



City of Palo Alto

City Council Staff Report

(ID # 8894)

Report Type: Consent Calendar

Meeting Date: 6/25/2018

Summary Title: Approve Contract with MNS Engineers for RWQCP Operations Support Services

Title: Approval of a Contract With MNS Engineers, Inc. in an Amount Not-to-Exceed \$267,000 for a One-year Term for Operation Group Support Services at the Regional Water Quality Control Plant

From: City Manager

Lead Department: Public Works

Recommendation

Staff recommends that Council approve and authorize the City Manager or his designee to execute the attached one-year contract with MNS Engineers, Inc. (Attachment A) in an amount not to exceed \$267,000 for operations group support services at the Regional Water Quality Control Plant.

Background

The Regional Water Quality Control Plant (RWQCP) was originally constructed in 1934 and has undergone several expansions and upgrades. The RWQCP operations group consists of 26 state-certified wastewater treatment plant operators. Split between three teams, the group runs RWQCP 24 hours per day, 7 days per week and meets regulatory requirements for air emissions, final water discharges to the Renzel Marsh and San Francisco Bay, recycled water treatment and distribution, and biosolids treatment. The group is supervised by Public Works management staff and a state-certified Chief Plant Operator.

Discussion

MNS Engineers, Inc. (MNS) is being retained to provide consultant services to support the RWQCP's operations group. Key priorities for MNS include reviewing, providing recommendations, and developing staff training and quality control within plant operations, updates to operational documentation, improvement to

alarm response policies and procedures, technical support for chemical and sludge hauling contracts, and budget development and control within the operations group. MNS will provide technical assistance to the RWQCP through discrete, specific projects in these areas. On August 21, 2017, the City posted a Request for Proposals (RFP) notice for Professional Services for Operations Support. The solicitation period was 43 days. On October 3, 2017, proposals were received from three qualified design firms: MNS, Water Talent, and Veolia Water.

Summary of Solicitation Process

Proposal Title/Number	Professional for Operations Support Manager/ RFP168320
Proposed Length of Project	36 months*
Number of Notices sent to Vendors via City's eProcurement system	586
Number of solicitation packages Downloaded by Vendors	15
Total Days to Submit Proposal	43
Pre-Proposal Meeting	N/A
Number of proposals Received:	3
Number of Companies Interviewed	3
Range of Proposal Amounts	\$801,000 to \$847,575*

*The Scope was initially for three years and later changed to one year (see below)

Evaluation of Proposals

An evaluation committee consisting of three Public Works staff was formed to review the proposals and conduct interviews. The committee carefully reviewed each firm's qualifications and submittal in response to the criteria identified in the RFP. The committee interviewed three proposers. Staff believes the proposal submitted by MNS best fits the experience and qualifications needed by the RWQCP operations group. The MNS team includes a retired City of San José wastewater treatment plant operations manager with key experience in wastewater plant operations.

The total not to exceed budget amount proposed for this project is \$267,000 for a one-year contract. The contract term was changed from 3 years to 1 year during

the course of negotiations to insure that the tasks were discrete work items, and not ongoing in nature. This change did not affect consultant selection, because all three proposers would have been affected in the same way.

Resource Impact

Salary and benefit savings from the vacant Assistant Manager Water Quality Control Plant position will be used to offset contract expenses in the Wastewater Treatment Enterprise Fund. Other RWQCP management staff will continue to fulfill the management oversight duties of the vacant position during the contract term.

Policy Implications

This recommendation does not represent any change to existing City policies.

Environmental Review

The agreement does not require a review under the California Environmental Quality Act because it is not a project.

Attachments:

- Operations Support Contract

CITY OF PALO ALTO CONTRACT NO. C18168320

**AGREEMENT BETWEEN THE CITY OF PALO ALTO AND MNS ENGINEERS
FOR PROFESSIONAL SERVICES**

This Agreement is entered into on this 25th day of, June, 2018, (“Agreement”) by and between the CITY OF PALO ALTO, a California chartered municipal corporation (“CITY”), and **MNS Engineers**, a California corporation, located at 201 N. Calle Cesar Chavez, Suite 300, Santa Barbara, CA 93103 (“CONSULTANT”).

RECITALS

The following recitals are a substantive portion of this Agreement.

A. CITY intends to make improvements in its wastewater treatment plant operational activities (“Project”) and desires to engage a consultant to assist the Regional Water Quality Control Plant (“RWQCP”) develop and implement these improvements as outlined in Exhibit A in connection with the Project (“Services”).

B. CONSULTANT has represented that it has the necessary professional expertise, qualifications, and capability, and all required licenses and/or certifications to provide the Services.

C. CITY in reliance on these representations desires to engage CONSULTANT to provide the Services as more fully described in Exhibit “A”, attached to and made a part of this Agreement.

NOW, THEREFORE, in consideration of the recitals, covenants, terms, and conditions, in this Agreement, the parties agree:

AGREEMENT

SECTION 1. SCOPE OF SERVICES. CONSULTANT shall perform the Services described at Exhibit “A” in accordance with the terms and conditions contained in this Agreement. The performance of all Services shall be to the reasonable satisfaction of CITY.

SECTION 2. TERM.

The term of this Agreement shall be from the date of its full execution for a period of one year unless terminated earlier pursuant to Sections 19 or 25 of this Agreement.

SECTION 3. SCHEDULE OF PERFORMANCE. Time is of the essence in the performance of Services under this Agreement. CONSULTANT shall complete the Services within the term of this Agreement and in accordance with the schedule set forth in Exhibit “B”, attached to and made a part of this Agreement. Any Services for which times for performance are not specified in this Agreement shall be commenced and completed by CONSULTANT in a reasonably prompt and timely manner based upon the circumstances and direction communicated to the CONSULTANT. CITY’s agreement to extend the term or the schedule for performance shall not preclude recovery of damages for delay if the extension is required due to the fault of CONSULTANT.

SECTION 4. NOT TO EXCEED COMPENSATION. The compensation to be paid to CONSULTANT for performance of the Services described in Exhibit “A” (“Basic Services”), and

reimbursable expenses, shall not exceed two hundred and sixty-seven thousand dollars (\$267,000). CONSULTANT agrees to complete all Basic Services, including reimbursable expenses, within this amount. In the event Additional Services are authorized, the total compensation for Basic Services, Additional Services and reimbursable expenses shall not exceed zero dollars (\$0). The applicable rates and schedule of payment are set out at Exhibit "C-1", entitled "HOURLY RATE SCHEDULE," which is attached to and made a part of this Agreement. Any work performed or expenses incurred for which payment would result in a total exceeding the maximum amount of compensation set forth herein shall be at no cost to the CITY.

Additional Services, if any, shall be authorized in accordance with and subject to the provisions of Exhibit "C". CONSULTANT shall not receive any compensation for Additional Services performed without the prior written authorization of CITY. Additional Services shall mean any work that is determined by CITY to be necessary for the proper completion of the Project, but which is not included within the Scope of Services described at Exhibit "A".

SECTION 5. INVOICES. In order to request payment, CONSULTANT shall submit monthly invoices to the CITY describing the services performed and the applicable charges (including an identification of personnel who performed the services, hours worked, hourly rates, and reimbursable expenses), based upon the CONSULTANT's billing rates (set forth in Exhibit "C-1"). If applicable, the invoice shall also describe the percentage of completion of each task. The information in CONSULTANT's payment requests shall be subject to verification by CITY. CONSULTANT shall send all invoices to the City's project manager at the address specified in Section 13 below. The City will generally process and pay invoices within thirty (30) days of receipt.

SECTION 6. QUALIFICATIONS/STANDARD OF CARE. All of the Services shall be performed by CONSULTANT or under CONSULTANT's supervision. CONSULTANT represents that it possesses the professional and technical personnel necessary to perform the Services required by this Agreement and that the personnel have sufficient skill and experience to perform the Services assigned to them. CONSULTANT represents that it, its employees and sub-consultants, if permitted, have and shall maintain during the term of this Agreement all licenses, permits, qualifications, insurance and approvals of whatever nature that are legally required to perform the Services.

All of the services to be furnished by CONSULTANT under this agreement shall meet the professional standard and quality that prevail among professionals in the same discipline and of similar knowledge and skill engaged in related work throughout California under the same or similar circumstances.

SECTION 7. COMPLIANCE WITH LAWS. CONSULTANT shall keep itself informed of and in compliance with all federal, state and local laws, ordinances, regulations, and orders that may affect in any manner the Project or the performance of the Services or those engaged to perform Services under this Agreement. CONSULTANT shall procure all permits and licenses, pay all charges and fees, and give all notices required by law in the performance of the Services.

SECTION 8. ERRORS/OMISSIONS. CONSULTANT is solely responsible for costs, including, but not limited to, increases in the cost of Services, arising from or caused by

CONSULTANT's errors and omissions, including, but not limited to, the costs of corrections such errors and omissions, any change order markup costs, or costs arising from delay caused by the errors and omissions or unreasonable delay in correcting the errors and omissions.

SECTION 9. COST ESTIMATES. If this Agreement pertains to the design of a public works project, CONSULTANT shall submit estimates of probable construction costs at each phase of design submittal. If the total estimated construction cost at any submittal exceeds ten percent (10%) of CITY's stated construction budget, CONSULTANT shall make recommendations to CITY for aligning the PROJECT design with the budget, incorporate CITY approved recommendations, and revise the design to meet the Project budget, at no additional cost to CITY.

SECTION 10. INDEPENDENT CONTRACTOR. It is understood and agreed that in performing the Services under this Agreement CONSULTANT, and any person employed by or contracted with CONSULTANT to furnish labor and/or materials under this Agreement, shall act as and be an independent contractor and not an agent or employee of CITY.

SECTION 11. ASSIGNMENT. The parties agree that the expertise and experience of CONSULTANT are material considerations for this Agreement. CONSULTANT shall not assign or transfer any interest in this Agreement nor the performance of any of CONSULTANT's obligations hereunder without the prior written consent of the city manager. Consent to one assignment will not be deemed to be consent to any subsequent assignment. Any assignment made without the approval of the city manager will be void.

SECTION 12. SUBCONTRACTING.

CONSULTANT shall not subcontract any portion of the work to be performed under this Agreement without the prior written authorization of the city manager or designee.

Notwithstanding Section 11 above, CITY agrees that subconsultants may be used to complete the Services. The subconsultants authorized by CITY to perform work on this Project are:

CONSULTANT shall be responsible for directing the work of any subconsultants and for any compensation due to subconsultants. CITY assumes no responsibility whatsoever concerning compensation. CONSULTANT shall be fully responsible to CITY for all acts and omissions of a subconsultant. CONSULTANT shall change or add subconsultants only with the prior approval of the city manager or his designee.

SECTION 13. PROJECT MANAGEMENT. CONSULTANT will assign John Mukhar as the Project Manager to have supervisory responsibility for the performance, progress, and execution of the Services and Armando Guizar as the project operations specialist to represent CONSULTANT during the day-to-day work on the Project. If circumstances cause the substitution of the project director, project coordinator, or any other key personnel for any reason, the appointment of a substitute project director and the assignment of any key new or replacement personnel will be subject to the prior written approval of the CITY's project manager. CONSULTANT, at CITY's request, shall promptly remove personnel who CITY finds do not perform the Services in an acceptable manner, are uncooperative, or present a threat to the adequate

or timely completion of the Project or a threat to the safety of persons or property.

CITY’s project manager is James Allen, Public Works Department, Environmental Services Division, 2501 Embarcadero Way, Palo Alto, CA 94303, Telephone: 650-329-2598. The project manager will be CONSULTANT’s point of contact with respect to performance, progress and execution of the Services. CITY may designate an alternate project manager from time to time.

SECTION 14. OWNERSHIP OF MATERIALS. Upon delivery, all work product, including without limitation, all writings, drawings, plans, reports, specifications, calculations, documents, other materials and copyright interests developed under this Agreement shall be and remain the exclusive property of CITY without restriction or limitation upon their use. CONSULTANT agrees that all copyrights which arise from creation of the work pursuant to this Agreement shall be vested in CITY, and CONSULTANT waives and relinquishes all claims to copyright or other intellectual property rights in favor of the CITY. Neither CONSULTANT nor its contractors, if any, shall make any of such materials available to any individual or organization without the prior written approval of the City Manager or designee. CONSULTANT makes no representation of the suitability of the work product for use in or application to circumstances not contemplated by the scope of work.

SECTION 15. AUDITS. CONSULTANT will permit CITY to audit, at any reasonable time during the term of this Agreement and for three (3) years thereafter, CONSULTANT’s records pertaining to matters covered by this Agreement. CONSULTANT further agrees to maintain and retain such records for at least three (3) years after the expiration or earlier termination of this Agreement.

SECTION 16. INDEMNITY.

16.1. To the fullest extent permitted by law, CONSULTANT shall protect, indemnify, defend and hold harmless CITY, its Council members, officers, employees and agents (each an “Indemnified Party”) from and against any and all demands, claims, or liability of any nature, including death or injury to any person, property damage or any other loss, including all costs and expenses of whatever nature including attorney’s fees, experts fees, court costs and disbursements (“Claims”) that arise out of, pertain to, or relate to the negligence, recklessness, or willful misconduct of CONSULTANT, its officers, employees, agents or contractors under this Agreement, regardless of whether or not it is caused in part by an Indemnified Party.

16.1. To the fullest extent permitted by law, CONSULTANT shall protect, indemnify, defend and hold harmless CITY, its Council members, officers, employees and agents (each an “Indemnified Party”) from and against any and all demands, claims, or liability of any nature, including death or injury to any person, property damage or any other loss, including all costs and expenses of whatever nature including attorney’s fees, experts fees, court costs and disbursements (“Claims”) resulting from, arising out of or in any manner related to performance or nonperformance by CONSULTANT, its officers, employees, agents or contractors under this Agreement, regardless of whether or not it is caused in part by an Indemnified Party.

16.2. Notwithstanding the above, nothing in this Section 16 shall be construed to require CONSULTANT to indemnify an Indemnified Party from Claims arising from the active

negligence, sole negligence or willful misconduct of an Indemnified Party.

16.3. The acceptance of CONSULTANT's services and duties by CITY shall not operate as a waiver of the right of indemnification. The provisions of this Section 16 shall survive the expiration or early termination of this Agreement.

SECTION 17. WAIVERS. The waiver by either party of any breach or violation of any covenant, term, condition or provision of this Agreement, or of the provisions of any ordinance or law, will not be deemed to be a waiver of any other term, covenant, condition, provisions, ordinance or law, or of any subsequent breach or violation of the same or of any other term, covenant, condition, provision, ordinance or law.

SECTION 18. INSURANCE.

18.1. CONSULTANT, at its sole cost and expense, shall obtain and maintain, in full force and effect during the term of this Agreement, the insurance coverage described in Exhibit "D". CONSULTANT and its contractors, if any, shall obtain a policy endorsement naming CITY as an additional insured under any general liability or automobile policy or policies.

18.2. All insurance coverage required hereunder shall be provided through carriers with AM Best's Key Rating Guide ratings of A-VII or higher which are licensed or authorized to transact insurance business in the State of California. Any and all contractors of CONSULTANT retained to perform Services under this Agreement will obtain and maintain, in full force and effect during the term of this Agreement, identical insurance coverage, naming CITY as an additional insured under such policies as required above.

18.3. Certificates evidencing such insurance shall be filed with CITY concurrently with the execution of this Agreement. The certificates will be subject to the approval of CITY's Risk Manager and will contain an endorsement stating that the insurance is primary coverage and will not be canceled, or materially reduced in coverage or limits, by the insurer except after filing with the Purchasing Manager thirty (30) days' prior written notice of the cancellation or modification. If the insurer cancels or modifies the insurance and provides less than thirty (30) days' notice to CONSULTANT, CONSULTANT shall provide the Purchasing Manager written notice of the cancellation or modification within two (2) business days of the CONSULTANT's receipt of such notice. CONSULTANT shall be responsible for ensuring that current certificates evidencing the insurance are provided to CITY's Chief Procurement Officer during the entire term of this Agreement.

18.4. The procuring of such required policy or policies of insurance will not be construed to limit CONSULTANT's liability hereunder nor to fulfill the indemnification provisions of this Agreement. Notwithstanding the policy or policies of insurance, CONSULTANT will be obligated for the full and total amount of any damage, injury, or loss caused by or directly arising as a result of the Services performed under this Agreement, including such damage, injury, or loss arising after the Agreement is terminated or the term has expired.

SECTION 19. TERMINATION OR SUSPENSION OF AGREEMENT OR SERVICES.

19.1. The City Manager may suspend the performance of the Services, in whole or in part, or terminate this Agreement, with or without cause, by giving ten (10) days prior written notice thereof to CONSULTANT. Upon receipt of such notice, CONSULTANT will immediately discontinue its performance of the Services.

19.2. CONSULTANT may terminate this Agreement or suspend its performance of the Services by giving thirty (30) days prior written notice thereof to CITY, but only in the event of a substantial failure of performance by CITY.

19.3. Upon such suspension or termination, CONSULTANT shall deliver to the City Manager immediately any and all copies of studies, sketches, drawings, computations, and other data, whether or not completed, prepared by CONSULTANT or its contractors, if any, or given to CONSULTANT or its contractors, if any, in connection with this Agreement. Such materials will become the property of CITY.

19.4. Upon such suspension or termination by CITY, CONSULTANT will be paid for the Services rendered or materials delivered to CITY in accordance with the scope of services on or before the effective date (i.e., 10 days after giving notice) of suspension or termination; provided, however, if this Agreement is suspended or terminated on account of a default by CONSULTANT, CITY will be obligated to compensate CONSULTANT only for that portion of CONSULTANT's services which are of direct and immediate benefit to CITY as such determination may be made by the City Manager acting in the reasonable exercise of his/her discretion. The following Sections will survive any expiration or termination of this Agreement: 14, 15, 16, 19.4, 20, and 25.

19.5. No payment, partial payment, acceptance, or partial acceptance by CITY will operate as a waiver on the part of CITY of any of its rights under this Agreement.

SECTION 20. NOTICES.

All notices hereunder will be given in writing and mailed, postage prepaid, by certified mail, addressed as follows:

To CITY: Office of the City Clerk
 City of Palo Alto
 Post Office Box 10250
 Palo Alto, CA 94303

With a copy to the Purchasing Manager

To CONSULTANT: Attention of the project director
 at the address of CONSULTANT recited above

SECTION 21. CONFLICT OF INTEREST.

21.1. In accepting this Agreement, CONSULTANT covenants that it presently has no interest, and will not acquire any interest, direct or indirect, financial or otherwise, which

would conflict in any manner or degree with the performance of the Services.

21.2. CONSULTANT further covenants that, in the performance of this Agreement, it will not employ subconsultants, contractors or persons having such an interest. CONSULTANT certifies that no person who has or will have any financial interest under this Agreement is an officer or employee of CITY; this provision will be interpreted in accordance with the applicable provisions of the Palo Alto Municipal Code and the Government Code of the State of California.

21.3. If the Project Manager determines that CONSULTANT is a “Consultant” as that term is defined by the Regulations of the Fair Political Practices Commission, CONSULTANT shall be required and agrees to file the appropriate financial disclosure documents required by the Palo Alto Municipal Code and the Political Reform Act.

SECTION 22. NONDISCRIMINATION. As set forth in Palo Alto Municipal Code section 2.30.510, CONSULTANT certifies that in the performance of this Agreement, it shall not discriminate in the employment of any person because of the race, skin color, gender, age, religion, disability, national origin, ancestry, sexual orientation, housing status, marital status, familial status, weight or height of such person. CONSULTANT acknowledges that it has read and understands the provisions of Section 2.30.510 of the Palo Alto Municipal Code relating to Nondiscrimination Requirements and the penalties for violation thereof, and agrees to meet all requirements of Section 2.30.510 pertaining to nondiscrimination in employment.

SECTION 23. ENVIRONMENTALLY PREFERRED PURCHASING AND ZERO WASTE REQUIREMENTS. CONSULTANT shall comply with the CITY’s Environmentally Preferred Purchasing policies which are available at CITY’s Purchasing Department, incorporated by reference and may be amended from time to time. CONSULTANT shall comply with waste reduction, reuse, recycling and disposal requirements of CITY’s Zero Waste Program. Zero Waste best practices include first minimizing and reducing waste; second, reusing waste and third, recycling or composting waste. In particular, CONSULTANT shall comply with the following zero waste requirements:

- (a) All printed materials provided by CONSULTANT to CITY generated from a personal computer and printer including but not limited to, proposals, quotes, invoices, reports, and public education materials, shall be double-sided and printed on a minimum of 30% or greater post-consumer content paper, unless otherwise approved by CITY’s Project Manager. Any submitted materials printed by a professional printing company shall be a minimum of 30% or greater post-consumer material and printed with vegetable based inks.
- (b) Goods purchased by CONSULTANT on behalf of CITY shall be purchased in accordance with CITY’s Environmental Purchasing Policy including but not limited to Extended Producer Responsibility requirements for products and packaging. A copy of this policy is on file at the Purchasing Division’s office.
- (c) Reusable/returnable pallets shall be taken back by CONSULTANT, at no additional cost to CITY, for reuse or recycling. CONSULTANT shall provide documentation from the facility accepting the pallets to verify that pallets are not being disposed.

SECTION 24. COMPLIANCE WITH PALO ALTO MINIMUM WAGE ORDINANCE.

CONSULTANT shall comply with all requirements of the Palo Alto Municipal Code Chapter 4.62 (Citywide Minimum Wage), as it may be amended from time to time. In particular, for any employee otherwise entitled to the State minimum wage, who performs at least two (2) hours of work in a calendar week within the geographic boundaries of the City, CONSULTANT shall pay such employees no less than the minimum wage set forth in Palo Alto Municipal Code section 4.62.030 for each hour worked within the geographic boundaries of the City of Palo Alto. In addition, CONSULTANT shall post notices regarding the Palo Alto Minimum Wage Ordinance in accordance with Palo Alto Municipal Code section 4.62.060.

SECTION 25. NON-APPROPRIATION

25.1. This Agreement is subject to the fiscal provisions of the Charter of the City of Palo Alto and the Palo Alto Municipal Code. This Agreement will terminate without any penalty (a) at the end of any fiscal year in the event that funds are not appropriated for the following fiscal year, or (b) at any time within a fiscal year in the event that funds are only appropriated for a portion of the fiscal year and funds for this Agreement are no longer available. This section shall take precedence in the event of a conflict with any other covenant, term, condition, or provision of this Agreement.

SECTION 26. PREVAILING WAGES AND DIR REGISTRATION FOR PUBLIC WORKS CONTRACTS

26.1 CONSULTANT is not required to pay prevailing wages in the performance and implementation of the Project in accordance with SB 7 if the contract is not a public works contract, if the contract does not include a public works construction project of more than \$25,000, or the contract does not include a public works alteration, demolition, repair, or maintenance (collectively, ‘improvement’) project of more than \$15,000.

OR

26.1 **CONSULTANT is required to pay general prevailing wages** as defined in Subchapter 3, Title 8 of the California Code of Regulations and Section 16000 et seq. and Section 1773.1 of the California Labor Code. Pursuant to the provisions of Section 1773 of the Labor Code of the State of California, the City Council has obtained the general prevailing rate of per diem wages and the general rate for holiday and overtime work in this locality for each craft, classification, or type of worker needed to execute the contract for this Project from the Director of the Department of Industrial Relations (“DIR”). Copies of these rates may be obtained at the Purchasing Division’s office of the City of Palo Alto. CONSULTANT shall provide a copy of prevailing wage rates to any staff or subcontractor hired, and shall pay the adopted prevailing wage rates as a minimum. CONSULTANT shall comply with the provisions of all sections, including, but not limited to, Sections 1775, 1776, 1777.5, 1782, 1810, and 1813, of the Labor Code pertaining to prevailing wages.

26.2 CONSULTANT shall comply with the requirements of Exhibit “E” for any contract for public works construction, alteration, demolition, repair or maintenance.

SECTION 27. MISCELLANEOUS PROVISIONS.

27.1. This Agreement will be governed by the laws of the State of California.

27.2. In the event that an action is brought, the parties agree that trial of such action will be vested exclusively in the state courts of California in the County of Santa Clara, State of California.

27.3. The prevailing party in any action brought to enforce the provisions of this Agreement may recover its reasonable costs and attorneys' fees expended in connection with that action. The prevailing party shall be entitled to recover an amount equal to the fair market value of legal services provided by attorneys employed by it as well as any attorneys' fees paid to third parties.

27.4. This document represents the entire and integrated agreement between the parties and supersedes all prior negotiations, representations, and contracts, either written or oral. This document may be amended only by a written instrument, which is signed by the parties.

27.5. The covenants, terms, conditions and provisions of this Agreement will apply to, and will bind, the heirs, successors, executors, administrators, assignees, and consultants of the parties.

27.6. If a court of competent jurisdiction finds or rules that any provision of this Agreement or any amendment thereto is void or unenforceable, the unaffected provisions of this Agreement and any amendments thereto will remain in full force and effect.

27.7. All exhibits referred to in this Agreement and any addenda, appendices, attachments, and schedules to this Agreement which, from time to time, may be referred to in any duly executed amendment hereto are by such reference incorporated in this Agreement and will be deemed to be a part of this Agreement.

27.8. In the event of a conflict between the terms of this Agreement and the exhibits hereto or CONSULTANT's proposal (if any), the Agreement shall control. In the case of any conflict between the exhibits hereto and CONSULTANT's proposal, the exhibits shall control.

27.9. If, pursuant to this contract with CONSULTANT, CITY shares with CONSULTANT personal information as defined in California Civil Code section 1798.81.5(d) about a California resident ("Personal Information"), CONSULTANT shall maintain reasonable and appropriate security procedures to protect that Personal Information, and shall inform City immediately upon learning that there has been a breach in the security of the system or in the security of the Personal Information. CONSULTANT shall not use Personal Information for direct marketing purposes without City's express written consent.

27.10. All unchecked boxes do not apply to this agreement.

27.11. The individuals executing this Agreement represent and warrant that they have the legal capacity and authority to do so on behalf of their respective legal entities.

27.12 This Agreement may be signed in multiple counterparts, which shall, when executed by all the parties, constitute a single binding agreement

CONTRACT No. C18168320 SIGNATURE PAGE

IN WITNESS WHEREOF, the parties hereto have by their duly authorized representatives executed this Agreement on the date first above written.

CITY OF PALO ALTO

MNS ENGINEERS, INC

James Keene

Officer 1

DocuSigned by:
James A. Salvito
D7A4F4B73D14468...
By: James A. Salvito
Name: James A. Salvito
Title: President and CEO

APPROVED AS TO FORM:

Officer 2 (Required for Corp. or LLC)

City Attorney or designee

DocuSigned by:
Miranda Patton
7C44DC9BED6D465...
By: Miranda Patton
Name: Miranda Patton
Title: Secretary

Attachments:

- EXHIBIT "A": SCOPE OF SERVICES
- EXHIBIT "B": SCHEDULE OF PERFORMANCE
- EXHIBIT "C": COMPENSATION
- EXHIBIT "C-1": SCHEDULE OF RATES
- EXHIBIT "D": INSURANCE REQUIREMENTS

EXHIBIT A SCOPE OF SERVICES

CONSULTANT shall complete the priority tasks from the following list of special projects for the Operations Group (OG) of the Regional Water Quality Control Plant (RWQCP). Priority Tasks will be identified by the City in the kick off meeting and revisited quarterly or more frequently:

Task 1 – Project Management - Track and manage the MNS Team work, monthly progress reports to the City, and track the contract requirements.

Task 2 – Training Program Development and Implementation:

- a. Develop and implement training programs for the OG based upon the current, revised and new SOPs (Task 3 below).
- b. Track implementation of training programs and prepare reports to document implementation.
- c. Provide recommendations for training program improvements to the Plant Manager.
- d. Review and update draft job descriptions for the OG and the Maintenance Group based upon the existing, revised and new SOPs.
- e. Deliverables: Training program documentation, report, recommendations, and revised job descriptions.

Task 3 - SOPs, O&M Manuals, & Operation Documentation: Develop, revise and draft OG policies, standard operating procedures (SOPs), and develop schedules for implementation. Draft corresponding changes to the Plant's O&M Manual, operational documentation, JSAs, Contingency Plan, Rounds Resources and associated forms. Provide drafts and recommendations to the Plant Manager, and prepare final documents after the Plant Manager's review and approval. Develop system for tracking implementation of policies, standard operating procedures, and schedules. Troubleshoot equipment, unit processes, and SOPs which have failed in the last 2 years by analyzing work processes, associated performance data scheduled maintenance activities; interpreting raw data; and reviewing supplies ordering processes, and parts supply inventory data. Make recommendations to the Plant Manager. Update and test alarm response policies and procedures and make recommendations for changes where needed.

Task 4 – Bid Assistance: Assist the City in administrative processes in solicitation and procurement for Request for Proposals and Invitation For Bids.

Task 5 – Process Control Improvements:

- a. Review, analyze and interpret laboratory and performance data associated with a designated set of standard operating procedures (SOPs), and based on such evaluation, prepare a report with recommendations for improvements and changes which the OG or others at the CITY could make, in light of the physical condition of the Plant and other factors.

- b. Develop an updated protocol for maintaining operating data, procedural data, maintenance manuals and related files.
- c. Review and analyze adequacy of current operating parameters for biological, physical, and chemical unit processes and provide a report with recommendations for improvements.
- d. Deliverables: Reports and protocol document; submit to CITY's Plant Manager.

Task 6 – Operations Budget Recommendations:

- a. Review and analyze RWQCP's actual operational and maintenance expenses for FY16-18 and make recommendations for changes in the FY 20 budget. Areas of focus include personnel related costs, material and service procurement for operations, chemical usage, training, safety, electricity and gas use management, and equipment maintenance.

Task 7 – Discharge Compliance:

- a. Review, analyze and interpret laboratory and operating data for the past 2 years and identify areas where permit violations have occurred or were at risk of occurring. Provide recommendations on the steps that could be taken to avoid future violations to.

EXHIBIT "B"
SCHEDULE OF PERFORMANCE

CONSULTANT shall perform the Services so as to complete all work within the term of the Agreement. CONSULTANT shall provide a detailed schedule of work for a specific Task within two (2) weeks of receipt of the notice to proceed with the Task.

**EXHIBIT “C”
COMPENSATION**

The CITY agrees to compensate the CONSULTANT for professional services performed in accordance with the terms and conditions of this Agreement, and as set forth in the budget schedule below. Compensation shall be calculated based on the hourly rate schedule attached as exhibit C-1 up to the not to exceed budget amount for each task set forth below.

CONSULTANT shall perform the tasks and categories of work as outlined and budgeted below. The CITY’s Project Manager may approve in writing the transfer of budget amounts between any of the tasks or categories listed below provided the total compensation for Basic Services, including reimbursable expenses, and the total compensation for Additional Services do not exceed the amounts set forth in Section 4 of this Agreement.

BUDGET SCHEDULE	NOT TO EXCEED AMOUNT
Task 1 (Project Management)	\$9,833
Task 2 (Staff Training)	\$92,333
Task 3 (SOPs, O&M Manuals, & Operation Documentation)	\$85,667
Task 4 (Bidding Services)	\$17,000
Task 5 (Process Control)	\$34,000
Task 6 (Operations Budget)	\$21,500
Task 7 (Discharge Compliance)	\$6,667
Total Basic Services and Reimbursable expenses	\$267,000
Additional Services (Not to Exceed)	\$ N/A
Maximum Total Compensation \$267,000	

REIMBURSABLE EXPENSES

The administrative, overhead, secretarial time or secretarial overtime, word processing, photocopying, in-house printing, insurance and other ordinary business expenses are included within the scope of payment for services and are not reimbursable expenses. CITY shall reimburse CONSULTANT for the following reimbursable expenses at cost. Expenses for which CONSULTANT shall be reimbursed are: n/a

A. Travel outside the San Francisco Bay area, including transportation and meals, will be reimbursed at actual cost subject to the City of Palo Alto's policy for reimbursement of travel and meal expenses for City of Palo Alto employees.

B. Long distance telephone service charges, cellular phone service charges, facsimile transmission and postage charges are reimbursable at actual cost.

All requests for payment of expenses shall be accompanied by appropriate backup information. Any expense anticipated to be more than \$500 shall be approved in advance by the CITY's project manager.

ADDITIONAL SERVICES

The CONSULTANT shall provide additional services only by advanced, written authorization from the CITY. The CONSULTANT, at the CITY's project manager's request, shall submit a detailed written proposal including a description of the scope of services, schedule, level of effort, and CONSULTANT's proposed maximum compensation, including reimbursable expense, for such services based on the rates set forth in Exhibit C-1. The additional services scope, schedule and maximum compensation shall be negotiated and agreed to in writing by the CITY's project manager and CONSULTANT prior to commencement of the services. Payment for additional services is subject to all requirements and restrictions in this Agreement

Work required because the following conditions are not satisfied or are exceeded shall be considered as additional services:

- Not applicable

EXHIBIT "C-1"
SCHEDULE OF RATES

PROJECT AND PROGRAM MANAGEMENT

Principal-In-Charge	\$250
Senior Project/Program Manager	230
Project/Program Manager	200
Assistant Project/Program Manager	175
Senior Project Coordinator	150
Project Coordinator	120

ENGINEERING

Principal Engineer	\$225
Lead Engineer	210
Supervising Engineer	190
Senior Project Engineer	175
Project Engineer	155
Associate Engineer	140
Assistant Engineer	125

TECHNICAL SUPPORT

Operations Specialist	\$170
CADD Manager	150
Supervising Technician	135
Senior Technician	125
Engineering Technician	95

ADMINISTRATIVE SUPPORT

Administrative Analyst	\$110
IT Technician	105
Graphics/Visualization Specialist	95
Administrative Assistant	70

EXHIBIT “D” INSURANCE REQUIREMENTS

CONTRACTORS TO THE CITY OF PALO ALTO (CITY), AT THEIR SOLE EXPENSE, SHALL FOR THE TERM OF THE CONTRACT OBTAIN AND MAINTAIN INSURANCE IN THE AMOUNTS FOR THE COVERAGE SPECIFIED BELOW, **AFFORDED BY COMPANIES WITH AM BEST’S KEY RATING OF A-:VII, OR HIGHER, LICENSED OR AUTHORIZED TO TRANSACT INSURANCE BUSINESS IN THE STATE OF CALIFORNIA.**

AWARD IS CONTINGENT ON COMPLIANCE WITH CITY’S INSURANCE REQUIREMENTS, AS SPECIFIED, BELOW:

REQUIRE D	TYPE OF COVERAGE	REQUIREMENT	MINIMUM LIMITS	
			EACH OCCURRENCE	AGGREGATE
YES YES	WORKER’S COMPENSATION EMPLOYER’S LIABILITY	STATUTORY STATUTORY		
YES	GENERAL LIABILITY, INCLUDING PERSONAL INJURY, BROAD FORM PROPERTY DAMAGE BLANKET CONTRACTUAL, AND FIRE LEGAL LIABILITY	BODILY INJURY	\$1,000,000	\$1,000,000
		PROPERTY DAMAGE	\$1,000,000	\$1,000,000
		BODILY INJURY & PROPERTY DAMAGE COMBINED.	\$1,000,000	\$1,000,000
YES	AUTOMOBILE LIABILITY, INCLUDING ALL OWNED, HIRED, NON-OWNED	BODILY INJURY - EACH PERSON - EACH OCCURRENCE	\$1,000,000 \$1,000,000 \$1,000,000	\$1,000,000 \$1,000,000 \$1,000,000
		PROPERTY DAMAGE	\$1,000,000	\$1,000,000
		BODILY INJURY AND PROPERTY DAMAGE, COMBINED	\$1,000,000	\$1,000,000
YES		PROFESSIONAL LIABILITY, INCLUDING, ERRORS AND OMISSIONS, MALPRACTICE (WHEN APPLICABLE), AND NEGLIGENT PERFORMANCE	ALL DAMAGES	\$1,000,000
YES	THE CITY OF PALO ALTO IS TO BE NAMED AS AN ADDITIONAL INSURED: CONTRACTOR, AT ITS SOLE COST AND EXPENSE, SHALL OBTAIN AND MAINTAIN, IN FULL FORCE AND EFFECT THROUGHOUT THE ENTIRE TERM OF ANY RESULTANT AGREEMENT, THE INSURANCE COVERAGE HEREIN DESCRIBED, INSURING NOT ONLY CONTRACTOR AND ITS SUBCONSULTANTS, IF ANY, BUT ALSO, WITH THE EXCEPTION OF WORKERS’ COMPENSATION, EMPLOYER’S LIABILITY AND PROFESSIONAL INSURANCE, NAMING AS ADDITIONAL INSUREDS CITY, ITS COUNCIL MEMBERS, OFFICERS, AGENTS, AND EMPLOYEES.			

I. INSURANCE COVERAGE MUST INCLUDE:

- A. A PROVISION FOR A WRITTEN THIRTY (30) DAY ADVANCE NOTICE TO CITY OF CHANGE IN COVERAGE OR OF COVERAGE CANCELLATION; AND
- B. A CONTRACTUAL LIABILITY ENDORSEMENT PROVIDING INSURANCE COVERAGE FOR CONTRACTOR’S AGREEMENT TO INDEMNIFY CITY.
- C. DEDUCTIBLE AMOUNTS IN EXCESS OF \$5,000 REQUIRE CITY’S PRIOR APPROVAL.

II. CONTACTOR MUST SUBMIT CERTIFICATES(S) OF INSURANCE EVIDENCING REQUIRED COVERAGE AT THE FOLLOWING URL: <https://www.planetbids.com/portal/portal.cfm?CompanyID=25569>.

III. ENDORSEMENT PROVISIONS, WITH RESPECT TO THE INSURANCE AFFORDED TO “ADDITIONAL INSUREDS”

A. PRIMARY COVERAGE

WITH RESPECT TO CLAIMS ARISING OUT OF THE OPERATIONS OF THE NAMED INSURED, INSURANCE AS AFFORDED BY THIS POLICY IS PRIMARY AND IS NOT ADDITIONAL TO OR CONTRIBUTING WITH ANY OTHER INSURANCE CARRIED BY OR FOR THE BENEFIT OF THE ADDITIONAL INSUREDS.

B. CROSS LIABILITY

THE NAMING OF MORE THAN ONE PERSON, FIRM, OR CORPORATION AS INSURED UNDER THE POLICY SHALL NOT, FOR THAT REASON ALONE, EXTINGUISH ANY RIGHTS OF THE INSURED AGAINST ANOTHER, BUT THIS ENDORSEMENT, AND THE NAMING OF MULTIPLE INSURED, SHALL NOT INCREASE THE TOTAL LIABILITY OF THE COMPANY UNDER THIS POLICY.

C. NOTICE OF CANCELLATION

1. IF THE POLICY IS CANCELED BEFORE ITS EXPIRATION DATE FOR ANY REASON OTHER THAN THE NON-PAYMENT OF PREMIUM, THE CONSULTANT SHALL PROVIDE CITY AT LEAST A THIRTY (30) DAY WRITTEN NOTICE BEFORE THE EFFECTIVE DATE OF CANCELLATION.
2. IF THE POLICY IS CANCELED BEFORE ITS EXPIRATION DATE FOR THE NON-PAYMENT OF PREMIUM, THE CONSULTANT SHALL PROVIDE CITY AT LEAST A TEN (10) DAY WRITTEN NOTICE BEFORE THE EFFECTIVE DATE OF CANCELLATION.

VENDORS ARE REQUIRED TO FILE THEIR EVIDENCE OF INSURANCE AND ANY OTHER RELATED NOTICES WITH THE CITY OF PALO ALTO AT THE FOLLOWING URL:

<HTTPS://WWW.PLANETBIDS.COM/PORTAL/PORTAL.CFM?COMPANYID=25569>

OR

HTTP://WWW.CITYOFPALOALTO.ORG/GOV/DEPTS/ASD/PLANET_BIDS_HOW_TO.ASP

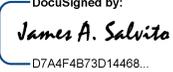
Certificate Of Completion

Envelope Id: 7279AE8D0FEB4E53A77A7D16802C6F2F	Status: Completed
Subject: Please DocuSign: FINAL MNS2 ENGINEERS Contract C18168320 rev 6-18-18.pdf	
Source Envelope:	
Document Pages: 19	Signatures: 2
Certificate Pages: 2	Initials: 0
AutoNav: Enabled	Envelope Originator:
Envelopeld Stamping: Enabled	Maybo AuYeung
Time Zone: (UTC-08:00) Pacific Time (US & Canada)	250 Hamilton Ave
	Palo Alto , CA 94301
	Maybo.AuYeung@CityofPaloAlto.org
	IP Address: 12.220.157.20

Record Tracking

Status: Original 6/18/2018 3:16:46 PM	Holder: Maybo AuYeung Maybo.AuYeung@CityofPaloAlto.org	Location: DocuSign
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Signer Events

Signer Events	Signature	Timestamp
James A. Salvito JSalvito@mnsengineers.com President and CEO MNS Engineers, Inc. Security Level: Email, Account Authentication (None)	 <p>DocuSigned by: <i>James A. Salvito</i> D7A4F4B73D14468...</p> <p>Using IP Address: 209.234.137.242</p>	<p>Sent: 6/18/2018 3:26:57 PM Viewed: 6/18/2018 5:27:34 PM Signed: 6/18/2018 5:28:57 PM</p>
<p>Electronic Record and Signature Disclosure: Not Offered via DocuSign</p>		

Miranda Patton mpatton@mnsengineers.com Secretary Security Level: Email, Account Authentication (None)	 <p>DocuSigned by: <i>Miranda Patton</i> 7C44DC98E06D465...</p> <p>Using IP Address: 172.117.34.96</p>	<p>Sent: 6/18/2018 3:26:57 PM Viewed: 6/18/2018 5:33:57 PM Signed: 6/18/2018 5:35:48 PM</p>
<p>Electronic Record and Signature Disclosure: Not Offered via DocuSign</p>		

In Person Signer Events

In Person Signer Events	Signature	Timestamp
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Editor Delivery Events

Editor Delivery Events	Status	Timestamp
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Agent Delivery Events

Agent Delivery Events	Status	Timestamp
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Intermediary Delivery Events

Intermediary Delivery Events	Status	Timestamp
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Certified Delivery Events

Certified Delivery Events	Status	Timestamp
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Carbon Copy Events

Carbon Copy Events	Status	Timestamp
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John Mukhar jmukhar@mnsengineers.com Security Level: Email, Account Authentication (None)		Sent: 6/18/2018 5:35:48 PM
<p>Electronic Record and Signature Disclosure: Not Offered via DocuSign</p>		

Phil Bobel Phil.Bobel@cityofpaloalto.org Div head Security Level: Email, Account Authentication (None)		Sent: 6/18/2018 5:35:48 PM
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Carbon Copy Events	Status	Timestamp
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Electronic Record and Signature Disclosure:
Not Offered via DocuSign

Saira Cardoza
saira.cardoza@cityofpaloalto.org
Contracts Administrator
City of Palo Alto
Security Level: Email, Account Authentication
(None)

COPIED

Sent: 6/18/2018 5:35:48 PM

Electronic Record and Signature Disclosure:
Not Offered via DocuSign

Notary Events	Signature	Timestamp
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Envelope Summary Events	Status	Timestamps
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Envelope Sent	Hashed/Encrypted	6/18/2018 5:35:48 PM
Certified Delivered	Security Checked	6/18/2018 5:35:48 PM
Signing Complete	Security Checked	6/18/2018 5:35:48 PM
Completed	Security Checked	6/18/2018 5:35:48 PM

Payment Events	Status	Timestamps
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