

ON-CALL AGREEMENT FOR TRADE WORK

This Agreement ("Agreement") is effective as of July 1, 2024 ("Effective Date"), and is by and among the City of Camarillo, a California General Law city and municipal corporation, and the Camarillo Sanitary District, a sanitary district organized pursuant to the California Health and Safety Code (collectively "City/CSD"), and MSO Technologies, Inc., a California corporation ("Contractor"), collectively referred to as the "Parties." City/CSD and Contractor agree as follows:

1. Scope and Performance of Work:

1.1 Contractor represents and warrants that it has the qualifications, experience, equipment and facilities necessary to properly perform the type of work described in the attached Exhibit A.

1.2 The Contractor has been selected by City/CSD following a review of the qualifications submitted by the Contractor. The Contractor has been added to a list of contractors who are available to perform this type of work for City/CSD.

1.3 Contractor understands and agrees that there is no guarantee that City/CSD will assign any work to the Contractor.

1.4 Contractor agrees to perform the work in a thorough, competent and professional manner consistent with generally accepted standards and practices utilized by persons engaged in providing work similar to those required of Contractor under this Agreement.

1.5 Contractor will furnish all of the labor, technical, administrative, professional and other personnel, all supplies and materials, equipment, and all other means whatsoever, except as otherwise expressly specified in this Agreement, necessary or proper to perform and complete the Work required of Contractor under this Agreement.

2. Procedure for Assignment of Work

2.1 Any work assigned to the Contractor during the term of this Contract will be by a task order which identifies the work ("Work") and timing for completion of the work. If the work proposed is a public works project and the price is estimated to be over \$25,000, then the task order will require performance and payment bonds pursuant to Section 6.2 of this Agreement.

2.2 City/CSD may ask the Contractor to submit a price quote for Work proposed by City/CSD and a time estimate for completion of the proposed Work.

2.3 City/CSD may request the Contractor to perform the proposed Work without a price quote in which event compensation for the Work will be paid on a time and material basis and in accordance with Section 4 of this Agreement.

2.4 Contractor must obtain City/CSD's prior written approval before utilizing any subcontractors to perform any Work under this Agreement. This written approval must include the identity of the subcontractor and the terms of compensation.

2.5 Contractor will not be compensated for any Work rendered in connection with this Agreement that is in addition to or outside of the work set forth in the task order unless such additional Work is authorized in advance and in writing by City/CSD.

2.6 City/CSD may request changes to the Work identified in the task order, consisting of additions, deletions, or other revisions, and the compensation to be paid

Contractor will be adjusted accordingly. All such changes must be authorized in writing, and executed by Contractor and City/CSD. The cost or credit to City/CSD resulting from changes in the Work will be determined by the written agreement between the Parties.

3. Term and Termination of Agreement:

3.1 The term ("Term") of this Agreement will be from the Effective Date to June 30, 2025, unless terminated sooner by City/CSD as provided in this section or otherwise extended by the mutual written agreement of the Parties.

3.2 City/CSD may terminate this Agreement, with or without cause, at any time by written notice of termination to Contractor. In the event such notice is given, Contractor must cease immediately all Work in progress.

4. Payment for Work:

4.1 Total City/CSD payments to Contractor for all Work performed during the Term may not exceed the sum of \$100,000. There is a not-to-exceed amount of \$60,000 per task order, or the maximum allowed limit as authorized under Section 22020 of the Public Contract Code.

4.2 The task order shall specify the not-to-exceed amount Contractor will be compensated for the Work.

4.3 Contractor must furnish City/CSD with an invoice for all Work performed not more than once per month for the prior month's Work. Except as to any charges for Work performed or expenses incurred by Contractor that are disputed by City/CSD, City/CSD will cause Contractor to be paid within 30 days of receipt of Contractor's invoice.

4.4 Any payment to Contractor for Work performed under this Agreement will not be deemed to waive any defects in the Work performed by Contractor.

5. Labor Code and Prevailing Wage Requirements:

5.1 Contractor agrees to comply with the requirements of California Labor Code sections 1810 through 1815. Eight hours of labor constitutes a legal day's work per Labor Code section 1810. Contractor will forfeit the statutory penalty to City/CSD for each worker employed in the execution of this Agreement by Contractor or any subcontractor for each calendar day during which such worker is required or permitted to work more than eight hours in any one calendar day and 40 hours in any one calendar week in violation of the provisions of Labor Code sections 1810 through 1815.

5.2 Copies of the determination of the Director of the Department of Industrial Relations of the prevailing rate of per diem wages for each craft, classification or type of worker needed to execute this Agreement are available for download from the State website:

<http://www.dir.ca.gov/OPRL/dprevagedetermination.htm>.

5.3 Contractor must post at the work site, or if there is no regular work site then at its principal office, for the duration of the Contract, a copy of the determination by the Director of the Department of Industrial Relations of the specified prevailing rate of per diem wages. (Labor Code § 1773.2.) When applicable, copies of the prevailing rate of per diem wages will be on file at City/CSD's Department of Public Works and available to Contractor and any other interested party upon request.

5.4 Contractor, and any subcontractor engaged by Contractor, may pay not less than the specified prevailing rate of per diem wages to all workers employed in the execution of the

contract. (Labor Code § 1774.) Contractor is responsible for compliance with Labor Code section 1776 relative to the retention and inspection of payroll records.

5.5 Contractor must comply with all provisions of Labor Code section 1775. Under Section 1775, Contractor will forfeit the statutory penalty to City/CSD for each worker employed in the execution of the Agreement by Contractor or any subcontractor for each calendar day, or portion thereof, in which the worker is paid less than the prevailing rates. Contractor may also be liable to pay the difference between the prevailing wage rates and the amount paid to each worker for each calendar day, or portion thereof, for which each worker was paid less than the prevailing wage rate.

5.6 Nothing in this Agreement prevents Contractor or any subcontractor from employing properly registered apprentices in the execution of the Contract. Contractor is responsible for compliance with Labor Code section 1777.5 for all apprenticeable occupations. This statute requires that contractors and subcontractors must submit contract award information to the applicable joint apprenticeship committee, must employ apprentices in apprenticeable occupations in a ratio of not less than one hour of apprentice's work for every five hours of labor performed by a journeyman (unless an exception is granted under § 1777.5), must contribute to the fund or funds in each craft or trade or a like amount to the California Apprenticeship Council, and that contractors and subcontractors must not discriminate among otherwise qualified employees as apprentices solely on the ground of sex, race, religion, creed, national origin, ancestry or color. Only apprentices defined in Labor Code section 3077, who are in training under apprenticeship standards and who have written apprentice contracts, may be employed on public works in apprenticeable occupations.

5.7 Contractor has reviewed and agrees to comply with any applicable provisions for any public work subject to Department of Industrial Relations (DIR) Monitoring and Enforcement of prevailing wages, including the registration requirements of Labor Code Section 1771.1(a). City/CSD hereby notifies Contractor that Contractor is responsible for submitting certified payroll records directly to the State Compliance Monitoring Unit (CMU). For further information concerning compliance monitoring please visit the website location at: <http://www.dir.ca.gov/dlse/cmu/cmu.html>.

5.8 Contractor must comply with Labor Code section 1771.1(a), which provides that Contractor may award any contracts and subcontracts for work that qualifies as a "public work" only to subcontractors which are at that time registered with the DIR and qualified to perform public work pursuant to Labor Code section 1725.5. Contractor must obtain proof of such registration from all such subcontractors."

6. Bonds

6.1 Payment Bond. For task orders of more than \$25,000 on a public works project as defined by Public Contract Code Section 22002, the Task Order will require the Contractor to post a payment bond pursuant to Civil Code Section 9550.

6.2 Performance and Payment Bonds. For Work that will cost more than \$25,000 on a public works project as defined by Public Contract Code Section 22002, City/CSD will request in the task order that the Contractor post performance and payment bonds. The cost for the performance and payment bonds must be included as a separate line item in any quote submitted by the Contractor.

7. General Legal Compliance:

7.1 In performing the Work, Contractor must comply with all applicable statutes, laws and regulations, including, but not limited to, OSHA requirements and the Camarillo Municipal Code.

7.2 Contractor must, at Contractor's sole expense, obtain all necessary permits and licenses required for the Work, and give all necessary notices and pay all fees and taxes required by law, including, without limitation, any business license tax imposed by City/CSD. Contractor is exempt from any City encroachment permit fee pursuant to Camarillo Municipal Code Section 13.04.020.

7.3 Contractor must maintain a valid California Contractor's License throughout the term of this Contract.

8. Indemnification:

Contractor agrees to indemnify, defend, protect and hold harmless City/CSD from and against, any and all liabilities, claims, actions, causes of action, proceedings, suits, damages, judgments, liens, levies, costs and expenses of whatever nature, including reasonable attorneys' fees and disbursements (collectively, "Claims"), which City/CSD may suffer or incur or to which City/CSD may become subject by reason of or arising out the negligent or willfully wrongful acts or omissions of Contractor, its officers, employees, or agents committed in performing any Work under this Agreement. For the purposes of this section, "City/CSD" includes City/CSD's officers, officials, employees, agents and volunteers. The provisions of this section do not apply to Claims occurring as a result of City/CSD's sole negligence or willful acts or omissions. The provisions of this section will survive the expiration or earlier termination of this Agreement.

9. Insurance:

Contractor agrees to have and maintain in full force and effect during the term of this Agreement the insurance coverages listed in Exhibit C ("Insurance"), which is made part of this Agreement.

10. General Provisions:

10.1 In performing the Work under this Agreement, Contractor is an independent contractor and has control over the manner in which the Work is performed provided that it is consistent with this Agreement. Contractor may not at any time or in any manner represent that it or any of its officers, employees, agents, or subcontractors are in any manner officers, employees, agents or subcontractors of City/CSD.

10.2 There are no understandings or agreements between Contractor and City/CSD other than those set forth in this Agreement.

10.3 This Agreement may not be modified or amended except by written agreement of the Parties.

10.4 Contractor may not assign or transfer this Agreement or any portion of this Agreement or the performance of any of Contractor's duties or obligations under this Agreement without the prior written consent of City/CSD.

10.5 This Agreement is binding upon the successors and permitted assigns of the Parties.

10.6 This Agreement will be interpreted, construed, and governed according to the laws of the State of California.

10.7 In the event of litigation between the Parties, venue in state trial courts will be in the County of Ventura and venue in federal court will be in the Central District of California, in Los Angeles.

10.8 This Agreement may be executed and transmitted by email and shall have the same legal force and effect as an executed original.

The Parties have caused this Agreement to be executed by their undersigned authorized agents as follows:

CITY OF CAMARILLO/CAMARILLO SANITARY DISTRICT

Greg Ramirez, City Manager/ District Manager

ATTEST:

Kristy Buxkemper, City Clerk/Assistant Secretary

MSO TECHNOLOGIES, INC., a California corporation

David Patrick

David Patrick, Vice President/Secretary

042457

Camarillo Business Tax Certificate Number

7/31/2024

Expiration Date

EXHIBIT A

SCOPE OF WORK

The following are general descriptions of the scope of work that may be required of the contractor. The scope of work is not exhaustive and could include other work related to or in support of work required. Maintenance work as described in Public Contract Code Section 22002 is not applicable to this contract.

Instrumentation and Controls Integrator: Design, troubleshooting, modification, installation, and integration and programming of various control systems for water, wastewater, and building facilities.

EXHIBIT B

COMPENSATION

Contractor agrees that any work performed under the Agreement will be charged according to the terms of the task order which will specify either a fixed price for the work based upon the quote submitted by the Contractor or payment based on time and materials.

EXHIBIT C

INSURANCE

1. **General Requirements.** Contractor must procure and maintain in full force and effect during the term of this Agreement the following types of insurance with coverage limits complying, at a minimum, with the limits set forth below:

<u>Type of Insurance</u>	<u>Limits (combined single)</u>
Commercial General Liability	\$1,000,000
Business Automobile Liability	\$1,000,000
Workers' Compensation	Statutory Requirements

2. **Commercial General Liability Insurance.** This policy must meet or exceed the requirements of Insurance Services Office (ISO) CGL Form No. CG 00 01. The amount of insurance set forth above will be a combined single limit per occurrence for bodily injury, personal injury, and property damage for the policy coverage. The insurance must be on an "occurrence" not a "claims-made" basis. Defense costs must be paid in addition to limits. There must be no cross-liability exclusion for claims or suits by one insured against another. Limits may be no less than \$1,000,000 per occurrence for all covered losses, and no less than \$2,000,000 general aggregate.

Liability policies must be endorsed to name **City/CSD, its officials, employees and agents** as "additional insureds" under the insurance coverage.

The policy must state that such insurance will be deemed "primary" such that any other insurance that may be carried by City/CSD will be deemed "excess" to that of Contractor. This endorsement must be reflected on ISO Form No. CG 20 01, or equivalent form as determined by City/CSD.

Coverage must be applicable to City/CSD for injury to employees of Contractor, subcontractors, agents or others performing any part of the Work required under this Contract. Each policy must be endorsed to provide a separate limit applicable to this Project.

The Commercial General Liability policy must not contain any endorsements limiting coverage beyond the basic policy coverage for any of the following:

1. Explosion, collapse or underground hazard (XCU);
2. Products and completed operation;
3. Pollution liability; or
4. Contractual liability.

3. **Business Auto Coverage.** This policy must be on ISO Business Auto Coverage Form CA 00 01 including symbol 1 (Any Auto) and Endorsement CA 0025, or equivalent forms approved in writing by City/CSD. Limits must not be less than \$1,000,000 per accident, combined single limit, or if Contractor neither leases nor owns vehicles, this requirement may be satisfied by a non-owned auto endorsement to the general liability policy described above. If Contractor or Contractor's employees will use personal autos in any way on this Project, Contractor must provide evidence of personal auto liability coverage for each such person.

4. **Workers Compensation.** Contractor must have a State of California approved policy form providing the statutory benefits required by law with employer's liability limits of no

less than \$1,000,000 per accident for all covered losses, or Contractor must provide evidence of an approved self-insurance program.

5. **Other Insurance; Revisions to Insurance.** Contractor may be required to obtain such other insurance coverage as may be required by applicable law or by City/CSD. City/CSD reserves the right at any time during the term of the Agreement to change the amounts and types of insurance required by giving Contractor 60 days advance written notice of such change. If such change results in substantial additional cost to Contractor, City/CSD and Contractor may renegotiate Contractor's compensation.
6. **Acceptable Insurers.** All required insurance policies must be issued by an insurance company currently authorized by the California Insurance Commissioner to transact the business of insurance in the State of California, with an assigned policyholders' Rating of A- (or higher) and Financial Size Category Class VII (or larger) in accordance with the latest edition of Best's Key Rating Guide, unless otherwise approved by the City/CSD's Risk Manager.
7. **Excess or Umbrella Liability Insurance (Over Primary).** If an excess or umbrella liability policy is used to meet limit requirements, the insurance must provide coverage at least as broad as specified for the underlying coverages. Any such coverage provided under an excess or umbrella liability policy must include a "drop-down provision" providing primary coverage above a maximum \$25,000 self-insured retention for liability not covered by primary but covered by the umbrella. Coverage must be provided on a "pay-on-behalf" basis, with defense costs payable in addition to policy limits. There may be no cross-liability exclusion precluding coverage for claims or suits by one insured against another. Coverage must be applicable to City/CSD for injury to employees of Contractor, its subcontractors or others performing work to satisfy Contractor's obligations under this Contract. The scope of coverage provided is subject to approval of City/CSD following receipt of proof of insurance as required herein. Limits are subject to review, but in no event may be less than \$2,000,000 per occurrence and aggregate.
8. **Certificates of Insurance and Endorsements.** Prior to commencing any Work under this Contract, Contractor must file with the City/CSD Certificates of Insurance and Endorsements evidencing the existence of all insurance required by this Contract, along with such other evidence of insurance or copies of policies as may reasonably be required by City/CSD. Such Certificates of Insurance and Endorsements must be in a form approved by City's Attorney/Legal Counsel. Contractor must maintain current certificates and endorsements on file with City/CSD during the term of this Agreement reflecting the existence of all required insurance. Each of the certificates must expressly provide that no material change in the policy, or termination thereof, will be effective except upon 30 days' prior written notice to City/CSD.
9. **Failure to Maintain Required Insurance.** If Contractor, for any reason, fails to have in place at all times during the term of this Agreement all of the required insurance coverage, City/CSD may, in addition to any other available remedies, (a) obtain such coverage at Contractor's expense and deduct the cost from the sums due Contractor, (b) make a claim against the Contractor's surety, or (c) terminate the Contract.
10. **Effect of Coverage.** The existence of the required insurance coverage under this Agreement will not be deemed to satisfy or limit Contractor's indemnity obligations under this Contract.
11. **Higher Limits of Insurance.** If Contractor maintains higher limits of insurance than the required amounts shown in Section 1 above, then such amounts will be the minimum required under this Agreement.

CERTIFICATE REGARDING WORKERS' COMPENSATION

I am aware of the provisions of Section 3700 of the Labor Code which require every employer to be insured against liability for workers' compensation or to undertake self-insurance in accordance with the provisions of that code, and I will comply with such provisions before commencing the performance of the work of this contract.

David Patrick

Name (print or type)

05 / 13 / 2024

Date

David Patrick

Signature

**CERTIFICATE REGARDING DEPARTMENT OF INDUSTRIAL
RELATIONS CONTRACTOR REGISTRATION**

I certify, under penalty of perjury, that Contractor is registered with the Department of Industrial Relations pursuant to Labor Code section 1725.5.

Contractor's Department of Industrial Relations registration number is
1000034986.

David Patrick, Vice President
Name & Title (print or type)

05 / 13 / 2024
Date

David Patrick
Signature

(Labor Code section 1725.5)