Project Name: Wastewater Flow Monitoring Services

AGREEMENT FOR GENERAL SERVICES
BETWEEN THE CITY OF THOUSAND OAKS
AND
UTILITY SYSTEMS SCIENCE AND SOFTWARE RESPONSE

THIS AGREEMENT, made and entered into this 1st day of July, 2024, by and between the **CITY OF THOUSAND OAKS**, a municipal corporation (hereinafter referred to as "City"), and **UTILITY SYSTEMS SCIENCES AND SOFTWARE RESPONSE** (hereinafter referred to as "Service Provider"). City and Service Provider agree as follows:

1.   RETENTION OF SERVICE PROVIDER

City hereby retains Service Provider, and Service Provider hereby accepts such engagement, to perform the services described in Section 2. Service Provider warrants it has the qualifications, experience, and facilities to properly and timely perform said services.

2.   DESCRIPTION OF SERVICES

The general services to be performed by Service Provider are as follows, and are more particularly described in the Scope of Work, attached as Exhibit "A" and incorporated herein: wastewater flow monitoring services.

3.   COMPENSATION AND PAYMENT

(a)   Maximum. The total compensation earned by or payable to Service Provider, by City, for any and all services under this Agreement shall not exceed **$167,400** (herein "not to exceed amount").

(b)   Rate. Service Provider shall be paid a fixed sum for work performed under this Agreement, said sum being described in Service Provider's Schedule of Fees, attached as Exhibit "B." Any changes or modifications resulting in an increase to this fixed sum must be approved in writing by City's Project Manager in advance, and may not surpass the not to exceed amount.

(c)   Payment. All payments shall be made within 30 days after receipt of written verification from Service Provider of the actual compensation earned, in a form satisfactory to City's Project Manager.

(d) **Extra Services.** Additional work not reasonably encompassed by the Scope of Services described in Section 2 may be agreed upon only by execution of a written Amendment to this Agreement. No liability or right to compensation for extra services shall exist without such Amendment. Unless otherwise stated in the Amendment, applicable rates for extra services shall be at the rates set forth in Exhibit "B".

4.   CITY PROJECT MANAGER AND SERVICES BY CITY

The services to be performed by Service Provider shall be accomplished under the general direction of, and in coordination with, City's "Project Manager", as that staff person is designated by City from time to time, and who presently is, Patrick McCulloch, Utilities Maintenance Supervisor.

5.   TERMS OF PERFORMANCE

Non-Exclusivity. This Agreement is non-exclusive. City reserves the rights to retain, employ, or contract with other qualified services providers during the term of this Agreement on such occasions and in such circumstances as City shall determine are appropriate.

Ability to Perform. Service Provider warrants that it possesses, or has arranged through subcontracts, all capital and other equipment, labor, materials, and licenses necessary to carry out and complete the work hereunder in compliance with any and all federal, state, county, city, and special district laws, ordinances, and regulations.

Laws to be Observed. Service Provider shall keep itself fully informed of and shall observe and comply with all applicable state and federal laws as well as with Ventura County and City of Thousand Oaks ordinances, regulations and adopted codes during its performance of the work.

Payment of Taxes. The contract prices shall include provision for all taxes that Service Provider is required to pay. Service Provider is responsible for all taxes required to be paid under this Agreement.

Permits and Licenses. Service Provider shall procure all permits and licenses, pay all charges and fees, and give all necessary or legally required notices.

Prevailing Wage. Service Provider is obligated to pay prevailing wages under the California Labor Code. Service Provider agrees to indemnify, defend and hold City harmless from any claim that prevailing wages should have been paid, and shall be liable for the payment of the same and any penalties thereon. It is the responsibility of Service Provider to be familiar with the California Labor Code, and failure or neglect of Service Provider to understand the California Labor Code shall in no way relieve Service Provider from any obligations.

Apprenticeship. Labor Code section 1777.5 requires the use of qualified apprentices by all trades, regardless of the dollar amount of their portion of the work, on public works contracts over $30,000. Apprentices shall be used at no less than the ratio required by law and shall be paid at the prevailing wage for apprentices in the trade for which they are registered. It is Service Provider's sole responsibility to ensure that they and their subcontractors comply with the specified requirements of section 1777.5.

Department of Industrial Relations Requirements. The Work is subject to the payment of not less than prevailing wages under California Labor Code Section 1770 et seq. The work is subject to compliance monitoring and enforcement by the Department of Industrial Relations. No contractor or subcontractor may be awarded a contract for public work on a public works project unless currently registered with the Department of Industrial Relations pursuant to Labor Code section 1725.5.

Safety Provisions. Service Provider shall conform to the rules and regulations pertaining to safety established by Occupational Safety & Health Administration (OSHA) and the California Division of Industrial Safety.

Preservation of City Property. Service Provider shall provide and install suitable safeguards, approved by City, to protect City property from injury or damage. If City property is injured or damaged as a result of Service Provider's operations, it shall be replaced or restored within a reasonable time at Service Provider's expense. The facilities shall be replaced or restored to a condition as good as when Service Provider began work.

Subcontractors. Service Provider shall be solely responsible for ensuring that any subcontractors used in completing tasks under the Agreement comply with all pertinent laws and regulations as well as the relevant terms of this Agreement. City shall have no obligation to monitor or oversee subcontractors.

Immigration Act of 1986. Service Provider warrants on behalf of itself and all subcontractors engaged for the performance of this work that only persons authorized to work in the United States pursuant to the Immigration Reform and Control Act of 1986 and other applicable laws shall be employed in the performance of the work hereunder.

Service Provider Non-Discrimination. In the performance of this work, Service Provider agrees that it will not engage in, nor permit such subcontractors as it may employ, to engage in discrimination in employment of persons because of age, race, color, sex, national origin or ancestry, sexual orientation, or religion of such persons.

Work Delays. Should Service Provider be obstructed or delayed in the work required to be done hereunder by changes in the work or by any default, act, or omission of City, or by strikes, fire, earthquake, or any other Act of God, or by the inability to obtain materials, equipment, or labor due to federal government restrictions arising out of defense or war programs, then the time of completion may, at City's sole option, be extended for such periods as may be agreed upon by City and Service Provider.

Inspection. Service Provider shall furnish City with every reasonable opportunity for City to ascertain that the services of Service Provider are being performed in accordance with the requirements and intentions of this Agreement. All work done and all materials furnished, if any, shall be subject to City's inspection and approval. The inspection of such work shall not relieve Service Provider of any of its obligations to fulfill its contract requirements.

Audit. Service Provider shall maintain, in accordance with generally accepted accounting principles, complete and accurate records of all activities and operations relating to this Agreement. Records, including but not limited to, timecards, employment records, work progress reports, reimbursements, invoices, project records, proprietary data and information, as well as licensed software and any electronic records shall be kept for a period of four years beyond the termination or expiration of this Agreement. Service Provider agrees that City, or its authorized representative, shall have the right to examine, audit, excerpt, copy or transcribe any of the records pertaining to this Agreement at any time during normal business hours. Service Provider shall reimburse City for all reasonable costs of the audit, including travel time and auditor costs, should such audit reveal an overcharge of five (5) percent or more. Any overcharge will be considered a breach of this Agreement and could be cause for termination. The obligations of this section shall be explicitly included in any subcontracts or other agreements entered into by Service Provider with respect to this Agreement, if allowed by this Agreement.

6. TERM, PROGRESS AND COMPLETION

This Agreement shall expire on June 30, 2027, unless Service Provider's authorized work assigned before the expiration of the term is not completed by that date. If work has not been completed during the allotted Agreement period, the terms and conditions of the Agreement, including all rights and obligations, shall remain in effect and bind the parties until the work is completed.

Service Provider shall not commence work on the services to be performed until (i) Service Provider furnishes proof of insurance as required by paragraph 9 below, and (ii) City gives written authorization to proceed with the work provided by City's Project Manager.

7. NO ASSIGNMENT

This Agreement is not assignable by Service Provider without City's prior consent in writing.

8. HOLD HARMLESS AND INDEMNITY

(a)   Hold Harmless for Service Provider's Damages. Service Provider holds City, its elected officials, officers, agents, employees and volunteers, harmless from all of Service Provider's claims, demands, lawsuits, judgments, damages, losses, injuries or liability to Service Provider, to Service Provider's employees, to Service Provider's

contractors or subcontractors, or to the owners of Service Provider's firm, which damages, losses, injuries or liability occur during the work or services required under this Agreement, or performance of any activity or work required under this Agreement.

(b)   Defense and Indemnity of Third-Party Claims/Liability. Service Provider shall indemnify, defend with legal counsel approved by City, and hold harmless City, its elected officials, officers, agents, employees and volunteers from and against all liability including, but not limited to, loss, damage, expense, cost (including without limitation reasonable legal counsel fees, expert fees and all other costs and fees of litigation) of every nature arising out of or in connection with Service Provider's negligence, recklessness or willful misconduct in the performance of work hereunder or its failure to comply with any of its obligations contained in the Agreement, except such loss or damage which is caused by the sole or active negligence or willful misconduct of City. Should conflict of interest principles preclude a single legal counsel from representing both City and Service Provider, or should City otherwise find Service Provider's legal counsel unacceptable, then Service Provider shall reimburse City its costs of defense, including without limitation reasonable legal counsel fees, expert fees and all other costs and fees of litigation. Service Provider shall promptly pay City any final judgment rendered against City (and its officers, officials, employees and volunteers) with respect to claims determined by a trier of fact to have been the result of Service Provider's negligent, reckless or wrongful performance. It is expressly understood and agreed that the foregoing provisions are intended to be as broad and inclusive as is permitted by the law of the State of California and will survive termination or expiration of this Agreement.

Service Provider's obligations under this section apply regardless of whether or not such claim, charge, damage, demand, action, proceeding, loss, stop notice, cost, expense, judgment, civil fine or penalty, or liability was caused in part or contributed to by an Indemnitee. However, without affecting the rights of City under any provision of this Agreement, Service Provider shall not be required to indemnify and hold harmless City for liability attributable to the active negligence of City, provided such active negligence is determined by agreement between the parties or by findings of a court of competent jurisdiction. In instances where City is shown to have been actively negligent and where City's active negligence accounts for only a percentage of the liability involved, the obligation of Service Provider will be for that entire portion or percentage of liability not attributable to the active negligence of City.

(c)   Nonwaiver. City does not waive, nor shall be deemed to have waived, any indemnity, defense or hold harmless rights under this section because of the acceptance by City, or the deposit with City, of any insurance certificates or policies described in Section 9.

9.   MINIMUM SCOPE AND LIMIT OF INSURANCE

Without limiting Service Provider's indemnification of City, and prior to commencement of Work, Service Provider shall obtain, provide, and maintain at its own expense during the term of this Agreement, and any extension thereof, policies of insurance of the type and amounts described below in a form that is satisfactory to City.

Coverage shall be at least as broad as:

(a) **Commercial General Liability (CGL):** Service Provider shall, at Service Provider's sole cost and expense and throughout the term of this Agreement, and any extensions thereof, carry General Liability insurance coverage at least as broad as Insurance Services form CG 00 01 in an amount not less than $2,000,000 per occurrence, $4,000,000 general aggregate for bodily injury, personal and advertising injury and property damage, including with limitation, blanket contractual liability.

(b) **Automobile Liability:** Service Provider shall, at Service Provider's sole cost and expense and throughout the term of this Agreement, and any extensions thereof, carry Automobile Liability insurance coverage at least as broad as Insurance Services form CA 00 01 or the exact equivalent covering bodily injury and property damage for all activities of Service Provider arising out of or in connection with the work to be performed under this Agreement, including coverage of any owned, hired, non-owned, or rented vehicles, in an amount not less than $1,000,000 combined single limit for each accident.

(c) **Worker's Compensation:** Service Provider shall, at Service Provider's sole cost and expense and throughout the term of this Agreement, and any extensions thereof, carry workers' compensation statutory benefits as required by law with employer's liability limits no less than $1,000,000 per accident for bodily injury or disease. Service Provider shall submit to City, along with the certificate of insurance, a Waiver of Subrogation endorsement in favor of City, its officers, agents, employees and volunteers for all work performed by Service Provider, its employees, agents and subcontractors.

If Service Provider maintains higher limits than the minimum shown above, City requires and shall be entitled to coverage for the higher limits maintained by Service Provider. Any available insurance proceeds in excess of the specified minimum limits of insurance and coverage shall be available to City.

Other Insurance Provisions

The insurance policies are to contain, or be endorsed to contain, the following provisions:

Additional Insured Status

City, its elected officials, officers, agents, employees and volunteers are to be covered as additional insureds on the CGL policy with respect to liability arising out of work or operations performed by or on behalf of Service Provider including materials, parts, or equipment furnished in connection with such work or operations. General liability coverage can be provided in the form of an endorsement to Service Provider's insurance (at least as broad as ISO Form CG 20 10 11 85 or if not available, through the addition of both CG 20 10 10 01 and CG 20 37 10 01 if a later edition is used). The provision shall also apply to any excess liability policies. In addition, Service Provider shall ensure that the automobile liability policy contains a provision covering City as an additional insured, and shall obtain an endorsement to that effect if it does not.

Excess Insurance

The limits of insurance required in this agreement may be satisfied by a combination of primary and umbrella or excess insurance. Umbrella or excess policies shall provide coverage at least as broad as specified for underlying coverages and covering those insured in the underlying policies. Coverage shall be "pay on behalf" with defense costs payable in addition to policy limits. There shall be no cross-liability exclusion of claims or suits by one insured against the other. Any umbrella or excess insurance shall contain or be endorsed to contain a provision that such coverage shall also apply on a primary and non-contributory basis for the benefit of City as required in written contract or agreement before City's own insurance or self-insurance shall be called upon to protect it as a named insured.

City's Rights of Enforcement

In the event any policy of insurance required under this Agreement does not comply with these specifications or is cancelled and not replaced, City has the right but not the duty to obtain the insurance it deems necessary and any premium paid by City will be promptly reimbursed by Service Provider, or City will withhold amounts sufficient to pay premium from Service Provider's payments. In the alternative, City may cancel this Agreement.

City's Right to Revise Specifications

City reserves the right at any time during the term of the Agreement to change the amounts and types of insurance required by giving Service Provider ninety (90) days advance written notice of such change. If such change results in substantial additional cost to Service Provider, City and Service Provider may renegotiate Service Provider's compensation.

Primary and Non-Contributory Coverage

For any claims related to this Agreement, Service Provider's insurance coverage shall be primary insurance as respects City, its elected officials, officers, agents, employees and volunteers. Any insurance or self-insurance maintained by City, its elected officials, officers, agents, employees or volunteers shall be excess of Service Provider's insurance and shall not contribute with it and be at least as broad as CG 20 01 04 13.

Notice of Cancellation

Each insurance policy required above shall provide that coverage shall not be canceled, except with notice to City.

Deductibles and Self-Insured Retentions

Any deductibles or self-insured retentions must be declared to and approved by City. City may require Service Provider to provide proof of ability to pay losses and related investigations, claim administration, and defense expenses within the retention.

Acceptability of Insurers

All insurance policies shall be issued by an insurance company currently authorized by the Insurance Commissioner to transact business of insurance in the State of California, with a current A.M. Best's rating of no less than A:VII, (unless otherwise acceptable to City).

Waiver of Subrogation

All insurance coverage maintained or procured pursuant to this Agreement shall be endorsed to waive subrogation against City, its elected officials, officers, agents, employees or volunteers or shall specifically allow Service Provider, or others providing insurance evidence in compliance with these specifications, to waive their right of recovery prior to a loss. Service Provider hereby waives his own right of recovery against City, and shall require similar written express waivers and insurance clauses from each of its subcontractors. Copies of these waivers shall be submitted to City prior to commencement of work.

Claims Made Policies

If any of the required policies provided coverage on a claims-made basis:

(a) The Retroactive Date must be shown and must be before the date of the Agreement or the beginning of contract work.

(b) Insurance must be maintained, and evidence of insurance must be provided for at least five (5) years after completion of the work required under this Agreement.

(c) If coverage is canceled or non-renewed, and not replaced with another claims-made policy form with a Retroactive Date prior to the Agreement effective date, Service Provider must purchase "extended reporting" coverage for a minimum of five (5) years after completion of Agreement work.

Verification of Coverage

Service Provider shall provide City with copies of certificates (on City certificate form or an Accord form as modified per City direction) for all policies, with the appropriate named additional insured coverage and an endorsement that they are not subject to cancellation without 30 days prior written notice to City. All certificates and endorsements are to be received and approved by City before work commences. However, failure to obtain the required documents prior to the work beginning shall not waive Service Provider's obligation to provide them. City reserves the right to require complete, certified copies of all required insurance policies, including endorsements required by these specifications, at any time.

Subcontractors

Service Provider shall require and verify that all subcontractors maintain insurance meeting all the requirements stated herein, and Service Provider shall ensure that City is an additional insured on insurance required from subcontractors. For CGL coverage, subcontractors shall provide coverage with a form at least as broad as CG 20 38 04 13.

10. RELATION OF THE PARTIES

(a) Service Provider is and shall at all times remain as to the City a wholly independent contractor. The personnel performing the services under this Agreement on behalf of Service Provider shall at all times be under Service Provider's exclusive direction and control. Neither City nor any of its officers, employees, agents, or volunteers shall have control over the conduct of Service Provider or any of Service Provider's officers, employees, or agents except as set forth in this Agreement. Service Provider shall not at any time or in any manner represent that it or any of its officers, employees or agents are in any manner officers, employees or agents of the City. Service Provider shall not incur or have the power to incur any debt, obligation or liability whatever against City, or bind City in any manner.

(b) No employee benefits shall be available to Service Provider in connection with the performance of this Agreement. Except for the fees paid to Service Provider as provided in the Agreement, City shall not pay salaries, wages, or other compensation to Service Provider for performing services hereunder for City. City shall not be liable for compensation or indemnification to Service Provider for injury or sickness arising out of performing services hereunder.

11. TERMINATION BY CITY

City may terminate any portion, or all of the services agreed to be performed under this Agreement by notifying Service Provider in writing 30 calendar days prior to any termination. In the event of such termination, Service Provider shall have the right and obligation to immediately assemble work in progress for the purpose of closing out the job. All compensation for actual work performed and charges outstanding at the time of termination shall be payable by City to Service Provider within 30 days following submission of a final statement by Service Provider.

12. CORRECTIONS

Service Provider shall correct, at its expense, all errors in the work which may be disclosed during City's review of Service Provider's work. Should Service Provider fail to make such correction in a reasonably timely manner, such correction shall be made by City, and the cost thereof shall be charged to Service Provider.

13. ACCEPTANCE OF FINAL PAYMENT CONSTITUTES RELEASE

The acceptance by Service Provider of the final payment made under this Agreement shall operate as and be a release of City from all claims and liabilities for compensation to Service Provider for anything done, furnished or relating to Service Provider's work or services. Acceptance of payment shall be any negotiation of City's check or the failure to make a written extra compensation claim within five (5) calendar days of the receipt of that check, whichever occurs first. However, any approval or payment by City shall not constitute, nor be deemed, a release of the responsibility and liability of Service Provider, its employees, subcontractors, agents and consultants for the accuracy and competency of the information provided and/or work performed; nor shall such approval or payment be deemed to be an assumption of such responsibility or liability by City for any defect or error in the work prepared by Service Provider, its employees, subcontractors, agents and consultants.

14. WAIVER; REMEDIES CUMULATIVE

Failure by a party to insist upon the strict performance of any of the provisions of this Agreement by the other party, irrespective of the length of time for which such failure continues, shall not constitute a waiver of such party's right to demand strict compliance by such other party in the future. No waiver by a party of a default or breach of the other party shall be effective or binding upon such party unless made in writing by such party, and no such waiver shall be implied from any omissions by a party to take any action with respect to such default or breach. No express written waiver of a specified default or breach shall affect any other default or breach, or cover any other period of time, other than any default or breach and/or period of time specified.

15. CONFLICT OF INTEREST

Service Provider is unaware of any City employee or official that has a financial interest in Service Provider's business. During the term of this Agreement and/or as a result of being awarded this Agreement, Service Provider shall not offer, encourage or accept any financial interest in Service Provider's business by any City employee or official. If a portion of Service Provider's services called for under this Agreement shall ultimately be paid for by reimbursement from and through an agreement with a developer of any land within City or with a City franchisee, Service Provider warrants that it has not performed any work for such developer/franchisee within the last 12 months, and shall not negotiate, offer or accept any contract or request to perform services for that identified developer/franchisee during the term of this Agreement.

16. NON-APPROPRIATION OF FUNDS

Payments due and payable to Service Provider for current services are within the current budget and within an available, unexhausted and unencumbered appropriation of City funds. In the event City has not appropriated sufficient funds for payment of Service Provider's services beyond the current fiscal year, this Agreement shall cover only those costs incurred up to the conclusion of the current fiscal year.

17. GOVERNING LAW; CAPTIONS; ENTIRE AGREEMENT BETWEEN PARTIES

This Agreement, and the rights and obligations of the parties, shall be governed and interpreted in accordance with the laws of the State of California. The provisions of this Agreement shall be construed as a whole according to its common meaning of purpose of providing a public benefit and not strictly for or against any party. Wherever required by the context, the singular shall include the plural and vice versa, and the masculine gender shall include the feminine or neutral genders or vice versa. The captions or headings in this Agreement are for convenience only and in no other way define, limit or describe the scope or intent of any provision or section of the Agreement. This Agreement supersedes any other agreements, either oral or in writing, between the parties hereto with respect to the rendering or services and contains all of the covenants and agreements between the parties with respect to said services. Any modifications of this Agreement will be effective only if it is in writing and signed by the party to be charged.

18. MITIGATION OF DAMAGES

In all situations arising out of this Agreement, the parties shall attempt to avoid and minimize the damages resulting from the conduct of the other party.

19. TAXPAYER IDENTIFICATION NUMBER

Service Provider shall provide City with a complete Request for Taxpayer Identification Number and Certification, Form W-9, as most recently issued by the Internal Revenue Service.

20. MODIFICATION/AMENDMENT OF AGREEMENT

Any amendment, modification, or variation of the terms or tasks of this Agreement shall be in writing and shall be effective only upon the mutual written approval of the City Manager, or his designee, and Service Provider.

21. AUTHORIZATION

Each party has expressly authorized the execution of this Agreement on its behalf and binds said party and its respective administrators, officers, directors, shareholders, divisions, subsidiaries, agents, employees, successors, assigns, principals, partners, joint venturers, insurance carriers and any others who may claim through it to this Agreement.

22. PARTIAL INVALIDITY

If any provision in this Agreement is held by a court of competent jurisdiction to be invalid, void or unenforceable, the remaining provisions will nevertheless continue in full force without being impaired or invalidated in any way.

23. NOTICES

Any notice required to be given hereunder shall be deemed to have been given by depositing said notice in the United States mail, postage prepaid, and addressed as follows:

TO CITY:

City of Thousand Oaks
Hill Canyon Treatment Plant
Attn: Kim Sherman, Sr Purchasing Specialist
9600 Santa Rosa Road
Camarillo, CA 93012
(805) 491-8116 | ksherman@toaks.org

TO SERVICE PROVIDER:

Utility Systems Science and Software
Attn: Mark Serres, Vice President
601 Parkcenter Drive, Suite 209
Santa Ana, CA 92705
(714) 542-1004 | mark.serres@uscubed.com

24. SIGNATURES

(a) **Counterparts.** This Agreement may be executed in two or more counterparts, each of which together shall be deemed an original, but all of which together shall constitute one and the same instrument.

(b) **Scanned Signatures.** In the event that any signature is delivered by facsimile transmission or submitted electronically as a scanned image (i.e. files with .pdf, .tiff or .jpeg extensions), such signature shall create a valid and binding obligation of the party executing (or on whose behalf such signature is executed) with the same force and effect as if such facsimile or scanned signature page were an original thereof.

(c) **Digital/Electronic Signatures.** This Agreement may be executed through the use of digital or electronic signatures provided they meet the requirements of the Electronic Signatures in Global and National Commerce (ESIGN) Act and the California Uniform Electronic Transactions Act (UETA) and are produced using a City-approved method. The presence of an electronic signature on this document shall be construed as the parties' consent to do business electronically.

25. **LEVINE ACT COMPLIANCE**

California Government Code section 84308 (Levine Act) prohibits any Thousand Oaks City Council member from participating in any action related to a contract, agreement, or franchise agreement if the councilmember receives a campaign contribution totaling more than $250 (aggregated) from the party to the contract, agreement, or franchise agreement, an agent of the party, or any financially interested participant who actively supports or opposes the matter within the previous twelve (12) months. Councilmembers must also disclose any eligible campaign contribution received on the record of the proceeding.

Councilmembers are also prohibited from soliciting, accepting or directing campaign contributions totaling more than $250 (aggregated) from the applicant or party, an agent of the applicant/party, or any financially interested participant who actively supports or opposes the matter within the previous twelve (12) months, and for twelve (12) months following the date a final decision on the contract/agreement is made.

The Levine Act also required parties to a contract, agreement, or franchise agreement to disclose any campaign contribution over $250 (aggregated) within the preceding twelve (12) months by the party to the agreement, contract, or franchise agreement. The Levine Act does not apply to competitively bid, labor, or personal employment contracts.

In order to assure compliance with these requirements, Service Provider has provided the disclosure requirements identified in the Levine Act Disclosure Form, attached as Exhibit C, incorporated herein by reference, and Service Provider verifies by its signature that it has completed Exhibit C in compliance of these requirements.

Service Provider shall also be responsible for understanding and complying with requirements of Government Code section 84308, which prohibits parties to a contract/agreement, as well as their agents and representatives, from contributing more than $250 (aggregated) to a City Council member of the City of Thousand Oaks for the 12 months prior to the award of this Contract/Agreement, and for the 12 months following award of this Contract/Agreement. Where applicable, Service Provider shall disclose any post award campaign contributions prior to seeking an amendment to this Agreement.

In concurrence and witness whereof, this Agreement has been executed by the parties effective on the date and year first written above.

UTILITY SYSTEMS SCIENCE AND SOFTWARE

_____

Mark Serres, Vice President

_____

Anthony Chavez, Chief Financial Officer

CITY OF THOUSAND OAKS

_____

Al Adam, Mayor

ATTEST:

_____

Laura B. Maguire, City Clerk

APPROVED AS TO ADMINISTRATION

_____

Andrew P. Powers, City Manager

APPROVED BY DEPARTMENT HEAD

_____

Clifford G. Finley, Public Works Director

APPROVED AS TO FORM

_____

Tracy Friedl, Assistant City Attorney

EXHIBIT A
SCOPE OF WORK

1.   **PROJECT OVERVIEW**

Service Provider shall install open-channel flow monitoring systems at ten (10) wastewater maintenance holes throughout the City of Thousand Oaks. The systems shall consist of non-contact style flow meters utilizing associated battery and/or combination solar-powered flow loggers to communicate flow data to a data-monitoring facility via a cellular modem connection. Flow data from the system is to be made available for view and downloaded via a common web browser interface.

Service Provider shall own the system. Service Provider shall provide and install all system equipment/hardware. Service Provider shall bear the cost of the flow meter replacement, including installation, transportation, and re-calibration during the contract period. Service Provider shall be responsible for all required system maintenance that pertains to the flow monitoring system, including replacement of system batteries, data hosting, and alarm fees/costs.

Service Provider shall be responsible for providing upgrades to the web-browser interface of the flow meters, and for the cost of maintaining the servers, firewalls, redundancy requirement and all costs related to maintaining a high-speed connection of T1 or greater. Service Provider shall be responsible for the complete cost of the telemetry or cellular transfer service.

All flow data shall be confidential and proprietary information. Service Provider shall not release or give access to flow data to any third-party unless express written authorization from the City's Project Manager is granted. Unlimited and secure access to the unedited data is to be provided 24-hours per day and 7-days per week for the duration of the contract. Service Provider shall offer a Data Uptime Guaranteed at 95%. Data Uptime Guarantee defines the percentage of available data that is guarantees each month per site. If the available uptime data falls below the guaranteed percentage at a site, that site's monthly fee shall be credited to the customer.

2.   **UTILITY MAINTENACE HOLE INFORMATION**

Maintenance hole locations and diameters are as follows:

Line	Location	Identification #	Size
1	Citation Way	W24-2	24-Inch
2	Hillcrest Drive	W50-13B	21-Inch
3	130 W. Hillcrest Drive	W59-3	24-Inch
4	Oaks Mall	U3-5	12-Inch
5	Las Flores	A-20	18-Inch
6	Los Arboles	X6D	21-Inch

7	Storm Channel	F22-15.8	33-Inch
8	Unit E	E9-8	30-Inch
9	Unit A	A5	18-Inch
10	Moorpark Road	C1	12-Inch

3. SUBMITTAL OF PRODUCT DATA

Service Provider must submit detailed shop drawings. All submittals shall be complete, and presented in one package. Product data shall consist of a complete list of equipment and materials, including the manufacturer's name, product specification, descriptive data, technical literature, performance charts, catalog cuts, installation instructions, and spare part recommendations for each different item of the equipment specified. The above shall clearly show all the specified requirements as described in the specifications, including but not limited to, specific UL and NEMA rating, technical capabilities, test result verifications and acceptance letters. Submittals not in compliance with the specifications must include the reason for non-compliance or variance.

4. EQUIPMENT DRAWINGS

Prior to installing equipment inside a maintenance utility hole, drawings must be submitted to the City's Project Manager for review and approval. Drawings must show the proposed layout, anchoring, support, and appurtenances of equipment, and equipment relationship to other parts of the work, including clearances for maintenance and operations. Drawings shall also show any other details required to demonstrate that the system has been coordinated and will operate as intended.

5. PRODUCT OVERVIEW

Open Channel Flow Sensor

Service Provider shall provide a system capable of delivering near-real-time, unedited, non-synthesized flow data collected from a web-enabled flow meter deployed within City's wastewater collection system.

The system shall utilize:
   a. An area/velocity open channel flow meter using non-contact depth and velocity technology. No portion of the level or velocity sensing components shall make contact with the flowing water in the collection system, under non-surging conditions.
   b. The flow meter shall utilize the Digital Doppler Radar velocity-sensing technology combined with ultrasonic pulse echo-level sensing to measure open channel flow.
   c. The range of velocity measurement shall be 0.23 to 6.10 m/s (0.75 to 20 ft/s). The standard operating range for level measurement shall be 0.635 to

152.4 cm (0.25 to 60 in); optional operating range of 0 to 5.7 m (0 to 224 in) with a 16 in. dead band.

d. The flow meter shall have a surcharge condition's level/velocity sensor as an option.

Sensor Cable

The standard sensor cable shall be abrasive-resistant polyurethane jacket with waterproof connectors. The connectors shall allow for each connection of the monitor unit to the sensor. The standard flow meter shall be provided with sufficient amount of cable to allow servicing. Additional sensor cable assemblies, of various lengths, shall be available as field-installable options.

Flow Logger

The flow logger shall be a battery and/or combination solar-powered data logger housed in a sealed NEMA 6P/IP68 rated PC-ABS structural foam enclosure. The logger shall provide one, two, or four sensor ports, one communications port, and one auxiliary port (for external power or connection to a sampler) placed on the vertical sides of the logger.

Under normal operating conditions, battery and/or combination solar life should be a minimum of 12-months based on a 15-minute log interval. The battery and/or combination solar compartment solar compartment shall be sealed with an O-ring for additional moisture barrier.

If available, power from an external source (either AC or DC) can be fed to the controller. When external power is supplied, the logger shall be capable of power switching, i.e., drawing first from the external power source and using the back-up batteries, or solar power, only in the even of low power or power fail to optimize the life of the alkaline batteries installed in the base of the logger.

The logger shall be capable of operating in temperatures ranging -18C to 60C (0F to 140F) at 95% RH. The logger shall have an LED indicator for operating/programming status visible on the top surface of the logger. The logger shall be able to communicate to a computer locally via USB or RS232 connection (Baud rates: 9600, 19200, 38400, 57600, 115200). Antenna options available shall include half-wave, mini-wing, traffic-rated in-road/burial, and traffic-rated maintenance hole lid antennas.

The logger shall have maximum of 16 channel alarms with high/high, high, low, low/low options. Additional system alarms should include low battery and/or combination solar, low slate memory and slate memory full. In the event of an alarm condition, the following alarm actions shall be available: start the sampler, change the log interval, and/or change the call interval; the logger, server or both shall be able to send an email or a text message (SMS) up to five addresses or cell phone numbers.

The logger shall be capable of secondary logging intervals for dynamic logging where the logging interval changes upon a user defined alarm trigger. Primary and secondary logging intervals shall be 1, 2, 3, 4, 5, 6, 10, 12, 15, 20, 30 or 60 minutes.

Data shall be stored in non-volatile flash memory and be retained when power is removed. Time-based accuracy of the flow logger shall be 0.002% synchronized every 24-hours with server software and modem.

The flow logger shall have the following features:

A. Event Log: 1,000 events

B. Sampler History: 2,000 sample events maximum

C. Datalog: 325,000 data points; 1,128 days for 3 channels at 15-minute log intervals

D. Certifications: CE/CSA

E. Optional AC Power Supply: UL/CSA/CE

F. Modems: FCC, NB, IC. Others may be available – contact manufacturer for more information

The flow meter shall be microprocessor structured, with the ability to upload software updates in the field or via modem and without need to ship the flow meter to the factory.

6. **COMMUNICATION**

The flow meter shall communicate with the host computer to transfer flow data and alarm information, reconfigure computations, schedules, and site parameters, and allow routine system maintenance.

Communication protocols shall include Modbus RTU, Modbus ASCII, Mobile-Terminated SMS, Mobile-Originated SMS, and Modbus TCP/IP.

The system shall include or be capable of interfacing with a web-browser based data display and remote monitoring application that allows the customer to view unedited flow data, download unedited flow data, and monitor all the installed flow meters. The system shall include a web server with firewall protection and build-in redundancies to store and back up the unedited flow data in a SQL server database (for a period of one-year minimum).

The system shall include alarming features via email, SMS text messaging, and paging services. The flow meter shall se 1xRTT – Packet switched IP protocol data over the 800 to 1900 MHz Cellular Network and shall be supported with an FCC and Cellular Phone Carrier approved embedded cellular modem.

The flow meter shall use the following communication methodology: the RTU inside the flow meters shall be configured with a 1xRTT cellular modem which will automatically transfer data to the host computer following each flow measurement then power off the modem between calls. This effectively provides real time flow data on the network while consuming far less total energy than a method that permits direct call access to collect flow data.

A data call following a flow measurement over the Cellular Phone Carrier 1xRTT network consists of two IP data packets; one from the RTU to the host; the second from the host to the RTU confirming valid receipt of error free data. The contents of the RUI packet shall include the level, velocity, and flow for all flow measurements since the previous data call. The battery voltage and any alarm messages shall also be included.

Data Security – Wireless 1xRTT data occurs over the Cellular Phone Carrier network between specific IP addresses. The RTU shall only generate calls to pre-programmed IP addresses, and shall never answer incoming, unsolicited calls from unknown IP addresses. Similarly, the host computer firewall shall accept data calls only from RTUs with known IP addresses transferred over the Verizon, Sprint, or AT&T networks.

7. **DATA VIEWING AND DATA SECURITY**

City shall be able to access data using a web browser interface capable of viewing data in the following formats:

A. Hydrographs
B. Scatter-plots
C. Tabular data which shows minimums, maximums, and average values for user-selectable measurement obtained from the sensor, such as:
   i. Level
   ii. Velocity
   iii. Flow
   iv. Battery voltage and/or combination solar
   v. Call log
   vi. Continuity
   vii. Temperature
   viii. Sensor-specific diagnostic/quality parameters

Service Provider shall grant unlimited secure access to unedited data to the City by setting user identification and secure password access. Data shall be downloadable in Excel CSV format, from the web interface. The host server shall be secure and designed for 95% uptime.

The system shall allow customer to designate a single individual as an "Administrator" and shall be City's agent in designating those employees who may, through unique passwords, user IDs, or other security means, access the web page and City data. Each City employee authorized to access the web page will be assigned a unique password or user ID and shall be an "Authorized User."

8. EXECUTION, INSTALLATION, AND CALIBRATION

    a. Service Provider shall securely mount the flow sensor above the flow stream on a stainless-steel bracket permanently affixed to the maintenance hole interior wall or utilize a portable, ratcheting jack-bar mounting system using stainless-steel fasteners.
    b. The data logger shall be securely installed at the top of the maintenance hole or sewer entry structure.
    c. The sensor cables and connectors shall be secured to prevent disruption of operation or debris collection.

After the sensor is in place, Service Provider (or factory-certified installer) shall perform a velocity profile using a portable velocity meter, and shall record the velocity profile and keep it for any future reference. Service Provider shall also perform a depth measurement of flow and shall compare against the depth measured by the meter. The depth measurement of the meter shall be adjusted to the depth measured manually and then verified that the depth has not changed.

Flow meters and associated equipment shall be provided and installed so there is no requirement, subsequent to the initial installation, for any person to enter below the rim of the maintenance hole to clean the sensors or cables due to fouling from silt, rags, grit, or debris in the wastewater stream. This requirement does not apply to sensors or cables fouled by wastewater surcharging up into the maintenance hole cone.

Flow meters shall be installed so that, subsequent to the initial installation and in-situ calibration, the flow meter level and velocity sensor(s) can be removed from their mounting assemblies, and replaced back into their mounting assemblies, from the top-side of the maintenance hole without requiring maintenance hole entry and without requiring re-calibration.

9. ACCEPTANCE OF WORK

Prior to final acceptance of the work, the equipment and installation included under this scope of work shall be free of defects, and suitable for trouble-free operation under the conditions set forth in these specifications as part of a thirty (30) day test period. This requirement is in addition to the manufacturer's guarantee.

10. HOURS OF WORK

All work shall be performed between the hours of 7:00 a.m. and 5:00 p.m. Monday through Friday. No weekend or holiday work shall be permitted unless expressly authorized in writing by City's Project Manager.

11. IDENTIFICATION OF SERVICE PROVIDER

Service Provider shall provide each of its employees a form of identification; including a uniform, clearly identifying that each employee is part of the current project a hand.

12. TRAFFIC AND SAFETY REQUIREMENTS

All traffic controls shall be in accordance with the Manual of Traffic Controls for Construction and Maintenance Work Zones, published by State of California, Department of Transportation (Caltrans), current edition. All traffic control devices, safety lights, and flagmen shall be provided by Service Provider. Prior to the partial or complete closing of any lanes, streets or intersection, Service Provider shall request approval from City's Project Manager.

13. DISRUPTION OF SERVICES

Service Provider shall advise City's Project Manager prior to any disruption of City-supplied services to extent feasible.

14. STORMWATER QUALITY

All work shall be undertaken in accordance with conditions and requirements of the Ventura Countywide Stormwater Quality Management Program, National Pollutant Discharge Elimination System (NPDES) Permit No. CAS004002. Service Provider shall employ NPDES best management practices. At all times, work shall proceed using due diligence to safeguard against the disposition of sediment, debris, concrete, sawcut effluent, and other polluting matter into the street, storm drain, and/or associated drainage conveyances. The storm drain system shall not be used for the disposal of any wastes including, but not limited to, wastewaters associated with the cleaning and/or rinsing of equipment, streets, or walkways (Thousand Oaks Municipal Code 7-8.302).

15. SAFETY

Service Provider shall adhere to all Safety and Health Requirements of the California Division of Industrial Safety and the Occupational Safety and Health Administration of the U.S. Department of Labor (CalOSHA).

It is the responsibility of Service Provider to provide its employees, sub-contractors, and suppliers a safe place of employment and work environment in accordance with regulatory requirements set forth by CalOSHA including, but not limited to, regulatory

information pertaining to Injury Illness Prevention Plan (IIPP), Confined Space Entry, the De-energizing/Re-energizing, Lockout/Blockout/Tagout (LOTO) of existing City equipment, Fall Protection and Respiratory Protection. When LOTO is required, Service Provider shall work with City's Project Manager to apply to appropriate locks and tags for de-energizing electrical, mechanical, and hydraulics associated with the work to be performed.

EXHIBIT B
SCHEDULE OF FEES

Description	Qty of Meters	Unit Cost	Total
Monthly Data Fee	10	$400	$4,000
Monthly Service Fee	10	$65	$650
Equipment Installation/Removal	10	No Charge	No Charge
		Monthly Total	**$4,650**
		Annual Total	**$55,800**
	Total Not-to-Exceed for 3-Year Term		**$167,400**

EXHIBIT C
LEVINE ACT DISCLOSURE FORM

California Government Code section 84308 (Levine Act) prohibits any Thousand Oaks City Council member from participating in any action related to a contract, agreement, or franchise agreement (excluding labor or competitively bid contracts) if the Council member receives a campaign contribution totaling more than $250 (aggregated) from the party to the contract, agreement or franchise agreement, their agents, or any financially interested participant who actively supports or opposes the matter within the previous twelve (12) months. Council members must also disclose any eligible campaign contribution received on the record of the proceeding.

Council members are prohibited from accepting, soliciting, or directing a campaign contribution of more than $250 (aggregated) from a party, their agent/representative, or a financially interested participant during a proceeding and for 12 months following the date a final decision is made. In addition, a party, their agent/representative, or a financially interested participant is prohibited from contributing more than $250 (aggregated) to a Council member during a proceeding and for 12 months following the date a final decision is made.

The Levine Act also requires parties to certain contracts, agreements, or franchise agreements to disclose any campaign contribution over $250 (aggregated) within the preceding twelve (12) months by the party to the agreement, contract, or franchise agreement and their agents. The Levine Act does not apply to competitively bid, labor, or personal employment contracts.

☐   The Levine Act (Gov Code § 84308) DOES NOT apply to this Agreement/Contract

☒   The Levine Act (Gov Code § 84308) DOES apply to this Agreement/Contract and the required disclosure is set forth below:

1.   Have you or your company, or any agent on behalf of you or your company, made campaign contributions totaling more than $250 (aggregated) to any council member in the 12 months preceding the date you submitted your proposal, the date you completed this form, or the anticipated date of any Council action related to this Agreement/Contract?

      ☐   YES

      ☒   NO

Council Member Name	Payee Name	Payment Date	Payment Amount

2. Do you or your organization, or any agency or representative on behalf of you or your organization, anticipate or plan to make any campaign contributions of more than $250 (aggregated) to any City Council member in the 12 months following any City Council action related to this Agreement/Contract? ** **There may be legal restrictions on making contributions during the 12 months following City Council Action. It is recommended that you consult with your own legal counsel regarding the requirements of law.**

☐ YES

☒ NO

Council Member Name	Payee Name	Payment Date	Payment Amount

Answering "YES" to either question above does not preclude the City of Thousand Oaks from entering into or taking any subsequent action related to this Agreement/Contract. However, it may preclude the identified Council member(s) from participating in any actions/decisions related to this Agreement/Contract.

6-11-24
Date

ANTHONY CHAVEZ / CFO
Printed Name/Title of Authorized
Representative

UTILITY SYSTEMS SCIENCE & SOFTWARE, INC.
Name of Business/Legal
Entity

Signature

*** You must submit a supplemental form if you make any new reportable contribution(s) while the Agreement/Contract is being considered ***

** "Aggregated" contributions, as described in FPPC Regulation §18438.5, include the following types of contributions made during a 12-month period: (1) all contributions made by the party or participant; (2) all contributions made by an agent of the party or participant; and (3) all contributions made by an individual or entity required to be aggregated with the party or participant, and any agent of the party or participant.