

**CONTINUATION AND AMENDMENT TO AGREEMENT
BETWEEN
THE CITY OF SAN JOSE
AND
ORRICK HERRINGTON & SUTCLIFFE LLP
FOR BOND COUNSEL SERVICES
(San José-Santa Clara Regional Wastewater Facility)**

THIS CONTINUATION AND AMENDMENT TO AGREEMENT is made and entered into on Feb 1, 2022, by and between the CITY OF SAN JOSE, a municipal corporation (hereinafter "CITY"), and ORRICK HERRINGTON & SUTCLIFFE LLP, a California limited liability partnership (hereinafter "BOND COUNSEL").

RECITALS

WHEREAS, on September 25, 2020, CITY and BOND COUNSEL entered into an agreement entitled "AGREEMENT BETWEEN THE CITY OF SAN JOSE AND ORRICK HERRINGTON & SUTCLIFFE LLP FOR BOND COUNSEL SERVICES (San José-Santa Clara Regional Wastewater Facility)" ("AGREEMENT"); and

WHEREAS, the term of the AGREEMENT has expired, and CITY and BOND COUNSEL desire to continue the term, revise the scope of services, and increase the amount of compensation allowed;

NOW, THEREFORE, the parties agree to continue and amend the AGREEMENT as follows:

SECTION 1. The term of the AGREEMENT, originally August 20, 2020 to December 31, 2020, is continued and retroactive for the period of January 1, 2021 through December 31, 2022.

SECTION 2. SECTION 3, "COMPENSATION" is amended to read as follows:

- "A. The compensation to be paid to BOND COUNSEL, including reimbursable expenses, shall not exceed SIXTY THOUSAND DOLLARS (\$60,000.00), as specified in REVISED EXHIBIT B, entitled "COMPENSATION", which is attached hereto and incorporated herein.
- B. BOND COUNSEL agrees that in the performance of this AGREEMENT, BOND COUNSEL shall adhere to City Council Policy 1-19, the following provisions of which are made applicable to this AGREEMENT:
1. It is the policy of the CITY that CITY's funds should not be used for the purchase of single-serving bottled water.
 2. The following circumstances shall constitute exceptions to City Council Policy 1-19:
 - a. Public safety emergencies, investigations and extended deployments or activation of the Office of Emergency Services.
 - b. High risk of cross-contamination with non-potable water.
 - c. Situations where there are no reasonable alternatives to bottled water, such as large public events and when large quantities of water may need to be distributed for health and safety reasons.
 3. BOND COUNSEL acknowledges and agrees that an invoice seeking reimbursement from CITY for the cost of single-serving bottled water under the exception referenced above in Subsection 2 (c) must be accompanied by a waiver form provided by CITY and signed by the department head of the CITY department administering this AGREEMENT."

SECTION 3. SECTION 22, "NOTICES" is amended to read as follows:

"All notices and other communications required or permitted to be given under this AGREEMENT shall be in writing and shall be personally served or mailed, postage prepaid and return receipt requested, addressed to the respective parties as follows:

To CITY: Office of the City Attorney
Attention: Rosa Tsongtaatarii
City of San José
200 East Santa Clara Street, 16th Floor
San José, CA 95113-1905

To BOND COUNSEL: Brandon Dias, Esq.
Orrick, Herrington & Sutcliffe LLP
400 Capitol Mall # 3000
Sacramento, CA 95814

Notice shall be deemed effective on the date personally delivered or, if mailed, three (3) days after deposit in the mail.”

SECTION 4. EXHIBIT A, “SCOPE OF SERVICES” is amended to read as shown in REVISED EXHIBIT A, attached and incorporated into this Continuation and Amendment to Agreement.

SECTION 5. EXHIBIT B, “COMPENSATION” is amended to read as shown in REVISED EXHIBIT B, attached and incorporated into this Continuation and Amendment to Agreement.

SECTION 6. All of the terms and conditions of the original AGREEMENT not specifically modified by this Continuation and Amendment to Agreement shall remain in full force and effect.

SECTION 7. Use of 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 writing as set forth in Evidence Code Section 1550. The term “electronically signed contract” means a contract that is executed by applying an electronic signature using technology approved by the CITY.

WITNESS THE EXECUTION HEREOF on the day and year first written above.

“CITY”

APPROVED AS TO FORM

CITY OF SAN JOSE, a municipal corporation



Nora Frimann
By Nora Frimann (Feb 1, 2022 18:11 PST)

ROSA TSONGTAATARII
Sr. Deputy City Attorney

NORA FRIMANN
City Attorney

“BOND COUNSEL”

ORRICK HERRINGTON & SUTCLIFFE LLP,
a California limited liability partnership

Brandon Dias
By Brandon Dias (Feb 1, 2022 18:03 PST)

BRANDON DIAS
Partner

REVISED EXHIBIT A
SCOPE OF SERVICES

A. OVERVIEW.

BOND COUNSEL shall provide bond counsel services to CITY and the City of San José Financing Authority (the “Authority”) in connection with the financing of a portion of the capital improvement program for the facility currently known as the San José – Santa Clara Regional Wastewater Facility (the “RWF”) through the amendment of a credit agreement by and among CITY, the Authority and Wells Fargo Bank, National Association (the “Bank”) in an amount not to exceed \$300,000,000 dated as of October 1, 2017, as previously amended by a First Amendment to Credit Agreement, dated as of June 27, 2018 and a Second Amendment to Credit Agreement, dated as of October 15, 2020 (collectively, the “Credit Agreement”) under which the Authority issues its notes from time to time in one or more series (the “Notes”). The CITY, Bank and the Authority previously entered into a Second Amended and Restated Fee Letter Agreement (the “Second Fee Agreement”) dated as of October 15, 2020 in connection with the previous amendment to the Credit Agreement. It is anticipated that the CITY, Authority and the Bank will enter into a Third Amendment to Credit Agreement (the “Third Amendment”) and that the Bank and the Authority will enter into a Third Amended and Restated Fee Letter Agreement (the “Third Fee Agreement”) to effectuate the extension. BOND COUNSEL acknowledges and agrees that the closing on the documents related to the Third Amendment extension is anticipated to occur on or about March 2022. Time is of the essence in the performance of this AGREEMENT.

B. BOND COUNSEL SERVICES – SECOND AMENDMENT.

BOND COUNSEL provided the following services in connection with the execution and delivery of the Second Amendment and the Second Fee Agreement:

1. Prepare any and all petitions, resolutions, ordinances, forms, orders, reports, notices, and other documents required for the CITY and the Authority to enter into the Second Amendment and for the Authority to enter into the Second Fee Agreement. Arrange for the publication of any required notices.
2. Confer with CITY staff and other members of the financing team as to the legal sufficiency of the proceedings.
3. BOND COUNSEL shall advise the City Attorney or the City Attorney's designees and CITY staff on legal issues with respect to the Second Amendment and the Second Fee Agreement and other associated documents.
4. Consult with the municipal advisor engaged by CITY to provide services regarding the Second Amendment and the Second Fee Agreement with respect to the terms proposed by the Bank.
5. Assist CITY and its municipal advisor in the negotiations with the Bank on the terms of the Credit Agreement as amended by the Second Amendment and the Second Fee Agreement.
6. Upon request by CITY, attend all meetings of the City Council and the Authority, CITY staff, or other public or private meetings which are necessary to initiate, conduct or complete the proceedings.
7. Prepare the final closing papers for the execution and delivery of the Second Amendment and the Second Fee Agreement including the tax certificate and Internal Revenue Service Form 8038-G for the tax-exempt Notes. Advise the CITY staff on its obligations with respect to maintaining the tax-exempt status of the tax-exempt Notes.

8. Organize and conduct the pre-closing and participate in the closing. It is contemplated that the pre-closing will be conducted through a website maintained by BOND COUNSEL as opposed to an in-person meeting of the parties at BOND COUNSEL's offices. BOND COUNSEL will prepare three thumb drives with the transcript of documents related to the extension of the Credit Agreement and deliver the thumb drives to:

City of San José
Finance Department
Attention: Debt Management
200 East Santa Clara Street, 13th Floor
San José, CA 95113-1905

9. Provide a legal opinion to the effect that the execution and delivery of the Second Amendment and the Second Fee Agreement will not, in and of itself, cause interest on the tax-exempt Notes to be included in gross income for purposes of federal income taxation.
10. Provide such other legal services as may be incidental to the foregoing as requested by City Attorney, including services requiring BOND COUNSEL's tax lawyers.

C. BOND COUNSEL SERVICES – THIRD AMENDMENT.

BOND COUNSEL shall provide the following services in connection with the execution and delivery of the Third Amendment and the Third Fee Agreement:

1. Prepare any and all petitions, resolutions, ordinances, forms, orders, reports, notices, and other documents required for the CITY and the Authority to enter into the Third Amendment and for the Authority to enter into the Third Fee Agreement. Arrange for the publication of any required notices.

2. Confer with CITY staff and other members of the financing team as to the legal sufficiency of the proceedings.
3. BOND COUNSEL shall advise the City Attorney or the City Attorney's designees and CITY staff on legal issues with respect to the Third Amendment and the Third Fee Agreement and other associated documents.
4. Consult with the municipal advisor engaged by CITY to provide services regarding the Third Amendment and the Third Fee Agreement with respect to the terms proposed by the Bank.
5. Assist CITY and its municipal advisor in the negotiations with the Bank on the terms of the Credit Agreement as amended by the Third Amendment and the Third Fee Agreement.
6. Upon request by CITY, attend all meetings of the City Council and the Authority, CITY staff, or other public or private meetings which are necessary to initiate, conduct or complete the proceedings.
7. Prepare the final closing papers for the execution and delivery of the Third Amendment and the Third Fee Agreement including the tax certificate and Internal Revenue Service Form 8038-G for the tax-exempt Notes. Advise the CITY staff on its obligations with respect to maintaining the tax-exempt status of the tax-exempt Notes.
8. Organize and conduct the pre-closing and participate in the closing. It is contemplated that the pre-closing will be conducted through a website maintained by BOND COUNSEL as opposed to an in-person meeting of the parties at BOND COUNSEL's offices. BOND COUNSEL will prepare

three thumb drives with the transcript of documents related to the extension of the Credit Agreement and deliver the thumb drives to:

City of San José
Finance Department
Attention: Debt Management
200 East Santa Clara Street, 13th Floor
San José, CA 95113-1905

9. Provide a legal opinion to the effect that the execution and delivery of the Third Amendment and the Third Fee Agreement will not, in and of itself, cause interest on the tax-exempt Notes to be included in gross income for purposes of federal income taxation.
10. Provide such other legal services as may be incidental to the foregoing as requested by City Attorney, including services requiring BOND COUNSEL's tax lawyers.

D. LIMITATIONS ON BOND COUNSEL'S SERVICES.

BOND COUNSEL's services under this AGREEMENT are limited to those set forth above. For example, except with respect BOND COUNSEL's obligation under Section 7 of this AGREEMENT, BOND COUNSEL's services do not include representation of the CITY, the Authority or any other party in any litigation or other legal or administrative proceeding, audit or investigation involving the Second Amendment, Third Amendment or the associated Fee Agreements, or any use or investment of the proceeds of the Notes. Additionally, BOND COUNSEL services do not include any responsibility for the preparation or content of any disclosure document or presentation or any rating agency or investor presentation or the preparation of any credit enhancement agreement, investment agreement or swap agreement. BOND COUNSEL services also exclude (1) advising on compliance with any federal or state securities laws as those laws relate to public offerings, (2) environmental, land use, procurement, real estate, insurance laws, (3) tax laws except as required for tax exemption of the tax-exempt Notes or (4) laws

related to title to, recording, filing or perfection or continuation of any security interest in real or personal property, excluding advising on the security interest in System Revenues as defined in the Credit Agreement. BOND COUNSEL services do not include any financial advice or analysis. Unless engaged by the CITY or the Authority under a separate agreement, BOND COUNSEL services do not extend past the date of execution and delivery of the Third Amendment and the Third Fee Agreement and do not, for example, include services related to rebate or other post-issuance tax compliance, continuing disclosure, further amendments to any of the Note-related documents, post-issuance investments, interest rate swaps or management contracts entered into after the date of issuance of the Notes or prepayment of any Notes.

REVISED EXHIBIT B
COMPENSATION

- A. The compensation to be paid under this AGREEMENT for bond counsel services is a flat fee of Sixty Thousand Dollars (\$60,000) which is all-inclusive for payment of BOND COUNSEL's fee and any expenses, including the expense of transcript preparation and distribution costs.
- B. The total amount of compensation paid to BOND COUNSEL under this AGREEMENT for services related to the Second Amendment and Second Fee Agreement shall not exceed Thirty Thousand Dollars (\$30,000). The payment of compensation to BOND COUNSEL was contingent on the successful closing of the Second Amendment and the Second Fee Agreement and presentation of BOND COUNSEL's invoice to CITY consistent with the provisions of this REVISED EXHIBIT B. The parties acknowledge that payment of BOND COUNSEL's compensation was paid from proceeds of the Notes.
- C. The total amount of compensation to be paid to BOND COUNSEL under this AGREEMENT for services related to the Third Amendment and Third Fee Agreement shall not exceed Thirty Thousand Dollars (\$30,000). The payment of compensation to BOND COUNSEL is contingent on the successful closing of the Third Amendment and the Third Fee Agreement and presentation of BOND COUNSEL's invoice to CITY consistent with the provisions of this REVISED EXHIBIT B. The parties acknowledge that payment of BOND COUNSEL's compensation is to be paid from proceeds of the Notes.

Client#: 1545435

ORRICHER

ACORD™

CERTIFICATE OF LIABILITY INSURANCE

DATE (MM/DD/YYYY) 5/27/2021

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

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

PRODUCER: USI Insurance Services, LLC
CONTACT NAME: Avonni McCreary
PHONE (A/C, No, Ext): 925-214-0146
E-MAIL ADDRESS: avonni.mccreary@usi.com
INSURER(S) AFFORDING COVERAGE: INSURER A: Great Northern Insurance Company, INSURER B: Federal Insurance Company, INSURER C, D, E, F

COVERAGES CERTIFICATE NUMBER: REVISION NUMBER:

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

Table with columns: INSR LTR, TYPE OF INSURANCE, ADDL INSR, SUBR VVD, POLICY NUMBER, POLICY EFF (MM/DD/YYYY), POLICY EXP (MM/DD/YYYY), LIMITS. Rows include Commercial General Liability, Automobile Liability, Umbrella Liability, and Workers Compensation.

DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES (ACORD 101, Additional Remarks Schedule, may be attached if more space is required)
The CITY, SUCCESSOR AGENCY, and their officers, employees, agents and contractors are named as additional insured as it relates to general & auto liability in accordance with the terms and conditions of the policies.

CERTIFICATE HOLDER: City of San Jose - Finance Risk Management
CANCELLATION: SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, NOTICE WILL BE DELIVERED IN ACCORDANCE WITH THE POLICY PROVISIONS.

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

COMMERCIAL AUTOMOBILE BROAD FORM ENDORSEMENT

This endorsement modifies insurance provided under the following:

BUSINESS AUTO COVERAGE FORM

This endorsement modifies the Business Auto Coverage Form.

1. EXTENDED CANCELLATION CONDITION

Paragraph A.2.b. – CANCELLATION - of the COMMON POLICY CONDITIONS form IL 00 17 is deleted and replaced with the following:

- b. 60 days before the effective date of cancellation if we cancel for any other reason.

2. BROAD FORM INSURED

A. Subsidiaries and Newly Acquired or Formed Organizations As Insureds

The Named Insured shown in the Declarations is amended to include:

1. Any legally incorporated subsidiary in which you own more than 50% of the voting stock on the effective date of the Coverage Form. However, the Named Insured does not include any subsidiary that is an "insured" under any other automobile policy or would be an "insured" under such a policy but for its termination or the exhaustion of its Limit of Insurance.
2. Any organization that is acquired or formed by you and over which you maintain majority ownership. However, the Named Insured does not include any newly formed or acquired organization:
 - (a) That is an "insured" under any other automobile policy;
 - (b) That has exhausted its Limit of Insurance under any other policy; or
 - (c) 180 days or more after its acquisition or formation by you, unless you have given us written notice of the acquisition or formation.

Coverage does not apply to "bodily injury" or "property damage" that results from an "accident" that occurred before you formed or acquired the organization.

B. Employees as Insureds

Paragraph A.1. – WHO IS AN INSURED – of SECTION II – LIABILITY COVERAGE is amended to add the following:

- d. Any "employee" of yours while using a covered "auto" you don't own, hire or

borrow in your business or your personal affairs.

C. Lessors as Insureds

Paragraph A.1. – WHO IS AN INSURED – of SECTION II – LIABILITY COVERAGE is amended to add the following:

- e. The lessor of a covered "auto" while the "auto" is leased to you under a written agreement if:
- (1) The agreement requires you to provide direct primary insurance for the lessor; and
 - (2) The "auto" is leased without a driver. Such leased "auto" will be considered a covered "auto" you own and not a covered "auto" you hire. However, the lessor is an "insured" only for "bodily injury" or "property damage" resulting from the acts or omissions by:
 1. You;
 2. Any of your "employees" or agents; or
 3. Any person, except the lessor or any "employee" or agent of the lessor, operating an "auto" with the permission of any of 1. and/or 2. above.

D. Persons And Organizations As Insureds Under A Written Insured Contract

Paragraph A.1 – WHO IS AN INSURED – of SECTION II – LIABILITY COVERAGE is amended to add the following:

- f. Any person or organization with respect to the operation, maintenance or use of a covered "auto", provided that you and such person or organization have agreed under an express provision in a written "insured contract", written agreement or a written permit issued to you by a governmental or public authority to add such person or organization to this policy as an "insured". However, such person or organization is an "insured" only:

- (1) with respect to the operation, maintenance or use of a covered "auto"; and
- (2) for "bodily injury" or "property damage" caused by an "accident" which takes place after:
 - (a) You executed the "insured contract" or written agreement; or
 - (b) The permit has been issued to you.

3. FELLOW EMPLOYEE COVERAGE

EXCLUSION B.5. - FELLOW EMPLOYEE - of SECTION II - LIABILITY COVERAGE does not apply.

4. PHYSICAL DAMAGE - ADDITIONAL TEMPORARY TRANSPORTATION EXPENSE COVERAGE

Paragraph A.4.a. - TRANSPORTATION EXPENSES - of SECTION III - PHYSICAL DAMAGE COVERAGE is amended to provide a limit of \$50 per day for temporary transportation expense, subject to a maximum limit of \$1,000.

5. AUTO LOAN/LEASE GAP COVERAGE

Paragraph A. 4. - COVERAGE EXTENSIONS - of SECTION III - PHYSICAL DAMAGE COVERAGE is amended to add the following:

c. Unpaid Loan or Lease Amounts

In the event of a total "loss" to a covered "auto", we will pay any unpaid amount due on the loan or lease for a covered "auto" minus:

- 1. The amount paid under the Physical Damage Coverage Section of the policy; and
- 2. Any:
 - a. Overdue loan/lease payments at the time of the "loss";
 - b. Financial penalties imposed under a lease for excessive use, abnormal wear and tear or high mileage;
 - c. Security deposits not returned by the lessor;
 - d. Costs for extended warranties, Credit Life Insurance, Health, Accident or Disability Insurance purchased with the loan or lease; and
 - e. Carry-over balances from previous loans or leases.

We will pay for any unpaid amount due on the loan or lease if caused by:

- 1. Other than Collision Coverage only if the Declarations indicate that Comprehensive Coverage is provided for any covered "auto";
- 2. Specified Causes of Loss Coverage only if the Declarations indicate that Specified Causes of Loss Coverage is provided for any covered "auto"; or
- 3. Collision Coverage only if the Declarations indicate that Collision Coverage is provided for any covered "auto".

6. RENTAL AGENCY EXPENSE

Paragraph A. 4. - COVERAGE EXTENSIONS - of SECTION III - PHYSICAL DAMAGE COVERAGE is amended to add the following:

d. Rental Expense

We will pay the following expenses that you or any of your "employees" are legally obligated to pay because of a written contract or agreement entered into for use of a rental vehicle in the conduct of your business:

MAXIMUM WE WILL PAY FOR ANY ONE CONTRACT OR AGREEMENT:

- 1. \$2,500 for loss of income incurred by the rental agency during the period of time that vehicle is out of use because of actual damage to, or "loss" of, that vehicle, including income lost due to absence of that vehicle for use as a replacement;
- 2. \$2,500 for decrease in trade-in value of the rental vehicle because of actual damage to that vehicle arising out of a covered "loss"; and
- 3. \$2,500 for administrative expenses incurred by the rental agency, as stated in the contract or agreement.
- 4. \$7,500 maximum total amount for paragraphs 1., 2. and 3. combined.

7. EXTRA EXPENSE - BROADENED COVERAGE

Paragraph A.4. - COVERAGE EXTENSIONS - of SECTION III - PHYSICAL DAMAGE COVERAGE is amended to add the following:

e. Recovery Expense

We will pay for the expense of returning a stolen covered "auto" to you.

8. AIRBAG COVERAGE

Paragraph B.3.a. - EXCLUSIONS - of SECTION III - PHYSICAL DAMAGE COVERAGE does not apply to the accidental or unintended discharge of an airbag. Coverage is excess over any other collectible insurance or warranty specifically designed to provide this coverage.

9. AUDIO, VISUAL AND DATA ELECTRONIC EQUIPMENT - BROADENED COVERAGE

Paragraph C.1.b. - LIMIT OF INSURANCE - of SECTION III - PHYSICAL DAMAGE is deleted and replaced with the following:

- b. \$2,000 is the most we will pay for "loss" in any one "accident" to all electronic equipment that reproduces, receives or transmits audio, visual or data signals which, at the time of "loss", is:
 - (1) Permanently installed in or upon the covered "auto" in a housing, opening or other location that is not normally used by the "auto" manufacturer for the installation of such equipment;
 - (2) Removable from a permanently installed housing unit as described in Paragraph 2.a. above or is an integral part of that equipment; or
 - (3) An integral part of such equipment.

10. GLASS REPAIR - WAIVER OF DEDUCTIBLE

Under Paragraph D. - DEDUCTIBLE – of SECTION III – PHYSICAL DAMAGE COVERAGE the following is added:

No deductible applies to glass damage if the glass is repaired rather than replaced.

11. TWO OR MORE DEDUCTIBLES

Paragraph D.- DEDUCTIBLE – of SECTION III – PHYSICAL DAMAGE COVERAGE is amended to add the following:

If this Coverage Form and any other Coverage Form or policy issued to you by us that is not an automobile policy or Coverage Form applies to the same "accident", the following applies:

1. If the deductible under this Business Auto Coverage Form is the smaller (or smallest) deductible, it will be waived; or
2. If the deductible under this Business Auto Coverage Form is not the smaller (or smallest) deductible, it will be reduced by the amount of the smaller (or smallest) deductible.

12. AMENDED DUTIES IN THE EVENT OF ACCIDENT, CLAIM, SUIT OR LOSS

Paragraph A.2.a. - DUTIES IN THE EVENT OF AN ACCIDENT, CLAIM, SUIT OR LOSS of SECTION IV - BUSINESS AUTO CONDITIONS is deleted and replaced with the following:

- a. In the event of "accident", claim, "suit" or "loss", you must promptly notify us when the "accident" is known to:
 - (1) You or your authorized representative, if you are an individual;
 - (2) A partner, or any authorized representative, if you are a partnership;
 - (3) A member, if you are a limited liability company; or
 - (4) An executive officer, insurance manager, or authorized representative, if you are an organization other than a partnership or limited liability company.

Knowledge of an "accident", claim, "suit" or "loss" by other persons does not imply that the persons listed above have such knowledge. Notice to us should include:

- (1) How, when and where the "accident" or "loss" occurred;
- (2) The "insured's" name and address; and
- (3) To the extent possible, the names and addresses of any injured persons or witnesses.

13. WAIVER OF SUBROGATION

Paragraph A.5. - TRANSFER OF RIGHTS OF RECOVERY AGAINST OTHERS TO US of SECTION IV – BUSINESS AUTO CONDITIONS is deleted and replaced with the following:

5. We will waive the right of recovery we would otherwise have against another person or organization for "loss" to which this insurance applies, provided the "insured" has waived

their rights of recovery against such person or organization under a contract or agreement that is entered into before such "loss".

To the extent that the "insured's" rights to recover damages for all or part of any payment made under this insurance has not been waived, those rights are transferred to us. That person or organization must do everything necessary to secure our rights and must do nothing after "accident" or "loss" to impair them. At our request, the insured will bring suit or transfer those rights to us and help us enforce them.

14. UNINTENTIONAL FAILURE TO DISCLOSE HAZARDS

Paragraph B.2. – CONCEALMENT, MISREPRESENTATION or FRAUD of SECTION IV – BUSINESS AUTO CONDITIONS - is deleted and replaced with the following:

If you unintentionally fail to disclose any hazards existing at the inception date of your policy, we will not void coverage under this Coverage Form because of such failure.

15. AUTOS RENTED BY EMPLOYEES

Paragraph B.5. - OTHER INSURANCE of SECTION IV – BUSINESS AUTO CONDITIONS - is amended to add the following:

- e. Any "auto" hired or rented by your "employee" on your behalf and at your direction will be considered an "auto" you hire. If an "employee's" personal insurance also applies on an excess basis to a covered "auto" hired or rented by your "employee" on your behalf and at your direction, this insurance will be primary to the "employee's" personal insurance.

16. HIRED AUTO – COVERAGE TERRITORY

Paragraph B.7.b.(5). - POLICY PERIOD, COVERAGE TERRITORY of SECTION IV – BUSINESS AUTO CONDITIONS is deleted and replaced with the following:

- (5) A covered "auto" of the private passenger type is leased, hired, rented or borrowed without a driver for a period of 45 days or less; and

17. RESULTANT MENTAL ANGUISH COVERAGE

Paragraph C. of - SECTION V – DEFINITIONS is deleted and replaced by the following:

"Bodily injury" means bodily injury, sickness or disease sustained by any person, including mental anguish or death as a result of the "bodily injury" sustained by that person.

Liability Insurance

Endorsement

<i>Policy Number</i>	3582-11-51 PLE
<i>Insured</i>	ORRICK, HERRINGTON & SUTCLIFFE LLP
<i>Name of Company</i>	GREAT NORTHERN INSURANCE COMPANY

This Endorsement applies to the following forms:

Under Conditions, Transfer Or Waiver Of Rights Of Recovery Against Others, the following provision is added:

Conditions

Transfer Or Waiver Of Rights Of Recovery Against Others

However, we waive any right of recovery we may have against the designated person or organization shown below because of payments we make for injury or damage arising out of your ongoing operations or done under a contract with that person or organization and included in the **products-completed operations hazard**. This waiver applies to the designated person or organization.

Designated Person Or Organization

PERSONS OR ORGANIZATIONS THAT YOU ARE OBLIGATED, PURSUANT TO A CONTRACT OR AGREEMENT, TO PROVIDE WITH SUCH INSURANCE AS IS AFFORDED BY THIS POLICY.

Liability Insurance

Endorsement

Policy Number 3582-11-51 PLE
Insured ORRICK, HERRINGTON & SUTCLIFFE LLP
Name of Company GREAT NORTHERN INSURANCE COMPANY

This Endorsement applies to the following forms:

Under Who Is An Insured, the following provision is added.

Who Is An Insured

Additional Insured - Scheduled Person Or Organization

Persons or organizations shown in the Schedule are **insureds**; but they are **insureds** only if you are obligated pursuant to a contract or agreement to provide them with such insurance as is afforded by this policy.

However, the person or organization is an **insured** only:

- if and then only to the extent the person or organization is described in the Schedule;
- to the extent such contract or agreement requires the person or organization to be afforded status as an **insured**;
- for activities that did not occur, in whole or in part, before the execution of the contract or agreement; and
- with respect to damages, loss, cost or expense for injury or damage to which this insurance applies.

No person or organization is an **insured** under this provision:

- that is more specifically identified under any other provision of the Who Is An Insured section (regardless of any limitation applicable thereto).

Who Is An Insured**Additional Insured -
Scheduled Person
Or Organization
(continued)**

- with respect to any assumption of liability (of another person or organization) by them in a contract or agreement. This limitation does not apply to the liability for damages, loss, cost or expense for injury or damage, to which this insurance applies, that the person or organization would have in the absence of such contract or agreement.

Under Conditions, the following provision is added to the condition titled Other Insurance.

Conditions**Other Insurance -
Primary, Noncontributory
Insurance - Scheduled
Person Or Organization**

If you are obligated, pursuant to a contract or agreement, to provide the person or organization shown in the Schedule with primary insurance such as is afforded by this policy, then in such case this insurance is primary and we will not seek contribution from insurance available to such person or organization.

Schedule

PERSONS OR ORGANIZATIONS THAT YOU ARE OBLIGATED, PURSUANT TO A CONTRACT OR AGREEMENT, TO PROVIDE WITH SUCH INSURANCE AS IS AFFORDED BY THIS POLICY.

All other terms and conditions remain unchanged.



CERTIFICATE OF LIABILITY INSURANCE

DATE (MM/DD/YYYY)
04/21/2021

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

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

PRODUCER MARSH RISK & INSURANCE SERVICES FOUR EMBARCADERO CENTER, SUITE 1100 CALIFORNIA LICENSE NO. 0437153 SAN FRANCISCO, CA 94111 CN103184850-STND-E&O1-21-22	CONTACT NAME: PHONE (A/C, No, Ext):		FAX (A/C, No):
	E-MAIL ADDRESS:		
INSURED ORRICK, HERRINGTON & SUTCLIFFE, LLP THE ORRICK BUILDING 405 HOWARD STREET SAN FRANCISCO, CA 94105-2669	INSURER(S) AFFORDING COVERAGE		NAIC #
	INSURER A : Lexington Insurance Company		19437
	INSURER B :		
	INSURER C :		
	INSURER D :		
	INSURER E :		

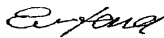
COVERAGES **CERTIFICATE NUMBER:** SEA-003308619-16 **REVISION NUMBER:** 9

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

INSR LTR	TYPE OF INSURANCE	ADDL INSD	SUBR WVD	POLICY NUMBER	POLICY EFF (MM/DD/YYYY)	POLICY EXP (MM/DD/YYYY)	LIMITS	
	COMMERCIAL GENERAL LIABILITY <input type="checkbox"/> CLAIMS-MADE <input type="checkbox"/> OCCUR GEN'L AGGREGATE LIMIT APPLIES PER: <input type="checkbox"/> POLICY <input type="checkbox"/> PRO-JECT <input type="checkbox"/> LOC OTHER:						EACH OCCURRENCE \$ DAMAGE TO RENTED PREMISES (Ea occurrence) \$ MED EXP (Any one person) \$ PERSONAL & ADV INJURY \$ GENERAL AGGREGATE \$ PRODUCTS - COMP/OP AGG \$ \$	
	AUTOMOBILE LIABILITY <input type="checkbox"/> ANY AUTO <input type="checkbox"/> OWNED AUTOS ONLY <input type="checkbox"/> SCHEDULED AUTOS <input type="checkbox"/> HIRED AUTOS ONLY <input type="checkbox"/> NON-OWNED AUTOS ONLY						COMBINED SINGLE LIMIT (Ea accident) \$ BODILY INJURY (Per person) \$ BODILY INJURY (Per accident) \$ PROPERTY DAMAGE (Per accident) \$ \$	
	UMBRELLA LIAB <input type="checkbox"/> OCCUR EXCESS LIAB <input type="checkbox"/> CLAIMS-MADE DED RETENTION \$						EACH OCCURRENCE \$ AGGREGATE \$ \$	
	WORKERS COMPENSATION AND EMPLOYERS' LIABILITY ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? (Mandatory in NH) <input type="checkbox"/> Y/N If yes, describe under DESCRIPTION OF OPERATIONS below		N/A				PER STATUTE OTH-ER E.L. EACH ACCIDENT \$ E.L. DISEASE - EA EMPLOYEE \$ E.L. DISEASE - POLICY LIMIT \$	
A	LAWYERS PROFESSIONAL LIABILITY			11429208	04/15/2021	04/15/2022	LIMIT OF LIABILITY: 25,000,000 RETENTION: 4,000,000	

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

RE: EVIDENCE OF PROFESSIONAL LIABILITY INSURANCE
 ||||| TO WHOM IT MAY CONCERN |||||

CERTIFICATE HOLDER CITY OF SAN JOSE - FINANCE DEPARTMENT RISK & INSURANCE 200 EAST SANTA CLARA STREET, 14TH FLOOR SAN JOSE, CA 95113-1905	CANCELLATION SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, NOTICE WILL BE DELIVERED IN ACCORDANCE WITH THE POLICY PROVISIONS.
	AUTHORIZED REPRESENTATIVE of Marsh Risk & Insurance Services Evan Long 

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0001835 SP 0430 -C01-P01835-I

City of San Jose
200 East Santa Clara Street, 16th Floor
San Jose, CA 95113-1905



Dear Certificate Holder:

As many companies have moved to a remote working environment, mailing Certificates of Insurance to a physical address can cause unnecessary delays in providing you proof of insurance. To streamline delivery and in an effort to support our firm's commitment to sustainability, going forward, we would like to distribute your Certificates of Insurance electronically if possible.

We are kindly requesting Certificate Holders provide us an email address where we can deliver your COI in the future.

Please send your response to: USOperations.email@marsh.com and provide the following information so that we can expedite your COI delivery:

- **Certificate #** (Shown below Insured Name – e.g.: ABC-123456789-01)
- **E-Mail for future delivery:**

For undeliverable email addresses, our system is configured to automatically redirect the Certificate for delivery via USPS.

Lastly, if you no longer need this COI please respond to USOperations.email@marsh.com with the Certificate number and we will inactive the record in our system to avoid future automatic delivery.

Thank you.

US Operations, Marsh USA, Inc.



City of San José Contract/Agreement Transmittal Form

Route Order

Attached / Completed

Electronically Signed

TO: City Attorney
 City Manager
 City Clerk **OR** Return to
Dept. (circle one)

Insurance Certificates / Waivers Electronically Signed: Yes
 Business Tax Certificate Audit Trail Attached (if applicable)
 Contacted Clerk re: Form 700 Scanned Signature Authorization
 Supplemental Memorandums (if applicable): Select One

Type of Document: Amendment

Type of Contract: Professional Services

REQUIRED INFORMATION FOR ALL CONTRACTS:

Existing GILES # 666368 -001

Contractor: Orrick, Herrington & Sutcliffe LLP

Address: 400 Capitol Mall, Suite 3000 Sacramento, CA 95814-4497

Phone: (916) 329-4904

Email: bdias@orrick.com

Contract Description: Continuation and Amendment to Agreement for bond counsel services in connection with the financing of a portion of the capital improvement program for the Regional Wastewater Facility.

Term Start Date: 08/20/20

Term End Date: 12/31/22

Extension: Yes

Method of Procurement: RFQ

RFB, RFP or RFQ No.: 20-21-CAO-01

Date Conducted: 11/16/20

Agenda Date (if applicable): _____

Agenda Item No.: _____

Resolution No.: _____

Ordinance No.: _____

Original Contract Amount: \$30,000

Amount of Increase/Decrease: \$30,000

Option #: ___ of ___ Option Amount: _____

NTE/Updated Contract Amount: \$60,000

Fund/Appropriation: Note proceeds

Form 700 Required (Selection mandatory for processing): No

Revenue Agreement: No

Tax Certificate No.: 3116857219

Expiration Date: 3/15/22

Department: Attorney (44)

Department Contact: Kara Lamm

Customer (Finance Only): _____

Notes:

Department Director Signature: _____

Nora Frimann
Nora Frimann (Feb 1, 2022 18:11 PST)

Feb 1, 2022

Date

Office of the City Manager Signature: _____

Date