

**AMENDMENT NO. 1
TO THE AGREEMENT FOR DESIGN PROFESSIONAL SERVICES
BETWEEN THE
CITY OF SANTA CLARA, CALIFORNIA,
AND
ELECTRICAL CONSULTANTS, INC.**

PREAMBLE

This agreement (“Amendment No. 1”) is entered into between the City of Santa Clara, California, a chartered California municipal corporation (City) and Electrical Consultants, Inc., a Montana corporation (Contractor). City and Contractor may be referred to individually as a “Party” or collectively as the “Parties” or the “Parties to this Agreement.”

RECITALS

- A. The Parties previously entered into an agreement entitled “Agreement for Design Professional Services” dated October 21, 2020;
- B. The Parties entered into the Agreement for the purpose of having Contractor provide review, inspection, and analysis necessary to prepare for a System Expansion Plan of the City’s electric system; and
- C. The City has identified proposed development projects that require additional work and revisions to tasks currently underway, therefore, the Parties now wish to amend the Agreement to extend the term of the Agreement until December 31, 2023.

NOW, THEREFORE, the Parties agree as follows:

AMENDMENT TERMS AND CONDITIONS

- 1. Paragraph 2 of the Agreement, entitled “TERM OF AGREEMENT” is amended to read as follows:

Unless otherwise set forth in this Agreement or unless this paragraph is subsequently modified by a written amendment to this Agreement, the term of this Agreement shall begin on October 1, 2020 and terminate on December 31, 2023.

- 2. Exhibit B to the Agreement shall be deleted in its entirety and replaced with the attached Exhibit B – Compensation and Fee Schedule Amended December 14, 2021.
- 3. Exhibit D – Digital Data Protocol is hereby added and incorporated by reference.

4. Exhibit E – Labor Compliance Addendum is hereby added and incorporated by reference.
5. Except as set forth herein, all other terms and conditions of the Agreement shall remain in full force and effect. In case of a conflict in the terms of the Agreement and this Amendment No. 1, the provisions of this Amendment No. 1 shall control.

The Parties acknowledge and accept the terms and conditions of this Amendment No. 1 as evidenced by the following signatures of their duly authorized representatives.

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

Approved as to Form:

Dated: _____

Office of the City Attorney
City of Santa Clara

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

“CITY”

ELECTRICAL CONSULTANTS, INC.,
a Montana corporation

Dated: _____

By (Signature): _____

Name: DAVID R. MAEHL

Title: Vice President Power Supply

Principal Place of Business Address: 3521 Gabel Road
Billings, Montana 59102

Email Address: Dave.maehl@eciusa.com

Telephone: (406) 259-9933

Fax: (406) 259-1164

“CONTRACTOR”

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**EXHIBIT B – COMPENSATION AND FEE SCHEDULE
AMENDED DECEMBER 14, 2021**

1. Compensation: The amount billed to City by Contractor for services under this Agreement as Amended will not exceed eight hundred fifty thousand dollars (\$850,000.00), subject to budget appropriations.
2. Services shall be provided according to the rates in Exhibit B-1 - Rate Schedule attached and incorporated by reference.
3. Authorization of work:
 - 3.1. Exhibit B-2 - Tasks, attached and incorporated by reference, details the specific tasks to be performed under this Agreement. Tasks shall be performed at the hourly rates specified in Exhibit B-1 - Rate Schedule.

Subject to written approval of the City, Contractor may transition costs between categories in Exhibit B-1 only to the extent that these transitions leave sufficient funding to complete each task.
 - 3.2. For any Associated Engineering Services (work that is not specified in Exhibit B-2 – Tasks Items A – Q), Contractor shall not begin any work unless a Purchase Order (PO) has been issued by the City for that particular work. In the event of a City request for Associated Engineering Services:
 - 3.2.1. Contractor shall issue a quote or task order for each project requested by the City and that quote or task order shall be included in the purchase order.
 - 3.2.2. All services included in the quote or task order shall be provided at the rates included in this Agreement and are subject to the terms of this Agreement.
 - 3.2.3. In the event of any inconsistency between a task order and quote and the Terms and Conditions of the Agreement, the Terms and Conditions of the Agreement shall govern and control.

- 3.2.4. City shall review the quote or task order and, if there are no questions or issues, City shall issue a PO to authorize that set of work.
- 3.2.5. Contractor shall notify City as soon as practical if there is a risk that cost estimates will be exceeded and shall not perform work that will result in costs exceeding the estimate without executed amendment to this Agreement or receipt of Purchase Order authorizing work.
- 3.2.6. No products or services that will commit or authorize funds in excess of the authorized amount in this Agreement are authorized. All work performed, materials, or other expenses provided in excess of the maximum compensation shall be at Contractor's expense. Contractor shall not be entitled to any payment above the maximum compensation under any circumstances.
- 3.2.7. Contractor shall not initiate any Project Assignment that will result in costs exceeding the compensation in the Agreement or are anticipated to extend past the term of this Agreement.

4. Reimbursable/Pass Through Costs

- 4.1. Pass Through Costs: In some cases, Contractor may pass-through costs such as, but not limited to: travel subcontracted activities or materials. Such Pass-Through Costs shall be included in the quote for Additional Services.
- 4.2. When these Pass-Through Costs occur, Contractor will Invoice City for these costs without markup.
- 4.3. Contractor shall provide supporting documentation such as invoices or receipts for all Pass-Through costs.
- 4.4. Reimbursement of expenses is subject to the following conditions.
 - 4.4.1. Expenses shall be reimbursable only to the extent that the Contractor submits sufficient documentation to the City that the expenses were directly incurred in providing the requested services and that such costs are not already included in the fee or hourly rate.
 - 4.4.2. Travel-related expense (mileage, lodging, meals, etc.).
 - 4.4.2.1. Unless approved in writing (e-mail acceptable) in advance, meals, lodging, and related Per Diem shall

not exceed the rates outlined by the United States General Service Administration (GSA).

<https://www.gsa.gov/travel-resources>

4.4.2.2. The City shall not reimburse local travel (within Santa Clara County).

4.4.3. All reimbursable expenses shall be included in the Maximum Compensation

5. Payment Provisions

5.1. Monthly Invoices. On a monthly basis, Contractor shall prepare an invoice which includes an itemization of time and materials spent on a services included in this Agreement for the preceding month with a detail listing the cost and source of such expenses and when they were incurred in a format that will permit City to verify rates are the same as those authorized in the Agreement.

5.2. Contractor shall maintain documentation of such time and costs for City inspection for a period of three (3) years from the date of termination of this Agreement.

5.3. Upon receipt of an approved itemized written invoice from Contractor including submittal of certified payroll using LCP Tracker where applicable, City shall process Contractor's invoice for services performed and authorized costs incurred during that billing period.

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EXHIBIT B-1 – RATE SCHEDULE

Engineering / Management

Senior Project Manager II	\$221
Senior Project Manager 1	\$182
Project Manager II	\$163
Project Manager	\$145
Senior Engineer II	\$183
Senior Engineer I	\$156
Senior Project Supervisor	\$152
Project Supervisor	\$115
Project Engineer II	\$132
Project Engineer I	\$125
Associate Engineer II	\$129
Associate Engineer I	\$123
Design Engineer III	\$109
Design Engineer II	\$101
Design Engineer I	\$95
Senior Designer II	\$136
Senior Designer I	\$121
Designer III	\$106
Designer II	\$94
Designer I	\$79

Program Management I Support Staff

Project Controls Coordinator	\$167
Project Controls Specialist III	\$129
Project Controls Specialist II	\$101
Project Controls Specialist I	\$86
Senior Drafter II	\$94
Senior Drafter I	\$91
Drafter III	\$81
Drafter II	\$79
Drafter I	\$69
Administrative -Executive	\$110
Administrative Assistant	\$74

Survey I Real Estate

Senior Surveyor	\$139
Surveyor II	\$113
Surveyor I	\$97
Survey Technician II	\$79
Survey Technician I	\$61
Senior Real Estate Specialist	\$133
Real Estate Specialist II	\$116
Real Estate Specialist I	\$78

Corporate Project Management I Technical Oversight

Principal	\$229
Director/PhD	\$231

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**EXHIBIT B-2 – TASKS
AMENDED DECEMBER 14, 2021**

Exhibit A Section	Task Description	Not to Exceed Budget
A	Provide a Detailed 3-year development plan for SVP's electric system expansion	\$173,683
B	Provide the basis for updating the Load Development Fee	\$ 17,893
C	Provide a high level 20-year development plan of SVP's electric system expansion	\$121,773
D	Determine the ultimate need, capacity, configuration, and method of service, for proposed new substations	\$ 28,839
E	Assess SVP's submission to the CAISO's Transmission Planning Process (TPP)	\$ 25,405
F	Assess SVP's CEC load forecast submittals	\$ 17,029
G	Assess the impact of increased future distributed generation and load	\$ 30,965
H	Assess the condition of the electric system and recommend maintenance and capital replacement	\$ 26,981
I	Review current system, substation, and feeder load projections for reasonableness	\$ 18,385
J	Assess system reliability and provide cost/benefit analysis	\$ 18,413
K	Assess system losses and provide cost/benefit analysis	\$ 11,581
L	Assess the future reactive power requirements/need for power factor improvements	\$ 17,309
M	A report on each of the standards and guidelines listed and include an assessment of their adequacy	\$ 79,439
N	Identify the opportunities to utilize the enabling technology resulting from SVP's AMI deployment	\$ 28,217
O	Assess the current emergency response plans, system restoration capabilities, energy control center	\$ 59,613
P	Review current engineering, operations and electric system key performance indicators	\$ 22,053
Q	Assess the adequacy of existing vegetation management programs and standards	\$ 12,509
	Associated Engineering Services	\$139,913
	TOTAL	\$850,000

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EXHIBIT D – DIGITAL DATA PROTOCOL

1. Description of Requirements

- 1.1.** Unless otherwise specified by City, the Contractor shall utilize e-Builder for submission of data and documents throughout the duration of the Agreement.
- 1.2.** e-Builder is a web-based construction management application hosted by e-Builder. It shall be the primary means of project information submission and management or as otherwise agreed upon with the City.

2. License and Training

- 2.1.** The City will establish the Contractor's access to e-Builder by providing up to three licenses to Contractor personnel at City's cost. At the City's sole discretion, further licenses may be provided but, if the City incurs a cost for such additional licenses, those costs shall be paid for by the Contractor.
- 2.2.** Contractor is required to obtain all necessary training to use the software. The City will provide one classroom training or a web-based seminar. A training session is 1 - 2 hours.

3. Use of e-Builder

- 3.1.** The contractor and users will be required to set up their computers/systems to use e-Builder in accordance with the e-Builder Online User Guide.
- 3.2.** Contractor shall assure that staff (including staff of sub-contractor) will have regular access to a personal computing device with minimum specifications as updated at the following link: www.e-builder.net.
- 3.3.** Contractor staff are responsible for visiting the Project website on a daily basis, and as necessary to: be kept fully apprised of Project developments, view correspondence and assigned tasks and review other matters that transpire on the site.
- 3.4.** Contractor shall ensure that all supporting data including but not limited to shop drawings, product data sheets, manufacturer data sheets and instructions, method statements, safety MSDS sheets, Substitution Requests and the like will be submitted in digital format via e-Builder Enterprise™.

- 3.5. All Product Data, reports, certifications, etc. must be submitted in PDF format. (If a sample is able to be scanned, it is requested a scanned PDF copy is submitted with the sample.).

4. Connectivity

- 4.1. e-Builder is a web-based environment and therefore it is subject to the inherent speed and connectivity limitations of the Internet.
- 4.2. The Contractor is responsible for its own connectivity to the Internet. e-Builder response time is dependent on the Contractor's equipment, including processor speed, Internet access speed, etc. and current traffic on the Internet.
- 4.3. The City will not be liable for any delays associated from the usage of e-Builder including, but not limited to: slow response time, down time periods, connectivity problems, or loss of information.
- 4.4. The Contractor shall ensure connectivity to the e-Builder system whether at the home office or job site.
- 4.5. Under no circumstances will usage of e-Builder be grounds for a time extension or cost adjustment to the Contract.

5. Ownership of Data

Data entered in a collaborative mode (entered with the intent to share as determined by permissions and workflows within the e-Builder system) by the City and the Contractor will be jointly owned.

6. Documents

- 6.1. The Contractor is responsible for managing, tracking, and documenting activities to comply with the requirements of the Agreement.
- 6.2. Contractor shall be responsible for scanning or otherwise converting to electronic format all project submittals and Contractor correspondence, drawings, sketches, etc., and uploading them to the e-Builder web site and shall be responsible for the validity of its information placed in e-Builder. The City's acceptance via automated system notifications or audit logs extends only to the face value of the submitted documentation and does not constitute validation of the Contractor's submitted information.
- 6.3. All project documents shall be processed and distributed digitally over the internet.

- 6.4.** While regular email will still be used for communication, e-Builder shall be utilized as much as possible in connection with all document and information management required by these Contract Documents.
- 6.5.** The Contractor shall utilize the existing forms and processes in e-Builder to the maximum extent possible. If a required form does not exist in e-Builder, the Contractor shall include a form of its own or one provided by the City (if available) as an attachment to a submittal or process.
- 6.6.** Documents and information to be submitted electronically include, but are not limited to:
 - 6.6.1. Correspondence, including letters and e-mails;
 - 6.6.2. Meeting Minutes;
 - 6.6.3. Contract;
 - 6.6.4. Change Order and Potential Change Order requests and documentation, including record copies of Change Orders, Proposals, and Modifications;
 - 6.6.5. Invoices and Monthly Payment Requests;
 - 6.6.6. Submittals and shop drawings;
 - 6.6.7. Requests for Information (RFI) and submittals; and
 - 6.6.8. Official reports, such as Commissioning reports.

7. Archive Copies

Contractor shall keep an archive copy of all digital data created by Contractor, or submitted to Contractor via e-mail, or resident on the any Contractor system for the duration of the Project. Such shall be available to City and authorities with jurisdiction (including funding agencies or representatives) on demand.

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EXHIBIT E – LABOR COMPLIANCE ADDENDUM

This Agreement is subject to the requirements of California Labor Code section 1720 et seq. requiring the payment of prevailing wages, the training of apprentices, and compliance with other applicable requirements.

A. PREVAILING WAGE REQUIREMENTS

1. Contractor shall be obligated to pay not less than the General Prevailing Wage Rate, which can be found at www.dir.ca.gov, which shall be available to any interested party upon request. Contractor is also required to have a copy of the applicable wage determination posted and/or available at each job site.
2. Specifically, contractors are reminded of the need for compliance with Labor Code Section 1774-1775 (the payment of prevailing wages and documentation of such), Section 1776 (the keeping and submission of accurate certified payrolls) and 1777.5 in the employment of apprentices on public works projects. Further, overtime must be paid for work in excess of 8 hours per day or 40 hours per week pursuant to Labor Code Section 1811-1813.
3. Special prevailing wage rates generally apply to work performed on weekends, holidays and for certain shift work. Depending on the location of the project and the amount of travel incurred by workers on the project, certain travel and subsistence payments may also be required. Contractors and subcontractors are on notice that information about such special rates, holidays, premium pay, shift work and travel and subsistence requirements can be found at www.dir.ca.gov.
4. Only bona fide apprentices actively enrolled in a California Division of Apprenticeship Standards approved program may be employed on the project as an apprentice and receive the applicable apprenticeship prevailing wage rates. Apprentices who are not properly supervised and employed in the appropriate ratio shall be paid the full journeyman wages for the classification of work performed.
5. As a condition to receiving progress payments, final payment and payment of retention on any and all projects on which the payment of prevailing wages is required, Contractor agrees to present to City, along with its request for

payment, all applicable and necessary certified payrolls (for itself and all applicable subcontractors) for the time period covering such payment request. The term “certified payroll” shall include all required documentation to comply with the mandates set forth in Labor Code Section 1720 et seq, as well as any additional documentation requested by the City or its designee including, but not limited to: certified payroll, fringe benefit statements and backup documentation such as monthly benefit statements, employee timecards, copies of wage statements and cancelled checks, proof of training contributions (CAC2 if applicable), and apprenticeship forms such as DAS-140 and DAS-142.

6. In addition to submitting the certified payrolls and related documentation to City, Contractor and all subcontractors shall be required to submit certified payroll records and related documents electronically to the California Department of Industrial Relations. Failure to submit payrolls to the DIR when mandated by the project parameters shall also result in the withholding of progress, retention and/or final payment.
7. No contractor or subcontractor may be listed on a bid proposal for a public works project unless registered with the Department of Industrial Relations pursuant to Labor Code section 1725.5 [with limited exceptions from this requirement for bid purposes only under Labor Code section 1771.1(a)].
8. No contractor or subcontractor may be awarded a contract for public work on a public works project, unless registered with the Department of Industrial Relations pursuant to Labor Code section 1725.5. Contractors MUST be a registered “public works contractor” with the DIR AT THE TIME OF BID. Where the prime contract is less than \$15,000 for maintenance work or less than \$25,000 for construction alternation, demolition or repair work, registration is not required.
9. All contractors/subcontractors and related construction services subject to prevailing wage, including but not limited to: trucking, surveying and inspection work must be registered with the Department of Industrial Relations as a “public works contractor”. Those who fail to register and maintain their status as a public works contractor shall not be permitted to perform work on the project.
10. Should any contractor or subcontractors not be a registered public works contractor and perform work on the project, Contractor agrees to fully indemnify the City for any fines assessed by the California Department of Industrial Relations against the City for such violation, including all staff costs and attorney’s fee relating to such fine.
11. This project is subject to compliance monitoring and enforcement by the Department of Industrial Relations.

B. AUDIT RIGHTS

All records or documents required to be kept pursuant to this Agreement to verify compliance with this Addendum shall be made available for audit at no cost to City, at any time during regular business hours, upon written request by the City Attorney, City Auditor, City Manager, or a designated representative of any of these officers. Copies of such records or documents shall be provided to City for audit at City Hall when it is practical to do so. Otherwise, unless an alternative is mutually agreed upon, the records or documents shall be made available at Contractor's address indicated for receipt of notices in this Agreement.

C. ENFORCEMENT

1. City shall withhold any portion of a payment; including the entire payment amount, until certified payroll forms and related documentation are properly submitted, reviewed and found to be in full compliance. In the event that certified payroll forms do not comply with the requirements of Labor Code Section 1720 et seq., City may continue to hold sufficient funds to cover estimated wages and penalties under the Agreement.
2. Based on State funding sources, this project may be subject to special labor compliance requirements of Proposition 84.
3. The City is not obligated to make any payment due to Contractor until Contractor has performed all of its obligations under these provisions. This provision means that City can withhold all or part of a payment to Contractor until all required documentation is submitted. Any payment by the City despite Contractor's failure to fully perform its obligations under these provisions shall not be deemed to be a waiver of any other term or condition contained in this Agreement or a waiver of the right to withhold payment for any subsequent breach of this Addendum.
4. City or the California Department of Industrial Relations may impose penalties upon contractors and subcontractors for failure to comply with prevailing wage requirements. These penalties are up to \$200 per day per worker for each wage violation identified; \$100 per day per worker for failure to provide the required paperwork and documentation requested within a 10-day window; and \$25 per day per worker for any overtime violation.