

**AGREEMENT FOR PROFESSIONAL SERVICES  
WITH TELSTAR INSTRUMENTS, INC**

THIS AGREEMENT is entered into this \_\_\_\_\_ day of \_\_\_\_\_, 2019, by and between the City of Burlingame, State of California, herein called the "City", and Telstar Instruments, Inc. engaged in providing Supervisory Control and Data Acquisition (SCADA) services herein called the "Consultant".

**RECITALS**

- A. The City is considering conducting activities for consultant services for electrical instrumentation/control engineering, SCADA programming and support, and pump station diagnostics.
- B. The City desires to engage a professional consultant to provide scheduled service calls, hardware & software upgrades, and server maintenance; communication failure investigations, historian data loss recoveries, and hardware failures analysis; ongoing system analysis in order to recommend, design and implement system wide upgrades and improvements because of Consultant's experience and qualifications to perform the desired work, described in Exhibit A.
- C. The Consultant represents and affirms that it is qualified and willing to perform the desired work pursuant to this Agreement.

**AGREEMENTS**

NOW, THEREFORE, THE PARTIES HERETO AGREE AS FOLLOWS:

- 1. Scope of Services. The Consultant shall provide professional services such as scheduled service calls, hardware & software upgrades, server maintenance, system analysis, recommend, design and implement system wide upgrades and improvements for the departments SCADA system and as detailed in "Scope of Services" of the attached Exhibit A of this agreement.
- 2. Time of Performance. The services of the Consultant are to commence upon the execution of this Agreement with completion of all work by December 31, 2022.

3. Compliance with Laws. The Consultant shall comply with all applicable laws, codes, ordinances, and regulations of governing federal, state and local laws. Consultant represents and warrants to City that it has all licenses, permits, qualifications and approvals of whatsoever nature which are legally required for Consultant to practice its profession. Consultant represents and warrants to City that Consultant shall, at its sole cost and expense, keep in effect or obtain at all times during the term of this Agreement any licenses, permits, and approvals which are legally required for Consultant to practice its profession. Consultant shall maintain a City of Burlingame business license.
4. Sole Responsibility. Consultant shall be responsible for employing or engaging all persons necessary to perform the services under this Agreement.
5. Information/Report Handling. All documents furnished to Consultant by the City and all reports and supportive data prepared by the Consultant under this Agreement are the City's property and shall be delivered to the City upon the completion of Consultant's services or at the City's written request. All reports, information, data, and exhibits prepared or assembled by Consultant in connection with the performance of its services pursuant to this Agreement are confidential until released by the City to the public, and the Consultant shall not make any of these documents or information available to any individual or organization not employed by the Consultant or the City without the written consent of the City before such release. The City acknowledges that the reports to be prepared by the Consultant pursuant to this Agreement are for the purpose of evaluating a defined project, and City's use of the information contained in the reports prepared by the Consultant in connection with other projects shall be solely at City's risk, unless Consultant expressly consents to such use in writing. City further agrees that it will not appropriate any methodology or technique of Consultant which is and has been confirmed in writing by Consultant to be a trade secret of Consultant.
6. Compensation. Compensation for Consultant's professional services shall not exceed \$100,000 per year; and payment shall be based upon City approval of each task.

Billing shall include current period and cumulative expenditures to date and shall be accompanied by a detailed explanation of the work performed by whom at what rate and on what date. Also, plans, specifications, documents or other pertinent materials shall be submitted for City review, even if only in partial or draft form.

7. Availability of Records. Consultant shall maintain the records supporting this billing for not less than three (3) years following completion of the work under this Agreement. Consultant shall make these records available to authorized personnel of the City at the Consultant's offices during business hours upon written request of the City.
8. Project Manager. The Project Manager for the Consultant for the work under this Agreement shall be Michael Heathcote, Streets, Storm Drains & Sewer Division Manager.
9. Assignability and Subcontracting. The services to be performed under this Agreement are unique and personal to the Consultant. No portion of these services shall be assigned or subcontracted without the written consent of the City.
10. Notices. Any notice required to be given shall be deemed to be duly and properly given if mailed postage prepaid, and addressed to:

To City: Kevin Dawdy  
City of Burlingame  
1361 N Carolan Avenue  
Burlingame, CA 94010

To Consultant: Ms. Tammy Misenhimer  
Telstar Instruments, Inc.  
1717 Solano Way, Unit 34  
Concord, CA 94520

or personally delivered to Consultant to such address or such other address as Consultant designates in writing to City.

11. Independent Contractor. It is understood that the Consultant, in the performance of the work and services agreed to be performed, shall act as and be an independent contractor and not an agent or employee of the City. As an independent contractor he/she shall not obtain any rights to retirement benefits or other benefits which accrue to City employee(s). With prior written consent, the Consultant may perform some obligations under this Agreement by subcontracting, but may not delegate ultimate responsibility for performance or assign or transfer interests under this Agreement.

Consultant agrees to testify in any litigation brought regarding the subject of the work to be performed under this Agreement. Consultant shall be compensated for its costs and expenses in preparing for, traveling to, and testifying in such matters at its then current hourly rates of compensation, unless such litigation is brought by Consultant or is based on allegations of Consultant's negligent performance or wrongdoing.

12. Conflict of Interest. Consultant understands that its professional responsibilities is solely to the City. The Consultant has and shall not obtain any holding or interest within the City of Burlingame. Consultant has no business holdings or agreements with any individual member of the Staff or management of the City or its representatives nor shall it enter into any such holdings or agreements. In addition, Consultant warrants that it does not presently and shall not acquire any direct or indirect interest adverse to those of the City in the subject of this Agreement, and it shall immediately disassociate itself from such an interest should it discover it has done so and shall, at the City's sole discretion, divest itself of such interest. Consultant shall not knowingly and shall take reasonable steps to ensure that it does not employ a person having such an interest in this performance of this Agreement. If after employment of a person, Consultant discovers it has employed a person with a direct or indirect interest that would conflict with its performance of this Agreement, Consultant shall promptly notify City of this employment relationship, and shall, at the City's sole discretion, sever any such employment relationship.
13. Equal Employment Opportunity. Consultant warrants that it is an equal opportunity employer and shall comply with applicable regulations governing equal employment opportunity. Neither Consultant nor its subcontractors do and neither shall discriminate against persons employed or seeking employment with them on the basis of age, sex, color, race, marital status, sexual orientation, ancestry, physical or mental disability, national origin, religion, or medical condition, unless based upon a bona fide occupational qualification pursuant to the California Fair Employment & Housing Act.
14. Insurance.
  - A. Minimum Scope of Insurance:
    - i. Consultant agrees to have and maintain, for the duration of the contract, General Liability insurance policies insuring him/her and his/her firm to an amount not less than: One million dollars

(\$1,000,000) combined single limit per occurrence and two million dollars (\$2,000,000) aggregate for bodily injury, personal injury and property damage in a form at least as broad as ISO Occurrence Form CG 0001.

- ii. Consultant agrees to have and maintain for the duration of the contract, an Automobile Liability insurance policy ensuring him/her and his/her staff to an amount not less than one million dollars (\$1,000,000) combined single limit per accident for bodily injury and property damage.
- iii. Consultant agrees to have and maintain, for the duration of the contract, professional liability insurance in amounts not less than two million dollars (\$2,000,000) each claim/aggregate sufficient to insure Consultant for professional errors or omissions in the performance of the particular scope of work under this agreement.
- iv. Any deductibles or self-insured retentions must be declared to and approved by the City. At the option of the City, either: the insurer shall reduce or eliminate such deductibles or self-insured retentions as respects the City, its officers, officials, employees and volunteers; or the Contractor shall procure a bond guaranteeing payment of losses and related investigations, claim administration, and defense expenses.

B. General and Automobile Liability Policies:

- i. The City, its officers, officials, employees and volunteers are to be covered as insured as respects: liability arising out of activities performed by or on behalf of the Consultant; products and completed operations of Consultant, premises owned or used by the Consultant. The endorsement providing this additional insured coverage shall be equal to or broader than ISO Form CG 20 10 11 85 and must cover joint negligence, completed operations, and the acts of subcontractors. This requirement does not apply to the professional liability insurance required for professional errors and omissions.
- ii. The Consultant's insurance coverage shall be endorsed to be primary insurance as respects the City, its officers, officials, employees and volunteers. Any insurance or self-insurances

maintained by the City, its officers, officials, employees or volunteers shall be excess of the Consultant's insurance and shall not contribute with it.

- iii. Any failure to comply with reporting provisions of the policies shall not affect coverage provided to the City, its officers, officials, employees or volunteers.
- iv. The Consultant's insurance shall apply separately to each insured against whom a claim is made or suit is brought, except with respect to the limits of the insurer's liability.

C. In addition to these policies, Consultant shall have and maintain Workers' Compensation insurance as required by California law. Further, Consultant shall ensure that all subcontractors employed by Consultant provide the required Workers' Compensation insurance for their respective employees.

D. All Coverages: Each insurance policy required in this item shall be endorsed to state that coverage shall not be canceled except after thirty (30) days' prior written notice by mail, has been given to the City (10 days for non-payment of premium). Current certification of such insurance shall be kept on file at all times during the term of this agreement with the City Clerk.

E. Acceptability of Insurers: Insurance is to be placed with insurers with a Best's rating of no less than A:VII and authorized to do business in the State of California.

F. Verification of Coverage: Upon execution of this Agreement, Contractor shall furnish the City with certificates of insurance and with original endorsements effecting coverage required by this clause. The certificates and endorsements for each insurance policy are to be signed by a person authorized by that insurer to bind coverage on its behalf. The certificates and endorsements are to be on forms approved by the City. All certificates and endorsements are to be received and approved by the City before any work commences. The City reserves the right to require complete, certified copies of all required insurance policies, at any time.

15. Indemnification. To the fullest extent permitted by law, Consultant shall save, keep and hold harmless indemnify and defend the City, its officers, employees,

authorized agents and volunteers from all damages, liabilities, penalties, costs, or expenses in law or equity, including but not limited to attorneys' fees, that may at any time arise, result from, relate to, or be set up because of damages to property or personal injury received by reason of, or in the course of performing work which arise out of, pertain to, or relate to, directly or indirectly, in whole or in part, the negligence, recklessness, or willful misconduct of Consultant, or any of the Consultant's officers, employees, or agents or any subconsultant. This provision shall not apply if the damage or injury is caused by the sole negligence, active negligence, or willful misconduct of the City, its officers, agents, employees, or volunteers.

16. Waiver. No failure on the part of either party to exercise any right or remedy hereunder shall operate as a waiver of any other right or remedy that party may have hereunder, nor does waiver of a breach or default under this Agreement constitute a continuing waiver of a subsequent breach of the same or any other provision of this Agreement.
17. Governing Law. This Agreement, regardless of where executed, shall be governed by and construed under the laws of the State of California. Venue for any action regarding this Agreement shall be in the Superior Court of the County of San Mateo.
18. Termination of Agreement. The City and the Consultant shall have the right to terminate this agreement with or without cause by giving not less than fifteen (15) days written notice of termination. In the event of termination, the Consultant shall deliver to the City all plans, files, documents, reports, performed to date by the Consultant. In the event of such termination, City shall pay Consultant an amount that bears the same ratio to the maximum contract price as the work delivered to the City bears to completed services contemplated under this Agreement, unless such termination is made for cause, in which event, compensation, if any, shall be adjusted in light of the particular facts and circumstances involved in such termination.
19. Amendment. No modification, waiver, mutual termination, or amendment of this Agreement is effective unless made in writing and signed by the City and the Consultant.
20. Entire Agreement. This Agreement constitutes the complete and exclusive statement of the Agreement between the City and Consultant. No terms, conditions, understandings or agreements purporting to modify or vary this

Agreement, unless hereafter made in writing and signed by the party to be bound, shall be binding on either party.

IN WITNESS WHEREOF, the City and Consultant have executed this Agreement as of the date indicated on page one (1).

City of Burlingame

“Consultant”

By \_\_\_\_\_  
Lisa K. Goldman  
City Manager

\_\_\_\_\_  
Consultant Name  
Print Name:  
Title:

Approved as to form:

\_\_\_\_\_  
City Attorney – Kathleen Kane

ATTEST:

\_\_\_\_\_  
City Clerk - Meaghan Hassel-Shearer





Contractor License #422364  
Contractor DIR #1000000899

**CONTROL SYSTEM INTEGRATION • INSTRUMENTATION SERVICES  
SCADA/AUTOMATION • PLC/HMI • ELECTRICAL • CALIBRATION • MAINTENANCE**

October 30, 2019

City of Burlingame  
1361 N. Carolan Ave.  
Burlingame, CA 94010  
Sent via Email: mheathcote@burlingame.org

Attn: Mike Heathcote  
Subject: Water Service Rates for 2019-2020 Fiscal Year

Dear Mike,

Below is a full breakdown of our service rates for the upcoming fiscal year. These rates are good from October 28, 2019 through November 1, 2020.

Chemical Feed/OSG Services .....	\$156.00/hr
Journeyman Instrumentation Technician .....	\$154.00/hr
California Certified Electrician (Prevailing Wage subject to change on determination date) .....	\$146.00/hr
PLC/SCADA-HMI Programming .....	\$179.00/hr
Sr. Engineer (registered CA Professional Engineer) .....	\$196.00/hr
Travel time (portal to portal) .....	\$99.00/hr
Vehicle Usage/Test Equipment/Tool charge .....	\$185.00/day
Fuel Surcharge (After average gas price exceed \$3.00/gallon) .....	33% of Vehicle Cost
Material Mark-up .....	Cost plus 20%
Per Diem if required .....	Cost plus 12%

Note: Standard overtime rates apply

**Notes:**

- a. Travel is included to 30 miles. Over 30 miles from the Concord shop is billed at the above rates.
- b. Overtime is anything after 8 hours Monday-Friday. Saturdays are billed at 1.5 up to 8 hours. Sundays and all hours after 12 hours in a day is double time.
- c. Service calls and time and materials rates carry a 4-hour minimum per person, time over 4 hours is charged as 8 hours.
- d. Telstar provides 24-hour service seven days a week. Our normal response time is within 48 hours.



Contractor License #422364  
Contractor DIR #1000000899

**CONTROL SYSTEM INTEGRATION • INSTRUMENTATION SERVICES  
SCADA/AUTOMATION • PLC/HMI • ELECTRICAL • CALIBRATION • MAINTENANCE**

**SCOPE OF SERVICES**

1. Provide Chemical Feed & OSG maintenance services on an as-needed basis.
2. Provide Instrument calibration, troubleshooting, and maintenance on an as-needed basis. Telstar recommends most instrumentation be calibrated annually or semi-annually.
3. Provide electrical troubleshooting and maintenance services on an as-needed basis. Telstar recommends most electrical equipment be inspected and cleaned annually.
4. Provide PLC, HMI, and SCADA programming services on an as-needed basis.
5. Provide engineering and radio systems troubleshooting and maintenance on an as-needed basis.
6. Provide the City with engineering and consultation services relating to improvements and upgrades.
7. Provide training to City Staff on an as-needed basis.
8. Provide recommendations for software and hardware upgrades on an as-needed basis.

Please contact me at 916-646-1999 if you have any questions or need to schedule services.

Sincerely,  
Kyle Johnsen  
Telstar Instruments  
(916) 646-1999