DRAFT CONSULTANT SERVICES AGREEMENT BETWEEN THE CITY OF SUNNYVALE AND CARL WARREN & COMPANY, LLC FOR THIRD PARTY CLAIMS ADMINISTRATOR SERVICES

THIS AGREEMENT, dated _____, is by and between the CITY OF SUNNYVALE ("CITY"), a California chartered municipal corporation, and CARL WARREN & COMPANY, LLC (“CONSULTANT") a California Limited Liability Company.

WHEREAS, CITY is in need of specialize service in relation to Third Party Claims Administrator Services; and

WHEREAS, CITY advertised a Request for Proposals (RFP) F25-239 on March 14, 2025 for Third Party Claims Administrator Services; and

WHEREAS, CONSULTANT submitted a proposal on April 9, 2025; and

WHEREAS, in reliance upon CONSULTANT’s representations regarding its qualifications, CITY finds that CONSULTANT possesses the skill and expertise to provide the required services;

NOW, THEREFORE, THE PARTIES ENTER INTO THIS AGREEMENT.

1. Services by CONSULTANT

CONSULTANT shall provide services in accordance with Exhibit "A" entitled “Scope of Work”. All exhibits, including all associated attachments, are attached hereto and incorporated herein by reference. CONSULTANT shall determine the method, details and means of performing the services.

2. Time for Performance

The term of this Agreement shall be three (3) years beginning January 1st, 2026, unless otherwise terminated in accordance with Section 17 below. CONSULTANT shall deliver the agreed upon services to CITY as specified in Exhibit "A". The contract may be renewed for two additional one-year period if service and rates remain acceptable to the CITY as an amendment in accordance with Section 18 below.

3. Duties of CITY

CITY shall supply to CONSULTANT any documents or information available to CITY and required by CONSULTANT for performance of the services. Any materials provided shall be returned to CITY upon completion of the work.

4. Compensation

CITY agrees to pay CONSULTANT as full compensation for the services rendered pursuant to this Agreement, the amounts set forth in Exhibit “B”. Total compensation shall not exceed three hundred forty-five thousand and No/100 Dollars ($345,000.00).

CONSULTANT shall submit invoices to CITY no more frequently than monthly for services provided to date. All invoices, including detailed backup, shall be sent to City of Sunnyvale, attention Accounts Payable, P.O. Box 3707, Sunnyvale, CA 94088-3707 or accountspayable@sunnyvale.ca.gov. Payment shall be made within thirty (30) days upon receipt of an accurate, itemized invoice by CITY’s Accounts Payable Unit.

5. Wage Rates

CONSULTANT shall comply with the City’s the minimum wage set forth in Section 3.80.040 of the Sunnyvale Municipal Code.

6. Ownership of Documents

CITY shall have full and complete access to CONSULTANT's working papers, drawings and other documents during progress of the work. All documents of any description prepared by CONSULTANT shall become the property of the CITY at the completion of the project and upon payment in full to the CONSULTANT. CONSULTANT may retain a copy of all materials produced pursuant to this Agreement.

7. Conflict of Interest

CONSULTANT shall avoid all conflicts of interest, or appearance of conflict, in performing the services and agrees to immediately notify CITY of any facts that may give rise to a conflict of interest. CONSULTANT is aware of the prohibition that no officer of CITY shall have any interest, direct or indirect, in this Agreement or in the proceeds thereof. During the term of this Agreement, CONSULTANT shall not accept employment or an obligation which is inconsistent or incompatible with CONSULTANT’S obligations under this Agreement.

CONSULTANT’S duties and services under this agreement shall not include preparing or assisting the CITY with any portion of CITY’S preparation of a request for proposals, request for qualifications, or any other solicitation regarding a subsequent or additional contract with the CITY. The CITY shall at all times retain responsibility for public contracting, including with respect to any subsequent phase of this project. CONSULTANT participation in the planning, discussions, or drawing of project plans or specifications shall be limited to conceptual, preliminary, or initial plans or specifications. CONSULTANT shall cooperate with CITY to ensure that all bidders for a subsequent contract on any subsequent phase of this project have access to the same information, including all conceptual, preliminary, or initial plans or specifications prepared by contractor pursuant to this agreement.

Pursuant to CITY's Conflict of Interest Code, Council Policy 7.3.7, CITY has determined that, depending on the position, certain individuals performing services under this Agreement may be required to file a Statement of Economic Interest (Form 700), which can be found at www.fppc.ca.gov. If applicable, to facilitate electronic submittal of Form 700, CONSULTANT shall send the following information to cityclerk@sunnyvale.ca.gov: 1) first and last name(s) of CONSULTANT's employee(s); 2) email address(es) of CONSULTANT's employee(s); 3) date when CONSULTANT's employee(s) will begin work under this contract; and 4) (if known) date when CONSULTANT's employee(s) will cease work under this contract.

Government Code Section 91013 provides that any person who files a statement after its deadline shall be liable in the amount of $10 per day, up to a maximum of $100, in addition to any administrative penalty (up to the statutory maximum, currently $5,000) imposed by the Fair Political Practices Commission (FPPC). If any of CONSULTANT's employee(s) is required to submit Form 700, and CITY does not receive CONSULTANT's Form 700, then CITY is required to refer this matter to the FPPC or other appropriate enforcement agency.

8. Confidential Information

CONSULTANT shall maintain in confidence and at no time use, except to the extent required to perform its obligations hereunder, any and all proprietary or confidential information of CITY of which CONSULTANT may become aware in the performance of its services.

9. Compliance with Laws

A. CONSULTANT shall not discriminate against, or engage in the harassment of, any City employee or volunteer or any employee of CONSULTANT or applicant for employment because of an individual's race, religious creed, color, national origin, ancestry, physical disability, mental disability, medical condition, genetic information, marital status, sex, gender, gender identity, gender expression, age, sexual orientation, veteran or military status, or any other protected characteristic in violation of federal or state law. This prohibition shall apply to all of CONSULTANT's employment practices and to all of CONSULTANT's activities as a provider of services to the City.

B. CONSULTANT shall comply with all federal, state and city laws, statutes, ordinances, rules and regulations and the orders and decrees of any courts or administrative bodies or tribunals in any manner affecting the performance of the Agreement.

10. Independent Contractor

CONSULTANT is acting as an independent contractor in furnishing the services or materials and performing the work required by this Agreement and is not an agent, servant

or employee of CITY. Nothing in this Agreement shall be interpreted or construed as creating or establishing the relationship of employer and employee between CITY and CONSULTANT. CONSULTANT is responsible for paying all required state and federal taxes.

11. Hold Harmless/Indemnification

To the fullest extent permitted by law, CONSULTANT shall hold harmless, defend at its own expense, and indemnify the City and its officers, officials, employees, agents, and volunteers, against any and all liability, claims, losses, damages, or expenses, including reasonable attorney's fees, arising from all acts or omissions of CONSULTANT or its officers, agents, or employees in rendering services under this Agreement; excluding, however, such liability, claims, losses, damages, or expenses arising from the City's sole negligence or willful acts. The defense and indemnification obligations of this agreement are undertaken in addition to, and shall not in any way be limited by, the insurance obligations contained in this agreement. CONSULTANT's responsibility for such defense and indemnity obligations shall survive the termination or completion of this agreement.

12. Insurance

The City requires CONSULTANT to maintain insurance requirements on the City's electronic insurance verification system. CONSULTANT shall procure and maintain, at its own expense, during the life of this Agreement, policies of insurance as specified in Exhibit "C" attached and incorporated herein by reference and shall provide all certificates and endorsements as specified in Exhibit "C" electronically for approval by the City Risk Manager prior to CONSULTANT (or subcontractor) commencing any work under this Agreement.

13. CITY Representative

Jen Martel, Risk Manager, as the City Manager's authorized representative, shall represent CITY in all matters pertaining to the services to be rendered under this Agreement ("CITY representative"). All requirements of CITY pertaining to the services and materials to be rendered under this Agreement shall be coordinated through the CITY representative.

14. CONSULTANT Representative

Suzie Spencer, VP of Business Development shall represent CONSULTANT in all matters pertaining to the services and materials to be rendered under this Agreement ("CONSULTANT representative"). All requirements of CONSULTANT pertaining to the services or materials to be rendered under this Agreement shall be coordinated through the CONSULTANT representative.

15. Notices

All notices required by this Agreement, other than invoices for payment which shall be sent directly to Accounts Payable, shall be in writing, and sent by first class with postage prepaid, or sent by commercial courier, to address below.

Nothing in this provision shall be construed to prohibit communication by more expedient means, such as by email, to accomplish timely communication. Each party may change the address by written notice in accordance with this paragraph. Notices delivered personally shall be deemed communicated as of actual receipt; mailed notices shall be deemed communicated as of three business days after mailing.

To CITY: Tina Murphy, Director
Department of Human Resource
CITY OF SUNNYVALE
P. O. Box 3707
Sunnyvale, CA 94088-3707

To CONSULTANT: Suzie Spencer, VP Business Development
Carl Warren & Company, LLC
175 N. Riverview Dr. Unit A
Anaheim, CA 92808

16. Assignment

Neither party shall assign or sublet any portion of this Agreement without the prior written consent of the other party.

17. Termination

A. If CONSULTANT defaults in the performance of this Agreement, or materially breaches any of its provisions, CITY at its option may terminate this Agreement by giving written notice to CONSULTANT. In the event of such termination, CONSULTANT shall be compensated in proportion to the percentage of satisfactory services performed or materials furnished (in relation to the total which would have been performed or furnished) through the date of receipt of notification from CITY to terminate. CONSULTANT shall present CITY with any work product completed at that point in time.

B. Without limitation to such rights or remedies as CITY shall otherwise have by law, CITY also shall have the right to terminate this Agreement for any reason upon ten (10) days' written notice to CONSULTANT. In the event of such termination, CONSULTANT shall be compensated in proportion to the percentage of services performed or materials furnished (in relation to the total which would have been performed or furnished) through the date of receipt of notification from CITY to terminate. CONSULTANT shall present CITY with any work product completed at that point in time.

C. If CITY fails to pay CONSULTANT, CONSULTANT at its option may terminate this Agreement if the failure is not remedied by CITY within (30) days after written notification of failure to pay.

18. Entire Agreement; Amendment

This writing constitutes the entire agreement between the parties relating to the services to be performed or materials to be furnished hereunder. No modification of this Agreement shall be effective unless and until such modification is evidenced in writing as an amendment to this Agreement signed by all parties. If the amendment is signed electronically, the digital signatures must comply with the requirements of California Government Code Section 16.5.

19. Governing Law, Jurisdiction and Venue

This Agreement shall be governed by and construed in accordance with the laws of the State of California, excluding its conflict of law principles. Proper venue for legal actions will be exclusively vested in a state court in the County of Santa Clara. The parties agree that subject matter and personal jurisdiction are proper in state court in the County of Santa Clara, and waive all venue objections.

20. Miscellaneous

Time shall be of the essence in this Agreement. Failure on the part of either party to enforce any provision of this Agreement shall not be construed as a waiver of the right to compel enforcement of such provision or any other provision.

IN WITNESS WHEREOF, the parties have executed this Agreement.

CITY OF SUNNYVALE ("CITY")

By_____
City Manager

CARL WARREN & COMPANY, LLC ("CONSULTANT")

By_____

_____
Name and Title

ATTEST:

By_____
City Clerk

By_____

_____
Name and Title

APPROVED AS TO FORM:

By_____
City Attorney

Exhibit A
Detailed Scope of Work

The contract will require the selected TPA to operate under the general direction of the City's Risk Manager and consult with other City staff in developing effective procedures and practices to successfully administer the City's property and casualty claims. The Consultant will perform all services and related work necessary for claims administration and statistical reporting. Consultant services shall include, but are not limited to general, automobile, and property liability claims administration, investigations, research, analysis, recording, reporting, subrogation, restitution, recovery, liability trust account management and reconciliation, and related support services. The City shall retain outside counsel for litigation functions but may call upon Consultant to assist in these areas on a case-by-case basis.

1. Program Administration

Consultant shall:

1.1 Provide professional and technical staff to perform General Liability Claims Administration services. TPA will only utilize expert services or a subcontractor with prior approval from the City;

1.2 Represent City in all matters related to the set-up, investigation, adjustment, processing, negotiation, and resolution of liability claims against City;

1.3 Inform the City of changes or proposed changes in statutes, rules, regulations, and case law affecting its general liability claims program;

1.4 Assist in the development of policies and procedures relating to the general liability claims program;

1.5 Provide information and guidance regarding the general liability claims program and specified claims;

1.6 Provide copies of file correspondence, documentation, and reports as requested by the City;

1.7 Inform the City of problem areas or trends, both potential and perceived, and provide recommendations and/or solutions to address problem areas or trends;

1.8 Attend appointments, including but not limited to meetings, conferences, court appearances, and scene investigations at the request of the City;

1.9 Provide 24-hour on-call service. This can be accomplished by providing the City with a 24-hour phone number for key personnel. The City will utilize the 24- hour, on-call service as necessary to include, but not limited to, responding to an incident scene and catastrophic emergency.

2. Claims Administration/Management

Consultant shall:

2.1 Receive and maintain claims filed against the City pursuant to the City's retention schedule;

2.2 Create and enter new claim files into (CMIS) Claims Management Information System (CMIS) within 48 hours of receipt of a loss notice from the City's Clerk's Office or Risk Manager;

2.3 Adhere to the requirements of the California Government Code for accepting, denying, and rejecting claims;

2.4 At the direction of the City, contact claimants or their attorneys within five (5) business days of receipt of a claim and maintain appropriate contact with them until the claim is closed;

2.5 Review the status of claims and assist as directed with setting of adequate reserves on all active cases at least every ninety (90) calendar days;

2.6 Review all claims for liability assessment, conduct field investigations as needed, and provide first investigative report within thirty (30) calendar days of receipt of claim to Risk Manager;

2.7 Provide narrative reports with recommendation for rejection or settlement of a claim, when significant events have or will occur. Reports must be clear and concise;

2.8 Negotiate settlements within authority limits. Funding for the payment of any settlement is specifically excluded from this agreement;

2.9 Report claims in compliance with Medicare, Medicaid, and SCHIP Extension Act (MMSEA) Section 111;

2.10 Process payments within authority level within fourteen (14) business days of receipt of authority to issue payment;

2.11 Produce and process checks drawn on the City's trust account for payment of claims, outside vendors, legal costs, and other claims related – allocated expenses <u>except</u> TPA's adjusting fees and costs. TPA shall monitor and manage the trust account including reconciliation and requests for replenishment. TPA shall provide the City a monthly accounting of the trust account;

2.12 Diary dates to allow for timely completion of required activity and no less frequently than every sixty (60) calendar days. TPA Supervisor shall monitor the timely completion of diary notes;

2.13 Return all correspondence within 48 hours of receipt, unless an immediate response is required;

2.14 When written responses to requests cannot be emailed, TPA shall mail response within ten (10) business days of receipt, unless an

immediate response is required;

2.15 Assist the Risk Manager in preparing for small claims court. Responsibilities may include, but are not limited to, conducting investigations, drafting the defendant's brief, gathering and organizing exhibit documents, discussing the defense position regarding liability, formulating strategy, negotiating settlement options, and representing the City in small claims court.

2.16 Have translators available to assist with non-English speaking claimants.

2.17 Host (quarterly) claim reviews for the City, with participation of the claim adjuster(s), and management. Report on the general state of the program sine the last meeting and on any cases of interest to the City.

3. Investigations

Consultant shall:

3.1 Within ten (10) business days of receipt of claim, unless otherwise requested by Risk Manager, take statement of facts from claimants when not represented by an attorney. Statements will be preserved by recording or taking written signed statements;

3.2 Investigate claims where the initial review indicates that it is warranted. Further investigation may include, but is not limited to, on-site investigation, photographs, interviewing witnesses and taking signed or recorded statements, verification of damage or loss, taking measurements, obtaining maps/diagrams from the City or other sources, obtaining medical releases, police reports, or other records as required;

3.3 If an attorney is involved, direct all communication to the claimant's attorney regarding the investigation, negotiation, and evaluation of any claims leading to a settlement.

4. Litigation Management

The City of Sunnyvale's Office of the City Attorney (OCA) shall retain the litigation management function. To that end, Consultant shall:

4.1 Assist OCA with monitoring defense counsel to ensure timely communication, accurate billings, and case resolution.

4.2 Obtain approval from the City regarding a settlement above authority limit. The City's Risk Manager holds the delegated settlement authority from the City Manager up to $50,000 under the California Government Code and Sunnyvale Municipal Code;

4.3 Obtain copies of fully executed settlements and dismissals;

4.4 Attend Settlement Conferences, mediation, or arbitrations as requested;

4.5 Assist the City Attorney and defense counsel in preparing and/or responding to discovery as requested.

5. Subrogation/Restitution/Recovery

Consultant shall:

5.1 Place the tortfeasor on notice of the City's subrogation rights;

5.2 Collaborate with Risk Manager and OCA to draft necessary legal documents for recovering funds spent on claim; and

5.3 Apply the provisions outlined in Section 2. Claim Administration/Management, to subrogation, restitution, recovery claims.

6. Claims Management Information System (CMIS)

Consultant shall:

6.1 Convert all existing open and closed claims data and enter new claims data into the TPA's CMIS;

6.2 Record all claims in a CMIS. Claims records must contain all pertinent claim information, including but not limited to claim number, date of loss, date of claim, claimant name and address, location of loss, description of incident, loss reserves, loss payments, and expense reserves;

6.3 Create a review system to ensure accurate data is entered into the CMIS. All claims must be reviewed at least every ninety (90) calendar days. The review system must include a review of all the financial information entered into the CMIS to ensure the financial integrity of the data. In addition, the review system must include appropriate claims handling and reserving procedures, and timely file closures;

6.4 TPA shall use electronic notes in the CMIS to record all activities, ensuring timely updates with all new developments. All documents, including but not limited to email communications, and status updates form counsel will be scanned and saved into the database by TPA. Additionally, all phone calls shall be documented;

6.5 TPA shall provide CMIS training, support, and access for up to four (4) City risk management staff so that they may search for claim information and data, as required;

6.6 Provide specified standard loss reports as agreed upon;

6.7 Provide data analytic and special reports as needed by the City.

7. Excess Insurance Reporting

The City is a founding member of the California Joint Powers Risk Management Authority (CJPRMA) since 1986.

Consultant shall:

7.1 Report to CJPRMA in accordance with policy provisions outlined in paragraphs 7.2 and 7.3. Complete the Notice of Claim form in its entirety and send with case file to:

Email: newClaims@cjprma.org;

Or mail: CJPRMA 3201 Doolan Road, Livermore, CA 94551

Phone: (925) 837-0667 with any questions (do not report claims via phone)

7.2 Report to CJPRMA on behalf of the City as follows: Pursuant to the requirements of Section VII (Conditions) of the Memorandum of Coverage: *Covered party's Duties in the Event of Occurrence, Claim or Suit*

The *covered party* shall notify the *Authority* within 30 days upon receipt of notice of a claim, or the setting of a reserve on any claim or suit including multiple claims or suits arising out of one *occurrence*, such claim or reserve amounting to fifty percent or more of the *retained limit*; Title 42 USC 1983 cases in which a complaint has been served and the plaintiff is represented by legal counsel or with reserves of fifty percent or more of the *retained limit*; or regardless of reserve, any claim involving:

1) one or more fatalities;

2) loss of a limb;

3) loss of use of any sensory organ;

4) paralysis;

5) third degree burns involving ten percent or more of the body;

6) serious facial disfigurement; or

7) vegetative state/coma.

Written notice containing particulars sufficient to identify the *covered party* and also reasonably obtainable information with respect to the time, place, and circumstances thereof, and the names and addresses of the *covered party* and of available witnesses, shall be given by or for the *covered party* to the *Authority* or any of its authorized agents as soon as possible.

7.3 Report to CJPRMA on behalf of the City as follows: The *covered party* shall notify the *Authority* within 30 days upon receipt of lawsuit containing allegations involving *employment practices liability,* fatalities, paralysis, or Title 42 USC 1983 cases in which plaintiff is represented by legal counsel. Where any lawsuit is reported after the 30-day period as required by this provision, all *defense costs* incurred prior to the date of late reporting will not constitute covered *ultimate net loss* eroding the *self-insurance retention.* The *covered parties* shall cooperate in an early review of *employment practices liability* claims or suits with counsel appointed by the *Authority* at the expense of the *Authority.*

7.4 Report to CJPRMA on behalf of the City as follows: If claim is made or suit is brought against the *covered party* and such claim or suit falls within the description in paragraph (a) above, the *covered party* shall be obligated to forward to the *Authority* every demand, notice, summons, or other process received by it or its representative.

7.5 Report to CJPRMA on behalf of the City as follows: The *covered party* shall cooperate with the *Authority* and upon its request assist in making settlements, in the conduct of suits and in enforcing any right of contribution or indemnity against any person or organization who may be liable to the *covered party.*

because of *bodily injury*, *personal injury*, *property damage* or *public officials errors and omissions* with respect to which coverage is afforded under this Agreement; and the *covered party* shall attend hearings and trials and assist in securing and giving evidence and obtaining the attendance of witnesses.

7.6 Report to CJPRMA on behalf of the City as follows: The *Authority* shall be entitled to complete access to the *covered party's* claim file, the defense attorney's complete file, and all investigation material and reports, including all evaluations and information on negotiations. The *covered party* shall be responsible to report on the progress of the litigation and any significant developments at least quarterly to the *Authority*, and to provide the *Authority* with simultaneous copies of all correspondence provided to the *covered party* by its defense attorneys and/or agents.

Exhibit B
COMPENSATION

One-Time Startup Fees

One-Time Startup Fees. The City will pay Consultant the following fees, if any, for the applicable services related to the initial start up prior to servicing claims:

$ 0.00

Payment for Cost Plus Rate

For Claims Administration, the City will pay the Consultant the firm fixed Cost Plus Rate per month for the applicable term to fully staff the claims team based on the number of persons and monthly rate of each position type as set forth in the following tables:

Firm Fixed Cost Plus Rate Per Month for the Initial Term

Position Title	Firm Fixed Number of Persons	Firm Fixed Monthly Rate	Firm Fixed Monthly Amount
Account/Program Manager	$ 5%	$ 7,083.00	$ 354.15
Claims Manager	$ 10%	$ 10,416.00	$ 1,041.60
Claims Supervisor	$ 0%	$ 0.00	$ 0.00
Senior Claims Examiner	$ 75%	$ 7,916.00	$ 5,937.00
Claims Examiner	$ 0%	$ 0.00	$ 0.00
Claims Representative	$ 15%	$ 4,167.00	$ 625.05
Firm Fixed Cost Plus Rate Per Month for the Initial Term Includes a multiplier of 20% to cover IT,Accounting,Trust Management, Index/MMSEA, Quality Assurance			$ 9,549.36

Firm Fixed Cost Plus Rate Per Month for the First Renewal Option Term

Position Title	Firm Fixed Number of Persons	Firm Fixed Monthly Rate	Firm Fixed Monthly Amount
Account/Program Manager	$ 5%	$ 7,295.49	$ 364.77
Claims Manager	$ 10%	$ 10,728.48	$ 1,072.85
Claims Supervisor	$ 0%	$ 0.00	$ 0.00
Senior Claims Examiner	$ 75%	$ 8,153.48	$ 6,115.11
Claims Examiner	$ 0%	$ 0.00	$ 0.00
Claims Representative	$ 15%	$ 4,292.01	$ 643.80
Firm Fixed Cost Plus Rate Per Month for the First Option Term. Includes a multiplier of 20% to cover IT,Accounting,Trust Management, Index/MMSEA, Quality Assurance			$ 9,835.84

Firm Fixed Cost Plus Rate Per Month for the Second Renewal Option Term

Position Title	Firm Fixed Number of Persons	Firm Fixed Monthly Rate	Firm Fixed Monthly Amount
Account/Program Manager	$ 5%	$ 7,514.35	$ 375.72
Claims Manager	$ 10%	$ 11,050.33	$ 1,105.03
Claims Supervisor	$ 0%	$ 0.00	$ 0.00
Senior Claims Examiner	$ 75%	$ 8,398.08	$ 6,298.56
Claims Examiner	$ 0%	$ 0.00	$ 0.00
Claims Representative	$ 15%	$ 4,420.77	$ 663,12
Firm Fixed Cost Plus Rate Per Month for the Second Option Term. Includes a multiplier of 20% to cover IT,Accounting,Trust Management, Index/MMSEA, Quality Assurance			$ 10,130.92

Exhibit C
INSURANCE REQUIREMENTS

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

Minimum Scope and Limits of Insurance. Consultant shall maintain limits not less than:

1. **Commercial General Liability**: coverage written on an occurrence basis with limits not less than $2,000,000 per occurrence and $4,000,000 aggregate for bodily injury, personal injury, and property damage. ISO Occurrence Form shall be at least as broad as CG 0001.

2. **Automobile Liability**: coverage with a combined single limit of not less than $1,000,000 per occurrence applying to all owned, non-owned, or hired vehicles used in conjunction with this Agreement for bodily injury and property damage. ISO Form shall be at least as broad as CA 0001.

3. **Workers' Compensation:** Statutory Limits and **Employer's Liability**: $1,000,000 per accident for bodily injury or disease.

Industry Specific Coverages. If checked below, the following insurance is also required:
☒ **Professional Liability / Errors and Omissions Liability** coverage with limits not less than $5,000,000 per claim.

☒ **Valuable Papers and Electronic Data Processing** with limits not less than $10,000 each.

☒ **Cyber & Tech Liability** coverage with limits not less than of $5,000,000 per occurrence or claim.

☒ **Commercial Crime coverage** with limits not less than $2,000,000 per occurrence to include employee and non-employee dishonesty and theft, forgery, fraud, disappearance and destruction of money and securities.
☐ Coverage must include third party premises endorsement.

Deductibles, Self-Insured Retentions and Other Coverages:
Any deductibles or self-insured retentions must be declared and reviewed by the City of Sunnyvale, Risk Manager. The Consultant shall guarantee payment of any losses and related investigations, claim administration and defense expenses within the deductible or self-insured retention. Policies containing any self-insured retention provision shall provide, or be endorsed to provide, that the SIR may be satisfied by either the Named Insured or the City.

The aforementioned insurance requirements can be met through any combination of self-insured, primary, and excess/umbrella policies that fulfill the stipulated coverage as cited above.

Other Insurance Provisions:

1. During the term of the Agreement, the City of Sunnyvale, its officers, officials, employees, agents, and volunteers are to be covered as an additional insured in the Consultant's

commercial general liability policy (and if industry specific coverage is checked above, valuable papers, electronic data processing, and cyber liability policies) with respect to liability arising out of activities performed by or on behalf of the Consultant; products and completed operations of the Consultant; premises owned, occupied or used by the Consultant. The coverage shall contain no special limitations on the scope of protection afforded to the City of Sunnyvale, its officers, officials, employees, agents, or volunteers.

Additional Insured Endorsement for ongoing operations at least as broad as ISO CG 20 10 Scheduled, or automatic CG 20 38 and completed operations shall be at least as broad as ISO CG 20 37 scheduled or automatic ISO CG 20 40.

2. During the term of the Agreement, the Consultant's Workers' Compensation policy shall be endorsed with a waiver of subrogation in favor of the City of Sunnyvale.

3. For all Architects, Engineers, and Design Professionals - If Industry Specific Coverage box is check above **and** if the Consultant's Professional Liability/Errors and Omissions coverage is written on a claims made basis:
    a. The Retroactive Date must be shown and must be before the date of the Agreement or the beginning of contract work.
    b. Insurance must be maintained and evidence of insurance must be provided *for at least three (3) years after completion of the contract of work.*
    c. If coverage is canceled or non-renewed, and not *replaced with another claims-made policy form with a Retroactive Dat*e prior to the Agreement effective date, the Consultant must purchase "extended reporting" coverage for a minimum of *three (3)* years after completion of contract work.

4. For any claims related to this agreement, the Consultant's insurance shall be primary. Any insurance or self-insurance maintained by the City of Sunnyvale, its officers, officials, employees, agents, and volunteers shall be excess of the Consultant's insurance and shall not contribute with it and s**hall** be at least as broad as ISO CG 20 01 04 13**.**

5. Any failure to comply with reporting or other provisions of the policies including breaches of warranties shall not affect coverage provided to the City of Sunnyvale, its officers, officials, employees, agents, or volunteers.

6. The Consultant's insurance shall apply separately to each insured against whom claim is made or suit is brought, except with respect to the limits of the insurer's liability.

7. Each insurance policy required by this clause shall be endorsed to state that coverage shall not be suspended, voided, cancelled by either party, reduced in coverage or in limits except after thirty (30) days' prior written notice by email to riskmanagement@sunnyvale.ca.gov, has been given to the City of Sunnyvale.

8. Any umbrella or excess Insurance Liability policies shall be true "following form" of the underlying policy coverage, terms, conditions, and provisions and shall meet all of the

insurance requirements stated in this document, including the additional insured, SIR, and primary and non-contributory insurance requirements for the benefit of City (if agreed to in a written contract or agreement) until all coverage carried by or available to the Consultant's primary and excess liability policies are exhausted and before the City's own Insurance or self-insurance shall be called upon to contribute to a loss.

9. The policy limits of coverage shall be made available to the full limits of the policy. The minimum limits stated above shall not serve to reduce the Consultant's policy limits of coverage. Therefore, the requirements for coverage and limits shall be (1) the minimum coverage and limits specified in this agreement, or (2) the broader coverage and maximum limits of coverage of any insurance policy or proceeds available to the named insured and also available to the Additional Insured, whichever is greater.

Acceptability of Insurers:
Insurance is to be placed with insurers with a current A.M. Best's rating of no less than Superior or Excellent, and who are authorized to do business and in good standing in California unless otherwise acceptable to the City of Sunnyvale's Risk Manager.

Verification of Coverage:
City . utilizes an electronic insurance verification system to track and verify all insurance related documents. City is no longer accepting insurance documents by mail and will only accept electronic insurance documents. City will email the Contractor/Consultant requesting proof of insurance for this Agreement through an electronic insurance verification system, which includes instructions on how to upload insurance documents electronically. Contractor/Consultant shall furnish the City with an electronic Certificate of Insurance effecting the coverage required. The certificates are to be signed by a person authorized by that insurer to bind coverage on its behalf and name City of Sunnyvale, Attn: Risk Management, 456 W. Olive Ave, Sunnyvale, CA 94088 as the certificate holder. All certificates are to be received and approved by the City, Risk Manager prior to commencement of work.

The Contractor/Consultant shall provide certificate(s) evidencing renewals of all insurance required herein prior to the expiration date of any such insurance. Contractor/Consultant shall submit insurance certificates, reflecting the policy renewals through the City's electronic insurance verification system. City reserves the right to require complete, certified copies of all required insurance policies, at any time.

Subcontractors
Consultant shall require all sub-contractors to procure and maintain insurance policies subject to these requirements. Failure of Consultant to verify existence of sub-contractor's insurance shall not relieve Consultant from any claim arising from sub-contractors work on behalf of Consultant.