5991
Project Architect / Telephone:	n/a
General Contractor / Telephone:	n/a - PCD
Scope of Work:	PCD provided and installed the training academy in Lone, CA with complete HD AV presentation systems for their Lecture Halls, Amphitheater and classroom teaching audio video and sound reinforcement systems.
Initial Completion:	2014
Actual Completion:	2014
Initial Contract Value:	\$394,788.00
Final Contract Value:	\$394,788.00
Project Name:	Sonoma County Board of Supervisors Meeting Room (#21022)
Project Address/Location:	575 Administration Drive, Room 100 A, Santa Rosa, CA 95403
Project Owner / Contact / Telephone:	County of Sonoma, John Hubiak - 707-565-2241 - john.hubiak@sonoma-county.org
Project Architect / Telephone:	N/A
General Contractor / Telephone:	n/a
Scope of Work:	PCD provided a design assist on the upgrade and renovation of the Sonoma County Board of Supervisors chamber which included HD cameras and video production console to stream to the internet and archive for storage the various meetings held in the facility. New presentation equipment to include HD projector and distribution to flat panels in various conference rooms and lobby and re-programming of the touch panel control system created a more usable and better quality system overall.
Initial Completion:	2012
Actual Completion:	2012
Initial Contract Value	\$179,355.00
Final Contract Value	\$179,355.00

PCD Master List Projects	
Largest Contracts in Past 10 years	
Project Name:	Cache Creek Hotel Expansion (PCD#17150)
Project Address/Location:	14455 Hwy 16, Brooks, CA 95606
Project Owner / Contact / Telephone:	Yocha Dehe Wintun Nation, Scott Adamson and Lars Sequiera, 530-796-5742, 530-796-5286, SAdamson@yochadehe-nsn.gov, lsequiera@cachecreek.com
Project Architect / Telephone:	N/A
General Contractor / Telephone:	Worked directly with Owner
Scope of Work:	PCD to install and supply theatrical audio video systems, including AV devices, and configure and demonstrate portable systems
Initial Completion:	2/18/2021
Actual Completion:	2/18/2021
Initial Contract Value:	\$1,998,788
Final Contract Value:	\$2,775,615.10
Project Name:	GMC/Shroeder Hall/Student Services, Sonoma State University, Rohnert Park, CA (PCD # Various)
Project Address/Location:	Sonoma State University - 1801 E. Cotati Ave., Rohnert Park, CA 94928
Project Owner / Contact / Telephone:	Christopher Dinno, Senior Director Facilities - christopher.dinno@sonoma.edu - (707) 664-2870
Project Architect / Telephone:	William Rawn Associates (617) 423-3470
General Contractor / Telephone:	Rudolph & Sletten - (650) 216-3600
Scope of Work:	Audio/Visual System – Performing Arts Center, Recital Hall and Student Center
Initial Completion:	6/11/2012
Actual Completion:	6/11/2012
Initial Contract Value:	\$1,713,887.00
Final Contract Value:	\$1,713,887.00
Project Name:	HP Moffett Towers Bldg F&G (PCD#20934)
Project Address/Location:	Moffett Towers, 1140 Enterprise Way, Sunnyvale, CA 94089
Project Owner / Contact / Telephone:	Moffett Towers c/o Jay Paul Company, Owner - jaypaul@jaypaul.com - (415) 397-0442
Project Architect / Telephone:	Charles M. Salter Associates Inc. (415) 397-0442
General Contractor / Telephone:	Rudolph & Sletten / (650) 216-3600
Scope of Work:	PCD provided and installed 79 conference rooms with LCD flat panel TV sets and AV input and control as well as (9) video projection / video conferencing rooms and a multi use Cafeteria with complete AV presentation at Hewlett Packard Moffett Towers in Mountain View.
Initial Completion:	December 2012
Actual Completion:	December 2012
Initial Contract Value:	\$1,000,071.00
Final Contract Value:	\$1,414,453.00
Project Name:	DeAnza High School (PCD#20811)
Project Address/Location:	5000 Valley View Rd, El Sobrante, CA 94803
Project Owner / Contact / Telephone:	West Contra Costa Unified School District - Magdy Abdalla, District Engineer - (510) 307-4540
Project Architect / Telephone:	Schalleck Collaborative - Ian Hunter - ian@shalleck.com - (415) 576-0829
General Contractor / Telephone:	Wright Contracting - Joe Grulich - jgrulich@wrightcontracting.com - (707) 528-1172
Scope of Work:	ProTools Recording Studio/56 Classrooms Audio/Visual
Initial Completion:	November 2012
Actual Completion:	November 2012
Initial Contract Value:	\$1,278,860.00
Final Contract Value:	\$1,278,610.00
Project Name:	Westmoor HS (PCD #17004)
Project Address/Location:	131 Westmoor Avenue, Daly City, CA 94015
Project Owner / Contact / Telephone:	Jefferson Union High School District - Stephanie Phillips - 650-550-7931
Project Architect / Telephone:	Aedis Architects, June Yip, 408-300-5160 -worked with GC
General Contractor / Telephone:	Swinerton Builders - Cathy Lachenmyer - 408-454-2014 - clachenmyer@swinerton.com
Scope of Work:	AV systems in Main Theater including mixer, Biamp dsp, racks with power conditioner, wireless mics, L'Acoustics speaker system, video system, short throw projector, cable TV, assisted listening system, intercom, and control system.
Initial Completion:	12/15/2021
Actual Date of Completion:	12/15/2021
Original Contract Price:	\$1,110,883.00
Current Adjusted Contract Price	\$1,153,337.31

DSA Approval Required:	Yes
Project Name:	Harker High School / Rothschild's PAC (PCD#16004)
Project Address/Location:	500 Saratoga Avenue, San Jose, CA 95124
Project Owner / Contact / Telephone:	The Harker School
Project Architect / Telephone:	Studio Bondy Architecture (510) 836-6594
General Contractor / Telephone:	Devcon Construction, Cameron Page, cpage@devcon-const.com, 408-942-8200
Scope of Work:	Audio Visual Systems for Main Theatre (installation of a 34-foot by 15-foot LED video wall), Conference room, Medium Vocal Space, Large Vocal Space, Orchestra Room, Big Rehearsal room. Also installed AV in the main Gym, fitness room, training room, team room and boys and girls locker room
Initial Completion:	4/27/2018
Actual Completion:	4/27/2018
Initial Contract Value:	\$757,838.00
Final Contract Value:	\$1,256,947.74
Project Name:	CSU Monterey Bay Academic III Buildout (#19003)
Project Address/Location:	3050 Divarty Street, Seaside, CA 93955
Project Owner / Contact / Telephone:	Trustees of the California State University - Kathleen Ventimiglia - kventimiglia@csumb.edu - 831-582-4304
Project Architect / Telephone:	WRNS Studio - Mitch Fine - mfine@wrnsstudio.com
General Contractor / Telephone:	Otto Construction - Nick Julo and Kevin Halfhill - njulo@ottoconstruction.com, (916) 441-6870
Scope of Work:	AV systems throughout multiple classrooms, gallery, lecture rooms, conference rooms, cinema lab, screening & control rooms and digital signage in lobby
Initial Completion:	12/26/2019
Actual Completion:	12/26/2019
Initial Contract Value:	\$1,156,312.00
Final Contract Value:	\$603,863.00
Project Name:	Milpitas Audio Visual Upgrades 2012 (#15023)
Project Address/Location:	455 East Calaveras Blvd, Milpitas, CA 95035
Project Owner / Contact / Telephone:	City of Milpitas - Julie Waldron, Project Manager - 408-690-3603 - jwaldron@cim.milpitas.ca.gov
Project Architect / Telephone:	n/a
General Contractor / Telephone:	n/a - PCD
Scope of Work:	Audio Visual upgrades to City Council Chambers and various additional rooms in City Hall
Initial Completion:	9/6/2013
Actual Completion:	9/6/2013
Initial Contract Value:	\$946,650.00
Final Contract Value:	\$1,036,945.82
Project Name:	CSU Chico Taylor II Replacement Building (PCD#14091)
Project Address/Location:	121 Normal Avenue, Chico, CA 95928
Project Owner / Contact / Telephone:	Cal State University Chico
Project Architect / Telephone:	WRNS Studio (415) 489-2224
General Contractor / Telephone:	Otto Construction - Jose Carrasco (916)441-5870 - jcarrasco@ottoconstruction.com
Scope of Work:	In newly constructed Arts and Humanities building on campus, PCD provided extensive audio visual installations for the Recital hall, Recording Studio, Recording Classroom and Dance Rehearsal Space. The recital hall is equipped with an audio mixing console, digital signal processing and program paging, wireless microphone systems, wall mounted loudspeakers and power amplifiers for maximum performance. The recording studio, control room and classroom are equipped with a 48-channel state of the art mixing console, powerful studio grade monitoring loudspeakers, outboard recording, remote recording, digital matrix switching, control monitoring systems and studio furniture.
Initial Completion:	2/3/2016
Actual Completion:	2/3/2016
Initial Contract Value:	\$946,230.00
Final Contract Value:	\$1,014,185.00
Project Name:	Palo Alto High School - Performing Arts Center (PAC-14)(PCD#14058)
Project Address/Location:	50 Embarcadero Road, Palo Alto, CA 95301
Project Owner / Contact / Telephone:	Palo Alto USD - Tom Hodges - (650)329-3927 - tom@fs3h.com, pchapman@pausd.org
Project Architect / Telephone:	Deems - Lewis - McKinley Architecture (415) 255-1811
General Contractor / Telephone:	Alten Construction (408) 434-9300
Scope of Work:	Audio/Visual System and Noise and Vibration Control - Performing Arts Center and Meyer Constellation System
Initial Completion:	2/13/2016
Actual Completion:	2/13/2016

Initial Contract Value:	\$921,688.00
Final Contract Value:	1,013,383.00
Project Name:	Pinole Valley HS Theater (Lathrop) (PCD#16008)
Project Address/Location:	2900 Pinole Valley Road, Pinole, CA 94564
Project Owner / Contact / Telephone:	West Contra Costa Unified School District -worked with Contractor
Project Architect / Telephone:	WLC Architects, 510-450-1999
General Contractor / Telephone:	Lathrop Construction Associates, Inc., Kyle Martellaro, 707-746-8000 ext. 134, kyle.martellaro@lathropconstruction.com
Scope of Work:	Installation of video projection system (large projection screens), large speaker arrays, ADA Assistive Listening Systems, production intercom systems, control systems - Crestron equipment and programming , and Digital Signal Processor.
Initial Completion:	1/30/2020
Actual Completion:	1/30/2020
Initial Contract Value:	\$960,672.00
Final Contract Value:	\$1,009,153.00
Project Name:	Brentwood Community Center (#20879)
Project Address/Location:	150 City Park Way, Brentwood, CA 94513
Project Owner / Contact / Telephone:	Yun Cho, CIO - 925-516-5104 - ycho@brentwoodca.gov
Project Architect / Telephone:	n/a
General Contractor / Telephone:	n/a / PCD
Scope of Work:	PCD provided a design assist on the new city government complex including city council chambers, video conferencing meeting hall and park stage sound reinforcement system used for summer concerts for the community. All systems were provided and installed by PCD and, since the initial installation date, have been requested to provide and install additional add-on features and improvements to the initial design to enhance the facilities for meetings and events. This has turned out to be a great working relationship with the City of Brentwood and PCD.
Initial Completion:	8/16/2013
Actual Completion:	8/16/2013
Initial Contract Value:	\$944,109.00
Final Contract Value:	\$944,109.00
Project Name:	Transbay Transit Center 2017-2018 (PCD #14148)
Project Address/Location:	425 Mission Street, San Francisco, CA 94105
Project Owner / Contact / Telephone:	Transbay Joint Power Authority
Project Architect / Telephone:	n/a
General Contractor / Telephone:	Rail Services Corporation (504) 734-3773
Scope of Work:	Installation of PA Equipment at Transbay Center Building and related structures
Initial Completion:	8/30/2018
Actual Completion:	8/30/2018
Initial Contract Value:	\$1,019,991.00
Final Contract Value:	\$1,019,991.00
Project Name:	Burbank Theatre Rehabilitation (PCD# 17124)
Project Address/Location:	1501 Mendocino Ave, Santa Rosa, CA 95403
Project Owner / Contact / Telephone:	Sonoma County Junior College District -
Project Architect / Telephone:	TLCD Architecture and Mark Cavagnero Associates
General Contractor / Telephone:	Wright Contracting - Steve McColloch - smcculloch@wrightcontracting.com - 707-528-1172
Scope of Work:	Complete overhaul of the Main Theater, Studio Theater, Rehearsal Space, Conference Room, Design Lab and Costume Shop & Makeup Lab. Top of the line AV equipment was chosen to match the standards SRJC students would expect to utilize if they remain in the AV industry for a long term career.
Initial Completion:	3/6/2020
Actual Completion:	3/6/2020
Initial Contract Value:	\$860,683.00
Final Contract Value:	\$851,726.00
Project Name:	Novato HS Arts & Science Bldgs (PCD#19058)
Project Address/Location:	625 Arthur Street, Novato, CA 94947
Project Owner / Contact / Telephone:	Novato Unified School District , worked with electrical contractor , 415-897-4201
Project Architect / Telephone:	WLC Architect, 510-450-1999 -worked with Electrical contractor
General Contractor / Telephone:	Ray Lunardi - 707-545-4755 - ray@lunardielectric.com
Scope of Work:	AV installs in Main Theater including mixer, equipment racks, wireless mics, loudspeakers, video system, projector, overhead paging, Meyer Sound and Crestron control system.

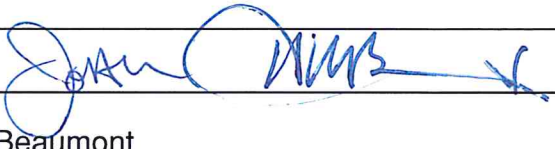
Initial Completion:	6/1/2021
Actual Date of Completion:	6/1/2021
Original Contract Price:	\$577,838.00
Final Contract Value:	\$647,058.21
DSA Approval Required:	Yes
Project Name:	San Mateo High School District & Performing Arts Center PCD (#Various)
Project Address/Location:	600 N. Delaware St., San Mateo, CA 94401
Project Owner / Contact / Telephone:	Greystone West (owner's rep) Hugh Whelan - hugh@greystonewest.com - 707-933-0624
Project Architect / Telephone:	Quattrocchi Kwok Architects (707) 576-0829
General Contractor / Telephone:	Cahill Contractors (415) 986-0600
Scope of Work:	As a part of a large rehabilitation bond program, PCD was the selected contractor for multiple systems in various venues designed by The Shalleck Collaborative. Among them, PCD provided a reference standard AV system for the new Performing Arts Center that is also used by the community for multi-cultural events. The system utilizes the L'Acoustics line arrays for an outstanding sound system.
Initial Completion:	10/15/2014
Actual Completion:	10/15/2014
Initial Contract Value:	\$2,526,964.00
Final Contract Value:	\$2,526,964.00
Project Name:	Berkeley HS Theatre Renovation (PCD#20099)
Project Address/Location:	1930 Allston Way, Berkeley, CA 94704
Project Owner / Contact / Telephone:	Berkeley Unified School District , 510-486-9338
Project Architect / Telephone:	CAW Architects
General Contractor / Telephone:	Alten Construction Inc, Nick Matson, nmatson@altenconsturction.com , 510-234-420, JCanseco@altenconstruction.com Jose Canseco main engineer
Scope of Work:	Alten Construction Inc, Nick Matson, nmatson@altenconsturction.com , 510-234-420
Initial Completion:	Production intercom and paging system additions for existing theatre, new AV systems for Drama, Jazz, Orchestra, Choral, Music labs, and lobby video wall including a combination of projection and LCD flat panel displays.
Actual Date of Completion:	10/18/2023
Original Contract Price:	10/18/2023
Final Contract Value:	\$499,988.00
DSA Approval Required:	\$508,627.21

E. VERIFICATION AND EXECUTION

These Bid Forms shall be executed only by a duly authorized official of the Bidder:

I declare under penalty of perjury under the laws of the State of California that the foregoing information is true and correct:

Name of Bidder PCD

Signature 

Name John Rudolph , Henry Beaumont

Title President/Secretary Chairman of Board / Treasurer

Date 11/27/2023

1.5 Non-Collusion Declaration

The undersigned declares:

I am the President of PCD, the party making the foregoing Bid.

The Bid is not made in the interest of, or on behalf of, any undisclosed person, partnership, company, association, organization, or corporation. The Bid is genuine and not collusive or sham. The Bidder has not directly or indirectly induced or solicited any other Bidder to put in a false or sham bid. The Bidder has not directly or indirectly colluded, conspired, connived, or agreed with any Bidder or anyone else to put in a sham bid, or to refrain from bidding. The Bidder has not in any manner, directly or indirectly, sought by agreement, communication, or conference with anyone to fix the Bid Price of the Bidder or any other Bidder, or to fix any overhead, profit, or cost element of the Bid Price, or of that of any other Bidder. All statements contained in the Bid are true. The Bidder has not, directly or indirectly, submitted his or her Bid Price or any breakdown thereof, or the contents thereof, or divulged information or data relative thereto, to any corporation, partnership, company, association, organization, bid depository, or to any member or agent thereof to effectuate a collusive or sham bid, and has not paid, and will not pay, any person or entity for such purpose.

Any person executing this declaration on behalf of a Bidder that is a corporation, partnership, joint venture, limited liability company, limited liability partnership, or any other entity, hereby represents that he or she has full power to execute, and does execute, this declaration on behalf of the Bidder.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct and that this declaration is executed on 11/27/2024 [date], at Santa Rosa [city], California [state].

Name of Bidder PCD

Signature 

Name John Rudolph

Title President/ Secretary

1.6 Iran Contracting Act Certification.
(Public Contract Code section 2200 et seq.)

As required by California Public Contract Code Section 2204, the Contractor certifies subject to penalty for perjury that the option checked below relating to the Contractor's status in regard to the Iran Contracting Act of 2010 (Public Contract Code Section 2200 et seq.) is true and correct:

- ☐ The Contractor is not:
- (1) identified on the current list of person and entities engaged in investment activities in Iran prepared by the California Department of General Services in accordance with subdivision (b) of Public Contract Code Section 2203; or
 - (2) a financial instruction that extends, for 45 days or more, credit in the amount of \$20,000,000 or more to any other person or entity identified on the current list of persons and entities engaging in investment activities in Iran prepared by the California Department of General Services in accordance with subdivision (b) of Public Contract Code Section 2203, if that person or entity uses or will use the credit to provide goods or services in the energy sector in Iran.
- ☐ The City has exempted the Contractor from the requirements of the Iran Contracting Act of 2010 after making a public finding that, absent the exemption, the City will be unable to obtain the goods and/or services to be provided pursuant to the Contract.
- ☒ The amount of the Contract payable to the Contractor for the Project does not exceed \$1,000,000.

Signature: _____

Printed Name: John Rudolph

Title: President/ Secretary

Firm Name: PCD

Date: 11/27/2023

Note: In accordance with Public Contract Code Section 2205, false certification of this form shall be reported to the California Attorney General and may result in civil penalties equal to the greater of \$250,000 or twice the Contract amount, termination of the Contract and/or ineligibility to bid on contracts for three years.

1.7 Public Works Contractor Registration Certification

Pursuant to Labor Code sections 1725.5 and 1771.1, all contractors and subcontractors that wish to bid on, be listed in a bid proposal, or enter into a contract to perform public work must be registered with the Department of Industrial Relations. See <http://www.dir.ca.gov/PublicWorks/PublicWorks.html> for additional information.

No bid will be accepted nor any contract entered into without proof of the contractor's and subcontractors' current registration with the Department of Industrial Relations to perform public work.

Bidder hereby certifies that it is aware of the registration requirements set forth in Labor Code sections 1725.5 and 1771.1 and is currently registered as a contractor with the Department of Industrial Relations.¹

Name of Bidder: PCD

DIR Registration Number: 1000000341

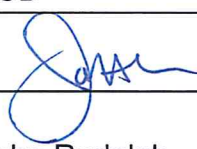
DIR Registration Expiration: 6/30/2024

Small Project Exemption: Yes or X No

Unless Bidder is exempt pursuant to the small project exemption, Bidder further acknowledges:

1. Bidder shall maintain a current DIR registration for the duration of the project.
2. Bidder shall include the requirements of Labor Code sections 1725.5 and 1771.1 in its contract with subcontractors and ensure that all subcontractors are registered at the time of bid opening and maintain registration status for the duration of the project.
3. Failure to submit this form or comply with any of the above requirements may result in a finding that the bid is non-responsive.

Name of Bidder PCD

Signature 

Name and Title John Rudolph - President/ Secretary

Dated 11/27/2023

¹ If the Project is exempt from the contractor registration requirements pursuant to the small project exemption under Labor Code Sections 1725.5 and 1771.1, please mark "Yes" in response to "Small Project Exemption."

PUBLIC WORKS CONTRACTOR REGISTRATION CERTIFICATION

THIS FORM MUST BE PRINTED OUT, COMPLETED AND UPLOADED BACK INTO THE PROCURENOW SYSTEM

[NOTE: include this form if contract may be subject to prevailing wage otherwise delete]

Pursuant to Labor Code sections 1725.5 and 1771.1, all contractors and subcontractors that wish to bid on, be listed in a bid proposal, or enter into a contract to perform public work must be registered with the Department of Industrial Relations. See <http://www.dir.ca.gov/PublicWorks/PublicWorks.html> for additional information.

No bid will be accepted nor any contract entered into without proof of the contractor's and subcontractors' current registration with the Department of Industrial Relations to perform public work.

Contractor hereby certifies that it is aware of the registration requirements set forth in Labor Code sections 1725.5 and 1771.1 and is currently registered as a contractor with the Department of Industrial Relations.¹

Name of Bidder: PCD _____

DIR Registration Number: 1000000341 _____

Small Project Exemption: _____ Yes or X No

Unless Contractor is exempt pursuant to the small project exemption, Contractor further acknowledges:

- (1) Contractor shall maintain a current DIR registration for the duration of the project.
- (2) Contractor shall include the requirements of Labor Code sections 1725.5 and 1771.1 in its contract with subcontractors and ensure that all subcontractors are registered at the time of bid opening and maintain registration status for the duration of the project.

Name of Contractor: PCD _____

Signature: _____

Name and Title: Johnn Rudolph / President _____

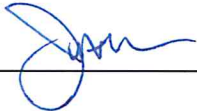
Dated: 11/27/2023 _____

¹ If the Project is exempt from the contractor registration requirements pursuant to the small project exemption under Labor Code Sections 1725.5 and 1771.1, please mark "Yes" in response to "Small Project Exemption."

1.8 Wage Theft Certification

The Bidder certifies subject to penalty for perjury that the option checked below relating to the Bidder and its subcontractors' status in regard to wage theft is true and correct:

- ☒ Neither the Bidder nor any of its subcontractors have been found by a final court order or administrative action of an investigatory government agency to have violated federal, state or local wage and hour laws, including but not limited to the federal Fair Labor Standards Act, the California Labor Code and the Milpitas Minimum Wage Ordinance, within the past five (5) years from the bid submission deadline.
- ☐ The Bidder or its subcontractors have been found by a final court order or administrative action of an investigatory government agency to have violated federal, state or local wage and hour laws, including but not limited to the federal Fair Labor Standards Act, the California Labor Code and the Milpitas Minimum Wage Ordinance, within the past five (5) years from the bid submission deadline. For each violation, the Bidder shall provide a copy of (i) the final court order and/or final administrative decision/action; and (ii) documents demonstrating either that the order/decision/action has been fully satisfied, or if the order/decision/action has not been fully satisfied, documents evidencing a payment or other alternative plan approved by the court/government agency to satisfy the order/decision/action and proof that the Bidder or its subcontractors are in compliance with that plan as of the bid submission deadline.
- ☐ The City has exempted the Bidder from the requirements of the City of Milpitas Wage Theft Procurement Policy.

Signature:  _____

Printed Name: John Rudolph _____

Title: President/ Secretary _____

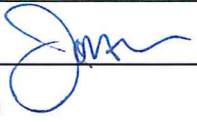
Firm Name: PCD _____

Date: 11/27/2023 _____

1.9 Contractor's Certificate Regarding Workers' Compensation.

I am aware of the provisions of section 3700 of the Labor Code which require every employer to be insured against liability for workers' compensation or to undertake self-insurance in accordance with the provisions of that code, and I will comply with such provisions before commencing the performance of the work of this Contract.

Name of Bidder PCD

Signature 

Name John Rudolph

Title President/ Secrearty

Dated 11/27/2023

1.10 Bid Bond

Note: Not required when other form of Bidder's Security, e.g. cash, certified check or cashier's check, accompanies bid.

The makers of this bond are, PCD, as Principal, and The Ohio Casualty Insurance Company, as Surety and are held and firmly bound unto the City of Milpitas, hereinafter called the City, in the penal sum of TEN PERCENT (10%) OF THE TOTAL BID PRICE of the Principal submitted to CITY for the work described below, for the payment of which sum in lawful money of the United States, well and truly to be made, we bind ourselves, our heirs, executors, administrators, successors and assigns, jointly and severally, firmly by these presents.

THE CONDITION OF THIS OBLIGATION IS SUCH that whereas the Principal has submitted the accompanying bid dated November 29, 20 23, for **Council Chamber AV System Replacement**.

If the Principal does not withdraw its Bid within the time specified in the Contract Documents; and if the Principal is awarded the Contract and provides all documents to the City as required by the Contract Documents; then this obligation shall be null and void. Otherwise, this bond will remain in full force and effect.

Surety, for value received, hereby stipulates and agrees that no change, extension of time, alteration or addition to the terms of the Contract Documents shall in affect its obligation under this bond, and Surety does hereby waive notice of any such changes.

In the event a lawsuit is brought upon this bond by the City and judgment is recovered, the Surety shall pay all litigation expenses incurred by the City in such suit, including reasonable attorneys' fees, court costs, expert witness fees and expenses.

IN WITNESS WHEREOF, the above-bound parties have executed this instrument under their several seals this 27th day of November, 2023, the name and corporate seal of each corporation.

(Corporate Seal)

PCD
Contractor/Principal
By [Signature]
Title President

(Corporate Seal)

The Ohio Casualty Insurance Company
Surety
By [Signature]
Attorney-in-Fact

(Attach Attorney-in-Fact Certificate)

Title Ty Moffett, Attorney-in-Fact

Notary Acknowledgment

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

STATE OF CALIFORNIA

COUNTY OF Sanoma

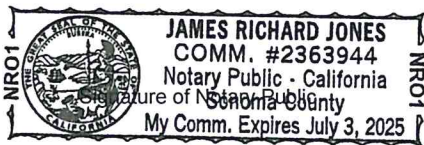
On 11/28/, 2023 before me, James R Jones, Notary Public, personally appeared John Rudolph, who proved to me on the basis of satisfactory

Name(s) of Signer(s)

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

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

WITNESS my hand and official seal.



James R Jones

OPTIONAL

Though the information below is not required by law, it may prove valuable to persons relying on the document and could prevent fraudulent removal and reattachment of this form to another document.

CAPACITY CLAIMED BY SIGNER

DESCRIPTION OF ATTACHED DOCUMENT

- ☐ Individual
☒ Corporate Officer

President
Title(s)

- ☐ Partner(s)
☐ Limited
☐ General

- ☐ Attorney-In-Fact
☐ Trustee(s)
☐ Guardian/Conservator
☐ Other:

Signer is representing:
Name Of Person(s) Or Entity(ies)

Bid Bond
Title or Type of Document

4
Number of Pages

11/29/23
Date of Document

Signer(s) Other Than Named Above

NOTE: This acknowledgment is to be completed for Contractor/Principal.

Notary Acknowledgment

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

STATE OF OREGON
COUNTY OF Marion

On November 27, 2023, before me, Tracy L. Stewart, Notary Public, personally
appeared Ty Moffett, who proved to me on the basis of satisfactory

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

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

WITNESS my hand and official seal.



Tracy L. Stewart

OPTIONAL

Though the information below is not required by law, it may prove valuable to persons relying on the document and could prevent fraudulent removal and reattachment of this form to another document.

CAPACITY CLAIMED BY SIGNER

DESCRIPTION OF ATTACHED DOCUMENT

- ☐ Individual
☐ Corporate Officer

Title(s)

- ☐ Partner(s) ☐ Limited
 ☐ General

- ☐ Attorney-In-Fact
☐ Trustee(s)
☐ Guardian/Conservator
☐ Other:

Signer is representing:
Name Of Person(s) Or Entity(ies)

Title or Type of Document

Number of Pages

Date of Document

Signer(s) Other Than Named Above

NOTE: This acknowledgment is to be completed for the Attorney-in-Fact. The Power-of-Attorney to local representatives of the bonding company must also be attached.

END OF BID BOND



This Power of Attorney limits the acts of those named herein, and they have no authority to bind the Company except in the manner and to the extent herein stated.

Liberty Mutual Insurance Company
The Ohio Casualty Insurance Company
West American Insurance Company

Certificate No: **8210904 - 905038**

POWER OF ATTORNEY

KNOWN ALL PERSONS BY THESE PRESENTS: That The Ohio Casualty Insurance Company is a corporation duly organized under the laws of the State of New Hampshire, that Liberty Mutual Insurance Company is a corporation duly organized under the laws of the State of Massachusetts, and West American Insurance Company is a corporation duly organized under the laws of the State of Indiana (herein collectively called the "Companies"), pursuant to and by authority herein set forth, does hereby name, constitute and appoint, A.G.
Sadowski, Beau Andrew Weathers, Derek A. Sadowski, Tracy Stewart, Ty Moffett

all of the city of Salem state of OR each individually if there be more than one named, its true and lawful attorney-in-fact to make, execute, seal, acknowledge and deliver, for and on its behalf as surety and as its act and deed, any and all undertakings, bonds, recognizances and other surety obligations, in pursuance of these presents and shall be as binding upon the Companies as if they have been duly signed by the president and attested by the secretary of the Companies in their own proper persons.

IN WITNESS WHEREOF, this Power of Attorney has been subscribed by an authorized officer or official of the Companies and the corporate seals of the Companies have been affixed thereto this 27th day of October, 2023.



Liberty Mutual Insurance Company
The Ohio Casualty Insurance Company
West American Insurance Company

By: David M. Carey
David M. Carey, Assistant Secretary

State of PENNSYLVANIA ss
County of MONTGOMERY

On this 27th day of October, 2023 before me personally appeared David M. Carey, who acknowledged himself to be the Assistant Secretary of Liberty Mutual Insurance Company, The Ohio Casualty Company, and West American Insurance Company, and that he, as such, being authorized so to do, execute the foregoing instrument for the purposes therein contained by signing on behalf of the corporations by himself as a duly authorized officer.

IN WITNESS WHEREOF, I have hereunto subscribed my name and affixed my notarial seal at Plymouth Meeting, Pennsylvania, on the day and year first above written.



Commonwealth of Pennsylvania - Notary Seal
Teresa Pastella, Notary Public
Montgomery County
My commission expires March 28, 2025
Commission number 1126044
Member, Pennsylvania Association of Notaries

By: Teresa Pastella
Teresa Pastella, Notary Public

This Power of Attorney is made and executed pursuant to and by authority of the following By-laws and Authorizations of The Ohio Casualty Insurance Company, Liberty Mutual Insurance Company, and West American Insurance Company which resolutions are now in full force and effect reading as follows:

ARTICLE IV – OFFICERS: Section 12. Power of Attorney.

Any officer or other official of the Corporation authorized for that purpose in writing by the Chairman or the President, and subject to such limitation as the Chairman or the President may prescribe, shall appoint such attorneys-in-fact, as may be necessary to act in behalf of the Corporation to make, execute, seal, acknowledge and deliver as surety any and all undertakings, bonds, recognizances and other surety obligations. Such attorneys-in-fact, subject to the limitations set forth in their respective powers of attorney, shall have full power to bind the Corporation by their signature and execution of any such instruments and to attach thereto the seal of the Corporation. When so executed, such instruments shall be as binding as if signed by the President and attested to by the Secretary. Any power or authority granted to any representative or attorney-in-fact under the provisions of this article may be revoked at any time by the Board, the Chairman, the President or by the officer or officers granting such power or authority.

ARTICLE XIII – Execution of Contracts: Section 5. Surety Bonds and Undertakings.

Any officer of the Company authorized for that purpose in writing by the chairman or the president, and subject to such limitations as the chairman or the president may prescribe, shall appoint such attorneys-in-fact, as may be necessary to act in behalf of the Company to make, execute, seal, acknowledge and deliver as surety any and all undertakings, bonds, recognizances and other surety obligations. Such attorneys-in-fact subject to the limitations set forth in their respective powers of attorney, shall have full power to bind the Company by their signature and execution of any such instruments and to attach thereto the seal of the Company. When so executed such instruments shall be as binding as if signed by the president and attested by the secretary.

Certificate of Designation – The President of the Company, acting pursuant to the Bylaws of the Company, authorizes David M. Carey, Assistant Secretary to appoint such attorneys-in-fact as may be necessary to act on behalf of the Company to make, execute, seal, acknowledge and deliver as surety any and all undertakings, bonds, recognizances and other surety obligations.

Authorization – By unanimous consent of the Company's Board of Directors, the Company consents that facsimile or mechanically reproduced signature of any assistant secretary of the Company, wherever appearing upon a certified copy of any power of attorney issued by the Company in connection with surety bonds, shall be valid and binding upon the Company with the same force and effect as though manually affixed.

I, Renee C. Llewellyn, the undersigned, Assistant Secretary, The Ohio Casualty Insurance Company, Liberty Mutual Insurance Company, and West American Insurance Company do hereby certify that the original power of attorney of which the foregoing is a full, true and correct copy of the Power of Attorney executed by said Companies, is in full force and effect and has not been revoked.

IN TESTIMONY WHEREOF, I have hereunto set my hand and affixed the seals of said Companies this 27th day of November, 2023.



By: Renee C. Llewellyn
Renee C. Llewellyn, Assistant Secretary

Not valid for mortgage, note, loan, letter of credit, currency rate, interest rate or residual value guarantees.

For bond and/or Power of Attorney (POA) verification inquiries, please call 610-832-8240 or email HOSUR@libertymutual.com.

00 52 13 – CONTRACT

This CONTRACT, No. 24-030 is made and entered on _____ by and between City of Milpitas, sometimes hereinafter called "City," and _____, sometimes hereinafter called "Contractor."

WITNESSETH: That the parties hereto have mutually covenanted and agreed, and by these presents do covenant and agree with each other as follows:

a. **SCOPE OF WORK.** The Contractor shall perform all Work within the time stipulated in the Contract, and shall provide all labor, materials, equipment, tools, utility services, and transportation to complete all of the Work required in strict compliance with the Contract Documents as specified in Article 5, below, for the following Project:

24-030 COUNCIL CHAMBER AV SYSTEM REPLACEMENT

The Contractor and its surety shall be liable to the City for any damages arising as a result of the Contractor's failure to comply with this obligation.

b. **TIME FOR COMPLETION.** Time is of the essence in the performance of the Work. The Work shall be commenced on the date stated in the City's Notice to Proceed. The Contractor shall complete all Work required by the Contract Documents within **two hundred thirty-five (235) calendar days**, in accordance with the passing set forth in Exhibit "B" Phase #1 and #2 Time Schedule, from the commencement date stated in the Notice to Proceed. By its signature hereunder, Contractor agrees the time for completion set forth above is adequate and reasonable to complete the Work.

c. **CONTRACT PRICE.** The City shall pay to the Contractor as full compensation for the performance of the Contract, subject to any additions or deductions as provided in the Contract Documents, and including all applicable taxes and costs, the sum of **Seven Hundred Forty-Three Thousand Seven Hundred Sixty-One Dollar and Eighty-Eight Cents (\$743,761.88)**

Payment shall be made as set forth in the General Conditions.

d. **LIQUIDATED DAMAGES.** In accordance with Government Code section 53069.85, it is agreed that the Contractor will pay the City the sum set forth in Section 00 73 13, Article 1.11 for each and every calendar day of delay beyond the time prescribed in the Contract Documents for finishing the Work, as Liquidated Damages and not as a penalty or forfeiture. In the event this is not paid, the Contractor agrees the City may deduct that amount from any money due or that may become due the Contractor under the Contract. This Article does not exclude recovery of other damages specified in the Contract Documents.

e. **COMPONENT PARTS OF THE CONTRACT.** The "Contract Documents" include the following:

- Notice Inviting Bids
- Instructions to Bidders
- Bid Form
- Bid Bond
- Designation of Subcontractors
- Information Required of Bidders

Non-Collusion Declaration Form
Iran Contracting Act Certification
Public Works Contractor Registration Certification
Wage Theft Certification
Performance Bond
Payment (Labor and Materials) Bond
General Conditions
Special Conditions
Technical Specifications
Addenda
Plans and Drawings
Caltrans Standard Specifications, except Division 1
Caltrans Standard Plans
Applicable Local Agency Standards and Specifications, as last revised
Approved and fully executed change orders
Any other documents contained in or incorporated into the Contract

The Contractor shall complete the Work in strict accordance with all of the Contract Documents.

All of the Contract Documents are intended to be complementary. Work required by one of the Contract Documents and not by others shall be done as if required by all. This Contract shall supersede any prior agreement of the parties.

f. **PROVISIONS REQUIRED BY LAW AND CONTRACTOR COMPLIANCE.** Each and every provision of law required to be included in these Contract Documents shall be deemed to be included in these Contract Documents. The Contractor shall comply with all requirements of applicable federal, state and local laws, rules and regulations, including, but not limited to, the provisions of the California Labor Code and California Public Contract Code which are applicable to this Work.

g. **INDEMNIFICATION.** Contractor shall provide indemnification and defense as set forth in the General Conditions.

h. **PREVAILING WAGES.** Contractor shall be required to pay the prevailing rate of wages in accordance with the Labor Code which such rates shall be made available at the City's Administrative Office or may be obtained online at <http://www.dir.ca.gov> and which must be posted at the job site.

i. **WAGE THEFT PREVENTION.**

(a) Contractor, and any subcontractor it employs to complete work under this Contract, shall comply with all applicable federal, state and local wage and hour laws. Applicable laws may include, but are not limited to, the Federal Fair Labor Standards Act, the California Labor Code and the Milpitas Minimum Wage Ordinance.

(b) BY SIGNING THIS CONTRACT, CONTRACTOR AFFIRMS THAT IT HAS DISCLOSED ANY FINAL JUDGMENTS, DECISIONS OR ORDERS FROM A COURT OR INVESTIGATORY GOVERNMENT AGENCY, FINDING IN THE FIVE (5) YEARS PRIOR TO EXECUTING THIS CONTRACT THAT CONTRACTOR OR ITS SUBCONTRACTORS HAS VIOLATED ANY APPLICABLE WAGE AND HOUR LAWS. CONTRACTOR FURTHER AFFIRMS THAT IT OR ITS SUBCONTRACTOR(S) HAS EITHER FULLY SATISFIED EACH

JUDGMENT, DECISION OR ORDER, OR, IF ANY JUDGMENT, DECISION OR ORDER HAS NOT BEEN FULLY SATISFIED, CONTRACTOR AFFIRMS THAT IT OR ITS SUBCONTRACTOR(S) IS CURRENTLY SATISFYING SAID JUDGMENT, DECISION OR ORDER THROUGH A PAYMENT OR ALTERNATIVE PLAN APPROVED BY THE APPLICABLE COURT/GOVERNMENT AGENCY AND THAT CONTRACTOR OR ITS SUBCONTRACTOR(S) ARE IN COMPLIANCE WITH SAID PLAN AS OF THE DATE OF EXECUTING THIS CONTRACT.

(c) If at any time during the term of this Contract, a court or investigatory government agency issues a final judgment, decision or order finding that Contractor or a subcontractor it employs to perform work under this Contract has violated any applicable wage and hour law, or Contractor learns of such a judgment, decision, or order that was not previously disclosed in its bid/proposal, Contractor shall inform the City no more than fifteen (15) calendar days after the judgment, decision or order becomes final or from the date of learning of the final judgment, decision or order. Contractor or its subcontractor(s) shall, within thirty (30) calendar days after notifying the City, either (i) fully satisfy any such judgment, decision, or order and provide the City with documentary evidence of satisfying said judgment, decision or order; or (ii) provide the City documentary evidence of a payment or other alternative plan approved by the court/government agency to satisfy the judgment, decision or order. If the Contractor or its subcontractor is subject to a payment or other alternative plan, the Contractor or its subcontractor shall continue to submit documentary evidence every thirty (30) calendar days during the term of the Contract demonstrating continued compliance with the plan until the judgment, decision or order has been fully satisfied.

(d) For purposes of this Section, a "final judgment, decision, or order" refers to one for which all appeals have been exhausted or the time period to appeal has expired. Relevant investigatory government agencies include: the United States Department of Labor, the California Division of Labor Standards Enforcement, the City, or any other governmental entity or division tasked with the investigation and enforcement of wage and hour laws.

(e) Failure to comply with any part of this Section constitutes a material breach of this Contract. Such breach may serve as a basis for immediate termination of this Contract and/or any other remedies available under this Contract and/or law.

(f) Notice provided to the City shall be addressed to: Attention: Finance Director, 455 E. Calaveras Blvd. Milpitas, CA 95035. The Notice provisions of this Section are separate from any other notice provisions in this Contract and, accordingly, only notice provided to the above address satisfies the notice requirements in this Section.

[REMAINDER OF PAGE LEFT INTENTIONALLY BLANK]

IN WITNESS WHEREOF, this Contract has been duly executed by the above-named parties,
on the day and year above written.

CITY OF MILIPITAS

[INSERT NAME OF CONTRACTOR]

By _____
Ned Thomas , City Manager

By: _____

Its: _____

Printed
Name: _____

**(CONTRACTOR'S SIGNATURE MUST BE
NOTARIZED AND CORPORATE
SEAL AFFIXED, IF APPLICABLE)**

APPROVED AS TO FORM:

By: _____
Michael Mutalipassi, City Attorney

END OF CONTRACT

Notary Acknowledgment

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

STATE OF CALIFORNIA

COUNTY OF _____

On _____, 20____, before me, _____, Notary Public, personally appeared _____, who proved to me on the basis of satisfactory

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

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

WITNESS my hand and official seal.

Signature of Notary Public

OPTIONAL

Though the information below is not required by law, it may prove valuable to persons relying on the document and could prevent fraudulent removal and reattachment of this form to another document.

CAPACITY CLAIMED BY SIGNER

DESCRIPTION OF ATTACHED DOCUMENT

- ☐ Individual
☐ Corporate Officer

Title(s)

- ☐ Partner(s) ☐ Limited
☐ General

- ☐ Attorney-In-Fact
☐ Trustee(s)
☐ Guardian/Conservator
☐ Other:

Signer is representing:
Name Of Person(s) Or Entity(ies)

Title or Type of Document

Number of Pages

Date of Document

Signer(s) Other Than Named Above

00 61 13 – BOND FORMS

1.1 Performance Bond.

KNOW ALL PERSONS BY THESE PRESENTS:

THAT WHEREAS, the City of Milpitas, (hereinafter referred to as "City") has awarded to _____, (hereinafter referred to as the "Contractor") an agreement for _____, (hereinafter referred to as the "Project").

WHEREAS, the work to be performed by the Contractor is more particularly set forth in the Contract Documents for the Project dated _____, (hereinafter referred to as "Contract Documents"), the terms and conditions of which are expressly incorporated herein by reference; and

WHEREAS, the Contractor is required by said Contract Documents to perform the terms thereof and to furnish a bond for the faithful performance of said Contract Documents.

NOW, THEREFORE, we, _____, the undersigned Contractor and _____ as Surety, a corporation organized and duly authorized to transact business under the laws of the State of California, are held and firmly bound unto the City in the sum of _____ DOLLARS, (\$_____), said sum being not less than one hundred percent (100%) of the total amount of the Contract, for which amount well and truly to be made, we bind ourselves, our heirs, executors and administrators, successors and assigns, jointly and severally, firmly by these presents.

THE CONDITION OF THIS OBLIGATION IS SUCH, that, if the Contractor, his or its heirs, executors, administrators, successors or assigns, shall in all things stand to and abide by, and well and truly keep and perform the covenants, conditions and agreements in the Contract Documents and any alteration thereof made as therein provided, on its part, to be kept and performed at the time and in the manner therein specified, and in all respects according to their intent and meaning; and shall faithfully fulfill all obligations including the one (1) year guarantee of all materials and workmanship; and shall indemnify and save harmless the City, its officials, officers, employees, and authorized volunteers, as stipulated in said Contract Documents, then this obligation shall become null and void; otherwise it shall be and remain in full force and effect.

As a part of the obligation secured hereby and in addition to the face amount specified therefore, there shall be included costs and reasonable expenses and fees including reasonable attorney's fees, incurred by City in enforcing such obligation.

As a condition precedent to the satisfactory completion of the Contract Documents, unless otherwise provided for in the Contract Documents, the above obligation shall hold good for a period of one (1) year after the acceptance of the work by City, during which time if Contractor shall fail to make full, complete, and satisfactory repair and replacements and totally protect the City from loss or damage resulting from or caused by defective materials or faulty workmanship. The obligations of Surety hereunder shall continue so long as any obligation of Contractor remains. Nothing herein shall limit the City's rights or the Contractor or Surety's obligations under the Contract, law or equity, including, but not limited to, California Code of Civil Procedure Section 337.15.

Whenever Contractor shall be, and is declared by the City to be, in default under the Contract Documents, the Surety shall remedy the default pursuant to the Contract Documents, or shall promptly, at the City's option:

- i Take over and complete the Project in accordance with all terms and conditions in the Contract Documents; or
- ii Obtain a bid or bids for completing the Project in accordance with all terms and conditions in the Contract Documents and upon determination by Surety of the lowest responsive and responsible bidder, arrange for a Contract between such bidder, the Surety and the City, and make available as work progresses sufficient funds to pay the cost of completion of the Project, less the balance of the contract price, including other costs and damages for which Surety may be liable. The term "balance of the contract price" as used in this paragraph shall mean the total amount payable to Contractor by the City under the Contract and any modification thereto, less any amount previously paid by the City to the Contractor and any other set offs pursuant to the Contract Documents.
- iii Permit the City to complete the Project in any manner consistent with California law and make available as work progresses sufficient funds to pay the cost of completion of the Project, less the balance of the contract price, including other costs and damages for which Surety may be liable. The term "balance of the contract price" as used in this paragraph shall mean the total amount payable to Contractor by the City under the Contract and any modification thereto, less any amount previously paid by the City to the Contractor and any other set offs pursuant to the Contract Documents.

Surety expressly agrees that the City may reject any contractor or subcontractor which may be proposed by Surety in fulfillment of its obligations in the event of default by the Contractor.

Surety shall not utilize Contractor in completing the Project nor shall Surety accept a bid from Contractor for completion of the Project if the City, when declaring the Contractor in default, notifies Surety of the City's objection to Contractor's further participation in the completion of the Project.

The Surety, for value received, hereby stipulates and agrees that no change, extension of time, alteration or addition to the terms of the Contract Documents or to the Project to be performed thereunder shall in any way affect its obligations on this bond, and it does hereby waive notice of any such change, extension of time, alteration or addition to the terms of the Contract Documents or to the Project.

[REMAINDER OF PAGE LEFT INTENTIONALLY BLANK]

IN WITNESS WHEREOF, we have hereunto set our hands and seals this _____ day of _____, 20____.

(Corporate Seal)

Contractor/Principal

By _____

Title _____

(Corporate Seal)

Surety

By _____

Attorney-in-Fact

(Attach Attorney-in-Fact Certificate)

Title _____

(The rate of premium on this bond is _____ per thousand. The total amount of premium charges is \$_____.

(The above must be filled in by corporate attorney.)

THIS IS A REQUIRED FORM

Any claims under this bond may be addressed to:

(Name and Address of Surety)

(Name and Address of Agent or Representative for service of process in California, if different from above)

(Telephone number of Surety and Agent or Representative for service of process in California)

Notary Acknowledgment

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

STATE OF CALIFORNIA

COUNTY OF _____

On _____, 20____, before me, _____, Notary Public, personally appeared _____, who proved to me on the basis of satisfactory

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

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

WITNESS my hand and official seal.

Signature of Notary Public

OPTIONAL

Though the information below is not required by law, it may prove valuable to persons relying on the document and could prevent fraudulent removal and reattachment of this form to another document.

CAPACITY CLAIMED BY SIGNER

DESCRIPTION OF ATTACHED DOCUMENT

- ☐ Individual
☐ Corporate Officer

Title(s)

- ☐ Partner(s) ☐ Limited
 ☐ General

- ☐ Attorney-In-Fact
☐ Trustee(s)
☐ Guardian/Conservator
☐ Other:

Signer is representing:
Name Of Person(s) Or Entity(ies)

Title or Type of Document

Number of Pages

Date of Document

Signer(s) Other Than Named Above

NOTE: This acknowledgment is to be completed for Contractor/Principal.

Notary Acknowledgment

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

STATE OF CALIFORNIA

COUNTY OF _____

On _____, 20____, before me, _____, Notary Public, personally appeared _____, who proved to me on the basis of satisfactory

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

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

WITNESS my hand and official seal.

Signature of Notary Public

OPTIONAL

Though the information below is not required by law, it may prove valuable to persons relying on the document and could prevent fraudulent removal and reattachment of this form to another document.

CAPACITY CLAIMED BY SIGNER

DESCRIPTION OF ATTACHED DOCUMENT

- ☐ Individual
☐ Corporate Officer

Title(s)

- ☐ Partner(s) ☐ Limited
 ☐ General

- ☐ Attorney-In-Fact
☐ Trustee(s)
☐ Guardian/Conservator
☐ Other:

Signer is representing:
Name Of Person(s) Or Entity(ies)

Title or Type of Document

Number of Pages

Date of Document

Signer(s) Other Than Named Above

NOTE: This acknowledgment is to be completed for the Attorney-in-Fact. The Power-of Attorney to local representatives of the bonding company must also be attached.

END OF PERFORMANCE BOND

1.2 Payment Bond (Labor and Materials).

KNOW ALL MEN BY THESE PRESENTS That

WHEREAS, the City of Milpitas (hereinafter designated as the "City"), by action taken or a resolution passed _____, 20____, has awarded to _____ hereinafter designated as the "Principal," a contract for the work described as follows: _____ (the "Project"); and

WHEREAS, said Principal is required to furnish a bond in connection with said contract; providing that if said Principal or any of its Subcontractors shall fail to pay for any materials, provisions, provender, equipment, or other supplies used in, upon, for or about the performance of the work contracted to be done, or for any work or labor done thereon of any kind, or for amounts due under the Unemployment Insurance Code or for any amounts required to be deducted, withheld, and paid over to the Employment Development Department from the wages of employees of said Principal and its Subcontractors with respect to such work or labor the Surety on this bond will pay for the same to the extent hereinafter set forth.

NOW THEREFORE, we, the Principal and _____ as Surety, are held and firmly bound unto the City in the penal sum of _____ Dollars (\$_____) lawful money of the United States of America, for the payment of which sum well and truly to be made, we bind ourselves, our heirs, executors, administrators, successors and assigns, jointly and severally, firmly by these presents.

THE CONDITION OF THIS OBLIGATION IS SUCH that if said Principal, his or its subcontractors, heirs, executors, administrators, successors or assigns, shall fail to pay any of the persons named in Civil Code Section 9100, fail to pay for any materials, provisions or other supplies, used in, upon, for or about the performance of the work contracted to be done, or for any work or labor thereon of any kind, or amounts due under the Unemployment Insurance Code with respect to work or labor performed under the contract, or for any amounts required to be deducted, withheld, and paid over to the Employment Development Department or Franchise Tax Board from the wages of employees of the contractor and his subcontractors pursuant to Revenue and Taxation Code Section 18663, with respect to such work and labor the Surety or Sureties will pay for the same, in an amount not exceeding the sum herein above specified, and also, in case suit is brought upon this bond, all litigation expenses incurred by the City in such suit, including reasonable attorneys' fees, court costs, expert witness fees and investigation expenses.

This bond shall inure to the benefit of any of the persons named in Civil Code Section 9100 so as to give a right of action to such persons or their assigns in any suit brought upon this bond.

It is further stipulated and agreed that the Surety on this bond shall not be exonerated or released from the obligation of this bond by any change, extension of time for performance, addition, alteration or modification in, to, or of any contract, plans, specifications, or agreement pertaining or relating to any scheme or work of improvement herein above described, or pertaining or relating to the furnishing of labor, materials, or equipment therefore, nor by any change or modification of any terms of payment or extension of the time for any payment pertaining or relating to any scheme or work of improvement herein above described, nor by any rescission or attempted rescission or attempted rescission of the contract, agreement or bond, nor by any conditions precedent or subsequent in the bond attempting to limit the right of recovery of claimants otherwise entitled to recover under any such contract or agreement or

under the bond, nor by any fraud practiced by any person other than the claimant seeking to recover on the bond and that this bond be construed most strongly against the Surety and in favor of all persons for whose benefit such bond is given, and under no circumstances shall Surety be released from liability to those for whose benefit such bond has been given, by reason of any breach of contract between the owner or City and original contractor or on the part of any obligee named in such bond, but the sole conditions of recovery shall be that claimant is a person described in Civil Code Section 9100, and has not been paid the full amount of his claim and that Surety does hereby waive notice of any such change, extension of time, addition, alteration or modification herein mentioned, including but not limited to the provisions of sections 2819 and 2845 of the California Civil Code.

IN WITNESS WHEREOF, we have hereunto set our hands and seals this _____ day of _____, 20__.

(Corporate Seal)

Contractor/Principal

By _____

Title _____

(Corporate Seal)

Surety

By _____

Attorney-in-Fact

(Attach Attorney-in-Fact Certificate)

Title _____

Notary Acknowledgment

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

STATE OF CALIFORNIA

COUNTY OF _____

On _____, 20____, before me, _____, Notary Public, personally appeared _____, who proved to me on the basis of satisfactory

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

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

WITNESS my hand and official seal.

Signature of Notary Public

OPTIONAL

Though the information below is not required by law, it may prove valuable to persons relying on the document and could prevent fraudulent removal and reattachment of this form to another document.

CAPACITY CLAIMED BY SIGNER

DESCRIPTION OF ATTACHED DOCUMENT

- ☐ Individual
☐ Corporate Officer

Title(s)

- ☐ Partner(s) ☐ Limited
 ☐ General

- ☐ Attorney-In-Fact
☐ Trustee(s)
☐ Guardian/Conservator
☐ Other:

Signer is representing:
Name Of Person(s) Or Entity(ies)

Title or Type of Document

Number of Pages

Date of Document

Signer(s) Other Than Named Above

NOTE: This acknowledgment is to be completed for Contractor/Principal.

Notary Acknowledgment

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

STATE OF CALIFORNIA

COUNTY OF _____

On _____, 20____, before me, _____, Notary Public, personally appeared _____, who proved to me on the basis of satisfactory

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

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

WITNESS my hand and official seal.

Signature of Notary Public

OPTIONAL

Though the information below is not required by law, it may prove valuable to persons relying on the document and could prevent fraudulent removal and reattachment of this form to another document.

CAPACITY CLAIMED BY SIGNER

DESCRIPTION OF ATTACHED DOCUMENT

- ☐ Individual
☐ Corporate Officer

Title(s)

- ☐ Partner(s) ☐ Limited
 ☐ General

- ☐ Attorney-In-Fact
☐ Trustee(s)
☐ Guardian/Conservator
☐ Other:

Signer is representing:
Name Of Person(s) Or Entity(ies)

Title or Type of Document

Number of Pages

Date of Document

Signer(s) Other Than Named Above

NOTE: This acknowledgment is to be completed for the Attorney-in-Fact. The Power-of-Attorney to local representatives of the bonding company must also be attached.

END OF PAYMENT BOND

GENERAL CONDITIONS TABLE OF CONTENTS

	Page
00 72 13 – GENERAL CONDITIONS	56
ARTICLE 1 DEFINED TERMS	56
ARTICLE 2 CONTRACT DOCUMENTS	60
ARTICLE 3 PRECONSTRUCTION AND CONSTRUCTION COMMUNICATION	61
ARTICLE 4 CONTRACT DOCUMENTS: COPIES & MAINTENANCE	61
ARTICLE 5 EXAMINATION OF DRAWINGS, SPECIFICATIONS AND SITE OF WORK	61
ARTICLE 6 EXISTENCE OF UTILITIES AT THE WORK SITE	62
ARTICLE 7 SOILS INVESTIGATIONS.....	63
ARTICLE 8 ARTICLE 8. CONTRACTOR'S SUPERVISION	63
ARTICLE 9 WORKERS.....	64
ARTICLE 10 INDEPENDENT CONTRACTORS.....	64
ARTICLE 11 SUBCONTRACTS.....	64
ARTICLE 12 VERIFICATION OF EMPLOYMENT ELIGIBILITY	64
ARTICLE 13 REQUESTS FOR SUBSTITUTION.....	65
ARTICLE 14 SHOP DRAWINGS	66
ARTICLE 15 SUBMITTALS.....	66
ARTICLE 16 MATERIALS	67
ARTICLE 17 PERMITS AND LICENSES	68
ARTICLE 18 TRENCHES.....	68
ARTICLE 19 DIVERSION OF RECYCLABLE WASTE MATERIALS.....	69
ARTICLE 20 REMOVAL OF HAZARDOUS MATERIALS	69
ARTICLE 21 SANITARY FACILITIES	69
ARTICLE 22 AIR POLLUTION CONTROL.....	70
ARTICLE 23 LAYOUT AND FIELD ENGINEERING	70
ARTICLE 24 TESTS AND INSPECTIONS.....	70
ARTICLE 25 PROTECTION OF WORK AND PROPERTY	71
ARTICLE 26 CONTRACTOR'S MEANS AND METHODS.....	71
ARTICLE 27 AUTHORIZED REPRESENTATIVES	71
ARTICLE 28 HOURS OF WORK	71
ARTICLE 29 PAYROLL RECORDS.....	72
ARTICLE 30 PREVAILING RATES OF WAGES.....	74

**GENERAL CONDITIONS
TABLE OF CONTENTS**
(continued)

	Page
ARTICLE 31 PUBLIC WORKS CONTRACTOR REGISTRATION.....	75
ARTICLE 32 EMPLOYMENT OF APPRENTICES	75
ARTICLE 33 NONDISCRIMINATION/EQUAL EMPLOYMENT OPPORTUNITY	75
ARTICLE 34 DEBARMENT OF CONTRACTORS AND SUBCONTRACTORS	76
ARTICLE 35 LABOR/EMPLOYMENT SAFETY	76
ARTICLE 36 INSURANCE	77
ARTICLE 37 FORM AND PROOF OF CARRIAGE OF INSURANCE.....	80
ARTICLE 38 TIME FOR COMPLETION AND LIQUIDATED DAMAGES	81
ARTICLE 39 SCHEDULE OF VALUES, COST BREAKDOWN AND PERIODIC ESTIMATES	82
ARTICLE 40 PROGRESS ESTIMATES AND PAYMENT	83
ARTICLE 41 SECURITIES FOR MONEY WITHHELD	84
ARTICLE 42 CHANGES AND EXTRA WORK.....	84
ARTICLE 43 FINAL ACCEPTANCE AND PAYMENT	98
ARTICLE 44 OCCUPANCY	99
ARTICLE 45 INDEMNIFICATION	99
ARTICLE 46 PROCEDURE FOR RESOLVING DISPUTES	100
ARTICLE 47 CITY'S RIGHT TO TERMINATE CONTRACT	100
ARTICLE 48 WARRANTY AND GUARANTEE OF WORK.....	106
ARTICLE 49 DOCUMENT RETENTION & EXAMINATION.....	109
ARTICLE 50 SEPARATE CONTRACTS	109
ARTICLE 51 NOTICE AND SERVICE THEREOF	110
ARTICLE 52 NOTICE OF THIRD PARTY CLAIMS.....	110
ARTICLE 53 STATE LICENSE BOARD NOTICE	110
ARTICLE 54 INTEGRATION	110
ARTICLE 55 ASSIGNMENT OF CONTRACT	110
ARTICLE 56 CHANGE IN NAME AND NATURE OF CONTRACTOR'S LEGAL ENTITY....	111
ARTICLE 57 ASSIGNMENT OF ANTITRUST ACTIONS.....	111
ARTICLE 58 PROHIBITED INTERESTS	111
ARTICLE 59 CONTROLLING LAW.....	111
ARTICLE 60 JURISDICTION; VENUE	111
ARTICLE 61 LAWS AND REGULATIONS	111

GENERAL CONDITIONS
TABLE OF CONTENTS
(continued)

	Page
ARTICLE 62 PATENTS.....	112
ARTICLE 63 OWNERSHIP OF CONTRACT DOCUMENTS	112
ARTICLE 64 NOTICE OF TAXABLE POSSESSORY INTEREST	112
ARTICLE 65 SURVIVAL OF OBLIGATIONS	112

00 72 13 – GENERAL CONDITIONS

ARTICLE 1 DEFINED TERMS

Whenever used in the Contract Documents and printed with initial capital letters, the terms listed below will have the meanings indicated which are applicable to both the singular and plural thereof. In addition to terms specifically defined below, terms with initial capital letters in the Contract Documents include references to identified articles and paragraphs, and the titles of other documents or forms.

- A. Act of God – An earthquake of magnitude of 3.5 or higher on the Richter scale or a tidal wave.
- B. Addenda -- Written or graphic instruments issued prior to the submission of Bids which clarify, correct, or change the Contract Documents.
- C. Additional Work -- New or unforeseen work will be classified as “Additional Work” when the City’s Representative determines that it is not covered by the Contract.
- D. Applicable Laws -- The laws, statutes, ordinances, rules, codes, regulations, permits, and licenses of any kind, issued by local, state or federal governmental authorities or private authorities with jurisdiction (including utilities), to the extent they apply to the Work.
- E. Bid -- The offer or proposal of a Bidder submitted on the prescribed form setting forth the prices and other terms for the Work to be performed.
- F. Bidder -- The individual or entity who submits a Bid directly to the City.
- G. Caltrans Standard Specifications - Standard Specifications of the State of California, Department of Transportation, current edition. Any reference therein to a State agency or officer shall be interpreted as if the corresponding City office or agent acting under this contract were so specified.
- H. Caltrans Standard Plans - Standard plans of the State of California, Department of Transportation, current edition. All metric measurements or quantities in the Caltrans Standard Plans shall be disregarded, and equivalent United States measures used.
- I. Change Order (“CO”) -- A document that authorizes an addition, deletion, or revision in the Work or an adjustment in the Contract Price or the Contract Times, issued on or after the Effective Date of the Contract, in accordance with the Contract Documents and in the form contained in the Contract Documents.
- J. Change Order Request (“COR”) -- A request made by the Contractor for an adjustment in the Contract Price and/or Contract Times as the result of a Contractor-claimed change to the Work. This term may also be referred to as a Change Order Proposal (“COP”), or Request for Change (“RFC”).
- K. City -- The City of Milpitas.

- L. City Council, Council -- The City Council of the City.
- M. City's Representative -- The individual or entity as identified in the Special Conditions to act as the City's Representative.
- N. Claim -- A demand or assertion by the City or Contractor seeking an adjustment of Contract Price or Contract Times, or both, or other relief with respect to the terms of the Contract. A demand for money or services by a third party is not a Claim.
- O. Contract -- The entire integrated written agreement between the City and Contractor concerning the Work. "Contract" may be used interchangeably with "Agreement" in the Contract Documents. The Contract supersedes prior negotiations, representations, or agreements, whether written or oral, and includes all Contract Documents.
- P. Contract Documents -- The documents listed in Section 00 52 13, Article 5. Some documents provided by the City to the Bidders and Contractor, including but not limited to reports and drawings of subsurface and physical conditions are not Contract Documents.
- Q. Contract Price -- Amount to be paid by the City to the Contractor as full compensation for the performance of the Contract and completion of the Work, subject to any additions or deductions as provided in the Contract Documents, and including all applicable taxes and costs.
- R. Contract Times -- The number of days or the dates stated in the Contract Documents to: achieve defined Milestones, if any; and to complete the Work so that it is ready for final payment.
- S. Contractor -- The individual or entity with which the City has contracted for performance of the Work.
- T. Contractor's Designated On-Site Representative -- The Contractor's Designated On-Site Representative will be as identified in Section 00 72 13, Article 3 and shall not be changed without prior written consent of the City.
- U. Daily Rate -- The Daily Rate stipulated in the Contract Documents as full compensation to the Contractor due to the City's unreasonable delay to the Project that was not contemplated by the parties.
- V. Day -- A calendar day of 24 hours measured from midnight to the next midnight.
- W. Defective Work -- Work that is unsatisfactory, faulty, or deficient; or that does not conform to the Contract Documents; or that does not meet the requirements of any inspection, reference standard, test, or approval referenced in the Contract Documents.
- X. Demobilization -- The complete dismantling and removal by the Contractor of all of the Contractor's temporary facilities, equipment, and personnel at the Site.

- Y. Drawings -- That part of the Contract Documents prepared by of the Engineer of Record which graphically shows the scope, extent, and character of the Work to be performed by Contractor. Shop Drawings and other Contractor submittals are not Drawings as so defined.
- Z. Effective Date of the Contract -- The date indicated in the Contract on which it becomes effective, but if no such date is indicated, it means the date on which the Contract is signed and delivered by the last of the two parties to sign and deliver.
- AA. Engineer, whenever not qualified, shall mean the City Engineer or its designee, acting either directly or through properly authorized agents, such agents acting severally within the scope of the particular duties entrusted to them. On all questions concerning the acceptance of materials, machinery, the classifications of material, the execution of work, conflicting interest of the contractors performing related work and the determination of costs, the decision of the Engineer, duly authorized by the City Council, shall be binding and final upon both parties.
- BB. Engineer of Record -- The individual, partnership, corporation, joint venture, or other legal entity named as such in Section 00 73 13, Article 1.1. or any succeeding entity designated by the City.
- CC. Hazardous Waste -- The term "Hazardous Waste" shall have the meaning provided in Section 104 of the Solid Waste Disposal Act (42 U.S.C. § 6903) as amended from time to time or, as defined in Section 25117 of the Health and Safety Code, that is required to be removed to a class I, class II, or class III disposal site in accordance with provisions of existing law, whichever is more restrictive.
- DD. Holiday -- The Holidays are defined as legal Federal, State, and City holidays including:

New Year's Day - January 1
Martin Luther King Jr.'s Birthday -- Third Monday in January
Lincoln's Birthday -- February 12
President's Day -- Third Monday in February
Memorial Day - Last Monday in May
Independence Day - July 4
Labor Day - First Monday in September
Veteran's Day - November 11
Thanksgiving Day - Fourth Thursday in November
Friday after Thanksgiving
Christmas Eve -- December 24
Christmas Day - December 25

If any Holiday listed above falls on a Saturday, Saturday and the preceding Friday are both Holidays. If the Holiday should fall on a Sunday, Sunday and the following Monday are both Holidays.

- EE. Notice of Award -- The written notice by the City to the Successful Bidder stating that upon timely compliance by the Successful Bidder with the conditions precedent listed therein, the City will sign and deliver the Contract.
- FF. Notice of Completion -- The form which may be executed by the City and recorded by the county where the Project is located constituting final acceptance of the Project.
- GG. Notice to Proceed -- A written notice given by the City to Contractor fixing the date on which the Contractor may proceed with the Work and when Contract Times will commence to run.
- HH. Project -- The total construction of which the Work to be performed under the Contract Documents may be the whole, or a part.
- II. Recyclable Waste Materials -- Materials removed from the Site which are required to be diverted to a recycling center rather than an area landfill. Recyclable Waste Materials include asphalt, concrete, brick, concrete block, and rock.
- JJ. Schedule of Submittals -- A schedule, prepared and maintained by Contractor, of required submittals and the time requirements to facilitate scheduled performance of related construction activities.
- KK. Shop Drawings -- All drawings, diagrams, illustrations, schedules, and other data or information which are specifically prepared or assembled by or for Contractor and submitted by Contractor to illustrate some portion of the Work.
- LL. Specifications -- That part of the Contract Documents consisting of written requirements for materials, equipment, systems, standards and workmanship as applied to the Work, and certain administrative requirements and procedural matters applicable thereto.
- MM. Stop Payment Notice -- A written notice as defined in Civil Code section 8044.
- NN. Subcontractor -- An individual or entity other than a Contractor having a contract with any other entity than the City for performance of any portion of the Work at the Site.
- OO. Submittal -- Written and graphic information and physical samples prepared and supplied by the Contractor demonstrating various portions of the Work.
- PP. Successful Bidder -- The Bidder submitting a responsive Bid to whom the City makes an award.
- QQ. Supplier -- A manufacturer, fabricator, supplier, distributor, material man, or vendor having a direct contract with Contractor or with any Subcontractor to furnish materials or equipment used in the performance of the Work or to be incorporated in the Work.

- RR. Underground Facilities -- All underground pipelines, conduits, ducts, cables, wires, manholes, vaults, tanks, tunnels, or other such facilities or attachments, and any encasements containing such facilities, including those that convey electricity, gases, steam, liquid petroleum products, telephone or other communications, cable television, water, wastewater, storm water, other liquids or chemicals, or traffic or other control systems.
- SS. Unit Price Work -- Work to be paid for on the basis of unit prices as provided by the Contractor in its bid or as adjusted in accordance with the Contract Documents.
- TT. Warranty -- A written guarantee provided to the City by the Contractor that the Work will remain free of defects and suitable for its intended use for the period required by the Contract Documents or the longest period permitted by the law of this State, whichever is longer.
- UU. Work -- The entire construction or the various separately identifiable parts thereof required to be provided under the Contract Documents. Work includes and is the result of performing or providing all labor, services, and documentation necessary to produce such construction, and furnishing, installing, and incorporating all materials and equipment into such construction, all as required by the Contract Documents.

ARTICLE 2 CONTRACT DOCUMENTS

- A. **Contract Documents.** The Contract Documents are complementary, and what is called for by one shall be as binding as if called for by all.
- B. **Interpretations.** The Contract Documents are intended to be fully cooperative and complementary. If the Contractor observes that any documents are in conflict, the Contractor shall promptly notify the Engineer in writing. In case of conflicts between the Contract Documents, the order of precedence shall be as follows:
1. Change Orders
 2. Contract
 3. Addenda
 4. Special Conditions
 5. Technical Specifications
 6. Plans (Contract Drawings)
 7. General Conditions
 8. Instructions to Bidders
 9. Notice Inviting Bids
 10. Contractor's Bid Forms
 11. City Standard Specifications
 12. City Standard Drawings
 13. Caltrans Standard Specifications, except Division 1
 14. Caltrans Standard Plans
 15. Reference Documents

With reference to the Drawings, the order of precedence shall be as follows:

1. Figures govern over scaled dimensions
2. Detail drawings govern over general drawings
3. Addenda or Change Order drawings govern over Contract Drawings
4. Contract Drawings govern over Standard Drawings
5. Contract Drawings govern over Shop Drawings

C. **Conflicts in Contract Documents.** Notwithstanding the orders of precedence established above, in the event of conflicts, the higher standard, higher quality, and most expensive shall always apply.

D. **Organization of Contract Documents.** Organization of the Contract Documents into divisions, sections, and articles, and arrangement of drawings shall not control the Contractor in dividing Project Work among subcontractors or in establishing the extent of Work to be performed by any trade.

ARTICLE 3 PRECONSTRUCTION AND CONSTRUCTION COMMUNICATION

Before any Work at the site is started, a conference attended by the City, Contractor, City's Representative, and others as appropriate will be held to establish a working understanding among the parties as to the Work and to discuss the schedules referred to herein, procedures for handling Shop Drawings and other submittals, processing Applications for Payment, and maintaining required records.

At this conference the City and Contractor each shall designate, in writing, a specific individual to act as its authorized representative with respect to the services and responsibilities under the Contract. Such individuals shall have the authority to transmit instructions, receive information, render decisions relative to the Contract, and otherwise act on behalf of each respective party.

ARTICLE 4 CONTRACT DOCUMENTS: COPIES & MAINTENANCE

Contractor will be furnished, free of charge, **five (5)** copies of the Contract Documents. Additional copies may be obtained at cost of reproduction.

Contractor shall maintain a clean, undamaged set of Contract Documents, including submittals, at the Project site.

ARTICLE 5 EXAMINATION OF DRAWINGS, SPECIFICATIONS AND SITE OF WORK

A. **Examination of Contract Documents.** Before commencing any portion of the Work, Contractor shall again carefully examine all applicable Contract Documents, the Project site, and other information given to Contractor as to materials and methods of construction and other Project requirements. Contractor shall immediately notify the Engineer of any potential error, inconsistency, ambiguity, conflict, or lack of detail or explanation. If Contractor performs, permits, or causes the performance of any Work which is in error, inconsistent or ambiguous, or not sufficiently detailed or explained, Contractor shall bear any and all resulting costs, including, without limitation, the cost of

correction. In no case shall the Contractor or any subcontractor proceed with Work if uncertain as to the applicable requirements.

- B. **Additional Instructions.** After notification of any error, inconsistency, ambiguity, conflict, or lack of detail or explanation, the Engineer will provide any required additional instructions, by means of drawings or other written direction, necessary for proper execution of Work.
- C. **Quality of Parts, Construction and Finish.** All parts of the Work shall be of the best quality of their respective kinds and the Contractor must use all diligence to inform itself fully as to the required construction and finish.
- D. **Contractor's Variation from Contract Document Requirements.** If it is found that the Contractor has varied from the requirements of the Contract Documents including the requirement to comply with all applicable laws, ordinances, rules and regulations, the Engineer may at any time, before or after completion of the Work, order the improper Work removed, remade or replaced by the Contractor at the Contractor's expense.

ARTICLE 6 EXISTENCE OF UTILITIES AT THE WORK SITE

- A. The City has endeavored to determine the existence of utilities at the Project site from the records of the owners of known utilities in the vicinity of the Project. The positions of these utilities as derived from such records are shown on the Plans.
- B. Unless indicated otherwise on the Plans and Specifications, no excavations were made to verify the locations shown for underground utilities. The service connections to these utilities may not be shown on the Plans. Any connections shown on the Plans are general locations. It shall be the responsibility of the Contractor to determine the exact location of all service connections. The Contractor shall make its own investigations, including exploratory excavations, to determine the locations and type of service connections, prior to commencing Work which could result in damage to such utilities. The Contractor shall immediately notify the City in writing of any utility discovered in a different position than shown on the Plans or which is not shown on the Plans.
- C. If applicable, all water meters, water valves, fire hydrants, electrical utility vaults, telephone vaults, gas utility valves, and other subsurface structures shall be relocated or adjusted to final grade by the Contractor. Locations of existing utilities shown on the Plans are approximate and may not be complete. The Contractor shall be responsible for coordinating its Work with all utility companies during the construction of the Work.
- D. Notwithstanding the above, pursuant to section 4215 of the Government Code, the City has the responsibility to identify, with reasonable accuracy, main or trunkline facilities on the plans and specifications. In the event that main or trunkline utility facilities are not identified with reasonable accuracy in the plans and specifications made a part of the invitation for Bids, the City shall assume the responsibility for their timely removal, relocation, or protection.

- E. Contractor, except in an emergency, shall contact the appropriate regional notification center (USA North), Northern California Underground Service Alert at 811 or 1-800-227-2600 or on-line at usanorth811.org at least two working days prior to commencing any excavation if the excavation will be performed in an area which is known, or reasonably should be known, to contain subsurface installations other than the underground facilities owned or operated by the City, and obtain an inquiry identification number from that notification center. No excavation shall be commenced or carried out by the Contractor unless such an inquiry identification number has been assigned to the Contractor or any subcontractor of the Contractor and the City has been given the identification number by the Contractor.

ARTICLE 7 SOILS INVESTIGATIONS

- A. Reports and Drawings. The Special Conditions identify:
1. those reports known to the City of explorations and tests of subsurface conditions at or contiguous to the site; and
 2. those drawings known to the City of physical conditions relating to existing surface or subsurface structures at the site (except Underground Facilities).
- B. Limited Reliance by Contractor on Technical Data Authorized. Contractor may rely upon the accuracy of the "technical data" contained in such reports and drawings, which were expressly not created or obtained to evaluate or assist in the evaluation of constructability, and are not Contract Documents. Contractor shall make its own interpretation of the "technical data" and shall be solely responsible for any such interpretations. Except for reliance on the accuracy of such "technical data," Contractor may not rely upon or make any claim against the City, City's Representative, or Engineer of Record, or any of their officers, directors, members, partners, employees, agents, consultants, or subcontractors, with respect to:
1. the completeness of such reports and drawings for Contractor's purposes, including without limitation any aspects of the means, methods, techniques, sequences, and procedures of construction to be employed by Contractor, and safety precautions and programs incident thereto; or
 2. other data, interpretations, opinions, conclusions and information contained in such reports or shown or indicated in such drawings; or
 3. any Contractor interpretation of or conclusion drawn from any "technical data" or any such other data, interpretations, opinions, or information.

ARTICLE 8 CONTRACTOR'S SUPERVISION

Contractor shall continuously keep at the Project site, a competent and experienced full-time Project superintendent acceptable to the City. Superintendent must be able to proficiently speak, read and write in English and shall have the authority to make decisions on behalf of the Contractor. Contractor shall continuously provide efficient supervision of the Project.

ARTICLE 9 WORKERS

- A. Contractor shall at all times enforce strict discipline and good order among its employees. Contractor shall not employ on the Project any unfit person or any one not skilled in the Work assigned to him or her.
- B. Any person in the employ of the Contractor whom the City may deem incompetent or unfit shall be dismissed from the Work and shall not be employed on this Project.

ARTICLE 10 INDEPENDENT CONTRACTORS

Contractor shall be an independent contractor for the City and not an employee. Contractor understands and agrees that it and all of its employees shall not be considered officers, employees, or agents of City and are not entitled to benefits of any kind normally provided employees of City, including but not limited to, state unemployment compensation or workers' compensation. Contractor assumes full responsibility for the acts and omissions of its employees or agents related to the Work.

ARTICLE 11 SUBCONTRACTS

- A. Contractor agrees to bind every subcontractor to the terms of the Contract Documents as far as such terms are applicable to subcontractor's portion of the Work. Contractor shall be as fully responsible to the City for the acts and omissions of its subcontractors and of persons either directly or indirectly employed by its subcontractors, as Contractor is for acts and omissions of persons directly employed by Contractor. Nothing contained in these Contract Documents shall create any contractual relationship between any subcontractor and the City.
- B. The City reserves the right to accept all subcontractors. The City's acceptance of any subcontractor under this Contract shall not in any way relieve Contractor of its obligations in the Contract Documents.
- C. Prior to substituting any subcontractor listed in the Bid Forms, Contractor must comply with the requirements of the Subletting and Subcontracting Fair Practices Act pursuant to California Public Contract Code section 4100 et seq.

ARTICLE 12 VERIFICATION OF EMPLOYMENT ELIGIBILITY

By executing this Contract, Contractor verifies that it fully complies with all requirements and restrictions of state and federal law respecting the employment of undocumented aliens, including, but not limited to, the Immigration Reform and Control Act of 1986, as may be amended from time to time, and shall require all subcontractors, sub-subcontractors and consultants to comply with the same. Each person executing this Contract on behalf of Contractor verifies that he or she is a duly authorized officer of Contractor and that any of the following shall be grounds for the City to terminate the Contract for cause: (1) failure of the Contractor or its subcontractors, sub-subcontractors or consultants to meet any of the requirements provided for in this Article; (2) any misrepresentation or material omission concerning compliance with such requirements; or (3) failure to immediately remove from the Work any person found not to be in compliance with such requirements.

ARTICLE 13 REQUESTS FOR SUBSTITUTION

- A. For the purposes of this provision, the term “substitution” shall mean the substitution of any material, method or service substantially equal to or better in every respect to that indicated in the Standard Specifications or otherwise referenced herein.
- B. Pursuant to Public Contract Code section 3400(b), the City may make a finding that is described in the Notice Inviting Bids that designates certain products, things, or services by specific brand or trade name.
- C. Unless specifically designated in the Special Conditions, whenever any material, process, or article is indicated or specified by grade, patent, or proprietary name or by name of manufacturer, such specifications shall be deemed to be used for the purpose of facilitating the description of the material, process, or article desired and shall be deemed to be followed by the words “or equal.” Contractor may, unless otherwise stated, offer for substitution any material, process, or article which may be substantially equal to or better in every respect to that so indicated or specified in the Contract Documents. However, the City has adopted uniform standards for certain materials, processes, and articles.
- D. The Contractor shall submit substitution requests, together with substantiating data, for substitution of any “or equal” material, process, or article no later than 15 (15) calendar days after award of Contract. Provisions regarding submission of substitution requests shall not in any way authorize an extension of time for the performance of this Contract. If a substitution request is rejected by the City, the Contractor shall provide the material, method or service specified herein. The City shall not be responsible for any costs incurred by the Contractor associated with substitution requests. The burden of proof as to the equality of any material, process, or article shall rest with the Contractor. The Engineer has the complete and sole discretion to determine if a material, process, or article is substantially equal to or better than that specified and to approve or reject all substitution requests.
- E. Substantiating data as described above shall include, at a minimum, the following information:
 - 1. A signed affidavit from the Contractor stating that the material, process, or article proposed as a substitution is substantially equal to or better than that specified in every way except as may be listed on the affidavit.
 - 2. Illustrations, specifications, catalog cut sheets, and any other relevant data required to prove that the material, process, or article is substantially equal to or better than that specified.
 - 3. A statement of the cost implications of the substitution being requested, indicating whether and why the proposed substitution will reduce or increase the amount of the contract.
 - 4. Information detailing the durability and lifecycle costs of the proposed substitution.

- F. Failure to submit all the required substantiating data detailed above in a timely manner so that the substitution request can be adequately reviewed may result in rejection of the substitution request. The Engineer is not obligated to review multiple submittals related the same substitution request resulting from the Contractor's failure to initially submit a complete package.
- G. Time limitations within this Article shall be strictly complied with and in no case will an extension of time for completion of the contract be granted because of Contractor's failure to provide substitution requests at the time and in the manner described herein.
- H. The Contractor shall bear the costs of all City work associated with the review of substitution requests.
- I. If substitution requests approved by the Engineer require that Contractor furnish materials, methods or services more expensive than that specified, the increased costs shall be borne by Contractor.

ARTICLE 14 SHOP DRAWINGS

- A. Contractor shall check and verify all field measurements and shall submit with such promptness as to provide adequate time for review and cause no delay in its own Work or in that of any other contractor, subcontractor, or worker on the Project, six (6) copies of all shop drawings, calculations, schedules, and materials list, and all other provisions required by the Contract Documents. Contractor shall sign all submittals affirming that submittals have been reviewed and approved by Contractor prior to submission to Engineer. Each signed submittal shall affirm that the submittal meets all the requirements of the Contract Documents except as specifically and clearly noted and listed on the transmittal letter of the submittal.
- B. Contractor shall make any corrections required by the Engineer, and file with the Engineer six (6) corrected copies each, and furnish such other copies as may be needed for completion of the Work. Engineer's acceptance of shop drawings shall not relieve Contractor from responsibility for deviations from the Contract Documents unless Contractor has, in writing, called Engineer's attention to such deviations at time of submission and has secured the Engineer's written acceptance. Engineer's acceptance of shop drawings shall not relieve Contractor from responsibility for errors in shop drawings.

ARTICLE 15 SUBMITTALS

- A. Contractor shall furnish to the Engineer for approval, prior to purchasing or commencing any Work, a log of all samples, material lists and certifications, mix designs, schedules, and other submittals, as required in the Contract Documents. The log shall indicate whether samples will be provided in accordance with other provisions of this Contract.
- B. Contractor will provide samples and submittals, together with catalogs and supporting data required by the Engineer, to the Engineer within a reasonable time period to provide for adequate review and avoid delays in the Work.

- C. These requirements shall not authorize any extension of time for performance of this Contract. Engineer will check and approve such samples, but only for conformance with design concept of work and for compliance with information given in the Contract Documents. Work shall be in accordance with approved samples and submittals.

ARTICLE 16 MATERIALS

- A. Except as otherwise specifically stated in the Contract Documents, Contractor shall provide and pay for all materials, labor, tools, equipment, lights, power, transportation, superintendence, temporary constructions of every nature, and all other services and facilities of every nature whatsoever necessary to execute and complete this Contract within specified time.
- B. Unless otherwise specified, all materials shall be new and the best of their respective kinds and grades as noted and/or specified, and workmanship shall be of good quality.
- C. Materials shall be furnished in ample quantities and at such times as to ensure uninterrupted progress of the Work and shall be stored properly and protected as required by the Contract Documents. Contractor shall be entirely responsible for damage or loss by weather or other causes to materials or Work.
- D. No materials, supplies, or equipment for Work under this Contract shall be purchased subject to any chattel mortgage or under a conditional sale or other agreement by which an interest therein or in any part thereof is retained by the seller or supplier. Contractor warrants good title to all material, supplies, and equipment installed or incorporated in the Work and agrees upon completion of all work to deliver the Project, to the City free from any claims, liens, or charges.
- E. Materials shall be stored on the Project site in such manner so as not to interfere with any operations of the City or any independent contractor.
- F. Contractor shall verify all measurements, dimensions, elevations, and quantities before ordering any materials or performing any Work, and the City shall not be liable for Contractor's failure to do so. No additional compensation, over and above payment for the actual quantities at the prices set out in the Bid Form, will be allowed because of differences between actual measurements, dimension, elevations and quantities and those indicated on the Plans and in the Specifications. Any difference therein shall be submitted to the Engineer for consideration before proceeding with the Work.
- G. The City shall provide compensation for actual quantities of materials installed in accordance with the Contract Documents and at the price set forth in the Contractor's bid and/or executed change order. The City is not obligated to pay for materials stored on/off site but not yet installed in accordance with the Contract Documents.

ARTICLE 17 PERMITS AND LICENSES

- A. Contractor shall obtain all other necessary permits and licenses for the construction of the Project, including encroachment permits, and shall pay all fees required by law and shall comply with all laws, ordinances, rules and regulations relating to the Work and to the preservation of public health and safety. Before acceptance of the Project, the Contractor shall submit all licenses, permits, certificates of inspection and required approvals to the City. Any construction permits required by City for performing any work on this project will be issued by City at no charge to Contractor. Contractor and all subcontractors shall maintain a City business license at all times they are performing the Work.

ARTICLE 18 TRENCHES

- A. **Trenches Five Feet or More in Depth.** Contractor shall submit to the Engineer at the preconstruction meeting, a detailed plan showing the design of shoring, bracing, sloping or other provisions to be made for worker protection from hazards of caving ground during the excavation of any trench or trenches five feet or more in depth. If such plan varies from shoring system standards established by the Construction Safety Orders of the California Code of Regulations, Department of Industrial Relations, the plan shall be prepared by a California registered civil or structural engineer. The plan shall not be less effective than the shoring, bracing, sloping, or other provisions of the Construction Safety Orders, as defined in the California Code of Regulations. The Contractor shall designate in writing the "competent person" as defined in Title 8, California Code of Regulations, who shall be present at the Work Site each day that trenching/excavation is in progress. The "competent person" shall prepare and provide daily trenching/excavation inspection reports to the Engineer. Contractor shall also submit a copy of its annual California Occupational Safety and Health Administration (Cal/OSHA) trench/excavation permit.
- B. **Excavations Deeper than Four Feet.** If the Work involves excavating trenches or other excavations that extend deeper than four feet below the surface, Contractor shall promptly, and before the excavation is further disturbed, notify the City in writing of any of the following conditions:
1. Material that the Contractor believes may be material that is hazardous waste, as defined in section 25117 of the Health and Safety Code, that is required to be removed to a Class I, Class II, or Class III disposal site in accordance with provisions of existing law.
 2. Subsurface or latent physical conditions at the site differing from those indicated.
 3. Unknown physical conditions at the site of any unusual nature, different materially from those ordinarily encountered and generally recognized as inherent in work of the character provided for in the Contract

The City shall promptly investigate the conditions, and if it finds that the conditions do so materially differ, or do involve hazardous waste, and cause a

decrease or increase in Contractor's cost of, or the time required for, performance of any part of the Work, shall issue a change order under the procedures described in the Contract Documents.

In the event that a dispute arises between the City and the Contractor as to whether the conditions materially differ, or involve hazardous waste, or cause a decrease or increase in the Contractor's cost of, or time required for, performance of any part of the Work, the Contractor shall not be excused from any scheduled completion date provided for by the Contract, but shall proceed with all Work to be performed under the Contract. Contractor shall retain any and all rights provided either by contract or by law which pertain to the resolution of disputes and protests between the parties.

ARTICLE 19 DIVERSION OF RECYCLABLE WASTE MATERIALS

In compliance with the applicable City's waste reduction and recycling efforts, Contractor shall divert all Recyclable Waste Materials to appropriate recycling centers as required for compliance with the local jurisdiction's waste diversion ordinances, and provide the City Engineer with detailed records and quantities of the materials that were sent to recycling centers. Contractor will be required to submit weight tickets and written proof of diversion with its monthly progress payment requests. Contractor shall complete and execute any certification forms required by City or other applicable agencies to document Contractor's compliance with these diversion requirements. All costs incurred for these waste diversion efforts shall be the responsibility of the Contractor.

ARTICLE 20 REMOVAL OF HAZARDOUS MATERIALS

Should Contractor encounter material reasonably believed to be polychlorinated biphenyl (PCB) or other toxic wastes and hazardous materials which have not been rendered harmless at the Project site, the Contractor shall immediately stop work at the affected Project site and shall report the condition to the City in writing. The City shall contract for any services required to directly remove and/or abate PCBs and other toxic wastes and hazardous materials, if required by the Project site(s), and shall not require the Contractor to subcontract for such services. The Work in the affected area shall not thereafter be resumed except by written agreement of the City and Contractor.

ARTICLE 21 SANITARY FACILITIES

Contractor shall provide sanitary temporary toilet buildings and hand washing facilities for the use of all workers. All toilets and hand washing facilities shall comply with all applicable federal, state and local laws, codes, ordinances, and regulations. Toilets shall be kept supplied with toilet paper and shall have workable door fasteners. Toilets and hand washing facilities shall be serviced no less than once weekly and shall be present in a quantity of not less than 1 per 20 workers as required by Cal/OSHA regulations. The toilets and hand washing facilities shall be maintained in a sanitary condition at all times. Use of toilet and hand washing facilities in the Work under construction shall not be permitted. Any other sanitary facilities required by Cal/OSHA shall be the responsibility of the Contractor.

ARTICLE 22 AIR POLLUTION CONTROL

Contractor shall comply with all air pollution and dust control rules, regulations, ordinances and statutes, including, but not limited to, those required by the Air Quality Management District. All containers of paint, thinner, curing compound, solvent or liquid asphalt shall be labeled to indicate that the contents fully comply with the applicable material requirements.

ARTICLE 23 LAYOUT AND FIELD ENGINEERING

All field engineering required for laying out the Work and establishing grades for earthwork operations shall be furnished by the Contractor at its expense.

ARTICLE 24 TESTS AND INSPECTIONS

- A. If the Contract Documents, the Engineer, or any instructions, laws, ordinances, or public authority requires any part of the Work to be tested or Approved, Contractor shall provide the Engineer at least two (2) working days' notice of its readiness for observation or inspection. If inspection is by a public authority other than the City, Contractor shall promptly inform the City of the date fixed for such inspection. Required certificates of inspection (or similar) shall be secured by Contractor. Costs for City testing and City inspection shall be paid by the City. Costs of tests for Work found not to be in compliance shall be paid by the Contractor.
- B. If any Work is done or covered up without the required testing or approval, the Contractor shall uncover or deconstruct the Work, and the Work shall be redone after completion of the testing at the Contractor's cost in compliance with the Contract Documents.
- C. Where inspection and testing are to be conducted by an independent laboratory or agency, materials or samples of materials to be inspected or tested shall be selected by such laboratory or agency, or by the City, and not by Contractor. All tests or inspections of materials shall be made in accordance with the commonly recognized standards of national organizations.
- D. In advance of manufacture of materials to be supplied by Contractor which must be tested or inspected, Contractor shall notify the City so that the City may arrange for testing at the source of supply. Any materials which have not satisfactorily passed such testing and inspection shall not be incorporated into the Work.
- E. If the manufacture of materials to be inspected or tested will occur in a plant or location greater than sixty (60) miles from the City, the Contractor shall pay for any excessive or unusual costs associated with such testing or inspection, including but not limited to excessive travel time, standby time and required lodging.
- F. Reexamination of Work may be ordered by the City. If so ordered, Work must be uncovered or deconstructed by Contractor. If Work is found to be in accordance with the Contract Documents, the City shall pay the costs of reexamination and

reconstruction. If such work is found not to be in accordance with the Contract Documents, Contractor shall pay all costs.

ARTICLE 25 PROTECTION OF WORK AND PROPERTY

- A. The Contractor shall be responsible for all damages to persons or property that occurs as a result of the Work. Contractor shall be responsible for the proper care and protection of all materials delivered and Work performed until completion and final Acceptance by the City. All Work shall be solely at the Contractor's risk. Contractor shall adequately protect adjacent property from settlement or loss of lateral support as necessary. Contractor shall comply with all applicable safety laws and building codes to prevent accidents or injury to persons on, about, or adjacent to the Project site where Work is being performed. Contractor shall erect and properly maintain at all times, as required by field conditions and progress of work, all necessary safeguards, signs, barriers, lights, and watchmen for protection of workers and the public, and shall post danger signs warning against hazards created in the course of construction.
- B. In an emergency affecting safety of life or of work or of adjoining property, Contractor, without special instruction or authorization from the Engineer, is hereby permitted to act to prevent such threatened loss or injury; and Contractor shall so act, without appeal, if so authorized or instructed by the Engineer or the City. Any compensation claimed by Contractor on account of emergency work shall be determined by and agreed upon by the City and the Contractor.

ARTICLE 26 CONTRACTOR'S MEANS AND METHODS

Contractor is solely responsible for the means and methods utilized to perform the Work. In no case shall the Contractor's means and methods deviate from commonly used industry standards.

ARTICLE 27 AUTHORIZED REPRESENTATIVES

The City shall designate representatives, who shall have the right to be present at the Project site at all times. The City may designate an inspector who shall have the right to observe all of the Contractor's Work. The inspector shall not be responsible for the Contractor's failure to carry out the Work in accordance with the Contract Documents. Contractor shall provide safe and proper facilities for such access.

ARTICLE 28 HOURS OF WORK

- A. As provided in Article 3 (commencing at section 1810), Chapter 1, Part 7, Division 2 of the Labor Code, Contractor stipulates that eight (8) hours of labor shall constitute a legal day's work. The time of service of any worker employed at any time by the Contractor or by any subcontractor on any subcontract under this Contract upon the Work or upon any part of the Work contemplated by this Contract is limited and restricted to eight (8) hours during any one calendar day and 40 hours during any one calendar week, except as hereinafter provided. Notwithstanding the provisions herein above set forth, work performed by employees of Contractor in excess of eight (8) hours per day, and 40 hours during any one week, shall be permitted upon this public work upon

compensation for all hours worked in excess of eight (8) hours per day at not less than one and one-half times the basic rate of pay.

- B. The Contractor and every subcontractor shall keep an accurate record showing the name of and actual hours worked each calendar day and each calendar week by each worker employed in connection with the Work or any part of the Work contemplated by this Contract. The record shall be kept open at all reasonable hours to the inspection of the City and to the Division of Labor Law Enforcement, Department of Industrial Relations of the State of California.
- C. The Contractor shall pay to the City a penalty of twenty-five dollars (\$25.00) for each worker employed in the execution of this Contract by the Contractor or by any subcontractor for each calendar day during which such worker is required or permitted to work more than eight (8) hours in any calendar day and 40 hours in any one calendar week in violation of the provisions of Article 3 (commencing at section 1810), Chapter 1, Part 7, Division 2 of the Labor Code.
- D. Any work necessary to be performed after regular working hours, or on Saturdays and Sundays or other holidays, shall be performed without additional expense to the City. Contractor shall also timely notify the City when work will be performed outside regular working hours or on weekends or holidays.
- E. City will provide inspection during normal working hours from 7:00 a.m. to 3:30 p.m. Monday through Friday. Inspection before or after this time will be charged to the Contractor as reimbursable inspection time. Inspections on weekends requires two days' notice for review and approval. Upon written request and approval the 8.5 hour working day may be changed to other limits subject to city/county ordinance.
- F. Refer to the most current version of the City of Milpitas Noise Abatement Ordinance, Ord. 196.6 of the Municipal Code Section V-213. It shall be unlawful for any person to engage or permit to engage in construction of any building or related road or walkway, pool, or landscape improvement or in the construction operations related thereto including to operate, permit, use, or cause to operate any of the following at the Project site, other than between the hours of 7:00 a.m. to 7:00 p.m., Monday through Sunday, unless otherwise approved by the City:
 - 1. Powered Vehicles
 - 2. Construction Equipment
 - 3. Loading and Unloading Vehicles
 - 4. Domestic Power Tools

ARTICLE 29 PAYROLL RECORDS; LABOR COMPLIANCE

- A. Pursuant to Labor Code section 1776, Contractor and all subcontractors shall maintain weekly certified payroll records, showing the names, addresses, Social Security numbers, work classifications, straight time and overtime hours worked each day and week, and the actual per diem wages paid to each journeyman,

apprentice, worker, or other employee employed by them in connection with the Work under this Contract. Contractor shall certify under penalty of perjury that records maintained and submitted by Contractor are true and accurate. Contractor shall also require subcontractor(s) to certify weekly payroll records under penalty of perjury.

- B. In accordance with Labor Code section 1771.4, the Contractor and each subcontractor shall furnish the certified payroll records directly to the Department of Industrial Relations ("DIR") on the specified interval and format prescribed by the DIR, which may include electronic submission. Contractor shall comply with all requirements and regulations from the DIR relating to labor compliance monitoring and enforcement. The requirement to submit certified payroll records directly to the Labor Commissioner under Labor Code section 1771.4 shall not apply to work performed on a public works project that is exempt pursuant to the small project exemption specified in Labor Code Section 1771.4.
- C. Any stop orders issued by the Department of Industrial Relations against Contractor or any subcontractor that affect Contractor's performance of Work, including any delay, shall be Contractor's sole responsibility. Any delay arising out of or resulting from such stop orders shall be considered Contractor caused delay subject to any applicable liquidated damages and shall not be compensable by the City. Contractor shall defend, indemnify and hold the City, its officials, officers, employees and agents free and harmless from any claim or liability arising out of stop orders issued by the Department of Industrial Relations against Contractor or any subcontractor.
- D. The payroll records described herein shall be certified and submitted by the Contractor at a time designated by the City. The Contractor shall also provide the following:
 - 1. A certified copy of the employee's payroll records shall be made available for inspection or furnished to such employee or his or her authorized representative on request.
 - 2. A certified copy of all payroll records described herein shall be made available for inspection or furnished upon request of the DIR.
- E. Unless submitted electronically, the certified payroll records shall be on forms provided by the Division of Labor Standards Enforcement ("DLSE") of the DIR or shall contain the same information as the forms provided by the DLSE.
- F. Any copy of records made available for inspection as copies and furnished upon request to the public or any public agency, the City, the Division of Apprenticeship Standards or the Division of Labor Standards Enforcement shall be marked or obliterated in such a manner as to prevent disclosure of an individual's name, address and social security number. The name and address of the Contractor awarded the Contract or performing the contract shall not be marked or obliterated.
- G. In the event of noncompliance with the requirements of this Article, the Contractor shall have ten (10) calendar days in which to comply subsequent to

receipt of written notice specifying in what respects the Contractor must comply with this Article. Should noncompliance still be evident after such 10-day period, the Contractor shall pay a penalty of one hundred dollars (\$100.00) to the City for each calendar day, or portion thereof, for each worker, until strict compliance is effectuated. Upon the request of the Division of Apprenticeship Standards or the Division of Labor Standards Enforcement, such penalties shall be withheld from progress payment then due.

- H. The responsibility for compliance with this Article shall rest upon the Contractor.

ARTICLE 30 PREVAILING RATES OF WAGES

- A. The Contractor is aware of the requirements of Labor Code sections 1720 *et seq.* and 1770 *et seq.*, as well as California Code of Regulations, Title 8, Section 16000 *et seq.* ("Prevailing Wage Laws"), which require the payment of prevailing wage rates and the performance of other requirements on certain "public works" and "maintenance" projects. Since this Project involves an applicable "public works" or "maintenance" project, as defined by the Prevailing Wage Laws, and since the total compensation is \$1,000 or more, Contractor agrees to fully comply with such Prevailing Wage Laws. The Contractor shall obtain a copy of the prevailing rates of per diem wages at the commencement of this Contract from the website of the Division of Labor Statistics and Research of the Department of Industrial Relations located at www.dir.ca.gov. In the alternative, the Contractor may view a copy of the prevailing rate of per diem wages which are on file at the City's Administration Office and shall be made available to interested parties upon request. Contractor shall make copies of the prevailing rates of per diem wages for each craft, classification, or type of worker needed to perform work on the Project available to interested parties upon request, and shall post copies at the Contractor's principal place of business and at the Project site. Contractor shall defend, indemnify and hold the City, its officials, officers, employees and authorized volunteers free and harmless from any claims, liabilities, costs, penalties or interest arising out of any failure or allege failure to comply with the Prevailing Wage Laws.
- B. The Contractor shall forfeit as a penalty to the City not more than Two Hundred Dollars (\$200.00), pursuant to Labor Code section 1775, for each calendar day, or portion thereof, for each worker paid less than the prevailing wage rate as determined by the Director of the Department of Industrial Relations for such work or craft in which such worker is employed for any public work done under the Contract by it or by any subcontractor under it. The difference between such prevailing wage rate and the amount paid to each worker for each calendar day or portion thereof, for which each worker was paid less than the prevailing wage rate, shall be paid to each worker by the Contractor.
- C. Contractor shall post, at appropriate conspicuous points on the Project site, a schedule showing all determined general prevailing wage rates and all authorized deductions, if any, from unpaid wages actually earned.

ARTICLE 31 PUBLIC WORKS CONTRACTOR REGISTRATION

Pursuant to Labor Code sections 1725.5 and 1771.1, the Contractor and its subcontractors must be registered with the Department of Industrial Relations prior to the execution of a contract to perform public works. By entering into this Contract, Contractor represents that it is aware of the registration requirement and is currently registered with the DIR. Contractor shall maintain a current registration for the duration of the Project. Contractor shall further include the requirements of Labor Code sections 1725.5 and 1771.1 in any subcontract and ensure that all subcontractors are registered at the time this Contract is entered into and maintain registration for the duration of the Project. Notwithstanding the foregoing, the contractor registration requirements mandated by Labor Code Sections 1725.5 and 1771.1 shall not apply to work performed on a public works project that is exempt pursuant to the small project exemption specified in Labor Code Sections 1725.5 and 1771.1.

ARTICLE 32 EMPLOYMENT OF APPRENTICES

- A. Contractor and all subcontractors shall comply with the requirements of Labor Code sections 1777.5 and 1777.6 in the employment of apprentices.
- B. Information relative to apprenticeship standards, wage schedules, and other requirements may be obtained from the Director of Industrial Relations, ex officio the Administrator of Apprenticeship, San Francisco, California, or from the Division of Apprenticeship Standards and its branch offices.
- C. Knowing violations of Labor Code section 1777.5 will result in forfeiture not to exceed one hundred dollars (\$100.00) for each calendar day of non-compliance pursuant to Labor Code section 1777.7.
- D. The responsibility for compliance with this Article shall rest upon the Contractor.

ARTICLE 33 NONDISCRIMINATION/EQUAL EMPLOYMENT OPPORTUNITY

Pursuant to Labor Code section 1735 and other applicable provisions of law, the Contractor and its subcontractors shall not discriminate against any employee or applicant for employment because of race, religious creed, color, national origin, ancestry, physical disability, mental disability, medical condition, marital status, sex, age, sexual orientation, or any other classifications protected by law on this Project. The Contractor will take affirmative action to insure that employees are treated during employment or training without regard to their race, religious creed, color, national origin, ancestry, physical disability, mental disability, medical condition, marital status, sex, age, sexual orientation, or any other classifications protected by law.

Employment Eligibility; Contractor. By executing this Contract, Contractor verifies that it fully complies with all requirements and restrictions of state and federal law respecting the employment of undocumented aliens, including, but not limited to, the Immigration Reform and Control Act of 1986, as may be amended from time to time. Such requirements and restrictions include, but are not limited to, examination and retention of documentation confirming the identity and immigration status of each employee of the Contractor. Contractor also verifies that it has not committed a violation of any such law within the five (5) years immediately preceding the date of execution of this Contract, and shall not violate any such law at any time during the term of the Contract. Contractor shall avoid any violation of any such law during the term of this

Contract by participating in an electronic verification of work authorization program operated by the United States Department of Homeland Security, by participating in an equivalent federal work authorization program operated by the United States Department of Homeland Security to verify information of newly hired employees, or by some other legally acceptable method. Contractor shall maintain records of each such verification, and shall make them available to the City or its representatives for inspection and copy at any time during normal business hours. The City shall not be responsible for any costs or expenses related to Contractor's compliance with the requirements provided for or referred to herein.

Employment Eligibility; Subcontractors, Sub-subcontractors and Consultants. To the same extent and under the same conditions as Contractor, Contractor shall require all of its subcontractors, sub-subcontractors and consultants performing any part of the Work or of this Contract to make the same verifications and comply with all requirements and restrictions provided for herein.

Employment Eligibility; Failure to Comply. Each person executing this Contract on behalf of Contractor verifies that he or she is a duly authorized officer of Contractor, and understands that any of the following shall be grounds for the City to terminate the Contract for cause: (1) failure of Contractor or its subcontractors, sub-subcontractors or consultants to meet any of the requirements provided for herein; (2) any misrepresentation or material omission concerning compliance with such requirements; or (3) failure to immediately remove from the Work any person found not to be in compliance with such requirements.

ARTICLE 34 DEBARMENT OF CONTRACTORS AND SUBCONTRACTORS

Contractors or subcontractors may not perform work on a public works project with a subcontractor who is ineligible to perform work on a public project pursuant to Labor Code section 1777.1 or 1777.7. Any contract on a public works project entered into between a contractor and a debarred subcontractor is void as a matter of law. A debarred subcontractor may not receive any public money for performing work as a subcontractor on a public works contract. Any public money that is paid, or may have been paid to a debarred subcontractor by a contractor on the project shall be returned to the City. The Contractor shall be responsible for the payment of wages to workers of a debarred subcontractor who has been allowed to work on the project.

ARTICLE 35 LABOR/EMPLOYMENT SAFETY

The Contractor shall comply with all applicable laws and regulations of the federal, state, and local government, including Cal/OSHA requirements and requirements for verification of employees' legal right to work in the United States.

The Contractor shall maintain emergency first aid treatment for his employees which complies with the Federal Occupational Safety and Health Act of 1970 (29 U.S.C. § 651 *et seq.*), and California Code of Regulations, Title 8, Industrial Relations Division 1, Department of Industrial Relations, Chapter 4. The Contractor shall ensure the availability of emergency medical services for its employees in accordance with California Code of Regulations, Title 8, Section 1512.

The Contractor shall submit the Illness and Injury Prevention Program and a Project site specific safety program to the City prior to beginning Work at the Project site. Contractor shall maintain

a confined space program that meets or exceeds the City Standards. Contractor shall adhere to the City's lock out tag out program.

ARTICLE 36 INSURANCE

The Contractor shall obtain, and at all times during performance of the Work of Contract, maintain all of the insurance described in this Article. Contractor shall not commence Work under this Contract until it has provided evidence satisfactory to the City that it has secured all insurance required hereunder. Contractor shall not allow any subcontractor to commence work on any subcontract until it has provided evidence satisfactory to the City that the subcontractor has secured all insurance required under this Article. Failure to provide and maintain all required insurance shall be grounds for the City to terminate this Contract for cause. Contractor shall furnish City with original certificates of insurance and endorsements effective coverage required by this Contract on forms satisfactory to the City. The certificates and endorsements for each insurance policy shall be signed by a person authorized by that insurer to bind coverage on its behalf, and shall be on forms acceptable to the City. All certificates and endorsements must be received and approved by the City before Work commences.

- A. **Additional Insureds; Waiver of Subrogation.** The City, its elected and appointed officials, officers, attorneys, agents employees and volunteers shall be named as Additional Insureds on Contractor's All Risk policy and on Contractor's and its subcontractors' policies of Commercial General Liability and Automobile Liability insurance using, for Contractor's policy/ies of Commercial General Liability insurance, ISO CG forms 20 10 and 20 37 (or endorsements providing the exact same coverage, including completed operations), and, for subcontractors' policies of Commercial General Liability insurance, ISO CG form 20 38 (or endorsements providing the exact same coverage). Notwithstanding the minimum limits set forth in this Contract for any type of insurance coverage, all available insurance proceeds in excess of the specified minimum limits of coverage shall be available to the parties required to be named as Additional Insureds hereunder. Contractor and its insurance carriers shall provide a Waiver of Subrogation in favor of those parties.
- B. **Workers' Compensation Insurance.** The Contractor shall provide workers' compensation insurance for all of the employees engaged in Work under this Contract, on or at the Site, and, in case of any sublet Work, the Contractor shall require the subcontractor similarly to provide workers' compensation insurance for all the latter's employees as prescribed by State law. Any class of employee or employees not covered by a subcontractor's insurance shall be covered by the Contractor's insurance. In case any class of employees engaged in work under this Contract, on or at the Site, is not protected under the Workers' Compensation Statutes, the Contractor shall provide or shall cause a subcontractor to provide, adequate insurance coverage for the protection of such employees not otherwise protected. The Contractor is required to secure payment of compensation to his employees in accordance with the provisions of section 3700 of the Labor Code. The Contractor shall file with the City certificates of his insurance protecting workers. Company or companies providing insurance coverage shall be acceptable to the City, if in the form and coverage as set forth in the Contract Documents.

- C. **Employer's Liability Insurance.** Contractor shall provide Employer's Liability Insurance, including Occupational Disease, in the amount of at least one million dollars (\$1,000,000.00) per person per accident. Contractor shall provide City with a certificate of Employer's Liability Insurance. Such insurance shall comply with the provisions of the Contract Documents. The policy shall be endorsed, if applicable, to provide a Borrowed Servant/Alternate Employer Endorsement and contain a Waiver of Subrogation in favor of the City.
- D. **Commercial General Liability Insurance.** Contractor shall provide "occurrence" form Commercial General Liability insurance coverage at least as broad as the most current ISO CGL Form 00 01, including but not limited to, premises liability, contractual liability, products/completed operations, personal and advertising injury which may arise from or out of Contractor's operations, use, and management of the Site, or the performance of its obligations hereunder. The policy shall not contain any exclusion contrary to this Contract including but not limited to endorsements or provisions limiting coverage for (1) contractual liability (including but not limited to ISO CG 24 26 or 21 39); or (2) cross-liability for claims or suits against one insured against another. Policy limits shall not be less than one million dollars and zero cents (\$1,000,000.00) per occurrence for bodily injury, personal injury and property damage. If Commercial General Liability Insurance or other form with a general aggregate limit is used, either the general aggregate limit shall apply separately to this project/location or the general aggregate limit shall be twice the required occurrence limit. Defense costs shall be paid in addition to the limits.
1. Such policy shall comply with all the requirements of this Article. The limits set forth herein shall apply separately to each insured against whom claims are made or suits are brought, except with respect to the limits of liability. Further the limits set forth herein shall not be construed to relieve the Contractor from liability in excess of such coverage, nor shall it limit Contractor's indemnification obligations to the City, and shall not preclude the City from taking such other actions available to the City under other provisions of the Contract Documents or law.
 2. All general liability policies provided pursuant to the provisions of this Article shall comply with the provisions of the Contract Documents.
 3. All general liability policies shall be written to apply to all bodily injury, including death, property damage, personal injury, owned and non-owned equipment, blanket contractual liability, completed operations liability, explosion, collapse, under-ground excavation, removal of lateral support, and other covered loss, however occasioned, occurring during the policy term, and shall specifically insure the performance by Contractor of that part of the indemnification contained in these General Conditions relating to liability for injury to or death of persons and damage to property.
 4. If the coverage contains one or more aggregate limits, a minimum of 50% of any such aggregate limit must remain available at all times; if over 50% of any aggregate limit has been paid or reserved, the City may require additional coverage to be purchased by Contractor to restore the required limits. Contractor may combine primary, umbrella, and as broad as

possible excess liability coverage to achieve the total limits indicated above. Any umbrella or excess liability policy shall include the additional insured endorsement described in the Contract Documents.

5. All policies of general liability insurance shall permit and Contractor does hereby waive any right of subrogation which any insurer of Contractor may acquire from Contractor by virtue of the payment of any loss.

E. **Automobile Liability Insurance.** Contractor shall provide "occurrence" form Automobile Liability Insurance at least as broad as ISO CA 00 01 (Any Auto) in the amount of, at least, one million dollars and zero cents (\$1,000,000.00) per accident for bodily injury and property damage. Such insurance shall provide coverage with respect to the ownership, operation, maintenance, use, loading or unloading of any auto owned, leased, hired or borrowed by Contractor or for which Contractor is responsible, in a form and with insurance companies acceptable to the City. All policies of automobile insurance shall permit and Contractor does hereby waive any right of subrogation which any insurer of Contractor may acquire from Contractor by virtue of the payment of any loss.

F. **Builder's Risk ["All Risk"].**

1. It is the Contractor's responsibility to maintain or cause to be maintained Builder's Risk ["All Risk"] extended coverage insurance on all work, material, equipment, appliances, tools, and structures that are or will become part of the Work and subject to loss or damage by fire, and vandalism and malicious mischief, in an amount to cover 100% of the replacement cost. The City accepts no responsibility for the Work until the Work is formally accepted by the City. The Contractor shall provide a certificate evidencing this coverage before commencing performance of the Work.
2. The named insureds shall be Contractor, all Subcontractors of any tier (excluding those solely responsible for design work), suppliers, and City, its elected officials, officers, employees, agents and authorized volunteers, as their interests may appear. Contractor shall not be required to maintain property insurance for any portion of the Work following acceptance by City.
3. Policy shall be provided for replacement value on an "all risk" basis. There shall be no coinsurance penalty provision in any such policy. Policy must include: (1) coverage for any ensuing loss from faulty workmanship, nonconforming work, omission or deficiency in design or specifications; (2) coverage against machinery accidents and operational testing; (3) coverage for removal of debris, and insuring the buildings, structures, machinery, equipment, materials, facilities, fixtures and all other properties constituting a part of the Project; (4) transit coverage, including ocean marine coverage (unless insured by the supplier), with sub-limits sufficient to insure the full replacement value of any key equipment item; and (5) coverage with sub-limits sufficient to insure the full replacement value of any property or equipment stored either on or off

the Site. Such insurance shall be on a form acceptable to City to ensure adequacy and sublimit.

4. In addition, the policy shall meet the following requirements:
 - a. Insurance policies shall be so conditioned as to cover the performance of any extra work performed under the Contract.
 - b. Coverage shall include all materials stored on site and in transit.
 - c. Coverage shall include Contractor's tools and equipment.
 - d. Insurance shall include boiler, machinery and material hoist coverage.

G. **Contractor's Pollution Liability Coverage.** Contractor shall provide pollution liability insurance in an amount not less than one million dollars and zero cents (\$1,000,000.00) per occurrence and two million dollars and zero cents (\$2,000,000.00) aggregate.

H. Contractor shall require all tiers of sub-contractors working under this Contract to provide the insurance required under this Article unless otherwise agreed to in writing by City. Contractor shall make certain that any and all subcontractors hired by Contractor are insured in accordance with this Contract. If any subcontractor's coverage does not comply with the foregoing provisions, Contractor shall indemnify and hold the City harmless from any damage, loss, cost, or expense, including attorneys' fees, incurred by the City as a result thereof.

ARTICLE 37 FORM AND PROOF OF CARRIAGE OF INSURANCE

A. Any insurance carrier providing insurance coverage required by the Contract Documents shall be admitted to and authorized to do business in the State of California unless waived, in writing, by the City's Risk Manager. Carrier(s) shall have an A.M. Best rating of not less than an A:VII. Insurance deductibles or self-insured retentions must be declared by the Contractor. At the election of the City the Contractor shall either 1) reduce or eliminate such deductibles or self-insured retentions, or 2) procure a bond which guarantees payment of losses and related investigations, claims administration, and defense costs and expenses. If umbrella or excess liability coverage is used to meet any required limit(s) specified herein, the Contractor shall provide a "follow form" endorsement satisfactory to the City indicating that such coverage is subject to the same terms and conditions as the underlying liability policy.

B. Each insurance policy required by this Contract shall be endorsed to state that: (1) coverage shall not be suspended, voided, reduced or cancelled except after thirty (30) days prior written notice by certified mail, return receipt requested, has been given to the City; and (2) any failure to comply with reporting or other provisions of the policies, including breaches of warranties, shall not affect coverage provided to the City, its officials, officers, agents, employees, and volunteers.

- C. The Certificate(s) and policies of insurance shall contain or shall be endorsed to contain the covenant of the insurance carrier(s) that it shall provide no less than thirty (30) days written notice be given to the City prior to any material modification or cancellation of such insurance. In the event of a material modification or cancellation of coverage, the City may terminate the Contract or stop the Work in accordance with the Contract Documents, unless the City receives, prior to such effective date, another properly executed original Certificate of Insurance and original copies of endorsements or certified original policies, including all endorsements and attachments thereto evidencing coverage's set forth herein and the insurance required herein is in full force and effect. Contractor shall not take possession, or use the Site, or commence operations under this Contract until the City has been furnished original Certificate(s) of Insurance and certified original copies of endorsements or policies of insurance including all endorsements and any and all other attachments as required in this Article. The original endorsements for each policy and the Certificate of Insurance shall be signed by an individual authorized by the insurance carrier to do so on its behalf.
- D. The Certificate(s) of Insurance, policies and endorsements shall so covenant and shall be construed as primary, and the City's insurance and/or deductibles and/or self-insured retentions or self-insured programs shall not be construed as contributory.
- E. City reserves the right to adjust the monetary limits of insurance coverages during the term of this Contract including any extension thereof if, in the City's reasonable judgment, the amount or type of insurance carried by the Contractor becomes inadequate.
- F. Contractor shall report to the City, in addition to the Contractor's insurer, any and all insurance claims submitted by the Contractor in connection with the Work under this Contract.

ARTICLE 38 TIME FOR COMPLETION AND LIQUIDATED DAMAGES

- A. **Time for Completion/Liquidated Damages.** Time is of the essence in the completion of the Work. Work shall be commenced within **ten (10) Days** of the date stated in the City's Notice to Proceed and shall be completed by Contractor specified in the Contract Documents. The City is under no obligation to consider early completion of the Project; and the Contract completion date shall not be amended by the City's receipt or acceptance of the Contractor's proposed earlier completion date. Furthermore, Contractor shall not, under any circumstances, receive additional compensation from the City (including but not limited to indirect, general, administrative or other forms of overhead costs) for the period between the time of earlier completion proposed by the Contractor and the Contract completion date. If the Work is not completed as stated in the Contract Documents, it is understood that the City will suffer damage. In accordance with Government Code section 53069.85, being impractical and infeasible to determine the amount of actual damage, it is agreed that Contractor shall pay to the City as fixed and liquidated damages, and not as a penalty, the sum stipulated in the Contract for each calendar day of delay until the Work is fully completed as determined by the City. Contractor and its surety shall be liable for

any liquidated damages. Any money due or to become due the Contractor may be retained to cover liquidated damages.

- B. **Inclement Weather.** Contractor shall abide by the Engineer's determination of what constitutes inclement weather. Time extensions for inclement weather shall only be granted when the Work stopped during inclement weather is on the critical path of the Project schedule. The Contractor shall implement measures and make contingencies as may be required to protect the Work and to all allow Work to proceed during wet or inclement weather to prevent delay or stoppage.
- C. **Extension of Time.** Contractor shall not be charged liquidated damages because of any delays in completion of the Work due to unforeseeable causes beyond the control and without the fault or negligence of Contractor (or its subcontractors or suppliers). Contractor shall within five (5) Days of identifying any such delay notify the City in writing of causes of delay. The City shall ascertain the facts and extent of delay and grant extension of time for completing the Work when, in its judgment, the facts justify such an extension. Time extensions to the Project shall be requested by the Contractor as they occur and without delay. No delay claims shall be permitted unless the event or occurrence delays the completion of the Project beyond the Contract completion date.
- D. **No Damages for Reasonable Delay.** The City's liability to Contractor for delays for which the City is responsible shall be limited to only an extension of time unless such delays were unreasonable under the circumstances. In no case shall the City be liable for any costs which are borne by the Contractor in the regular course of business, including, but not limited to, home office overhead and other ongoing costs. Damages caused by unreasonable City delay, including delays caused by items that are the responsibility of the City pursuant to Government Code section 4215, shall be based on actual costs only, no proportions or formulas shall be used to calculate any delay damages.

ARTICLE 39 SCHEDULE OF VALUES, COST BREAKDOWN AND PERIODIC ESTIMATES

Contractor shall furnish on forms Approved by the City:

- A. When requested by the Engineer, and within ten (10) Days of Notice to Proceed with the Contract, the Contractor shall provide a Schedule of Values consisting of a detailed estimate giving a complete breakdown of the Contract price for each lump sum bid item in the Contract.
- B. A monthly itemized estimate of Work done for the purpose of making progress payments. In order for the City to consider and evaluate each progress payment application, the Contractor shall submit a detailed measurement of Work performed and a progress estimate of the value thereof before the tenth (10th) Day of the following month.
- C. Contractor shall submit, with each of its payment requests, an adjusted list of actual quantities, verified by the Engineer, for unit price items listed, if any, in the Bid Form.

- D. Following the City's Acceptance of the Work, the Contractor shall submit to the City a written statement of the final quantities of unit price items for inclusion in the final payment request.
- E. The City shall have the right to adjust any estimate of quantity and to subsequently correct any error made in any estimate for payment.

Contractor shall certify under penalty of perjury, that all cost breakdowns and periodic estimates accurately reflect the Work on the Project.

ARTICLE 40 PROGRESS ESTIMATES AND PAYMENT

- A. By the tenth (10th) Day of the following calendar month, Contractor shall submit to Engineer a payment request which shall set forth in detail the value of the Work done for the period beginning with the date work was first commenced and ending on the end of the calendar month for which the payment request is prepared. Contractor shall include any amount earned for authorized extra work. From the total thus computed, a deduction shall be made in the amount of five percent (5%) for retention, except where the City has adopted a finding that the Work done under the Contract is substantially complex, and then the amount withheld as retention shall be the percentage specified in the Notice Inviting Bids. From the remainder a further deduction may be made in accordance with Section B below. The amount computed, less the amount withheld for retention and any amounts withheld as set forth below, shall be the amount of the Contractor's payment request.
- B. The Contractor shall provide an updated project schedule with each payment request.
- C. The City may withhold a sufficient amount or amounts of any payment or payments otherwise due to Contractor, as in his judgment may be necessary to cover:
 - 1. Payments which may be past due and payable for just claims against Contractor or any subcontractors for labor or materials furnished in and about the performance of work on the Project under this Contract.
 - 2. Defective work not remedied.
 - 3. Failure of Contractor to make proper payments to his subcontractor or for material or labor.
 - 4. Completion of the Contract if there is a reasonable doubt that the Work can be completed for balance then unpaid.
 - 5. Damage to another contractor or a third party.
 - 6. Amounts which may be due the City for claims against Contractor.
 - 7. Failure of Contractor to keep the record ("as-built") drawings up to date.

8. Failure to provide update on construction schedule as required herein.
 9. Site cleanup.
 10. Failure to comply with Contract Documents.
 11. Liquidated damages.
 12. Legally permitted penalties.
- D. The City may apply such withheld amount or amounts to payment of such claims or obligations at its discretion with the exception of subsections (B)(1), (3), and (5) of this Article, which must be retained or applied in accordance with applicable law. In so doing, the City shall be deemed the agent of Contractor and any payment so made by the City shall be considered as a payment made under contract by the City to Contractor and the City shall not be liable to Contractor for such payments made in good faith. Such payments may be made without prior judicial determination of claim or obligations. The City will render Contractor a proper accounting of such funds disbursed on behalf of Contractor.
- E. Upon receipt, the Engineer shall review the payment request to determine whether it is undisputed and suitable for payment. If the payment request is determined to be unsuitable for payment, it shall be returned to Contractor as soon as practicable but not later than seven (7) Days after receipt, accompanied by a document setting forth in writing the reasons why the payment request is not proper. The City shall make the progress payment within 30 calendar days after the receipt of an undisputed and properly submitted payment request from Contractor, provided that a release of liens and claims has been received from the Contractor pursuant to Civil Code section 8132. The number of days available to the City to make a payment without incurring interest pursuant to this paragraph shall be reduced by the number of days by which the Engineer exceeds the seven (7) Day requirement.
- F. A payment request shall be considered properly executed if funds are available for payment of the payment request and payment is not delayed due to an audit inquiry by the financial officer of the City.

ARTICLE 41 SECURITIES FOR MONEY WITHHELD

Pursuant to section 22300 of the Public Contract Code of the State of California, Contractor may request the City to make retention payments directly to an escrow agent or may substitute securities for any money withheld by the City to ensure performance under the contract. At the request and expense of Contractor, securities equivalent to the amount withheld shall be deposited with the City or with a state or federally chartered bank as the escrow agent who shall return such securities to Contractor upon satisfactory completion of the contract. Deposit of securities with an escrow agent shall be subject to a written agreement substantially in the form provided in section 22300 of the Public Contract Code.

ARTICLE 42 CHANGES AND EXTRA WORK.

- A. **Contract Change Orders.**

1. The City, without invalidating the Contract, may order changes in the Work consisting of additions, deletions or other revisions, and the Contract Price and Contract Time shall be adjusted accordingly. Except as otherwise provided herein, all such changes in the Work shall be authorized by Change Order, and shall be performed under the applicable conditions of the Contract Documents. A Change Order signed by the Contractor indicates the Contractor's agreement therewith, including any adjustment in the Contract Price or the Contract Time, and the full and final settlement of all costs (direct, indirect and overhead) related to the Work authorized by the Change Order.
2. Contractor shall promptly execute changes in the Work as directed in writing by the City even when the parties have not reached agreement on whether the change increases the scope of Work or affects the Contract Price or Contract Time. All claims for additional compensation shall be presented in writing. No claim will be considered after the Work in question has been completed unless a written Change Order has been issued or a timely written notice of claim has been made by Contractor.
3. Whenever any change is made as provided for herein, such change shall be considered and treated as though originally included in the Contract, and shall be subject to all terms, conditions, and provisions of the original Contract.
4. Contractor shall not be entitled to claim or bring suit for damages, whether for loss of profits or otherwise, on account of any decrease or omission of any item or portion of Work to be done.
5. No dispute, disagreement, or failure of the parties to reach agreement on the terms of the Change Order shall relieve the Contractor from the obligation to proceed with performance of the work, including Additional Work, promptly and expeditiously.
6. Contractor shall make available to the City any of the Contractor's documents related to the Project immediately upon request of the City, as set forth in Article 52.
7. Any alterations, extensions of time, Additional Work, or any other changes may be made without securing consent of the Contractor's surety or sureties.

B. Contract Price Change.

1. Process for Determining Adjustments in Contract Price.
 - a. Owner Initiated Change. The Contractor must submit a complete cost proposal, including any change in the Contract Price or Contract Time, within seven (7) Days after receipt of a scope of a proposed change order initiated by the City, unless the City requests that proposals be submitted in less than seven (7) Days.

- b. Contractor Initiated Change. The Contractor must give written notice of a proposed change order required for compliance with the Contract Documents within seven (7) Days of discovery of the facts giving rise to the proposed change order.
- c. Whenever possible, any changes to the Contract amount shall be in a lump sum mutually agreed to by the Contractor and the City.
- d. Price quotations from the Contractor shall be accompanied by sufficiently detailed supporting documentation to permit verification by the City, including but not limited to estimates and quotations from subcontractors or material suppliers, as the City may reasonably request. Contractor shall certify the accuracy of all Change Order Requests under penalty of perjury.
- e. If the Contractor fails to submit a complete cost proposal within the seven (7) Day period (or as requested), the City has the right to order the Contractor in writing to commence the Work immediately on a time and materials basis and/or issue a lump sum change to the Contract Price and/or Contract Time in accordance with the City's estimate. If the change is issued based on the City's estimate, the Contractor will waive its right to dispute the action unless within fifteen (15) Days following completion of the added/deleted work, the Contractor presents written proof that the City's estimate was in error.

2. Unit Price Change Orders.

- a. When the actual quantity of a Unit Price item is found to vary from the Bid Form, compensation for the change in quantity will be calculated by multiplying the actual quantity by the Unit Price. This calculation may result in either an additive or deductive Final Change Order pursuant to the Contract Documents. Contractor shall immediately inform the Engineer when the actual quantities vary from estimated quantities.
- b. No Mark up for Overhead and Profit. Because the Contract Unit Prices provided in the Bid Form include Overhead and Profit as determined by Contractor at the time of Bid submission, no mark up or deduction for Overhead and Profit will be included in Unit Price Change Orders.
- c. Bid items included on the Bid Form may be deducted from the Work in their entirety without any negotiated extra costs.
- d. Contractor acknowledges that unit quantities are estimates and agrees that the estimated unit quantities listed on the Bid Form will be adjusted to reflect the actual unit quantities which may result in an adjustment to the Contract Unit Prices. Such an adjustment will be made by execution of a final additive or deductive Change Order following Contractor's completion of the Work. Upon

notification, Contractor's failure to respond within seven (7) Days will result in City's issuance of a unit quantity adjustment to the Contract Unit Prices and/or Contract Time in accordance with the Contract Documents.

3. Lump Sum Change Orders. Compensation for Lump Sum Change Orders shall be limited to expenditures necessitated specifically by the Additional Work, and shall be segregated as follows:

- a. Labor. The costs of labor will be the actual cost for wages prevailing locally for each craft or type of worker at the time the Additional Work is done, plus employer payments of payroll taxes and insurance, health and welfare, pension, vacation, apprenticeship funds, and other direct costs resulting from Federal, State or local laws, as well as assessment or benefits required by lawful collective bargaining agreements. The use of a labor classification which would increase the Additional Work cost will not be permitted unless the Contractor establishes the necessity for such new classifications. Labor costs for equipment operators and helpers shall be reported only when such costs are not included in the invoice for equipment rental.
- b. Materials. The cost of materials reported shall be at invoice or lowest current price at which such materials are locally available in the quantities involved, plus sales tax, freight, and delivery. Materials costs shall be based upon supplier or manufacturer's invoice. If invoices or other satisfactory evidence of cost are not furnished within fifteen (15) Days of delivery, then the City shall determine the materials cost, at its sole discretion.
- c. Tool and Equipment Use. Costs for the use of small tools, which are tools that have a replacement value of \$1,000 or less, shall be considered included in the Overhead and Profit mark-ups established below. Regardless of ownership, the rates to be used in determining equipment use costs shall not exceed listed rates prevailing locally at equipment rental agencies, or distributors, at the time the Work is performed.

4. Time and Materials Change Orders.

- a. General. The term Time and Materials means the sum of all costs reasonably and necessarily incurred and paid by Contractor for labor, materials, and equipment in the proper performance of Additional Work. Except as otherwise may be agreed to in writing by the City, such costs shall be in amounts no higher than those prevailing in the locality of the Project, and shall include only the following items.
- b. Timely and Final Documentation.

- i. T&M Daily Sheets. Contractor must submit timesheets, materials invoices, records of equipment hours, and records of rental equipment hours to the City's Representative for an approval signature **each day** Additional Work is performed. Failure to get the City's Representative's approval signature each Day shall result in a waiver of Contractor's right to claim these costs. The City's Representative's signature on time sheets only serves as verification that the Work was performed and is not indicative of City's agreement to Contractor's entitlement to the cost.
 - ii. T&M Daily Summary Sheets. All documentation of incurred costs ("T&M Daily Summary Sheets") shall be submitted by Contractor within **three (3) Days** of incurring the cost for labor, material, equipment, and special services as Additional Work is performed. Contractor's actual costs shall be presented in a summary table in an electronic spreadsheet file by labor, material, equipment, and special services. Each T&M Daily Summary Sheet shall include Contractor's actual costs incurred for the Additional Work performed that day and a cumulative total of Contractor's actual costs incurred for the Additional Work. Contractor's failure to provide a T&M Daily Summary Sheet showing a total cost summary within three (3) Days but within five (5) Days of performance of the Work will result in the Contractor's otherwise allowable overhead and profit being reduced by 50% for that portion of Additional Work which was not documented in a timely manner. Contractor's failure to submit the T&M Daily Summary Sheet within five (5) Days of performance of the Work will result in a total waiver of Contractor's right to claim these costs.
 - iii. T&M Total Cost Summary Sheet. Contractor shall submit a T&M Total Cost Summary Sheet, which shall include total actual costs, within **seven (7) Days** following completion of City approved Additional Work. Contractor's total actual cost shall be presented in a summary table in an electronic spreadsheet file by labor, material, equipment, and special services. Contractor's failure to submit the T&M Total Cost Summary Sheet within seven (7) Days of completion of the Additional Work will result in Contractor's waiver for any reimbursement of any costs associated with the T&M Summary Sheets or the performance of the Additional Work.
- c. Labor. The Contractor will be paid the cost of labor for the workers used in the actual and direct performance of the Work. The cost of labor will be the sum of the actual wages paid (which shall include any employer payments to or on behalf of the

workers for health and welfare, pension, vacation, and similar purposes) substantiated by timesheets and certified payroll for wages prevailing for each craft or type of workers performing the Additional Work at the time the Additional Work is done, and the labor surcharge set forth in the Department of Transportation publication entitled *Labor Surcharge and Equipment Rental Rates*, which is in effect on the date upon which the Work is accomplished and which is a part of the Contract. The labor surcharge shall constitute full compensation for all payments imposed by Federal, State, or local laws and for all other payments made to, or on behalf of, the workers, other than actual wages.

- i. Equipment Operator Exception. Labor costs for equipment operators and helpers shall be paid only when such costs are not included in the invoice for equipment rental.
 - ii. Foreman Exception. The labor costs for foremen shall be proportioned to all of their assigned work and only that applicable to the Additional Work shall be paid. Indirect labor costs, including, without limitation, the superintendent, project manager, and other labor identified in the Contract Documents will be considered Overhead.
- d. Materials. The cost of materials reported shall be itemized at invoice or lowest current price at which materials are locally available and delivered to the Project site in the quantities involved, plus the cost of sales tax, freight, delivery, and storage.
- i. Trade discounts available to the purchaser shall be credited to the City notwithstanding the fact that such discounts may not have been taken by Contractor.
 - ii. For materials secured by other than a direct purchase and direct billing to the purchaser, the cost shall be deemed to be the price paid to the actual supplier as determined by the City's Representative.
 - iii. Payment for materials from sources owned wholly or in part by the purchaser shall not exceed the price paid by the purchaser for similar materials from said sources on Additional Work items or the current wholesale price for such materials delivered to the Project site, whichever price is lower.
 - iv. If, in the opinion of the City's Representative, the cost of materials is excessive, or Contractor does not furnish satisfactory evidence of the cost of such materials, then the cost shall be deemed to be the lowest current wholesale price for the total quantity concerned delivered to the Project site less trade discounts.

- v. The City reserves the right to furnish materials for the Additional Work and no Claim shall be allowed by Contractor for costs of such materials or Indirect Costs or profit on City furnished materials.

e. Equipment.

- i. Rental Time. The rental time to be paid for equipment on the Project site shall be the time the equipment is in productive operation on the Additional Work being performed and, in addition, shall include the time required to move the equipment to the location of the Additional Work and return it to the original location or to another location requiring no more time than that required to return it to its original location; except that moving time will not be paid if the equipment is used on other than the Additional Work, even though located at the site of the Additional Work.

- (a) Rental Time Not Allowed. Rental time will not be allowed while equipment is inoperative due to breakdowns.

- (b) Computation Method. The following shall be used in computing the rental time of equipment on the Project site.

- (i) When hourly rates are paid, any part of an hour less than 30 minutes of operation shall be considered to be 1/2-hour of operation, and any part of an hour in excess of 30 minutes will be considered one hour of operation.

- (ii) When daily rates are paid, any part of a day less than 4 hours operation shall be considered to be 1/2-day of operation, and any part of an hour in excess of 4 hours will be considered one day of operation.

- ii. Rental Rates. Contractor will be paid for the use of equipment at the lesser of (i) the actual rental rate, or (ii) the rental rate listed for that equipment in the California Department of Transportation publication entitled *Labor Surcharge and Equipment Rental Rates*, which is in effect on the date upon which the Contract was executed. Such rental rates will be used to compute payments for equipment whether the equipment is under Contractor's control through direct ownership, leasing, renting, or another method of acquisition. The rental rate to be applied for use of each item of equipment shall be the rate

(i.e., daily, monthly) resulting in the least total cost to the City for the total period of use. If it is deemed necessary by Contractor to use equipment not listed in the publication, an equitable rental rate for the equipment will be established by the City's Representative. Contractor may furnish cost data which might assist the City's Representative in the establishment of the rental rate.

iii. Contractor-Owned Equipment.

- (a) For Contractor-owned equipment, the allowed equipment rental rate will be limited to the monthly equipment rental rate using a utilization rate of 173 hours per month.
- (b) For Contractor-owned equipment, the rental time to be paid for equipment on the Site shall be the time the equipment is in productive operation, unless, in the instance of standby time, the equipment could be actively used by Contractor on another project, then City shall pay for the entirety of the time the equipment is on Site. It shall be Contractor's burden to demonstrate to the City that the equipment could be actively used on another project.
 - (i) All equipment shall, in the opinion of the City's Representative, be in good working condition and suitable for the purpose for which the equipment is to be used.
 - (ii) Before construction equipment is used on the Additional Work, Contractor shall plainly stencil or stamp an identifying number thereon at a conspicuous location, and shall furnish to the City's Representative, in duplicate, a description of the equipment and its identifying number and the scheduled Additional Work activities planned.
 - (iii) Unless otherwise specified, manufacturer's rating and manufacturer approved modifications shall be used to classify equipment for the determination of applicable rental rates. Equipment which has no direct power unit shall be powered by a unit of at least the minimum rating recommended by the manufacturer.

- f. Special Services. Special work or services are defined as that Additional Work characterized by extraordinary complexity, sophistication, or innovation or a combination of the foregoing attributes which are unique to the construction industry.
 - i. Invoices for Special Services. When the City's Representative and Contractor determine that a special service is required which cannot be performed by the forces of Contractor or those of any of its Subcontractors, the special service may be performed by an entity especially skilled in the Additional Work. Invoices for special services based upon the current fair market value thereof may be accepted without complete itemization of labor, material, and equipment rental costs, after validation of market values by the City's Representative.
 - ii. Discount and Allowance. All invoices for special services will be adjusted by deducting all trade discounts offered or available, whether the discounts were taken or not. In lieu of Overhead and Profit specified herein, a total allowance not to exceed fifteen percent (15%) for Overhead and Profit will be added to invoices for Special Services.
 - iii. When the City determines, in its sole discretion, that competitive bidding is necessary for certain special services, Contractor shall solicit competitive bids for those special services.
- g. Excluded Costs. The term Time and Material shall not include any of the following costs or any other home or field office overhead costs, all of which are to be considered administrative costs covered by Contractor's allowance for Overhead and Profit.
 - i. Overhead Cost. Payroll costs and other compensation of Contractor's officers, executives, principals, general managers, engineers, architects, estimators, attorneys, auditors, accountants, purchasing and contracting agents, timekeepers, clerks, and other personnel employed by Contractor whether at the Site or in Contractor's principal office or any branch office, material yard, or shop for general administration of the Additional Work;
 - ii. Office Expenses. Expenses of Contractor's principal and branch offices;
 - iii. Capital Expenses. Any part of Contractor's capital expenses, including interest on Contractor's capital employed for the Additional Work and charges against Contractor for delinquent payments;

- iv. Negligence. Costs due to the negligence of Contractor or any Subcontractor or Supplier, or anyone directly or indirectly employed by any of them or for whose acts any of them may be liable, including without limitation the correction of Defective Work, disposal of materials or equipment wrongly supplied, and making good any damage to property;
 - v. Other. Other overhead or general expense costs of any kind and the cost of any item not specifically and expressly included in the Contract Documents;
 - vi. Small Tools. Cost of small tools valued at less than \$1,000 and that remain the property of Contractor;
 - vii. Administrative Costs. Costs associated with the preparation of Change Orders (whether or not ultimately authorized), cost estimates, or the preparation or filing of Claims;
 - viii. Anticipated Lost Profits. Expenses of Contractor associated with anticipated lost profits or lost revenues, lost income or earnings, lost interest on earnings, or unpaid retention;
 - ix. Home Office Overhead. Costs derived from the computation of a "home office overhead" rate by application of the *Eichleay, Allegheny*, burden fluctuation, or other similar methods;
 - x. Special Consultants and Attorneys. Costs of special consultants or attorneys, whether or not in the direct employ of Contractor, employed for services specifically related to the resolution of a Claim, dispute, or other matter arising out of or relating to the performance of the Additional Work.
- h. Overhead, Profit and Other Charges. The mark-up for overhead (including supervision) and profit on work added to the Contract shall be according to the following:
- i. "Net Cost" is defined as consisting of costs of labor, materials, and tools and equipment only excluding overhead and profit. The costs of applicable insurance and bond premium will be reimbursed to the Contractor and subcontractors at cost only, without mark-up. Contractor shall provide City with documentation of the costs, including, but not limited to, payroll records, invoices, and such other information as City may reasonably request.

- ii. For Work performed by the Contractor's forces, the added cost for overhead and profit shall not exceed fifteen percent (15%) of the Net Cost of the Work.
 - iii. For Work performed by a subcontractor, the added cost for overhead and profit shall not exceed fifteen percent (15%) of the subcontractor's Net Cost of the Work to which the Contractor may add five percent (5%) of the subcontractor's Net Cost.
 - iv. For Work performed by a sub-subcontractor, the added cost for overhead and profit shall not exceed fifteen percent (15%) of the sub-subcontractor's Net Cost for Work to which the subcontractor and general contractor may each add an additional five percent (5%) of the Net Cost of the lower tier subcontractor.
 - v. No additional mark-up will be allowed for lower tier subcontractors, and in no case shall the added cost for overhead and profit payable by City exceed twenty-five percent (25%) of the Net Cost as defined herein, of the party that performs the Work.
5. All of the following costs are included in the markups for overhead and profit described above, and Contractor shall not receive any additional compensation for: Submittals, drawings, field drawings, Shop Drawings, including submissions of drawings; field inspection; General Superintendence; General administration and preparation of cost proposals, schedule analysis, Change Orders, and other supporting documentation; computer services; reproduction services; Salaries of project engineer, superintendent, timekeeper, storekeeper, and secretaries; Janitorial services; Small tools, incidentals and consumables; Temporary On-Site facilities (Offices, Telephones, High Speed Internet Access, Plumbing, Electrical Power, Lighting; Platforms, Fencing, Water), Jobsite and Home office overhead or other expenses; vehicles and fuel used for work otherwise included in the Contract Documents; Surveying; Estimating; Protection of Work; Handling and disposal fees; Final Cleanup; Other Incidental Work; Related Warranties; insurance and bond premiums.
6. For added or deducted Work by subcontractors, the Contractor shall furnish to the City the subcontractor's signed detailed record of the cost of labor, material and equipment, including the subcontractor markup for overhead and profit. The same requirement shall apply to sub-subcontractors
7. For added or deducted work furnished by a vendor or supplier, the Contractor shall furnish to the City a detailed record of the cost to the Contractor, signed by such vendor or supplier.

8. Any change in the Work involving both additions and deletions shall indicate a net total cost, including subcontracts and materials. Allowance for overhead and profit, as specified herein, shall be applied if the net total cost is an increase in the Contract Price; overhead and profit allowances shall not be applied if the net total cost is a deduction to the Contract Price. The estimated cost of deductions shall be based on labor and material prices on the date the Contract was executed.
9. Contractor shall not reserve a right to assert impact costs, extended job site costs, extended overhead, constructive acceleration and/or actual acceleration beyond what is stated in the Change Order for Work. No claims shall be allowed for impact, extended overhead costs, constructive acceleration and/or actual acceleration due to a multiplicity of changes and/or clarifications. The Contractor may not change or modify the City's change order form in an attempt to reserve additional rights.
10. If the City disagrees with the proposal submitted by Contractor, it will notify the Contractor and the City will provide its opinion of the appropriate price and/or time extension. If the Contractor agrees with the City, a Change Order will be issued by the City. If no agreement can be reached, the City shall have the right to issue a unilateral Change Order setting forth its determination of the reasonable additions or savings in costs and time attributable to the extra or deleted work. Such determination shall become final and binding if the Contractor fails to submit a claim in writing to the City within fifteen (15) Days of the issuance of the unilateral Change Order, disputing the terms of the unilateral Change Order, and providing such supporting documentation for its position as the City may require.

C. Change of Contract Times.

1. The Contract Times may only be changed by a Change Order.
2. All changes in the Contract Price and/or adjustments to the Contract Times related to each change shall be included in Contractor's COR pursuant to this Article. No cost or time will be allowed for cumulative effects of multiple changes. All Change Orders must state that the Contract Time is not changed or is either increased or decreased by a specific number of days. Failure to include a change to time shall waive any change to the time unless the parties mutually agree in writing to postpone a determination of the change to time resulting from the Change Order.
3. Notice of the amount of the request for adjustment in the Contract Times with supporting data shall be delivered within seven (7) Days after such start of occurrence, unless City's Representative allows an additional period of time to ascertain more accurate data in support of the request. No extension of time or additional compensation shall be given for a delay if the Contractor failed to give notice in the manner and within the time prescribed.

4. City may elect, at City's sole discretion, to grant an extension in Contract Times, without Contractor's request, because of delays or other factors.
5. Use of Float and Critical Path.
 - a. Float is for the benefit of the Project. Float shall not be considered for the exclusive use or benefit of either the City or the Contractor.
 - b. Contractor shall not be entitled to compensation, and City will not compensate Contractor, for delays which impact early completion. Any difference in time between the Contractor's early completion and the Contract Time shall be considered a part of the Project float.
6. Contractor's entitlement to an extension of the Contract Times is limited to a City-caused extension of the critical path, reduced by the Contractor's concurrent delays, and established by a proper time impact analysis. No time extension shall be allowed unless, and then only to the extent that, the City-caused delay extends the critical path beyond the previously approved Contract Time. If approved, the increase in time required to complete the Work shall be added to the Contract Time.
 - a. Contractor shall not be entitled to an adjustment in the Contract Price or Contract Times for delays within the control of Contractor. Delays attributable to and within the control of a Subcontractor or Supplier shall be deemed to be delays within the control of Contractor.
 - b. If Contractor is delayed in the performance or progress of the Work by fire, flood, epidemic, abnormal weather conditions (as determined by the City), Acts of God, acts or failures to act of utility owners not under the control of City, or other causes not the fault of and beyond control of City and Contractor, then Contractor shall be entitled to an time extension when the Work stopped is on the critical path. Such a non-compensable adjustment shall be Contractor's sole and exclusive remedy for such delays. Contractor must submit a timely request in accordance with the requirements of this Article.
 - c. Utility-Related Delays.
 - i. Contractor shall immediately notify in writing the utility owner and City's Representative of its construction schedule and any subsequent changes in the construction schedule which will affect the time available for protection, removal, or relocation of utilities. Requests for extensions of time arising out of utility relocation or repair delays shall be filed in accordance with this Article.
 - ii. Contractor shall not be entitled to damages or additional payment for delays attributable to utility relocations or

alterations if correctly located, as noted in the Contract Documents or by the Underground Service Alert survey.

7. Content for Requests for Contract Extension. Contractor's justification for entitlement shall be clear and complete citing specific Contract Document references and reasons on which Contractor's entitlement is based. At a minimum, each request for a time extension must include:
 - a. Each request for an extension of Contract Time must identify the impacting event, in narrative form, providing a description of the delay event and sufficient justification as to why the Contractor is entitled to a time extension. Contractor must demonstrate that the delay arises from unforeseeable causes beyond the control and without the fault or negligence of both Contractor and any Subcontractors or Suppliers, or any other persons or organizations employed by any of them or for whose acts any of them may be liable, and that such causes in fact lead to performance or completion of the Work, or specified part in question, beyond the corresponding Contract Times, despite Contractor's reasonable and diligent actions to guard against those effects.
 - b. Each request for an extension of Contract Time must include a time impact analysis in CPM format, using the Contemporaneous Impacted As-Planned Schedule Analysis to calculate the impact of the delay event.
8. No Damages for Reasonable Delay.
 - a. City's liability to Contractor for delays for which City is responsible shall be limited to only an extension of time unless such delays were unreasonable under the circumstances. In no case shall City be liable for any costs which are borne by the Contractor in the regular course of business, including, but not limited to, home office overhead and other ongoing costs.
 - b. City and City's Representative, and the officers, members, partners, employees, agents, consultants, or subcontractors of each of them, shall not be liable to Contractor for any claims, costs, losses, or damages (including but not limited to all fees and charges of engineers, architects, attorneys, and other professionals and all court or arbitration or other dispute resolution costs) sustained by Contractor on or in connection with any other project or anticipated project.
9. Contractor's failure, neglect, or refusal to comply with the requirements of the Contract Documents, or any portion thereof, shall bar Contractor's request for extensions of the Contract Times. Such failure, neglect, or refusal prejudices City's and City's Representative's ability to recognize and mitigate delay, and such failure, neglect, or refusal prevent the timely analysis of requests for extensions of Contract Times, and whether such

extensions may be warranted. Contractor hereby waives all rights to extensions of Contract Times due to delays or accelerations that result from or occur during periods of time for which Contractor fails, neglects, or refuses to fully comply with the requirements of this Article.

10. Contractors submission of daily construction reports and schedule updates in accordance with these Contract Documents is required for the evaluation of the merits of time extension request. Failure of the Contractor to submit daily construction reports and schedule updates shall constitute a waiver of its right to seek a time extension or additional compensation.

ARTICLE 43 FINAL ACCEPTANCE AND PAYMENT

- A. Final Inspection. Upon written notice from Contractor that the entire Work is complete, the Engineer will promptly make a final inspection and will notify Contractor in writing of all particulars in which this inspection reveals that the Work is incomplete or defective. Contractor shall immediately take such measures as are necessary to complete such Work or remedy such deficiencies.
- B. Final Acceptance. After Contractor has, in the opinion of the Engineer, satisfactorily completed all corrections identified during the final inspection and has delivered, in accordance with the Contract Documents, all maintenance and operating instructions, schedules, guarantees, bonds, certificates or other evidence of insurance, certificates of inspection, marked-up record documents (as-builts), and other documents required by the Contract Documents, the City shall execute and file with the County in which the Project is located a Notice of Completion, constituting final acceptance and completion of the Project, except as may be expressly noted.
- C. Final Payment.
 1. Application for Payment. Upon execution of the Notice of Completion, Contractor may make application for final payment following the procedure for progress payments. The final application for payment shall be accompanied (except as previously delivered) by: all documentation called for in the Contract Documents, including but not limited to a fully completed Conditional Waiver and Release on Final Payment
 2. City's Review of Application and Acceptance. If, on the basis of the City's observation of the Work during construction and final inspection, and review of the final Application for Payment and accompanying documentation as required by the Contract Documents, the City is satisfied that the Work has been completed and Contractor has satisfied all other requirements for final payment, the City will process the final payment application. Otherwise, the City will return the payment application to Contractor, indicating in writing the reasons for refusing to recommend final payment, in which case Contractor shall make the necessary corrections and resubmit the application for payment.

3. Payment Becomes Due. Within sixty (60) Days after the presentation to the City of the proper and complete final application for payment and accompanying documentation, the amount recommended by the Engineer, less any sum the City is entitled to set off pursuant to the Contract Documents, will become due and will be paid by the City to Contractor.
- D. Waiver of Claims. The making and acceptance of final payment will constitute a waiver of all Claims by Contractor against the City other than those previously made in accordance with the requirements herein and expressly acknowledged by the City in writing as still unsettled.

ARTICLE 44 OCCUPANCY

The City reserves the right to occupy or utilize any portion of the Work at any time before completion, and such occupancy or use shall not constitute acceptance of any part of Work covered by this Contract. This use shall not relieve the Contractor of its responsibilities under the Contract.

ARTICLE 45 INDEMNIFICATION

To the fullest extent permitted by law, Contractor shall immediately defend (with counsel of the City's choosing), indemnify and hold harmless the City, officials, officers, agents, employees, and representatives, and each of them from and against:

- A. Any and all claims, demands, causes of action, costs, expenses, injuries, losses or liabilities, in law or in equity, of every kind or nature whatsoever, but not limited to, injury to or death, including wrongful death, of any person, and damages to or destruction of property of any person, arising out of, related to, or in any manner directly or indirectly connected with the Work or this Contract, including claims made by subcontractors for nonpayment, including without limitation the payment of all consequential damages and attorney's fees and other related costs and expenses, however caused, regardless of whether the allegations are false, fraudulent, or groundless, and regardless of any negligence of the City or its officers, employees, or authorized volunteers (including passive negligence), except the sole negligence or willful misconduct or active negligence of the City or its officials, officers, employees, or authorized volunteers.
- B. Contractor's defense and indemnity obligation herein includes, but is not limited to damages, fines, penalties, attorney's fees and costs arising from claims under the Americans with Disabilities Act (ADA) or other federal or state disability access or discrimination laws arising from Contractor's Work during the course of construction of the improvements or after the Work is complete, as the result of defects or negligence in Contractor's construction of the improvements.
- C. Any and all actions, proceedings, damages, costs, expenses, fines, penalties or liabilities, in law or equity, of every kind or nature whatsoever, arising out of, resulting from, or on account of the violation of any governmental law or regulation, compliance with which is the responsibility of Contractor;

- D. Any and all losses, expenses, damages (including damages to the Work itself), attorney's fees, and other costs, including all costs of defense which any of them may incur with respect to the failure, neglect, or refusal of Contractor to faithfully perform the Work and all of Contractor's obligations under the agreement. Such costs, expenses, and damages shall include all costs, including attorney's fees, incurred by the indemnified parties in any lawsuit to which they are a party.

Contractor shall immediately defend, at Contractor's own cost, expense and risk, with the City Council's choosing, any and all such aforesaid suits, actions or other legal proceedings of every kind that may be brought or instituted against the City, its officials, officers, agents, employees and representatives. Contractor shall pay and satisfy any judgment, award or decree that may be rendered against the City, its officials, officers, employees, agents, employees and representatives, in any such suit, action or other legal proceeding. Contractor shall reimburse the City, its officials, officers, agents, employees and representatives for any and all legal expenses and costs incurred by each of them in connection therewith or in enforcing the indemnity herein provided. The only limitations on this provision shall be those imposed by Civil Code section 2782.

ARTICLE 46 PROCEDURE FOR RESOLVING DISPUTES

Contractor shall timely comply with all notices and requests for changes to the Contract Time or Contract Price, including but not limited to all requirements of Article 42, Changes and Extra Work, as a prerequisite to filing any claim governed by this Article. The failure to timely submit a notice of delay or notice of change, or to timely request a change to the Contract Price or Contract Time, or to timely provide any other notice or request required herein shall constitute a waiver of the right to further pursue the claim under the Contract or at law.

- A. **Intent.** Effective January 1, 1991, Section 20104 et seq., of the California Public Contract Code prescribes a process utilizing informal conferences, non-binding judicial supervised mediation, and judicial arbitration to resolve disputes on construction claims of \$375,000 or less. Effective January 1, 2017, Section 9204 of the Public Contract Code prescribes a process for negotiation and mediation to resolve disputes on construction claims. The intent of this Article is to implement Sections 20104 et seq. and Section 9204 of the California Public Contract Code. This Article shall be construed to be consistent with said statutes.
- B. **Claims.** For purposes of this Article, "Claim" means a separate demand by the Contractor, after a change order duly requested in accordance with Article 42 "Changes and Extra Work" has been denied by the City, for (A) a time extension, (B) payment of money or damages arising from Work done by or on behalf of the Contractor pursuant to the Contract, or (C) an amount the payment of which is disputed by the City. Claims governed by this Article may not be filed unless and until the Contractor completes all procedures for giving notice of delay or change and for the requesting of a time extension or change order, including but not necessarily limited to the procedures contained in Article 42, Changes and Extra Work, and Contractor's request for a change has been denied in whole or in part. Claims governed by this Article must be filed no later than the date of final payment. The claim shall be submitted in writing to the City and shall include on its first page the following in 16 point capital font: "THIS IS A CLAIM." Furthermore, the claim shall include the documents necessary to substantiate the claim. Nothing herein is intended to extend the time limit or supersede notice requirements otherwise

provided by contract for the filing of claims, including all requirements pertaining to compensation or payment for extra Work, disputed Work, and/or changed conditions. Failure to follow such contractual requirements shall bar any claims or subsequent lawsuits for compensation or payment thereon.

C. Supporting Documentation. The Contractor shall submit all claims in the following format:

1. Summary of claim merit and price, reference Contract Document provisions pursuant to which the claim is made
2. List of documents relating to claim:
 - Specifications
 - Drawings
 - Clarifications (Requests for Information)
 - Schedules
 - Other
3. Chronology of events and correspondence
4. Analysis of claim merit
5. Analysis of claim cost
6. Time Impact Analysis in CPM format

D. City's Response. Upon receipt of a claim pursuant to this Article, City shall conduct a reasonable review of the claim and, within a period not to exceed 45 Days, shall provide the Contractor a written statement identifying what portion of the claim is disputed and what portion is undisputed. Any payment due on an undisputed portion of the claim will be processed and made within 60 Days after the City issues its written statement.

1. If the City needs approval from its governing body to provide the Contractor a written statement identifying the disputed portion and the undisputed portion of the claim, and the City's governing body does not meet within the 45 Days or within the mutually agreed to extension of time following receipt of a claim sent by registered mail or certified mail, return receipt requested, the City shall have up to three Days following the next duly publicly noticed meeting of the City's governing body after the 45-Day period, or extension, expires to provide the Contractor a written statement identifying the disputed portion and the undisputed portion.
2. Within 30 Days of receipt of a claim, the City may request in writing additional documentation supporting the claim or relating to defenses or claims the City may have against the Contractor. If additional information is thereafter required, it

shall be requested and provided pursuant to this subdivision, upon mutual agreement of City and the Contractor. The City's written response to the claim, as further documented, shall be submitted to the Contractor within 30 Days (if the claim is less than \$15,000, within 15 Days) after receipt of the further documentation, or within a period of time no greater than that taken by the Contractor in producing the additional information or requested documentation, whichever is greater.

- E. **Meet and Confer.** If the Contractor disputes the City's written response, or the City fails to respond within the time prescribed, the Contractor may so notify the City, in writing, either within 15 Days of receipt of the City's response or within 15 Days of the City's failure to respond within the time prescribed, respectively, and demand in writing an informal conference to meet and confer for settlement of the issues in dispute. Upon receipt of a demand, the City shall schedule a meet and confer conference within 30 Days for settlement of the dispute.
- F. **Mediation.** Within 10 business Days following the conclusion of the meet and confer conference, if the claim or any portion of the claim remains in dispute, the City shall provide the Contractor a written statement identifying the portion of the claim that remains in dispute and the portion that is undisputed. Any payment due on an undisputed portion of the claim shall be processed and made within 60 Days after the City issues its written statement. Any disputed portion of the claim, as identified by the Contractor in writing, shall be submitted to nonbinding mediation, with the City and the Contractor sharing the associated costs equally. The City and Contractor shall mutually agree to a mediator within 10 business Days after the disputed portion of the claim has been identified in writing, unless the parties agree to select a mediator at a later time.
1. If the parties cannot agree upon a mediator, each party shall select a mediator and those mediators shall select a qualified neutral third party to mediate with regard to the disputed portion of the claim. Each party shall bear the fees and costs charged by its respective mediator in connection with the selection of the neutral mediator.
 2. For purposes of this section, mediation includes any nonbinding process, including, but not limited to, neutral evaluation or a dispute review board, in which an independent third party or board assists the parties in dispute resolution through negotiation or by issuance of an evaluation. Any mediation utilized shall conform to the timeframes in this section.
 3. Unless otherwise agreed to by the City and the Contractor in writing, the mediation conducted pursuant to this section shall excuse any further obligation under Public Contract Code Section 20104.4 to mediate after litigation has been commenced.
 4. The mediation shall be held no earlier than the date the Contractor completes the Work or the date that the Contractor last performs Work, whichever is earlier. All unresolved claims shall be considered jointly in a single mediation, unless a new unrelated claim arises after mediation is completed.

- G. **Procedures After Mediation.** If following the mediation, the claim or any portion remains in dispute, the Contractor must file a claim pursuant to Chapter 1 (commencing with Section 900) and Chapter 2 (commencing with Section 910) of Part 3 of Division 3.6 of Title 1 of the Government Code prior to initiating litigation. For purposes of those provisions, the running of the period of time within which a claim must be filed shall be tolled from the time the Contractor submits his or her written claim pursuant to subdivision (a) until the time the claim is denied, including any period of time utilized by the meet and confer conference.
- H. **Civil Actions.** The following procedures are established for all civil actions filed to resolve claims of \$375,000 or less:
1. Within 60 Days, but no earlier than 30 Days, following the filing or responsive pleadings, the court shall submit the matter to non-binding mediation unless waived by mutual stipulation of both parties or unless mediation was held prior to commencement of the action in accordance with Public Contract Code section 9204 and the terms of this Contract. The mediation process shall provide for the selection within 15 Days by both parties of a disinterested third person as mediator, shall be commenced within 30 Days of the submittal, and shall be concluded within 15 Days from the commencement of the mediation unless a time requirement is extended upon a good cause showing to the court.
 2. If the matter remains in dispute, the case shall be submitted to judicial arbitration pursuant to Chapter 2.5 (commencing with Section 1141.10) of Title 3 of Part 3 of the Code of Civil Procedure, notwithstanding Section 1114.11 of that code. The Civil Discovery Act of 1986 (Article 3 (commencing with Section 2016) of Chapter 3 of Title 3 of Part 4 of the Code of Civil Procedure) shall apply to any proceeding brought under this subdivision consistent with the rules pertaining to judicial arbitration. In addition to Chapter 2.5 (commencing with Section 1141.10) of Title 3 of Part 3 of the Code of Civil Procedure, (A) arbitrators shall, when possible, be experienced in construction law, and (B) any party appealing an arbitration award who does not obtain a more favorable judgment shall, in addition to payment of costs and fees under that chapter, also pay the attorney's fees on appeal of the other party.
- I. **Government Code Claims.** In addition to any and all contract requirements pertaining to notices of and requests for compensation or payment for extra Work, disputed Work, construction claims and/or changed conditions, the Contractor must comply with the claim procedures set forth in Government Code Sections 900, et seq. prior to filing any lawsuit against the City. Such Government Code claims and any subsequent lawsuit based upon the Government Code claims shall be limited to those matters that remain unresolved after all procedures pertaining to extra Work, disputed Work, construction claims, and/or changed conditions have been followed by Contractor. If no such Government Code claim is submitted, or if the prerequisite contractual requirements are not satisfied, no action against the City may be filed. **A Government Code claim must be filed no earlier than the date the Work is completed or the date the Contractor last performs Work on the Project, whichever occurs first. A Government Code claim shall be inclusive of all unresolved claims unless a new unrelated claim arises after the Government Code claim is submitted.**

- J. **Non-Waiver.** The City's failure to respond to a claim from the Contractor within the time periods described in this Article or to otherwise meet the time requirements of this Article shall result in the claim being deemed rejected in its entirety.

ARTICLE 47 CITY'S RIGHT TO TERMINATE CONTRACT

A. Termination for Cause by the City:

1. In the sole estimation of the City, if the Contractor refuses or fails to prosecute the Work or any separable part thereof with such diligence as will insure its completion within the time specified by the Contract Documents, or any extension thereof, or fails to complete such Work within such time, or if the Contractor should be adjudged a bankrupt, or if it should make a general assignment for the benefit of its creditors, or if a receiver should be appointed on account of its insolvency, or the Contractor or any of its subcontractors should violate any of the provisions of this Contract, the City may serve written notice upon the Contractor and its Surety of the City's intention to terminate this Contract. This notice of intent to terminate shall contain the reasons for such intention to terminate this Contract, and a statement to the effect that the Contractor's right to perform this Contract shall cease and terminate upon the expiration of ten (10) calendar days unless such violations have ceased and arrangements satisfactory to the City have been made for correction of said violations.
2. In the event that the City serves such written notice of termination upon the Contractor and the Surety, the Surety shall have the right to take over and perform the Contract. If the Surety does not: (1) give the City written notice of Surety's intention to take over and commence performance of the Contract within 15 calendar days of the City's service of said notice of intent to terminate upon Surety; and (2) actually commence performance of the Contract within 30 calendar days of the City's service of said notice upon Surety; then the City may take over the Work and prosecute the same to completion by separate contract or by any other method it may deem advisable for the account and at the expense of the Contractor.
3. In the event that the City elects to obtain an alternative performance of the Contract as specified above: (1) the City may, without liability for so doing, take possession of and utilize in completion of the Work such materials, appliances, plants and other property belonging to the Contractor that are on the site and reasonably necessary for such completion (A special lien to secure the claims of the City in the event of such suspension is hereby created against any property of Contractor taken into the possession of the City under the terms hereof and such lien may be enforced by sale of such property under the direction of the City Council without notice to Contractor. The proceeds of the sale after deducting all expenses thereof and connected therewith shall be credited to Contractor. If the net credits shall be in excess of the claims of the City against Contractor, the balance will be paid to Contractor or Contractor's legal representatives.); and (2) Surety shall be liable to the City for any

cost or other damage to the City necessitated by the City securing an alternate performance pursuant to this Article.

B. Termination for Convenience by the City:

1. The City may terminate performance of the Work called for by the Contract Documents in whole or, from time to time, in part, if the City determines that a termination is in the City's interest.
2. The Contractor shall terminate all or any part of the Work upon delivery to the Contractor of a Notice of Termination specifying that the termination is for the convenience of the City, the extent of termination, and the Effective Date of such termination.
3. After receipt of Notice of Termination, and except as directed by the City's Representative, the Contractor shall, regardless of any delay in determining or adjusting any amounts due under this Termination for Convenience clause, immediately proceed with the following obligations:
 - a. Stop Work as specified in the Notice.
 - b. Complete any Work specified in the Notice of Termination in a least cost/shortest time manner while still maintaining the quality called for under the Contract Documents.
 - c. Leave the property upon which the Contractor was working and upon which the facility (or facilities) forming the basis of the Contract Document is situated in a safe and sanitary manner such that it does not pose any threat to the public health or safety.
 - d. Terminate all subcontracts to the extent that they relate to the portions of the Work terminated.
 - e. Place no further subcontracts or orders, except as necessary to complete the continued portion of the Contract.
 - f. Submit to the City's Representative, within ten (10) calendar days from the Effective Date of the Notice of Termination, all of the usual documentation called for by the Contract Documents to substantiate all costs incurred by the Contractor for labor, materials and equipment through the Effective Date of the Notice of Termination. Any documentation substantiating costs incurred by the Contractor solely as a result of the City's exercise of its right to terminate this Contract pursuant to this clause, which costs the contractor is authorized under the Contract documents to incur, shall: (1) be submitted to and received by the Engineer no later than 30 calendar days after the Effective Date of the Notice of Termination; (2) describe the costs incurred with particularity; and (3) be conspicuously identified as "Termination Costs occasioned by the City's Termination for Convenience."

4. Termination of the Contract shall not relieve Surety of its obligation for any just claims arising out of or relating to the Work performed.
5. In the event that the City exercises its right to terminate this Contract pursuant to this clause, the City shall pay the Contractor, upon the Contractor's submission of the documentation required by this clause and other applicable provisions of the Contract Documents, the following amounts:
 - a. All actual reimbursable costs incurred according to the provisions of this Contract.
 - b. A reasonable allowance for profit on the cost of the Work performed, provided Contractor establishes to the satisfaction of the City's Representative that it is reasonably probable that Contractor would have made a profit had the Contract been completed and provided further, that the profit allowed shall in no event exceed fifteen (15%) percent of the costs.
 - c. A reasonable allowance for Contractor's administrative costs in determining the amount payable due to termination of the Contract under this Article.
- C. Notwithstanding any other provision of this Article, when immediate action is necessary to protect life and safety or to reduce significant exposure or liability, the City may immediately order Contractor to cease Work on the Project until such safety or liability issues are addressed to the satisfaction of the City or the Contract is terminated.

ARTICLE 48 WARRANTY AND GUARANTEE OF WORK

- A. Contractor hereby warrants that materials and Work shall be completed in conformance with the Contract Documents and that the materials and Work provided will fulfill the requirements of this Warranty. Contractor hereby agrees to repair or replace, at the discretion of the City, any or all Work that may prove to be defective in its workmanship, materials furnished, methods of installation or fail to conform to the Contract Document requirements together with any other Work which may be damaged or displaced by such defect(s) within a period of one (1) year from the date of the Notice of Completion of the Project without any expense whatever to the City, ordinary wear and tear and unusual abuse and neglect excepted. Contractor shall be required to promptly repair or replace defective equipment or materials, at Contractor's option. All costs associated with such corrective actions and testing, including the removal, replacement, and reinstitution of equipment and materials necessary to gain access, shall be the sole responsibility of the Contractor.
- B. For any Work so corrected, Contractor's obligation hereunder to correct defective Work shall be reinstated for an additional one (1) year period, commencing with the date of acceptance of such corrected Work. The reinstatement of the one (1) year warranty shall apply only to that portion of work that was corrected. Contractor shall perform such tests as City may require to verify that any

corrective actions, including, without limitation, redesign, repairs, and replacements comply with the requirements of the Contract. In the event of Contractor's failure to comply with the above-mentioned conditions within ten (10) calendar days after being notified in writing of required repairs, to the reasonable satisfaction of the City, the City shall have the right to correct and replace any defective or non-conforming Work and any work damaged by such work or the replacement or correction thereof at Contractor's sole expense. Contractor shall be obligated to fully reimburse the City for any expenses incurred hereunder immediately upon demand.

- C. In addition to the warranty set forth in this Article, Contractor shall obtain for City all warranties that would be given in normal commercial practice and assign to City any and all manufacturer's or installer's warranties for equipment or materials not manufactured by Contractor and provided as part of the Work, to the extent that such third-party warranties are assignable and extend beyond the warranty period set forth in this Article. Contractor shall furnish the City with all warranty and guarantee documents prior to final Acceptance of the Project by the City as required.
- D. When specifically indicated in the Contract Documents or when directed by the Engineer, the City may furnish materials or products to the Contractor for installation. In the event any act or failure to act by Contractor shall cause a warranty applicable to any materials or products purchased by the City for installation by the Contractor to be voided or reduced, Contractor shall indemnify City from and against any cost, expense, or other liability arising therefrom, and shall be responsible to the City for the cost of any repairs, replacement or other costs that would have been covered by the warranty but for such act or failure to act by Contractor.
- E. The Contractor shall remedy at its expense any damage to City-owned or controlled real or personal property.
- F. The City shall notify the Contractor, in writing, within a reasonable time after the discovery of any failure, defect, or damage. The Contractor shall within ten (10) calendar days after being notified commence and perform with due diligence all necessary Work. If the Contractor fails to promptly remedy any defect, or damage; the City shall have the right to replace, repair or otherwise remedy the defect, or damage at the Contractor's expense.
- G. In the event of any emergency constituting an immediate hazard to health, safety, property, or licensees, when caused by Work of the Contractor not in accordance with the Contract requirements, the City may undertake at Contractor's expense, and without prior notice, all Work necessary to correct such condition.
- H. Acceptance of Defective Work.
 - 1. If, instead of requiring correction or removal and replacement of Defective Work, the City prefers to accept it, City may do so. Contractor shall pay all claims, costs, losses, and damages (including but not limited to all fees and charges of engineers, architects, attorneys, and other professionals

and all court or arbitration or other dispute resolution costs) attributable to City's evaluation of and determination to accept such Defective Work and for the diminished value of the Work.

2. If any acceptance of defective work occurs prior to release of the Project Retention, a Change Order will be issued incorporating the necessary revisions in the Contract Documents with respect to the Work, and City shall be entitled to an appropriate decrease in the Contract Price, reflecting the diminished value of Work and all costs incurred by City.
3. If the Project Retention is held in an escrow account as permitted by the Contract Documents, Contractor will promptly alert the escrow holder, in writing, of the amount of Retention to be paid to City.
4. If the acceptance of Defective Work occurs after release of the Project Retention, an appropriate amount will be paid by Contractor to City.

I. City May Correct Defective Work.

1. If Contractor fails within a reasonable time after written notice from City's Representative to correct Defective Work, or to remove and replace rejected Work as required by City, or if Contractor fails to perform the Work in accordance with the Contract Documents, or if Contractor fails to comply with any other provision of the Contract Documents, City may, after seven (7) Days' written notice to Contractor, correct, or remedy any such deficiency.
2. In connection with such corrective or remedial action, City may exclude Contractor from all or part of the Site, take possession of all or part of the Work and suspend Contractor's services related thereto, take possession of Contractor's tools, appliances, construction equipment and machinery at the Site, and incorporate in the Work all materials and equipment stored at the Site or for which City has paid Contractor but which are stored elsewhere. Contractor shall allow City and City's Representative, and the agents, employees, other contractors, and consultants of each of them, access to the Site to enable City to exercise the rights and remedies to correct the Defective Work.
3. All claims, costs, losses, and damages (including but not limited to all fees and charges of engineers, architects, attorneys, and other professionals and all court or arbitration or other dispute resolution costs) incurred or sustained by City correcting the Defective Work will be charged against Contractor, and a Change Order will be issued incorporating the necessary revisions into the Contract Documents with respect to the Work; and City shall be entitled to an appropriate decrease in the Contract Price.
4. Such claims, costs, losses and damages will include, but not be limited to, all costs of repair, or replacement of work of others destroyed or damaged by correction, removal, or replacement of Defective Work.

5. If the Change Order is executed after all payments under the Contract have been paid by City and the Project Retention is held in an escrow account as permitted by the Contract Documents, Contractor will promptly alert the escrow holder, in writing, of the amount of Retention to be paid to City.
 6. If the Change Order is executed after release of the Project Retention, an appropriate amount will be paid by Contractor to City.
 7. Contractor shall not be allowed an extension of the Contract Times because of any delay in the performance of the Work attributable to City correcting Defective work.
- J. Nothing in the Warranty or in the Contract Documents shall be construed to limit the rights and remedies available to City at law or in equity, including, but not limited to, Code of Civil Procedure section 337.15.

ARTICLE 49 DOCUMENT RETENTION & EXAMINATION

- A. In accordance with Government Code section 8546.7, records of both the City and the Contractor shall be subject to examination and audit by the State Auditor General for a period of three (3) years after final payment.
- B. Contractor shall make available to the City any of the Contractor's other documents related to the Project immediately upon request of the City.
- C. In addition to the State Auditor rights above, the City shall have the right to examine and audit all books, estimates, records, contracts, documents, bid documents, subcontracts, and other data of the Contractor (including computations and projections) related to negotiating, pricing, or performing the modification in order to evaluate the accuracy and completeness of the cost or pricing data at no additional cost to the City, for a period of four (4) years after final payment.

ARTICLE 50 SEPARATE CONTRACTS

- A. The City reserves the right to let other contracts in connection with this Work or on the Project site. Contractor shall permit other contractors reasonable access and storage of their materials and execution of their work and shall properly connect and coordinate its Work with theirs.
- B. To ensure proper execution of its subsequent Work, Contractor shall immediately inspect work already in place and shall at once report to the Engineer any problems with the Work in place or discrepancies with the Contract Documents.
- C. Contractor shall ascertain to its own satisfaction the scope of the Project and nature of any other contracts that have been or may be awarded by the City in prosecution of the Project to the end that Contractor may perform this Contract in the light of such other contracts, if any. Nothing herein contained shall be interpreted as granting to Contractor exclusive occupancy at site of the Project. Contractor shall not cause any unnecessary hindrance or delay to any other

contractor working on the Project. If simultaneous execution of any contract for the Project is likely to cause interference with performance of some other contract or contracts, the Engineer shall decide which Contractor shall cease Work temporarily and which contractor shall continue or whether work can be coordinated so that contractors may proceed simultaneously. The City shall not be responsible for any damages suffered or for extra costs incurred by Contractor resulting directly or indirectly from award, performance, or attempted performance of any other contract or contracts on the Project site.

ARTICLE 51 NOTICE AND SERVICE THEREOF

All notices shall be in writing and either served by personal delivery or mailed to the other party as designated in the Bid Forms. Written notice to the Contractor shall be addressed to Contractor's principal place of business unless Contractor designates another address in writing for service of notice. Notice to City shall be addressed to the City as designated in the Notice Inviting Bids unless City designates another address in writing for service of notice. Notice shall be effective upon receipt or five (5) calendar days after being sent by first class mail, whichever is earlier. Notice given by facsimile shall not be effective unless acknowledged in writing by the receiving party.

ARTICLE 52 NOTICE OF THIRD PARTY CLAIMS

Pursuant to Public Contract Code section 9201, the City shall provide the Contractor with timely notification of the receipt of any third-party claims relating to the Contract. The City is entitled to recover reasonable costs incurred in providing such notification.

ARTICLE 53 STATE LICENSE BOARD NOTICE

Contractors are required by law to be licensed and regulated by the Contractors' State License Board which has jurisdiction to investigate complaints against contractors if a complaint regarding a patent act or omission is filed within four (4) years of the date of the alleged violation. A complaint regarding a latent act or omission pertaining to structural defects must be filed within ten (10) years of the date of the alleged violation. Any questions concerning a contractor may be referred to the Registrar, Contractors' State License Board, P.O. Box 26000, Sacramento, California 95826.

ARTICLE 54 INTEGRATION

- A. **Oral Modifications Ineffective.** No oral order, objection, direction, claim or notice by any party or person shall affect or modify any of the terms or obligations contained in the Contract Documents.
- B. **Contract Documents Represent Entire Contract.** The Contract Documents represent the entire agreement of the City and Contractor.

ARTICLE 55 ASSIGNMENT OF CONTRACT

Contractor shall not assign, transfer, convey, sublet or otherwise dispose of the rights or title of interest of any or all of this contract without the prior written consent of the City. Any assignment or change of Contractor's name or legal entity without the written consent of the City shall be void. Any assignment of money due or to become due under this Contract shall be

subject to a prior lien for services rendered or Material supplied for performance of Work called for under the Contract Documents in favor of all persons, firms, or corporations rendering such services or supplying such Materials to the extent that claims are filed pursuant to the Civil Code, the Code of Civil Procedure or the Government Code.

ARTICLE 56 CHANGE IN NAME AND NATURE OF CONTRACTOR'S LEGAL ENTITY

Should a change be contemplated in the name or nature of the Contractor's legal entity, the Contractor shall first notify the City in order that proper steps may be taken to have the change reflected on the Contract and all related documents. No change of Contractor's name or nature will affect City's rights under the Contract, including but not limited to the bonds.

ARTICLE 57 ASSIGNMENT OF ANTITRUST ACTIONS

Pursuant to Public Contract Code section 7103.5, in entering into a public works contract or subcontract to supply goods, services, or materials pursuant to a public works contract, Contractor or subcontractor offers and agrees to assign to the City all rights, title, and interest in and to all causes of action it may have under Section 4 of the Clayton Act (15 USC, Section 15) or under the Cartwright Act (Chapter 2 (commencing with Section 16700) of Part 2 of Division 7 of the Business and Professions Code), arising from the purchase of goods, services, or materials pursuant to this contract or any subcontract. This assignment shall be made and become effective at the time the City tenders final payment to the Contractor, without further acknowledgment by the parties.

ARTICLE 58 PROHIBITED INTERESTS

No City official or representative who is authorized in such capacity and on behalf of the City to negotiate, supervise, make, accept, or approve, or to take part in negotiating, supervising, making, accepting or approving any engineering, inspection, construction or material supply contract or any subcontract in connection with construction of the project, shall be or become directly or indirectly interested financially in the Contract.

ARTICLE 59 CONTROLLING LAW

Notwithstanding any subcontract or other contract with any subcontractor, supplier, or other person or organization performing any part of the Work, this Contract shall be governed by the law of the State of California excluding any choice of law provisions.

ARTICLE 60 JURISDICTION; VENUE

Contractor and any subcontractor, supplier, or other person or organization performing any part of the Work agrees that any action or suits at law or in equity arising out of or related to the bidding, award, or performance of the Work shall be maintained in the Superior Court of Santa Clara County, California, and expressly consent to the jurisdiction of said court, regardless of residence or domicile, and agree that said court shall be a proper venue for any such action.

ARTICLE 61 LAWS AND REGULATIONS

- A. Contractor shall give all notices and comply with all laws, ordinances, rules and regulations bearing on conduct of work as indicated and specified. If Contractor observes that drawings and specifications are at variance therewith, it shall

promptly notify the Engineer in writing and any necessary changes shall be adjusted as provided for in this Contract for changes in work. If Contractor performs any work knowing it to be contrary to such laws, ordinances, rules and regulations, and without such notice to the Engineer, it shall bear all costs arising therefrom.

- B. Contractor shall be responsible for familiarity with the Americans with Disabilities Act ("ADA") (42 U.S.C. § 12101 et seq.). The Work will be performed in compliance with ADA regulations.

ARTICLE 62 PATENTS

Contractor shall hold and save the City, officials, officers, employees, and authorized volunteers harmless from liability of any nature or kind of claim therefrom including costs and expenses for or on account of any patented or unpatented invention, article or appliance manufactured, furnished or used by Contractor in the performance of this contract.

ARTICLE 63 OWNERSHIP OF CONTRACT DOCUMENTS

All Contract Documents furnished by the City are City property. They are not to be used by Contractor or any subcontractor on other work nor shall Contractor claim any right to such documents. With exception of one complete set of Contract Documents, all documents shall be returned to the City on request at completion of the Work.

ARTICLE 64 NOTICE OF TAXABLE POSSESSORY INTEREST

In accordance with Revenue and Taxation Code section 107.6, the Contract Documents may create a possessory interest subject to personal property taxation for which Contractor will be responsible.

ARTICLE 65 SURVIVAL OF OBLIGATIONS

All representations, indemnifications, warranties, and guarantees made in, required by, or given in accordance with the Contract Documents, as well as all continuing obligations indicated in the Contract Documents, will survive final payment, completion, and acceptance of the Work or termination or completion of the Contract or termination of the services of Contractor.

00 73 13 – SPECIAL CONDITIONS

1.1 Engineer of Record.

- A For purposes of this Project, the Engineer of Record or Engineer shall be: Shalleck Collaborative

1.2 Location of the Project.

- A The Project is located at 455 E. Calaveras Blvd, Milpitas, CA 95035.
- B The general location of the Project is shown on City Drawing AV Plans Title Page.

1.3 Status of the Project Area and Rights-of-Way.

- A City, at its expense, will provide all rights-of-way or permits, or both, covering the crossing of private property and public and private rights-of-way necessary for the permanent Work; provided, however, Contractor shall, at its expense, obtain any bonds or insurance policies or pay any fees and enter into any agreements required by a controlling authority, e.g., Caltrans or Southern Pacific Railroad Company, before Contractor enters upon any property or right-of-way under the jurisdiction of any such controlling authority for the purpose of performing Work.
- B City has acquired or is negotiating to acquire any rights-of-way, or both, necessary for the permanent Work.
- C If such permits are required, all operations of Contractor shall conform to the restrictions, regulations, and requirements set forth in said permits, copies of which will be included in the Contract Documents.
- D Contractor may be required, as a condition for receiving final payment, to obtain, and provide City's Representative with copies of, executed damage releases from the owners of public and private property whose property has been damaged by the Work. The damage releases will be on a form provided by City.
- E Contractor shall, also, as a condition for receiving final payment, obtain, and provide City's Representative with copies of, executed damage releases from the owners of certain public and private property or areas which have been crossed by the Work or otherwise affected by the Work. The damage releases will be on a form provided by City.

1.4 Site Data.

- A The data provided herein is for the information of Contractor and is subject to all limitations and conditions set forth in the Contract Documents.
- B Subsurface Exploration Data. [NOT APPLICABLE]
- C Other Site Data. The following data are available for inspection at City's office:

1. Plan set for Milpitas City Hall Council Chamber

Copies of these reports, drawings and other materials may be examined at City's office during regular business hours.

1.5 Pre-Purchased or Pre-Negotiated Material.

NOT USED.

1.6 Designation of City's Representative.

A Unless otherwise modified by City, City's Representative shall be Daniel Nam.

1.7 Project Retention

In accordance with Public Contract Code § 7201, City will withhold 5% of each progress payment as retention on the Project.

1.8 Liquidated Damages Due to Contractor Delay.

A Time is of the essence. Should Contractor fail to complete all or any part of the Work within the time specified in the Contract Documents, City will suffer damage, the amount of which is difficult, if not impossible, to ascertain and, pursuant to the authority of Government Code section 53069.85, City shall therefore be entitled to one hundred dollars and zero cents (\$100.00) per Day as liquidated damages for each Day or part thereof that actual completion extends beyond the time specified.

B Liquidated damages may be deducted from progress payments due to Contractor, Project retention or may be collected directly from Contractor, or from Contractor's surety. These provisions for liquidated damages shall not prevent City, in case of Contractor's default, from terminating the Contractor.

1.9 Utility Outages – Notices to Residents.

A Should Contractor's operations require interruption of any utility service, Contractor shall notify City at least ten (10) Days prior to the scheduled outage. Contractor will notify all impacted residents on a form provided by City at least seven (7) Days prior to the scheduled outage.

B Contractor shall be responsible for providing, at its cost, any temporary utility or facilities necessitated by the utility outage.

1.10 Schedule Constraints.

A It is anticipated that the Contractor will be unable to access the site because of pre-existing scheduled City Council meetings on the following dates:

- **Phase #1:** Limited to Discussion System.
- **Phase #1 Schedule Constraints:** Every Tuesday from January 1, 2024 through June 18, 2024.

- **Phase #2:** All remaining base scope, except Phase #1, excludes Add Alternates
- **Phase #2 Schedule Constraints:** January 1, 2024 through June 18, 2024 and July 4, 2024. Contractor cannot commence work on Phase #2 until July 5, 2024.

B City has considered these Schedule Constraints when determining the Contract Times and no additional time or compensation will be added to the Contract due to these Constraints.

1.11 Safety Programs.

NOT USED.

1.12 Coordination with Other Contractors.

NOT USED.

1.13 Electronic Waste (E-waste).

In compliance with all laws, including the california electronic waste recycling act, contractor shall provide at its cost for the safe and secure removal, handling, deconstruction, de-manufacturing, transportation, recycling, and disposal, and all related reporting and documentation, for end-of-life electronic equipment that has been designated by the city's information and technology director as unnecessary or unwanted for retention by the city, hereby "electronic waste" or "e-waste." Contractor shall warranty and be responsible for ensuring that such work is performed in a secure manner that prevents the dissemination, disclosure, retention, or recovery of any information or data stored on electronic waste. Contractor shall comply with all city policies, requirements, or directions for electronic waste. Contractor shall provide an electronic waste management plan as part of its bid.end of special conditions

01 00 00 – GENERAL REQUIREMENTS

PART 1 GENERAL

1.1 DESCRIPTION

- A. Replacement of an outdated audio visual system located in the City's Council Chamber This upgrade project aims to modernize and enhance the audio and video infrastructure within the city's council chamber and adjacent overflow areas. The existing system has become obsolete and unreliable, impacting the City's ability to effectively conduct public meetings. The project also addresses the need for improved hybrid meetings and automated meeting capabilities.

PART 2 [NOT USED]

PART 3 EXECUTION

3.1 LAYOUT OF WORK AND QUANTITY SURVEYS

- A. General. The Contractor shall utilize a properly licensed surveyor to perform all layout surveys required for the control and completion of the Work, and all necessary surveys to compute quantities of Work performed.

City and/or the Engineer of Record has established primary control to be used by the Contractor for establishing lines and grades required for the Work.

Primary control consists of benchmarks and horizontal control points in the vicinity of the Work. A listing and identification of the primary control is provided on the Drawings. Before beginning any layout work or construction activity, the Contractor shall check and verify primary control, and shall advise the City Representative of any discrepancies.

- B. Quantity surveys. The Contractor shall perform such surveys and computations as are necessary to determine quantities of Work performed or placed during each progress payment period, and shall perform all surveys necessary for the City Representative to determine final quantities of Work in place. The City Representative will determine final quantities based upon the survey data provided by the Contractor, and the design lines and grades. If requested by the City Representative, the Contractor shall provide an electronic copy of data used for quantity computations.

All surveys performed for measurement of final quantities of Work and material shall be subject to approval of City's Representative. Unless waived by City's Representative in each specific case, quantity surveys made by the Contractor shall be made in the presence of City's Representative.

- C. Surveying

- 1. Accuracy. Degree of accuracy shall be an order high enough to satisfy tolerances specified for the Work and the following:

- (a) Right-of-way and alignment of tangents and curves shall be within 0.1 foot.
 - (b) Structure points shall be set within 0.01 foot, except where operational function of the special features or installation of metalwork and equipment require closer tolerances. When formwork has been placed and is ready for concrete, the Contractor shall check the formwork for conformance with the drawings and to ensure that the forms are sufficiently within the tolerance limits for the completed work.
 - (c) Cross-section points shall be located within 0.1 foot, horizontally and vertically.
 - (d) Aerial Mapping shall meet National Mapping Standards for 2-foot contour intervals.
- D. Records. Survey data shall be recorded in accordance with recognized professional surveying standards. Original field notes, computations, and other surveying data shall be recorded on electronic data collectors or in standard field books and must be of sufficient quality to enable the Contractor to prepare accurate record drawings as required by the Contract Documents.
- E. Cost. Unless otherwise called for by the Contract Documents, the cost of all material, equipment, and labor required for surveys for the layout of work and quantity surveys shall be included in the Schedule of Pay Items for items of work requiring the surveys. No additional compensation shall be made to the Contractor for this Work.

3.2 SCHEDULE

- A. Estimated Schedule. Within 21 Days after the issuance of the Notice of Award, Contractor shall prepare a Project schedule and shall submit this to the Engineer for Approval. The receipt or Approval of any schedules by the Engineer or the City shall not in any way relieve the Contractor of its obligations under the Contract Documents. The Contractor is fully responsible to determine and provide for any and all staffing and resources at levels which allow for good quality and timely completion of the Project. Contractor's failure to incorporate all elements of Work required for the performance of the Contract or any inaccuracy in the schedule shall not excuse the Contractor from performing all Work required for a completed Project within the specified Contract time period. If the required schedule is not received by the time the first payment under the Contract is due, Contractor shall not be paid until the schedule is received, reviewed and accepted by the Engineer.
- B. Schedule Contents. The schedule shall indicate the beginning and completion dates of all phases of construction; critical path for all critical, sequential time related activities; and "float time" for all "slack" or "gaps" in the non-critical activities. The schedule shall clearly identify all staffing and other resources which in the Contractor's judgment are needed to complete the Project within the

time specified for completion. The overall Project Schedule duration shall be within the Contract time.

- C. Weather Allowance. The schedule shall allow adequate time for inclement weather.
- D. Schedule Updates. Contractor shall continuously update its construction schedule. Contractor shall submit an updated and accurate construction schedule to the Engineer monthly when requested to do so by Engineer. Contractor shall also submit schedules showing a three week detailed look-ahead at bi-weekly meetings conducted with the City. The Engineer may withhold progress payments or other amounts due under the Contract Documents if Contractor fails to submit an updated and accurate construction schedule.

3.3 TEMPORARY FIELD OFFICE

NOT USED.

3.4 PROTECTION OF WORK AND PROPERTY

- A. All traffic detector loops, fences, walls, culverts, monuments, or other obstructions (except property line monuments within five (5) feet of the centerline of the mains) which are removed, damaged, or destroyed in the course of the Work, shall be replaced or repaired to the original condition at no additional cost to City. Contractor shall be responsible for the cost to repair, replace, relocate, and replacement of utilities whether or not those obstructions have been shown on the Plans, unless otherwise stated herein. It is then the Contractor's responsibility to employ at its expense a Licensed Land Surveyor to restore all property line monuments located more than five (5) feet from the centerline of the mains, which are destroyed or obliterated. Property line monuments located within five (5) feet of the centerline of the mains will be replaced by the City at no expense to the Contractor, provided the City is notified at least 48 hours before the property line monuments are damaged.
- B. Contractor shall provide such heat, covering, and enclosures as are necessary to protect all Work, materials, equipment, appliances, and tools against damage by weather conditions.
- C. Contractor shall take adequate precautions to protect existing sidewalks, curbs, pavements, utilities, and other adjoining property and structures, and to avoid damage thereto, and Contractor shall repair any damage thereto caused by the Work operations. Contractor shall:
 - 1. Enclose the working area with a substantial barricade, and arrange work to cause minimum amount of inconvenience and danger to the public.
 - 2. Provide substantial barricades around any shrubs or trees indicated to be preserved.

3. Deliver materials to the Project site over a route designated by the Engineer.
 4. Provide any and all dust control required and follow the Applicable air quality regulations as appropriate. If the Contractor does not comply, the City shall have the immediate authority to provide dust control and deduct the cost from payments to the Contractor.
 5. Confine Contractor's apparatus, the storage of materials, and the operations of its workers to limits required by law, ordinances, permits, or directions of the Engineer. Contractor shall not unreasonably encumber the Project site with its materials.
 6. Take care to prevent disturbing or covering any survey markers, monuments, or other devices marking property boundaries or corners. If such markers are disturbed by accident, they shall be replaced by a civil engineer or land surveyor acceptable to the City, at no cost to the City.
 7. Ensure that existing facilities, fences and other structures are all adequately protected and that, upon completion of all Work, all facilities that may have been damaged are restored to a condition acceptable to the City.
 8. Preserve and protect from injury all buildings, pole lines and all direction, warning and mileage signs that have been placed within the right-of-way.
 9. At the completion of work each day, leave the Project site in a clean, safe condition.
 10. Comply with any approved stage construction and traffic control plans. Access to residences and businesses shall be maintained at all times, unless otherwise permitted in writing by the City.
 11. Cover and or protect work and project site as may be required to prevent or mitigate schedule delay and to allow work to proceed during wet weather or wet conditions.
- D. These precautionary measures will apply continuously and not be limited to normal working hours. Full compensation for the Work involved in the preservation of life, safety and property as above specified shall be considered as included in the prices paid for the various contract items of Work, and no additional allowance will be made therefore.
- E. Should damage to persons or property occur as a result of the Work, Contractor shall be responsible for proper investigation, documentation, including video or photography, to adequately memorialize and make a record of what transpired. The City shall be entitled to inspect and copy any such documentation, video, or photographs.

3.5 SITE CONDITIONS SURVEYS

A. Work Included.

Contractor shall conduct thorough pre-construction and post-construction site condition surveys of the entire project area. Site Conditions surveys shall include written documentation of the conditions found, as well as photographs and video recordings of the area within at least 80 feet of any construction area and staging area. The written notes, photographs, and video shall be suitable for forensic purposes to resolve any damage claims that may arise as a result of construction.

B. Submittals.

1. Written documentation of site condition survey at pre-construction and post-construction.
2. Photographs as described herein of pre-construction and post-construction conditions.
3. Video recordings as described herein of pre-construction and post-construction conditions.
4. Submittals shall be made within three days of the surveys. All post-construction data shall be submitted prior to the final project inspection.

C. Site Condition Written Documentation.

Written documentation shall include the time, date, and conditions under which the site survey was made. The documentation shall note the condition of structures, pavement, sidewalks, utilities, fences, and etc. within the work areas.

D. Photographs & Video Recording.

1. General – Prior to starting Work, Contractor shall provide a video recording of the project site. Contractor shall take enough photographs during each site survey to provide a record of conditions existing prior to construction and conditions after construction. Pre-construction video and photographs shall be taken prior to any construction or mobilization of equipment, but not more than one week prior to actual start of work. The pre-construction photographs may be staged at different times to match the progression of the Work.
2. The photographs shall document existing damage to public and private facilities, both prior to and after construction. Conditions to be documented include, but are not limited to: sidewalk cracks, broken curbs, separated property walls, improvements within public right-of-ways, access roads used, utility covers and markings, signs, pavement striping, pavement, unique or unusual conditions, adjacent driveways, landscaping, survey markers, and any feature directed by the Engineer. Private property that is adjacent to the public right-of-way shall be documented to the extent visible from the public right-of-way.

3. Photographs shall include items to indicate scale, as needed. In particular, scales or other items shall be laid next to close ups of structural cracks and other damaged areas being recorded. Scaling shall also be used to document elevation differences, as needed.
4. One set of color prints and the preconstruction site video shall be submitted. Additional sets shall be available for reviewing in settling any construction disputes. A set of photos shall also be furnished in electronic format. The resolution shall be at least equal to 7 mega-pixels. All photos shall be documented as to time and date taken, photographer, project number, location, and orientation. Documentation shall include a brief description of objects photographed.

E. Video Recording.

1. Video recordings shall document the conditions of the entire area affected by construction, as well as nearby structures and facilities. The general documentation requirements for videos are the same as for photographs. Video recorders shall accurately and continuously record the time and date.
2. Video recordings shall include an audio portion made simultaneously during the videoing. The audio recording shall describe the location, time, orientation, and objects being recorded. Special commentary shall be provided for unusual conditions or damage noted.
3. Video equipment shall be capable of producing high resolution images and shall have zoom capabilities.
4. Video recordings shall provide an overall picture of the sites and shall provide detailed images of damaged areas. Video shall extend to the maximum height of structures.
5. The Engineer shall have the right to reject any audio video recordings submitted with unintelligible audio, uncontrolled pan or zoom, or of poor quality. Video recordings shall be repeated when rejected.
6. Video recordings shall be submitted with labels indicating the project, date, recorder, and other pertinent information. Recordings shall be submitted on standard DVDs in a standard format.

F. Timing.

Contractor shall provide written notice of the time scheduled for the site conditions survey and the place it is to begin. Contractor shall obtain the Engineer's concurrence prior to beginning the condition survey. The Engineer reserves the right to cancel the survey due to weather conditions or other problems. Videoing shall be done during times of good visibility and no videoing or photography shall be done during periods of visible precipitation or when standing water obscures pavement. Contractor shall provide the Engineer with

an opportunity to have a representative present when taking the photos and provide guidance during photographing.

G. Site Surveyor.

The site condition surveyor(s) shall be experienced in construction and potential damage concerns. The site condition surveyor(s) shall be familiar with the photography and video equipment being used.

H. Field Quality Control.

Prior to submitting videos and photographs, the Contractor shall spot check the photos and videos in the field to insure they accurately reflect the actual conditions and to insure they are correctly labeled.

I. Soils Compaction Testing.

1. All soils compaction testing will be done by a licensed geotechnical engineer furnished by the City. Soils compaction testing will be done for all footings and foundations prior to placement of rebar or concrete.
2. For pipeline construction, soil compaction testing will be done at 100-foot intervals or as ordered by the project soils/geotechnical report at the bottom of the trench prior to placement of pipe bedding; at the top of the pipe bedding above the pipe; every two vertical feet of trench backfill or as otherwise ordered by the project soils/geotechnical report; at the top of the trench backfill, which could be the bottom of the pavement section; and at the top of the aggregate base prior to pavement construction.

3.6 SUBMITTAL REQUIREMENTS FOR MANUALS AND RECORD DRAWINGS

A. General. The Contractor shall furnish all materials and perform all Work required for furnishing submittals to City in accordance with Contract Documents. The Contractor shall submit Project Record Drawings, Technical Manual, Spare Parts, and other required items within 5 days following completion of project construction, and prior to Contractor's request for Project Acceptance.

B. Technical Manuals.

1. The Contractor shall submit technical operation and maintenance information for each item of mechanical, electrical and instrumentation equipment in an organized manner in the Technical Manual. It shall be written so that it can be used and understood by City's operation and maintenance staff.
2. The Technical Manual shall be subdivided first by specification section number; second, by equipment item; and last, by "Category." The Contractor shall furnish to City four (4) identical Technical Manuals. Each set shall consist of one or more volumes, each of which shall be bound in a standard binder.

- C. Spare Parts List - The Contractor shall furnish to City six (6) identical sets of spare parts information for all mechanical, electrical, and instrumentation equipment. The spare parts list shall include the current list price of each spare part. The spare parts list shall include those spare parts which each manufacturer recommends be maintained by City in inventory. Each manufacturer or supplier shall indicate the name, address, and telephone number of its nearest outlet of spare parts to assist City in ordering. The Contractor shall cross-reference all spare parts lists to the equipment numbers designated in the Contract Documents. The spare parts lists shall be bound in standard size, 3-ring binder.
- D. Record Drawings
1. The Contractor shall maintain one record set of Drawings at the Site. On these, it shall mark all Project conditions, locations, configurations, and any other changes or deviations which may vary from the information represented in the original Contract Documents, including buried or concealed construction and utility features which are revealed during the course of construction. Special attention shall be given to recording the horizontal and vertical location of all buried utilities that differ from the locations indicated, or which were not indicated on the Contract Drawings. Said record drawings shall be supplemented by any detailed sketches as necessary or directed to fully indicate the Work as actually constructed. These master record drawings of the as-built conditions, including all revisions made necessary by Addenda and Change Orders shall be maintained up-to-date during the progress of the Project. Red ink shall be used for alterations and notes. Notes shall identify relevant Change Orders by number and date.
 2. For all Projects involving the installation of any pipeline, Contractor shall survey and record the top of the pipe at a minimum of every 100 linear feet, and at each bend, recording both the horizontal and vertical locations.
 3. Record drawings shall be accessible to City's Representative at all times during the construction period. The record drawings shall be kept up to date and will be checked by the City prior to each progress payment. Failure on the Contractor's part to keep record drawings current could result in withholding partial payment.
 4. Upon Completion of the Project and as a condition of final acceptance, the Contractor shall finalize and deliver a complete set of Record Drawings to City's Representative. The information submitted by the Contractor will be assumed to be correct, and the Contractor shall be responsible for, and liable to City, for the accuracy of such information, and for any errors or omissions which may or may not appear on the Record Drawings.
- E. Cost. Unless otherwise called for by the Contract Documents, the cost of all material, equipment, and labor required to complete the Manuals and Record Drawings shall be included in Contractor's bid and distributed in the Schedule of Pay. No additional compensation shall be made to the Contractor for this Work.

3.7 MATERIALS

A. Materials to be Furnished by the Contractor

1. Inspection of Materials. Materials furnished by the Contractor which will become a part of the Project shall be subject to inspection at any one or more of the following locations, as determined by City's Representative: at the place of production or manufacture, at the shipping point, or at the site of the Work. To allow sufficient time to provide for inspection, the Contractor shall submit to City's Representative, at the time of issuance, copies of purchase orders or other written instrument confirming procurement of the materials, including drawings and other pertinent information, covering materials on which inspection will be made.
2. No later than fourteen (14) Days prior to manufacture of material, Contractor shall inform City's Representative, in writing, the date the material is to be manufactured.
3. Contractors Obligations. The inspection of materials at any of the locations specified above or the waiving of the inspection thereof shall not impact whether the materials and equipment conform to the Contract Documents. Contractor will not be relieved from furnishing materials meeting the requirements of the Contract Documents due to City's inspection or lack of inspection of the equipment or materials. Acceptance of any materials will be made only after materials are installed in the Project.
4. Cost. Unless otherwise called for by the Contract Documents, the cost of all material, equipment, and labor required to accommodate City's testing efforts, including any travel required by Contractor's forces, shall be included in Contractor's bid and distributed in the Schedule of Pay Items related to the materials requiring testing. No additional compensation shall be made to the Contractor for this Work.

3.8 LOCAL CONDITIONS AND REQUIREMENTS

A. Access to Work and Haul Routes

1. General. All work on the rights-of-way necessary for access to the Site shall be performed by the Contractor. Contractors anticipated Haul Routes shall be in compliance with the City's approved Truck Routes available from the Engineer.
2. Access, Damage, Restoration. The Contractor shall make his own investigation of the condition of available public or private roads and of clearances, restrictions, bridge-load limits, permit or bond requirements, and other limitations that affect or may affect transportation and ingress or egress at the Site.
3. The Contractor shall maintain and repair any damage arising out of Contractor's operations to all roads used during construction of the

Project, and upon completion of all Work, but prior to final acceptance, the roads shall be restored to their original condition. Prior to using any road for access to the Site, the Contractor shall conduct a photograph and/or video survey of the roadway with a copy submitted to City's Representative.

4. Cost. Unless otherwise called for by the Contract Documents, the cost of all material, equipment, and labor required to complete this Work, shall be included in Contractor's bid and distributed in the Schedule of Pay Items. No additional compensation shall be made to the Contractor for this Work.
- B. Power. Contractor shall provide at its own expense all necessary power required for operations under the contract. The Contractor shall provide and maintain in good order such modern equipment and installations as shall be adequate in the opinion of the Engineer to perform in a safe and satisfactory manner the Work required by the contract.
- C. Construction Water.
1. Construction water shall not be used for purposes other than those required to satisfactorily complete the contract.
 2. Construction recycled water will be made available to the contractor from one of three fill locations within the city limits. If there is a need for construction recycled water during construction, the contractor shall apply for a city construction recycled water meter at the city hall finance counter prior to the beginning of work. A security deposit of \$2,000 is required for the construction water meter from which the meter rental fee and cost of water will be deducted. if the rental fee and the water costs exceed the \$2,000.00 deposited, an invoice will be issued to the contractor for payment.
 3. Construction potable water will only be made available to the contractor if it can be demonstrated that recycled water cannot be used for the construction activities. potable water will be made available from existing city fire hydrant(s) nearest the proposed construction site as approved by the engineer, or by such other means as may be expressly approved in writing by the engineer. If there is a need for water during construction, the contractor shall apply for a city construction water meter at the city hall finance counter prior to the beginning of work. a security deposit of \$2,000 is required for the construction water meter from which the meter rental fee and cost of water will be deducted. If the rental fee and the water costs exceed the \$2,000.00 deposited, an invoice will be issued to the contractor for payment.
 4. All required water, all work and materials required for obtaining, pumping, transporting and applying and otherwise disposing of said water shall be in an approved manner and shall be performed by, and at the expense of the contractor and no extra or separate compensation will be made thereof.

D. Operation of Existing Water Facilities

1. The Contractor shall not operate any of the existing water systems, including pumps, motors, valves, and hydrants, but shall contact the City two (2) working days in advance with a list and location of the water system facilities that will require operating, opening, stopping, or closure by the City.
2. At the option of the Engineer, the Contractor may be permitted to operate valves for the purpose of making connections to existing mains. The City will perform all notification to existing customers regarding temporary loss of service.
3. Contractor shall submit a request on City's standard form for any shut-down of existing water facilities.

E. Construction at Existing Utilities

1. General. Where the Work to be performed crosses or otherwise interferes with water, sewer, gas, or oil pipelines; buried cable; or other public or private utilities, the Contractor shall perform construction in such a manner so that no damage will result to either public or private utilities. It shall be the responsibility of the Contractor to determine the actual locations of, and make accommodations to maintain, all utilities.
2. Permission, Notice and Liability. Before any utility is taken out of service, permission shall be obtained by the Contractor from the owner. The owner, any impacted resident or business owner and the City Representative will be advised of the nature and duration of the utility outage as well as the Contractor's plan for providing temporary utilities if required by the owner. The Contractor shall be liable for all damage which may result from its failure to maintain utilities during the progress of the Work, and the Contractor shall indemnify City as required by the Contract Documents from all claims arising out of or connected with damage to utilities encountered during construction; damages resulting from disruption of service; and injury to persons or damage to property resulting from the negligent, accidental, or intentional breaching of utilities.
3. Cost. Unless otherwise called for by the Contract Documents, the cost of all material, equipment, and labor required to complete this Work, shall be included in Contractor's bid and distributed in the Schedule of Pay Items. No additional compensation shall be made to the Contractor for this Work.

F. Traffic Control

1. General. Contractor shall abide by traffic control plans approved by the City.
2. Protections. Roads subject to interference by the Work shall be kept open or suitable temporary passages through the Work shall be provided and

maintained by the Contractor. The Contractor shall provide, erect, and maintain all necessary barricades, suitable and sufficient flasher lights, flag persons, danger signals, and signs, and shall take all necessary precautions for the protection of the Work and the safety of the public. No construction work along public or private roads may proceed until the Contractor has proper barricades, flasher lights, flag persons, signals, and signs in place at the construction site.

3. Cost. Unless otherwise called for by the Contract Documents, the cost of all material, equipment, and labor required to complete this Work, shall be included in Contractor's bid and distributed in the Schedule of Pay Items. No additional compensation shall be made to the Contractor for this Work.

G. Cleaning Up

1. Contractor at all times shall keep premises free from debris such as waste, rubbish, and excess materials and equipment. Contractor shall not store debris under, in, or about the premises. Contractor shall also clean all asphalt and concrete areas to the degree necessary to remove oil, grease, fuel, or other stains caused by Contractor operations or equipment, including all USA markings. The use of water, resulting in mud on streets, will not be permitted as substitute for sweeping or other methods. Dust control may require having a water truck onsite for the duration of the project, and/or use of temporary hoses and pipelines to convey water.
2. Contractor shall fully clean up the site at the completion of the Work. If the Contractor fails to immediately clean up at the completion of the Work, the City may do so and the cost of such clean up shall be charged back to the Contractor.

3.9 ENVIRONMENTAL QUALITY PROTECTION

A. Environmental Conditions

NOT USED. *This project is categorically exempt from CEQA under the categorical exemption for existing facilities (Cal. Code Regs., tit. 14, § 15301) as the project involves the minor alteration of a public facility and/or mechanical equipment and involves negligible or no expansion of existing or former use.*

B. Landscape and Vegetation Preservation

1. General. The Contractor shall exercise care to preserve the natural landscape and vegetation, and shall conduct operations so as to prevent unnecessary destruction, scarring, or defacing of the natural surroundings in the vicinity of the Work.
2. Damage and Restoration. Movement of crews and equipment within the rights-of-way and over routes provided for access to the Work shall be performed in a manner to prevent damage to property. When no longer required, construction roads shall be restored to original contours.

3. Upon completion of the Work, and following removal of construction facilities and required cleanup, land used for construction purposes and not required for the completed installation shall be scarified and regraded, as required, so that all surfaces are left in a condition that will facilitate natural revegetation, provide for proper drainage, and prevent erosion.
4. Cost. Unless otherwise called for by the Contract Documents, the cost of all material, equipment, and labor required to complete this Work, shall be included in Contractor's bid and distributed in the Schedule of Pay Items. No additional compensation shall be made to the Contractor for this Work.

C. Protected Species

1. General. If, in the performance of the Work, evidence of the possible occurrence of any State or Federally listed threatened or endangered plant or animal is discovered, the Contractor shall notify the City Representative immediately, giving the location and nature of the findings. Written confirmation of the evidence, location and nature of the findings shall be forwarded to City within 2 Days.
2. Procedures. The Contractor shall immediately cease all construction activities in the immediate area of the discovery to the extent necessary to protect the endangered plant or animal.

If directed by the City Representative, Contractor will refrain from working in the immediate area, suspend the Work in its entirety, or alter its performance to ensure full compliance with all applicable permits, laws and regulations. Any City directed changes to the Work as a result of a siting will be pursuant to the Contract Documents.

3. False Siting. Any costs or delays incurred by City or the Contractor due to unreasonable or false notification of an endangered plant or animal will be borne by the Contractor.
4. Cost. Unless otherwise called for by the Contract Documents, the cost of all material, equipment, and labor required to comply with this paragraph, shall be included in Contractor's bid and distributed in the Schedule of Pay Items. No additional compensation shall be made to the Contractor for this Work.

D. Preservation of Historical and Archeological Resources

1. General. If, in the performance of the Work, Contractor should unearth cultural resources (for example, human remains, animal bones, stone tools, artifacts and/or midden deposits) through excavation, grading, watering or other means, the Contractor notify the Construction/Archeological Monitor and/or the City Representative immediately, giving the location and nature of the findings. Written confirmation of the evidence, location and nature of the findings shall be forwarded to the Construction/Archeological Monitor and/or City within 2 Days.

2. Procedures. The Contractor shall immediately cease all construction activities in the immediate area of the discovery to the extent necessary to protect the cultural resource.

If directed by the City Representative, Contractor will refrain from working in the immediate area, suspend the Work in its entirety, or re-sequence and/or alter its performance to ensure full compliance with all applicable permits, laws and regulations. Should the presence of cultural resources be confirmed, the Contractor will assist the City Representative and the Construction/Archeological Monitor in the preparation and implementation of a data recovery plan. The Contractor shall provide such cooperation and assistance as may be necessary to preserve the cultural resources for removal or other disposition. Any City directed changes to the Work as a result of the cultural resource will be pursuant to the Contract Documents.

3. Contractor's Liability. Should Contractor, without permission, injure, destroy, excavate, appropriate, or remove any cultural resource on or adjacent to the Site, it will be subject to disciplinary action, arrest and penalty under applicable law. The Contractor shall be principally responsible for all costs of mitigation and/or restoration of cultural resources related to the unauthorized actions identified above. Contractor shall be required to pay for unauthorized damage and mitigation costs to cultural resources (historical and archeological resources) as a result of unauthorized activities that damage cultural resources and shall indemnify City pursuant to the Contract Documents.
4. Cost. Unless otherwise called for by the Contract Documents, the cost of all material, equipment, and labor required to comply with this paragraph, shall be included in Contractor's bid and distributed in the Schedule of Pay Items. No additional compensation shall be made to the Contractor for this Work.

E. Dust and Pollution Control

1. Contractor shall provide all necessary material, equipment and labor to prevent and control the emission of dust and any other potential pollutant on site. Contractor shall remove construction caused debris from streets and sidewalks as directed by the Engineer.
2. Contractor shall not discharge into the atmosphere from any source smoke, dust or other air contaminants in violation of the law, rules, and regulations of the governing agency.
3. Cost. Unless otherwise called for by the Contract Documents, the cost of all material, equipment, and labor required to comply with this paragraph, shall be included in Contractor's bid and distributed in the Schedule of Pay Items. No additional compensation shall be made to the Contractor for this Work.

F. Management of Storm, Surface and Other Waters (Not Applicable)

1. Storm water, surface water, groundwater, and nuisance, or other waters may be encountered at various times during construction of the Project. Federal and State laws require the City and its contractors to manage such waters pursuant to the requirements of California State Water Resources Control Board Order Number 2009-0009-DWQ, the Federal Clean Water Act, and the California Porter Cologne Water Quality Control Act. Contractor acknowledges that it has investigated the risk arising from such waters in conjunction with the Project, has prepared its Bid accordingly, and assumes any and all risks and liabilities arising therefrom.
2. The Contractor shall keep itself and all subcontractors, staff, and employees fully informed of and in compliance with all local, state and federal laws, rules and regulations that may impact, or be implicated by the performance of the Work including, without limitation, all applicable provisions of the City's ordinances regulating discharges of storm water; the Federal Water Pollution Control Act (33 U.S.C. § 1251 et seq.); the California Porter-Cologne Water Quality Control Act (Water Code § 13000 et seq.); and any and all regulations, policies, or permits issued pursuant to any such authority. These include, but are not limited to the San Francisco Bay Regional Water Quality Control Board Order No. R2-2015-0049 (NPDES Permit No. CAS 612008), and State Water Resources Control Board Order No. 2010-0014-DWQ, Order No. 2009-0009-DWQ, and Order No. 2012-0006-DWQ, and any amendment or renewal thereof ("Construction General Permit"). Contractor must perform all construction operations in such a manner as to comply, and ensure all subcontractors to comply, with all applicable Federal, State, and local laws, orders, and regulations concerning the control and abatement of water pollution; and all terms and conditions of any applicable permits issued for the Project. In the event there is a conflict between Federal, State, and local laws, regulations, and requirements, the most stringent shall apply.
3. Compliance with Construction General Permit. Contractor must comply with all aspects of the Construction General Permit, State Water Resources Control Board (State Board) Water Quality Order No. 2009-0009-DWQ, as amended by Order Nos. 2010-0014-DWQ and 2012-0006-DWQ, and any amendment or renewal thereof (NPDES CAS000002), for all projects that involve construction on or disturbance of one acre or more of land or which are part of a larger common plan of development or sale.
 - (a) Permit registration. Unless otherwise specified in the Special Conditions, Contractor must prepare the Notice of Intent for coverage under the Construction General Permit and all Permit Registration Documents (PRDs), including but not limited to the Storm Water Pollution Prevention Plan (SWPPP), as those terms are defined in the Construction General Permit. Contractor must coordinate submittal of all PRDs with the eCity's Legally Responsible Person and/or Authorized Signatory, as those terms are defined in the Construction General Permit. The Contractor

must submit the PRDs, including the SWPPP to the City Representative for review not less than fifteen (15) Days prior to the start of on- site construction work. City will file the Notice of Intent and PRDs and pay the filing fee.

- (b) Before any Construction General Permit related documents may be submitted to the State Board or implemented on the Project site, they must first be reviewed and accepted by City. Acceptance by the City does not relieve the Contractor from ensuring such documents comply with all laws applicable laws, regulations, and orders.
- (c) Contractor must ensure that the SWPPP is developed by a Qualified SWPPP Developer and implemented by a Qualified SWPPP Practitioner as those terms are defined in the Permit. Contractor must implement the SWPPP and all other provisions of the Construction General Permit, including the monitoring and reporting requirements, preparing and submitting all reports, plans, inspections, and monitoring information in compliance with the Construction General Permit. The SWPPP must include industry standard requirements for water quality control including but not be limited to the following:
 - (1) Sediment and erosion control measures to manage sediment and erosion including vegetative practices, structural control, silt fences, straw dikes, sediment controls or operator controls as appropriate. Storm water management measures shall be instituted as required, including velocity dissipaters, and solid waste controls shall address controls for building materials and offsite tracking of sediment.
 - (2) Wastewater and storm water management controls to divert offsite surface flows around the Project site and to divert surface flows within the Project area away from areas of open earth or stockpiles of building and other materials. Wastewater from general construction activities, such as drain water collection, aggregate processing, concrete batching, drilling, grouting, or other construction operations, shall not enter flowing or dry watercourses without having met the authorized non-storm water discharge requirements listed in State Board Water Quality Order No. 2009-0009-DWQ, Section III.C., including proper notification to the Regional Water Board.
 - (3) Pollution prevention measures including methods of dewatering, unwatering, excavating, or stockpiling earth and rock materials which include prevention measures to control silting and erosion, and which will intercept and settle any runoff of sediment-laden waters.

- (4) Turbidity prevention measures for prevention of excess turbidity including, but are not restricted to, intercepting ditches, settling ponds, gravel filter entrapment dikes, flocculating processes, recirculation, combinations thereof, or other approved methods that are not harmful to aquatic life. All such wastewaters discharged into surface waters, shall contain the least concentration of settleable material possible, and shall meet all conditions of section 402, the National Pollutant Discharge Elimination System (NPDES) permit.
 - (5) Overall construction site management measures to address changes at the Project site as the Project moves through different phases and changes that account for rainy and dry season management practices.
 - (6) Pollution control measures and construction activity methods that will prevent entrance, or accidental spillage, of solid matter, contaminants, debris, or other pollutants or wastes, into streams, flowing or dry watercourses, lakes, wetlands, reservoirs, or underground water sources. Such pollutants and wastes include, but are not restricted to: refuse, garbage, cement, sanitary waste, industrial waste, hazardous materials, radioactive substances, oil and other petroleum products, aggregate processing, tailings, mineral salts, and thermal pollution.
 - (7) Control measures for stockpiled or deposited materials prohibiting the stockpile or deposit of excavated materials, or other construction materials, near or on stream banks, lake shorelines, or other watercourse perimeters where they can be washed away by high water or storm runoff, or can, in any way, encroach upon the watercourse.
 - (8) Develop and implement a Rain Event Action Plan (REAP), if required, that must be designed and implemented to protect all exposed portions of the site 48 hours prior to any likely precipitation event.
 - (9) Monitoring, reporting and record keeping, as necessary to achieve compliance with applicable Permit requirements, including but not limited to annual reports and rain event reports.
- (d) City retains the right to procure and maintain coverage under the Construction General Permit for the Project site if the Contractor fails to draft a SWPPP or other Construction General Permit related document, or fails to proceed in a manner that is satisfactory to City. City reserves the right to implement its own SWPPP at the Project site, and hire additional contractors to maintain compliance. Whether Contractor has adequately

maintained compliance with the Construction General Permit shall be City's sole determination. In the event that Contractor has failed or is unable to maintain compliance with the Construction General Permit, any costs or fines incurred by City in implementing a SWPPP, or otherwise maintaining compliance with the Construction General Permit shall be paid by the Contractor.

4. For those Work sites where construction activity results in the disturbance of less than one acre of total land area and/or do not need coverage under the Construction General Permit, the Contractor shall be responsible for preparing and implementing construction industry best management practices to eliminate or reduce the discharge of pollutants from construction sites, such as the best management practices set forth in the CASQA Construction BMP Handbook.
5. In addition to compliance with the Permit, Contractor shall comply with the lawful requirements of any applicable municipality, district, drainage district, flood control district, and other local agencies regarding discharges of storm water, surface water, groundwater or other nuisance waters off of the Project site.
6. Contractor violations.
 - (a) Failure to implement the SWPPP or otherwise comply with the Construction General Permit or local state and federal laws is a violation of this Contract. Notwithstanding any other indemnity contained in this Agreement, Contractor agrees to indemnify, defend – with counsel acceptable to the City – and hold harmless the City, its officials, officers, agents, employees and authorized volunteers from and against any and all claims, demands, losses or liabilities of any kind or nature which the City, its officials, officers, agents, employees and authorized volunteers may sustain or incur for noncompliance with the laws, regulations, and ordinances listed above, arising out of or in connection with the Work, except for liability resulting from the sole established negligence, willful misconduct or active negligence of the City, its officials, officers, agents, employees or authorized volunteers.
 - (b) City reserves the right to defend any enforcement action or civil action brought against the City for Contractor's failure to comply with any applicable water quality law, regulation, or policy. Contractor hereby agrees to be bound by, and to reimburse the City for the costs associated with, any enforcement action and/or settlement reached between the City and any relevant enforcement entity.
 - (c) City may seek damages from Contractor for delay in completing the Contract in accordance with the Contract Documents, caused by Contractor's failure to comply with the the laws, regulations and

policies described in this Article, or any other relevant water quality law, regulation, order, or policy.

- (d) If noncompliance with any relevant law, regulation or permit, order, or policy occurs, the Contractor shall report this to the City Representative immediately, with the specific information submitted in writing within 2 Days. Consistent violations of applicable Federal, State, or local laws, orders, regulations, or Water Quality Standards may result in City stopping all site activity until compliance is ensured. The Contractor shall not be entitled to any change in Contract Price or Contract Times, claim for damage, or additional compensation by reason of such a work stoppage. Corrective measures required to bring activities into compliance shall be at the Contractor's expense.

7. Oil storage tanks management.

- (a) Storage tank placement. All oil or other petroleum product (hereinafter referred to collectively as oil) storage tanks shall be placed at least 20 feet from streams, flowing or dry watercourses, lakes, wetlands, reservoirs, and any other water source.
- (b) Storage area dikes. Storage areas shall be diked at least 12 inches high or graded and sloped to permit safe containment of leaks and spills equal to the capacity of all tanks and/or containers located within each area, plus a sufficient amount of freeboard to contain the 25-year rainstorm.
- (c) Diked area barriers. Diked areas shall have an impermeable barrier at least 10 mils thick. Areas used for refueling operations shall have an impermeable liner at least 10 mils thick buried under 2 to 4 inches of soil.
- (d) Spill Prevention Control and Countermeasure Plan (SPCC). Where the location of a construction site is such that oil from an accidental spillage could reasonably be expected to enter into or upon the navigable waters of the United States or adjoining shorelines, and the aggregate storage of oil at the site is over 1,320 gallons or a single container has a capacity in excess of 660 gallons, the Contractor shall prepare an SPCC Plan. The Contractor shall submit the SPCC Plan to the Engineer at least 30 days prior to delivery or storage of oil at the site. The Plan must have been reviewed and certified by a registered professional engineer in accordance with 40 C.F.R., part 112

8. Underground tank prohibition. The Contractor shall not use underground storage tanks.

9. Construction safety standards. The Contractor shall comply with the sanitation and potable water requirements of Section 7 of United States

Bureau of Reclamation's publication "Reclamation Safety And Health Standards."

10. Other Permits.

- (a) Other permits applicable to the Project are listed in the Special Conditions. The Contractor shall obtain all other necessary licenses and permits.
- (b) Monitoring. The Contractor is required to conduct monitoring in order to meet the requirements of the permits, which may include sampling, testing and inspections.
- (c) Recordkeeping. The Contractor shall retain all records and data required by the permits for the time specified in the contract.

11. Cost. Except as specified herein, the cost of complying with this section shall be included in the Schedule of Pay Items for work which necessitate the water pollution prevention measures required by this paragraph.

END OF GENERAL REQUIREMENTS

EXHIBIT "A"
CHANGE ORDER FORM



City of Milpitas
455 E. Calveras Boulevard
Milpitas, California 93035

CONTRACT CHANGE ORDER NO. ____

Date: [INSERT]

To: [CONTRACTOR NAME]

[ADDRESS]

[ADDRESS]

Attn: [CONTRACTOR REP]

Project: [INSERT]

This Change Order covers changes to the contract as described herein. The Contractor shall construct, furnish equipment and materials, and perform all work as necessary or required to complete the Change Order items for the amount agreed upon between the Contractor and City of Milpitas and set forth herein.

Item No.	Description of Changes	Increase/ (Decrease) in Contract Amount	Contract Time Extension, Days
1			
2			
	Totals	\$	

Original Contract Amount:	\$XX.00
Change by Previous Change Order(s):	\$XX.00
Contract Price Prior to this Change Order:	\$XX.00
Current Change Order Amount:	\$XX.00
Revised Contract Amount including this Change Order:	\$XX.00

The Contract Price and Contract Time shall be adjusted as set forth above. The undersigned Contractor approves the foregoing Change Order as to the changes, if any, in the contract price specified for each item including any and all supervision costs and other miscellaneous costs relating to the change in work, and as to the extension of time allowed, if any, for completion of the entire work on account of said Change Order. The Contractor agrees to furnish all labor and materials and perform all other necessary work, inclusive of the directly or indirectly related to the approved time extension, required to complete the Change order items. This document will become a supplement of the contract and all provisions will apply hereto. It is understood that the Change Order shall be effective when approved by the City.

Contractor accepts the terms and conditions stated above as full and final settlement of any and all claims arising out of or related to the subject of this Change Order and acknowledges that the compensation (time and cost) set forth herein comprises the total compensation due for the work or change defined in the Change Order, including all impact on any unchanged work. By signing this Change Order, the Contractor acknowledges and agrees that the stipulated compensation includes payment for all Work contained in the Change Order, plus all payment for any acceleration or interruption of schedules, extended overhead costs, delay, and all impact or cumulative impact on all Work under this Contract. The signing of this Change Order acknowledges full mutual accord and satisfaction for the change and that the stated time and/or cost constitute the total equitable adjustment owed the Contractor as a result of the change. The Contractor hereby releases and agrees to waive all rights, without exception or reservation of any kind whatsoever, to file any further claim or request for equitable adjustment of any type, for any reasonably foreseeable cause that shall arise out of, or as a result of, this Change Order and/or its impact on the remainder of the Work under the Contract.

Accepted:

Recommended:		
	(Signature) Contractor's Authorized Representative	Date
Approved:		
	(Signature) Daniel Nam, Director of Information Technology	Date
	(Signature) Ned Thomas, City Manager	Date

This Contract Change Order consists of **2 pages** and any exhibits attached to this Contract Change Order shall not be part of the Contract Change Order unless specifically initialed by or on behalf of both the Contractor and the City of Milpitas.

Contract Change Order #

EXHIBIT "B"
PHASE #1 AND PHASE #2 TIME SCHEDULE

- **Phase #1:** Limited to Discussion System. Must be completed within sixty (60) calendar days from issuance of Notice to Proceed.
- **Phase #1 Schedule:** Monday, Wednesday, Thursday, Friday 8:00 a.m. – 5:00 p.m.
- **Phase #2:** All remaining base scope, except Phase #1, excludes Add Alternates
- **Phase #2 Schedule:** June 19, 2024 through August 23, 2024 for a total of sixty-six (66) calendar days. Monday – Friday 8:00 a.m. – 5:00 p.m.

I RESOLUTION No. _____

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MILPITAS
AWARDING A CONSTRUCTION CONTRACT TO PCD FOR THE
REHABILITATION OF THE MILPITAS SPORTS CENTER ROOF PROJECT**

WHEREAS, City Milpitas Municipal Code Section I-2-3.08 (“Formal Bid Procedures”) authorizes the City Council to award construction contracts to the responsible bidder, whose proposal is determined in writing to be the most advantageous to the City, taking into consideration, price, value, and the evaluation factors set forth in the request for proposals; and

WHEREAS, Capital Improvement Program Project No. 3498 – Council Chamber AV System Replacement is an approved project that provides for the assessment, design, and construction of improvements to City Council Chamber Audio Visual (AV) Systems in the adopted 2024-2028 Capital Improvement Program (CIP) budget; and

WHEREAS, the Milpitas City Council Chambers, a City facility that is the venue for City Council meetings and the Committee Conference Room, a City facility that is the venue for City Council Subcommittee and Commission meetings; and

WHEREAS, the AV systems in the Council Chambers and the Committee Conference Room are at the end of their useful life and experience frequent breakdowns; and

WHEREAS, the AV systems in the Council Chambers and the Committee Conference Room were installed prior to the hosting and streaming of hybrid meetings, which require complex interfaces with other platforms and systems; and

WHEREAS, the Information Technology Department identified the need for a qualified contractor to conduct the replacement of both AV systems; and

WHEREAS, in accordance with the bidding requirements under the California Uniform Public Construction Cost Accounting Act and Public Contracting Code, the Project was advertised for bid on October 26, 2023, and

WHEREAS, the Purchasing Agent has determined that the lowest responsible bidder submitting a responsive bid is PCD, in the base bid amount of \$743,761.88 and Add Alternates 1 and 2 in the amount of \$83,309.00 and \$8,797.20 respectively, for a total contract amount of \$835,768.08.

NOW, THEREFORE, the City Council of the City of Milpitas hereby finds, determines, and resolves as follows:

1. The City Council has duly considered the full record before it, which may include but is not limited to such things as the City staff report, testimony by staff and the public, and other materials and evidence submitted or provided to it. Furthermore, the recitals set forth above are found to be true and correct and are incorporated herein by reference.
2. The City Council authorizes the City Manager to award a construction contract to PCD in the Amount of \$835,768.08 for the Council Chambers AV Replacement Project, including the base bid and Add Alternates 1 and 2.

3. The City Council authorizes the City Manager to negotiate and execute contract change order(s) in an aggregate amount not to exceed \$79,231.92 for the Council Chamber AV Replacement Project.

PASSED AND ADOPTED this day of , 2023, by the following vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

ATTEST:

APPROVED:

Suzanne Guzzetta, City Clerk

Carmen Montano, Mayor

APPROVED AS TO FORM:

Michael Multalipassi, City Attorney



PURCHASING DIVISION

IFB FOR: Council Chamber AV System Replacement

IFB NO: 24-030

DUE DATE: November 29, 2023

BUYER: R. Yamashita

**Coda Technology Group
1370 Redwood Way Suite C
Petaluma, CA 94954**

**EIDIM Group, Inc. dba EIDIM AV
Technology
1015 S. Placentia Ave
Fullerton, CA 92831**

**PCD
1032 Maxwell Drive
Santa Rosa, CA 95401**

	1	2	3	4	5	6	7
Base Bid	\$857,735.73	\$854,847.60	\$743,761.88				

****BID AWARD IN PROGRESS** City Council Date: December 12, 2023**

Most Responsive Lowest Bidder Awarded TO: PCD

CODE KEY: INA = Information Not Available NS = Not Stated NB = No Bid DY = Days WK = Weeks HR = Hours



CITY OF MILPITAS AGENDA REPORT (AR)

Item Title:	Adopt a Resolution Authorizing the City Manager to Execute the Sole Source Services Agreement with Flock Group Inc. for Automated License Plate Reader (ALPR) Cameras in an Amount Not-to-Exceed \$732,000.00 (Staff Contact: Jared Hernandez, Chief of Police, 408-586-2406)
Category:	Consent Calendar-Public Safety
Meeting Date:	12/12/2023
Recommendation:	Adopt a resolution authorizing the City Manager to execute the extension of the Sole Source Services Agreement with Flock Group, Inc. for Automated License Plate Reader (ALPR) Cameras in an amount not-to-exceed \$732,000, which includes a contingency of \$91,500.00; and Authorize the Chief of Police to execute contract change orders in an aggregate amount not to exceed \$91,500.00.

BACKGROUND:

On April 28, 2020, the City approved a one-year agreement with Flock Group, Inc. for the installation of an initial 20 automated license plate reader (ALPR) cameras, per the objectives outlined in CIP project number 3459 "ALPRs and Citywide Security Cameras." The original contract price was \$2,000 per camera and the total contract amount was not-to-exceed \$40,000.

On May 26, 2020, the Purchasing Agent designated Flock Group, Inc. as the "Sole Source" provider of Falcon ALPR wireless cameras with patented machine learning technology in accordance with Municipal Code Section I-2-3.06 "Sole Source Procurement". This designation is active for five (5) years ending on May 25, 2025.

Due to the success of the ALPR camera program, the Police Department requested to expand the program by an additional 15 cameras. On April 15, 2021, the City approved an additional one-year Sole Source agreement with Flock Safety for the installation of the 15 additional ALPR cameras and the additional compensation amount of \$41,250 (\$2,500 per camera) for the new cameras combined for a not-to-exceed amount of \$81,250. Upon doing so, the City had two separate contracts with differing end of term dates.

On September 20, 2022, the City Council approved a resolution authorizing the City Manager to execute a three-year extension of the existing agreements with Flock Group, Inc. in an amount not-to-exceed \$314,750, which also included a \$78,500 contingency for future growth (up to 10 additional cameras). This resolution extended the contract end dates of the 35 existing cameras to 2023 (for the initial set of 20 cameras) and 2024 (for the additional set of 15 cameras). A total of \$196,387 of the total not-to-exceed amount of \$314,750 has been expended to date.

In preparation for the expiration of the originating contract for the 20 initial cameras, the Police Department completed an analysis of the current ALPR camera deployment. The Police Department determined the current deployment is still relevant but identified several areas in the City that could benefit from the installation of additional ALPR cameras to reduce crime.

Upon initiating a renewed contract with Flock Group, Inc., staff learned that the per camera cost increased to \$3,000 per unit and is expected to increase more in future years. However, the vendor is offering grandfathered pricing to existing customers who enter a 5-year agreement. The Police Department is seeking Council approval for a 5-year contract for the existing 35 cameras, 20 new cameras to be installed immediately, and a contingency for additional cameras to be installed during the 5-year contract period based on evolving crime trends and public safety needs. This new contract would align all 55 cameras into a single

contract to commence immediately upon execution of the contract. The proposed agreement has a not-to-exceed amount of \$732,000 which includes a contingency of \$91,500 for future growth based on evolving crime trends and public safety needs. However, the City would not expend the remaining \$118,363 to be encumbered under the September 20, 2022 contract. Thus the new agreement would result in a new cost of \$535,613 to extend the agreement through 2028.

ANALYSIS:

Since the approval of the initial contract and the implementation of the first set of cameras in September of 2020, the ALPR program has aided the Police Department in enhancing public safety in various ways, such as locating missing persons, identifying, and monitoring crime trends, aiding in criminal investigations and apprehensions, recovery of stolen vehicles, locating of wanted persons, and development of investigative leads in criminal and non-criminal investigations. Additionally, the ALPR program has improved efficiency in investigations by reducing staff time where other means of gathering similar information is cumbersome. Due to the overall effectiveness of the ALPR technology, staff recommends continuance of the program and has identified 20 locations of the City that will immediately benefit from the deployment of additional cameras.

The Police Department now requests to enter an agreement to extend service for the existing 35 cameras and to add 20 new cameras for five years, for a total not-to-exceed amount of \$640,500. A five-year term will secure grandfathered pricing for the cameras for the extent of the agreement, which is lower than the current rate Flock offers for new agreements and protects the City from increased costs for the current deployment of cameras.

In addition, staff recommends adding a contingency of \$91,500 to account for the potential addition of ALPR cameras (estimated up to 10 cameras for 3 years at an annual cost per camera of \$3,000, plus a \$150 one-time implementation fee per camera). The contingency would allow for the timely expansion of the ALPR program, if and as needed, to further address public safety including shifting crime trends. Staff also recommends authorizing the Chief of Police to execute contract change orders in an aggregate amount not to exceed \$91,500. The change order authority will not exceed this amount. The following table shows the costs as described herein:

ALPR Equipment:	Year 1	Year 2	Year 3	Year 4	Year 5	Total
Initial Set of 20 Cameras	\$40,000	\$40,000	\$40,000	\$40,000	\$40,000	\$200,000
Additional Set of 15 Cameras	\$37,500	\$37,500	\$37,500	\$37,500	\$37,500	\$187,500
New Set of 20 Cameras	\$53,000	\$50,000	\$50,000	\$50,000	\$50,000	\$255,000
Contingency						\$91,500
Total	\$130,500	\$127,500	\$127,500	\$127,500	\$127,500	\$732,000

Section I-2-3.06 of the Milpitas Municipal Code authorizes the Purchasing Agent to award contracts without competition when the Purchasing Agent determines in writing, after conducting a good faith review of available sources, that only one viable source exists for the required supplies, material, equipment or general service, or there is a compelling reason for using only one source. (See attached Sole Source Justification Form). Flock Group, Inc., is the sole manufacture and distributor of license plate reader.

POLICY ALTERNATIVE(S):

Alternative 1: Do not approve a services agreement with Flock Safety for ALPR cameras

Pros: The City would not incur the expense of up to \$732,000 to continue and expand the ALPR camera program as recommended.

Cons: The Police Department would no longer have access to the ALPR technology with Flock Safety.

Reason for Not Recommending: The elimination or reduction of the ALPR program will decrease the Police Department's ability to proactively detect, deter, and investigate crime thus reducing public safety.

FISCAL IMPACT:

The total not-to-exceed cost of the 5-year agreement including a contingency as staff recommends is \$732,000, which will be paid from funds available in CIP 3459 ALPRs & Security Cameras and the 2019 Car Break-In Prevention Grant (BSCC 459). CIP 3459 is funded by General Government CIP and Car Break-In Prevention State Grant. As of December 5, 2023, the balance in CIP 3459 is \$318,613 and balance of the

BSCC grant is \$331,564 in which will fund \$650,177 of the contract. The remaining contract amount of \$81,823 will be incorporated into future grant, CIP, and/or operating budget development for funding.

CALIFORNIA ENVIRONMENTAL QUALITY ACT (CEQA):

The project entails the operation, repair, maintenance, permitting, leasing, licensing, or minor alteration of existing public or private structures, facilities, mechanical equipment, or topographical features, involving negligible or no expansion of existing or former use and is exempt from CEQA pursuant to Cal. Code Regs., tit. 14, § 15301. The project also entails of construction and location of limited numbers of new, small facilities or structures; installation of small new equipment and facilities in small structures; and the conversion of existing small structures from one use to another where only minor modifications are made in the exterior of the structure. The number of structures in the project do not exceed the maximum allowable on effected parcels. The project is exempt from CEQA pursuant to Cal. Code Regs., tit. 14, § 15303.

RECOMMENDATION:

- (1) Adopt a resolution Authorizing the City Manager to execute the Sole Source Services Agreement with Flock Group, Inc. for Automated License Plate Reader (ALPR) Cameras in an amount not-to-exceed \$732,000.00, which includes a contingency of \$91,500.00.
- (2) Authorize the Chief of Police to execute contract change orders in an aggregate amount not to exceed \$91,500.00.

ATTACHMENT(S):

- (a) Proposed Agreement with Flock Safety
- (b) Purchase Order
- (c) Flock Terms and Conditions
- (d) Resolution
- (e) Sole Source Justification

Flock Safety + CA - Milpitas PD

Flock Group Inc.
1170 Howell Mill Rd, Suite 210
Atlanta, GA 30318

MAIN CONTACT:
Graham Carter
graham.carter@flocksafety.com
(415) 329-1307

Company Overview

At Flock Safety, technology unites law enforcement and the communities they serve to eliminate crime and shape a safer future, together. We created the first public safety operating system to enable neighborhoods, schools, businesses, and law enforcement to work together to collect visual, audio, and situational evidence across an entire city to solve and prevent crime.

Our connected platform, comprised of License Plate Recognition (LPR), live video, audio detection, and a suite of integrations (AVL, CAD & more), alerts law enforcement when an incident occurs and turns unbiased data into objective answers that increase case clearance, maximize resources, and reduce crime -- all without compromising transparency or human privacy.

Join thousands of agencies reducing crime with Flock Safety's public safety operating system

2000+	120	1B+	<60%*
communities with private-public partnerships	incident alerts / minute	1B+ vehicles detected / month	<60% local crime reduction in Flock cities

*According to a 2019 study conducted by Cobb County Police Department

Introduction

Layer Intelligence to Solve More Crime

The pathway to a safer future looks different for every community. As such, this proposal presents a combination of products that specifically addresses your public safety needs, geographical layout, sworn officer count, and budget. These components make up your custom public safety operating system, a connected device network and software platform designed to transform real-time data into a panoramic view of your jurisdiction and help you zero in on the leads that solve more cases, prevent future crimes, and foster trust in the communities you serve.

Software Platform

Flock Safety's out-of-box software platform collects and makes sense of visual, audio, and situational evidence across your entire network of devices.

Out-of-Box Software Features

Simplified Search	Get a complete view of all activity tied to one vehicle in your network of privately and publicly owned cameras. The user-friendly search experience allows officers to filter hours of footage in seconds based on time, location, and detailed vehicle criteria using patented Vehicle Fingerprint™ technology. Search filters include: • Vehicle make • Body type • Color • License plates ○ Partial tags ○ Missing tags ○ Temporary tags ○ State recognition • Decals • Bumper stickers • Back racks • Top racks
National and Local Sharing	Access 1B+ additional plate reads each month without purchasing more cameras. Solve cross-jurisdiction crimes by opting into Flock Safety's sharing networks, including one-to-one, national, and statewide search networks. Users can also receive alerts from several external LPR databases: <i>California SVS</i> <i>FDLE</i> <i>FL Expired Licenses</i> <i>FL Expired Tags</i> <i>FL Sanctioned Drivers</i> <i>FL Sex Offenders</i> <i>Georgia DOR</i> <i>IL SOS</i> <i>Illinois Leads</i> <i>NCIC</i> <i>NCMEC Amber Alert</i> <i>REJIS</i> <i>CCIC</i> <i>FBI</i>
Real-time Alerts	Receive SMS, email, and in-app notifications for custom Hot Lists, NCIC wanted lists, AMBER alerts, Silver alerts, Vehicle Fingerprint matches, and more.
Interactive ESRI Map	View your AVL, CAD, traffic, and LPR alerts alongside live on-scene video from a single interactive map for a birdseye view of activity in your jurisdiction.
Vehicle Location Analysis	Visualize sequential Hot List alerts and the direction of travel to guide officers to find suspect vehicles faster.

Out-of-Box Software Features (Continued)	
Transparency Portal	Establish community trust with a public-facing dashboard that shares policies, usage, and public safety outcomes related to your policing technology.
Insights Dashboard	Access at-a-glance reporting to easily prove ROI, discover crime and traffic patterns and prioritize changes to your public safety strategy by using data to determine the most significant impact.
Native MDT Application	Download FlockOS to your MDTs to ensure officers never miss a Hot List alert while out on patrol.
Hot List Attachments	Attach relevant information to Custom Hot List alerts. Give simple, digestible context to Dispatchers and Patrol Officers responding to Hot List alerts so they can act confidently and drive better outcomes. When you create a custom Hot List Alert, add case notes, photos, reports, and other relevant case information.
Single Sign On (SSO)	Increase your login speed and information security with Okta or Azure Single Sign On (SSO). Quickly access critical information you need to do your job by eliminating the need for password resets and steps in the log-in process.

License Plate Recognition

The Flock Safety Falcon® LPR camera uses Vehicle Fingerprint™ technology to transform hours of footage into actionable evidence, even when a license plate isn't visible, and sends Hot List alerts to law enforcement users when a suspect vehicle is detected. The Falcon has fixed and location-flexible deployment options with 30% more accurate reads than leading LPR.*

*Results from the 2019 side-by-side comparison test conducted by LA County Sheriff's Department

Flock Safety Falcon® LPR Camera	Flock Safety Falcon® Flex	Flock Safety Falcon® LR
Fixed, infrastructure-free LPR camera designed for permanent placement. ✓ 1 Standard LPR Camera ✓ Unlimited LTE data service + Flock OS platform licenses ✓ 1 DOT breakaway pole ✓ Dual solar panels ✓ Permitting, installation, and ongoing maintenance	Location-flexible LPR camera designed for fast, easy self-installation, which is ideal for your ever-changing investigative needs. ✓ 1 LPR Camera ✓ Unlimited LTE data service + software licenses ✓ 1 portable mount with varying-sized band clamps ✓ 1 Charger for internal battery ✓ 1 hardshell carrying case	Long-range, high-speed LPR camera that captures license plates and Vehicle Fingerprint data for increasing investigative leads on high-volume roadways like highways and interstates. ✓ 1 Long-Range LPR Camera ✓ Computing device in protective polycarbonate case ✓ AC Power ✓ Permitting, installation, and ongoing maintenance

Your Flock Safety Team

Flock Safety is more than a technology vendor; we are a partner in your mission to build a safer future. We work with thousands of law enforcement agencies across the US to build stronger, safer communities that celebrate the hard work of those who serve and protect. We don't disappear after contracts are signed; we pride ourselves on becoming an extension of your hard-working team as part of our subscription service.

Implementation	Meet with a Solutions Consultant (former LEO) to build a deployment plan based on your needs. Our Permitting Team and Installation Technicians will work to get your device network approved, installed, and activated.
User Training + Support	Your designated Customer Success Manager will help train your power users and ensure you maximize the platform, while our customer support team will assist with needs as they arise.
Maintenance	We proactively monitor the health of your device network. If we detect that a device is offline, a full-time technician will service your device for no extra charge. <i>Note: Ongoing maintenance does not apply to Falcon Flex devices.</i>
Public Relations	Government Affairs Get support educating your stakeholders, including city councils and other governing bodies. Media Relations Share crimes solved in the local media with the help of our Public Relations team.



EXHIBIT A
ORDER FORM

Customer: CA - Milpitas PD
Legal Entity Name: CA - Milpitas PD
Accounts Payable Email: mmiller@ci.milpitas.ca.gov
Address: 1275 N Milpitas Blvd Milpitas, California 95035

Initial Term: 60 Months
Renewal Term: 24 Months
Payment Terms: Net 30
Billing Frequency: Annual - First Year at Signing.
Retention Period: 30 Days

Hardware and Software Products

Annual recurring amounts over subscription term

Item	Cost	Quantity	Total
Flock Safety Platform			\$127,500.00
Flock Safety Flock OS			
FlockOS ™	Included	1	Included
Flock Safety LPR Products			
Flock Safety Falcon ®	\$2,500.00	35	\$87,500.00
Flock Safety Falcon ®	\$2,000.00	20	\$40,000.00

Professional Services and One Time Purchases

Item	Cost	Quantity	Total
One Time Fees			
Flock Safety Professional Services			
Professional Services - Existing Infrastructure Implementation Fee	\$150.00	20	\$3,000.00

Subtotal Year 1:	\$130,500.00
Annual Recurring Subtotal:	\$127,500.00
Discounts:	\$187,500.00
Estimated Tax:	\$0.00
Contract Total:	\$640,500.00

Billing Schedule

Billing Schedule	Amount (USD)
Year 1	
At Contract Signing	\$130,500.00
Annual Recurring after Year 1	\$127,500.00
Contract Total	\$640,500.00

*Tax not included

Discounts

Discounts Applied	Amount (USD)
Flock Safety Platform	\$187,500.00
Flock Safety Add-ons	\$0.00
Flock Safety Professional Services	\$0.00

Product and Services Description

Flock Safety Platform Items	Product Description	Terms
Flock Safety Falcon ®	An infrastructure-free license plate reader camera that utilizes Vehicle Fingerprint® technology to capture vehicular attributes.	The Term shall commence upon first installation and validation of Flock Hardware.

One-Time Fees	Service Description
Installation on existing infrastructure	One-time Professional Services engagement. Includes site & safety assessment, camera setup & testing, and shipping & handling in accordance with the Flock Safety Advanced Implementation Service Brief.
Professional Services - Standard Implementation Fee	One-time Professional Services engagement. Includes site and safety assessment, camera setup and testing, and shipping and handling in accordance with the Flock Safety Standard Implementation Service Brief.
Professional Services - Advanced Implementation Fee	One-time Professional Services engagement. Includes site & safety assessment, camera setup & testing, and shipping & handling in accordance with the Flock Safety Advanced Implementation Service Brief.

FlockOS Features & Description

Package: Essentials

FlockOS Features	Description
Community Cameras (Full Access)	Access to all privately owned Flock devices within your jurisdiction that have been shared with you.
Unlimited Users	Unlimited users for FlockOS
State Network (LP Lookup Only)	Allows agencies to look up license plates on all cameras opted in to the statewide Flock network.
Nationwide Network (LP Lookup Only)	Allows agencies to look up license plates on all cameras opted in to the nationwide Flock network.
Time & Location Based Search	Search full, partial, and temporary plates by time at particular device locations
License Plate Lookup	Look up specific license plate location history captured on Flock devices
Vehicle Fingerprint Search	Search footage using Vehicle Fingerprint™ technology. Access vehicle type, make, color, license plate state, missing / covered plates, and other unique features like bumper stickers, decals, and roof racks.
Flock Insights/Analytics page	Reporting tool to help administrators manage their LPR program with device performance data, user and network audits, plate read reports, hot list alert reports, event logs, and outcome reports.
ESRI Based Map Interface	Flock Safety's maps are powered by ESRI, which offers the ability for 3D visualization, viewing of floor plans, and layering of external GIS data, such as City infrastructure (i.e., public facilities, transit systems, utilities), Boundary mapping (i.e., precincts, county lines, beat maps), and Interior floor plans (i.e., hospitals, corporate campuses, universities)
Real-Time NCIC Alerts on Flock ALPR Cameras	Alert sent when a vehicle entered into the NCIC crime database passes by a Flock camera
Unlimited Custom Hot Lists	Ability to add a suspect's license plate to a custom list and get alerted when it passes by a Flock camera
Direct Share - Surrounding Jurisdiction (Full Access)	Access to all Flock devices owned by law enforcement that have been directly shared with you. Have ability to search by vehicle fingerprint, receive hot list alerts, and view devices on the map.

By executing this Order Form, Customer represents and warrants that it has read and agrees all of the terms and conditions contained in the Terms of Service located at <https://www.flocksafety.com/terms-and-conditions>

The Parties have executed this Agreement as of the dates set forth below.

FLOCK GROUP, INC.

Customer: CA - Milpitas PD

By: _____

By: _____

Name: _____

Name: _____

Title: _____

Title: _____

Date: _____

Date: _____

PO Number: _____

PURCHASE ORDER TERMS AND CONDITIONS FOR SERVICES

1. Acceptance; Entire Agreement. This purchase order for services issued by the City of Milpitas ("CITY") to the Contractor designated in the purchase order must be promptly accepted and acceptance is expressly limited to the terms of this order. Any addition or different terms in the Contractor's forms are hereby deemed to be material alterations and notice of objection to them and rejection of them is hereby given. Contractor's performance of any portion of this order shall be considered acceptance by the Contractor of the terms herein.

2. Compensation. Contractor shall be paid on a time and materials or firm fixed fee basis, as may be agreed upon by the parties as described in this Purchase Order, or in documents attached hereto and hereby made a part hereof, within 30 days of receipt of invoice. If the work is performed on a time and materials basis, the invoice shall include a detailed description of the work performed, labor hours and materials.

3. Compliance with Law. Contractor shall comply with all applicable laws and regulations of the federal, state and local government. CITY shall assist Contractor, as requested, in obtaining and maintaining all permits required of Contractor by Federal, State and local regulatory agencies. Contractor is responsible for all costs of clean up and/or removal of hazardous and toxic substances spilled as a result of his or her Work. Contractor is aware of the requirements of California Labor Code Sections 1720 et seq. and 1770 et seq. ("Prevailing Wage Laws"), which require the payment of prevailing wage rates and the performance of other requirements on certain "public works" and "maintenance" projects. If the Work is being performed as part of an applicable "public works" or "maintenance" project, as defined by the Prevailing Wage Laws, and if the total compensation is \$1,000 or more, Contractor agrees to fully comply with such Prevailing Wage Laws. Contractor shall defend, indemnify and hold CITY, its officials, officers, employees and agents free and harmless from any claims, liabilities, costs, penalties or interest arising out of any failure or alleged failure to comply with the Prevailing Wage Laws. Any stop orders issued by the Department of Industrial Relations against Contractor or any subcontractor that affect Contractor's performance of services, including any delay, shall be Contractor's sole responsibility and Contractor shall indemnify CITY from liability arising out of the same. It shall be mandatory upon the Contractor and all subcontractors to comply with all California Labor Code provisions, which include but are not limited to prevailing wages (Labor Code Sections 1771, 1774 and 1775), employment of apprentices (Labor Code Section 1777.5), certified payroll records (Labor Code Sections 1771.4 and 1776), hours of labor (Labor Code Sections 1813 and 1815), contractor registration (Labor Code Sections 1725.5 and 1771.1) and debarment of contractors and subcontractors (Labor Code Sections 1777.1). The requirement to submit certified payroll records directly to the Labor Commissioner under Labor Code section 1771.4 and to be registered with the Department of Industrial Relations shall not apply to work performed on a public works project that is exempt pursuant to the small project exemption specified in Labor Code Sections 1771.4, 1725.5 and 1771.1.

4. Standard of Care. The Contractor shall perform the work in accordance with generally accepted professional practices and principles and in a manner consistent with the level of care and skill ordinarily exercised by members of the profession practicing under similar conditions. Contractor shall also comply with State and Federal Environmental and Safety Regulations as they apply to the scope of work.

5. Insurance. Contractor shall take out and maintain: A. Commercial General Liability Insurance, of at least \$1,000,000 per occurrence/ \$2,000,000 aggregate for bodily injury, personal injury and property damage, at least as broad as Insurance Services Office Commercial General Liability most recent Occurrence Form CG 00 01, naming CITY as an Additional Insured; B. Automobile Liability Insurance for bodily injury and property damage including coverage for owned, non-owned and hired vehicles, of at least \$1,000,000 per occurrence for bodily injury and property damage, at least as broad as most recent Insurance Services Office Form Number CA 00 01 covering automobile liability, Code 1 (any auto); C. Workers' Compensation in compliance with applicable statutory requirements and Employer's Liability Coverage of at least \$1,000,000 per occurrence; and D. Contractors providing professional services shall provide Professional Liability (Errors and Omissions) Insurance of at least \$1,000,000. Insurance carriers shall be licensed to do business in California and maintain an agent for process within the state. Such insurance carrier shall have not less than an "A:VII" rating according to the latest Best Key Rating unless otherwise approved by CITY. If attached, Contractor shall refer to Exhibit "A" – Insurance Requirements, for further insurance requirements applicable to Contractor.

6. Indemnification. The Contractor shall indemnify and hold harmless CITY, its officials, officers, agents and employees from and against any and all claims, liabilities, expenses or damages, including reasonable attorneys' fees, for injury or death of any person, or damage to property, or interference with use of property, or patent infringement or fees for use of patented items, or any claim of the Contractor or a subcontractor for wages or benefits which arise in connection with the performance of the Contract, except to the extent caused or resulting from the active or sole negligence or willful misconduct of CITY. The foregoing indemnity includes, but is not limited to, the cost of prosecuting or defending such action with legal counsel acceptable to CITY and CITY's attorneys' fees incurred in such an action. If Contractor's obligation to defend, indemnify, and/or hold harmless arises out of Contractor's performance as a "design professional" (as that term is defined under Civil Code section 2782.8), then, and only to the extent required by Civil Code section 2782.8, which is fully incorporated herein, Contractor's indemnification obligation shall be limited to claims that arise out of, pertain to, or relate to the negligence, recklessness, or willful misconduct of the Contractor, and, upon Contractor obtaining a final adjudication by a court of competent jurisdiction, Contractor's liability for such claim, including the cost to defend, shall not exceed the Contractor's proportionate percentage of fault.

7. Laws, Venue, and Attorneys' Fees. This Agreement shall be interpreted in accordance with the laws of the State of California. If any action is brought to interpret or enforce any term of this Agreement, the action shall be brought in a state or federal court situated in the County of Santa Clara, State of California. In the event of any such litigation between the parties, the prevailing party shall be entitled to recover all reasonable costs incurred, including reasonable attorney's fees, as determined by the court.

8. Termination. CITY may terminate or abandon any portion or all of the work for any or no reason by giving 10 calendar days written notice to Contractor. In such event, CITY shall be immediately given title and possession to all original field notes, drawings and specifications, written reports and other documents produced or developed for the work. CITY shall pay Contractor the reasonable value as determined by CITY of any portion of the work completed prior to termination.

CITY shall not be liable for any costs other than the charges or portions thereof which are specified herein. Contractor shall not be entitled to payment for unperformed work, and shall not be entitled to damages or compensation for termination of work. Contractor may terminate its obligation to provide further work under this Contract upon 30 calendar days' written notice to CITY only in the event of CITY's failure to perform in accordance with the terms of this Contract through no fault of Contractor.

9. Contract Terms. Nothing herein shall be construed to give any rights or benefits to anyone other than CITY and the Contractor. The unenforceability, invalidity or illegality of any provision(s) of this Contract shall not render the other provisions unenforceable, invalid or illegal. Notice may be given or delivered by depositing the same in any United States Post Office, certified mail, return receipt requested, postage prepaid, addressed to the parties to the addresses set forth in the purchase order. Contractor shall not assign, sublet, or transfer this Contract or any rights under or interest in this Contract without the written consent of CITY, which may be withheld for any reason. Contractor is retained as an independent contractor and is not an employee of CITY. No employee or agent of Contractor shall become an employee of CITY. This is an integrated Contract representing the entire understanding of the parties as to those matters contained herein, and supersedes and cancels any prior oral or written understanding or representations with respect to matters covered hereunder. This Contract may not be modified or altered except in writing signed by both parties hereto.

10. Notice of Labor Dispute. Whenever Contractor has knowledge that an actual or potential labor dispute may delay performance under this purchase order, Contractor shall immediately notify and submit all relevant information to CITY.

11. Changes. By written notice, CITY may from time to time, direct work suspension or make changes in quantities, drawings, designs, specifications, place of delivery or delivery schedules, methods of shipment and packaging, and property and services furnished to CITY by Contractor. If such change causes an increase or decrease in the price of this purchase order or in the time required for performance, Contractor or CITY shall promptly notify the other party thereof and assert its claim for adjustment within thirty (30) days after the change is ordered, and an equitable adjustment shall be made. However, nothing in this clause shall excuse the Contractor from proceeding immediately with the purchase order as changed.

12. Obligations. Contractor shall be solely responsible for providing all materials, labor, tools, equipment, water, light, power, transportation, superintendence, and temporary construction of every nature and all other services and all facilities necessary to execute, complete, and deliver the work within the specified time.

13. Damage to City Facilities. Damage to CITY or public facilities or private property caused by the Contractor or by its subcontractors during performance of services shall be repaired and/or replaced in kind at no cost to the CITY.

14. Site Safety and Cleanup. The project site shall be kept clean and free of hazards at all times during performance of services. After and installation is completed at the site, as applicable, Contractor shall clean the surrounding area to the condition prior to delivery and installation.

15. Installation. If the Contractor is responsible for providing installation services, finished installation work and/or

equipment shall be subject to final inspection and acceptance or rejection by the CITY.

16. Wage Theft Prevention. Contractor, and any subcontractor it employs to complete work under this purchase order, shall comply with all applicable federal, state and local wage and hour laws. Applicable laws may include, but are not limited to, the Federal Fair Labor Standards Act, the California Labor Code and the Milpitas Minimum Wage Ordinance. By entering into this purchase order, Contractor affirms that it has disclosed any final judgments, decisions or orders from a court or investigatory government agency, finding in the five (5) years prior to the date of this purchase order that Contractor or its subcontractor(s) has violated any applicable wage and hour laws. Contractor further affirms that it or its subcontractor(s) has either fully satisfied each judgment, decision or order, or, if any judgment, decision or order has not been fully satisfied, Contractor affirms that it or its subcontractor(s) is currently satisfying said judgment, decision or order through a payment or alternative plan approved by the applicable court/government agency and that Contractor or its subcontractor(s) are in compliance with said plan as of the date of this purchase order. If at any time during the term of this purchase order, a court or investigatory government agency issues a final judgment, decision or order finding that Contractor or a subcontractor it employs to perform work under this purchase order has violated any applicable wage and hour law, or Contractor learns of such a judgment, decision, or order that was not previously disclosed in its bid/proposal, Contractor shall inform the CITY no more than fifteen (15) calendar days after the judgment, decision or order becomes final or from the date of learning of the final judgment, decision or order. Contractor or its subcontractor(s) shall, within thirty (30) calendar days after notifying the CITY, either (i) fully satisfy any such judgment, decision, or order and provide the CITY with documentary evidence of satisfying said judgment, decision or order; or (ii) provide the CITY documentary evidence of a payment or other alternative plan approved by the court/government agency to satisfy the judgment, decision or order. If the Contractor or its subcontractor is subject to a payment or other alternative plan, the Contractor or its subcontractor shall continue to submit documentary evidence every thirty (30) calendar days during the term of the purchase order demonstrating continued compliance with the plan until the judgment, decision or order has been fully satisfied. For purposes of this provision, a "final judgment, decision, or order" refers to one for which all appeals have been exhausted or the time period to appeal has expired. Relevant investigatory government agencies include: the United States Department of Labor, the California Division of Labor Standards Enforcement, the CITY, or any other governmental entity or division tasked with the investigation and enforcement of wage and hour laws. Failure to comply with any part of this provision constitutes a material breach of this purchase order. Such breach may serve as a basis for immediate termination of this purchase order and/or any other remedies available under this purchase order and/or law. Notice provided to the CITY shall be addressed to: Attention: Finance Director, 455 E. Calaveras Blvd., Milpitas, CA 95035. The notice provisions of this paragraph are separate from any other notice provisions in this purchase order and, accordingly, only notice provided to the above address satisfies the notice requirements in this provision.

TERMS AND CONDITIONS <https://www.flocksafety.com/terms-and-conditions>

1. DEFINITIONS

Certain capitalized terms, not otherwise defined herein, have the meanings set forth or cross-referenced in this Section 1.

1.1 “**Anonymized Data**” means Customer Data permanently stripped of identifying details and any potential personally identifiable information, by commercially available standards which irreversibly alters data in such a way that a data subject (i.e., individual person or entity) can no longer be identified directly or indirectly.

1.2 “**Authorized End User(s)**” means any individual employees, agents, or contractors of Customer accessing or using the Services, under the rights granted to Customer pursuant to this Agreement.

1.3 “**Customer Data**” means the data, media and content provided by Customer through the Services. For the avoidance of doubt, the Customer Data will include the Footage.

1.4. “**Customer Hardware**” means the third-party camera owned or provided by Customer and any other physical elements that interact with the Embedded Software and the Web Interface to provide the Services.

1.5 “**Embedded Software**” means the Flock proprietary software and/or firmware integrated with or installed on the Flock Hardware or Customer Hardware.

1.6 “**Flock Hardware**” means the Flock device(s), which may include the pole, clamps, solar panel, installation components, and any other physical elements that interact with the Embedded Software and the Web Interface, to provide the Flock Services as specifically set forth in the applicable product addenda.

1.7 “**Flock IP**” means the Services, the Embedded Software, and any intellectual property or proprietary information therein or otherwise provided to Customer and/or its Authorized End Users. Flock IP does not include Footage (as defined below).

1.8 “**Flock Network End User(s)**” means any user of the Flock Services that Customer authorizes access to or receives data from, pursuant to the licenses granted herein.

1.9 “**Flock Services**” means the provision of Flock’s software and hardware situational awareness solution, via the Web Interface, for automatic license plate detection, alerts, audio detection, searching image records, video and sharing Footage.

1.10 “**Footage**” means still images, video, audio and other data captured by the Flock Hardware or Customer Hardware in the course of and provided via the Flock Services.

1.11 “**Hotlist(s)**” means a digital file containing alphanumeric license plate related information pertaining to vehicles of interest, which may include stolen vehicles, stolen vehicle license plates, vehicles owned or associated with wanted or missing person(s), vehicles suspected of being involved with criminal or terrorist activities, and other legitimate law enforcement purposes. Hotlist also includes, but is not limited to, national data (i.e., NCIC) for similar categories, license plates associated with AMBER Alerts or Missing Persons/Vulnerable Adult Alerts and includes manually entered license plate information associated with crimes that have occurred in any local jurisdiction.

1.12 “**Installation Services**” means the services provided by Flock for installation of Flock Services.

1.13 “**Permitted Purpose**” means for legitimate law enforcement purposes, including but not limited to the awareness, prevention, and prosecution of crime, investigations, prevention of commercial harm, to the extent permitted by law.

1.14 “**Retention Period**” means the time period that the Customer Data is stored within the cloud storage, as specified in the product addenda.

1.15 “**Vehicle Fingerprint™**” means the unique vehicular attributes captured through Services such as: type, make, color, state registration, missing/covered plates, bumper stickers, decals, roof racks, and bike racks.

1.16 “**Web Interface**” means the website(s) or application(s) through which Customer and its Authorized End Users can access the Services.

2. SERVICES AND SUPPORT

2.1 Provision of Access. Flock hereby grants to Customer a non-exclusive, non-transferable right to access the features and functions of the Flock Services via the Web Interface during the Term, solely for the Authorized End Users. The Footage will be available for Authorized End Users to access and download via the Web Interface for the data retention time defined on the Order Form (“**Retention Period**”). Authorized End Users will be required to sign up for an account and select a password and username (“**User ID**”). Customer shall be responsible for all acts and omissions of Authorized End Users, and any act or omission by an Authorized End User which, including any acts or omissions of authorized End user which would constitute a breach of this agreement if undertaken by customer. Customer shall undertake reasonable efforts to make all Authorized End Users aware of all applicable provisions of this Agreement and shall cause Authorized End Users to comply with such provisions. Flock may use the services of one or more third parties to deliver any part of the Flock Services, (such as using a third party to host the Web Interface for cloud storage or a cell phone provider for wireless cellular coverage).

2.2 Embedded Software License. Flock grants Customer a limited, non-exclusive, non-transferable, non-sublicensable (except to the Authorized End Users), revocable right to use the Embedded Software as it pertains to Flock Services, solely as necessary for Customer to use the Flock Services.

2.3 Support Services. Flock shall monitor the Flock Services, and any applicable device health, in order to improve performance and functionality. Flock will use commercially reasonable efforts to respond to requests for support within seventy-two (72) hours. Flock will provide Customer with reasonable technical and on-site support and maintenance services in-person, via phone or by email at support@flocksafety.com (such services collectively referred to as “**Support Services**”).

2.4 Upgrades to Platform. Flock may make any upgrades to system or platform that it deems necessary or useful to (i) maintain or enhance the quality or delivery of Flock’s products or services to its agencies, the competitive strength of, or market for, Flock’s products or services such platform or system’s cost efficiency or performance, or (ii) to comply with applicable law. Parties understand that such upgrades are necessary from time to time and will not diminish the quality of the services or materially change any terms or conditions within this Agreement.

2.5 Service Interruption. Services may be interrupted in the event that: (a) Flock’s provision of the Services to Customer or any Authorized End User is prohibited by applicable law; (b) any third-party services required for Services are interrupted; (c) if Flock reasonably believe Services are being used for malicious, unlawful, or otherwise unauthorized use; (d) there is a threat or attack on any of the Flock IP by a third party; or (e) scheduled or emergency maintenance (“**Service Interruption**”). Flock will make commercially reasonable efforts to provide written notice of any Service Interruption to Customer, to provide updates, and to resume providing access to Flock Services as soon as reasonably possible after the event giving rise to the Service Interruption is cured. Flock will have no liability for any damage, liabilities, losses (including any loss of data or profits), or any other consequences that Customer or any Authorized End User may incur as a result of a Service Interruption. To the extent that the Service Interruption is not caused by Customer’s direct actions or by the actions of parties associated with the Customer, the time will be tolled by the duration of the Service Interruption (for any continuous suspension lasting at least one full day). For example, in the event of a Service Interruption lasting five (5) continuous days, Customer will receive a credit for five (5) free days at the end of the Term.

2.6 Service Suspension. Flock may temporarily suspend Customer’s and any Authorized End User’s access to any portion or all of the Flock IP or Flock Service if (a) there is a threat or attack on any of the Flock IP by Customer; (b) Customer’s or any Authorized End User’s use of the Flock IP disrupts or poses a security risk to the Flock IP or any other customer or vendor of Flock; (c) Customer or any Authorized End User is/are using the Flock IP for fraudulent or illegal activities; (d) Customer has violated any term of this provision, including, but not limited to, utilizing Flock Services for anything

other than the Permitted Purpose; or (e) any unauthorized access to Flock Services through Customer's account ("**Service Suspension**"). Customer shall not be entitled to any remedy for the Service Suspension period, including any reimbursement, tolling, or credit. If the Service Suspension was not caused by Customer, the Term will be tolled by the duration of the Service Suspension.

2.7 Hazardous Conditions. Flock Services do not contemplate hazardous materials, or other hazardous conditions, including, without limit, asbestos, lead, toxic or flammable substances. In the event any such hazardous materials are discovered in the designated locations in which Flock is to perform services under this Agreement, Flock shall have the right to cease work immediately.

3. CUSTOMER OBLIGATIONS

3.1 Customer Obligations. Flock will assist Customer Authorized End Users in the creation of a User ID. Authorized End Users agree to provide Flock with accurate, complete, and updated registration information. Authorized End Users may not select as their User ID, a name that they do not have the right to use, or any other name with the intent of impersonation. Customer and Authorized End Users may not transfer their account to anyone else without prior written permission of Flock. Authorized End Users shall not share their account username or password information and must protect the security of the username and password. Unless otherwise stated and defined in this Agreement, Customer shall not designate Authorized End Users for persons who are not officers, employees, or agents of Customer. Authorized End Users shall only use Customer-issued email addresses for the creation of their User ID. Customer is responsible for any Authorized End User activity associated with its account. Customer shall ensure that Customer provides Flock with up to date contact information at all times during the Term of this agreement. Customer shall be responsible for obtaining and maintaining any equipment and ancillary services needed to connect to, access or otherwise use the Flock Services. Customer shall (at its own expense) provide Flock with reasonable access and use of Customer facilities and Customer personnel in order to enable Flock to perform Services (such obligations of Customer are collectively defined as "**Customer Obligations**").

3.2 Customer Representations and Warranties. Customer represents, covenants, and warrants that Customer shall use Flock Services only in compliance with this Agreement and all applicable laws and regulations, including but not limited to any laws relating to the recording or sharing of data, video, photo, or audio content.

4. DATA USE AND LICENSING

4.1 Customer Data. As between Flock and Customer, all right, title and interest in the Customer Data, belong to and are retained solely by Customer. Customer hereby grants to Flock a limited, non-exclusive, royalty-free, irrevocable, worldwide license to use the Customer Data and perform all acts as may be necessary for Flock to provide the Flock Services to Customer. Flock does not own and shall not sell Customer Data.

4.2 Customer Generated Data. Flock may provide Customer with the opportunity to post, upload, display, publish, distribute, transmit, broadcast, or otherwise make available, messages, text, illustrations, files, images, graphics, photos, comments, sounds, music, videos, information, content, ratings, reviews, data, questions, suggestions, or other information or materials produced by Customer ("**Customer Generated Data**"). Customer shall retain whatever legally cognizable right, title, and interest in Customer Generated Data. Customer understands and acknowledges that Flock has no obligation to monitor or enforce Customer's intellectual property rights of Customer Generated Data. Customer grants Flock a non-exclusive, irrevocable, worldwide, royalty-free, license to use the Customer Generated Data for the purpose of providing Flock Services. Flock does not own and shall not sell Customer Generated Data.

4.3 Anonymized Data. Flock shall have the right to collect, analyze, and anonymize Customer Data and Customer Generated Data to the extent such anonymization renders the data non-identifiable to create Anonymized Data to use and perform the Services and related systems and technologies, including the training of machine learning algorithms. Customer hereby grants Flock a non-exclusive, worldwide, perpetual, royalty-free right to use and distribute such Anonymized Data to improve and enhance the Services and for other development, diagnostic and corrective purposes, and other Flock offerings. Parties understand that the aforementioned license is required for continuity of Services. Flock does not own and shall not sell Anonymized Data.

5. CONFIDENTIALITY; DISCLOSURES

5.1 Confidentiality. To the extent required by any applicable public records requests, each Party (the "**Receiving Party**") understands that the other Party (the "**Disclosing Party**") has disclosed or may disclose business, technical or financial information relating to the Disclosing Party's business (hereinafter referred to as "**Proprietary Information**" of the Disclosing Party). Proprietary Information includes non-public information provided by the Disclosing Party to the Receiving Party regarding features, functionality, and performance of this Agreement. The Receiving Party agrees: (i) to take the same security precautions to protect against disclosure or unauthorized use of such Proprietary Information that the Party takes with its own proprietary information, but in no event less than commercially reasonable precautions, and (ii) not to use (except in performance of the Services or as otherwise permitted herein) or divulge to any third person any such Proprietary Information. The Disclosing Party agrees that the foregoing shall not apply with respect to any information that the Receiving Party can document (a) is or becomes generally available to the public; or (b) was in its

possession or known by it prior to receipt from the Disclosing Party; or (c) was rightfully disclosed to it without restriction by a third party; or (d) was independently developed without use of any Proprietary Information of the Disclosing Party. Nothing in this Agreement will prevent the Receiving Party from disclosing the Proprietary Information pursuant to any judicial or governmental order, provided that the Receiving Party gives the Disclosing Party reasonable prior notice of such disclosure to contest such order. At the termination of this Agreement, all Proprietary Information will be returned to the Disclosing Party, destroyed or erased (if recorded on an erasable storage medium), together with any copies thereof, when no longer needed for the purposes above, or upon request from the Disclosing Party, and in any case upon termination of the Agreement. Notwithstanding any termination, all confidentiality obligations of Proprietary Information that is trade secret shall continue in perpetuity or until such information is no longer trade secret.

5.2 Usage Restrictions on Flock IP. Flock and its licensors retain all right, title and interest in and to the Flock IP and its components, and Customer acknowledges that it neither owns nor acquires any additional rights in and to the foregoing not expressly granted by this Agreement. Customer further acknowledges that Flock retains the right to use the foregoing for any purpose in Flock's sole discretion. Customer and Authorized End Users shall not: (i) copy or duplicate any of the Flock IP; (ii) decompile, disassemble, reverse engineer, or otherwise attempt to obtain or perceive the source code from which any software component of any of the Flock IP is compiled or interpreted, or apply any other process or procedure to derive the source code of any software included in the Flock IP; (iii) attempt to modify, alter, tamper with or repair any of the Flock IP, or attempt to create any derivative product from any of the foregoing; (iv) interfere or attempt to interfere in any manner with the functionality or proper working of any of the Flock IP; (v) remove, obscure, or alter any notice of any intellectual property or proprietary right appearing on or contained within the Flock Services or Flock IP; (vi) use the Flock Services for anything other than the Permitted Purpose; or (vii) assign, sublicense, sell, resell, lease, rent, or otherwise transfer, convey, pledge as security, or otherwise encumber, Customer's rights. There are no implied rights.

5.3 Disclosure of Footage. Subject to and during the Retention Period, Flock may access, use, preserve and/or disclose the Footage to law enforcement authorities, government officials, and/or third parties, if legally required to do so or if Flock has a good faith belief that such access, use, preservation or disclosure is reasonably necessary to comply with a legal process, enforce this Agreement, or detect, prevent or otherwise address security, privacy, fraud or technical issues, or emergency situations.

6. PAYMENT OF FEES

6.1 Billing and Payment of Fees. Customer shall pay the fees set forth in the applicable Order Form based on the billing structure and payment terms as indicated in the Order Form. If Customer believes that Flock has billed Customer incorrectly, Customer must contact Flock no later than thirty (30) days after the closing date on the

first invoice in which the error or problem appeared to receive an adjustment or credit. Customer acknowledges and agrees that a failure to contact Flock within this period will serve as a waiver of any claim. If any undisputed fee is more than thirty (30) days overdue, Flock may, without limiting its other rights and remedies, suspend delivery of its service until such undisputed invoice is paid in full. Flock shall provide at least thirty (30) days' prior written notice to Customer of the payment delinquency before exercising any suspension right.

6.2 Notice of Changes to Fees. Flock reserves the right to change the fees for subsequent Renewal Terms by providing sixty (60) days' notice (which may be sent by email) prior to the end of the Initial Term or Renewal Term (as applicable).

6.3 Late Fees. If payment is not issued to Flock by the due date of the invoice, an interest penalty of 1.0% of any unpaid amount may be added for each month or fraction thereafter, until final payment is made.

6.4 Taxes. Customer is responsible for all taxes, levies, or duties, excluding only taxes based on Flock's net income, imposed by taxing authorities associated with the order. If Flock has the legal obligation to pay or collect taxes, including amount subsequently assessed by a taxing authority, for which Customer is responsible, the appropriate amount shall be invoice to and paid by Customer unless Customer provides Flock a legally sufficient tax exemption certificate and Flock shall not charge customer any taxes from which it is exempt. If any deduction or withholding is required by law, Customer shall notify Flock and shall pay Flock any additional amounts necessary to ensure that the net amount that Flock receives, after any deduction and withholding, equals the amount Flock would have received if no deduction or withholding had been required.

7. TERM AND TERMINATION

7.1 Term. The initial term of this Agreement shall be for the period of time set forth on the Order Form (the "**Term**"). Following the Term, unless otherwise indicated on the Order Form, this Agreement will automatically renew for successive renewal terms of the greater of one year or the length set forth on the Order Form (each, a "**Renewal Term**") unless either Party gives the other Party notice of non-renewal at least thirty (30) days prior to the end of the then-current term.

7.2 Termination. Upon termination or expiration of this Agreement, Flock will remove any applicable Flock Hardware at a commercially reasonable time period. In the event of any material breach of this Agreement, the non-breaching Party may terminate this Agreement prior to the end of the Term by giving thirty (30) days prior written notice to the breaching Party; provided, however, that this Agreement will not terminate if the breaching Party has cured the breach prior to the expiration of such thirty (30) day period ("Cure Period"). Either Party may terminate this Agreement (i) upon the institution by or against the other Party of insolvency, receivership or bankruptcy proceedings, (ii) upon the other Party's making an assignment for the benefit of creditors, or (iii) upon the

other Party's dissolution or ceasing to do business. In the event of a material breach by Flock, and Flock is unable to cure within the Cure Period, Flock will refund Customer a pro-rata portion of the pre-paid fees for Services not received due to such termination.

7.3 Survival. The following Sections will survive termination: 1, 3, 5, 6, 7, 8.3, 8.4, 9, 10.1 and 11.6.

8. REMEDY FOR DEFECT; WARRANTY AND DISCLAIMER

8.1 Manufacturer Defect. Upon a malfunction or failure of Flock Hardware or Embedded Software (a “**Defect**”), Customer must notify Flock’s technical support team. In the event of a Defect, Flock shall make a commercially reasonable attempt to repair or replace the defective Flock Hardware at no additional cost to the Customer. Flock reserves the right, in its sole discretion, to repair or replace such Defect, provided that Flock shall conduct inspection or testing within a commercially reasonable time, but no longer than seven (7) business days after Customer gives notice to Flock.

8.2 Replacements. In the event that Flock Hardware is lost, stolen, or damaged, Customer may request a replacement of Flock Hardware at a fee according to the reinstall fee schedule (<https://www.flocksafety.com/reinstall-fee-schedule>). In the event that Customer chooses not to replace lost, damaged, or stolen Flock Hardware, Customer understands and agrees that (1) Flock Services will be materially affected, and (2) that Flock shall have no liability to Customer regarding such affected Flock Services, nor shall Customer receive a refund for the lost, damaged, or stolen Flock Hardware.

8.3 Warranty. Flock shall use reasonable efforts consistent with prevailing industry standards to maintain the Services in a manner which minimizes errors and interruptions in the Services and shall perform the Installation Services in a professional and workmanlike manner. Services may be temporarily unavailable for scheduled maintenance or for unscheduled emergency maintenance, either by Flock or by third-party providers, or because of other causes beyond Flock’s reasonable control, but Flock shall use reasonable efforts to provide advance notice in writing or by e-mail of any scheduled service disruption.

8.4 Disclaimer. THE REMEDY DESCRIBED IN SECTION 8.1 ABOVE IS CUSTOMER’S SOLE REMEDY, AND FLOCK’S SOLE LIABILITY, WITH RESPECT TO DEFECTS. FLOCK DOES NOT WARRANT THAT THE SERVICES WILL BE UNINTERRUPTED OR ERROR FREE; NOR DOES IT MAKE ANY WARRANTY AS TO THE RESULTS THAT MAY BE OBTAINED FROM USE OF THE SERVICES. EXCEPT AS EXPRESSLY SET FORTH IN THIS SECTION, THE SERVICES ARE PROVIDED “AS IS” AND FLOCK DISCLAIMS ALL WARRANTIES, EXPRESS OR IMPLIED, INCLUDING, BUT NOT LIMITED TO, IMPLIED WARRANTIES OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE AND NON-INFRINGEMENT. THIS DISCLAIMER ONLY APPLIES TO THE EXTENT ALLOWED BY THE GOVERNING LAW OF THE STATE MENTIONED IN SECTION 11.6.

8.5 Insurance. Flock will maintain commercial general liability policies to be provided as Exhibit B.

8.6 Force Majeure. Parties are not responsible or liable for any delays or failures in performance from any cause beyond their control, including, but not limited to acts of God, changes to law or regulations, embargoes, war, terrorist acts, pandemics (including the spread of variants), issues of national security, acts or omissions of third-party technology providers, riots, fires, earthquakes, floods, power blackouts, strikes, supply chain shortages of equipment or supplies, financial institution crisis, weather conditions or acts of hackers, internet service providers or any other third party acts or omissions.

9. LIMITATION OF LIABILITY; INDEMNITY

9.1 Limitation of Liability. NOTWITHSTANDING ANYTHING TO THE CONTRARY, FLOCK, ITS OFFICERS, AFFILIATES, REPRESENTATIVES, CONTRACTORS AND EMPLOYEES SHALL NOT BE RESPONSIBLE OR LIABLE WITH RESPECT TO ANY SUBJECT MATTER OF THIS AGREEMENT OR TERMS AND CONDITIONS RELATED THERETO UNDER ANY CONTRACT, NEGLIGENCE, STRICT LIABILITY, PRODUCT LIABILITY, OR OTHER THEORY: (A) FOR LOSS OF REVENUE, BUSINESS OR BUSINESS INTERRUPTION; (B) INCOMPLETE, CORRUPT, OR INACCURATE DATA; (C) COST OF PROCUREMENT OF SUBSTITUTE GOODS, SERVICES OR TECHNOLOGY; (D) FOR ANY INDIRECT, EXEMPLARY, INCIDENTAL, SPECIAL OR CONSEQUENTIAL DAMAGES; (E) FOR ANY MATTER BEYOND FLOCK'S ACTUAL KNOWLEDGE OR REASONABLE CONTROL INCLUDING REPEAT CRIMINAL ACTIVITY OR INABILITY TO CAPTURE FOOTAGE; OR (F) FOR ANY AMOUNTS THAT, TOGETHER WITH AMOUNTS ASSOCIATED WITH ALL OTHER CLAIMS, EXCEED THE FEES PAID AND/OR PAYABLE BY CUSTOMER TO FLOCK FOR THE SERVICES UNDER THIS AGREEMENT IN THE TWELVE (12) MONTHS PRIOR TO THE ACT OR OMISSION THAT GAVE RISE TO THE LIABILITY, IN EACH CASE, WHETHER OR NOT FLOCK HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES. THIS LIMITATION OF LIABILITY OF SECTION ONLY APPLIES TO THE EXTENT ALLOWED BY THE GOVERNING LAW OF THE STATE REFERENCED IN SECTION 11.6. NOTWITHSTANDING ANYTHING TO THE CONTRARY, THE FOREGOING LIMITATIONS OF LIABILITY SHALL NOT APPLY (I) IN THE EVENT OF GROSS NEGLIGENCE OR WILLFUL MISCONDUCT, OR (II) INDEMNIFICATION OBLIGATIONS.

9.2 Responsibility. Each Party to this Agreement shall assume the responsibility and liability for the acts and omissions of its own employees, officers, or agents, in connection with the performance of their official duties under this Agreement. Each Party to this Agreement shall be liable for the torts of its own officers, agents, or employees.

9.3 Flock Indemnity. Flock shall indemnify and hold harmless Customer, its agents and employees, from liability of any kind, including claims, costs (including defense) and

expenses, on account of: (i) any copyrighted material, patented or unpatented invention, articles, device or appliance manufactured or used in the performance of this Agreement; or (ii) any damage or injury to property or person directly caused by Flock's installation of Flock Hardware, except for where such damage or injury was caused solely by the negligence of the Customer or its agents, officers or employees. Flock's performance of this indemnity obligation shall not exceed the fees paid and/or payable for the services rendered under this Agreement in the preceding twelve (12) months.

10. INSTALLATION SERVICES AND OBLIGATIONS

10.1 Ownership of Hardware. Flock Hardware is owned and shall remain the exclusive property of Flock. Title to any Flock Hardware shall not pass to Customer upon execution of this Agreement, except as otherwise specifically set forth in this Agreement. Except as otherwise expressly stated in this Agreement, Customer is not permitted to remove, reposition, re-install, tamper with, alter, adjust or otherwise take possession or control of Flock Hardware. Customer agrees and understands that in the event Customer is found to engage in any of the foregoing restricted actions, all warranties herein shall be null and void, and this Agreement shall be subject to immediate termination for material breach by Customer. Customer shall not perform any acts which would interfere with the retention of title of the Flock Hardware by Flock. Should Customer default on any payment of the Flock Services, Flock may remove Flock Hardware at Flock's discretion. Such removal, if made by Flock, shall not be deemed a waiver of Flock's rights to any damages Flock may sustain as a result of Customer's default and Flock shall have the right to enforce any other legal remedy or right.

10.2 Deployment Plan. Flock shall advise Customer on the location and positioning of the Flock Hardware for optimal product functionality, as conditions and locations allow. Flock will collaborate with Customer to design the strategic geographic mapping of the location(s) and implementation of Flock Hardware to create a deployment plan ("**Deployment Plan**"). In the event that Flock determines that Flock Hardware will not achieve optimal functionality at a designated location, Flock shall have final discretion to veto a specific location and will provide alternative options to Customer.

10.3 Changes to Deployment Plan. After installation of Flock Hardware, any subsequent requested changes to the Deployment Plan, including, but not limited to, relocating, re-positioning, adjusting of the mounting, removing foliage, replacement, changes to heights of poles will incur a fee according to the reinstall fee schedule located at (<https://www.flocksafety.com/reinstall-fee-schedule>). Customer will receive prior notice and confirm approval of any such fees.

10.4 Customer Installation Obligations. Customer is responsible for any applicable supplementary cost as described in the Customer Implementation Guide. ("**Customer Obligations**"). Customer represents and warrants that it has, or shall lawfully obtain, all necessary right title and authority and hereby authorizes Flock to install the Flock

Hardware at the designated locations and to make any necessary inspections or maintenance in connection with such installation.

10.5 Flock's Obligations. Installation of any Flock Hardware shall be installed in a professional manner within a commercially reasonable time from the Effective Date of this Agreement. Upon removal of Flock Hardware, Flock shall restore the location to its original condition, ordinary wear and tear excepted. Flock will continue to monitor the performance of Flock Hardware for the length of the Term. Flock may use a subcontractor or third party to perform certain obligations under this agreement, provided that Flock's use of such subcontractor or third party shall not release Flock from any duty or liability to fulfill Flock's obligations under this Agreement.

11. MISCELLANEOUS

11.1 Compliance with Laws. Parties shall comply with all applicable local, state and federal laws, regulations, policies and ordinances and their associated record retention schedules, including responding to any subpoena request(s).

11.2 Severability. If any provision of this Agreement is found to be unenforceable or invalid, that provision will be limited or eliminated to the minimum extent necessary so that this Agreement will otherwise remain in full force and effect.

11.3 Assignment. This Agreement is not assignable, transferable or sublicensable by either Party, without prior consent. Notwithstanding the foregoing, either Party may assign this Agreement, without the other Party's consent, (i) to any parent, subsidiary, or affiliate entity, or (ii) to any purchaser of all or substantially all of such Party's assets or to any successor by way of merger, consolidation or similar transaction.

11.4 Entire Agreement. This Agreement, together with the Order Form(s), the reinstall fee schedule (<https://www.flocksafety.com/reinstall-fee-schedule>), and any attached exhibits are the complete and exclusive statement of the mutual understanding of the Parties and supersedes and cancels all previous or contemporaneous negotiations, discussions or agreements, whether written and oral, communications and other understandings relating to the subject matter of this Agreement, and that all waivers and modifications must be in a writing signed by both Parties, except as otherwise provided herein. None of Customer's purchase orders, authorizations or similar documents will alter the terms of this Agreement, and any such conflicting terms are expressly rejected. Any mutually agreed upon purchase order is subject to these terms. In the event of any conflict of terms found in this Agreement or any other terms and conditions, the terms of this Agreement shall prevail. Customer agrees that Customer's purchase is neither contingent upon the delivery of any future functionality or features nor dependent upon any oral or written comments made by Flock with respect to future functionality or feature.

11.5 Relationship. No agency, partnership, joint venture, or employment is created as a result of this Agreement and Parties do not have any authority of any kind to bind

each other in any respect whatsoever. Flock shall at all times be and act as an independent contractor to Customer.

11.6 Governing Law; Venue. This Agreement shall be governed by the laws of the state in which the Customer is located. The Parties hereto agree that venue would be proper in the chosen courts of the State of which the Customer is located. The Parties agree that the United Nations Convention for the International Sale of Goods is excluded in its entirety from this Agreement.

11.7 Special Terms. Flock may offer certain special terms which are indicated in the proposal and will become part of this Agreement, upon Customer's prior written consent and the mutual execution by authorized representatives ("**Special Terms**"). To the extent that any terms of this Agreement are inconsistent or conflict with the Special Terms, the Special Terms shall control.

11.8 Publicity. Flock has the right to reference and use Customer's name and trademarks and disclose the nature of the Services in business and development and marketing efforts.

11.9 Feedback. If Customer or Authorized End User provides any suggestions, ideas, enhancement requests, feedback, recommendations or other information relating to the subject matter hereunder, Customer or Authorized End User hereby assigns to Flock all right, title and interest (including intellectual property rights) with respect to or resulting from any of the foregoing.

11.10 Export. Customer may not remove or export from the United States or allow the export or re-export of the Flock IP or anything related thereto, or any direct product thereof in violation of any restrictions, laws or regulations of the United States Department of Commerce, the United States Department of Treasury Office of Foreign Assets Control, or any other United States or foreign Customer or authority. As defined in Federal Acquisition Regulation ("FAR"), section 2.101, the Services, the Flock Hardware and Documentation are "commercial items" and according to the Department of Defense Federal Acquisition Regulation ("DFAR") section 252.2277014(a)(1) and are deemed to be "commercial computer software" and "commercial computer software documentation." Flock is compliant with FAR Section 889 and does not contract or do business with, use any equipment, system, or service that uses the enumerated banned Chinese telecommunication companies, equipment or services as a substantial or essential component of any system, or as critical technology as part of any Flock system. Consistent with DFAR section 227.7202 and FAR section 12.212, any use, modification, reproduction, release, performance, display, or disclosure of such commercial software or commercial software documentation by the U.S. Government will be governed solely by the terms of this Agreement and will be prohibited except to the extent expressly permitted by the terms of this Agreement.

11.11 Headings. The headings are merely for organization and should not be construed as adding meaning to the Agreement or interpreting the associated sections.

11.12 Authority. Each of the below signers of this Agreement represent that they understand this Agreement and have the authority to sign on behalf of and bind the Parties they are representing.

11.13 Conflict. In the event there is a conflict between this Agreement and any applicable statement of work, or Customer purchase order, this Agreement controls unless explicitly stated otherwise.

11.14 Morality. In the event Customer or its agents become the subject of an indictment, contempt, scandal, crime of moral turpitude or similar event that would negatively impact or tarnish Flock's reputation. Flock shall have the option to terminate this Agreement upon prior written notice to Customer.

11.15 Notices. All notices under this Agreement will be in writing and will be deemed to have been duly given when received, if personally delivered; when receipt is electronically confirmed, if transmitted by email; the day after it is sent, if sent for next day delivery by recognized overnight delivery service; and upon receipt, if sent by certified or registered mail, return receipt requested. All notices will be provided to the email or mailing address listed in the Order Form.

11.16 Non-Appropriation. Notwithstanding any other provision of this Agreement, all obligations of the Customer under this Agreement which require the expenditure of funds are conditioned on the availability of funds appropriated for that purpose. Customer shall have the right to terminate this Agreement for non appropriation with thirty (30) days written notice without penalty or other cost.

These Terms and Conditions are subject to change.

RESOLUTION NO. _____

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MILPITAS AUTHORIZING THE CITY MANAGER TO EXECUTE THE SOLE SOURCE SERVICES AGREEMENT WITH FLOCK GROUP, INC. FOR AUTOMATED LICENSE PLATE READER (ALPR) CAMERAS IN AN AMOUNT NOT-TO-EXCEED \$732,000; AND AUTHORIZE THE CHIEF OF POLICE TO EXECUTE CONTRACT CHANGE ORDERS IN AN AGGREGATE AMOUNT NOT-TO-EXCEED \$91,500.

WHEREAS, On April 28, 2020, the City approved a one-year agreement with Flock Group, Inc. for the installation of an initial 20 automated license plate reader (ALPR) cameras. The original contract was a not-to-exceed amount was \$40,000, and;

WHEREAS, on May 26, 2020, the Purchasing Agent designated Flock Group, Inc as the “Sole Source” provider of Falcon ALPR wireless cameras with patented machine learning technology in accordance with Municipal Code Section I-2-3.06 “Sole Source Procurement”. Section I-2-3.06 of Milpitas Municipal Code authorizes the City Council to award contracts without competition when the Purchasing Agent determines that there is only one (1) source for the required supply or service. This designation is active for five (5) years ending on May 25, 2025, and;

WHEREAS, Due to the success of the ALPR camera program, the Police Department requested to expand the program by an additional 15 cameras. On April 15, 2021, the City approved an additional one-year Sole Source agreement with Flock Safety for the installation of the 15 additional ALPR cameras and the additional compensation amount of \$41,250 (\$2,500 per camera) for the new cameras combined for a not-to-exceed amount of \$81,250. Upon doing so, the City had two separate contracts with differing end of term dates, and;

WHEREAS, On September 20, 2022, the City Council approved a resolution authorizing the City Manager to execute a three-year extension of the existing agreements with Flock Group, Inc. in an amount not-to-exceed \$314,750, which also included a \$78,500 contingency for future growth (up to 10 additional cameras). This resolution extended the contract end dates of the 35 existing cameras to 2023 (for the initial set of 20 cameras) and 2024 (for the additional set of 15 cameras). A total of \$196,387 of the total not-to-exceed amount of \$314,750 has been expended to date, and;

WHEREAS, In preparation for the expiration of the originating contract for the 20 initial cameras, the Police Department completed an analysis of the current ALPR camera deployment. The Police Department determined the current deployment is still relevant but identified several areas in the City that could benefit from the installation of additional ALPR cameras to reduce crime, and;

WHEREAS, Upon initiating a renewed contract with Flock Group, Inc., staff learned that the per camera cost increased to \$3,000 per unit and is expected to increase more in future years. However, the vendor is offering grandfathered pricing to existing customers who enter a 5-year agreement. The Police Department is seeking Council approval for a 5-year contract for the existing 35 cameras, 20 new cameras to be installed immediately, and a contingency for additional cameras to be installed during the 5-year contract period based on evolving crime trends and public safety needs. This new contract would align all 55 cameras into a single contract to commence immediately upon execution of the contract. The proposed agreement has a not-to-exceed amount of \$732,000 which includes a contingency of \$91,500 for future growth based on evolving crime trends and public safety needs, and;

WHEREAS, Flock Group, Inc has submitted the “Amendment” labeled EXHIBIT – A in the amount of \$640,500 with a 60 month term based on the “Effective Date” both parties sign, and ;

WHEREAS, staff recommends adding a contingency of \$91,500 to account for the potential addition of up additional ALPR cameras for the extent of the proposed agreement (annual cost per camera: \$3,000, plus a \$150 one-time implementation fee per camera). The contingency would allow for the timely expansion of the ALPR program, if and as needed, to further address public safety including shifting crime trends, and:

WHEREAS, Staff also recommends authorizing the Chief of Police to execute contract change orders in an aggregate amount not to exceed \$91,500.

NOW, THEREFORE, the City Council of the City of Milpitas hereby finds, determines, and resolves as follows:

1. The City Council has considered the full record before it, which may include but is not limited to such things as the staff report, testimony by staff and the public, and other materials and evidence submitted or provided to it. Furthermore, the recitals set forth above are found to be true and correct and are incorporated herein by reference.
2. The City Council hereby authorizes the City Manager to execute the Sole Source Services Agreement with Flock Group, Inc. for Automated License Plate Reader (ALPR) cameras in an amount not to exceed \$732,000, which includes a contingency of \$91,500, and renewal of the Agreement for one three-year period subject to annual appropriation of funds.
3. The City Council hereby also authorizes the Chief of Police to execute contract change orders in an aggregate amount not-to-exceed \$91,500.

PASSED AND ADOPTED this __day of _____, 2023, by the following vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

ATTEST:

APPROVED:

Suzanne Guzzetta, City Clerk

Carmen Montano, Mayor

APPROVED AS TO FORM:

Michael Mutalipassi, City Attorney



CITY OF MILPITAS SOLE SOURCE REQUEST

THIS FORM MUST BE COMPLETED AND APPROVED PRIOR TO ANY PROCUREMENT

When a request is made for a non-competitive procurement and the specification limits the bidding to one source and/or one brand or trade name, the requesting department must complete the following. Please answer in the space provided, or in an attachment address by specific reference, each question listed below (1-5) in your justification. **Be sure to answer each part of each question. Failure to respond fully to any of the questions could result in delay or rejection of your request due to inadequate justification.**

- Using appropriate detail, including brand name and model number, briefly describe the product you wish to procure. In the case of a service use enough detail to clearly describe to someone not familiar with the process what you are procuring.

Flock Group Inc. Automated License Plate Reader (ALPR) system. The Flock Group Inc. ALPRs are wireless and integrated cellular communication. The ALPR data is stored on their cloud storage system for 30-days.

(20) Flock Safety Falcon ALPR Cameras

Total 1 Year Package Cost	
Description	Amount
Transactional charges	\$40,000.00
TOTAL	\$40,000.00

- Please check one:

a) ☒ **SOLE SOURCE:** Item is available from one source only.

If it is your assertion that the manufacturer or distributor is the only authorized source in the Bay Area, Northern California; or whatever the claim is; please substantiate that with a letter from the manufacturer or distributor. The letter must be on their stationary but can be sent via email. Attach a copy to this form.

b) ☐ **STANDARDIZATION REQUEST:** The Department requires the item to standardize parts, design, quality etc. **(This requires further discussion with the Purchasing Agent.)**

- What are the unique performance features of the product/brand requested that are not available in any other product/brand? (For services: What unique qualifications, rights, degrees, certifications, licenses and/or experience does this vendor possess?)

Flock Group Inc. is the sole manufacturer and developer of the Flock Safety Camera. Flock Group Inc. is also the sole provider of the comprehensive monitoring, processing, and machine

vision services which integrate with the Flock Safety Camera.

The Flock Group Inc. camera system allows for the wireless deployment of an ALPR camera with integrated cellular communication. The wireless ALPR camera weighs less than 5lbs. and can be powered solely by a solar panel or existing City own light pole. Cameras have on device machine processing to limit LTE cellular bandwidth consumption. Cameras have an inobtrusive industrial design to minimize visual pollution. Due to their wireless nature and use of integrated cellular communication, the cameras do not rely on any existing City Internet or Wi-Fi infrastructure to be deployed thus reducing the need for City staff to maintain and/or support the deployed cameras.

Flock Group Inc. cameras have machine vision which can analyze a vehicle's license plate, license plate state, vehicle color, and vehicle make. This data is then searchable by the user to assist in criminal investigations. Machine vision can recognize and identify characteristics of vehicles with paper plates and in the absence of an actual license plate. Machine vision to detect persons, animals, vehicles, and other cars. These ALPR cameras will be replaced with updated equipment as they release newer versions.

Cloud storage of data with option to store data locally and/or send/store data thru the Northern California Regional Intelligence Center (NCRIC). NCRIC is a Federal, State, and Local public safety government program that helps safeguard each of our communities by serving as a dynamic security nexus that is connected to the Nation Network of Fusion Centers and our nation's High Intensity Drug Trafficking Areas. Web based data access with no per user license fee. Flock Safety integrates a web-based retrieval tool with filtering capabilities such as vehicle color, partial/full license plate, and object detection. Performance monitoring software to predict potential failures, obstructions, tilts, and other critical or minor issues.

4. What other products/services have been examined and rejected, and why? ***(Please provide a specific meaningful explanation, one vendor and one feature at a time. For products be sure to clearly identify the product by name and model number and include the name, address, and telephone number of the company representative who's product you tested.)***

While there are other ALPR camera systems available from vendors such as PIPS Technology, Vigilant Solutions, and V5 Systems; Flock Group Inc. offers an ALPR program in which the cameras are retained by the Police Department in an as needed basis rather than permanently retained like cameras from other vendors. Should the Police Department end their partnership with Flock Group Inc., there is no need to sell cameras no longer needed or attempt to locate another vendor that would be able to repurpose the cameras for additional use. Upon ending the partnership, the Police Department would merely return the hardware and not incur any financial loss for hardware or licensing other than the payment for the term the products were used. Other vendors do not have a similar model and if the partnership is terminated, the Police Department would retain the equipment which would essentially have no usefulness.

Pricing for the Flock Group Inc. Falcon Camera includes all necessary facets to enable the user to deploy the cameras without any additional costs for licensing, installation, additional hardware, etc. V5 Systems offers a twenty camera ALPR system for a year period at \$226,251 and PIPS offers a twenty camera ALPR system for a two-year period is \$226,154.

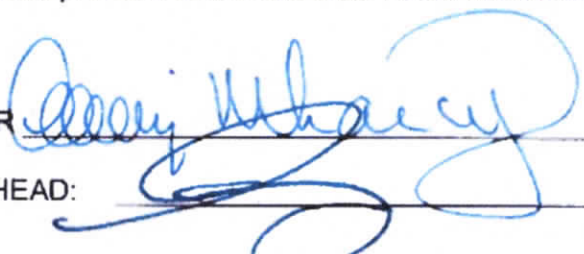
5. If justification is based on matching and/or intermixing with existing equipment (refer to 2.c.), list the quantity, manufacturer, brand, and model of the existing equipment, and why the matching is required not simply preferred.

N/A

I HEREBY CERTIFY THAT:

1. I am an approved department representative and am aware of the City's requirements for competitive bidding, as well as the criteria for justification for sole source procurements.
2. I have gathered the required technical information and have made a concentrated effort to review comparable and/or equal equipment/service.
3. There is validity as to the information contained herein justifying my request for sole source procurement and meeting the City's criteria.
4. A sole source procurement in this case would withstand a possible audit or a vendor's protest.

REQUESTOR



DATE: 05/26/2020

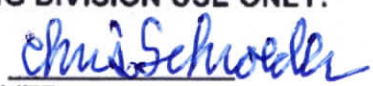
DEPT./DIV. HEAD:



DATE: 5/26/2020

PURCHASING DIVISION USE ONLY:

APPROVED:



PURCHASING AGENT:

NOT APPROVED: _____

DATE: 5/26/20

COMMENTS:



CITY OF MILPITAS AGENDA REPORT (AR)

Item Title:	Approve Three Utility Boxes for Repainting During FY 2024 (Staff Contact: Renee Lorentzen, Recreation and Community Services Director, 408-586-3409; and Tegan McLane, Recreation and Community Services Assistant Director, 408-586-3212)
Category:	Community Services and Sustainable Infrastructure
Meeting Date:	12/5/2023
Recommendation:	Approve locations for three (3) Utility Box murals for the FY 24 Mural Program.

BACKGROUND:

The City of Milpitas, like most Bay Area cities, has painted utility boxes as part of its public art program. Painted utility boxes are inexpensive but effective forms of public art, widely considered to add color and interest to a streetscape, assist with placemaking, and help deter graffiti when in good condition.

Utility box murals are generally considered temporary artwork. All murals fade over time, and generally last between 7-10 years. Utility boxes tend to have even shorter lifespans since the traffic signal cabinets they are painted on can be damaged or require replacement for other functional reasons. Additionally, it is usually more cost-effective to paint a brand-new utility box mural than to bring an established artist back to repair artwork they may have painted as an emerging artist or student years prior.

Utility box murals follow the Mural Program Policy that City Council approved in August 2021, and are part of the annual mural plan because they are an entry-level project for emerging artists.

ANALYSIS:

Milpitas has 19 Utility Box Murals, which were painted between 2013-2015. Of those, ten are in fair to good condition, five have irreparable damage to the artwork, and four cabinets have been replaced or repaired with now completely or partially repainted facades.

Staff has reviewed the conditions of the existing painted utility boxes. Staff recommended the following three of the five irreparable boxes be prioritized for FY 2024 – Jacklin/Escuela, Yosemite/Sinclair Frontage, Calaveras/Gadsden at the April 24, 2023 Arts Commission meeting due to their condition, high visibility and requests received from resident for repair. The Arts Commission voted to recommend City Council final approval of these box locations for FY24.

The budget for each individual box to be repainted is \$1,800 for a total of \$5,400 for three boxes. All boxes will receive anti-graffiti coating after the mural has been painted.

Staff are concurrently working on the VTA Murals, Dixon Landing Park, and Historical Park Marker projects this fiscal year. Three is a manageable number of utility boxes given the other public art projects that staff is currently overseeing at this time. Because utility boxes are frequently an entry-level project for emerging artists, they require a certain amount of artist mentorship by staff.

Upon approval of the three utility box mural locations, staff will continue to follow the Mural Program Policy procedures and select one Arts Commissioner, two stakeholders, and two community members to serve as a selection committee for each box project. The selection committees will meet in January to choose a shortlist

of artists to be invited to submit designs and any "theme" for their neighborhood's box. Staff will strongly encourage Milpitas artists for consideration and award, as the Mural Program policy requires at least one project completed by a Milpitas resident each year.

Short-listed artists will have approximately one month to return design concepts at the end of February. Selection committees will reconvene in March to review the designs and finalize selection. Per the Council-approved Mural Program policy, individual designs are not required to go to either the Arts Commission or City Council. Staff will secure contracts with each artist and oversee box fabrication. Painting will begin in May and should be complete in June.

It is anticipated that the remaining two irreparable utility box murals located at the intersections of Yellowstone/Landess and Barber Lane/Bellew will be included in the FY24-25 Mural Program.

POLICY ALTERNATIVE(S):

Alternative 1: Select different utility boxes.

Pros: This will allow the City Council to prioritize different intersections if it wishes.

Cons: This would delay the replacement of the most severely damaged utility box murals and could result in less artwork throughout the City if the damaged murals are repainted to blank.

Alternative 2: Select additional utility boxes.

Pros: This would allow the City to replace damaged utility boxes and install new ones at a faster rate.

Cons: This would require more staff time, impacting their ability to work on other planned projects. This could require additional funds allocation from the Public Art Fund and reprioritization of other existing public art projects.

Alternative 3: Select fewer or no utility boxes.

Pros: This would allow public art funds to be used for other projects and free up staff time, to allow staff to concentrate on other projects.

Cons: This would delay the replacement of the most severely damaged utility box murals and could result in less artwork throughout the City if the damaged murals are repainted to blank.

FISCAL IMPACT:

There is no fiscal impact on the City's operating budget. Utility box murals can be funded sufficiently with the Public Art Capital Improvement Program project (CIP 3489) to fund the proposed utility boxes. Funding source comes from the Public Art Fund. As of December 7, 2023, the balance in Public Art CIP 3489 is \$523,889.

CALIFORNIA ENVIRONMENTAL QUALITY ACT (CEQA):

The project entails replacement or reconstruction of existing structures and facilities where the new structure will be located on the same site as the structure replaced and will have substantially the same purpose and capacity as the structure replaced and is exempt from CEQA pursuant to Cal. Code Regs., tit. 14, § 15302.

RECOMMENDATION:

Approve locations for three (3) Utility Box murals for the FY 24 Mural Program.

ATTACHMENT(S):

- (a) Boxes recommended for repainting in FY24.
- (b) Map of painted utility boxes.

Boxes Recommended for Repainting in Current FY2024

Jacklin/Escuela



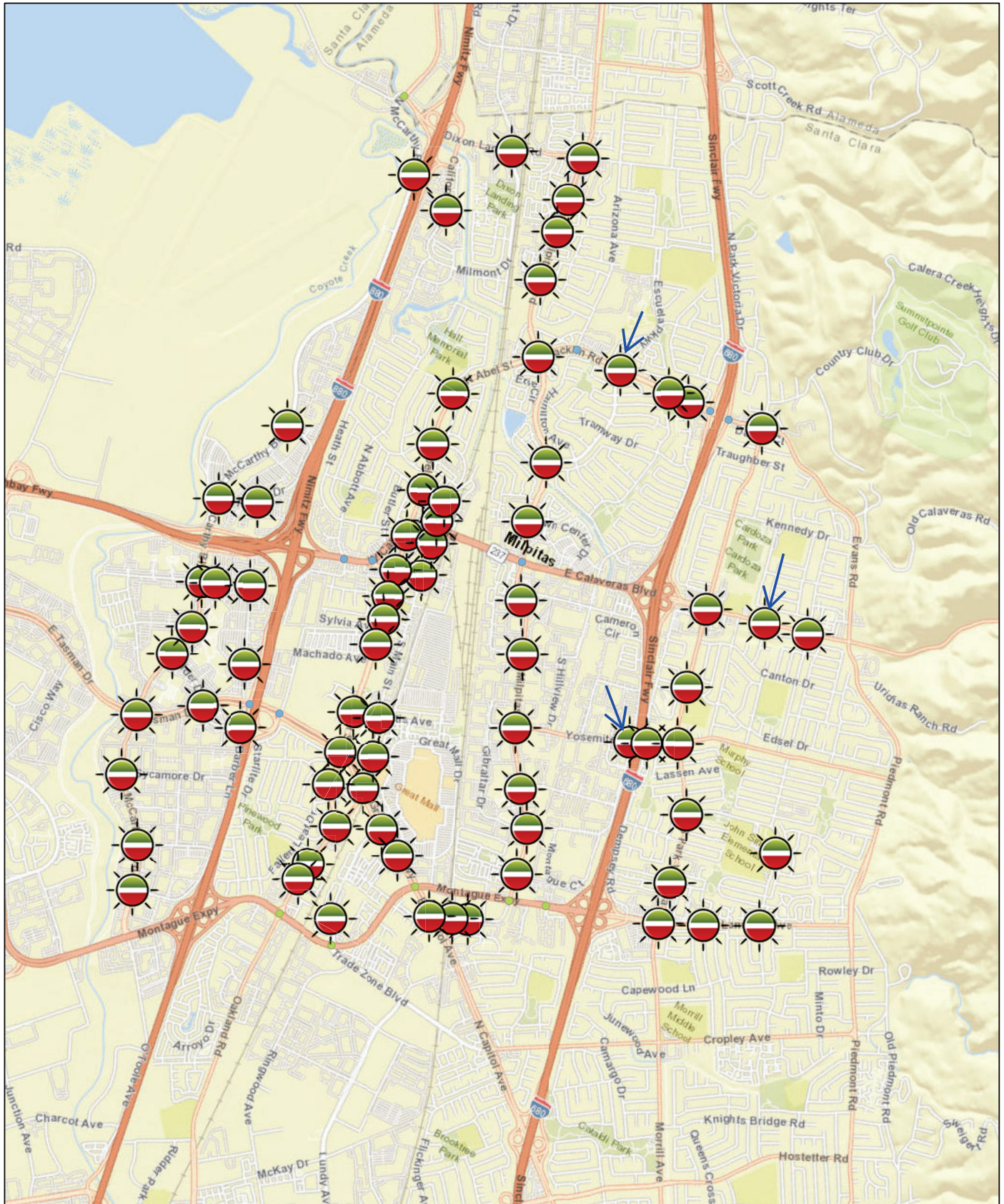
Yosemite/Sinclair



Calaveras/Gadsden



Traffic Signals in Milpitas



5/26/2023

Fiber With Traffic System - Signalized Intersection



City of Milpitas

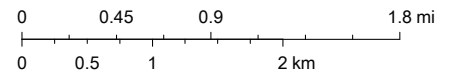


Caltrans



Other Agency

1:33,143



County of Santa Clara, Bureau of Land Management, Esri, HERE, Garmin, INCREMENT P, NGA, USGS



CITY OF MILPITAS AGENDA REPORT (AR)

Item Title:	Adopt a Resolution to Amend the City of Milpitas' Classification Plan to establish the classifications of City Engineer and Public Works Division Manager, Aligned with the Realignment of the Engineering and Public Works Departments (Staff Contact: Matt Cano, Deputy City Manager, 408-586-3012; and Christian Di Renzo, Public Works Director, 408-586-2602)
Category:	Consent Calendar-Leadership and Support Services
Meeting Date:	12/12/2023
Recommendation:	Adopt a resolution to amend the City of Milpitas' Classification Plan to establish the classification of City Engineer, reclassify CIP Manager and Transportation & Traffic Manager to Public Works Division Manager – Engineering, reclassify one Public Works Manager to Public Works Division Manager – Operations, and delete the classifications of Engineering Director and Assistant City Engineer.

BACKGROUND:

Prior to adoption of the FY23-24 Budget, the City had been working closely with internal stakeholders and consultants to review the City's service delivery model and organizational structure, including stakeholder interviews and peer cities comparisons. After a careful review, the City administration recommended realigning the Engineering and Public Works Departments into one department to allow the City to improve service delivery to our residents and businesses. As part of the budget approval process in Spring 2023, the Mayor and City Council voted to hold off on this realignment pending the recruitment of the new City Manager. Following the appointment of the new City Manager in October 2023, the City administration team reviewed the prior proposal and reaffirmed that this proposed realignment would improve service delivery to our residents and businesses.

ANALYSIS:

Realigning Engineering and Public Works into one Department would allow for a singular management vision, leading to improved collaboration and accountability between operations, maintenance and engineering functions, while also eliminating mission ambiguity. Staff retention and succession planning would benefit, which equates to better service delivery. This structure is common across other organizations, makes sense for organizations the size of Milpitas, and will allow for more streamlined internal processes and improve efficiency among the working groups.

Staff recommends that the new department retain the name "Public Works Department." This is a name that is commonly used by cities for a department that provides engineering, maintenance and operations services. The new department would be overseen by the existing Public Works Director. The Engineering Director position (which is vacant) will be reclassified to a new classification titled "City Engineer". The updated divisions within the Public Works Department would be 1) Engineering, 2) Operations (which includes Facilities, Parks, Streets and Fleet), 3) Utilities Operation & Maintenance, 4) Sustainability and Compliance, and 5) Administration.

In order to create equity amongst the division leadership in the new department and facilitate internal promotional paths for future growth, staff is requesting that three existing unrepresented management positions be reclassified into a new position with the title Division Manager. Both incumbents in the CIP Manager and Transportation & Traffic Manager positions would be reclassified to Public Works Division Manager – Engineering and the incumbent in the Public Works Manager position would be reclassified to the position of Public Works Division Manager - Operations. As the CIP Manager and Transportation & Traffic Manager positions are singular classifications, they would be extraneous and therefore deleted. The Public Works Manager classification will still have a full-time equivalent position associated with it and is still required for department operations, so it will be retained.

The proposed salary of the City Engineer has been established with an internal alignment to the classification of Deputy Public Works Director. Both classifications require a similar level of education and experience. The annual salary is set at \$157,977.04 - \$221,167.96.

The Public Works Division Manager – Engineering classification will report to the City Engineer and will have Principal Civil Engineers (amongst others) reporting to them. The Public Works Division Manager – Operations classification will report to the Director and/or Deputy Director of Public Works and have the Public Works Manager and Public Works Lead classifications reporting to it. The proposed salary for both Public Works Division Manager classifications is set at \$159,190.99 - \$198,988.74 and has been established to be placed appropriately between the Principal Civil Engineer/Public Works Manager and the new Deputy Director/City Engineer classifications.

The below table provides a summary of the recommended adjustments to currently budgeted Full Time Equivalent Positions. All of these changes are being made to unrepresented management positions.

Existing Position	Status of position	Change
CIP Manager	Filled	Reclassify to Public Works Division Manager – Engineering (new classification)
Transportation & Traffic Manager	Filled	Reclassify to Public Works Division Manager – Engineering (new classification)
Public Works Manager (Facilities Fleet)	Filled	Reclassify to Public Works Division Manager – Operations (new classification)
Director of Engineering	Vacant	Add-Delete to City Engineer (new classification)

The following Unrepresented job titles will be deleted from the City's job classification/salary table as they would no longer be filled and/or needed.

- CIP Manager
- Transportation & Traffic Manager
- Director of Engineering
- Assistant City Engineer (there is not currently budgeted FTE for this classification and this classification is not currently being utilized by the City)

The following Unrepresented job titles will be added to the City's job classification/salary table:

- Public Works Division Manager – Engineering
- Public Works Division Manager – Operations
- City Engineer

POLICY ALTERNATIVE(S):

Alternative 1: Do not realign the Engineering and Public Works Department and do not amend the classification salary schedule.

Pros: Some staff time will be saved as a result of keeping the current department structure status quo.

Cons: The City will not be able to operate as efficiently and thus not be able to provide a higher level of service to businesses and residents.

FISCAL IMPACT:

The fiscal impact for all job classifications recommended is \$50,000 net increase of costs for FY2023-24, which will be absorbed within the adopted FY 2023-24 budget. However, this fiscal impact will not occur immediately as the staff in this classification are not at the top of the salary range. Specifically, the approximate impacts are as follow:

- Engineering:
 - \$36,800, net savings for deletion of Director of Engineering and addition of City Engineer
 - \$22,100, net increase for CIP Manager reallocation to PW Division Manager – Engineering
 - \$24,400, net increase for Transportation & Traffic Manager reallocation to PW Division Manager – Engineering
- Operations:
 - \$40,700, net increase for Public Works Manager (Facilities Fleet) reallocation to PW Division Manager – Operations

As part of the realignment, the existing (vacant) Public Works Manager position will have a primary focus on project management and delivery of capital improvement projects. The \$50,000 ongoing increased costs will primarily come from the General Fund. In order to ensure that this does not result in an increased \$50,000 General Fund request in the Fiscal Year 2024-2025 Operating Budget development process, the intent will be for the extra \$50,000 to be funded through the programmed Capital Improvement Program Projects and Programs that the Public Works Manager will be overseeing.

California Environmental Quality Act (CEQA):

Approval of the recommendation is not an activity defined as a “project” under the California Environmental Quality Act (CEQA) pursuant to CEQA Guidelines 15061(b)(3) and 15378(b)(4) either because it can be seen with certainty that there is no possibility that the activity in question may have a significant effect on the environment and/or because the action is financial and/or administrative and does not directly impact the environment.

RECOMMENDATION:

Adopt a resolution to amend the City of Milpitas’ Classification Plan to establish the classification of City Engineer, reclassify CIP Manager and Transportation & Traffic Manager to Public Works Division Manager – Engineering, reclassify one Public Works Manager to Public Works Division Manager – Operations, and delete the classifications of Engineering Director and Assistant City Engineer.

Attachment(s):

1. Classification Specification for City Engineer
2. Classification Specification for Public Works Division Manager – Engineering
3. Classification Specification for Public Works Division Manager – Operations
4. Resolution Amending Resolution No. 1626, the Classification Plan including updated salary table and Unrep benefits matrix”.
5. Revised organization charts



CITY OF MILPITAS
EFFECTIVE: April 2023
EEOC: Officials/Admin
UNIT: Unrepresented
PHYSICAL: 1

CITY ENGINEER

DEFINITION

To lead, plan, organize, direct and oversee the activities and operations of the Engineering Division within the Department of Public Works. The Engineering Division includes the areas of land development, traffic, design, construction, and inspection. This position will formulate policy, develop goals and objectives, supervise staff and develop and oversee the development of the City's capital improvement program budget; performs professional civil engineering work; and performs other duties as assigned.

SUPERVISION RECEIVED AND EXERCISED

- Receives administrative direction from the Director of Public Works.
- Exercises direct and indirect supervision over professional, technical inspection and office administrative positions.

EXAMPLES OF DUTIES - Duties may include, but are not limited to, the following:

Lead and support the Engineering Division with a focus on staff celebration, training, development and retention.

Effectively collaborate in partnership with other divisions of Public Works and other City Departments.

Lead, plan, organize, direct and manage the Engineering Division activities, programs and projects including engineering design, development, survey, construction and inspection for the City; includes consultant contract administration; includes oversight of the areas of engineering, land development, traffic, design, utilities, and inspection.

Leads the development and implementation of both short-range and long-range goals, objectives, policies, and procedures relative to public works engineering activities and maintenance operations.

Leads strategy development to secure sustainable funding for the City's infrastructure backlog.

Resolves work problems and interprets administrative policies for staff, other departments, and the public.

Administers contracts for the construction of municipal facilities and other related activities.

CITY OF MILPITAS
City Engineer

Oversees the advertisement and bidding of CIP Projects and provide technical assistance for bid documents.

Determines scope of engineering projects, review plans of private contractors, make technical engineering decisions, and establish technical criteria and standards.

Manages, oversees and participates in the preparation and administration of the Capital Improvement Program.

Represents the Engineering Division at City Council, local and regional commission meetings.

Proposes and reviews developer conditions; negotiates development conditions; meets and discusses City requirements with developers, contractors, and engineers.

Prepares and administers the division budget; authorizes all requisitions and payments within the division.

Prepares and presents technical and non-technical recommendations to the City Council after considering alternatives, advisability, and conformance of proposals with applicable codes, rules, regulations, and the law.

Coordinates capital improvement program and project activities with other City departments and with outside agencies.

Prepares a variety of reports, correspondence and special studies.

Responds to complex citizen inquiries and concerns.

Supervises, coordinates, and reviews all staff activities.

Provides professional and technical staff assistance.

Performs related duties as assigned.

QUALIFICATIONS

Knowledge of:

- Principles and practices of civil engineering administration as applied to the design and construction of public works facilities and projects.
- Technical, legal, and financial requirements relating to contracts and administration.
- Recent developments, current literature, and sources of information regarding civil engineering and public works.
- Applicable Federal, State and local laws, rules, and regulations related to engineering and the development and construction of public works.

CITY OF MILPITAS
City Engineer

- Methods of preparing designs, plans, specifications, estimates, reports, and recommendations relating to street, water, sanitary sewer, storm sewer, traffic signals, lighting, and landscaping systems.
- Principles of organization, administration, budget, and personnel and office management.

Ability to:

- Lead and support a team;
- Plan, organize, direct, and review the activities of a large City division.
- Make complex engineering calculations and prepare engineering plans and specifications.
- Coordinate, schedule, and program work on a long-term basis.
- Communicate effectively, orally and in writing.
- Prepare and administer a department budget.
- Prepare and administer the Capital Improvement Program.
- Prepare accurate and comprehensive reports.
- Draft contract documents and administer the same.

Ability to:

- Establish and maintain positive and effective working relationships with City staff, developers, consultants, engineers, and the general public.

EXPERIENCE AND EDUCATION

Experience: Six years of recent, continuous, progressively responsible professional engineering experience, including three years at the mid-management/supervisory level..

Education: A Bachelor of Science degree in engineering from an accredited college or university.

LICENSE AND CERTIFICATE

- Possess and maintain a current certificate of registration as a Professional Civil Engineer in the State of California.
- Possess and maintain an appropriate, valid California Driver's License.

SPECIAL REQUIREMENTS:

Essential duties require the following physical abilities and work environment.

Typically, work is performed in an office environment and at construction sites; exposure to outdoor elements; extensive use of the telephone and computer; repetitive keyboarding on a computer; ability to walk on uneven ground; sit for extended periods; maintain concentration and focus for extended periods; drive daily to various locations within and outside the City of Milpitas; ability to work safely in a hard-hat construction zone.

CITY OF MILPITAS
City Engineer

Approved by:

City Manager

Date

Human Resources Director

Date



Public Works Division Manager - Engineering

City of Milpitas

Effective: December 2023

Revised:

EEOC: Professional

FLSA: Exempt

Unit: Unclassified

Physical: 1

DEFINITION

Under general direction, incumbents are responsible for planning, organizing, directing, implementing and coordinating operational and administrative service functions of a division within the Department of Public Works and assisting the Director, Deputy Director(s) and City Engineer in the formulation and implementation of department policies and procedure. The Public Works Division Manager – Engineering will have responsibility for a Division within Public Works that oversees one or more of the following programs: (1) Providing professional planning, management, funding and engineering services for the development and implementation of the City's annual Capital Improvement Program (CIP) and projects ; (2) Performing construction inspection services for capital and private development projects impacting City property and public right-of-way; (3) plan review, permitting and oversight of private development projects within the public right-of-way; (4) planning, implementation and oversight of the City's transportation network; (5) Regional coordination in the areas of flood control, urban runoff and transportation; (6) Oversight of planning and implementation for the City's underground utilities and (6) additional Engineering related responsibilities.

DISTINGUISHING CHARACTERISTICS

This is a management position in the unrepresented service, responsible for leading the implementation of projects, programs and/or operations within the Department of Public Works. This classification is distinguished from the higher-level Director, Deputy Director and City Engineer in that the former is charged with division authority and/or technical responsibilities and the latter has responsibility department-wide strategic leadership. The Division Manager oversees multiple core service functions of the department with distinct objectives with measurable results for the community whose goals, objectives and policies have a considerable impact on organizational priorities.

SUPERVISION RECEIVED AND EXERCISED

Receives direction from the Director, Deputy Director and City Engineer.

Exercises general supervision over professional, technical, inspection, and field personnel as assigned and in-direct supervision over subordinate staff within the Division.

EXAMPLES OF DUTIES - Duties may include, but are not limited to, the following:

- Supervises subordinate management, supervisory and professional staff to include: prioritizing and assigning work; conducting performance evaluations; ensuring staff are trained; and making hiring, termination, and disciplinary recommendations.
- Directs, plans, implements, and evaluates department programs; prepares and implements work plans for assigned division.
- Participates in and advises on the development of department policy; develops and implements departmental goals, objectives, and guidelines as part of the department executive management team.
- Prepares and implements capital improvement and/or operations budgets for assigned division.
- Applied for an directs allocation of grant funds; negotiates contracts, agreements, and leases.
- Presents reports and information to the City Council, boards, committees, and other divisions or departments.
- Ensures the divisional compliance with federal and state laws, rules, and regulations and local codes and standards.
- Performs other duties of a similar nature or level.

When focused on Oversight of the Capital Improvement Program and projects section:

- Shall lead the development and implementation of the City's Capital Improvement Program (CIP).
- Lead in the development and application of the design & construction policies, following general guidelines or professional and administrative standards in accomplishing assignments.
- Perform project management of design and construction of major and minor capital improvement projects.
- Prioritize and direct the work of the City CIP and be responsible for quality, schedule and cost control; work closely with the City Engineer to coordinate CIP work.
- Interpret and apply relevant codes, ordinances, rules, and regulations. Meet and confer with developers, contractors, engineers and the general public relative to City policies, regulations, and procedures; coordinate discrepancies and problem situations with outside parties.
- Prepare and/or review improvement agreements.
- Administer and/or oversee the administration of contracts; review and approve payments and billing for contracted services.
- Prepare and Issue Requests for Proposals (RFPs) to engage qualified consultants in contracts, and administering contracts, preliminary design, design, cost-estimating, scheduling, bidding and constructing, and reporting on all City CIP projects and programs.

- Review, approve and sign engineering drawings when appropriate.
- Perform field investigations, construction site field reviews, and inspections.

When focused on Transportation, Traffic and Private Development:

- Develop and implement a program for seeking outside funding for transportation-related funding through regional, state and federal allocations and grants;
- Provide regional traffic management and planning with surrounding agencies to address regional transportation-related problems and to develop and recommend future transportation planning goals affecting Milpitas.
- Manage, plan, supervise, and oversee and implement comprehensive Citywide traffic and transportation-related programs to promote the safe, orderly, and efficient movement of traffic including pedestrian, bicycle, vehicle, and transit.
- Plan, develop, direct, and implement short-range and long-range transportation improvement plans, studies, and related Capital Improvement Program projects.
- Monitor and assess City traffic conditions; coordinate with operations teams to adjust signal timing as necessary to minimize roadway congestion.
- Investigate and collect City traffic and accident data; identify and illustrate traffic problems, identifying and recommending appropriate solutions; implement improvements to traffic signs, signals, and markings as needed.
- Perform traffic impact analysis scoping and review; review plans and anticipated impact on circulation and traffic flow; develop conditions of approval for public and private projects.
- Provide management information and reports as required for Federal, State and local, agencies.
- Review and sign traffic engineering drawings, specifications, traffic studies and reports when necessary.
- Oversee the review, permitting, and management of private development projects within the public right-of-way.
- Actively enforce the requirements of the City's Municipal Regional Stormwater Permit (NPDES) to protect the City's storm drain system and waterways.
- Lead the City participation in the Community Rating Service (CRS) program and by regulation of construction within the SFHA to help reduce the cost of mandatory flood insurance for Milpitas residents living with the SFHA.

QUALIFICATIONS

Knowledge of:

- Principles and practices of engineering as applied to assigned section.
- Principles of organization, administration, budget, and personnel management.
- Principles and practices of modern office management.
- Pertinent Federal, State, and local codes, laws, and regulations.
- Conflict resolution skills.

Ability to:

- Prepare clear and comprehensive reports.
- Deal tactfully and effectively with the general public, civic and community groups and public officials.
- Supervise, train, and evaluate professional and technical staff as assigned.
- Provide written reports, technical memoranda, and provide presentations to the City Council, Planning Commission, Council committees, and the public.
- Attend work-related meetings outside of normal business hours.
- Make field visits and inspections of sites.
- Communicate effectively in person, over the telephone and in writing.
- Build and maintain positive working relationships with co-workers, other City staff, organizations and their representatives, and the general public, exhibiting exceptional customer service and communication skills.

EDUCATION AND EXPERIENCE

Six years of progressively responsible directly related experience, including three years of supervisory experience and a Bachelor's degree from an accredited college or university in engineering

LICENSE OR CERTIFICATE

Possession and maintenance of a valid California Driver's License is required.

Registration as a Professional Civil Engineer in the State of California is required.

SPECIAL REQUIREMENTS:

Essential duties require the following physical abilities and work environment.

Work is performed in an office environment, as well as outdoor environment during all weather conditions, such as providing field reviews/observations. Duties and typical tasks also include performing site visits to construction sites; extensive use of the telephone, radios, and computers with repetitive keyboarding; ability to walk on uneven ground; and drive to various locations daily. Ability to work safely in a hard-hat and construction zone is essential. Some exposure to Municipal public works related chemicals and products.

Approved by:

City Manager

Date

Human Resources Director

Date

In compliance with the Americans with Disabilities Act, the City of Milpitas will provide reasonable accommodation to qualified individuals with disabilities and encourages both prospective and current employees to discuss potential accommodations with the Human Resources Department.

The City of Milpitas is an Equal Opportunity Employer.



Public Works Division Manager - Operations

City of Milpitas

Effective: December 2023

Revised:

EEOC: Professional

FLSA: Exempt

Unit: Unclassified

Physical: 1

DEFINITION

Under general direction, incumbents are responsible for planning, organizing, directing, implementing, and coordinating operational and administrative service functions of a division within the Department of Public Works and assisting the Director, Deputy Director(s) and City Engineer in the formulation and implementation of department policies and procedures. The Public Works Division Manager – Operations will have responsibility for a Division within Public Works that oversees one or more of the following programs: (1) Oversight, Operations and Maintenance of the City's Above-Ground Infrastructure including but not limited to buildings, streets, landscaping, lighting, parks and trees; (2) Planning and implementation of minor capital improvement programs and projects to rehabilitate the City's infrastructure; and (3) Planning, acquisition and maintenance of the City's Fleet.

DISTINGUISHING CHARACTERISTICS

This is a management position in the unrepresented service, responsible for leading the implementation of projects, programs and/or operations within the Department of Public Works. This classification is distinguished from the higher-level Director, Deputy Director and City Engineer in that the former is charged with division authority and/or technical responsibilities and the latter has responsibility for department-wide strategic leadership. The Division Manager oversees multiple core service functions of the department with distinct objectives with measurable results for the community whose goals, objectives and policies have a considerable impact on organizational priorities.

SUPERVISION RECEIVED AND EXERCISED

Receives direction from the Director, Deputy Director, and City Engineer.

Exercises general supervision over professional, technical, inspection, and field personnel as assigned and in-direct supervision over subordinate staff within the Division.

EXAMPLES OF DUTIES - Duties may include, but are not limited to, the following:

- Supervises subordinate management, supervisory and professional staff to include: prioritizing and assigning work; conducting performance evaluations; ensuring staff are trained; and making hiring, termination, and disciplinary recommendations.

- Directs, plans, implements, and evaluates department programs; prepares and implements work plans for assigned division.
- Ensures compliance with the City's IIPP
- Participates in and advises on the development of department policy; develops and implements departmental goals, objectives, and guidelines as part of department executive management team.
- Prepares and implements capital improvement and/or operations budgets for assigned division.
- Applies for and directs allocation of grant funds; negotiates contracts, agreements, and leases.
- Presents reports and information to the City Council, boards, committees, and other divisions or departments.
- Ensures the divisional compliance with federal and state laws, rules, and regulations and local codes and standards.
- Performs other duties of a similar nature or level.
- Oversees robust preventative maintenance program for City's above ground facilities;
- Oversees planning, acquisition, disposal and maintenance of the City's fleet;
- Oversees daily maintenance of the City's above ground facilities;

QUALIFICATIONS

Knowledge of:

- Principles and practices of maintenance and operations as applied to assigned section.
- Principles of organization, administration, budget, and personnel management.
- Principles and practices of modern office management.
- Pertinent Federal, State, and local codes, laws, and regulations.
- Conflict resolution skills.

Ability to:

- Prepare clear and comprehensive reports.
- Deal tactfully and effectively with the general public, civic and community groups and public officials.
- Supervise, train, and evaluate professional and technical staff as assigned.
- Provide written reports, technical memoranda, and provide presentations to the City Council, Planning Commission, Council committees, and the public.
- Attend work-related meetings outside of normal business hours.
- Make field visits and inspections of sites.
- Communicate effectively in person, over the telephone and in writing.

- Build and maintain positive working relationships with co-workers, other City staff, organizations and their representatives, and the general public, exhibiting exceptional customer service and communication skills.

EDUCATION AND EXPERIENCE

Six years of progressively responsible directly related experience, including three years of supervisory experience and a Bachelor's degree from an accredited college or university.

The Bachelor's degree requirement may be waived if the applicant has at least 10 years of experience in city government operations with at least 5 years of management responsibility, or equivalent years of related private sector experience.

LICENSE OR CERTIFICATE

Possession and maintenance of a valid California Driver's License is required.

SPECIAL REQUIREMENTS:

Essential duties require the following physical abilities and work environment.

Work is performed in an office environment, as well as outdoor environment during all weather conditions, such as providing field reviews/observations. Duties and typical tasks also include performing site visits to construction sites; extensive use of the telephone, radios, and computers with repetitive keyboarding; ability to walk on uneven ground; and drive to various locations daily. Ability to work safely in a hard-hat and construction zone is essential. Some exposure to Municipal public works related chemicals and products.

Approved by:

City Manager

Date

Human Resources Director

Date

In compliance with the Americans with Disabilities Act, the City of Milpitas will provide reasonable accommodation to qualified individuals with disabilities and encourages both prospective and current employees to discuss potential accommodations with the Human Resources Department.

The City of Milpitas is an Equal Opportunity Employer.

City RESOLUTION NO. _____

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MILPITAS AMENDING RESOLUTION NO. 1626, THE CLASSIFICATION PLAN, TO APPROVE AND ADOPT THE CLASSIFICATIONS PAY SCHEDULES, AMEND BUDGETED ALLOCATED POSITIONS, AND AMEND THE UNREPRESENTED BENEFITS MATRIX

WHEREAS, the City of Milpitas has a Classification Plan adopted as Resolution No. 1626 on December 17, 1968, which has been amended from time to time, and which is in accordance with the Personnel Rules and Regulations of the City of Milpitas (Resolution No. 792 as amended); and

WHEREAS, amendments to the Classification Plan are necessary to account for changes within the organization, transfer of duties, new job responsibilities, and adjustments to salary ranges;

WHEREAS, the City is required to publish publicly available approved and adopted pay schedule(s) for all positions within the Classification Plan pursuant to the California Code of Regulations, 2 CCR §570.5.

NOW THEREFORE, the City Council of the City of Milpitas hereby finds, determines, and resolves as follows:

1. The City Council has considered the full record before it, which may include but is not limited to such things as the staff report, testimony by staff and the public, and other materials and evidence submitted or provided to it. Furthermore, the recitals set forth above are found to be true and correct and are incorporated herein by reference.
2. Resolution No. 1626, as amended, is hereby further amended effective December 5, 2023 as set forth below.

A. AUTHORIZE THE FOLLOWING POSITIONS:

Add One (1) FTE City Engineer – Public Works Department

B. RECLASSIFY THE FOLLOWING BUDGETED ALLOCATED POSITIONS:

Reclassify One (1) FTE CIP Manager to Public Works Division Manager – Engineering (Public Works Department)

Reclassify One (1) FTE Transportation and Traffic Manager to Public Works Division Manager – Engineering (Public Works Department)

Reclassify One (1) FTE Public Works Manager to Public Works Division Manager – Operations (Public Works Department)

C. DELETE THE FOLLOWING BUDGETED ALLOCATION POSITIONS:

Delete Engineering Director

D. DELETE THE FOLLOWING CLASSIFICATION FROM THE SALARY TABLE:

Delete Assistant City Engineer

E. APPROVE THE SALARY RANGES FOR THE FOLLOWING CLASSIFICATIONS:

Title	Annual Salary Range:
City Engineer	\$157,977.04 - \$221,167.96
Public Works Division Manager - Engineering	\$159,190.99 - \$198,988.74
Public Works Division Manager – Operations	\$159,190.99 - \$198,988.74

F. APPROVE AND ADOPT THE PAY SCHEDULE “All Job Classifications/Salary Table” EFFECTIVE DECEMBER 5, 2023:

**G. APPROVE AND ADOPT THE UNREPRESENTED BENEFITS MATRIX TO CAPTURE THE
CLASSIFICATION CHANGES FROM ITEMS A, B, AND C ABOVE EFFECTIVE DECEMBER 5, 2023:**

PASSED AND ADOPTED this _____ day of _____, 2023, by the following vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

ATTEST:

APPROVED:

Suzanne Guzzetta, City Clerk

Carmen Montano, Mayor

APPROVED AS TO FORM:

Michael Mutalipassi, City Attorney

Classification	Union Code	Occ Code	Pay Grade
Accountant	50	2101	500
Accounting Technician I	50	6104	513
Accounting Technician II	50	6105	514
Administrative Analyst I	80	2102	801
Administrative Analyst II	80	2103	802
Administrative Assistant	80	6111	828
Adult Crossing Guard	70	8401	725
Adult Crossing Guard Superviso	70	8402	720
Assistant Chief of Police	60	1405	649
Assistant City Attorney	60	1113	645
Assistant City Manager	60	1104	666
Assistant Dir Recr & Comm Svcs	60	1121	659
Assistant Engineer	50	2201	502
Assistant Finance Director	60	1109	669
Assistant Fire Marshal	60	2501	632
Assistant Planner	50	2801	503
Assistant Pool Manager	70	5609	709
Assistant Water Operator	20	7212	221
Assistant Water Operator - 40	20	8611	226
Associate Civil Engineer	50	2202	504
Associate Planner	50	2802	505
Budget Manager	80	1115	839
Building & Housing Director	60	1802	658
Building Inspection Manager	80	3809	848
Building Inspector Apprentice	70	8610	770
Building Official	60	1804	676
Building Permit Technician	50	5801	508
Building/NP Inspector	50	3801	507
Business Systems Analyst/Dev	80	2119	853
Buyer	80	2106	803
Case Manager	50	5612	544
Chief Fire Enforcement Officer	60	1505	656
Chief of Police	60	1402	650
City Attorney	60	1112	644
City Clerk	60	1101	605
City Engineer	60	1201	606
City Manager	60	1102	697
Code Enforcement Officer	50	5804	515
Communications Dispatch Superv	40	6409	456
Communications Dispatcher	40	6408	455
Community Service Officer	50	5807	551
Councilmember	60	1107	699
Crime Analyst	80	2105	809
Cross Connection Specialist	20	8626	239
Customer Services Supervisor	80	2127	847

Deputy City Attorney	60	1114	646
Deputy City Clerk	80	6102	835
Deputy City Manager	60	1119	672
Deputy Director of IT	60	1123	679
Deputy Fire Chief	60	1504	633
Deputy Public Works Director	60	1207	654
Digital Media Specialist	80	2121	840
Dir of Recr & Community Svcs	60	1208	655
Economic Development Coord	80	8623	852
Economic Development Director	60	1206	653
Economic Development Spec	80	8606	850
Electrical/Building Inspector	50	3802	511
Emergency Services Coordinator	80	2502	836
Engineering Aide	50	3201	512
Engineering Permit Technician	50	2210	540
Entry Firefighter/EMT - 40	10	4512	115
Entry Firefighter/EMT - 56	10	4510	112
Entry Firefighter/Paramedic-40	10	4513	116
Entry Firefighter/Paramedic-56	10	4511	113
Entry Level Fire Inspector	10	3508	114
Envir & Regulatory Comply Spec	80	8624	851
Environmental Inspector	50	2213	553
Equip Maint Worker I - 40	20	8612	227
Equip Maint Worker II - 40	20	8613	228
Equip Maint Worker III - 40	20	8614	229
Equipment Maint. Worker I	20	7202	200
Equipment Maint. Worker II	20	7203	201
Equipment Maint. Worker III	20	7204	202
Executive Assistant	80	6117	812
FF/Paramedic Trainee - 40	10	4504	107
FF/Paramedic Trainee - 56	10	4514	155
Finance Director	60	1103	627
Finance Manager	60	1116	647
Financial Analyst I	80	2125	844
Financial Analyst II	80	2126	845
Fire Battalion Chief	10	2508	153
Fire Battalion Chief - 40	10	2509	154
Fire Captain	10	2504	100
Fire Captain - 40	10	2507	108
Fire Chief	60	1502	630
Fire Engineer/EMT	10	4501	102
Fire Engineer/EMT - 40	10	4515	156
Fire Engineer/Paramedic	10	4505	151
Fire Prevention Inspector	10	3501	106
Fire Protection Engineer	10	3507	110
Firefighter/EMT	10	4502	103
Firefighter/EMT - 40	10	4516	157

Firefighter/EMT Trainee - 40	10	4509	109
Firefighter/Paramedic	10	4503	104
Fitness Instructor	70	5620	713
Fleet Maint Worker I -40	20	8615	230
Fleet Maint Worker II - 40	20	8616	231
Fleet Maint Worker III -40	20	8617	232
Fleet Maintenance Worker I	20	7207	213
Fleet Maintenance Worker II	20	7208	214
Fleet Maintenance Worker III	20	7209	215
GIS Technician	50	2212	552
Hazardous Materials Inspector	10	3502	105
Housing Authority Adminr	60	1120	673
Human Resources Analyst I	80	2124	843
Human Resources Analyst II	80	2123	842
Human Resources Assistant	80	2108	846
Human Resources Director	60	1105	613
Human Resources Manager	60	1209	677
Human Resources Technician	80	2107	816
I T Director	60	2113	624
I T Manager	80	2116	819
I T Technician	50	3101	542
Information Technology Analyst	80	2118	831
Junior Engineer	50	2203	519
Junior Planner	50	2804	520
Legal Assistant	60	1124	689
Lifeguard	70	5610	710
Maint Worker III - 40	20	8619	234
Maintenance Assistant	20	8625	238
Maintenance Custodian I	20	8101	203
Maintenance Custodian I - 40	20	8107	222
Maintenance Custodian II	20	8102	204
Maintenance Custodian II - 40	20	8108	223
Maintenance Custodian III	20	8103	205
Maintenance Custodian III - 40	20	8618	233
Maintenance Worker I	20	8202	206
Maintenance Worker I-40	20	8203	207
Maintenance Worker II	20	8204	208
Maintenance Worker II-40	20	8205	209
Maintenance Worker III	20	8206	210
Maintenance Worker/Seasonal	70	8207	760
Management Analyst	80	2128	854
Marketing Coordinator	50	5614	548
Mayor	60	1118	696
Office Assistant I	50	6108	516
Office Assistant II	50	6109	517
Office Specialist	50	6110	518
Patrol Officer	40	4401	404

Patrol Officer Trainee	40	4402	458
Payroll Specialist	50	5102	546
Plan Check Engineer	50	3807	521
Plan Checker	50	3803	522
Plan Review Manager	60	1210	678
Planning Commissioners	70	1108	698
Planning Director	60	1803	607
Planning Manager	60	2803	602
Planning Technician	50	2813	554
Police Assistant	40	6401	450
Police Captain	60	1401	651
Police Clerk I	40	6402	451
Police Clerk II	40	6403	452
Police Clerk Supervisor	40	6404	454
Police Evidence Technician	40	8607	459
Police Lieutenant	40	2402	400
Police Officer	40	4403	403
Police Officer Trainee	40	4404	457
Police Sergeant	40	4405	401
Police Support Services Mgr	60	1404	657
Pool Manager	70	5608	708
Principal Civil Engineer	80	2204	822
Principal Planner	80	2811	823
Program Coordinator	50	5606	523
Public Information Officer	60	1122	674
Public Services Assistant I	50	6601	524
Public Services Assistant II	50	6602	525
Public Works Director	60	1204	635
Public Works Division Manager - Engineering	60	1127	692
Public Works Division Manager - Operations	60	1126	691
Public Works Inspector	50	3202	526
Public Works Manager	60	1117	648
Public Works Manager-Utilities	60	1128	693
Purchasing Agent	80	1106	826
Recreation Administrative Asst	70	5619	712
Recreation Attendant	70	5618	711
Recreation Instructors	70	5607	707
Recreation Leader	70	5617	706
Recreation Services Supervisor	80	2601	827
Recreation Svcs Assistant I	50	8601	527
Recreation Svcs Assistant II	50	8602	528
Recreation Svcs Assistant III	50	8603	529
Recreation Svcs Assistant IV	50	8604	530
Retired Annuitant - Extra Help	70	5107	747
Retired Annuitant - Interim	70	5108	748
Risk Analyst	80	2130	857
SCADA Technician	20	8627	240

Senior Accountant	80	2110	829
Senior Accounting Technician	50	6106	539
Senior Administrative Analyst	80	2112	834
Senior Building Inspector	50	3804	531
Senior Buyer	80	2129	856
Senior Executive Assistant	80	6123	855
Senior HR Analyst	80	2122	841
Senior Plan Check Engineer	50	3806	534
Senior Planner	80	2805	830
Senior Public Works Inspector	50	3203	535
Senior Public Works Lead	20	8609	225
Senior SCADA Technician	20	8628	241
Special Project Associate	70	5105	750
Sr Code Enforcement Officer	50	5806	545
Sr. Public Services Assistant	50	5615	549
Sr. Special Projects Associate	70	5106	749
Staff Assistant	70	5104	745
Student Intern	70	5103	740
Water Meter Technician I	20	8104	216
Water Meter Technician I -40	20	8620	235
Water Meter Technician II	20	8105	217
Water Meter Technician II -40	20	8621	236
Water Systems Operator	20	7211	219

Union Code	Union Description
10	IAFF - International Association of Fi
20	MEA - Milpitas Employee Associator
40	MPOA - Milpitas Police Officers Asso
50	Pro-Tech - Milpitas Professional and
60	Unrep - Unrepresented
70	Temps - Temporary
80	Mid-Con - UPEC Mid-Mgmt-Confident

Step A			Step B			Step C	
Hourly	BiWeekly	Annual	Hourly2	BiWeekly3	Annual4	Hourly5	BiWeekly6
47.90	3,831.91	99,629.66	50.29	4,023.48	104,610.48	52.80	4,223.84
31.19	2,495.54	64,884.04	32.75	2,620.34	68,128.84	34.39	2,751.36
34.31	2,745.08	71,372.08	36.03	2,882.37	74,941.62	37.83	3,026.49
42.02	3,361.82	87,407.32	-	-	-	-	-
46.41	3,712.73	96,530.98	-	-	-	-	-
40.09	3,207.26	83,388.76	42.10	3,367.62	87,558.12	44.20	3,536.02
17.20	1,376.00	35,776.00	-	-	-	-	-
19.24	1,539.20	40,019.20	-	-	-	-	-
104.45	8,356.04	217,257.04	-	-	-	-	-
78.46	6,276.93	163,200.18	-	-	-	-	-
98.45	7,876.34	204,784.84	-	-	-	-	-
67.18	5,374.71	139,742.46	-	-	-	-	-
51.90	4,151.81	107,947.06	54.49	4,359.39	113,344.14	57.22	4,577.35
70.85	5,668.21	147,373.46	-	-	-	-	-
79.71	6,376.43	165,787.18	-	-	-	-	-
49.76	3,981.04	103,507.04	52.25	4,180.19	108,684.94	54.86	4,388.45
22.16	1,772.80	46,092.80	-	-	-	-	-
42.68	3,201.07	83,227.82	44.82	3,361.13	87,389.38	47.06	3,529.18
42.93	3,434.48	89,296.48	45.08	3,606.37	93,765.62	47.34	3,786.86
59.68	4,774.56	124,138.56	62.67	5,013.32	130,346.32	65.80	5,263.99
57.22	4,577.47	119,014.22	60.09	4,806.96	124,980.96	63.09	5,047.56
61.26	4,900.49	127,412.74	-	-	-	-	-
85.63	6,850.13	178,103.38	-	-	-	-	-
63.81	5,105.17	132,734.42	-	-	-	-	-
28.00	2,240.00	58,240.00	-	-	-	-	-
75.32	6,025.48	156,662.48	-	-	-	-	-
38.00	3,040.05	79,041.30	39.90	3,192.38	83,001.88	41.91	3,352.54
50.37	4,029.41	104,764.66	52.89	4,230.92	110,003.92	55.53	4,442.42
56.02	4,481.54	116,520.04	-	-	-	-	-
41.64	3,331.34	86,614.84	-	-	-	-	-
34.05	2,723.90	70,821.40	-	-	-	-	-
68.25	5,459.80	141,954.80	-	-	-	-	-
109.67	8,773.58	228,113.08	-	-	-	-	-
99.96	7,997.00	207,922.00	-	-	-	-	-
65.11	5,208.61	135,423.86	-	-	-	-	-
75.95	6,076.04	157,977.04	-	-	-	-	-
160.75	12,860.28	334,367.28	-	-	-	-	-
44.04	3,523.20	91,603.20	46.24	3,699.41	96,184.66	48.56	3,885.17
56.46	4,516.98	117,441.48	59.29	4,742.83	123,313.58	62.25	4,979.98
48.89	3,910.97	101,685.22	51.33	4,106.50	106,769.00	53.90	4,311.81
42.14	3,370.92	87,643.92	44.24	3,539.47	92,026.22	46.46	3,716.45
20.87	417.40	10,852.40	-	-	-	-	-
50.31	4,024.40	104,634.40	-	-	-	-	-
44.37	3,549.65	92,290.90	46.71	3,736.47	97,148.22	49.16	3,933.13
48.78	3,902.36	101,461.36	-	-	-	-	-

61.30	4,903.84	127,499.84	-	-	-	-	-
47.90	3,832.11	99,634.86	-	-	-	-	-
96.49	7,718.81	200,689.06	-	-	-	-	-
77.97	6,237.69	162,179.94	-	-	-	-	-
100.44	8,034.88	208,906.88	-	-	-	-	-
75.95	6,076.04	157,977.04	-	-	-	-	-
43.33	3,466.76	90,135.76	-	-	-	-	-
83.85	6,708.28	174,415.28	-	-	-	-	-
52.86	4,228.77	109,948.02	-	-	-	-	-
78.76	6,301.09	163,828.34	-	-	-	-	-
50.34	4,027.05	104,703.30	-	-	-	-	-
52.89	4,230.91	110,003.66	55.53	4,442.42	115,502.92	58.31	4,664.56
55.62	4,449.24	115,680.24	-	-	-	-	-
41.27	3,301.75	85,845.50	43.34	3,466.85	90,138.10	45.50	3,640.17
37.15	2,972.15	77,275.90	39.01	3,120.77	81,140.02	40.96	3,276.79
49.51	3,961.06	102,987.56	51.49	4,119.50	107,107.00	-	-
35.37	3,961.06	102,987.56	36.78	4,119.50	107,107.00	-	-
55.45	4,436.38	115,345.88	57.67	4,613.86	119,960.36	-	-
39.61	4,436.38	115,345.88	41.20	4,613.86	119,960.36	-	-
43.17	3,453.45	89,789.70	45.33	3,626.13	94,279.38	47.59	3,807.45
53.72	4,297.94	111,746.44	-	-	-	-	-
52.89	4,230.91	110,003.66	55.53	4,442.45	115,503.70	58.31	4,664.58
39.04	3,123.39	81,208.14	40.97	3,277.99	85,227.74	43.03	3,442.18
42.93	3,434.48	89,296.48	45.08	3,606.37	93,765.62	47.34	3,786.86
48.37	3,869.43	100,605.18	50.79	4,063.38	105,647.88	53.34	4,266.95
38.80	2,910.05	75,661.30	40.74	3,055.56	79,444.56	42.78	3,208.37
42.68	3,201.07	83,227.82	44.82	3,361.13	87,389.38	47.06	3,529.18
48.09	3,606.74	93,775.24	50.49	3,787.01	98,462.26	53.02	3,976.39
44.09	3,527.48	91,714.48	46.30	3,703.88	96,300.88	48.61	3,889.07
53.32	4,265.75	110,909.50	53.32	4,265.75	110,909.50	53.32	4,265.75
38.09	4,265.75	110,909.50	38.09	4,265.75	110,909.50	38.09	4,265.75
86.00	6,879.87	178,876.62	-	-	-	-	-
60.69	4,855.51	126,243.26	-	-	-	-	-
39.24	3,139.00	81,614.00	-	-	-	-	-
43.33	3,466.76	90,135.76	-	-	-	-	-
53.49	5,991.05	155,767.30	-	-	-	-	-
74.89	5,991.05	155,767.30	-	-	-	-	-
46.81	5,243.20	136,323.20	49.10	5,498.81	142,969.06	51.49	5,767.20
65.54	5,243.20	136,323.20	68.74	5,498.81	142,969.06	72.09	5,767.20
110.73	8,858.55	230,322.30	-	-	-	-	-
41.28	4,623.46	120,209.96	43.29	4,848.08	126,050.08	45.39	5,083.90
57.79	4,623.46	120,209.96	60.60	4,848.08	126,050.08	63.55	5,083.90
46.23	5,178.28	134,635.28	48.48	5,429.85	141,176.10	50.84	5,693.97
66.18	5,294.34	137,652.84	69.41	5,552.50	144,365.00	72.79	5,823.56
66.18	5,294.34	137,652.84	69.41	5,552.50	144,365.00	72.79	5,823.56
38.58	4,321.12	112,349.12	40.45	4,530.54	117,794.04	42.42	4,750.51
54.01	4,321.12	112,349.12	56.63	4,530.54	117,794.04	59.38	4,750.51

47.61	3,808.72	99,026.72	47.61	3,808.72	99,026.72	47.61	3,808.72
43.21	4,839.65	125,830.90	45.31	5,074.20	131,929.20	47.51	5,320.57
35.00	2,800.00	72,800.00	-	-	-	-	-
37.27	2,981.63	77,522.38	39.14	3,131.07	81,407.82	41.09	3,287.37
40.99	3,279.51	85,267.26	43.05	3,443.67	89,535.42	45.20	3,615.70
47.15	3,772.01	98,072.26	49.51	3,960.78	102,980.28	51.98	4,158.37
37.27	2,795.30	72,677.80	39.13	2,935.03	76,310.78	41.09	3,081.81
41.00	3,074.84	79,945.84	43.05	3,228.54	83,942.04	45.20	3,390.00
47.15	3,536.02	91,936.52	49.50	3,712.81	96,533.06	51.98	3,898.42
51.90	4,151.81	107,947.06	54.49	4,359.39	113,344.14	57.22	4,577.38
66.18	5,294.34	137,652.84	69.41	5,552.50	144,365.00	72.79	5,823.56
63.36	5,068.84	131,789.84	-	-	-	-	-
42.02	3,361.82	87,407.32	-	-	-	-	-
46.41	3,712.73	96,530.98	-	-	-	-	-
29.93	2,394.78	62,264.28	31.43	2,514.43	65,375.18	33.00	2,640.15
85.51	6,841.16	177,870.16	-	-	-	-	-
65.26	5,220.90	135,743.40	-	-	-	-	-
36.31	2,904.56	75,518.56	38.13	3,050.42	79,310.92	40.03	3,202.26
84.39	6,751.17	175,530.42	-	-	-	-	-
63.26	5,061.05	131,587.30	-	-	-	-	-
41.29	3,303.34	85,886.84	43.36	3,468.49	90,180.74	45.52	3,641.87
53.22	4,257.44	110,693.44	-	-	-	-	-
47.18	3,774.35	98,133.10	49.54	3,963.08	103,040.08	52.02	4,161.23
42.72	3,417.27	88,849.02	44.85	3,588.15	93,291.90	47.09	3,767.54
40.09	3,207.26	83,388.76	42.10	3,367.62	87,558.12	44.20	3,536.02
17.20	1,376.00	35,776.00	-	-	-	-	-
40.15	3,211.67	83,503.42	42.16	3,372.50	87,685.00	44.26	3,541.02
24.48	1,958.40	50,918.40	25.64	2,051.20	53,331.20	26.84	2,147.20
28.60	2,144.74	55,763.24	30.03	2,251.98	58,551.48	31.53	2,364.60
28.60	2,287.74	59,481.24	30.03	2,402.10	62,454.60	31.53	2,522.22
31.46	2,359.27	61,341.02	33.03	2,477.20	64,407.20	34.68	2,601.08
31.46	2,516.55	65,430.30	33.03	2,642.32	68,700.32	34.68	2,774.47
36.17	2,713.10	70,540.60	37.98	2,848.74	74,067.24	39.88	2,991.18
36.18	2,894.16	75,248.16	37.98	3,038.65	79,004.90	39.89	3,191.03
31.46	2,359.27	61,341.02	33.03	2,477.20	64,407.20	34.68	2,601.08
31.74	2,539.49	66,026.74	33.32	2,665.64	69,306.64	34.99	2,799.51
34.60	2,595.16	67,474.16	36.33	2,724.90	70,847.40	38.15	2,861.12
34.91	2,792.76	72,611.76	36.66	2,932.40	76,242.40	38.50	3,079.75
39.79	2,984.39	77,594.14	41.78	3,133.62	81,474.12	43.87	3,290.31
19.88	1,590.40	41,350.40	-	-	-	-	-
55.71	4,457.07	115,883.82	-	-	-	-	-
40.10	3,207.70	83,400.20	42.10	3,368.08	87,570.08	44.21	3,536.47
26.09	521.88	13,568.88	-	-	-	-	-
27.13	2,170.11	56,422.86	28.48	2,278.60	59,243.60	29.91	2,392.55
29.84	2,387.01	62,062.26	31.33	2,506.32	65,164.32	32.90	2,631.71
34.31	2,745.05	71,371.30	36.03	2,882.34	74,940.84	37.83	3,026.49
52.27	4,181.49	108,718.74	54.88	4,390.56	114,154.56	57.63	4,610.06

51.15	4,091.69	106,383.94	53.70	4,296.20	111,701.20	56.39	4,511.06
36.65	2,931.78	76,226.28	38.48	3,078.37	80,037.62	40.40	3,232.28
61.08	4,886.04	127,037.04	64.12	5,129.83	133,375.58	67.33	5,386.67
52.08	4,166.40	108,326.40	54.68	4,374.67	113,741.42	57.42	4,593.78
71.14	5,691.25	147,972.50	-	-	-	-	-
1.00	20.00	520.00	-	-	-	-	-
85.63	6,850.13	178,103.38	-	-	-	-	-
65.26	5,220.90	135,743.40	-	-	-	-	-
38.00	3,040.05	79,041.30	39.90	3,192.38	83,001.88	41.91	3,352.54
49.67	3,973.32	103,306.32	52.15	4,171.94	108,470.44	54.76	4,380.53
99.47	7,957.84	206,903.84	-	-	-	-	-
35.60	2,848.03	74,048.78	37.38	2,990.45	77,751.70	39.25	3,139.95
39.16	3,132.77	81,452.02	41.12	3,289.49	85,526.74	43.17	3,453.95
45.23	3,618.42	94,078.92	47.49	3,799.38	98,783.88	49.87	3,989.30
41.53	3,322.38	86,381.88	43.61	3,488.47	90,700.22	45.79	3,662.92
80.17	6,413.79	166,758.54	84.18	6,734.49	175,096.74	88.39	7,071.24
57.16	4,572.49	118,884.74	60.01	4,801.19	124,830.94	63.02	5,041.23
55.93	4,474.29	116,331.54	58.73	4,698.06	122,149.56	61.66	4,933.00
69.05	5,523.70	143,616.20	72.50	5,799.90	150,797.40	76.12	6,089.88
63.29	5,063.37	131,647.62	-	-	-	-	-
23.22	1,857.60	48,297.60	-	-	-	-	-
66.49	5,318.93	138,292.18	-	-	-	-	-
68.55	5,483.95	142,582.70	-	-	-	-	-
37.39	2,991.45	77,777.70	-	-	-	-	-
62.81	5,025.13	130,653.38	-	-	-	-	-
31.19	2,495.54	64,884.04	32.75	2,620.34	68,128.84	34.39	2,751.38
34.31	2,745.08	71,372.08	36.03	2,882.37	74,941.62	37.83	3,026.48
88.05	7,043.70	183,136.20	-	-	-	-	-
76.53	6,122.73	159,190.99	-	-	-	-	-
76.53	6,122.73	159,190.99	-	-	-	-	-
50.37	4,029.41	104,764.66	52.89	4,230.92	110,003.92	55.53	4,442.42
58.60	4,688.09	121,890.34	-	-	-	-	-
60.95	4,875.62	126,766.12	-	-	-	-	-
54.89	4,391.06	114,167.56	-	-	-	-	-
17.20	1,376.00	35,776.00	-	-	-	-	-
17.20	1,376.00	35,776.00	-	-	-	-	-
18.82	1,505.60	39,145.60	-	-	-	-	-
17.20	1,376.00	35,776.00	-	-	-	-	-
52.43	4,194.59	109,059.34	-	-	-	-	-
17.63	1,410.59	36,675.34	18.51	1,481.10	38,508.60	19.44	1,555.20
20.94	1,674.82	43,545.32	21.98	1,758.74	45,727.24	23.08	1,846.63
24.06	1,925.17	50,054.42	25.27	2,021.38	52,555.88	26.53	2,122.46
28.23	2,258.74	58,727.24	29.65	2,371.66	61,663.16	31.13	2,490.24
50.00	4,000.00	104,000.00	-	-	-	-	-
50.00	4,000.00	104,000.00	-	-	-	-	-
43.33	3,466.76	90,135.76	-	-	-	-	-
45.23	3,618.35	94,077.10	47.61	3,808.79	99,028.54	50.12	4,009.26

48.78	3,902.36	101,461.36	-	-	-	-	-
37.74	3,019.59	78,509.34	39.63	3,170.60	82,435.60	41.61	3,329.12
53.88	4,310.29	112,067.54	-	-	-	-	-
58.17	4,653.94	121,002.44	61.08	4,886.70	127,054.20	64.14	5,131.00
51.78	4,142.10	107,694.60	-	-	-	-	-
46.41	3,712.73	96,530.98	-	-	-	-	-
50.31	4,024.43	104,635.18	-	-	-	-	-
67.18	5,374.63	139,740.38	70.54	5,643.52	146,731.52	74.07	5,925.44
62.84	5,027.35	130,711.10	-	-	-	-	-
58.17	4,653.97	121,003.22	61.08	4,886.70	127,054.20	64.14	5,131.01
53.22	4,257.61	110,697.86	55.88	4,470.49	116,232.74	58.68	4,694.02
49.75	3,980.18	103,484.68	52.37	4,189.67	108,931.42	55.13	4,410.18
20.00	1,600.00	41,600.00	-	-	-	-	-
51.68	4,134.64	107,500.64	54.26	4,340.56	112,854.56	56.98	4,558.18
38.27	3,061.96	79,610.96	40.19	3,215.06	83,591.56	42.20	3,375.81
50.00	4,000.00	104,000.00	-	-	-	-	-
17.20	1,376.00	35,776.00	-	-	-	-	-
17.20	1,376.00	35,776.00	-	-	-	-	-
31.46	2,359.17	61,338.42	33.03	2,477.20	64,407.20	34.68	2,601.07
31.46	2,516.64	65,432.64	33.03	2,642.48	68,704.48	34.68	2,774.21
34.60	2,595.16	67,474.16	36.33	2,724.88	70,846.88	38.15	2,861.11
34.60	2,768.30	71,975.80	36.34	2,906.93	75,580.18	38.14	3,051.44
48.09	3,606.73	93,774.98	50.49	3,786.68	98,453.68	53.02	3,976.38

irefighters

n

ociation

d Technical Group

tial Unit

	Step D			Step E		
Annual7	Hourly8	BiWeekly9	Annual10	Hourly11	BiWeekly12	Annual13
109,819.84	55.45	4,436.02	115,336.52	58.21	4,657.02	121,082.52
71,535.36	36.11	2,888.92	75,111.92	37.92	3,033.37	78,867.62
78,688.74	39.72	3,177.85	82,624.10	41.71	3,336.66	86,753.16
-	-	-	-	55.32	4,425.62	115,066.12
-	-	-	-	61.09	4,886.81	127,057.06
91,936.52	46.41	3,712.80	96,532.80	48.73	3,898.43	101,359.18
-	-	-	-	20.52	1,641.60	42,681.60
-	-	-	-	24.05	1,924.00	50,024.00
-	-	-	-	146.23	11,698.45	304,159.70
-	-	-	-	106.21	8,496.84	220,917.84
-	-	-	-	137.84	11,026.88	286,698.88
-	-	-	-	94.06	7,524.59	195,639.34
119,011.10	60.08	4,806.25	124,962.50	63.08	5,046.59	131,211.34
-	-	-	-	99.20	7,935.69	206,327.94
-	-	-	-	111.59	8,927.02	232,102.52
114,099.70	57.60	4,607.82	119,803.32	60.48	4,838.31	125,796.06
-	-	-	-	27.70	2,216.00	57,616.00
91,758.68	49.41	3,705.62	96,346.12	51.88	3,890.93	101,164.18
98,458.36	49.71	3,976.96	103,400.96	52.20	4,175.72	108,568.72
136,863.74	69.09	5,527.19	143,706.94	72.54	5,803.57	150,892.82
131,236.56	66.24	5,299.28	137,781.28	69.55	5,564.14	144,667.64
-	-	-	-	80.63	6,450.48	167,712.48
-	-	-	-	119.88	9,590.18	249,344.68
-	-	-	-	77.57	6,205.42	161,340.92
-	-	-	-	35.00	2,800.00	72,800.00
-	-	-	-	105.45	8,435.67	219,327.42
87,166.04	43.99	3,519.54	91,508.04	46.19	3,695.33	96,078.58
115,502.92	58.31	4,664.57	121,278.82	61.22	4,897.77	127,342.02
-	-	-	-	73.74	5,899.08	153,376.08
-	-	-	-	54.81	4,385.08	114,012.08
-	-	-	-	42.49	3,399.37	88,383.62
-	-	-	-	95.55	7,643.72	198,736.72
-	-	-	-	153.54	12,283.04	319,359.04
-	-	-	-	124.95	9,996.27	259,903.02
-	-	-	-	91.16	7,292.88	189,614.88
-	-	-	-	106.33	8,506.46	221,167.96
-	-	-	-	160.75	12,860.28	334,367.28
101,014.42	50.99	4,079.42	106,064.92	53.54	4,283.25	111,364.50
129,479.48	65.36	5,228.99	135,953.74	68.63	5,490.44	142,751.44
112,107.06	56.59	4,527.36	117,711.36	59.42	4,753.74	123,597.24
96,627.70	48.78	3,902.26	101,458.76	51.22	4,097.40	106,532.40
-	-	-	-	20.87	417.40	10,852.40
-	-	-	-	66.22	5,297.35	137,731.10
102,261.38	51.75	4,140.13	107,643.38	54.48	4,358.04	113,309.04
-	-	-	-	64.20	5,136.36	133,545.36

-	-	-	-	84.97	6,797.43	176,733.18
-	-	-	-	58.22	4,657.94	121,106.44
-	-	-	-	135.02	10,801.85	280,848.10
-	-	-	-	99.85	7,988.17	207,692.42
-	-	-	-	140.61	11,248.83	292,469.58
-	-	-	-	106.33	8,506.46	221,167.96
-	-	-	-	57.04	4,563.31	118,646.06
-	-	-	-	117.62	9,409.89	244,657.14
-	-	-	-	65.55	5,243.62	136,334.12
-	-	-	-	110.27	8,821.50	229,359.00
-	-	-	-	60.76	4,861.06	126,387.56
121,278.56	61.22	4,897.77	127,342.02	64.28	5,142.67	133,709.42
-	-	-	-	73.20	5,855.80	152,250.80
94,644.42	47.78	3,822.16	99,376.16	50.17	4,013.27	104,345.02
85,196.54	43.01	3,440.59	89,455.34	45.16	3,612.64	93,928.64
-	-	-	-	-	-	-
-	-	-	-	-	-	-
-	-	-	-	-	-	-
-	-	-	-	-	-	-
98,993.70	49.97	3,997.82	103,943.32	51.99	4,159.51	108,147.26
-	-	-	-	70.72	5,657.33	147,090.58
121,279.08	61.22	4,897.80	127,342.80	64.28	5,142.67	133,709.42
89,496.68	45.19	3,614.99	93,989.74	47.44	3,795.50	98,683.00
98,458.36	49.71	3,976.96	103,400.96	52.20	4,175.72	108,568.72
110,940.70	56.00	4,480.11	116,482.86	58.81	4,704.78	122,324.28
83,417.62	44.92	3,368.78	87,588.28	47.16	3,537.21	91,967.46
91,758.68	49.41	3,705.62	96,346.12	51.88	3,890.93	101,164.18
103,386.14	55.67	4,175.21	108,555.46	58.45	4,383.99	113,983.74
101,115.82	51.04	4,083.51	106,171.26	53.60	4,287.69	111,479.94
110,909.50	53.32	4,265.75	110,909.50	53.32	4,265.75	110,909.50
110,909.50	38.09	4,265.75	110,909.50	38.09	4,265.75	110,909.50
-	-	-	-	120.39	9,631.05	250,407.30
-	-	-	-	84.97	6,797.75	176,741.50
-	-	-	-	51.65	4,131.85	107,428.10
-	-	-	-	57.04	4,563.31	118,646.06
-	-	-	-	74.89	8,387.47	218,074.22
-	-	-	-	104.84	8,387.47	218,074.22
149,947.20	54.01	6,048.98	157,273.48	56.65	6,344.88	164,966.88
149,947.20	75.61	6,048.98	157,273.48	79.31	6,344.88	164,966.88
-	-	-	-	155.03	12,402.00	322,452.00
132,181.40	47.60	5,331.52	138,619.52	49.92	5,591.52	145,379.52
132,181.40	66.64	5,331.52	138,619.52	69.89	5,591.52	145,379.52
148,043.22	53.32	5,971.30	155,253.80	55.92	6,262.50	162,825.00
151,412.56	76.35	6,108.16	158,812.16	80.09	6,407.00	166,582.00
151,412.56	76.35	6,108.16	158,812.16	80.09	6,407.00	166,582.00
123,513.26	44.48	4,981.49	129,518.74	46.64	5,223.91	135,821.66
123,513.26	62.27	4,981.49	129,518.74	65.30	5,223.91	135,821.66

99,026.72	47.61	3,808.72	99,026.72	47.61	3,808.72	99,026.72
138,334.82	49.81	5,579.27	145,061.02	52.24	5,850.78	152,120.28
-	-	-	-	75.00	6,000.00	156,000.00
85,471.62	43.14	3,451.54	89,740.04	45.31	3,624.57	94,238.82
94,008.20	47.46	3,796.60	98,711.60	49.83	3,986.34	103,644.84
108,117.62	54.57	4,365.78	113,510.28	57.31	4,585.00	119,210.00
80,127.06	43.14	3,235.84	84,131.84	45.30	3,397.65	88,338.90
88,140.00	47.46	3,559.51	92,547.26	49.83	3,737.41	97,172.66
101,358.92	54.58	4,093.33	106,426.58	57.31	4,298.07	111,749.82
119,011.88	60.08	4,806.23	124,961.98	63.08	5,046.61	131,211.86
151,412.56	76.35	6,108.16	158,812.16	80.09	6,407.00	166,582.00
-	-	-	-	88.70	7,096.33	184,504.58
-	-	-	-	55.32	4,425.62	115,066.12
-	-	-	-	61.09	4,886.81	127,057.06
68,643.90	34.65	2,772.17	72,076.42	36.38	2,910.76	75,679.76
-	-	-	-	119.72	9,577.66	249,019.16
-	-	-	-	91.37	7,309.25	190,040.50
83,258.76	42.04	3,363.00	87,438.00	44.13	3,530.71	91,798.46
-	-	-	-	118.15	9,451.62	245,742.12
-	-	-	-	83.28	6,662.19	173,216.94
94,688.62	47.80	3,823.97	99,423.22	50.19	4,015.19	104,394.94
-	-	-	-	70.05	5,604.04	145,705.04
108,191.98	54.62	4,369.29	113,601.54	57.35	4,587.76	119,281.76
97,956.04	49.45	3,955.97	102,855.22	51.92	4,153.72	107,996.72
91,936.52	46.41	3,712.80	96,532.80	48.73	3,898.43	101,359.18
-	-	-	-	22.88	1,830.40	47,590.40
92,066.52	46.48	3,718.22	96,673.72	48.80	3,904.09	101,506.34
55,827.20	28.11	2,248.80	58,468.80	29.43	2,354.40	61,214.40
61,479.60	33.10	2,482.83	64,553.58	34.76	2,606.97	67,781.22
65,577.72	33.10	2,648.35	68,857.10	34.76	2,780.74	72,299.24
67,628.08	36.41	2,731.06	71,007.56	38.24	2,867.65	74,558.90
72,136.22	36.41	2,913.14	75,741.64	38.24	3,058.86	79,530.36
77,770.68	41.88	3,140.75	81,659.50	43.97	3,297.83	85,743.58
82,966.78	41.88	3,350.28	87,107.28	43.97	3,517.40	91,452.40
67,628.08	36.41	2,731.12	71,009.12	38.24	2,867.65	74,558.90
72,787.26	36.74	2,939.14	76,417.64	38.58	3,086.49	80,248.74
74,389.12	40.06	3,004.20	78,109.20	42.06	3,154.42	82,014.92
80,073.50	40.41	3,232.86	84,054.36	42.43	3,394.64	88,260.64
85,548.06	46.06	3,454.83	89,825.58	48.37	3,627.59	94,317.34
-	-	-	-	24.85	1,988.00	51,688.00
-	-	-	-	78.02	6,241.27	162,273.02
91,948.22	46.42	3,713.30	96,545.80	48.74	3,898.97	101,373.22
-	-	-	-	26.09	521.88	13,568.88
62,206.30	31.40	2,512.13	65,315.38	32.97	2,637.75	68,581.50
68,424.46	34.54	2,763.29	71,845.54	36.27	2,901.39	75,436.14
78,688.74	39.72	3,177.85	82,624.10	41.71	3,336.66	86,753.16
119,861.56	60.51	4,840.57	125,854.82	63.53	5,082.57	132,146.82

117,287.56	59.21	4,736.58	123,151.08	62.17	4,973.36	129,307.36
84,039.28	42.42	3,393.91	88,241.66	44.54	3,563.55	92,652.30
140,053.42	70.69	5,655.57	147,044.82	74.28	5,942.06	154,493.56
119,438.28	60.28	4,822.79	125,392.54	63.31	5,064.61	131,679.86
-	-	-	-	92.53	7,402.01	192,452.26
-	-	-	-	1.00	20.00	520.00
-	-	-	-	119.88	9,590.18	249,344.68
-	-	-	-	91.37	7,309.25	190,040.50
87,166.04	43.99	3,519.54	91,508.04	46.19	3,695.33	96,078.58
113,893.78	57.49	4,599.59	119,589.34	60.37	4,829.57	125,568.82
-	-	-	-	139.26	11,140.93	289,664.18
81,638.70	41.21	3,296.96	85,720.96	43.27	3,461.74	90,005.24
89,802.70	45.33	3,626.68	94,293.68	47.60	3,807.93	99,006.18
103,721.80	52.36	4,188.79	108,908.54	54.98	4,398.21	114,353.46
95,235.92	48.08	3,846.09	99,998.34	50.48	4,038.38	104,997.88
183,852.24	92.81	7,424.82	193,045.32	97.45	7,796.04	202,697.04
131,071.98	66.17	5,293.24	137,624.24	69.47	5,557.97	144,507.22
128,258.00	64.75	5,179.61	134,669.86	67.98	5,438.59	141,403.34
158,336.88	79.93	6,394.46	166,255.96	83.93	6,714.18	174,568.68
-	-	-	-	88.61	7,089.04	184,315.04
-	-	-	-	28.15	2,252.00	58,552.00
-	-	-	-	86.47	6,917.76	179,861.76
-	-	-	-	83.02	6,641.91	172,689.66
-	-	-	-	49.22	3,937.64	102,378.64
-	-	-	-	87.94	7,035.20	182,915.20
71,535.88	36.11	2,888.94	75,112.44	37.92	3,033.37	78,867.62
78,688.48	39.72	3,177.86	82,624.36	41.71	3,336.66	86,753.16
-	-	-	-	123.27	9,861.21	256,391.46
-	-	-	-	95.67	7,653.41	198,988.74
-	-	-	-	95.67	7,653.41	198,988.74
115,502.92	58.31	4,664.57	121,278.82	61.22	4,897.77	127,342.02
-	-	-	-	82.04	6,563.32	170,646.32
-	-	-	-	85.32	6,825.86	177,472.36
-	-	-	-	70.79	5,663.24	147,244.24
-	-	-	-	23.96	1,916.80	49,836.80
-	-	-	-	23.96	1,916.80	49,836.80
-	-	-	-	37.64	3,011.20	78,291.20
-	-	-	-	23.96	1,916.80	49,836.80
-	-	-	-	69.01	5,520.64	143,536.64
40,435.20	20.41	1,632.92	42,455.92	21.43	1,714.61	44,579.86
48,012.38	24.24	1,939.01	50,414.26	25.45	2,035.91	52,933.66
55,183.96	27.86	2,228.57	57,942.82	29.25	2,340.04	60,841.04
64,746.24	32.68	2,614.77	67,984.02	34.32	2,745.49	71,382.74
-	-	-	-	125.00	10,000.00	260,000.00
-	-	-	-	125.00	10,000.00	260,000.00
-	-	-	-	57.04	4,563.31	118,646.06
104,240.76	52.75	4,220.27	109,727.02	55.53	4,442.39	115,502.14

-	-	-	-	64.20	5,136.36	133,545.36
86,557.12	43.70	3,495.61	90,885.86	45.88	3,670.35	95,429.10
-	-	-	-	70.92	5,673.86	147,520.36
133,406.00	67.34	5,387.52	140,075.52	70.71	5,656.91	147,079.66
-	-	-	-	63.04	5,042.86	131,114.36
-	-	-	-	61.09	4,886.81	127,057.06
-	-	-	-	66.22	5,297.35	137,731.10
154,061.44	77.77	6,221.41	161,756.66	81.66	6,532.41	169,842.66
-	-	-	-	76.39	6,110.94	158,884.44
133,406.26	67.34	5,387.52	140,075.52	70.71	5,656.91	147,079.66
122,044.52	61.61	4,928.70	128,146.20	64.69	5,175.28	134,557.28
114,664.68	58.03	4,642.30	120,699.80	61.08	4,886.63	127,052.38
-	-	-	-	50.00	4,000.00	104,000.00
118,512.68	59.83	4,786.42	124,446.92	62.82	5,025.25	130,656.50
87,771.06	44.31	3,544.60	92,159.60	46.52	3,721.83	96,767.58
-	-	-	-	125.00	10,000.00	260,000.00
-	-	-	-	26.62	2,129.60	55,369.60
-	-	-	-	26.62	2,129.60	55,369.60
67,627.82	36.41	2,731.06	71,007.56	38.24	2,867.64	74,558.64
72,129.46	36.41	2,912.82	75,733.32	38.24	3,059.31	79,542.06
74,388.86	40.06	3,004.18	78,108.68	42.06	3,154.42	82,014.92
79,337.44	40.06	3,204.80	83,324.80	42.06	3,365.04	87,491.04
103,385.88	55.67	4,175.21	108,555.46	58.45	4,383.99	113,983.74

EXHIBIT A
UNREPRESENTED MANAGEMENT
BENEFITS PACKAGE
Effective December 5, 2023

MISCELLANEOUS EXEMPT CLASSIFICATIONS:

UNREPRESENTED EXECUTIVE STAFF - Assistant City Manager, Deputy City Manager, City Clerk, Building and Housing Director, Economic Development Director, Director of Finance, Human Resources Director, Information Technology Director, Planning Director, Public Works Director, and Recreation and Community Services Director

UNREPRESENTED MANAGEMENT STAFF - Assistant City Attorney*, Assistant Finance Director*, Assistant Director Recreation and Community Services*, Building Official*, City Engineer*, Deputy City Attorney, Deputy Information Technology Director*, Deputy Public Works Director*, Human Resources Manager*, Finance Manager, Housing Authority Administrator, Planning Manager*, Plan Review Manager, Police Support Services Manager, Public Information Officer*, Public Works Manager, Public Works Division Manager - Engineering, Public Works Division Manager - Operations, Public Works Manager - Utilities

POLICE EXEMPT CLASSIFICATIONS:

UNREPRESENTED EXECUTIVE STAFF - Police Chief **UNREPRESENTED MANAGEMENT STAFF** - Assistant Police Chief* and Police Captain

FIRE EXEMPT CLASSIFICATIONS:

UNREPRESENTED EXECUTIVE STAFF - Fire Chief **UNREPRESENTED MANAGEMENT STAFF** - Deputy Fire Chief*, Chief Fire Enforcement Officer, and Assistant Fire Marshal

***2nd in charge**

BENEFITS	DESCRIPTION	ELIGIBLE
MERIT INCREASES	Employees are eligible for merit-based salary increases annually, provided they are not at the maximum of their compensation range. The City manager will have the authority to recommend the amount of the merit increase.	All
HEALTH PLANS	The City provides CalPERS medical coverage. City paid premium is capped at the Kaiser rates for each level of coverage. Only active employees who have eligible dependents enrolled in the plan are eligible for City-paid premium above the single plan rate.	All
HEALTH PLAN WAIVER	Employees who are covered as an eligible dependent under another health insurance plan may waive health converge and receive a total of \$250 per month in lieu of medical plan coverage with appropriate documentation. (no change since 1999)	All
LIFE INSURANCE	\$50,000 for full-time employees	All
SHORT TERM DISABILITY	City provides a plan similar to State Disability Insurance	Miscellaneous
	Police: Covered under the MPOA Trust Fund	Police Captains Only
	Fire: None (See Family Leave provision)	Fire
LONG TERM DISABILITY	After the first 60 days, coverage at 60% of base salary up to \$1,500 per month. Additional buy-up options are available.	Miscellaneous
	Coverage for Police is provided through California Law Enforcement Association (CLEA).	Police
	Coverage for Fire is provided through California Association of Professional Firefighters (CAPFF).	Fire
DENTAL--Misc and Fire	City provides a self-funded Delta Dental plan with graduated benefits based on years of service, including preventative, routine, major, and orthodontia.	Miscellaneous and Fire
DENTAL--Police	City provides Delta Dental coverage.	Police
VISION	City provides a vision plan for eye examination, lenses and frames.	All
TRUST FUND	\$50 per month contribution into the MPOA Trust Fund for spousal/dependent coverage and Short Term Disability coverage	Police Captains Only
DEFERRED COMPENSATION--SECTION 457 PLAN	City provides \$900 per year toward deferred compensation (no change since 1999), with contributions being pro-rated per pay period (approximately \$34.62 per pay period). Employees are eligible to voluntarily participate in the plan.	Unrepresented Management Staff
DEFERRED COMPENSATION--SECTION 457 PLAN	Employees are eligible to voluntarily participate in the plan.	Unrepresented Executive Staff
401a	The City provides a 401a plan with a 1% employee contribution upon initial enrollment, increasing by 0.25% each subsequent July 1, up to a maximum of 5% employee contribution. Enrolled participants shall have the value of vacation accruals over 260 hours put into their 401a effective the pay period including June 1 of each year. Upon separation enrolled participants shall have one-half of vacation pay put into the plan. City contributes \$900 per year into the 401a plan, with contributions being pro-rated per pay period (approximately \$34.62 per pay period).	Unrepresented Executive Staff
FLEXIBLE SPENDING PLAN	City offers employees who wish to participate a pre-tax deduction for an IRS Section 125 plan for medical expenses, premiums; child or elder care expenses; or traffic and vanpooling.	All

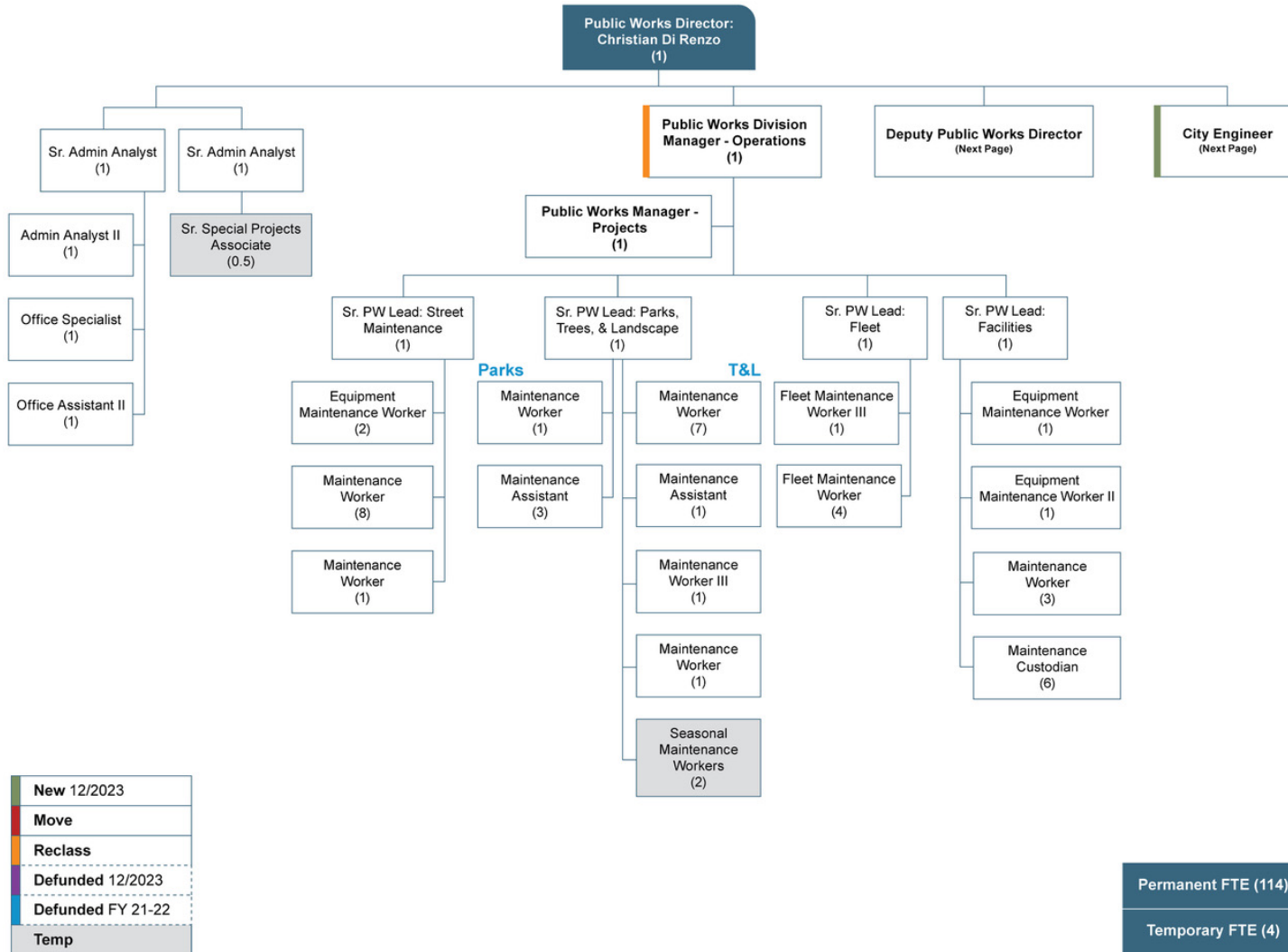
BENEFITS	DESCRIPTION	ELIGIBLE
EMPLOYEE ASSISTANCE PROGRAM (EAP)	City offered plan: 5 visits per incident per calendar year for Unrepresented Miscellaneous & Fire employees.	Miscellaneous & Fire
	City offered plan: 15 visits per calendar year for Unrepresented Police employees.	Police
VACATION LEAVE ACCRUALS	40 hour employees: <u>Years of Service</u> <u>Yearly Accruals</u>	All
	1-4 16 Days	
	5-9 21 Days	
	10-14 26 Days	
	15-19 31 Days	
	20 + 36 Days	
VACATION CARRYOVER RATE	Maximum number of hours that can be carried over is 260 hours for 40 -hour employees. Accruals in excess of maximum will be cashed out at the end of the pay period including June 1.	Unrepresented Management & Fire
	Maximum number of hours that can be carried over is 260 hours. Accruals in excess of the maximum will be cashed out effective the end of the pay period including June 1. The value of accruals in excess of the maximum will be deposited into the 401a plan effective the end of the pay period including June 1.	Unrepresented Executive Staff
	336 hours for Police Management employees. Hours over maximum will be cashed out at the end of the pay period including June 1.	Police
	City Manager may authorize approval to carry over vacation hours in excess of the maximum.	Unrepresented Management
VACATION CASH-OUT PER IRS CONSTRUCTIVE RECEIPT	Unrepresented Employees may elect to cash out up to 80 hours of accrued vacation hours each calendar year.	Unrepresented Management & Fire
VACATION CASH-OUT PER IRS CONSTRUCTIVE RECEIPT	Unrepresented Executive Employees may elect to cash out any hours above 260 or up to 80 hours of accrued vacation hours each calendar year, whichever is greater.	Unrepresented Executive Staff
VACATION ACCRUAL	Accrual tier will be based on total years of public service.	All
VACATION USE	No minimum waiting period for use of accrued vacation.	All
MANAGEMENT INCENTIVE PAID (MIP) LEAVE	Eligible employees will accrue 5 hours of Management Incentive Paid Leave (MIP) for each full pay period worked. Maximum carryover is 260 hours. Hours cannot be cashed out during employment, or at separation.	Executive Staff & 2nd in charge
MANAGEMENT LEAVE	Eligible employees will receive 40 hours of Management Leave added to their Floating Holiday Bank on the pay period following December 31. Employees appointed mid-year will receive pro-rated amount based on date of hire/promotion. Hours can be taken in any increment. There is no annual carryover and hours cannot be cashed out during employment, or at separation. An additional 40 hours of Management Leave can be earned with Department Head recommendation and City Manager approval upon annual evaluation for past performance.	Unrepresented Staff Only (Staff that receive MIP are not eligible for Management Leave)
SICK LEAVE ACCRUALS	12 work days per year. 8 hours = 1 work day	All
SICK LEAVE PAY-OFF--Separating Employees (Not Retiring)	Employees hired prior to July 18, 1999, with 5 years of service, separating in "good standing" as determined by the City Manager may elect to cash in sick leave using this formula: 2.5% x Yrs. of Service x highest hourly rate x sick leave hours accrued.	Miscellaneous
	Employees hired after January 1, 1995, with 5 years of service, separating in "good standing" as determined by the City Manager may use this formula:	Fire
	After 4th year: .25%/year x hourly rate x accrued sick leave	
	After 9th year: .50%/year x hourly rate x accrued sick leave	
	After 14th year: .75%/year x hourly rate x accrued sick leave	
	After 19th year: 1.0%/year x hourly rate x accrued sick leave	
	Employees hired after July 18, 1999, with 5 years of service, separating in "good standing"	Police
	After 4th year: .25%/year x hourly rate x accrued sick leave	
	After 9th year: .50%/year x hourly rate x accrued sick leave	
	After 14th year: .75%/year x hourly rate x accrued sick leave	
	After 19th year: 1.0%/year x hourly rate x accrued sick leave	

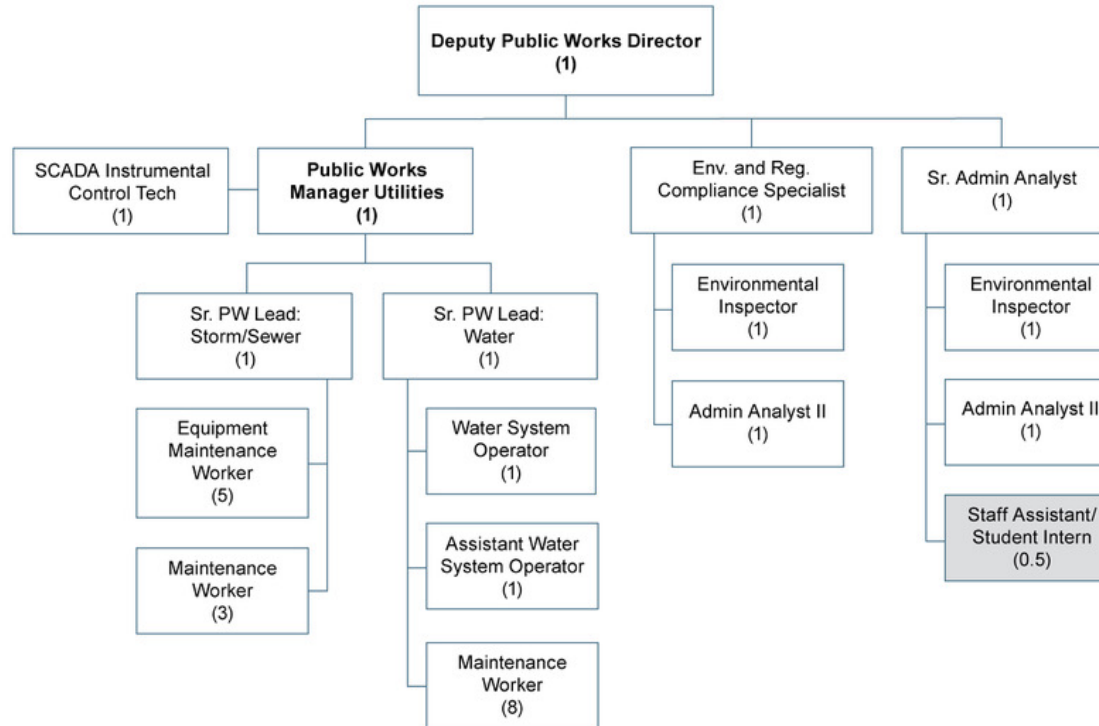
BENEFITS	DESCRIPTION	ELIGIBLE
SICK LEAVE CASH OUT PER IRS CONSTRUCTIVE RECEIPT	In January, an employee with 5 years of service may elect sick leave cash-out in accordance with the terms in Sick Leave Pay-Off above.	Fire
	For employees hired on or before 7/17/99, each November, an employee with 5 or more years of service may elect to cash out accrued sick leave. Payout shall be in accordance with appropriate pay out formulas. The maximum annual amount shall not exceed 50% of employees sick leave balance. Employees eligible for this benefit shall at all times maintain a sick leave balance of at least 240 hours .	Miscellaneous & Police
HOLIDAYS	The City observes 12 holidays: January 1 (New Years), Third Monday in January (Dr. Martin Luther King's Birthday), Third Monday in February (Washington's Birthday), March 31, Cesar Chavez Day, Last Monday in May (Memorial Day), July 4, First Monday in September (Labor Day), November 11 (Veterans Day), Thanksgiving Day, Day After Thanksgiving, Christmas Eve, Christmas Day.	All
FLOATING HOLIDAY	Each calendar year 8 hours of floating holiday to be used by December 31 of each year otherwise it will be lost.	All
FITNESS PROGRAM	Offers employees free access to City-sponsored sports and fitness programs.	All
TUITION & TRAINING	City provides reimbursement for education up to \$3,000 per year. Work related training costs including transportation and lodging expenses.	All
MILEAGE REIMBURSEMENT	Use of personal vehicle for City business will be reimbursed at the IRS established rate. Not eligible for Mileage Reimbursement if receiving a car allowance.	All
CAR ALLOWANCE	\$550 per month	Unrepresented Executive Staff
CALPERS RETIREMENT	2.7% at 55 Retirement Plan including the final year compensation amendment for those employed before 10/9/2011. (Employee pays 8% contribution rate).	Miscellaneous
	Tier 2 (Classic): 2% at 60 Retirement Plan including the final three-year compensation average for those Classic employees hired on or after 10/9/2011. (Employee pays 7% contribution rate).	Miscellaneous
	Tier 3 (PEPRA): 2% at 62 Retirement Plan including the final three-year average compensation for employees hired on or after 01/01/2013. (Employee contribution rate as stated in CalPERS actuarial report).	Miscellaneous
	3.0% at 50 Plan, The 1959 Survivors Benefit in full force and effect. (Fire pays 12%; Police pays 9%).	Police & Fire
	Tier 2 (Classic): 3.0% at 55 Plan, Effective 4/8/2012. Including three-year compensation average; The 1959 Survivors Benefit in full force and effect. (Police pays 9%; Fire pays 12%).	Police & Fire
	Tier 3 (PEPRA): 2.7% at 57 Plan, Effective 1/1/2013. Including three-year compensation average; The 1959 Survivors Benefit in full force and effect. (Employee contribution rate as stated in CalPERS actuarial report).	Police & Fire
PERS ENHANCEMENTS	Military Service Buy-back (GC 21024)	All
	PERS Credit for Unused Sick Leave (GC 20965)	All
	Death Benefit (GC 21620)	All
	Prior Service Credit (GC20055)	All
	1959 Survivor's Benefit (GC21573)	All
EYEGLOSS REIMBURSEMENT	Reimbursement up to \$175 per fiscal year for eyeglasses and \$200 for bifocals when prescribed by a physician for use at a video display terminal provided the glasses are not covered by health or vision plan first.	All
SAFETY EQUIPMENT	The City shall furnish appropriate safety equipment, the employee shall maintain in good order, and is the City's property.	Fire
UNIFORM ALLOWANCE	\$1,000 per year for 40 hour employees plus one pair of safety shoes every 2 years.	Fire
	\$1,350 per year for 40 hour employees.	Police
FAMILY LEAVE	Up to 80 hours of sick leave to care for a family member including: mother, father, spouse, registered domestic partner, brother, sister, son/daughter, grandparents, or domestic partner, whether the immediate family member is of the employee's or spouse's family, including step or adopted relatives. It also includes concurrent use of sick leave accruals for self or other accruals for eligible family members under FMLA or CREA.	All
	Fire personnel may use 14 days of accrued sick leave (without medical note) for birth or adoption of a child.	Fire

BENEFITS	DESCRIPTION	ELIGIBLE
FAMILY LEAVE (continued)	Fire Unrep may use available sick leave for family medical purposes including same members as above. The use of family leave shall be limited to 80 hours per calendar year. Family medical purposes shall mean illness, accident, medical appointments or other related occurrences. Fire Unrep may take up to four months unpaid family or medical leave within a 24 month period, unless they qualify for FMLA/CFRA and this benefit is greater for the following: Birth, adoption, or serious illness of a child; self, parent, spouse, or registered domestic partner of an employee. City will provide benefit coverage for up to 4 months and employee may elect to continue benefits at his/her own expense for up to an additional 18 months. Available leave balances must be exhausted first prior to leave without pay.	Fire
COMPASSIONATE LEAVE	City provides up to 40 hours of paid leave in the event of the death of an eligible family member (same family members as in Family Leave).	All
MILITARY LEAVE	Paid military leave is provided for active and temporary duty in accordance with City policy and provisions of the State and Federal Laws.	All
JURY LEAVE	City provides paid time upon jury summons if called to duty.	All
LEAVE OF ABSENCE	An unpaid personal leave of absence is available upon approval of the City Manager.	All
FMLA/CFRA	Employees may take up to 12 weeks paid/unpaid family or medical leave under Family Medical Leave Act (FMLA) or California Family Rights Act (CFRA) within a 12 month period for the following: birth or adoption; serious illness of a child, self, parent or spouse; or baby bonding. Employee must exhaust available leave balances to qualify for leave without pay. Benefits will be covered during FMLA/CFRA leave.	All
WORKERS COMPENSATION	First 80 hours of lost work time is covered at 100% pay; next 240 hours at 80% pay. Sworn Police and Fire employees are eligible for up to one year paid workers' compensation leave per labor code 4850.	All Sworn Police and Fire
MEDICARE	Both City and employee contribute, if hired after March 31, 1986.	All
SEVERANCE PAY	If employee is terminated for reasons other than "for cause" employee would be eligible for up to 16 weeks of salary plus benefits, depending on date of hire. For additional details, see Muni Code section VI-3-4.00 - Severance Payments for Specified At-Will Positions.	All
RETIREMENT BENEFITS		
ELIGIBILITY CRITERIA	Eligibility for retiree benefits is predicated upon retirement from CalPERS Retirement System.	All
SICK LEAVE CASH-OUT	Upon retirement, disability retirement, or death, for those employees who were hired on or before 7/17/99, and who had at least 5 years of service, the City shall pay retiree or estate for unused accrued sick leave using this formula: 2.5% x years of service x highest hourly rate x sick leave hours.	Miscellaneous and Police
	Upon retirement, disability retirement, or death, for those employees who were hired on or before 1/1/95, and who had at least 5 years of service, the City shall pay retiree or estate for unused accrued sick leave using this formula: 2.5% x years of service x highest hourly rate x sick leave hours.	Fire
	Employees hired after January 1, 1995, with 5 years of service, separating in "good standing" as determined by the City Manager may use this formula:	Fire
	After 4th year: .25%/year x hourly rate x accrued sick leave	
	After 9th year: .50%/year x hourly rate x accrued sick leave	
	After 14th year: .75%/year x hourly rate x accrued sick leave	
	After 19th year: 1.0%/year x hourly rate x accrued sick leave	
	Employees hired after July 18, 1999, with 5 years of service, separating in "good standing" as determined by the City Manager may use this formula:	Police
	After 4th year: .25%/year x hourly rate x accrued sick leave	
	After 9th year: .50%/year x hourly rate x accrued sick leave	
	After 14th year: .75%/year x hourly rate x accrued sick leave	
	After 19th year: 1.0%/year x hourly rate x accrued sick leave	
SICK LEAVE CREDIT	Upon retiring with PERS, all employees shall be eligible for the PERS Credit for Unused Sick Leave provision (20965). Employees hired prior to July 17, 1999 may choose a cash out or Credit for Unused Sick Leave.	All
RETIREMENT MEDICAL COVERAGE	See Unrepresented Employee Benefit Handbook	All

BENEFITS	DESCRIPTION	ELIGIBLE
DISABILITY RETIREMENT	For Medical Coverage: employees on disability retirement who had at least 5 years of full-time or equivalent service with the City and retired after June 30, 2003, the City agrees to contribute up to "the retiree cap amount" or until the retiree is re-employed.	Police
RETIREE DENTAL	Benefits may be continued at the retiree's expense 50% of City's Premium. Benefits may be continued at the retiree's expense.	Miscellaneous and Fire Police
RETIREE VISION	Benefits may be continued at the retiree's expense.	All
RETIREE SPOUSAL/ DEPENDENT MEDICAL PLAN	1% of payroll plus benefits contributed to a specific fund to assist in paying for spousal/dependent medical premiums for each of the following groups: Miscellaneous Unrep, Police Unrep and Fire Unrep. If fund is depleted, reimbursement will end for FY. See Dependent Benefits Grid	All All
SAFETY EQUIPMENT	Upon retirement, the city shall give a command officer his/her service weapon and holsters without charge if either (1) the Milpitas Police Chief endorses an identification certificate approving the officer carrying a concealed and loaded firearm or (2) a hearing board determines that, under Penal Code section 12027.1, at the time the officer retired from the Milpitas Police Department, the employee had a right to a certificate permitting the carrying of a concealed and loaded firearm.	Police

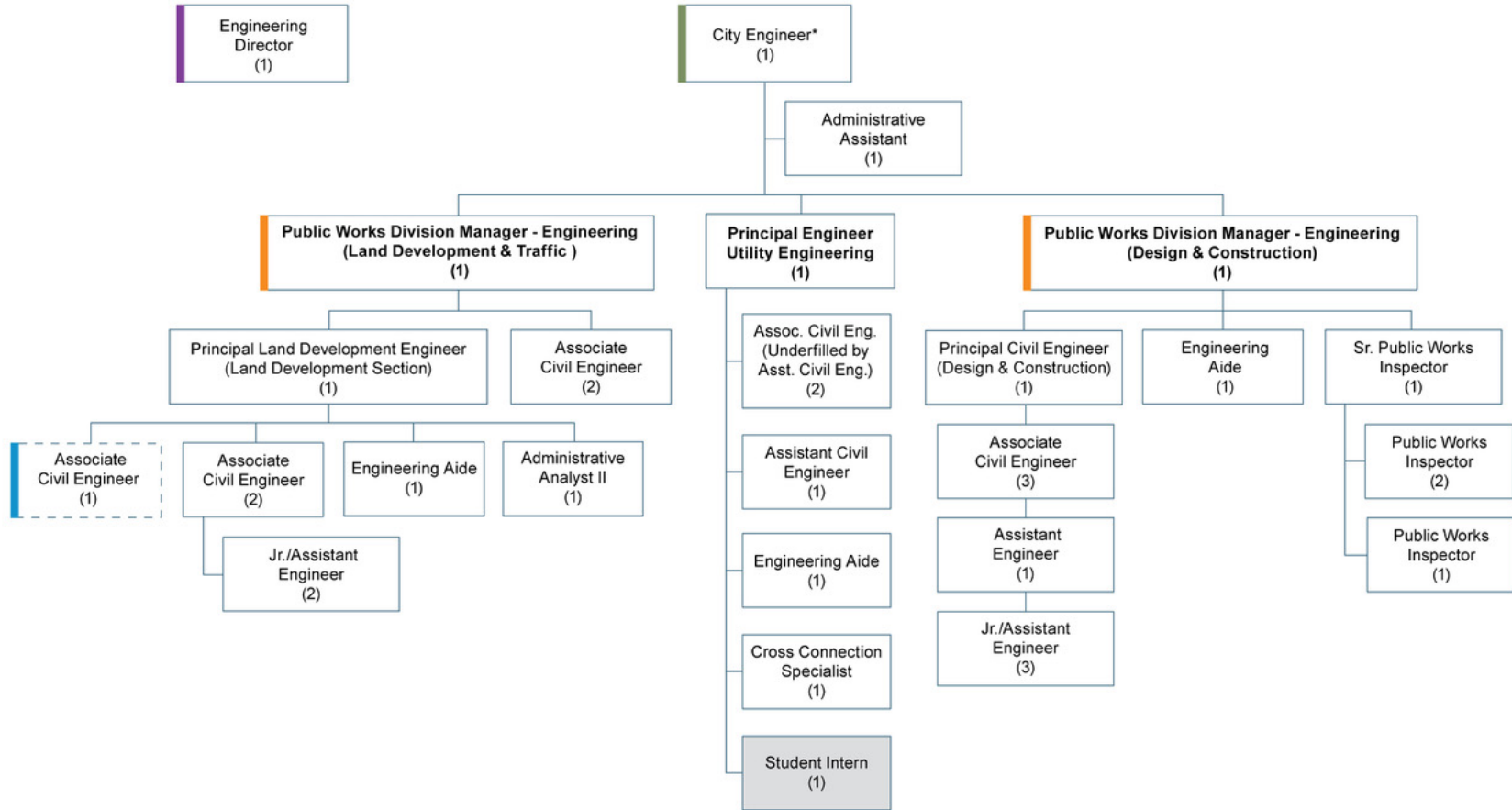
Attachment 5 – Revised Organization Charts





New 12/2023
Move
Reclass
Defunded 12/2023
Defunded FY 21-22
Temp

Permanent FTE (114)
Temporary FTE (4)



New 12/2023
Move
Reclass
Defunded 12/2023
Defunded FY 21-22
Temp

*Partially funded for 6 months

Permanent FTE (114)

Temporary FTE (4)



CITY OF MILPITAS AGENDA REPORT (AR)

Item Title:	Elect Vice Mayor (Contact: Matt Cano, Deputy City Manager, 408-586-3012)
Category:	Leadership and Support Services
Meeting Date:	12/12/2023
Recommendation:	Move to nominate and appoint by majority vote the Vice Mayor for the City of Milpitas to serve a one year term.

BACKGROUND:

Per the attached agenda and meeting minutes, at the City Council meeting conducted on December 20, 2022, newly elected Councilmembers were seated, and a new Vice Mayor selected from among members of the City Council. Evelyn Chua was unanimously approved as the Vice Mayor for a one-year term. Per the City of Milpitas City Council Handbook, the Vice Mayor nomination is done through a motion and appointment is based on a majority vote.

POLICY ALTERNATIVE(S):

Not applicable

FISCAL IMPACT:

There is no fiscal impact to the City's operating budget.

CALIFORNIA ENVIRONMENTAL QUALITY ACT (CEQA):

This item is not a project under the California Environmental Quality Act (CEQA) Guideline 15378(b).

RECOMMENDATION:

Move to nominate and appoint by majority vote the Vice Mayor for the City of Milpitas to serve a one year term.

ATTACHMENT(S):

December 20, 2022 Agenda and Approved Minutes



SPECIAL MEETING OF THE MILPITAS CITY COUNCIL

AGENDA

TUESDAY, DECEMBER 20, 2022

**CITY COUNCIL CHAMBERS, 455 E CALAVERAS BLVD, MILPITAS, CA
6:00 PM (PUBLIC BUSINESS)**

For assistance in the following languages, you may call:

Đối với Việt Nam, gọi 408-586-2400

Para sa Tagalog, tumawag sa 408-586-3051

Para español, llame 408-586-3072

The City Council meeting is held in the City Council Chamber at City Hall, 455 E. Calaveras Blvd., Milpitas and via teleconference/Zoom webinar.

You may watch the Council meeting without providing public comment by accessing it via links here.

Meeting shall be livestreamed - Go to:

Facebook: <https://www.facebook.com/CityofMilpitas/>

YouTube: <https://www.milpitas.gov/youtube>

Web Streaming: <https://www.milpitas.gov/webstreaming>

PUBLIC COMMENT INSTRUCTIONS

Public comments may be provided live during the City Council meeting in person or by registering for the zoom meeting in advance. To register you will need to provide an email address (not disclosed) and a name. To minimize technical difficulties, please make sure that you have the latest version of the Zoom Application. Below is the link to register for this meeting only:

https://ci-milpitas-ca-gov.zoom.us/webinar/register/WN_T61VWxrtRmKdHbO6_WJK7g

After you register a link will be sent to you to join the City Council meeting in order to give your comments. All Zoom meeting attendees who wish to speak must click on the "raise hand" icon when the Mayor calls for public comments. If participating via phone, dial *9 to use the "raise hand" feature, and when called to speak, dial *6 to unmute your phone. Your phone number will be displayed in the live meeting. The Mayor will call speakers by name to address the City Council.

All comments provided shall be limited to three minutes or less as determined by the Mayor. All members of the public will be limited to one comment per agenda item, and one comment for non-agenda items.

NOTE: If a member of the public wishes to share any presentation materials for Council consideration, they must be submitted to the Clerk's Office by email to CityClerk@milpitas.gov by 12:00 p.m. on the day of the meeting. No presentations will be accepted in person in the Council Chambers.

MILPITAS CITY COUNCIL CODE OF CONDUCT

- Be respectful and courteous (words, tone, and body language).
- Model civility.
- Avoid surprises.
- Praise publicly and criticize privately.
- Focus on the issue, not the person.
- Refrain from using electronic devices while on the Council dais.
- Disclose conflicts of interest and affiliations related to agenda items.
- Separate governing from campaigning.
- The Council speaks with one voice after making policy on issues.
- Respect the line between policy and administration.
- Council will hold one another accountable to comply with this Code of Conduct.

CALL MEETING TO ORDER by Mayor and ROLL CALL by City Clerk (6:00 PM)

PLEDGE OF ALLEGIANCE

INVOCATION (Mayor Elect Montano)

AGENDA ITEMS (6:10 PM)

1. **Receive Report of Municipal Election Results of November 8, 2022, and Adopt a Resolution to Certify Final Results of Candidate and Ballot Measure Election (Staff Contact: Suzanne Guzzetta, City Clerk, 408-586-3001)**

Recommendation: (1) Receive the report of election results and voter turnout; and (2) Adopt a resolution confirming the official canvass of election returns and declaring the results of the General Municipal Election held on November 8, 2022.

2. **Presentation to Outgoing Mayor and Councilmember and Remarks**

3. **Ceremonial Swearing-In of Newly Elected City Officials**

- Mayor Carmen Montano
- City Councilmember Garry Barbadillo
- City Councilmember Hon Lien

*****There will be a short break prior to the next item*****

4. **Elect New Vice Mayor (Contact: Mayor Carmen Montano, 408-586-3029)**

Recommendation: Receive recommendation from Mayor Montano of one City Councilmember to serve as Milpitas Vice Mayor for one year, and move to approve the new Vice Mayor.

PUBLIC FORUM (7:05 PM)

Members of the public are invited to speak on any item that does not appear on today's agenda. Comments will be limited to three minutes or less at the Mayor's discretion. When called to speak, you are encouraged to state your name for the record. As an item not listed on the agenda, no action can be taken, however the City Council may instruct the City Manager to place the item on a future meeting agenda.

ANNOUNCEMENT OF CONFLICT OF INTEREST AND CAMPAIGN CONTRIBUTIONS

READING OF THE CITY COUNCIL CODE OF CONDUCT (Mayor Montano)

APPROVAL OF AGENDA

CONSENT CALENDAR (7:35 PM)

Consent calendar items are considered to be routine and will be considered for adoption by one motion. There will be no separate discussion of these items unless a City Councilmember, member of the audience or staff requests the Council to remove an item from (or be added to) the consent calendar. Any person desiring to speak on any item on the consent calendar should ask to have that item removed from the consent calendar.

- C5. **Receive City Council Calendar of Meetings for December 2022 and January 2023 (Staff Contact: Suzanne Guzzetta, City Clerk, 408-586-3001)**

Recommendation: Receive City Council Calendar of Meetings for December 2022 and January 2023.

- C6. **Approve City Council City Council Regular Meeting Minutes of December 6, 2022 (Staff Contact: Suzanne Guzzetta, City Clerk, 408-586-3001)**

Recommendation: Approve City Council Regular Meeting minutes of December 6, 2022.

- C7. Receive the Preview List of Anticipated Items for the Next Regular City Council Meeting (Staff Contact: Suzanne Guzzetta, City Clerk, 408-586-3001)**

Recommendation: Receive the list of anticipated agenda items for the next regular City Council meeting.

- C8. Receive and Review the List of Agenda Items Requested by City Councilmembers (Staff Contact: Suzanne Guzzetta, City Clerk, 408-586-3001)**

Recommendation: Review the list of items that have been requested by City Councilmembers and provide direction to staff as necessary. No substantive discussion about any specific item shall occur and the City Council shall hold all debate about the item until it is scheduled as a full agenda item.

- C9. Reconfirm Findings and Determinations Under Resolution No. 9165 and Assembly Bill 361 for the Continuation of Virtual Meetings of the City Council and Legislative Bodies (Staff Contact: Michael Mutalipassi, City Attorney, 408-586-3040)**

Recommendation: Move to reconfirm findings and determinations under Resolution No. 9165 and Assembly Bill 361 for the continuation of virtual meetings of the City Council and Legislative Bodies.

- C10. Approve and Authorize the City Manager to Execute an Encroachment and Maintenance Agreement with Milpitas – District 4 Owner, LLC, for the Perpetual Maintenance and Operation of Private Sidewalk Lighting Improvements within the City Right-of-Way Located at 150 Market Street (Staff Contact: Steve Erickson, Engineering Director / City Engineer, 408-586-3301; and Roberto Alonzo, Principal Civil Engineer, 408-586-3316)**

Recommendation: Approve and authorize the City Manager to execute an Encroachment and Maintenance Agreement with Milpitas – District 4 Owner, LLC, for the perpetual maintenance and operation of private sidewalk lighting improvements within the city right-of-way located at 150 Market Street.

- C11. Adopt a Resolution Reviewing and Accepting the Annual Development Impact Fee Annual Report for the Calaveras Boulevard Widening Traffic Impact Fee, the Transit Area Specific Plan (TASP) Impact Fee, and the Storm Drain Fee for the Fiscal Year Ended June 30, 2022 (Staff Contact: Lauren Lai, Finance Director, 408-586-3111)**

Recommendation: Adopt a resolution consistent with the Mitigation Fee Act to review and accept the annual development impact fee disclosure information for the Calaveras Blvd Widening Traffic Impact Fee, Transit Area Specific Plan Impact Fee and Storm Drain Fee for the Fiscal Year Ended June 30, 2022.

- C12. Adopt a Resolution Authorizing the City Manager to Issue a Purchase Order in the Amount of \$297,573.91 for the Purchase of Five Police Vehicles from the National Auto Fleet Group through a Cooperative Procurement Contract with Sourcewell (Staff Contact: Jared Hernandez, Police Chief, 408-586-2406; and Chris Schroeder, Purchasing Agent, 408-586-3161)**

Recommendation: Adopt a resolution authorizing the City Manager to issue a purchase order in the amount of \$297,573.91 for the purchase of five police vehicles from the National Auto Fleet Group through a Cooperative Procurement Contract with Sourcewell and find a CEQA exemption.

- C13. Adopt a Resolution Authorizing the City Manager to Execute the Five-Year Sole Source Agreement with Hadronex, Inc. Doing Business as SmartCover Systems for Alert System**

Services Related to the Deployment of SmartLevel Sewer Monitoring System Units for a Not-to-Exceed Amount of \$209,835.85, Subject to the Annual Appropriation of Funds (Staff Contact: Christian Di Renzo, Public Works Director, 408-586-2602)

Recommendation: Adopt a resolution authorizing the City Manager to execute the five-year sole source agreement with Hadronex, Inc. doing business as SmartCovers Systems for alert system services related to the deployment of SmartLevel Sewer Monitoring System units for the not-to-exceed amount of \$209,835.85, subject to the annual appropriation of funds and approval as to form by the City Attorney, and find a CEQA exemption.

C14. Accept a State of California Parks and Recreation grant in the amount of \$224,543.00 for Sunnyhills Albert Augustine Jr. Memorial Park and Appropriate the Funds to CIP No. 3500 (Staff Contact: Renee Lorentzen, Recreation and Community Services Director, 408-586-3409)

Recommendation: Accept a State of California Parks grant in the amount of \$224,543.00 for Sunnyhills Albert Augustine Jr. Memorial Park and appropriate the funds to CIP No. 3500 and find all potential significant effects sufficiently analyzed by the December 14, 2021 Negative Declaration.

ANNOUNCEMENTS AND FUTURE AGENDA ITEMS (7:40 PM)

Members of the City Council or City Manager may make brief announcements at this time. Members of the City Council may also suggest future agenda items. For future agenda items, the City Council shall not debate the topic or engage in discussion but shall simply state a “yes” or “no” as whether to move the item forward. If a majority of the City Council agrees to move the item forward, the City Manager shall place the item on a future agenda.

ADJOURNMENT (7:45 PM)

KNOW YOUR RIGHTS UNDER THE OPEN GOVERNMENT ORDINANCE

Government's duty is to serve the public, reaching its decisions in full view of the public. Commissions and other City agencies exist to conduct the people's business. This ordinance assures that deliberations are conducted before the people and City operations are open to the people's review. For more information on your rights under the Open Government Ordinance or to report a violation, contact the City Attorney's office at Milpitas City Hall, 455 E. Calaveras Blvd., Milpitas, CA 95035
e-mail: mmutalipassi@milpitas.gov / Phone: 408-586-3040

The Open Government Ordinance is codified in the Milpitas Municipal Code as Title I Chapter 310 and is available online at the City's website www.milpitas.gov by selecting the Milpitas Municipal Code link.

Materials related to an item on this agenda submitted to the City Council after initial distribution of the agenda packet are available for public inspection at the City Clerk's office at Milpitas City Hall, 3rd floor 455 E. Calaveras Blvd., Milpitas and on City website. City Council agendas and related materials can be viewed online: www.milpitas.gov/government/council/agenda_minutes.asp (select meeting date)

APPLY TO SERVE ON A CITY COMMISSION

Commission application forms are available online at www.milpitas.gov or at Milpitas City Hall. Contact the City Clerk's Office at 408-586-3001 for more information.

If you need assistance, per the Americans with Disabilities Act, for any City of Milpitas public meeting, please call the City Clerk at 408-586-3001 or send an e-mail to CityClerk@milpitas.gov prior to the meeting. You may request a larger font agenda.



SPECIAL MEETING OF THE MILPITAS CITY COUNCIL

MINUTES

TUESDAY, DECEMBER 20, 2022

CITY COUNCIL CHAMBERS, 455 E CALAVERAS BLVD, MILPITAS, CA

6:00 PM (PUBLIC BUSINESS)

The City Council of the City of Milpitas convened in a Special City Council meeting on December 20, 2022, in the City Council Chamber at City Hall, 455 E. Calaveras Blvd., Milpitas, and via teleconference/Zoom webinar.

CALL MEETING TO ORDER by Mayor and ROLL CALL by City Clerk

Mayor Tran called the Regular City Council meeting to order at 6:02 PM. Roll Call was taken by City Clerk Guzzetta.

PRESENT: Mayor Tran, Vice Mayor Montano, Councilmembers Chua, Dominguez, and Phan (6:07 PM)

ABSENT: None.

PLEDGE OF ALLEGIANCE

Milpitas High School Naval Junior Reserve Officer Training Corps posted the colors and led the Pledge of Allegiance.

INVOCATION

Mayor Elect Montano invited the staff and City Council to sing We Wish You a Merry Christmas

AGENDA ITEMS

- 1. Receive Report of Municipal Election Results of November 8, 2022, and Adopt a Resolution to Certify Final Results of Candidate and Ballot Measure Election (Staff Contact: Suzanne Guzzetta, City Clerk, 408-586-3001)**

City Clerk Guzzetta presented the report.

There were no public speakers.

Motion: to receive the report of election results and voter turnout and to adopt **Resolution No. 9206** confirming the official canvass of election returns and declaring the results of the General Municipal Election held on November 8, 2022.

Motion/Second: Mayor Tran / Councilmember Chua

Motion carried by the following:

AYES: Councilmembers Chua, Dominguez, Phan, Vice Mayor Montano, Mayor Tran

NOES: None

- 2. Presentation to Outgoing Mayor and Councilmember and Remarks**

City Manager McHarris presented flags that were flown over the City Civic Center to Councilmember Dominguez and Mayor Tran and offered remarks on their service to the City of Milpitas.

Mayor Tran spoke on his service as Mayor of the City of Milpitas.

3. Ceremonial Swearing-In of Newly Elected City Officials

- **Mayor Carmen Montano**
Dr. Jennifer JMB Chapman administered the ceremonial oath of office to Mayor Carmen Montano. Mayor Montano thanked the community, spoke on the election, and recognized supporters.
- **City Councilmember Garry Barbadillo**
Fred Barbadillo administered the ceremonial oath of office to Councilmember Garry Barbadillo. Councilmember Barbadillo provided remarks on his election and thanked supporters and staff.
- **City Councilmember Hon Lien**
Sydney Doa administered the ceremonial oath of office to Councilmember Hon Lien. Councilmember Lien thanked the community for their support and spoke on what she hopes to achieve as a member of the City Council.

Outgoing Mayor Rich Tran entrusted the gavel to incoming Mayor Carmen Montano and ceded the dais. Mayor Montano announced a recess at 6:59 PM for a short reception. During the break, City Clerk Guzzetta administered the official oath of office to the three newly elected officials and each were provided a signed Certificate of Election.

Mayor Montano reconvened the City Council at 7:47 PM. Roll Call was taken by City Clerk Guzzetta.

PRESENT: Mayor Montano, Councilmembers Barbadillo, Chua, Lien, and Phan

ABSENT: None.

AGENDA ITEMS (CONT'D.)

4. Elect New Vice Mayor (Contact: Mayor Carmen Montano, 408-586-3029)

Mayor Montano recommended Councilmember Evelyn Chua to serve as Milpitas Vice Mayor for a one-year term and made a motion to approve the new Vice Mayor Evelyn Chua.

Motion/Second: Mayor Montano / Councilmember Phan

Motion carried by the following:

AYES: Councilmembers Barbadillo, Lien, Phan, Vice Mayor Chua, Mayor Montano

NOES: None

PUBLIC FORUM

The following people spoke under Public Forum:

1. Stephen Balsbaugh
2. Van Lan Truong
3. Hang Nguyen
4. Thu Tran
5. Hien La
6. Tuyet Lam
7. Khai Tran
8. Keira Huynh
9. Vicky Zhou
10. Lusi Wang
11. Kefing Aperto-Berry
12. Veronica Aperto-Berry
13. Sandy Perry, Affordable Housing Network

14. Thao Le, Organizing Coordinator from Community Land Trust
15. Allysson McDonald
16. Troi Tran
17. Alison Frost
18. Tiffany Vu
19. Moria Merriweather
20. Delma Hernandez
21. Tsegenet A
22. Walter Li
23. Voltaire Montemayor
24. Michael Tsai

Mayor Montano requested staff to agendize a discussion of Sunnyhills for the Housing Subcommittee.

ANNOUNCEMENT OF CONFLICT OF INTEREST AND CAMPAIGN CONTRIBUTIONS

City Attorney Mitalipassi asked the Mayor and City Councilmembers if they had any personal conflicts of interest. By roll call, there were no conflicts of interest. City Attorney Mitalipassi asked the Mayor and City Councilmembers if they had any reportable campaign contributions. By roll call, there were no reportable campaign contributions.

READING OF THE CITY COUNCIL CODE OF CONDUCT

City Attorney Mitalipassi read the Code of Conduct.

APPROVAL OF AGENDA

Motion: to approve the December 20, 2022 Regular Meeting Agenda

Motion/Second: Vice Mayor Chua / Councilmember Phan

Motion carried by the following:

AYES: Councilmembers Barbadillo, Lien, Phan, Vice Mayor Chua, Mayor Montano

NOES: None

CONSENT CALENDAR

Motion: to approve the consent calendar, pulling Item C6.

Motion/Second: Vice Mayor Chua / Councilmember Barbadillo

Motion carried by the following:

AYES: Councilmembers Barbadillo, Lien, Phan, Vice Mayor Chua, Mayor Montano

NOES: None

C5. Receive City Council Calendar of Meetings for December 2022 and January 2023 (Staff Contact: Suzanne Guzzetta, City Clerk, 408-586-3001)

Received City Council Calendar of Meetings for December 2022 and January 2023.

C6. Approve City Council City Council Regular Meeting Minutes of December 6, 2022 (Staff Contact: Suzanne Guzzetta, City Clerk, 408-586-3001)

Pulled from Consent Calendar.

- C7. Receive the Preview List of Anticipated Items for the Next Regular City Council Meeting (Staff Contact: Suzanne Guzzetta, City Clerk, 408-586-3001)**

Received the list of anticipated agenda items for the next regular City Council meeting.

- C8. Receive and Review the List of Agenda Items Requested by City Councilmembers (Staff Contact: Suzanne Guzzetta, City Clerk, 408-586-3001)**

Reviewed the list of items that have been requested by City Councilmembers.

- C9. Reconfirm Findings and Determinations Under Resolution No. 9165 and Assembly Bill 361 for the Continuation of Virtual Meetings of the City Council and Legislative Bodies (Staff Contact: Michael Mutalipassi, City Attorney, 408-586-3040)**

Reconfirmed findings and determinations under Resolution No. 9165 and Assembly Bill 361 for the continuation of virtual meetings of the City Council and Legislative Bodies.

- C10. Approve and Authorize the City Manager to Execute an Encroachment and Maintenance Agreement with Milpitas – District 4 Owner, LLC, for the Perpetual Maintenance and Operation of Private Sidewalk Lighting Improvements within the City Right-of-Way Located at 150 Market Street (Staff Contact: Steve Erickson, Engineering Director / City Engineer, 408-586-3301; and Roberto Alonzo, Principal Civil Engineer, 408-586-3316)**

Approved and authorized the City Manager to execute an Encroachment and Maintenance Agreement with Milpitas – District 4 Owner, LLC, for the perpetual maintenance and operation of private sidewalk lighting improvements within the city right-of-way located at 150 Market Street.

- C11. Adopt a Resolution Reviewing and Accepting the Annual Development Impact Fee Annual Report for the Calaveras Boulevard Widening Traffic Impact Fee, the Transit Area Specific Plan (TASP) Impact Fee, and the Storm Drain Fee for the Fiscal Year Ended June 30, 2022 (Staff Contact: Lauren Lai, Finance Director, 408-586-3111)**

Adopted **Resolution No. 9207** consistent with the Mitigation Fee Act to review and accept the annual development impact fee disclosure information for the Calaveras Blvd Widening Traffic Impact Fee, Transit Area Specific Plan Impact Fee and Storm Drain Fee for the Fiscal Year Ended June 30, 2022.

- C12. Adopt a Resolution Authorizing the City Manager to Issue a Purchase Order in the Amount of \$297,573.91 for the Purchase of Five Police Vehicles from the National Auto Fleet Group through a Cooperative Procurement Contract with Sourcewell (Staff Contact: Jared Hernandez, Police Chief, 408-586-2406; and Chris Schroeder, Purchasing Agent, 408-586-3161)**

Adopted **Resolution No. 9208** authorizing the City Manager to issue a purchase order in the amount of \$297,573.91 for the purchase of five police vehicles from the National Auto Fleet Group through a Cooperative Procurement Contract with Sourcewell and find a CEQA exemption.

- C13. Adopt a Resolution Authorizing the City Manager to Execute the Five-Year Sole Source Agreement with Hadronex, Inc. Doing Business as SmartCover Systems for Alert System Services Related to the Deployment of SmartLevel Sewer Monitoring System Units for a Not-to-Exceed Amount of \$209,835.85, Subject to the Annual Appropriation of Funds (Staff Contact: Christian Di Renzo, Public Works Director, 408-586-2602)**

Adopted **Resolution No. 9209** authorizing the City Manager to execute the five-year sole source agreement with Hadronex, Inc. doing business as SmartCovers Systems for alert system services related to the deployment of SmartLevel Sewer Monitoring System units for the not-to-exceed amount

of \$209,835.85, subject to the annual appropriation of funds and approval as to form by the City Attorney, and find a CEQA exemption.

C14. Accept a State of California Parks and Recreation grant in the amount of \$224,543.00 for Sunnyhills Albert Augustine Jr. Memorial Park and Appropriate the Funds to CIP No. 3500 (Staff Contact: Renee Lorentzen, Recreation and Community Services Director, 408-586-3409)

Accepted a State of California Parks grant in the amount of \$224,543.00 for Sunnyhills Albert Augustine Jr. Memorial Park and appropriated the funds to CIP No. 3500 and found all potential significant effects sufficiently analyzed by the December 14, 2021 Negative Declaration.

ITEMS REMOVED FROM CONSENT CALENDAR

C6. Approve City Council City Council Regular Meeting Minutes of December 6, 2022 (Staff Contact: Suzanne Guzzetta, City Clerk, 408-586-3001)

Motion: to approve the City Council Regular Meeting minutes of December 6, 2022.

Motion/Second: Vice Mayor Chua / Councilmember Barbadillo

AYES: Councilmembers Lien, Phan, Vice Mayor Chua, Mayor Montano

NOES: None

ABSTAIN: Councilmember Barbadillo

ANNOUNCEMENTS AND FUTURE AGENDA ITEMS

City Manager McHarris wished the City Council and residents a happy and safe Holiday and announced the holiday closure for non-public safety services from December 23, 2022 through January 2, 2023.

Councilmember Phan congratulated the Mayor and Councilmembers on their new roles on the City Council and acknowledged Mayor Tran and Councilmember Dominguez for their service to the city.

Councilmember Barbadillo asked staff to prepare a summary of previous Council actions related to Sunnyhills affordable apartments from the first renewal to present day.

Councilmember Lien wished everyone a Happy Holiday and Happy New Year.

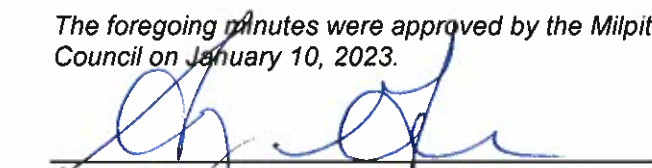
Vice Mayor Chua thanked staff for all their hard work over the year.

Mayor Montano thanked everyone for their attendance at the City Council meeting and assured the community that the Council intends to work collaboratively in the future.

ADJOURNMENT

Mayor Montano adjourned the meeting at 8:41 PM.

The foregoing minutes were approved by the Milpitas City Council on January 10, 2023.


Suzanne Guzzetta
Milpitas City Clerk