



Request for Proposals (RFP) Annual Painting of Well Sites and Booster Stations

The City of Morgan Hill is requesting proposals from qualified painting contractors to provide all labor, equipment, materials, and performance of operation in connection with painting maintenance and repair for various well and booster stations sites.

Proposals are due on Tuesday, June 13, 2023, at 3:00 p.m. via electronic submittal to inga.alonzo@morganhill.ca.gov

REQUEST FOR PROPOSALS (RFP) INFORMATION

SECTION 1 – General Instructions and Information for Contractors

SECTION 2 – Technical Specifications

SECTION 3 – Bid Proposal, Bid Schedule, Response to Technical Questions, Wage Theft Prevention Bid Certification, Certification of Acceptance of Terms of Agreement, and Non-Collusion Declaration

ATTACHMENTS

Sample Maintenance Service Agreement including insurance requirements.

SECTION 1 – General Instructions and Information for Contractors

Proposal Submission. Electronic proposals will be received by the City of Morgan Hill Corporation Yard via email to inga.alonzo@morganhill.ca.gov by the due date and time above. The subject line in the email shall read, “**Response to RFP for Annual Painting of Well Sites and Booster Stations.**” Proposals will not be opened publicly. Proposal

submittals and scores become public information after notice of intent to award. Failure to use the forms provided within the RFP package will result in an incomplete proposal.

Contractor is to complete the following documents and include them in the RFP proposal package:

- 1) Bid Proposal
- 2) Bid Schedule
- 3) Response to Technical Questions
- 4) Wage Theft Prevention Bid Certification
- 5) Certification of Acceptance of Terms of Agreement
- 6) Non-Collusion Declaration

These forms are provided in Section 3. Incomplete proposals will not be considered.

Contractor Selection Criteria.

The City will be awarding this contract using a “Best Value” methodology including evaluation of price, and responses to Contractor Questionnaire. Points will be awarded based on the following categories:

- 40 points** Qualifications, Experience, References – Attachment 2 – Response to Technical Questions Form
- 60 points** Contractor Bid Proposal – Attachment 1

The City will first evaluate, and rank proposals based on the 40-point selection criteria for Qualifications, Experience, and References based on the answers provided to the Response to Technical Questions Form, Attachment 2. Proposals that receive less than 30 points will be eliminated from further consideration.

- 20 points Previous experience in providing a superior level of utility maintenance and repair services at like-sized public and/or private facilities. Qualifications of staff proposed to provide these services to the City. Experience and backgrounds of those who will be providing services for the City.
- 5 points Assessments of work quality, performance and working relationships by current and recent clients that indicate high levels of satisfaction and effectiveness as evidenced by references.
- 15 points Well organized communication systems and electronic reporting capabilities that demonstrate an ability to complete tasks efficiently and effectively and do not require constant supervision by the City.

All proposals receiving the minimum 30 points in the Qualifications, Experience and

References selection criteria, will then be evaluated based on the Contractor’s Bid Schedule (Attachment 1) score. A total of 60 points is possible.

60 points will be disbursed per the following breakdown:

POINTS	Item
10 points	System #6 – Exterior Walls – Color 17925
10 points	System #15 – Exterior Trim – Color 13522
10 points	System #9 – Interior Wall & Ceiling – Color 17825
10 points	System #11- Interior Trim – Color 16314
10 points	System #4 – Interior Piping & Appurtenances – Color 15102
10 points	System #16 – Interior Trim – Color 13522
60.0 points	Total

Points are allocated by line item. The average cost of the line item over the three year period will be calculated per line item. The lowest bidder for each line, receives the full points for that line item. For example, the Contractor proposing the lowest average system 6 costs is awarded the full 10.0 points for that line item. The remaining Contractors receive points for that same line item based on a comparison of their proposed price to the lowest bidder’s price. For example, to calculate the line-item points for the remaining Contractors, the lowest bidder’s average line-item price is divided by each Contractor’s average line-item price and multiplied by the number of points available in that line item. Each Contractor’s average line-item points are added for a total Contractor Bid Schedule, Attachment 1.

The winning proposal will be selected based on the total combined points scored by those proposals receiving 30 points or more on the Qualifications, Experience, References, and their corresponding points for Contractor Bid Schedule.

Examination of Contract Documents. Each bidder is solely responsible for thorough review of the Request for Proposal (RFP) Documents prior to submitting an RFP Proposal Package. Note that any areas and quantities noted are for informational purposes only.

Addenda. Any addenda issued prior to Bid Time will be posted to the City’s website and shall constitute part of the RFP Documents. The City reserves the right to issue addenda prior to Bid Time.

Bid Guarantee. No RFP shall be withdrawn except as provided for pursuant to Public Contract Code Section 5103, and the submitter shall guarantee the Total Bid Price for a period of ninety (90) calendar days from the date of the RFP proposals are due.

Brand Designations and “Or Equal” Substitutions. Any specification designating a material, product, thing, or service by specific brand or trade name, followed by the words

“or equal,” is intended only to indicate quality and type of item desired, and bidders may request use of any equal material, product, thing, or service. All data substantiating the proposed substitute as an “equal” item must be submitted with a written request for substitution.

Bonds. No Bonds are required.

License. Contractors submitting an RFP proposal shall possess a valid, current and in good standing Class C-33 (Painting and Decorating) contractor’s license issued by the California Contractor’s State License Board (CSLB), and comply with all other license, insurance and permit requirements of the City, State and Federal governments, as well as all other requirements of the law. The successful bidder will be required to obtain a City of Morgan Hill Business License.

City Representative. The designated City representative for this RFP is Inga Alonzo, Management Analyst at inga.alonzo@morganhill.ca.gov.

Submittal of Written Questions regarding this RFP. All questions regarding this RFP must be submitted in writing to Inga Alonzo at inga.alonzo@morganhill.ca.gov **no later than Thursday, May 11th at 3:00 p.m.** The City will respond to all questions via an Addendum to be posted to the City’s website no later than Thursday, May 18th.

Engineer’s Estimate. Although total quantities per year cannot be estimated at this time, the City has a budget of approximately \$60,000 per year for this work.

Insurance. If awarded the contract, the Bidder/CONTRACTOR shall procure and provide proof of the insurance coverage required under section 8 of the attached Exhibit A, Maintenance Service Agreement, in the form of certificates and endorsements within 10 days of receipt of the Notice of Award. The required insurance must cover the activities of CONTRACTOR, including its subcontractors, employees and agents, relating to or arising from the performance of any work or service under this Agreement, and must remain in full force and effect at all times during the period covered by the Contract until the date of recordation of the notice of completion.

DIR Registration: No contractor or subcontractor may be listed on a bid proposal for a public works project unless registered with the Department of Industrial Relations pursuant to Labor Code section 1725.5 [with limited exceptions from this requirement for bid purposes only under Labor Code section 1771.1(a)]. No contractor or subcontractor may be awarded a contract for public work on a public works project (awarded on or after April 1, 2015) unless registered with the Department of Industrial Relations pursuant to Labor Code section 1725.5. This project is subject to compliance monitoring and enforcement by the Department of Industrial Relations.

Prevailing Wages. Each worker performing Work under this Contract shall be paid at a rate not less than the prevailing wage as defined in Sections 1771 and 1774 of the Labor Code. The prevailing wage rates are available online at <http://www.dir.ca.gov/dlsr>. Contractor shall post a copy of the applicable prevailing rates at the Worksite.

This Project is subject to the prevailing wage requirements applicable to the locality in which the Work is to be performed for each craft, classification or type of worker needed to perform the Work, including employer payments for health and welfare, pension, vacation, apprenticeship and similar purposes.

These prevailing rates are available online at <http://www.dir.ca.gov/DLSR>. Each Contractor and Subcontractor must pay no less than the specified rates to all workers employed to work on the Project. The schedule of per diem wages is based upon a working day of eight hours. The rate for holiday and overtime work must be at least time and one-half.

The Contract will be subject to compliance monitoring and enforcement by the California Department of Industrial Relations, under Labor Code Section 1771.4.

A certified copy of an employee's payroll record shall be made available for inspection or furnished to the employee or his or her authorized representative on request, to The City, or to the Division of Labor Standards Enforcement, and the Division of Apprenticeship Standards of the Department of Industrial Relations, and as further provided by the Labor Code.

Permits. The Contractor shall obtain and pay for any necessary permits.

Taxes. The proposal price shall include all applicable federal, state and local taxes.

Bid Protest. Any bid protest must be in writing and received by the City Attorney's Office via an e-mail to Cynthia Hasson, Asst. City Attorney, at cynthia.hasson@morganhill.ca.gov at 17575 Peak Avenue, Morgan Hill, CA, (Fax: (408) 779-1592), before 5:00 p.m. no later than two (2) working days after bidders are notified of bid results via an e-mail (the "Bid Protest Deadline") and must comply with the following requirements:

Only a bidder who has actually submitted a Proposal is eligible to submit a bid protest against another bidder. Subcontractors are not eligible to submit bid protests. A bidder may not rely on the bid protest submitted by another bidder but must timely pursue its own protest.

The bid protest must contain a complete statement of the basis for the protest and all supporting documentation. Material submitted after the Bid Protest Deadline will not be considered. The protest must refer to the specific portion or portions of the Contract

Documents upon which the protest is based. The protest must include the name, address and telephone number of the person representing the protesting bidder if different from the protesting bidder.

A copy of the protest and all supporting documents must also be transmitted by fax or by e-mail, by or before the Bid Protest Deadline, to the protested bidder and any other bidder who has a reasonable prospect of receiving an award depending upon the outcome of the protest.

The protested bidder may submit a written response to the protest, provided the response is received by City before 5:00 p.m., within two (2) working days after the Bid Protest Deadline or after receipt of the bid protest, whichever is sooner (the "Response Deadline"). The response must include all supporting documentation. Material submitted after the Response Deadline will not be considered. The response must include the name, address and telephone number of the person representing the protested bidder if different from the protested bidder. Protected bidder must concurrently transmit a copy of the response and all supporting documents by fax or by e-mail, by or before the Response Deadline, to the protesting bidder and any other bidder who has reasonable prospect of receiving an award depending upon the outcome of the protest.

The procedure and time limits set forth in this section are mandatory and are the bidder's sole and exclusive remedy in the event of bid protest. The bidder's failure to comply with these procedures shall constitute a waiver of any right to further pursue a bid protest, including filing a Government Code Claim or initiation of legal proceedings.

Incurred Costs. The City is not responsible for any costs incurred by a contractor responding to this RFP.

Rejection of Bids and Award of Contract. City reserves the right, acting in its sole discretion, to waive non-substantive bid irregularities, the right to accept or reject any and all bids, or to abandon the work entirely. The Contract will be awarded by City Council, if at all, within sixty (60) calendar days after staff determines which proposal is most advantageous to the City.

Execution of Agreement. Contractor selected through the RFP process will be expected to execute a formal Agreement with the City of Morgan Hill for the provision of the requested service as set forth in the sample agreement attached to this RFP. Submission of a signed proposal will be interpreted to mean Contractor has agreed to all the terms and conditions set forth in the pages of this RFP and the standard provisions included in the attached Agreement. Contractor must submit any and all exceptions to this RFP with its proposal, clearly identifying the exception, including the page number and section number, as appropriate. Contractor should note that the submittal of an exception does

not obligate the City to revise the terms of this RFP or any resulting agreement. The City will not consider any exceptions that are not identified in the proposal.

Public Records Act. All responses to this RFP will become public records after notice of intent to award under the California Public Records Act (Cal. Government Code section 6250 et seq.). All documents that you send to the City will be subject to disclosure if requested by a member of the public. Although the California Public Records Act recognizes that certain confidential trade secret information may be protected from disclosure, the City of Morgan Hill may not be in a position to establish that the information that a Contractor submits is a trade secret. If you believe that there are

portion(s) of your proposal which are exempt from disclosure under the Public Records Act, you must mark it as such and state the specific provision in the Public Records Act which provides the exemption as well as the factual basis for claiming the exemption. Do not mark your entire proposal as “confidential.” If a request is made for information marked “Confidential”, “Trade Secret” or “Proprietary”, the City will provide contractors who submitted the information with reasonable notice to seek protection from disclosure by a court of competent jurisdiction. The City will not be responsible for any legal or other costs incurred by contractors seeking to shield a portion of their proposal from public disclosure.

SECTION 2 TECHNICAL SPECIFICATIONS: PAINTING OF WELL SITES AND BOOSTER STATIONS SCOPE OF WORK AND SPECIAL PROVISIONS

Introduction and General Information:

The City of Morgan Hill (City) is requesting the services of a qualified Contractor which specializes in providing painting services to public utilities. The general scope of work is to provide maintenance painting at multiple well and booster locations to be determined by the City of Morgan Hill staff on an annual basis. The City is seeking a contractor whose combination of experience and personnel will provide timely, cost-effective and quality professional services to the City.

Scope of Work

The scope of the work for this project includes the painting of water well sites and water booster stations operating by the City of Morgan Hill Utilities Division. There is a total of 27 facilities at this time: 17 water well sites and 10 water booster stations. Over the three-year term of the agreement, a total of nine facilities will require paint maintenance (three each year). The City will select one booster station and two water well sites each year for painting maintenance. The City reserves the right to make substitutions of like facilities to be painted in any given year.

The three facilities chosen for painting maintenance in the first year of the contract will be:

- Water Booster Station (Type 2 facility) – TBD
- Water Well Site – Butterfield Well
- Water Well Site – Diana #4 Well

The City reserves the right to add possible painting work at any of its Lift Station sites during any given year as part of the agreement.

1.00 Contractor's Responsibility

For each facility the work will consist of painting maintenance of the buildings and all exposed piping, valves, and metal appurtenances, including the necessary surface preparation work for iron and steel surfaces. The selected contractor will be responsible for furnishing any and all labor, paint and painting supplies, travel time, expenses, and equipment necessary to do the work required.

2.00 Schedule for Painting of Well Sites and Booster Stations

The well sites and booster stations are to be painted during the months of October through May in order to minimize any detrimental operational impact during the City's peak water pumping activities during the warm weather periods.

3.00 City-wide Listing of City-wide Water Well Sites and Water Booster Stations

Following is a city-wide listing of the water well sites and water booster stations currently in operation in the City of Morgan Hill:

Water Well Sites and Booster Stations	
Booster Stations	Water Well Sites
E. Dunne Booster	Boys Ranch #1 Well
Easy St. Booster	Boys Ranch #2 Well
El Toro Booster	Boys Ranch #3 Well
Encino Booster	Butterfield Well
Glen Ayre Booster	Condit Well
Hydro-Pneumatic Booster	Diana #1 Well
Jackson Booster	Diana #2 Well
Llagas Booster	Diana #3 Well
Peak & Main Booster	Diana #4 Well
Woodland Booster	Dunne Well #1
	Dunne Well #2
	Jackson Well
	Main Well #1
	Main Well #2
	Nordstrom Well
	San Pedro Well
	Tennant Well

4.00 Grouping of Water Well Sites and Water Booster Stations into “Types”

The water booster stations and the water well sites vary in structure, layout, equipment, and accessories. These booster stations and well sites can be categorized generally as described below:

- **Booster Stations:** These consist of two different general types
- **Water Well Sites:** These consist of one general type

The table below shows the nine facilities (by facility type) that are to be painted over the three-year term of the agreement. Indicated are the equipment and accessories that are part of each facility. It shows the grouping of facilities into “Types” based on general similarities. The total facilities to be painted during this three-year period will be six wells and three booster stations. One of the boosters will be a Type 1 facility and two of the boosters will be a Type 2 facility.

TABLE OF FACILITIES BY TYPE						
FACILITY	TYPE	TYPICAL	BUILDING (INTERIOR/ EXTERIOR)	PIPE & VALVES	FLOOR	ELECTRICAL
Booster Stations						
	Type 1	East Dunne Booster	X	X	X	
	Type 2	Woodland Booster		X		X
	Type 2	Easy Street Booster		X		X
Water Wells Sites						
	Type 1	Boys Ranch #2 Well	X	X	X	
	Type 1	Diana #1 Well	X	X	X	
	Type 1	Boys Ranch #1 Well	X	X	X	
	Type 1	Boys Ranch #3 Well	X	X	X	
	Type 1	Butterfield Well	X	X	X	
	Type 1	Condit Well	X	X	X	

Each year, the City will identify the facilities to be painted in the upcoming fiscal year. The City Representative will work with the chosen contractor to come up with the list of the most critical painting needs for the said facilities and the contractor will provide a task order quote for that fiscal year. The task order quote must have the pricing quoted in the contract documents per square foot and must be within the budgeted amount each year of the agreement of \$60,000. No work is to be done until the task order quote is accepted by the City Representative in writing. A tentative three year schedule is below but this schedule is subject to change:

FY24-FY26 Tentative Painting Schedule

	FY 2024	FY 2025	FY 2026
Booster	TBD	TBD	TBD
Well	Butterfield	San Pedro	Jackson
Well	Diana #4	Boys Ranch #1	Dunne #2

5.00 Pictures of Facilities by Type

The pictures below show examples of actual facilities by type. Each facility type is labeled so that it can be distinguished from the other types.

Type 1 Water Booster Station (East Dunne Booster)



Type 2 Water Booster Station (Woodland Booster)



Type 1 Water Well Site (All Wells)



6.00 Painting Specifications

Part 1 – General

1.01 Scope

This section includes everything necessary for, or incidental to, the painting and coating of all metal, above ground station piping, well pump motor and discharge head, concrete slabs, concrete masonry units, walls, ceilings, or other surfaces requiring painting.

All necessary ventilation, lighting equipment, and scaffolding shall be furnished and installed by the Contractor. Such scaffolding shall conform to regulations of the State Industrial Accident Commission and local ordinances.

1.02 Submittals

The Contractor shall submit the following items to the Utility Supervisor for review and color selection:

A. Color cards

Submit Color cards for all coatings proposed for use showing full range of standard colors.

B. Product Data

Submit product data including generic description, complete technical data, surface preparation and application instructions.

C. Coating System Data Sheets

Submit Coating System Data Sheets. A sample is included at the end of this Section.

D. Manufacturer's Certification

Submit the manufacturer's certification that coatings comply with specified requirements and are suitable for intended application.

E. Warranty

Submit the manufacturer's standard warranty.

1.03 Surfaces Requiring Painting

The following items shall be painted on-site. All exposed pump components including the motor; discharge head and base plate; piping, including valves and fittings; electrical conduits; building walls; floors and ceilings, and associated interior and exterior appurtenances.

1.04 Work Not Included

Factory coated equipment such as the motor control center, telemetry, pneumatic components, roofing, and chlorination equipment is not included in this Section.

1.05 Quality Assurance

A. Single Source

All materials of a paint system, including primer and finish coats, shall be produced by the same paint manufacturer unless otherwise approved by the Project Manager. Thinners, cleaners, driers, and other additives shall be as recommended by the paint manufacturer of the particular coating.

B. Surface Preparation

Preparation of surfaces and application of coatings shall be in conformance with the applicable AWWA, SSPC, and ASTM specifications, this Specification, and the printed recommendations of the paint manufacturer.

C. Weather

Prepare surfaces and apply and cure coatings within air and surface temperature range in accordance with the manufacturer's instructions. The surface temperature shall be a minimum of 40-degrees F and 5-degrees above the dew point. Do not prepare surfaces or apply coatings in dust, smoke, rain, fog, or damp or humid weather or if the wind velocity is above the manufacturer's limit. Schedule coating work to avoid excessive dust and airborne contaminants.

D. Ventilation

Provide ventilation during coating evaporation stage in confined or enclosed areas.

E. Inspection

The Contractor shall give advance notice of the start of any surface preparation work or coating application work.

Inspection by the Utility Supervisor, or the waiver of inspection of any particular portion of the work, shall not be construed to relieve the Contractor of any responsibility to perform the work in accordance with these Specifications.

For all coatings subject to immersion, full cure must be obtained for the completed system prior to submersion. Consult the coatings manufacturers written instructions for these requirements. The coating shall not be immersed for any purpose until completion of the curing cycle.

Part 2 – Materials

2.01 General

All materials used, except as otherwise specified in carrying out the provisions of this contract, shall be manufactured by the following companies, or approved equals:

- Sherwin Williams
- ICI Devoe
- TNEMEC
- Rain Guard

2.02 Paint Materials

The following surface preparations and paint and coating materials shall apply to this project.

A. System Number 1 – Exterior Steel Tanks, Station Piping, Valves, Conduits, Fittings, Pump Discharge Heads, Pump Motors, and Pump Base Plates.

All exposed steel surfaces including station piping, valves, pump discharge heads, conduits and fittings that are exposed to weather or are located above grade inside a pump station building shall be coated as follows:

- 1. Surface Preparation:** Clean and Dry
- 2. Paint Material:** Aliphatic Acrylic Polyurethane
 - i. TNEMEC Endura-Shield II Series 1075 @ 3 to 5 mils DFT or
 - ii. Devoe Devthane 379 H @ 2 to 3 mils DFT

B. System Number 2 – Factory Primed Steel Doors and Frames

All exterior and interior steel doors, frames, and miscellaneous equipment that are exposed to weather or are located inside the pump station building shall be coated as follows:

- 1. Surface Preparation:** Clean and Dry

2. Paint Material: High Solids Epoxy @ 4 to 5 mils DFT

- i. TNEMEC Epoxoline-HS Series V69F or
- ii. Devoe Bar-Rust 235 H

3. Paint Material-Exterior Applications: Aliphatic Acrylic Polyurethane

- i. TNEMEC Endura-Shield II Series 1075 @ 3 to 5 mils DFT or
- ii. Devoe Devthane 379H @ 2 to 3 mils DFT

C. System Number 3 – Exterior Ductile and Cast Iron Pipe, Valves, and Fittings

Ductile iron and cast iron piping, valves, and fittings exposed to weather and ultraviolet light deterioration or underground conditions shall be coated as follows:

1. Surface Preparation: In accordance with manufacturer's instructions.

2. Paint Material - Exterior Applications: Aliphatic Acrylic Polyurethane

- i. TNEMEC Endura-Shield II Series 1075 @ 3 to 5 mils DFT or
- ii. Devoe Devthane 379H @ 2 to 3 mils DFT

D. System Number 4 – Interior Ductile and Cast Iron Pipe Valves and Fittings

Ductile iron and cast iron piping, valves, and fittings located in the booster pump station building or exposed to other interior humid conditions shall be coated as follows:

1. Surface Preparation: In accordance with manufacturer's instructions

2. Paint Material: High Solids Epoxy @ 4 to 5 mils DFT

- i. TNEMEC Epoxoline HS Series V69F or
- ii. Devoe Bar-Rust 235 H

E. System Number 5 – Exterior Concrete Masonry Units and Concrete Walls (Clear Water Repellent Coating)

The exterior of concrete masonry unit block walls, split face block walls, or concrete walls that are to receive a clear water repellent that are exposed to weather, driving rain and mildew, but are not subject to graffiti shall be coated where called for on the Plans, as follows:

1. Surface Preparation: Level protrusions and mortar splatter.

2. Paint Material: Water Repellent Siloxane/Silane Blend or Polysilane

- i. TNEMEC Prime-A-Pell H2O Series 633 or
- ii. Rain Guard (Do not apply a second coat)

F. System Number 6 – Exterior Concrete Masonry Units and Concrete Walls (Clear Water Repellent and Anti-Graffiti Coating)

The exterior of concrete masonry unit block walls, split face block walls, or concrete walls that are in public areas that may be exposed to graffiti and that are exposed to weather, driving rain and mildew, shall be coated with a clear water repellent anti-graffiti coating where called for on the Plans, as follows:

1. Surface Preparation: Level protrusions and mortar splatter.

2. Paint Material: Co-polymer Graffiti Protectant

- i. TNEMEC (None required) or
- ii. Rain Guard Vandl-Guard

G. System Number 7 – Exterior Concrete Masonry Units and Concrete Walls (Water Repellent and Colored Coating)

The exterior of concrete masonry unit block walls or concrete walls that are to receive a colored coating and are exposed to weather, driving rain and mildew, but are not subject to graffiti shall be coated where called for on the Plans as follows:

1. Surface Preparation: Level protrusions and mortar splatter.

2. Paint Material: Aliphatic Acrylic Urethane or Waterborne Acrylic Polyurethane @ 2 to 3 mils DFT

- i. TNEMEC Endura-Shield W.B. Series 1080 or
- ii. Devoe Devthane 379 H

H. System Number 8 - Interior Concrete Masonry Units and Concrete Walls

Concrete masonry unit walls and concrete walls in the interior of the pump station building or elsewhere shall be coated as follows:

1. Surface Preparation: Level protrusions and mortar splatter. Voids and openings in concrete block surfaces shall be pointed.

2. Paint Material: High Solids Epoxy @ 4 to 6 mils DFT

- i. TNEMEC Epoxoline HS Series V69F or

- ii. Devoe Bar-Rust 235 H

I. System Number 9 - Sheet Rock

The sheet rocked walls and ceilings in the interior of the station building shall be coated as follows:

1. **Surface Preparation:** All surfaces shall be clean, dry, and free of oil, grease and other contaminants.
2. **Paint Material:** High Solids Epoxy @ 4 to 6 mils DFT
 - i. TNEMEC Epoxoline HS Series V69F or
 - ii. Devoe Bar-Rust 235 H

J. System Number 10- Chemical Room Protective Coatings (High Chemical Concentrations)

The concrete masonry unit walls and sheet rocked walls, and moldings of the chemical treatment rooms that are exposed to high concentrations of chlorine, fluoride, or other chemicals that are to be painted grey in color shall be coated as follows. Chemical rooms with low concentrations of chemicals shall be coated per the applicable System 9 - Interior Concrete Masonry Units and Concrete Walls or System 10 – Sheet Rock.

1. **Surface Preparation:** Level protrusions and mortar splatter by sanding or other approved method.
2. **Paint Material:** Novolac Epoxy @ Manufacturer's Recommended DFT
 - i. TNEMEC Tneme-Glaze Series 282 or
 - ii. Devoe Devran 124 or Devmat 111

K. System Number 11 - Interior Concrete Floors

All concrete floors in the pump station building including the chemical room(s) shall have a non-skid protective coating suitable for moderate chemical exposure and heavy traffic and impact exposure. The Contractor shall be responsible for any preparatory work required by the coating manufacturer.

1. **Surface Preparation:** Verify dryness, followed by Shot Blast or Mechanically Abrade.
2. **Paint Material:** Novolac Epoxy

- i. TNEMEC-Remove excess silica when dry to foot traffic and then coat with Tneme-Glaze Series 282 @ 6 to 8 mils DFT or
- ii. Devoe-Remove excess silica when dry to foot traffic and then coat with Devran 124 @ 20 to 25 mils DFT.

L. System Number 12 – Exterior Aluminum (Gutters and Downspouts), Non-Ferrous Metals (Copper, Brass, or Bronze), and Galvanized Metal.

Exterior aluminum materials such as gutters and downspouts, non-ferrous metals such as copper, brass or bronze, and galvanized metal that is to be painted rather than repaired with zinc coating and that are exposed to weather shall be coated as follows:

- 1. Surface Preparation:** Remove water-soluble dirt and chemicals with water and detergent and solvent-soluble contaminants with Solvent Clean (SP1). Allow to dry and then Hand Tool (SP2) or Power Tool (SP3) to remove oxides. Scarify to provide a minimum 1-mil profile to aid adhesion.
- 2. Paint Material:** Aliphatic Acrylic Urethane or Waterborne Acrylic Polyurethane @ 2 to 3 mils DFT
 - i. TNEMEC Endura-Shield W.B. Series 1080 or
 - ii. Devoe Devthane 379 H

M. System Number 13 – Interior Aluminum, Non-Ferrous Metals (Copper, Brass, or Bronze), and Galvanized Metal.

Interior aluminum materials such as ducting, non-ferrous metals such as copper, brass or bronze, and galvanized metals such as conduits, pipe hangers, and pipe supports that are to be painted rather than repaired with zinc coating and that are exposed to highly humid atmospheres shall be coated as follows:

- 1. Surface Preparation:** Remove water-soluble dirt and chemicals with water and detergent and solvent-soluble contaminants with Solvent Clean (SP1). Allow to dry and then Hand Tool (SP2) or Power Tool (SP3) to remove oxides. Scarify to provide a minimum 1-mil profile to aid adhesion.
- 2. Paint Material:** High Solids Epoxy @ 6 to 8 mils DFT
 - i. TNEMEC Epoxoline HS Series V69F or
 - ii. Devoe Bar-Rust 235 H

N. System Number 14 - Galvanized Metal (Repair)

Defects in factory applied galvanized items such as galvanized fencing, ladders rain gutters, down spouts, metal doors, door hangers and pipe hangers, shall be coated with a Zinc-Rich coating with a minimum of 14-pounds of metallic zinc content per gallon. The coatings for potable and non-potable applications shall be as follows:

1. **Surface Preparation:** Solvent Clean (SP1), followed by Hand Tool (SP2), Power Tool (SP3) or Brush-off Blast (SP7). Provide a minimum 1-mil profile to aid adhesion.
2. **Paint Material:** Potable Water: NSF Zinc-Rich Urethane @ 2.5 to 3.5 mils DFT
 - i. TNEMEC Hydro-Zinc 91-H₂O
 - ii. Devoe Catha-Coat 316
3. **All Other Applications:** Inorganic Zinc-Rich Urethane
 - i. TNEMEC Tneme-Zinc Series 90-97 @ 2.5 to 3.5 mils DFT or
 - ii. Devoe Catha-Coat 302H @ 2 to 4 mils DFT

O. System Number 15 – Exterior Wood

Exterior wood such as tails, trim, soffits and all other wood that is exposed to weather or highly humid atmospheres shall be coated as follows:

1. **Surface Preparation:** Sand rough areas. Seal knots and pitch pockets and fill cracks and nail holes after primer has cured.
2. **Paint Material:** Acrylic Emulsion
 - i. TNEMEC Tneme-Crete 180 @ 4 to 10 mils DFT
 - ii. Devoe 2200 Dulux Professional 100% Acrylic Flat Finish@ 300 to 400 sq ft/gal

P. System Number 16 – Interior Wood

Interior wood such as trim, cabinets and all other wood shall be coated as follows:

1. **Surface Preparation:** Sand rough areas. Seal knots and pitch pockets and fill cracks and nail holes after primer has cured.
2. **Paint Material:** Acrylic Polymer or Waterborne Epoxy Polyamide

- i. TNEMEC Series 28 @ 1.5 to 2.0 mils DFT
- ii. Devoe Tru-Glaze 4406 WB Epoxy @ 2 to 4 mils DFT

Part 3 – Execution

3.01 General

No paint shall be reduced or applied in any way except as herein specifically called for, or as recommended by the manufacturer. Should conflict occur between specifications and manufacturer's recommendations and/or standard practice, the City shall be notified prior to bid submittal for clarification.

It is the responsibility of the Contractor to inspect and provide substrata surfaces that are prepared in accordance with these Specifications and the printed directions and recommendations of the paint manufacturer whose product is to be applied.

All doors, windows, trim, moldings, base boards, electrical boxes, light fixture boxes, penetrations through the ceilings, walls or floors, shall be caulked prior to coating.

3.02 Material Delivery and Storage

All materials shall be new and shall be delivered to the worksite in unopened containers that plainly show, at the time of use, the designated name, date of manufacturer, and name of manufacturer. Materials shall be stored in a suitable protected area that is heated or cooled as required to maintain temperatures within the range recommended by the manufacturer.

3.03 Air Quality

All coatings shall conform to the pertinent Volatile Organic Compound (VOC) requirements and any other air quality regulations applicable at the location of use. Coating materials, which cannot be guaranteed by the manufacturer to conform, whether or not specified by product designation, shall not be used.

3.04 Coating Compatibility

The Contractor shall be responsible for ensuring the compatibility of field coatings with each other or with the coatings on shop coated or previously coated surfaces. Coatings used in the first field coat over shop coated or previously coated surfaces shall cause no wrinkling, lifting, or other damage to underlying coats. Coatings used in successive field coats shall be produced by the same manufacturer.

3.05 Protection of Materials Not to be Painted

Remove, mask, or otherwise protect hardware, lighting fixtures, switch plates, aluminum surfaces, machined surfaces, couplings, shafts, bearings, nameplates on

machinery and other surfaces not intended to be painted. Provide drop cloths to prevent paint materials from falling on or marring any adjacent surfaces. Protect working parts of all mechanical and electrical equipment from damage during surface preparation and painting process. All openings in motors shall be masked to prevent paint and all other materials from entering the motors.

3.06 Paint Mixing

Multiple-component coatings shall be prepared using all of the contents of the container for each component as packaged by the paint manufacturer. No partial batches will be permitted. Multiple-component coatings that have been mixed shall not be used beyond their pot life.

3.07 Scaffolding

All necessary scaffolding shall be furnished and installed by the Contractor. Such scaffolding shall conform to regulations of the State Industrial Accident Commission and local ordinances.

3.08 Safety

Painting shall be performed in strict accordance with the safety recommendations of the paint manufacturer; with the safety recommendations of the National Association of Corrosion Engineers contained in the publication, Manual for Painter Safety; Federal, state, and local agencies having jurisdiction.

All necessary precautions shall be taken to prevent fire. Rags and waste soiled with paint shall be removed from the premises at the end of each day's work or stored in metal containers with metal covers.

3.09 Surface Preparation

A. Metal Surface Preparation

All sharp edges and corners shall be ground smooth and all weld spatter, slag burrs, and other objectionable surface conditions must be removed prior to the surface preparation for coating.

No surface preparation blasting will be permitted prior to submission of samples. All workmanship for metal surface preparation as specified shall be in strict conformance with the current Steel Structures Painting Council (SSPC) Specifications as follows:

Solvent Cleaning	SP 1
Hand Tool Cleaning	SP 2
Power Tool Cleaning	SP 3

White Metal Blast Cleaning	SP 5
Commercial Blast Cleaning	SP 6
Brush-Off Blast Cleaning	SP 7
Pickling	SP 8
Near-White Blast Cleaning	SP 10

Coat abrasive blast-cleaned surfaces with primer before visible rust forms on surface. Do not leave blast-cleaned surface uncoated for more than 8-hours.

Where OSHA or EPA regulations preclude standard abrasive blast cleaning, wet or vacu-blast methods may be required. Coating manufacturers recommendations for wet blast additives and first coat application shall apply.

B. Other Surfaces

All other surfaces shall be prepared in accordance with these specifications and the manufacture’s recommendations.

3.10 Application of Paint

A. General

Manufacturer’s written instructions for applying each type of paint or protective coating shall be furnished to the Project Manager prior to application. Cleaned surfaces and all coats shall be inspected prior to the succeeding coat. Schedule such inspection with the Project Manager in advance. Apply all coatings in strict accordance with the paint manufacturer’s recommendations, as approved by the Project Manager. Succeeding coats shall be painted in a different color to facilitate inspection. Final color shall be as selected by the Owner. Sufficient time shall be allowed between coats to assure thorough drying of previously applied paint. Coating shall be applied in a neat manner that will produce an even film of uniform and proper thickness, with finished surfaces free of runs, sags, ridges, laps, and brush marks. Units to be bolted together shall be painted prior to assembly or installation, unless otherwise specified.

B. Shop Primed Surfaces

All shop primed items shall be inspected at the jobsite for compliance with these Specifications. Schedule such inspection with the Project Manager in advance. Areas of chipped, peeled, or abraded primer shall

be hand or power sanded feathering the edges. The areas shall then be spot primed with the specified primer.

C. Manufacturer Applied Paint Systems

Abraded areas on factory finished items shall be repaired in strict accordance with the manufacturer's directions. Repaired areas shall be carefully blended into the original finish.

D. Film Thickness

Coverage is listed as either total dry film thickness in mils (DFT) or the spreading rate in square feet per gallon (SFPG). The number of coats is the minimum required irrespective of the coating thickness. Additional coats may be required to obtain the minimum required paint thickness, depending on method of application, differences in manufacturers' products, and atmospheric conditions. Maximum film build per coat shall not exceed the coating manufacturer's recommendations.

E. Damaged Coatings

Damaged coatings, pinholes and holidays shall have the edges feathered and repaired in accordance with the recommendations of the paint manufacturer, as approved by the Project Manager. Recoat entire surface where touch-up result is visibly different, either in sheen, texture, or color.

F. Unsatisfactory Application

Work shall be free of runs, bridges, shiners, laps, delamination, peeled, blistered, cracked, chipped, abraded or other imperfections. Evidence of these conditions shall be cause for rejection. All visible areas of imperfections shall be hand or power sanded feathering the edges. The areas shall then be primed and finish coated in accordance with the Specifications. Depending on the extent of repair and its appearance, a finish sanding and topcoat may be required by the Project Manager.

If the item has insufficient film thickness, the surface shall be cleaned, and then prepared as required by the manufacturer taking into account the recoat window, and top coated with the specified paint material to obtain the specified appearance and coverage. Specific surface preparation requirements shall be determined by the coating manufacturer, as approved by the Project Manager.

All areas of overspray including floors, windows, and equipment shall be cleaned or repainted if unable to be cleaned, to the satisfaction of the Project Manager.

Leave all staging up until areas are inspected and approval is given by the Project Manager, for each surface or coating. Staging removed prior to inspection shall be replaced.

Any defects in the coating system shall be repaired by the Contractor per written recommendations of the coating manufacturer, at no additional cost to the Owner.

3.11 Shipping

In all cases where pre-coated items are to be shipped to the jobsite, all efforts shall be made to protect the coating from damage. Coated items shall be battened to prevent abrasion. Contractor shall use nonmetallic or padded slings and straps in handling. Items will be rejected for excessive damage.

3.12 Anniversary Inspection for Tanks

A. Failure

Any location where coating has delaminated, peeled, blistered, or cracked; and any location where rusting is evident will be considered a failure of the coating system.

B. Remedial Work

Repair all failures by removing the deteriorated coating, cleaning the surface, and recoating with the same system in accordance with this Section and the coating manufacturer. With the approval of the City, surface preparation of small failures (areas less than 1 sq./ft.) may be made by cleaning to bare metal in accordance with appropriate SSPC-SP standards.

C. Schedule of Remedial Work

The City shall establish a starting date and reasonable time of completion for the remedial work. The starting date shall be no more than thirty (30) calendar days after the submittal of the inspection report to the Contractor. Should the Contractor fail to start the remedial work within ten (10) calendar days after the starting date established by the City, the City may at its option perform the remedial work, and the Contractor shall pay to the City the actual cost of such work, plus 20 percent to cover added engineering and administrative cost.

D. Cost

Warranty inspections of the remedial work shall be at the expense of the Contractor.

COATING SYSTEM DATA SHEET (per Section 1.02.C)

Surface Description	System No. (from spec.)
---------------------	-------------------------

Surface Preparation Description	
---------------------------------	--

Coating	MDFT, mils DFT	Color	Manufacturer and Product
First Coat (Primer)			
Total System			Not less than minimum thickness specified

Notes: (Attached if needed.)

Project:
Painting Contractor

Attach product's Technical Data Sheet (if applicable) for each paint system submittal.

7.00 Coordinating Work

- The Contractor shall provide a work schedule approved by the Utility

- Supervisor prior to start of work.
2. The Contractor shall schedule his work, in advance, with the Utility Supervisor.
 3. The Contractor shall coordinate his schedule with any other work that might interfere or be impacted.

8.00 Other Work

During the term of the agreement, there may be other various painting maintenance or touch up projects throughout the City that surface on an as needed basis. If this occurs, a separate scope for the work will be developed and presented to the contractor for a quote. The City retains the right to accept or reject any quotes.

9.00 Term of Service

The term of the contract will be from the executed date through June 30, 2026. The contract may be canceled or any portion thereof at any time during the term of service and such cancellations shall be effective upon giving sixty (60) days written notice. The City, at its option, may renew this contract for up to one additional year beginning on July 1, 2026. This option will be exercised only if the contractor has demonstrated superior performance in provision of painting maintenance and repair services to the City.

10.00 Work Hours

The work hours for any, and all painting will be scheduled with City Maintenance Staff during regular business hours (7:00 a.m. to 3:00 p.m. Monday through Thursday).

Deviation from the above will not be permitted except by written permission of the City Maintenance Manager or designated representative from the facility. From time to time, the City may take on improvement projects or other construction. The Contractor shall cooperate with the City or its agents while said work is underway.

11.00 Workmanship and Quality level

All work shall be performed by staff directly employed and supervised by the Contractor. The Contractor shall provide management and technical supervision through competent supervisors as required to provide the painting. The Contractor shall be responsible for the skills, methods and actions of all employees, subcontractors and for all work done.

The Contractor shall cooperate with the representative authorized by the City to enable them to determine the Contractor's conformity with these specifications and the adequacy of the work being performed. The Contractor shall give personal supervision to the work and will meet with the Utility Supervisor or designated City representative as needed.

12.00 Safety

The Contractor and staff shall follow all established safety procedures and shall take special care not to endanger the public in any way.

SECTION 3

- 1) Bid Proposal
- 2) Bid Schedule
- 3) Response to Technical Questions Form
- 4) Wage Theft Prevention Bid Certification
- 5) Certification of Acceptance of Terms of Agreement
- 6) Non-Collusion Declaration

Note that each document included in this section must be included in bid proposal package.

Bid Proposal
Annual Painting of Well Sites and Booster Stations
In the City of Morgan Hill

_____ (“Bidder”) hereby submits this Bid Proposal to the City of Morgan Hill (“The City”) for the above-referenced project (“Project”) in response to the Notice Inviting Proposals and in accordance with the Contract Documents referenced therein.

1. **Base Bid.** Bidder proposes to perform and fully provide Annual Painting of Well Sites and Booster Stations maintenance as specified in the Contract Documents, for the time period from contract execution to June 30, 2026, for the pricing (“Base Bid”) listed in the attached Bid Schedule.

2. **Addenda.** Bidder acknowledges receipt of the following addenda:

Addendum:	Date Received:	Addendum:	Date Received:
#01	_____	#05	_____
#02	_____	#06	_____
#03	_____	#07	_____
#04	_____	#08	_____

3. **Bidder’s Warranties.** By signing and submitting this Bid Proposal, Bidder warrants the following:

3.1 Bidder has thoroughly examined the Contract Documents, and represents that, to the best of Bidder’s knowledge there are no errors, omissions, or discrepancies in the Contract Documents.

3.2 Bidder is fully qualified to perform the Work.

3.3 Bidder has carefully reviewed this Bid Proposal and is solely responsible for any errors or omissions contained in its completed Bid.

4. **Award of Contract.** By signing and submitting this Bid Proposal, Bidder agrees that if Bidder is awarded the Contract for the Project, that within ten (10) days following issuance of the notice of award to Bidder, Bidder shall:

4.1 Enter into a Contract with The City in accordance with the terms of this Bid Proposal, by signing and submitting to The City the Contract form included with the Contract Documents; and

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4.2 Submit to The City the insurance certificate(s) and endorsement(s) as required by the Contract Documents.

This Bid Proposal is hereby submitted on _____, 20__:

Signature

Name and Title [print]

Company Name

Address, City, State, Zip

Phone

DIR Registration #

Email

Contractor License #

Attachments:

- 1) Bid Schedule
- 2) Response to Technical Questions Form
- 3) Wage Theft Prevention Certification
- 4) Wage Theft Prevention Bid Certification
- 5) Certification of Acceptance of Terms of Agreement

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ATTACHMENT 1 - BID SCHEDULE

for Annual Painting of Well Sites and Booster Stations

Name of Contractor: _____

The bid items below are the most commonly used systems for the City’s facilities and will be used for the purpose of determining lowest bid scores. The costs per this bid schedule will become the costs per each bid item on the awarded bidder’s agreement. Unit price per square foot should include all labor, prep work, paint and painting supplies, travel time, expenses, and equipment necessary to do the work required.

The description of the facilities to be painted, including the City’s preferred schedule for painting and painting systems are further described in “TECHNICAL PROVISIONS” section of this Bid Document. Colors can be found at <https://www.federalstandardcolor.com/>.

Bid Item	Description of Bid Item	Unit Price Per Square Foot Year 1	Unit Price Per Square Foot Year 2	Unit Price Per Square Foot Year 3
1	Exterior Walls System #6 - Color 17925			
2	Exterior Trim System #15 – Color 13522			
3	Interior Wall & Ceiling System #9 – Color 17925			
4	Interior Trim System #16 – Color 13522			
5	Interior Floors System #11 – Color 16314			
6	Interior Piping & Appurtenances System # 4 – Color 15102			

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ATTACHMENT 2 - RESPONSE TO TECHNICAL QUESTIONS FORM
Annual Painting of Well Sites and Booster Stations RFP

Please provide a brief narrative entitled, “**Attachment 2 - Response to Technical Proposal for Annual Painting of Well Sites and Booster Stations,**” which answers the questions in Sections 1 through 3 below (Please include your company’s complete legal name and form of entity, for example, “corporation,” on each page):

Section 1: Previous Experience in providing a superior level of service on like-sized public and/or private projects

Please answer the following:

1. How many years has your company been in business under its present business name?
2. Describe your previous experience painting for like-sized jurisdictions.
3. Describe management personnel's experience with accounts of similar size and scope.
4. State any and all instances of being disqualified, removed, or otherwise prevented from completing the terms of any previous contracts over the past five (5) years. Give names, street addresses, and phone numbers and explain the circumstances.

Section 2: REFERENCES: Assessment of Work Quality, Performance and Working Relationships with Current and Recent Clients

1. List three (3) like-sized customers that you have provided Painting of Well Sites and Booster Stations to within the last three (3) years. Provide the following information for each contact:
 - a. Customer Name
 - b. Customer Contact Name
 - c. Customer Contact Email
 - d. Phone Number (Direct Line if possible)
 - e. Number of years your firm has provided well site and booster station painting services to Customer.

Section 3: Well organized communication systems and reporting capabilities that demonstrate an ability to complete tasks efficiently and effectively and do not require constant supervision by the City.

1. Describe the systems your company uses to communicate between supervisors, office staff and field staff. Also describe the systems you use to assign, track, and evaluate work performed by your employees.
2. What is a reasonable response time for your company from receipt of work order to arrival on site?
3. Describe your existing customer service program, how you would monitor customer satisfaction, how complaints will be resolved and your plan for quality control.
4. Describe your communication plan to assure proper communication between your representative and the City's representative.
5. Describe in detail your Safety Program.

Attachment 3

Wage Theft Prevention Bid Certification

(To be executed by Contractor and submitted with bid)

All Contractors are expected to have read and understand the “Wage Theft Prevention Policy” adopted on July 26, 2017, which can be found at <http://www.morgan-hill.ca.gov/DocumentCenter/View/22921/CP-17-01-Wage-Theft-Prevention>

The undersigned Contractor hereby certifies that Contractor and its principals have , have not been found by a final court judgement or final administrative action of an investigatory agency to have violated federal, State, or local wage and hour laws within the past five years from the date of the submitted bid or proposal. For each disclosed violation, the Contractor shall provide a copy of (i) the court order and judgment and/or final administrative decision; and (ii) documents demonstrating either that the order/judgment has been satisfied, or if the order/judgment has not been fully satisfied, a written and signed description of Contractor’s efforts to date to satisfy the order/judgment. The completed Certification shall be submitted by the Contractor to the City as a part of its bid or proposal. The City, at its sole discretion, may disqualify a Contractor based on one or more disclosed judgments consistent with the criteria set forth in the Policy.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct, and that this certification is executed on _____ [date], at

_____ [city], _____ [state].

Signature

Print Name and Title

Company

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Certification of Acceptance of Terms of Agreement

(To be executed by Contractor and submitted with bid)

All Contractors are expected to have read and understand the attached Maintenance Service Agreement with the City of Morgan Hill. The Contractor selected through the Request for Proposals (RFP) process will be expected to execute a formal Agreement with the City of Morgan Hill for the provision of the requested service as set forth in the sample agreement attached to this RFP. Submission of a signed proposal will be interpreted to mean Contractor has agreed to all the terms and conditions set forth in the pages of this RFP and the standard provisions included in the attached Agreement. Contractor must submit all exceptions to this RFP with its proposal, clearly identifying the exception, including the page number and section number, as appropriate. Contractor should note that the submittal of an exception does not obligate the City to revise the terms of this RFP or any resulting agreement. The City will not consider any exceptions that are not identified in the proposal.

I certify that I am a person authorized to enter into contracts and agreements for the bidding entity.

I certify that I have read the form of Agreement provided with the RFP solicitation and our company is prepared to enter into an Agreement with the City of Morgan Hill within 10 days of receiving the Notice of Award.

This completed Certification shall be submitted by the Contractor to the City as a part of its bid or proposal.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct, and that this certification is executed on _____ [date], at

_____ [city], _____ [state].

Signature

Print Name and Title

Company

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Attachment 5

Non-Collusion Declaration

(To be executed by Contractor and submitted with Proposal)

State of California)	ss.
)	
County of _____)	

The undersigned declares:

I am the _____ [title] of
_____ [business name], 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 no paid and will not pay, any person or entity for such purpose.

This declaration is intended to comply with California Public Contract Code Section 7106 and Title 23 U.S.C Section 112.

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
[date], at _____ [city], _____ [state].

Signature

Name [print]

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CALIFORNIA ALL-PURPOSE ACKNOWLEDGMENT

CIVIL CODE ' 1189

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document, to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

State of **CALIFORNIA**)

County of _____)

On _____, before me, _____
a Notary Public in and for said County and State, personally appeared

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

Place Notary Seal Above

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EXHIBIT A

MAINTENANCE SERVICE AGREEMENT

THIS AGREEMENT is entered into and becomes effective on _____ (Effective Date), by and between the CITY OF MORGAN HILL, a municipal corporation, ("CITY"), and _____ a _____ (Choose an item. Choose an item. ("SERVICE PROVIDER") hereinafter referred to collectively as "Parties." In consideration of the promises and the mutual covenants contained in this Agreement, the Parties agree as follows:

1. **City Authority.** This Agreement is entered into pursuant to the _____ (Choose an item).
2. **Term of Agreement.** This Agreement shall cover services rendered from the Effective Date of this Agreement until _____ at which time SERVICE PROVIDER'S services shall be completed. The City Manager is authorized to extend the term of this Agreement for a maximum period of one year. Any such extension shall be in writing and signed by both Parties to this Agreement.
3. **Scope of Service.** The services to be performed by SERVICE PROVIDER shall be _____ as further described in **Exhibit A.**
4. **Compensation.** SERVICE PROVIDER shall be compensated as follows:
 - 4.1. **Amount.** \$ _____. Total compensation to SERVICE PROVIDER under this Agreement during its initial term set forth in Section 2 above shall not exceed _____ dollars and shall be billed based on the rate and basis set forth in **Exhibit B.** If the City Manager extends the term of this Agreement pursuant to the provisions of Section 2 above, the City Manager shall have the authority to increase the maximum compensation allowed to be paid to SERVICE PROVIDER during that extended term period, so long as City Council has appropriated sufficient funds therefor, the Parties mutually agree to such amount in a writing signed by both Parties to this Agreement and provided further that in no event shall such maximum compensation allowed for the extended term exceed 105% of the maximum compensation allowed to be paid to SERVICE PROVIDER for one year of service during the initial term of this Agreement.
 - 4.2. **Billing.** SERVICE PROVIDER shall provide CITY with an invoice containing the dated, detailed, and itemized descriptions of all services performed and expenses incurred (if such expenses are reimbursable pursuant to Exhibit B) by SERVICE PROVIDER on a monthly basis unless otherwise specified in Exhibit B. All invoices shall be sent to the CITY addressed to the department head or project manager identified below in Section 14 Notices. Payment will be made to SERVICE PROVIDER within thirty (30) days of receipt of invoice by CITY. Any rate charged shall be prorated where services are interrupted or not provided for any rate period (for example, any monthly rate charge should be prorated when services were interrupted or provided for only part of the month). For services billed on an hourly rate, the minimum unit of billed time shall not exceed one tenth of one hour. CITY shall pay for services and expenses (if so provided in Exhibit B) up to the limit of compensation set forth above, that in the CITY'S judgment were necessary and reasonable. Services for work performed and expenses incurred in excess of the total compensation set forth in paragraph 4.1 above shall be at no cost to CITY.

5. **Termination.** CITY or SERVICE PROVIDER shall have the right to terminate this Agreement, without cause, by giving thirty (30) days' written notice or less under urgent circumstances. Upon such termination, SERVICE PROVIDER shall submit to CITY an itemized statement of services performed for which compensation has not been paid. CITY may require SERVICE PROVIDER to complete certain work product or documents and SERVICE PROVIDER shall deliver to CITY all documents in its possession without additional compensation to SERVICE PROVIDER. The City Manager is authorized to terminate this Agreement, in whole or in part, on behalf of CITY.

5.1. **Non-Appropriations.** Notwithstanding anything contained in this Agreement to the contrary, if insufficient funds are appropriated, or funds are otherwise unavailable in the budget for CITY for any reason whatsoever in any fiscal year, for payments due under this Agreement, CITY will immediately notify SERVICE PROVIDER of such occurrence, and this Agreement shall terminate after the last day during the fiscal year for which appropriations shall have been budgeted for CITY or are otherwise available for payments.

6. **Performance of Work.** SERVICE PROVIDER represents that it is qualified by virtue of experience, training, education, and expertise to accomplish these services. Services shall be performed by SERVICE PROVIDER in accordance with professional practices in a manner consistent with a level of care, competence and skill exercised by qualified members of SERVICE PROVIDER'S profession. By delivery of completed work, SERVICE PROVIDER certifies that the work conforms to the requirements of this Agreement and all applicable federal, state, and local laws. SERVICE PROVIDER is liable for any property damage caused by SERVICE PROVIDER or its Subcontractors during performance of the services and shall notify the CITY of damage within 24 hours of the occurrence. SERVICE PROVIDER must promptly repair or replace any real or personal property damage and must promptly restore the property to its original or intended condition. CITY may repair or replace the real or personal property damage if SERVICE PROVIDER fails to do so, and the cost of the repairs or replacement may be deducted or offset from any compensation due to SERVICE PROVIDER.

6.1. **Schedule.** SERVICE PROVIDER shall perform all work and services under this Agreement in conformance with the time schedule set forth on **Exhibit C**, "Schedule of Performance," attached hereto and incorporated herein by this reference. The City Manager is authorized on behalf of CITY to modify the timeframes set forth on the Schedule of Performance within the term of this Agreement.

6.2. **Storage of Service Provider's Equipment.** If SERVICE PROVIDER desires to leave or store any of SERVICE PROVIDER'S equipment at a CITY site while SERVICE PROVIDER is performing work or service pursuant to this Agreement, SERVICE PROVIDER will first obtain the consent of the City Manager, or his/her delegate, to do so, and any such storage shall occur only in the manner and location allowed by such CITY official and entirely at SERVICE PROVIDER'S sole risk.

7. **Hazardous Materials.** Without limiting any other requirement or obligation of SERVICE PROVIDER under this Agreement, if SERVICE PROVIDER needs to use any material or chemical considered to be a hazardous material under any federal, state or local law, regulation or policy, SERVICE PROVIDER agrees to fully and timely abide by and comply with all laws, regulations and policies pertaining to the use, transport, removal, handling, disposal or other activity related to any and all such materials or chemicals. Prior to commencement of work or services under this Agreement, SERVICE PROVIDER shall provide CITY with a complete list of the hazardous materials SERVICE PROVIDER reasonably anticipates it may need to use to provide the services of SERVICE PROVIDER under this Agreement, together with the reasonably anticipated quantities thereof, if requested by CITY.

8. **Insurance Requirements.** SERVICE PROVIDER shall procure and provide proof of the insurance coverage required by this section in the form of certificates and endorsements. The required insurance must cover the activities of SERVICE PROVIDER, including its subcontractors, employees and agents, relating to or arising from the performance of any work or service under this Agreement, and must remain in full force and effect at all times during the period covered by this Agreement. The coverages may be arranged under a single policy for the full limits required or by a combination of underlying policies with the balance provided by excess or “umbrella” policies, provided each such policy complies with the requirements set forth herein. Any deductibles or self-insured retentions must be declared to and approved by City. SERVICE PROVIDER further understands that CITY reserves the right to modify the insurance requirements set forth herein, with thirty (30) days’ notice provided to SERVICE PROVIDER, at any time as deemed necessary to protect the interests of CITY.

8.1. **Insurance Types and Amounts.**

- 8.1.1. **Commercial General Liability (CGL).** SERVICE PROVIDER shall maintain CGL against claims and liabilities for personal injury, death, or property damage providing protection in the minimum amount of: (i) one million dollars (\$1,000,000.00) combined single limit for any one accident or occurrence, or (ii) the maximum amount of such insurance available to SERVICE PROVIDER under SERVICE PROVIDER’S combined insurance policies (including any excess or “umbrella” policies), whichever is greater.
- 8.1.2. **Automobile Liability.** SERVICE PROVIDER shall maintain Automobile Liability covering all owned, non-owned and hired automobiles (if SERVICE PROVIDER does not own automobiles, then SERVICE PROVIDER shall maintain Hired/Non-owned Automobile Liability) against claims and liabilities for personal injury, death, or property damage providing protection in the minimum amount of: (i) one million dollars (\$1,000,000.00) combined single limit for any one accident or occurrence, or (ii) the maximum amount of such insurance available to SERVICE PROVIDER under SERVICE PROVIDER’S combined insurance policies (including any excess or “umbrella” policies), whichever is greater.
- 8.1.3. **Workers’ Compensation Insurance and Employer’s Liability.** SERVICE PROVIDER shall maintain Workers Compensation coverage, as required by law, in the minimum amount of: (i) one million dollars (\$1,000,000.00) for any one accident or occurrence, or (ii) the maximum amount of such insurance available to SERVICE PROVIDER under SERVICE PROVIDER’S combined insurance policies (including any excess or “umbrella” policies), whichever is greater. If SERVICE PROVIDER is self-insured, SERVICE PROVIDER shall provide its Certificate of Permission to Self-Insure, duly authorized by the Department of Industrial Relations.
- 8.1.4. **Pollution (Environmental) Liability.** If the performance of SERVICE PROVIDER’S work or service under this Agreement involves hazardous materials, contaminated soil disposal, and/or a risk of accidental release of fuel oil, chemicals or other toxic gases or hazardous materials, SERVICE PROVIDER shall procure and maintain Pollution Liability covering the SERVICE PROVIDER’S liability for bodily injury, property damage and environmental damage resulting from pollution and related cleanup costs arising out of the work or services to be performed under this Agreement. Coverage shall be provided for both work performed on site, as well as during the transport of hazardous materials. Such coverage shall be in the minimum amount of: (i) one million

dollars (\$1,000,000.00) for any one accident or occurrence, or (ii) the maximum amount of such insurance available to SERVICE PROVIDER under SERVICE PROVIDER'S combined insurance policies (including any excess or "umbrella" policies), whichever is greater.

8.1.5. Professional Liability.

8.1.5.1. If the performance of SERVICE PROVIDER'S work or service under this Agreement involves professional and/or technical services (examples include, but are not limited to, architects, engineers, land surveyors, and appraisers), SERVICE PROVIDER shall procure and maintain either a claims made or occurrence Errors and Omission liability insurance in the minimum amount of: (i) one million dollars (\$1,000,000.00) each claim, or (ii) the maximum amount of such insurance available to SERVICE PROVIDER under SERVICE PROVIDER'S combined insurance policies (including any excess or "umbrella" policies), whichever is greater. Further, if SERVICE PROVIDER maintains a claims-made policy, SERVICE PROVIDER shall provide written evidence of such insurance to CITY for at least five (5) years after the completion of work performed under this Agreement.

8.1.5.2. If the performance of SERVICE PROVIDER'S work or service under this Agreement relates to Information Technology or related services (examples include, but are not limited to computer programmers, software designers, hardware engineers, or other systems consultants), SERVICE PROVIDER shall procure and maintain a claims made Errors and Omission liability insurance, including Cyber Liability and Data Breach, in the minimum amount of: (i) one million dollars (\$1,000,000.00) each claim, or (ii) the maximum amount of such insurance available to SERVICE PROVIDER under SERVICE PROVIDER'S combined insurance policies (including any excess or "umbrella" policies), whichever is greater.

8.1.6. Sexual Abuse/Molestation Liability (SML): If the performance of SERVICE PROVIDER'S work or service under this Agreement involves contact with minors, SERVICE PROVIDER shall procure and maintain Sexual Abuse and Molestation insurance in the minimum amount of: (i) two hundred thousand dollars (\$200,000.00) each claim, or (ii) the maximum amount of such insurance available to SERVICE PROVIDER under SERVICE PROVIDER'S combined insurance policies (including any excess or "umbrella" policies), whichever is greater.

8.2. **Endorsements.** SERVICE PROVIDER shall provide proof of the following endorsements, listed for each policy for which endorsements are required, as outlined below:

8.2.1. General Liability and pollution liability (when pollution liability applies).

8.2.1.1. "Additionally Insured" - The City of Morgan Hill, its elected or appointed officials, boards, agencies, officers, agents, employees, and volunteers are named as additional insureds on a form at least as broad as ISO Form CG 20 10 for ongoing operations.

8.2.1.2. "Waiver of Rights of Subrogation" - The insurer waives the right of subrogation against the City of Morgan Hill and CITY'S elected or appointed officials, boards, agencies, officers, agents, employees, and volunteers; and

8.2.1.3. "Primary and Non-Contributing" - Insurance shall be endorsed to be primary and non-contributory and will not seek contribution from the City's insurance or self-insurance and shall be at least as broad as ISO Form CG 20 01.

8.2.2. Workers Compensation.

If the performance of SERVICE PROVIDER'S work or service under this Agreement involves access to or activity on any property or premises owned or occupied by the CITY, including, but not limited to, SERVICE PROVIDER'S presence during site visits and meetings, then insurer waives the right of subrogation against the City of Morgan Hill and the CITY'S elected or appointed officials, boards, agencies, officers, agents, employees, and volunteers.

8.3. **Qualification of Insurers.** All insurance required pursuant to this Agreement must be issued by a company licensed and admitted, or otherwise legally authorized to carry out insurance business in the State of California, and each insurer must have a current A.M. Best's financial strength rating of "A" or better and a financial size rating of "VII" or better.

8.4. **Certificates.** SERVICE PROVIDER shall furnish CITY with copies of all certificates as outlined herein, whether new or modified, promptly upon receipt. In the event of a claim or legal action, SERVICE PROVIDER shall promptly furnish CITY of Morgan Hill with copies of all policies outlined herein. No policy subject to SERVICE PROVIDER'S agreement with CITY shall be canceled or materially changed except after thirty (30) days' notice by the insurer to CITY. A "material change" is a change that results in non-compliance with any insurance requirements in this section 8. Certificates, including renewal certificates, may be mailed electronically to riskmgmt@morganhill.ca.gov or delivered to the Certificate Holder address provided herein.

Certificate Holder address:

City of Morgan Hill
Attn: Risk Management
17575 Peak Avenue
Morgan Hill, CA 95037

9. **Non-Liability of Officials and Employees of CITY.** No official or employee of CITY shall be personally liable for any default or liability under this Agreement.

10. **Compliance with Law.**

10.1. SERVICE PROVIDER and its officers, employees, agents, and subcontractors shall comply with all applicable laws, ordinances, administrative regulations, and permitting requirements in carrying out their obligations under this Agreement. SERVICE PROVIDER and its officers, employees, agents, and subcontractors covenant there shall be no discrimination based upon race, color, creed, religion, gender, marital status, age, sexual orientation, national origin, mental disability, physical disability, medical condition, or ancestry, in any activity pursuant to this Agreement.

- 10.2. Without limiting the provisions of Section 10.1 above, each worker performing work under this Agreement shall be paid at a rate not less than the prevailing wage as defined in Sections 1771 and 1774 of the Labor Code. The prevailing wage rates are available online at <http://www.dir.ca.gov/dlsr>. SERVICE PROVIDER shall post a copy of the applicable prevailing rates at the Worksite. Pursuant to Labor Code Section 1775, SERVICE PROVIDER and any Subcontractor shall forfeit to CITY as a penalty up to two hundred dollars (\$200.00) for each calendar day, or portion thereof, for each worker paid less than the applicable prevailing wage rate. SERVICE PROVIDER shall also pay each worker the difference between the applicable prevailing wage rate and the amount actually paid to that worker.
- 10.3. DIR Registration. CITY will not accept a Bid Proposal from or enter into a contract with a SERVICE PROVIDER, without first receiving proof to the satisfaction of CITY that SERVICE PROVIDER and its subcontractors are registered with the California Department of Industrial Relations to perform public work under Labor Code Section 1725.5, subject to limited legal exceptions. Under Labor Code section 1771.4, this Agreement is subject to compliance monitoring and enforcement by the California Department of Industrial Relations.
- 10.4. Compliance with Wage and Hour Laws: SERVICE PROVIDER, and any subcontractor 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 and the California Labor Code.

Final Judgments, Decisions, and Orders: For purposes of this Section, a “final judgment, decision, or order” refers to one for which all appeals have been exhausted or the time to appeal has expired. Relevant investigatory government agencies include: the federal Department of Labor, the California Division of Labor Standards Enforcement, or any other governmental entity or division tasked with the investigation and enforcement of wage and hour laws.

Prior Judgments against SERVICE PROVIDER and/or its Subcontractors: BY SIGNING THIS AGREEMENT, SERVICE PROVIDER 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 SERVICE PROVIDER OR ITS SUBCONTRACTOR(S) HAS VIOLATED ANY APPLICABLE WAGE AND HOUR LAWS. SERVICE PROVIDER FURTHER AFFIRMS THAT IT OR ITS SUBCONTRACTOR(S) HAS SATISFIED AND COMPLIED WITH – OR HAS REACHED AGREEMENT WITH THE CITY REGARDING THE MANNER IN WHICH IT WILL SATISFY – ANY SUCH JUDGMENTS, DECISIONS OR ORDERS.

Judgments or Decisions During Term of Contract: 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 SERVICE PROVIDER or any subcontractor it employs to perform work under this Agreement has violated any applicable wage and hour law, or SERVICE PROVIDER learns of such a judgment, decision, or order that was not previously disclosed, SERVICE PROVIDER shall inform the City Attorney, no more than fifteen (15) days after the judgment, decision or order becomes final or of learning of the final judgment, decision or order. SERVICE PROVIDER and its subcontractors shall promptly satisfy and comply with any such judgment, decision, or order, and shall provide the City Attorney with documentary evidence of compliance with the final judgment, decision or

order within five (5) days of satisfying the final judgment, decision or order. CITY reserves the right to require SERVICE PROVIDER to enter into an agreement with CITY regarding the manner in which any such final judgment, decision, or order will be satisfied.

City's Right to Withhold Payment: Where SERVICE PROVIDER or any subcontractor it employs to perform work under this Agreement has been found in violation of any applicable wage and hour law by a final judgment, decision or order of a court or government agency, CITY reserves the right to withhold payment to SERVICE PROVIDER until such judgment, decision or order has been satisfied in full.

Material Breach: 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.

Notice to City Related to Wage Theft Prevention: Notice provided to the City Attorney as required under this Section shall be addressed to: City Attorney, City of Morgan Hill, 17575 Peak Avenue, Morgan Hill, CA 95037. 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.

11. **Independent Contractor.** SERVICE PROVIDER is an independent contractor and not an agent or employee of CITY.
12. **Confidentiality.** All data, documents, or other information received by SERVICE PROVIDER from CITY or prepared in connection with SERVICE PROVIDER'S services under this Agreement are deemed confidential and shall not be disclosed to any third party by SERVICE PROVIDER without prior written consent by CITY.
13. **Conflict of Interest and Reporting.** SERVICE PROVIDER shall at all times avoid conflict of interest or appearance of conflict of interest in performance of this Agreement.
14. **Notices.** All notices shall be personally delivered or mailed, via first class mail to the below listed address. These addresses shall be used for delivery of service of process. Notices shall be effective five (5) days after date of mailing, or upon date of personal delivery.

Address of SERVICE PROVIDER is as follows:

Address of CITY is as follows:

City of Morgan Hill
17575 Peak Avenue
Morgan Hill, CA 95037

with a copy to:
City Clerk
City of Morgan Hill
17575 Peak Avenue
Morgan Hill, CA 95037

15. **Licenses, Permits and Fees.** SERVICE PROVIDER shall obtain a City of Morgan Hill Business License, all permits and licenses to the extent required by ordinances, codes and regulations of the federal, state and local government.

16. **Service Provider's Proposal.** If applicable, this Agreement shall include SERVICE PROVIDER'S proposal or bid which is incorporated herein. In the event of any inconsistency between the terms of the proposal and this Agreement, this Agreement shall govern.

17. **Maintenance of Records.**

17.1. **Maintenance.** SERVICE PROVIDER shall prepare, maintain, and preserve all reports and records that may be required by federal, state, and CITY rules and ordinances related to services provided under this Agreement. SERVICE PROVIDER shall maintain records for a period of at least 3 years after receipt of final payment under this Agreement. If any litigation, claim, negotiation, audit exception, or other action relating to this Agreement is pending at the end of the 3-year period, then SERVICE PROVIDER shall retain said records until such action is resolved.

17.2. **Access to and Audit of Records.** CITY shall have the right to examine, monitor and audit all records, documents, conditions, and activities of SERVICE PROVIDER and its subcontractors related to services under this Agreement. Pursuant to Government Code Section 8546.7, if this Agreement involves the expenditure of public funds in excess of \$10,000, the Parties to this Agreement may be subject, at the request of CITY or as part of any audit of CITY, to the examination and audit of the State Auditor pertaining to matters connected with the performance of this Agreement for a period of three years after final payment under the Agreement.

17.3. **Ownership of Work Product.** All documents or other information developed or received by SERVICE PROVIDER for work performed under this Agreement shall be the property of CITY. SERVICE PROVIDER shall provide CITY with copies of these items upon demand or upon termination of this Agreement.

18. **Familiarity with Work.** By executing this Agreement, SERVICE PROVIDER represents that: (1) it has investigated the work to be performed; (2) it has investigated the site of the work and is aware of all conditions there; and (3) it understands the difficulties and restrictions of the work under this Agreement. Should SERVICE PROVIDER discover any conditions materially differing from those inherent in the work or as represented by CITY, it shall immediately inform CITY and shall not proceed, except at SERVICE PROVIDER'S risk, until written instructions are received from CITY.

19. **Time of Essence.** Time is of the essence in the performance of this Agreement.

20. **No Assignment.** Neither this Agreement nor any portion shall be assigned by SERVICE PROVIDER, without prior written consent of CITY. Any attempted assignment not first approved by

CITY shall be void and, at CITY'S option, shall terminate this Agreement effective as of the date of such attempted assignment.

21. **Attorney Fees.** In any legal action, dispute or arbitration arising out of or relating to this Agreement, the prevailing party shall be entitled to an award of its reasonable attorney fees, costs and expenses incurred.

22. **Defense and Indemnification.**

22.1. **Defense and Indemnification.** SERVICE PROVIDER shall, to the fullest extent permitted by law, indemnify, defend and hold harmless CITY, its elected or appointed officials, boards, agencies, officers, agents, employees, and volunteers ("INDEMNITEES") from and against any and all claims, liabilities, expenses, liens, or damages of any nature, including liability for bodily injury, property damage or personal injury, and including reasonable attorneys' fees and expenses, that arise out of, pertain to, or relate to the performance of this Agreement or the failure to comply with any obligations contained in this Agreement by SERVICE PROVIDER, and/or its agents, officers, employees, subcontractors, or independent contractors ("CLAIM").

22.2. **Exceptions.** SERVICE PROVIDER is not required to indemnify INDEMNITEES against liability for bodily injury, property damage or personal injury, or any other loss, damage or expense arising from the sole negligence or willful misconduct of CITY.

22.3. **Not limited by insurance.** The indemnity, defense and hold harmless provisions of this Agreement apply to all CLAIMs alleged against an INDEMNITEE, regardless of whether any insurance policies are applicable. Policy limits do not act as a limitation upon the amount of indemnification or defense to be provided by SERVICE PROVIDER.

22.4. **Right to Offset.** CITY shall have the right to offset against any compensation due SERVICE PROVIDER under this Agreement any amount due CITY from SERVICE PROVIDER as a result of SERVICE PROVIDER'S failure to pay CITY promptly any indemnification arising under this Section (22) and any amount due CITY from SERVICE PROVIDER arising from SERVICE PROVIDER'S failure either to (i) pay taxes on amounts received pursuant to this Agreement or (ii) comply with applicable workers' compensation laws.

22.5. **Interpretation.** This Section shall constitute an agreement or contract of indemnity, incorporating the interpretations under California Civil Code Section 2778. It is expressly understood and agreed that the obligation of SERVICE PROVIDER to indemnify the INDEMNITEE shall be as broad and inclusive as permitted by the laws of the State of California and shall survive termination of this Agreement.

23. **Entire Agreement; Modification; Conflicting Provisions.** This Agreement constitutes the entire Agreement between the Parties and supersedes any previous agreements, oral or written. This Agreement may be modified or provisions waived only by a subsequent mutual written agreement executed by CITY and SERVICE PROVIDER. If the provisions contained in the main body of this Agreement conflict with any provision contained in an exhibit to this Agreement, the provisions of the main body of this Agreement shall govern and control over any provision contained in an exhibit to this Agreement.

24. **Governing Law and Venue.** This Agreement shall be construed in accordance with the laws of the State of California. This Agreement was entered into and is to be performed in the County of Santa Clara. Any action or dispute arising out of this Agreement shall only be brought in Santa Clara County.

25. **Interpretation.** This Agreement is a negotiated document and shall be deemed to have been drafted jointly by the Parties, and no rule of construction or interpretation shall apply against any particular Party based on a contention that the Agreement was drafted by one of the Parties including, but not limited to, California Civil Code § 1654, the provisions of which are hereby waived. This Agreement shall be construed and interpreted in a neutral manner.

26. **Preservation of Agreement.** If any term, provision, covenant, or condition of this Agreement is held by a court of competent jurisdiction to be invalid or unenforceable, the rest of the Agreement shall remain in full force and effect and shall in no way be affected or invalidated.

27. **Binding Agreement.** Notwithstanding the provisions of Section 20 above, this Agreement shall bind any and all successors in interest, legal representatives and/or other permitted assignees or transferees of SERVICE PROVIDER in the same manner as if those successors in interest, legal representatives or other permitted assignees or transferees had entered into this Agreement originally.

28. **Electronic Signatures.** Unless otherwise prohibited by law or CITY policy, the Parties agree that an electronic copy of a signed contract, or an electronically signed contract, has the same force and legal effect as a contract executed with an original ink signature. The term “electronic copy of a signed contract” refers to a transmission by facsimile, electronic mail, or other electronic means of a copy of an original signed contract in a portable document format. The term “electronically signed contract” means a contract that is executed by applying an electronic signature using technology approved by the CITY.

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[Signatures on Next Page]

29. **Authority to Execute.** Those individuals who are signing this Agreement on behalf of entities represent and warrant that they are, respectively, duly authorized to sign on behalf of the entities and to bind the entities fully to each and all of the obligations set forth in this Agreement.

IN WITNESS THEREOF, these Parties have executed this Agreement on the day and year shown below.

AS SET FORTH IN CA. CORP. CODE § 313, TWO SIGNATURES ARE REQUIRED FOR CALIFORNIA CORPORATIONS:

- (1) CHAIRPERSON OF THE BOARD, PRESIDENT, OR VICE PRESIDENT; AND
- (2) SECRETARY, ASSISTANT SECRETARY, CHIEF FINANCIAL OFFICER OR ASSISTANT TREASURER.

ATTEST:

CITY OF MORGAN HILL

City Clerk/Deputy City Clerk

City Manager

Michelle Bigelow
Print Name

Christina J. Turner
Print Name

Date: _____

Date: _____

APPROVED AS TO FORM:

City Attorney

By:

Donald A. Larkin
Print Name

Print Name and Title of Signer.
If Corporate: Chairman, President or Vice President

Date: _____

Date: _____

By:

Print Name and Title of Signer.
If Corporate: Secretary, Assistant Secretary, Chief Financial Officer or Assistant Treasurer

Date: _____

Click or tap here to enter text.

Contractor's License Number(s) *(if applicable)*

Click or tap here to enter text.

Contractor's DIR Registration Number(s) *(if applicable)*

Expiration Date(s) Click or tap here to enter text.

Expiration Date(s) Click or tap here to enter text.

Seal:

**EXHIBIT A
SCOPE OF SERVICES**

EXHIBIT B
SCHEDULE OF COMPENSATION RATES

EXHIBIT C
SCHEDULE OF PERFORMANCE