

EBIX Insurance No. \*S20000

**COOPERATIVE AGREEMENT FOR SERVICES  
BETWEEN THE  
CITY OF SANTA CLARA, CALIFORNIA,  
AND  
CITY OF SUNNYVALE, CALIFORNIA.**

**PREAMBLE**

This Agreement, dated for references on \_\_\_\_, 2019, is entered into between the City of Santa Clara, California, a chartered California municipal corporation (City) and City of Sunnyvale, a chartered California municipal corporation, (Sunnyvale). City and Sunnyvale may be referred to individually as a “Party” or collectively as the “Parties” or the “Parties to this Agreement.”

**RECITALS**

**WHEREAS**, opened in 1987, the Santa Clara Golf & Tennis Club (SCG&TC) provides services to over 50,000 residents and customers annually;

**WHEREAS**, SCG&TC will be closing in October 2019 to begin construction of a multi-phased, mixed use development, and golf and tennis operations will cease to the general public on or about October 15, 2019;

**WHEREAS**, the City desires to secure similar services to those offered at SCG&TC primarily for the benefit of its residents;

**WHEREAS**, the City of Sunnyvale owns and operates two golf facilities, Sunnyvale Golf featuring an 18-hole course, pro-shop and full-service food concession, and Sunken Gardens Golf Course that features a nine-hole executive course with an 18 stall driving range, existing men’s and women’s clubs, and ample capacity to accommodate Santa Clara residents; and,

**WHEREAS**, the City of Sunnyvale will allow Santa Clara residents to use its two golf facilities through an exclusive relationship with the City of Santa Clara, which will enable costs to be reasonably borne for the provision of services at favorable Sunnyvale resident rates. The Parties agree as follows:

**AGREEMENT TERMS AND CONDITIONS**

**1. AGREEMENT DOCUMENTS**

The documents forming the entire Agreement between City and Sunnyvale shall consist of these Terms and Conditions and the following Exhibits, which are hereby incorporated into this Agreement by this reference:

Exhibit A – Scope of Services

Exhibit B – Schedule of Fees

Exhibit C – Insurance Requirements

Exhibit D – Labor Compliance Addendum (if applicable)

This Agreement, including the Exhibits set forth above, contains all the agreements, representations and understandings of the Parties, and supersedes and replaces any previous agreements, representations and understandings, whether oral or written. In the event of any inconsistency between the provisions of any of the Exhibits and the Terms and Conditions, the Terms and Conditions shall govern and control.

## **2. TERM OF AGREEMENT**

- A. Unless otherwise set forth in this Agreement or unless this paragraph is subsequently modified by a written amendment to this Agreement, the term of this Agreement shall begin on July 1, 2019 and terminate on June 30, 2024.
- B. Notwithstanding the provisions of section 2.A, at the mutual option of City and Sunnyvale, this Agreement may be extended for a period of one (1) year, for up to a total of two (2) one-year extensions, provided that Sunnyvale gives City no less than two (2) months advance written notice of its intent to extend this Agreement and City accepts by giving Sunnyvale written notice of its intent to accept the extension within fifteen (15) days of expiration of the term.

## **3. SCOPE OF SERVICES & PERFORMANCE SCHEDULE**

The Parties shall perform those Services specified in Exhibit A within the time stated in Exhibit A.

## **4. WARRANTY**

Sunnyvale expressly warrants that all materials and services covered by this Agreement shall be fit for the purpose intended, shall be free from defect and shall conform to the specifications, requirements and instructions upon which this Agreement is based. Sunnyvale agrees to promptly replace or correct any incomplete, inaccurate or defective Services at no further cost to City when defects are due to the negligence, errors or omissions of Sunnyvale. If Sunnyvale fails to promptly correct or replace materials or services, City may make corrections or replace materials or services and charge Sunnyvale for the cost incurred by City.

**5. QUALIFICATIONS OF SUNNYVALE - STANDARD OF CARE**

Sunnyvale represents and maintains that it has the expertise in the professional calling necessary to perform the Services, and its duties and obligations, expressed and implied, contained herein, and City expressly relies upon Sunnyvale's representations regarding its skills and knowledge. Sunnyvale shall perform such Services and duties in conformance to and consistent with the professional standards of a specialist in the same discipline in the State of California.

**6. COMPENSATION AND PAYMENT**

In consideration for Sunnyvale's complete performance of Services, City shall pay Sunnyvale for all materials provided and Services rendered by Sunnyvale in accordance with Exhibit B, entitled "SCHEDULE OF FEES."

**7. TERMINATION**

- A. Termination for Convenience. Either Party shall have the right to terminate this Agreement, without cause or penalty, by giving not less than six months (6) months' prior written notice to the other Party.
- B. Termination for Default. If Sunnyvale fails to perform any of its material obligations under this Agreement, in addition to all other remedies provided by law, City may terminate this Agreement immediately upon written notice to Sunnyvale.
- C. Upon termination, each Party shall assist the other in arranging an orderly transfer and close-out of services. As soon as possible following the notice of termination, but no later than ten (10) days after the notice of termination, Sunnyvale will deliver to City all City information or material that Sunnyvale has in its possession.

**8. ASSIGNMENT**

City and Sunnyvale bind themselves, their successors and assigns to all covenants of this Agreement. This Agreement shall not be assigned or transferred without the prior written approval of City.

**9. INDEPENDENT ENTITIES**

Sunnyvale and all person(s) employed by or contracted with Sunnyvale to furnish labor and/or materials under this Agreement are independent entities and do not act as agent(s) or employee(s) of City. Sunnyvale has full rights to manage its employees and contractors in their performance of Services under this Agreement.

**10. RIGHT OF CITY TO INSPECT RECORDS OF SUNNYVALE**

City, through its authorized employees, representatives or agents shall have the right during the term of this Agreement and in accordance with Sunnyvale's Retention and Destruction Schedule, to audit the books and records of Sunnyvale for the purpose of verifying any and all charges made by Sunnyvale in connection with Sunnyvale's compensation under this Agreement, including termination of Sunnyvale. Sunnyvale agrees to maintain sufficient books and records in accordance with generally accepted accounting principles to establish the correctness of all charges submitted to City.

Sunnyvale shall submit to City any and all reports concerning its performance under this Agreement that may be requested by City in writing..

**11. HOLD HARMLESS/INDEMNIFICATION**

A. In lieu of and notwithstanding the pro rata risk allocation, which might otherwise be imposed between the Parties pursuant to Government Code Section 895.6, the Parties agree that all losses or liabilities incurred by a Party shall not be shared pro rata but, instead, SUNNYVALE and CITY agree that, pursuant to Government Code Section 895.4, each of the Parties hereto shall fully indemnify and hold each of the other Parties, their officers, council members, employees, contractors and agents, harmless from any claim, expense or cost, damage or liability imposed for injury (as defined in Government Code Section 810.8) occurring by reason of the negligent acts or omissions or willful misconduct of the indemnifying Party, its officers, employees, or agents, under or in connection with or arising out of any work, authority, or jurisdiction delegated to such Party under this Agreement. No party, nor any officer, board member, or agent thereof shall be responsible for any damage or liability occurring by reason of the negligent acts or omissions or willful misconduct of the other Party hereto, its officers, council members, employees, contractors or agents, under or in connection with or arising out of any work authority or jurisdiction delegated to such other Party under this Agreement.

**12. INSURANCE REQUIREMENTS**

During the term of this Agreement, and for any time period set forth in Exhibit C, Sunnyvale shall provide and maintain in full force and effect, at no cost to City, insurance policies as set forth in Exhibit C., City acknowledges that Sunnyvale is a member of the California Joint Powers Risk Management Authority ("CJPRMA") and will issue the Certificates of Coverage through the CJPRMA. .

**13. WAIVER**

Sunnyvale agrees that waiver by City of any one or more of the conditions of performance under this Agreement shall not be construed as waiver(s) of any other condition of performance under this Agreement. Neither City's review,

acceptance nor payments for any of the Services required under this Agreement shall be constructed to operate as a waiver of any rights under this Agreement or of any cause of action arising out of the performance of this Agreement.

#### **14. NOTICES**

All notices to the Parties shall, unless otherwise requested in writing, be sent to City addressed as follows:

City of Santa Clara  
Attention: Parks & Recreation Department  
1500 Warburton Avenue  
Santa Clara, CA 95050  
and by e-mail at [jteixeira@santaclaraca.gov](mailto:jteixeira@santaclaraca.gov), and  
[manager@santaclaraca.gov](mailto:manager@santaclaraca.gov)

And to Sunnyvale addressed as follows:

City of Sunnyvale  
Attention: Department of Public Works  
456 West Olive Avenue  
Sunnyvale, CA 94088-3707  
and by e-mail at [rodneywilson@sunnyvale.ca.gov](mailto:rodneywilson@sunnyvale.ca.gov), and  
[ctaylor@sunnyvale.ca.gov](mailto:ctaylor@sunnyvale.ca.gov), and

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The workday the e-mail was sent shall control the date notice was deemed given. An e-mail transmitted after 1:00 p.m. on a Friday shall be deemed to have been transmitted on the following business day.

#### **15. COMPLIANCE WITH LAWS**

Both Parties shall comply with all applicable federal or state laws and regulations in addition to the applicable local laws and policies within their respective territorial jurisdiction.

#### **16. CONFLICTS OF INTEREST**

Sunnyvale certifies that to the best of its knowledge, no City officer, employee or authorized representative has any financial interest in the business of Sunnyvale and that no person associated with Sunnyvale has any interest, direct or indirect, which could conflict with the faithful performance of this Agreement. Sunnyvale is familiar with the provisions of California Government Code section 87100 and

following, and certifies that it does not know of any facts which would violate these code provisions. Sunnyvale will advise City if a conflict arises.

**17. FAIR EMPLOYMENT**

Neither Party shall discriminate against any employee or applicant for employment because of race, sex, color, religion, religious creed, national origin, ancestry, age, gender, marital status, physical disability, mental disability, medical condition, genetic information, sexual orientation, gender expression, gender identity, military and veteran status, or ethnic background, in violation of federal, state or local law.

**18. NO USE OF PARTY NAME OR EMBLEM**

Either Party shall not use the other Party's name, insignia, or emblem, or distribute any information related to services under this Agreement in any magazine, trade paper, newspaper or other medium without express written consent of the other Party.

**19. GOVERNING LAW AND VENUE**

This Agreement shall be governed and construed in accordance with the statutes and laws of the State of California. The venue of any suit filed by either Party shall be vested in the state courts of the County of Santa Clara, or if appropriate, in the United States District Court, Northern District of California, San Jose, California.

**20. SEVERABILITY CLAUSE**

In case any one or more of the provisions in this Agreement shall, for any reason, be held invalid, illegal or unenforceable in any respect, it shall not affect the validity of the other provisions, which shall remain in full force and effect.

**21. AMENDMENTS**

This Agreement may only be modified by a written amendment duly authorized and executed by the Parties to this Agreement.

## 22. COUNTERPARTS

This Agreement may be executed in counterparts, each of which shall be deemed to be an original, but both of which shall constitute one and the same instrument.

The Parties acknowledge and accept the terms and conditions of this Agreement as evidenced by the following signatures of their duly authorized representatives.

**CITY OF SANTA CLARA, CALIFORNIA**  
a chartered California municipal corporation

Approved as to Form:

Dated: \_\_\_\_\_

\_\_\_\_\_  
BRIAN DOYLE  
City Attorney

\_\_\_\_\_  
DEANNA J. SANTANA  
City Manager  
1500 Warburton Avenue  
Santa Clara, CA 95050  
Telephone: (408) 615-2210  
Fax: (408) 241-6771

"CITY"

**CITY OF SUNNYVALE**  
a California municipal corporation

Dated: \_\_\_\_\_

By (Signature): \_\_\_\_\_

Name: \_\_\_\_\_

Title: City Manager

Principal Place of  
Business Address: 456 West Olive Avenue, Sunnyvale, CA 94088-3707

Email Address: \_\_\_\_\_

Telephone: ( )

Fax: ( )

"SUNNYVALE"

ATTEST:

\_\_\_\_\_  
Sunnyvale City Clerk

Approved as to Form:

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Sunnyvale City Attorney



## EXHIBIT A SCOPE OF SERVICES

The Services to be performed for the City by the Sunnyvale under this Agreement are set forth below.

### The City of Sunnyvale (Sunnyvale) shall:

1. **Discount Rate.** Charge Santa Clara residents who play golf at Sunnyvale Golf or Sunken Gardens a fee equivalent to the current Sunnyvale Resident rates. To qualify for the Santa Clara resident rates, Santa Clara residents must provide documentation of their Santa Clara residency each time they check in at the golf shop at Sunnyvale Golf and/or Sunken Gardens. A valid government-issued identification card ("Photo Identification") showing the Santa Clara address is the preferred form of documentation. If the Photo Identification does not show a Santa Clara address, a second form of ID, which **does** show the Santa Clara address ("Other Documentation"), is required. Table 1 provides a list of acceptable Photo Identification and Other Documentation.

<b>Table 1 Acceptable Forms of Identification</b>	
<b>PHOTO IDENTIFICATION</b>	<b>OTHER DOCUMENTATION</b>
Driver's license	Payroll stub
Identification card	Rental agreement
Military ID card	Utility bill
Passport	Voter registration card

2. **High School Teams.** Charge Santa Clara Schools (Wilcox/Santa Clara/Cupertino High Schools) who play golf at Sunnyvale Golf a fee equivalent to the then current Sunnyvale High School fee (\$600 per season in 2019), as published in Sunnyvale Municipal Fee Schedule. This will entitle the teams to: (a) 16 play dates at Sunnyvale Golf or Sunken Gardens; and (b) a \$200 range card for range balls at Sunken Gardens.
3. **Instructional Program.** Provide an instructional golf program (classes, clinics, camps, etc.) to Santa Clara residents which shall be promoted in City's Activity Guide and registration conducted through the City's Parks & Recreation Department. Fees charged will be equivalent to Sunnyvale residents; however, the City of Sunnyvale will have the right to set (a) the registration and program fees (price), (b) the dates and times of the lessons/programs, and (c) hire appropriate qualified staff for the program. The programs will be offered at Sunnyvale Golf and/or Sunken Gardens. Sunnyvale will provide the City a course and class

description for classes, clinics, camps and other golf programs and the appropriate Santa Clara resident fee to be advertised. The City of Santa Clara publishes the seasonal Activity Guide three (3) times per year and develops content well in advance (four months prior) of publication, and generally opens classes for the next season's registration the first weeks of March, August, and December.

4. **Clubs.** Provide SCG&TC clubs, groups, ambassadors and volunteers an opportunity to transition to Sunnyvale Golf, either as a separate club or opportunity to join Sunnyvale clubs.
5. **Tournaments.** Actively recruit and extend favorable rates to Santa Clara tournaments.
6. **Promotion.** Provide content, website direction, and email communication to City for all course and program promotions for distribution to City residents; City will review, but not unreasonably withhold approval of Sunnyvale's content.

**The City of Santa Clara (City) shall:**

1. **Exclusivity.** Provide City of Sunnyvale exclusive use of SCG&TC's (a) customer database for email promotion, (b) tournament database for existing SCG&TC tournaments, and (c) lesson database. Sunnyvale shall not sell, distribute or otherwise allow use of this customer information in any manner other than for the purposes of providing discounted golf rates to those customers under this Agreement. Subject to governing law regarding public records, Sunnyvale will take all reasonable steps to protect the privacy of the personal information provided hereunder to the same extent as Sunnyvale does for its own residents.
2. **High School Teams.** Refer Santa Clara Schools to Sunnyvale Golf for preferred home team location.
3. **Instruction.** Exclusively contract with City of Sunnyvale to provide recreational/instructional golf programs, lessons, camps and clinics in the seasonal Santa Clara Activity Guide. City shall provide a registration portal to enroll program/class participants and collect all registration fees from the enrollee(s). Santa Clara may collect a booking fee, administration fee, registration and/or cancellation fee as described on Exhibit B. Registration fees will be paid to the City of Sunnyvale based on actual class registration and fee collected, and according to the Santa Clara class Cancellation Policy. City of Santa Clara will provide a list of program registrants for each program session, class, clinic, and camp in advance of the class/program start date(s).
4. **Clubs.** Provide City of Sunnyvale an exclusive opportunity to use City's customer database describe in Section 1 above to recruit the Men's, Ladies' and Senior Clubs

based at Santa Clara to Sunnyvale Clubs beginning with a recruitment period starting upon full execution of this Agreement.

5. **Tournaments.** Provide Sunnyvale Golf with list of scheduled tournaments, contact information, pricing, etc.
6. **Promotion.** Promote as feasible, Sunnyvale Golf Course discount programs on City website, Activity Guide and other publications. Approve banner and marketing flyers (content provided by Sunnyvale; content reviewed by Santa Clara) to be displayed at SCG&TC entrance, pro-shop and recreation buildings starting as soon as reasonably possible upon full execution of this Agreement.

## **EXHIBIT B**

### **SCHEDULE OF FEES**

City will pay Sunnyvale within thirty (30) days of City's receipt of an approved invoice and only for the Instructional Golf Program. All other fees for services charged by the Sunnyvale to City residents and/or non-residents shall be the responsibility of Sunnyvale and Sunnyvale's participants (such as, High School Teams, Golf Clubs, Tournaments, individual golfers).

#### **1. Instructional Program.**

- 1.1. City shall collect registration fees for all classes provided to City residents pursuant to this agreement. City shall pay Sunnyvale a mutually agreed upon percentage of those registration fees, based on actual class registration and fees collected, and according to the Santa Clara Class Cancellation Policy. The rate ("base fee") is inclusive of all Sunnyvale expenses including but not limited to labor, materials, travel, overhead, general and administrative, and profit which base fee is currently \$\_\_\_\_\_ per class participant. Any adjustment to the base fee shall be subject to mutual written agreement by the parties.
- 1.2. Invoicing. City shall compensate Sunnyvale in arrears at the conclusion of each session of classes, or season of classes, conducted under this Agreement. Invoices shall be detailed and include the title of the course, the course number, individuals enrolled in the course, amount due, and the invoiced session date range for each class/activity.
- 1.3. City staff will calculate the fees collected at the agreed upon Resident rate as published in the seasonal Activity Guide. City shall pay Sunnyvale the dollar amount referenced as the "base fee" per class enrollee, excluding from the calculation, the City's transaction and/or administrative fees per class enrollee which will be separate from and/or additional to Sunnyvale's proposed registration base fee. If a class enrollee withdraws from the program or enrolls after the start date of the class, the base fee will be pro-rated based on the number of classes the enrollee attended. City shall keep any transaction, administration, and/or course cancellation fees collected.
- 1.4. Additional Services/Contingency. In the event that the City and Sunnyvale expand the participant size of a class, Sunnyvale shall be reimbursed for the additional base fee per enrollee for additional participants as described above.
- 1.5. City and Sunnyvale shall review the invoices and payments within 10 days of receipt and notify each other of any discrepancies or deficiencies in said invoice or payment within twenty (20) days of date of invoice. Reconciliation of discrepancies shall be made within ninety (90) days of date of original invoice.

## **EXHIBIT C**

### **INSURANCE REQUIREMENTS**

Sunnyvale is a member of the CJPRMA risk pool and shall provide insurance certificates through the CJPRMA. Without limiting Sunnyvale's indemnification of the City, and prior to commencing any of the Services required under this Agreement, the Sunnyvale shall provide and maintain in full force and effect, at its sole cost and expense, the following insurance policies with at least the indicated coverages, provisions and endorsements:

#### **A. COMMERCIAL GENERAL LIABILITY INSURANCE**

1. Commercial General Liability Insurance policy which provides coverage at least as broad as Insurance Services Office form CG 00 01. Policy limits are subject to review, but shall in no event be less than, the following:
  - \$1,000,000 Each Occurrence
  - \$2,000,000 General Aggregate
  - \$2,000,000 Products/Completed Operations Aggregate
  - \$1,000,000 Personal Injury
2. Exact structure and layering of the coverage shall be left to the discretion of Sunnyvale; however, any excess or umbrella policies used to meet the required limits shall be at least as broad as the underlying coverage and shall otherwise follow form.
3. The following provisions shall apply to the Commercial Liability policy as well as any umbrella policy maintained by the Sunnyvale to comply with the insurance requirements of this Agreement:
  - a. Coverage shall be on a "pay on behalf" basis with defense costs payable in addition to policy limits;
  - b. There shall be no cross liability exclusion which precludes coverage for claims or suits by one insured against another; and
  - c. Coverage shall apply separately to each insured against whom a claim is made or a suit is brought, except with respect to the limits of liability.

#### **B. BUSINESS AUTOMOBILE LIABILITY INSURANCE**

Business automobile liability insurance policy which provides coverage at least as broad as ISO form CA 00 01 with policy limits a minimum limit of not less than one million dollars (\$1,000,000) each accident using, or providing coverage at

least as broad as, Insurance Services Office form CA 00 01. Liability coverage shall apply to all owned, non-owned and hired autos.

In the event that the Work being performed under this Agreement involves transporting of hazardous or regulated substances, hazardous or regulated wastes and/or hazardous or regulated materials, Sunnyvale and/or its subcontractors involved in such activities shall provide coverage with a limit of two million dollars (\$2,000,000) per accident covering transportation of such materials by the addition to the Business Auto Coverage Policy of Environmental Impairment Endorsement MCS90 or Insurance Services Office endorsement form CA 99 48, which amends the pollution exclusion in the standard Business Automobile Policy to cover pollutants that are in or upon, being transported or towed by, being loaded onto, or being unloaded from a covered auto.

C. WORKERS' COMPENSATION

1. Workers' Compensation Insurance Policy as required by statute and employer's liability with limits of at least one million dollars (\$1,000,000) policy limit Bodily Injury by disease, one million dollars (\$1,000,000) each accident/Bodily Injury and one million dollars (\$1,000,000) each employee Bodily Injury by disease.
2. The indemnification and hold harmless obligations of Sunnyvale included in this Agreement shall not be limited in any way by any limitation on the amount or type of damage, compensation or benefit payable by or for Sunnyvale or any Sunnyvale subcontractor under any Workers' Compensation Act(s), Disability Benefits Act(s) or other employee benefits act(s).
3. This policy must include a Waiver of Subrogation in favor of the City of Santa Clara, its City Council, commissions, officers, employees, volunteers and agents.

D. COMPLIANCE WITH REQUIREMENTS

All of the following clauses and/or endorsements, or similar provisions, must be part of each commercial general liability policy, and each umbrella or excess policy.

1. Additional Insureds. City of Santa Clara, its City Council, commissions, officers, employees, volunteers and agents are hereby added as additional insureds in respect to liability arising out of Sunnyvale's work for City, using Insurance Services Office (ISO) Endorsement CG 20 10 11 85 or the combination of CG 20 10 03 97 and CG 20 37 10 01, or its equivalent.
2. Primary and non-contributing. Each insurance policy provided by Sunnyvale shall contain language or be endorsed to contain wording

making it primary insurance as respects to, and not requiring contribution from, any other insurance which the Indemnities may possess, including any self-insurance or self-insured retention they may have. Any other insurance Indemnities may possess shall be considered excess insurance only and shall not be called upon to contribute with Sunnyvale's insurance.

3. Cancellation.

- a. Each insurance policy shall contain language or be endorsed to reflect that no cancellation or modification of the coverage provided due to non-payment of premiums shall be effective until written notice has been given to City at least ten (10) days prior to the effective date of such modification or cancellation. In the event of non-renewal, written notice shall be given at least ten (10) days prior to the effective date of non-renewal.
- b. Each insurance policy shall contain language or be endorsed to reflect that no cancellation or modification of the coverage provided for any cause save and except non-payment of premiums shall be effective until written notice has been given to City at least thirty (30) days prior to the effective date of such modification or cancellation. In the event of non-renewal, written notice shall be given at least thirty (30) days prior to the effective date of non-renewal.

4. Other Endorsements. Other endorsements may be required for policies other than the commercial general liability policy if specified in the description of required insurance set forth in Sections A through D of this Exhibit C, above.

E. ADDITIONAL INSURANCE RELATED PROVISIONS

Sunnyvale and City agree as follows:

1. Sunnyvale agrees to ensure that Sunnyvale's subcontractors, and any other party involved with the Services who is brought onto or involved in the performance of the Services by Sunnyvale, provide the same minimum insurance coverage required of Sunnyvale, except as with respect to limits. Sunnyvale agrees to monitor and review all such coverage and assumes all responsibility for ensuring that such coverage is provided in conformity with the requirements of this Agreement. Sunnyvale agrees that upon request by City, all agreements with, and insurance compliance documents provided by, such Sunnyvale subcontractor and others engaged in the project will be submitted to City for review.
2. Sunnyvale agrees to be responsible for ensuring that no contract used by any party involved in any way with the project reserves the right to charge City or Sunnyvale for the cost of additional insurance coverage required

by this Agreement. Any such provisions are to be deleted with reference to City. It is not the intent of City to reimburse any third party for the cost of complying with these requirements. There shall be no recourse against City for payment of premiums or other amounts with respect thereto.

3. The City reserves the right to withhold payments from the Sunnyvale in the event of material noncompliance with the insurance requirements set forth in this Agreement.

#### F. EVIDENCE OF COVERAGE

Prior to commencement of any Services under this Agreement, Sunnyvale, and each and every Sunnyvale subcontractor (of every tier) shall, at its sole cost and expense, provide and maintain not less than the minimum insurance coverage with the endorsements and deductibles indicated in this Agreement. Such insurance coverage shall be maintained with insurers, and under forms of policies, satisfactory to City and as described in this Agreement. Sunnyvale shall file with the City all certificates and endorsements for the required insurance policies for City's approval as to adequacy of the insurance protection.

#### G. EVIDENCE OF COMPLIANCE

Sunnyvale or its insurance broker shall provide the required proof of insurance compliance, consisting of Insurance Services Office (ISO) endorsement forms or their equivalent and the ACORD form 25-S certificate of insurance (or its equivalent), evidencing all required coverage shall be delivered to City, or its representative as set forth below, at or prior to execution of this Agreement. Upon City's request, Sunnyvale shall submit to City copies of the actual insurance policies or renewals or replacements. Unless otherwise required by the terms of this Agreement, all certificates, endorsements, coverage verifications and other items required to be delivered to City pursuant to this Agreement shall be mailed to:

EBIX Inc.

City of Santa Clara Parks & Recreation Department

P.O. Box 100085 – S2

or 1 Ebix Way

Duluth, GA 30096

John's Creek, GA 30097

Telephone number: 951-766-2280

Fax number: 770-325-0409

Email address: ctsantaclara@ebix.com

#### H. QUALIFYING INSURERS

All of the insurance companies providing insurance for Sunnyvale shall have, and provide written proof of, an A. M. Best rating of at least A minus 6 (A- VI) or shall be an insurance company of equal financial stability that is approved by the City or its insurance compliance representatives.