

**AGREEMENT FOR SERVICES  
BETWEEN THE  
CITY OF SANTA CLARA, CALIFORNIA,  
AND  
ERWIN SERVICES CORPORATION**

**PREAMBLE**

This Agreement is entered into between the City of Santa Clara, California, a chartered California municipal corporation (City) and Erwin Services Corporation a California corporation (Contractor). City and Contractor may be referred to individually as a “Party” or collectively as the “Parties”.

**RECITALS**

- A.** City desires to secure the services of Contractor to provide as-needed millwright support, turbine inspection, maintenance, repair and overhaul services for Silicon Valley Power (“Services”), as more fully described in this Agreement in Exhibit A, entitled “Scope of Services”;
- B.** Contractor represents that it, and its subcontractors, if any, have the professional qualifications, expertise, necessary licenses and desire to provide certain Services and goods of the quality and type which meet objectives and requirements of City; and,
- C.** The Parties have specified herein the terms and conditions under which such Services will be provided and paid for.

The Parties agree as follows:

**AGREEMENT TERMS AND CONDITIONS**

**1. AGREEMENT DOCUMENTS**

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

Exhibit A – Scope of Services

Exhibit B – Schedule of Fees and Payment Provisions

Exhibit C – Insurance Requirements

Exhibit D – Labor Compliance

Exhibit E – Sample Work Authorization Form

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

## **2. TERM OF AGREEMENT**

- A. Unless otherwise set forth in this Agreement or unless this paragraph is subsequently modified by a written amendment to this Agreement, the term of this Agreement shall begin on December 1, 2024 and terminate on January 31, 2028 (“Initial Term”).
- B. After the Initial Term, City reserves the right, at its sole discretion, to extend the term of this Agreement for up to five (5) additional years through January 31, 2033 (“Extension Term”) in such increments as determined by City. Such extensions of term shall be authorized through an Amendment to this Agreement executed by the Parties. The Initial Term and Extension Term shall be collectively referred herein as “Term.”

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

Contractor shall perform those Services specified in Exhibit A within the time stated in Exhibit A. Time is of the essence.

## **4. WARRANTY**

In addition to those warranties contained in Exhibit A, Contractor expressly warrants that all Services and materials covered by this Agreement shall be fit for the purpose intended, shall be free from defect and shall conform to the specifications, requirements and instructions applicable to this Agreement. Contractor agrees to promptly replace or correct any incomplete, inaccurate or defective Services or materials at no further cost to City when defects are due to the negligence, errors or omissions of Contractor. If Contractor fails to promptly correct or replace Services or materials, City may make corrections or replace materials or services and charge Contractor for the cost incurred by City.

## **5. QUALIFICATIONS OF CONTRACTOR - STANDARD OF CARE**

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

## 6. COMPENSATION AND PAYMENT

In consideration for Contractor's complete performance of Services, City shall pay Contractor for all materials provided and Services rendered by Contractor in accordance with Exhibit B, entitled "SCHEDULE OF FEES AND PAYMENT PROVISIONS." The maximum compensation of this Agreement is **One Million Dollars (\$1,000,000)**, subject to budget appropriations, which includes all payments that may be authorized for Services and for expenses, supplies, materials and equipment required to perform the Services, including any taxes. All Services performed or materials, supplies, and equipment 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 circumstance.

## 7. TERMINATION

- A. Termination for Convenience. City shall have the right to terminate this Agreement, without cause or penalty, by giving not less than Thirty (30) days' prior written notice to Contractor.
- B. Termination for Default. If Contractor fails to perform any of its material obligations under this Agreement, in addition to all other remedies provided by law, City may terminate this Agreement immediately upon written notice to Contractor.
- C. Upon termination, each Party shall assist the other in arranging an orderly transfer and close-out of services. As soon as possible following the notice of termination, but no later than ten (10) days after the notice of termination, Contractor will deliver to City all City information or material that Contractor has in its possession.

## 8. ASSIGNMENT AND SUBCONTRACTING

City and Contractor bind themselves, their successors and assigns to all covenants of this Agreement. This Agreement shall not be assigned or transferred without the prior written approval of City. Contractor shall not hire subcontractors without express written permission from City.

Contractor shall be as fully responsible to City for the acts and omissions of its subcontractors, and of persons either directly or indirectly employed by them, as Contractor is for the acts and omissions of persons directly employed by it.

## 9. NO THIRD PARTY BENEFICIARY

This Agreement shall not be construed to be an agreement for the benefit of any third party or parties and no third party or parties shall have any claim or right of action under this Agreement for any cause whatsoever.

## **10. INDEPENDENT CONTRACTOR**

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

## **11. CONFIDENTIALITY OF MATERIAL**

All ideas, memoranda, specifications, plans, manufacturing procedures, data, drawings, descriptions, documents, discussions or other information developed or received by or for Contractor and all other written information submitted to Contractor in connection with the performance of this Agreement shall be held confidential by Contractor and shall not, without the prior written consent of City, be used for any purposes other than the performance of the Services nor be disclosed to an entity not connected with performance of the Services. Nothing furnished to Contractor which is otherwise known to Contractor or becomes generally known to the related industry shall be deemed confidential.

## **12. OWNERSHIP OF MATERIAL**

All material, which shall include, but not be limited to, data, sketches, tracings, drawings, plans, diagrams, quantities, estimates, specifications, proposals, tests, maps, calculations, photographs, reports, designs, technology, programming, works of authorship and other material developed, collected, prepared or caused to be prepared under this Agreement shall be the property of City but Contractor may retain and use copies thereof. City shall not be limited in any way or at any time in its use of said material. However, Contractor shall not be responsible for damages resulting from the use of said material for work outside of the scope of Services, including, but not limited to, the release of this material to third parties.

## **13. RIGHT OF CITY TO INSPECT RECORDS OF CONTRACTOR**

City, through its authorized employees, representatives or agents shall have the right during the Term and for four (4) years from the date of final payment for Services or goods provided under this Agreement, to audit the books and records of Contractor for the purpose of verifying any and all charges made by Contractor in connection with Contractor compensation under this Agreement, including termination of Contractor. Contractor agrees to maintain sufficient books and records in accordance with generally accepted accounting principles to establish the correctness of all charges submitted to City. Any expenses not so recorded shall be disallowed by City. Contractor shall bear the cost of the audit if the audit determines that there has been a substantial billing deviation in excess of ten (10) percent adverse to the City.

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

to assist City in meeting City's reporting requirements to the State and other agencies with respect to Contractor's Services hereunder.

#### **14. HOLD HARMLESS/INDEMNIFICATION**

- A.** To the extent permitted by law, Contractor agrees to protect, defend, hold harmless and indemnify City, its City Council, commissions, officers, employees, volunteers and agents from and against any claim, injury, liability, loss, cost, and/or expense or damage, including all costs and attorney's fees in providing a defense to any such claim or other action, and whether sounding in law, contract, tort, or equity, to the extent arising out of, pertaining to, or related to the negligence, recklessness, or willful misconduct of the Contractor, its employees, subcontractors, or agents in the performance, or non-performance, of Services under this Agreement in any manner arising from, or alleged to arise in whole or in part from, or in any way connected with the Services performed by Contractor pursuant to this Agreement – including claims of any kind by Contractor's employees or persons contracting with Contractor to perform any portion of the Scope of Services – and shall expressly include passive or active negligence by City connected with the Services. However, the obligation to indemnify shall not apply if such liability is ultimately adjudicated to have arisen through the active negligence or willful misconduct of City; the obligation to defend is not similarly limited.
- B.** Contractor's obligation to protect, defend, indemnify, and hold harmless in full City and City's employees, shall specifically extend to any and all employment-related claims of any type brought by employees, contractors, subcontractors or other agents of Contractor, against City (either alone, or jointly with Contractor), regardless of venue/jurisdiction in which the claim is brought and the manner of relief sought.
- C.** To the extent Contractor is obligated to provide health insurance coverage to its employees pursuant to the Affordable Care Act ("Act") and/or any other similar federal or state law, Contractor warrants that it is meeting its obligations under the Act and will fully indemnify and hold harmless City for any penalties, fines, adverse rulings, or tax payments associated with Contractor's responsibilities under the Act.
- D.** Notwithstanding anything to the contrary in this Agreement, neither Contractor or City will be liable for consequential or incidental damages howsoever caused.

## 15. INSURANCE REQUIREMENTS

During the Term and for any time period set forth in Exhibit C, Contractor shall provide and maintain in full force and effect, at no cost to City, insurance policies as set forth in Exhibit C.

## 16. WAIVER

Contractor agrees that waiver by City of any one or more of the conditions of performance under this Agreement shall not be construed as waiver(s) of any other condition of performance under this Agreement. Neither City's review, acceptance nor payments for any of the Services required under this Agreement shall be constructed to operate as a waiver of any rights under this Agreement or of any cause of action arising out of the performance of this Agreement.

## 17. NOTICES

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

City of Santa Clara  
Attention: Silicon Valley Power  
1500 Warburton Avenue  
Santa Clara, CA 95050  
and by e-mail at [SVPContracts@santaclaraca.gov](mailto:SVPContracts@santaclaraca.gov), and  
[manager@santaclaraca.gov](mailto:manager@santaclaraca.gov)

And to Contractor addressed as follows:

David Erwin, President  
Erwin Services Corporation  
1280 N. La Loma Circle,  
Anaheim, CA 92806  
And by email at  
Email [David.erwin@erwinc.com](mailto:David.erwin@erwinc.com)

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

## 18. COMPLIANCE WITH LAWS

Contractor shall comply with all applicable laws and regulations of the federal, state and local government, including but not limited to "The Code of the City of Santa Clara, California" ("SCCC"). In particular, Contractor's attention is called to the regulations regarding Campaign Contributions (SCCC Chapter 2.130), Lobbying (SCCC Chapter 2.155), Minimum Wage (SCCC Chapter 3.20), Business Tax Certificate (SCCC section 3.40.060), and Food and Beverage Service Worker

Retention (SCCC Chapter 9.60), as such Chapters or Sections may be amended from time to time or renumbered. Additionally, Contractor has read and agrees to comply with City's Ethical Standards at (<http://santaclaraca.gov/home/showdocument?id=58299>).

**19. CONFLICTS OF INTEREST**

Contractor certifies that to the best of its knowledge, no City officer, employee or authorized representative has any financial interest in the business of Contractor and that no person associated with Contractor has any interest, direct or indirect, which could conflict with the faithful performance of this Agreement. Contractor is familiar with the provisions of California Government Code section 87100 and following and certifies that it does not know of any facts which would violate these code provisions. Contractor will advise City if a conflict arises.

**20. FAIR EMPLOYMENT**

Contractor shall not discriminate against any employee or applicant for employment because of race, sex, color, religion, religious creed, national origin, ancestry, age, gender, marital status, physical disability, mental disability, medical condition, genetic information, sexual orientation, gender expression, gender identity, military and veteran status, or ethnic background, in violation of federal, state or local law.

**21. NO USE OF CITY NAME OR EMBLEM**

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

**22. GOVERNING LAW AND VENUE**

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

**23. SEVERABILITY CLAUSE**

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

**24. AMENDMENTS**

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

## **25. COUNTERPARTS**

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

## **26. PREVAILING WAGE**

In the event the Services require payment of prevailing wage, Contractor shall comply, and ensure its subcontractors comply with Exhibit D.

Contractor certifies that it is aware of the requirements of California Labor Code Sections 1720 et seq. and 1770 et seq., as well as Section 16000 et seq. of Title 8 of the California Code of Regulations. Contractor shall defend, indemnify and hold the City, its elected officials, officers, employees and agents free and harmless from any claims, liabilities, costs, penalties or interest arising out of any failure or alleged failure by Contractor or its employees, agents, contractors, and subcontractors to comply with the prevailing wage laws.

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

[SIGNATURES ON NEXT PAGE]



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

Approved as to Form:

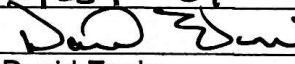
Dated: \_\_\_\_\_

\_\_\_\_\_  
GLEN R. GOOGINS  
City Attorney

\_\_\_\_\_  
JOVAN D. GROGAN  
City Manager  
City of Santa Clara  
1500 Warburton Avenue  
Santa Clara, CA 95050  
Telephone: (408) 615-2210  
Fax: (408) 241-6771

"CITY"

**ERWIN SERVICES CORPORATION**  
a California corporation

Dated: 11/25/2024  
By (Signature):   
Name: David Erwin  
Title: President  
Principal Place of  
Business Address: 1280 N. La Loma Circle, Anaheim, CA 92806  
Email Address: david.erwin@erwinsc.com  
Telephone: 714-630-0600  
Fax: 714-630-0601

"CONTRACTOR"

## **EXHIBIT A SCOPE OF SERVICES**

### **SECTION 1. GENERAL**

- 1.1** Contractor shall provide all necessary supervision, labor, and services, plus all tools, equipment, materials, and supplies required to provide as-needed millwright services including turbine inspection, maintenance, repair, and overhaul services (“Services”) for Silicon Valley Power (“SVP”), the Electric Utility of the City of Santa Clara (“City” or “SVP”).
- 1.2** Contractor shall perform both field and depot services.
- 1.3** Contractor shall be available to perform routine, scheduled and emergency services.
- 1.4** Each scope being quoted and performed on an as-needed basis should be considered turnkey including final testing and start up.
- 1.5** Contractor shall perform all Services according to the original equipment manufacturer (OEM) standards and industry best practices, including but not limited to:
  - 1.5.1** The maintenance cycle of the equipment
  - 1.5.2** International Organizations for Standardization (ISO) requirements
  - 1.5.3** Applicable equipment specifications, policies, and procedures
  - 1.5.4** Applicable federal, state or local regulations and laws
  - 1.5.5** Any divisions from these standards must be approved in writing by City.
- 1.6** Contractor shall secure approval from City before using alternate methods for performing services. Such as but not limited to:
  - 1.6.1** Oils, lubricants, and parts tolerances other than those generally accepted by manufacturer
  - 1.6.2** Method or order of disassembly or reassembly
- 1.7** Contractor shall maintain payment and performance bonds equal to 100% of the value of all Approved Work Authorization(s) throughout the Term. Contractor will bill for bond fees according to the Reimbursable Expenses Section 2.4.8 of Exhibit B.
- 1.8** To the extent not inconsistent with this Agreement, the City’s SOQ 21-22-63-02 (including subsequent updates) and Contractor’s proposal response dated June 20,

2023 are hereby incorporated by reference herein and shall supplement this Scope of Services and be subject to the terms and conditions of the Agreement. In the event of a conflict between the Agreement (including its Exhibits) and the SOQ 21-22-63-02 or Contractor's proposal, the Agreement (including its Exhibits) shall govern.

## **SECTION 2. SERVICES TO BE PERFORMED**

- 2.1** Inspect, maintain, repair, and overhaul of turbines
- 2.2** Perform inspections on GE frame 5 turbines, vertical and horizontal hydroelectric turbines, and Mitsubishi steam turbines, and other turbine technologies pursuant to OEM guidelines such as, but not limited to:
  - 2.2.1** Visual Inspections and borescope
  - 2.2.2** Review of results and report on recommendations for specific maintenance
  - 2.2.3** Repair activities to be performed
- 2.3** Prior to performance of services, review recommendations, improvements, and Technical Information Letters (TIL) to identify which should be implemented in the performance of work.
- 2.4** Review borescope results and plan for next borescope or any required maintenance.
- 2.5** Perform any required maintenance work defined in the OEM operation and maintenance manual.
- 2.6** Perform scheduled maintenance on GE frame 5 turbines, vertical and horizontal hydroelectric turbines, Mitsubishi steam turbines, and other turbine technologies such as, but not limited to:
  - 2.6.1** Oil flush and replacement, clean oil tank, replace oil, and resolution of any outstanding Technical Information Letters (TIL) for equipment serviced
  - 2.6.2** Implementation of recommendations included in product bulletins, service bulletins, and other OEM documentation
  - 2.6.3** Perform any required on-site or shop maintenance in accordance with OEM Manual or other documentation.
- 2.7** Scheduled maintenance timelines will be identified by SVP in each request for services.

- 2.8** Remedial Measures: Remedial measures are defined as services performed beyond normal O&M services to address issues discovered during inspections of the turbines including any services that may be performed to restore the system to optimal operating condition.
- 2.9** Perform repairs on GE Frame 5 turbines, and horizontal hydroelectric turbines, and Mitsubishi steam turbines, other turbine technologies, and turbine auxiliary equipment including, but not limited to
  - 2.9.1** Pump or motor repair or refurbishment
  - 2.9.2** Bearing refurbishment or replacement
  - 2.9.3** Repair of system auxiliaries
  - 2.9.4** Replacement and repair of package and enclosure components
- 2.10** Perform minor and major overhauls on GE frame 5 turbines, vertical and horizontal hydroelectric turbines, Mitsubishi steam turbines, and other turbine technologies, including disassembly and reassembly of turbines and auxiliaries.
  - 2.10.1** Key features of an overhaul are:
    - 2.10.1.1** Complete teardown and inspection
    - 2.10.1.2** Rebuild with new, refurbished, and serviceable parts as required
    - 2.10.1.3** Functionality and performance demonstration
- 2.11** Perform turbine and generator alignments
- 2.12** Other rotating equipment maintenance including, but not limited to:
  - 2.12.1** Replacing/repairing rotating equipment and parts
  - 2.12.2** Repair and replacement of pumps and motors
  - 2.12.3** Aligning rotating equipment
- 2.13** Fabricate or install varying types of equipment or components including, but not limited to:
  - 2.13.1** Turbines
  - 2.13.2** Structural supports for equipment or components
  - 2.13.3** Mounting adapters

- 2.14** Supply parts as required to maintain, repair, and otherwise perform services including supply of specialized parts and materials
- 2.15** Procurement of rotatable or rebuilt equipment
- 2.16** Other millwright services including, but not limited to:
  - 2.16.1** Non-Destructive Examination (NDE) services
  - 2.16.2** Valve and actuator inspections and repairs
  - 2.16.3** Coupling checks, repairs, and replacements
  - 2.16.4** Reverse engineering of parts
  - 2.16.5** Providing adequate part substitutions for obsolete parts
  - 2.16.6** Rigging and crane support
  - 2.16.7** Other mechanical work as needed
- 2.17** Assist City in developing and implementing routine, preventive and condition-based maintenance programs.
- 2.18** Institute comprehensive reporting procedures to ensure close communications with Customer.

### **SECTION 3. INCLUDED SERVICES**

- 3.1** Program and project management services
- 3.2** Logistical planning
- 3.3** Scheduling services
- 3.4** Managing major project evolutions and interfacing with SVP,
- 3.5** Subcontractor management
- 3.6** On-site forklift services
- 3.7** On-site crane support
- 3.8** On-site cribbing and rigging
- 3.9** On-site scaffolding services
- 3.10** Contractor shall provide any certifications associated with each service (e.g., crane operators, welders, etc.) required by the City.

- 3.11 Waste Removal: Contractor shall be responsible for disposing of all hazardous material generated by the contractor during the performance of services under this agreement.
- 3.12 Contractor shall recycle all scrap material.
- 3.13 Contractor shall be responsible for providing all required tools and equipment.
- 3.14 Contractor shall perform site safety audits at the City's request.
- 3.15 On-site miscellaneous services (portable restroom facilities, rental equipment such as light standards, generators, fueling services, etc.)
- 3.16 Expedited procurement and transportation of materials, parts, and equipment when requested by the City

#### **SECTION 4. SERVICE LOCATIONS**

- 4.1 Contractor services will primarily be performed in the City of Santa Clara at the following locations.
  - 4.1.1 Donald Von Raesfeld Power Plant (DVR), 850 Duane Ave. Santa Clara, CA 95054;
  - 4.1.2 Gianera Generating Station, 2339 Gianera St. Santa Clara, CA 95054; and
  - 4.1.3 Cogen, 524 Robert Ave. Santa Clara, 95050
- 4.2 Contractor may be requested to perform services at the following remote locations:
  - 4.2.1 Stony Creek Hydroelectric System near Orland, CA;
  - 4.2.2 Grizzly Hydroelectric Project System located in Plumas County, CA; and
  - 4.2.3 Additional City and SVP facilities as needed.

#### **SECTION 5. WORK AUTHORIZAION PROCESS**

- 5.1 Contractor acknowledges that Contractor is one of multiple firms selected to perform the Services pursuant to separate agreements. Specific Services will be assigned as set forth in this Section. The City does not guarantee that any specific work will be authorized under this Agreement.
- 5.2 **Non-Emergency Work**

- 5.2.1** When Services are required, City will notify contractors under contract for as-needed millwright services including turbine inspection, maintenance, repair, and overhaul services to provide a proposal for Services. City will provide a description of the Services required, the basis of award, the deadline for response, and any other relevant information (Work Request).
  
- 5.2.2** Proposal. Contractor shall prepare and submit a proposal (Proposal) for each Work Request that includes:
  - 5.2.2.1** A work plan that includes a detailed description by task of the services to be performed.
  - 5.2.2.2** A project timeline/schedule with discussion on any activities that may impact the project timeline/schedule.
  - 5.2.2.3** A list of Contractor's personnel and subcontractors including subcontractor Department of Industrial Relations (DIR) number where required.
  - 5.2.2.4** Any required drawings or documents.
  - 5.2.2.5** A list of City responsibilities.
  - 5.2.2.6** A final acceptance criteria.
  - 5.2.2.7** An itemized cost proposal showing:
    - 5.2.2.7.1** Hours and hourly rates by position as listed in Exhibit B for both Contractor and subcontractor personnel if applicable. Indicate labor subject to prevailing wage requirements.
    - 5.2.2.7.2** Parts/materials.
    - 5.2.2.7.3** Rental and/or specialty equipment.
    - 5.2.2.7.4** Reimbursable expenses, in accordance with the limitations set forth in Exhibit B.
    - 5.2.2.7.5** Any additional costs including, but not limited to freight, permits, fees.
    - 5.2.2.7.6** Breakdown of materials and labor sufficient to calculate sales tax.
    - 5.2.2.7.7** Estimated total cost including required taxes.

- 5.2.2.8** All submitted pricing shall be in accordance with the rates authorized in Exhibit B of this Agreement and the Proposal shall include sufficient information for the City to determine that rates are in accordance with the Agreement.
- 5.2.2.9** Costs for any additional equipment, parts, or services required for completion of Services as detailed in the Work Request and in Contractor's Proposal but not reflected in the Contractor's cost proposal shall be the sole responsibility of the Contractor and at no cost to the City.
- 5.2.2.10** The City will review the Proposal, and may elect to approve it, reject it, or use it as a basis for further negotiations with Contractor.
- 5.2.2.11** Provided that Contractor's original Proposal includes all items listed in Section 5.2.2, the City and Contractor may negotiate whether the cost for the work will be fixed price (lump sum) or based on specific rates of compensation (time and materials) for completion of the services.
- 5.2.2.12** If a fixed fee or lump sum is authorized by the City, Contractor must include a payment schedule in their final cost proposal. Contractor's final cost proposal shall be in conformance with Exhibit B and:
  - 5.2.2.12.1** Include a clear breakdown of materials and labor indicating taxable and non-taxable items, along with an estimate of required taxes.
  - 5.2.2.12.2** Include separation of materials subject to tax so that payment for such materials and the associated taxes occur in a single payment.
  - 5.2.2.12.3** Payment milestones shall not include payment for labor subject to prevailing wage in advance of such labor taking place.
- 5.2.2.13** Contractor must submit a revised Proposal to the City based upon such negotiations.

### **5.2.3 Work Authorization**

- 5.2.3.1** If the completion of the services in the Proposal will not result in total costs under this Agreement exceeding the maximum compensation in Section 6 of the Agreement, (when combined with all previously authorized Services), the



City may authorize the proposed services as set forth in this Section.

- 5.2.3.2** For Proposals with a total cost exceeding \$50,000, Work Authorizations shall be issued in substantially the same format as Exhibit E (“Work Authorization”). Each Work Authorization shall describe the services and deliverables the Contractor must provide, the time limit within which the Contractor must complete the service and deliverables, the system acceptance criteria, warranty provisions, and the compensation for the additional services.
- 5.2.3.3** Subject to the terms and conditions of this Agreement, Contractor and City will negotiate the specific scope and requirements of each Work Authorization.
- 5.2.3.4** Each Work Authorization shall have a Purchase Order attached to it. A Purchase Order (“Purchase Order”) is a document issued by the City of Santa Clara Finance Department which will reference the terms and conditions of this Agreement and serves as final approval for each Work Authorization except in those situations set forth in section 5.2.3.5 below.
- 5.2.3.5** For Proposals with a total cost less than \$50,000, a signed Work Authorization is not required. The City will issue a Purchase Order authorizing services and the Purchase Order will serve as the Work Authorization.
- 5.2.3.6** Only the Assistant Director of the Electric Utility, Electric Utility Chief Operating Officer, or Chief Electric Utility Officer may, on behalf of the City, execute a Work Authorization.

#### **5.2.4** Changes to Work Authorization

- 5.2.4.1** Contractor shall notify the City immediately when a situation occurs that may result in a change to the total project cost or specific line items in an Approved Work Authorization or Purchase Order. Contractor shall provide the reason for the change specific to each Approved Work Authorization or Purchase Order.
- 5.2.4.2** If Contractor requires changes to a fixed price Work Authorization, Contractor shall only be permitted to request changes with justification such as additional scope requested by City or unanticipated field conditions. For such changes, Contractor shall submit justification demonstrating that changes in cost are associated with changes in scope.

Contractor shall not be entitled to additional compensation for issues such as errors in calculation of original pricing, changes in staff, or other changes that are not directly related to changes requested by City.

**5.2.4.3** In the event that unanticipated site conditions or other issues result in costs that exceed the total of the Purchase Order or changes to line items in a Purchase Order, Contractor shall submit to the City an updated Proposal for review and approval from the City in advance of performing any additional required services. The City will issue a new or amended Work Authorization (if required pursuant to Section 5.2.3.2) or Purchase Order (as applicable) to authorize such additional services.

**5.2.4.4** In the event that issues are identified that can be most efficiently and economically resolved while on site, changes may be approved verbally (in the field), by telephone, or e-mail by the following authorized individuals: Assistant Director of the Electric Utility, Electric Utility Chief Operating Officer, or Chief Electric Utility Officer. Such authorization shall be defined as an Interim Work Order. Contractor shall provide an updated Proposal within two (2) business days so that such changes can be documented in a Work Authorization and/or Purchase Order.

### **5.3** Emergency Work Orders

**5.3.1** An Emergency Work Order should be used only in instances of a threat to public health or safety, loss of or damage to property, or serious disruption to essential services. An emergency is defined as an unforeseen event, circumstance, or combination of circumstances that the City reasonably determines to require immediate action.

**5.3.2** Emergency Work Orders do not need to be in writing and may only be authorized by the Assistant Director of the Electric Utility, Electric Utility Chief Operating Officer, or Chief Electric Utility Officer. Such verbal authorizations will be confirmed by the City in writing within three (3) business days followed by a Purchase Order or, where applicable, a Work Authorization and Purchase Order.

**5.3.3** When emergency services are required, Contractor shall send a Proposal to the City for the required Services as soon as possible, but no later than three (3) business days after starting Services. The Proposal shall be detailed in accordance with this Section 5.2 and shall also include any completed Services. The City will issue a Work

Authorization (if required pursuant to Section 5.2.3.2) and a Purchase Order as soon as reasonably practicable.

- 5.4** A Work Authorization must be consistent with – and cannot alter - the terms and conditions of this Agreement. The terms and conditions of this Agreement shall prevail over any and all terms and conditions contained in a Proposal, Work Authorization, Interim Work Order, or Emergency Work Order - even if the Proposal, Work Authorization, Interim Work Order, or Emergency Work Order expressly states that it is intended to control. Any conflicting terms and conditions in a Work Authorization are invalid and unenforceable.
- 5.5** Each Work Authorization, Purchase Order, Interim Work Order, and Emergency Work Order including those authorizations issued pursuant to Section 5.3 and 5.2.4.4 shall be incorporated into the Agreement by reference and subject to its terms and conditions and the Services contained therein shall be included within the Services.
- 5.6** If Contractor begins services or fails to dispute a Purchase Order within three (3) business days, Contractor is assumed to have accepted the terms of the Purchase Order.
- 5.7** The City (through the individuals listed in Section 5.2.3.6 or, in the case of Purchase Orders, the Finance Department) may terminate a Work Authorization, Purchase Order, Interim Work Order, or an Emergency Work Order for convenience with ten (10) days prior written notice to Contractor. In such event, the Contractor shall have no further rights hereunder, except that Contractor shall be paid for all Services adequately rendered prior to such termination.
- 5.8** Proposals, pricing quotes, and invoices are not confidential and will not be treated as confidential even if marked confidential when submitted.
- 5.9** Except in the case of emergency which shall conform to the conditions of Section 5.3 or where the circumstances in Section 5.2.4.4 apply, Contractor shall not initiate the additional services and the City will not compensate the Contractor until the City has (1) executed the Work Authorization for such additional services, when applicable, and (2) issued a Purchase Order, and (3) directed the Contractor to perform Services.

## **SECTION 6. REPORTING AND DOCUMENTATION**

- 6.1** As required by each Work Authorization, Contractor shall provide regular status updates on services performed during the term of the agreement. Depending on work activity, status updates may be required daily, weekly, or monthly at the direction of City.
- 6.2** Contractor's management will closely monitor the progress of each Work Authorization and provide updates verbally, and in written form. Contractor

anticipates that a daily report will be submitted to the SVP project manager as well as internally for review by Contractor staff.

- 6.3** Reports may include cost and schedule updates for services Contractor is providing to the City.
- 6.4** Information required in reports may include, but is not limited to the following:
  - 6.4.1** Pictures of job progress,
  - 6.4.2** Serial number of all parts removed and installed,
  - 6.4.3** Preliminary and final NDE reports,
  - 6.4.4** All equipment data taken (as-found/as-left),
  - 6.4.5** Material test reports as applicable,
  - 6.4.6** Summary of job steps,
  - 6.4.7** Mechanical test reports,
  - 6.4.8** Drawings used to complete project,
  - 6.4.9** New drawings as applicable, and
  - 6.4.10** Any optional work completed.
  - 6.4.11** Final project report for each turbine upon completion of work.

## **SECTION 7. E-BUILDER**

- 7.1** When required by City, Contractor shall use e-Builder for submission of data and documents throughout the Term of this agreement, as requested by the City.
- 7.2** e-Builder is a web-based construction management application hosted by e-Builder, Inc. For certain projects to be defined by the City, e-Builder shall be the primary means of project information submission and management or as otherwise agreed upon with the City.
- 7.3** The City will establish the Contractor's access to e-Builder by providing licenses to Contractor's personnel at City's cost. The Contractor's designated users will be required to set up their computers/systems to use e-Builder in accordance with the e-Builder User Training Guide. The City reserves the right to limit the licenses issued to Contractor in the future.

- 7.4** 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.
- 7.5** e-Builder is a web-based environment and therefore it is subject to the inherent speed and connectivity limitations of the Internet. The Contractor is responsible for its own connectivity to the Internet. e-Builder's response time is dependent on the Contractor's equipment, including processor speed, Internet access speed, etc. and current traffic on the Internet. The City will not be liable for any delays associated with the usage of e-Builder including, but not limited to: slow response time, down time periods, connectivity problems, or loss of information. The Contractor shall ensure connectivity to the e-Builder system whether at the home office or job site. Under no circumstances will usage of e-Builder be grounds for a time extension or cost adjustment to the Agreement.
- 7.6** 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.
- 7.7** Contractor is responsible for managing, tracking, and documenting the Services to comply with the requirements of this Agreement. 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.
- 7.8** At the City's sole discretion, project documents may be processed and distributed digitally over the internet or may be required to be presented in hard copy format.
- 7.9** While regular email may still be used for communication, when requested by the City, e-Builder shall be utilized as much as possible in connection with all document and information management required in the performance of projects where City has directed the use of e-Builder. 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 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. Documents and information to be submitted electronically include, but are not limited to:
- 7.9.1** Correspondence
- 7.9.2** Meeting minutes
- 7.9.3** Submittals and shop drawings

- 7.9.4** 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.)
- 7.9.5** Requests for Information (RFI's)
- 7.9.6** Change order requests and documentation, including record copies of Change Orders, Proposals, Modifications
- 7.9.7** Pay applications
- 7.9.8** "Official" correspondence (such as letters) including informal correspondence, such as e-mail
- 7.9.9** Pre-Task Plans (PTPs)
- 7.9.10** Daily construction reports and other daily reports including Contractor Quality Control (CQC) Reports
- 7.9.11** Quality Control (QC) Documentation
- 7.9.12** All official reports, such as commissioning reports
- 7.9.13** Notices and claims
- 7.9.14** Operations and maintenance manuals
- 7.9.15** All close-out documents, and
- 7.9.16** All testing results
- 7.10** Archive Copies: When requested by City, Contractor shall keep an archive copy of all digital data created by Contractor, or submitted to Contractor via e-mail, or resident on the e-Builder system for the duration of the Project. Such data shall be available to City, authorities with jurisdiction (including funding agencies or representatives) on demand.
- 7.11** Should the City replace e-Builder with a different project management tool, Contractor, and subcontractors, shall be required to utilize the new project management tool selected by the City.

## **SECTION 8. SCHEDULE**

- 8.1** City will include requested schedule for work in each Work Request.
- 8.2** Contractor will divide work scopes and location of their respective activities by task and how close they are to the critical path in the schedule.

- 8.3 Contractor will control overall planning using a combination of onsite supervision and project management by Contractor.
- 8.4 Contractor will create work lists daily to act as a guideline for the most important or critical tasks needed to successfully accomplish the Services.
- 8.5 Contractor's project supervisor, foreman, and lead millwrights will discuss day to day planning at the start of every shift.
- 8.6 If Contractor recommends any change of scope item or recommended repair, such work shall be authorized using the process in Section 5 of this Exhibit A.
- 8.7 Rework and repair shall be completed in a timely, efficient manner so as to ensure the utility plant equipment is operational as soon as possible. This may require shifts greater than twelve (12) hours per day or working alternative shifts including night shifts.
- 8.8 Except where otherwise directed by the City, Contractor shall perform the required services between 7:00 AM - 7:00 PM, Monday through Sunday.
- 8.9 For emergency services, Contractor shall be available to arrive onsite within twelve-hours of City request and immediately evaluate the labor, tooling, rental equipment, and subcontracted services needed to perform the necessary work.
- 8.10 Contractor shall be available to plan, staff, and execute scheduled outages with two-weeks' notice.

## **SECTION 9. STAFFING**

- 9.1 The Contractor shall be solely responsible for selecting, hiring, employing, paying, supervising, training, and discharging all personnel necessary to provide Millwright Support. Contractor shall select and hire only persons, who are neat, well-groomed, and courteous, and who can act in the utmost professional manner when interacting with City staff and the general public.
- 9.2 Contractor shall employ only competent craftsmen/skilled workers who are who are well-qualified to perform the job duties for which they are being hired, appropriately trained, licensed to perform the required services.
  - 9.2.1 Contractor shall use only experienced, key millwrights and, where available, local millwrights on the critical large- and small-scale projects.
  - 9.2.2 Depending on the task in each area of a work scope, Contractor will assign Craft Supervisors, Union Millwrights, Non-Destructive Education (NDE) Technicians, and Blasting Technicians.
  - 9.2.3 The Contractor shall use performance-based union millwrights and will release any individual not performing to standards.

- 9.3** Contractor shall be responsible for understanding and complying with any training and licensing required for the performance of the services described in this Exhibit A, including but not limited to, Department of Transportation (DOT) requirements for commercial driver's license and required drug testing if applicable.
- 9.3.1** Contractor shall ensure that all its employees and agents abide by established local, state, and federal safety rules and regulations.
- 9.3.2** Contractor's employees and any subcontractors shall supply proper identification when requested by the City.
- 9.3.3** Classification and Duties of Employees
- 9.4** The Contractor may be requested to include the classifications of employee positions and the duties of each position in their proposal and each response to Work Request. Classifications may include, but are not limited to:
- 9.4.1** Project Manager/General Manager: Responsible for the day-to-day management and supervision of the required services. Project Manager responsibilities shall:
- 9.4.2** Be the general manager for the Contractor's scope of the project and carry the overall responsibility and accountability of execution, cost, schedule compliance, performance, and quality.
- 9.4.3** Be the administrator for all subcontractors.
- 9.4.4** Be the main point of contact for SVP and issue all required reports and project documentation.
- 9.4.5** Have the overall responsibility to maintain the master project schedule with SVP, master work scope, change system, and coordinate all change order estimates.
- 9.4.6** Complete change order forms and schedule impacts to be presented to the SVP project management team as deviations in schedule or scope occur.
- 9.4.7** Issue scope to the appropriate supervisor upon approval of the change.
- 9.4.8** Maintain a detailed record of all changes to schedule and scope.
- 9.4.9** Maintain, update, and issue schedule progress as required by SVP.
- 9.4.10** Project Manager on-site responsibilities include, but not be limited to, correcting problems, managing conflicts and complaints, and overseeing work schedules, personnel, and equipment requirements.



- 9.4.11** Administrative Personnel: Assists in the administration and reporting of the required services.
- 9.4.12** Contractor shall inform the City immediately of any change in key personnel assigned to the City.
- 9.4.13** When requested by City, Contractor shall submit the resumes and other information supporting qualifications of the proposed replacement employee(s) to the City for review and approval. The City shall not unreasonably withhold approval.
- 9.4.14** The City reserves the right to request the removal of any Contractor employee(s) who do not conduct themselves in a courteous, professional manner, or whose actions endanger the safety of people or property. The Contractor shall promptly respond to requests for replacement personnel.

## **SECTION 10. EMPLOYEE TRAINING**

- 10.1** Contractor shall train all employees (including subcontractors) assigned to perform services
- 10.2** Contractor's employee training shall be at no cost to the City.
- 10.3** Contractor shall ensure that all employees (including subcontractors) who will be involved in the performance of services for the City understand how to safely inspect, maintain, and repair rotating equipment and the systems they are installed in as required for their respective positions.
- 10.4** Contractor shall review its training procedures annually and shall submit any revisions in writing to the City at the City's request.
- 10.5** Contractor shall provide ongoing training as required by law or to perform their duties. Contractor shall ensure that all assigned employees attend this training.

## **SECTION 11. SAFETY**

- 11.1** The Contractor shall be responsible for creating a safe work environment for all personnel and City employees as well as for traffic control at the job site.
- 11.2** Contractor will station a safety representative of the Contractor at all larger projects.
- 11.3** All Contractor millwrights have multi-hour Occupational Safety and Health Administration (OSHA) certified training.

- 11.4** Contractor staff regularly discuss safety and Contractor staff assess safety with supervision and workers onsite to provide the safest and most effective plan of attack for each critical path activity.
- 11.5** Contractor shall perform critical lift meetings before all major moves. Such meetings include signalers, operators, and City representatives.
- 11.6** Contractor, its employees, and any subcontractors shall always act in a safe and professional manner while on City property.
- 11.7** Contractor's safety provisions shall be in accordance with all applicable federal, state, county, and local laws, ordinances, and codes.
- 11.8** Contractor shall perform all services to operate and maintain all equipment in compliance with state and federal regulations including, but not limited to, OSHA, while performing services for the City.
- 11.9** Contractor shall be responsible for remaining up to date on all applicable federal, state, county, and local laws, ordinances, and codes. Where any amended applicable laws or ordinances are in conflict with the City's requirements, the more stringent requirement(s) shall be followed. The Contractor's failure to be thoroughly familiarized with the safety provisions shall not relieve the Contractor from compliance with the obligations and penalties resulting therefrom.
- 11.10** Contractor shall provide safety training records for its employees upon request.
- 11.11** Contractor shall maintain an Injury and Illness Prevention Program (IIPP) pursuant to Title 8, Section 3203 of the California Administrative Code. The program shall include, but not be limited to, a safety training program instructing Contractor's employees in general safe work practices and shall include specific instructions with regard to hazards unique to the employee's job assignment. A copy of the Contractor's IIPP shall be submitted to the City prior to the execution of an agreement and be made available on site upon request. Contractor shall notify City when the IIPP is updated.
- 11.12** Contractor shall schedule safety inspections upon request to identify and correct unsafe conditions and work practices. The City reserves the right to accompany Contractor during these inspections.
- 11.13** Contractor shall immediately remove any personnel who is acting in an unsafe or dangerous manner.
- 11.14** Contractor shall comply with all site-specific safety requirements and procedures including but not limited to Lockout/Tagout (LOTO), Confined Space, Fall Protection, Chemical Safety, Hazardous Waste and Personnel Protective Equipment (PPE).

- 11.15** Contractor's employees (including all subcontractors) shall not use or possess alcohol, narcotics, firearms, or drugs of any nature other than medical (for which the Contractor's employee has a current doctor's prescription) on City property and while performing services for the City. Employees using prescribed medication will not engage in any work if the medication can potentially impair the employee's ability to perform the work safely.
- 11.16** Contractor's employees (including any subcontractors) shall utilize appropriate Personal Protective Equipment (PPE) and Fire Resistant (FR) clothing, as required. Contractor shall provide the required PPE and FR clothing at its own expense.
- 11.17** Contractor shall provide work and traffic signage as required to warn pedestrians and vehicular traffic of work in progress. The Contractor may be required to direct pedestrians and traffic around the work area. Contractor shall also be responsible for providing all equipment and personnel necessary to properly perform the traffic control measures, including but not limited to, flaggers, cones, reflectors, electronic signs, barricades, caution tape, temporary paving, or steel plates.
- 11.18** Contractor shall notify the City immediately in event of an injury or property damage that occurs during the performance of its services. Contractor shall investigate the reported injury or damage upon request from the City and provide the City with regular updates until the investigation is resolved. The City reserves the right to perform its own investigation. Should the City choose to conduct its own investigation, Contractor shall assist the City as required.
- 11.19** Contractor's employees and all subcontractors, if utilized shall be required to watch an SVP safety video once per calendar year or prior to the commencement of work.
- 11.20** Safety policies as described in the Contractor's Safety Manual will be followed. Contractor shall provide SVP with a copy of its current Corporate Safety Manual at the request of SVP.

## **SECTION 12. TOOLS AND EQUIPMENT**

- 12.1** Contractor is responsible for providing and identifying all tools and equipment (including any specialty tooling) necessary to perform work. SVP will not loan tools or equipment to the Contractor.
- 12.2** In Contractor's quote or proposal, Contractor shall identify any equipment or tooling to be provided by City that is required to perform any aspect of the proposed service.

- 12.3 All equipment shall be operated and well-maintained in a satisfactory condition at all times and in compliance with state and federal regulations including, but not limited to OSHA.
- 12.4 The City may suspend work where they observe that proper tools and equipment are not being used or that tools are being used / operated improperly.

### **SECTION 13. PROFESSIONAL BEHAVIOR**

- 13.1 Contractor shall be responsible for the conduct, demeanor and appearance of its employees while on or about the job site or while acting in the course and scope of employment.
- 13.2 Contractor's employees shall be neat and clean and shall act in a courteous and professional manner. No employee shall use improper language or act in a loud, offensive, or otherwise improper manner.
- 13.3 Contractor's employees shall be trained as to the requirements of their positions and the importance of performing their jobs according to the City's instructions.
- 13.4 Contractor's employees shall be all times polite and courteous in their dealings with City staff and members of the public, treating them with patience and respect.
- 13.5 Contractor's employees shall speak clearly and in a professional manner while interacting with members of the public, offering the assistance needed by each person.
- 13.6 In the event that a complaint is made against Contractor, Contractor shall notify City immediately of complaint and then follow up to notify City of resolution of complaint.

### **SECTION 14. WORKMANSHIP**

- 14.1 The Contractor shall perform the required services in an environmentally responsible manner.
- 14.2 Contractor shall assume full responsibility for the protection and safekeeping of material and tools stored at the site and shall lock all Contractor vehicles when parked and unattended, to prevent unauthorized use. Contractor shall not leave vehicles or equipment unattended with the motor running or the ignition key in place.
- 14.3 Contractor shall take all necessary precautions to protect all public and private property from damage during the performance of the required services. Contractor shall be responsible for the repair of any property damaged during the performance of services. Damage to City property that cannot be repaired shall

be replaced at the Contractor's sole expense. Any expenses incurred by the City to repair property damage will be deducted from the Contractor's compensation or billed to Contractor at City's sole discretion.

- 14.4** Contractor will make all reasonable efforts to minimize obstructions and inconvenience to private owners such as, but not limited to, noise associated with testing. Contractor shall keep their work site(s) free from all surplus material, waste material, dirt and rubbish caused by Contractor's performance of services.
- 14.5** Contractor shall leave the work site in a neat and orderly condition. All clean-up work will be done to the satisfaction of the City, and at the sole expense of Contractor.
- 14.6** Upon the end of the workday, or suspension of work, Contractor shall remove all equipment and obstructions from any property typically open for use by public traffic. Any incomplete work shall be secured in a manner that does not present a hazard to the City or public.
- 14.7** City shall have the right to inspect all work performed by the Contractor and any subcontractors. Upon inspection, if the City identifies any unsatisfactory or defective work, the Contractor shall immediately correct the work at no additional cost to the City.
- 14.8** City shall not perform any work for Contractor except in an emergency situation or as determined necessary by the City such as, but not limited to adequately protect the City's electrical or other facilities or to restore work area to a safe condition. City and Contractor shall negotiate any price adjustments if any quoted work is not performed by Contractor.

## **SECTION 15. WARRANTY**

- 15.1 Services.** For each Work Authorization, Purchase Order, Interim Work Order, and Emergency Work Order, all Services shall carry a warranty of a minimum of twelve (12) months from the date of completion of the Services as set forth in each Work Authorization, Purchase Order, Interim Work Order, and Emergency Work Order. Warranty-related work shall be at no additional cost to the City.
- 15.2 Parts.** All parts provided by Contractor shall include a warranty of no less than the greater of either twelve (12) months or the OEM warranty period. In the event the OEM warranty is less than twelve (12) months, Contractor shall extend the OEM warranty to a minimum of twelve (12) months. All parts fabricated by Contractor by shall include a warranty of twelve (12) months. Contractor shall provide the City with a copy of any manufacturer's warranty or extended manufacturer's warranty.
- 15.3** Contractor shall be responsible for performing all warranty work within a reasonable time. In emergencies where damage may result from delay or where

the loss of service may result, the City may choose to perform the work covered in the warranty. The cost associated with the City completing the warranty work shall be charged to Contractor.

## **SECTION 16. TRANSPORTATION, SHIPPING, AND FREIGHT**

- 16.1** Contractor shall be responsible for shipment and delivery of all required products, materials, and equipment to City. Contractor will pay all freight charges which may be reimbursed subject to the terms of Section 5 of Exhibit A and Section 2 of Exhibit B.
- 16.2** All products, materials, and equipment shall be entirely at Contractor's risk from the time they are placed in the possession of the carrier for shipment to/from City until final acceptance by the City at the location set forth in the applicable Work Authorization or Purchase Order.
- 16.3** Contractor will pack and ship all products, materials, and equipment in accordance with good commercial practices.
- 16.4** Contractor shall ensure that the products, materials, and equipment are insured against "all risks" from the time the products, materials, and equipment are placed in the possession of the carrier for shipment to/from City until received by the City.
- 16.5** Contractor shall notify the City at least sixty (60) minutes prior to the arrival of any deliveries to the City. City will provide the Contractor with a contact name, phone number, and shipping location.

**EXHIBIT B**  
**SCHEDULE OF FEES AND PAYMENT PROVISIONS**

**SECTION 1. MAXIMUM COMPENSATION**

- 1.1 The maximum compensation to be paid to Contractor during the Term shall not exceed the amount in Section 6 of the Agreement.
- 1.2 The City does not guarantee any minimum compensation under this Agreement.

**SECTION 2. RATES**

- 2.1 Contractor shall submit Proposals and invoice all Services at the rates listed in Exhibit B-1 (Hourly Billing Rates) and Exhibit B-2 (Equipment Billing Rates) attached and incorporated by reference.
- 2.2 Rates listed in Exhibit B-1 and Exhibit B-2 are fully burdened.
- 2.3 Rate Increase. After December 31, 2025, rates may be negotiated no more than once annually. Contractor shall notify the City ninety (90) days in advance of any proposed rate increase. Any rate increases are subject to approval by the City and must be substantiated by the Contractor to the satisfaction of the City. All rate adjustments must be approved by the City through an amendment to this Agreement. References to alternate rates in quotes that have not been separately authorized pursuant to this Section are not approved.
- 2.4 The following definitions apply to the rates in Exhibit B-1:
  - 2.4.1 Shift is defined as a period of eight (8) hours.
  - 2.4.2 Straight Time (ST) is defined as forty hours Monday through Friday.
  - 2.4.3 Overtime:
    - 2.4.3.1 Contractor will charge the Overtime rate for all work over eight hours per day and for the first eight hours on Saturday.
    - 2.4.3.2 Contractor will charge the Overtime rate for work over eight hours Monday through Friday after eight hours and for the first eight hours of work on Saturday.
  - 2.4.4 Double Time:
    - 2.4.4.1 Contractor will charge the Double Time for work over eight hours on Saturday and for the hours work over 12 hours Monday through Friday, and for all work on Sundays and Holidays.

## **2.4.5 Holidays:**

**2.4.5.1** Observed Holidays are: New Year's Day, Martin Luther King Jr. Day, Presidents' Day, Good Friday, Memorial Day, Independence Day, Labor Day, Veterans Day, Thanksgiving Day, the Day after Thanksgiving, and Christmas Day.

**2.4.5.2** Designated Days determined by Millwrights and Machine Erectors Local 102 Union ("Union"): February 16, May 24, July 5, and August 30th. Days are subject to change every year as mandated by the Union.

**2.4.5.3** When a holiday falls on a Saturday, the holiday is observed on the preceding Friday. When a holiday falls on a Sunday, the holiday is observed on the following Monday.

**2.4.5.4** If any of the above holidays fall on Saturday, the preceding Friday shall be observed as the holiday and Contractor may invoice hours worked at double time rates. If any of the above holidays fall on Sunday, the following Monday following shall be observed as the holiday and Contractor may invoice hours worked at double time rates.

**2.4.6** Minimum Billing Hours: Contractor may invoice a minimum of four hours at the applicable rate. Such Minimum Billing Hours shall be indicated in the Proposal and Approved Work Authorization.

**2.4.7** Standby Time: Any delays beyond the control of Contractor or its subcontractors preventing Contractor or its subcontractors from performing work will be billed at the applicable rate. In the event that the such charges will result in a change in the total cost of a Work Authorization, Contractor shall follow the process in Exhibit A Section 5.

**2.4.8** Reimbursable Expenses. Any and all reimbursable expenses related to each Work Authorization or Purchase Order shall be described in Contractor's Proposal as set forth in Section 5 of Exhibit A and accounted for in the total cost for each Proposal, Work Authorization, and Purchase Order. Expenses shall be reimbursable only to the extent that (1) Contractor submits sufficient documentation to City that the expenses were directly incurred in providing the required Services, (2) Contractor demonstrates that such expenses aren't included in the hourly rate where applicable, (3) such expenses were approved in advance pursuant to Section 5 of Exhibit A, (4) Contractor submits receipts, invoices, or other supporting documentation demonstrating that such reimbursable costs were incurred. Any reimbursement to the Contractor is limited to the expenses set forth below in the Reimbursable Expense Schedule.



<b>Reimbursable Expense Schedule</b>	<b>Mark Up</b>
The cost of mailing, shipping and/or delivery of any documents or materials.	No Markup
The cost of photographing, printing, reproducing and/or copying any documents or materials.	No Markup
Charges for outside services (including subcontractor fees, equipment, rental equipment, materials, and facilities not furnished directly by Contractor).	Not to exceed 15%
Other reimbursable expenses (e.g., bonds) with prior written approval from the City	No Markup
Allowable mileage will be charged at the prevailing IRS rate per mile. (Rental cars are reimbursed at actual cost only. No mileage is applicable to rental cars.)	No Markup
Unless approved in writing (e-mail acceptable) in advance, meals, lodging, and related per diem shall not exceed the rates outlined by United States General Services Administration (GSA). <a href="https://www.gsa.gov/travel-resources">https://www.gsa.gov/travel-resources</a> . Airfare or rental car, where applicable shall be at economy rates.	No Markup

### **SECTION 3. PAYMENT PROVISIONS**

**3.1** Time and Materials. For Services authorized to be paid on a time and material basis, Contractor shall provide an invoice to the City on a monthly basis for Services completed in the preceding month, pursuant to the rates listed in Exhibits B-1 and B-2 and in accordance with the Work Authorization. The invoice must include the following information:

**3.1.1** Invoice Number, Purchase Order Number, and Invoice Period.

**3.1.2** Current amount due with a time and materials breakdown: titles, hours, hourly rates, and any City approved reimbursable expenses itemized with supporting documentation.

**3.1.3** Each invoice shall provide sufficient detail for City to verify that the rates listed in Exhibit B-1 and Exhibit B-2 are charged. Additionally, invoices shall include sufficient detail to allow for accurate comparison with certified payroll submittals.

**3.2** Fixed Price. For Services authorized to be paid on a fixed price basis, Contractor shall provide an invoice to the City in accordance with the Work Authorization and based on either (a) the percentage of services completed during the previous month or (b) a lump sum amount upon the completion of deliverable(s), as specified in the Purchase Order. Invoices must include the following information:

- 3.2.1** Invoice Number, Purchase Order Number, and Invoice Period.
- 3.2.2** Detailed information on the Services performed on each deliverable or task completed on each project, as applicable.
- 3.2.3** Contractor shall not invoice labor costs subject to prevailing wages in advance of performing the applicable Services.
- 3.2.4** With regard to milestone payments, Contractor shall invoice each milestone payment in full. Contractor shall not separate milestone payments into multiple invoices.
- 3.3** Pre-Payment. City shall not be required to pay a deposit or any other form of pre-payment prior to Contractor beginning the Services.
- 3.4** Payment Limited to Satisfactory Work. Contractor is not entitled to any payments until the City concludes that the Services and/or any furnished deliverables have been satisfactorily performed.
- 3.5** Recalculation. The City may recalculate and pay invoices based on the rates established in this Agreement.
- 3.6** Certified Payroll. When applicable, Contractor must submit all necessary certified payrolls through LCP Tracker in advance of its request for payment. These submittals shall comply with the requirements set forth in Exhibit D and are subject to verification by the City.
- 3.7** Disputed Invoices. If the City in good faith disputes any portion of an invoice, the City shall pay the undisputed portion of the invoice and submit written notice to Contractor regarding the disputed amount. The notice shall include documentation supporting the disputed amount.
- 3.8** Payment. If there are no discrepancies or deficiencies in the submitted invoice and Contractor has submitted all required certified payroll, City shall process the invoice for payment.
- 3.9** Confidential. Invoices are not confidential even if marked as confidential when submitted.

**EXHIBIT B-1**  
**HOURLY BILLING RATES**

Job Classification	Though December 31, 2024			Effective January 1, 2025		
	Straight Time	Overtime	Double Time	Straight Time	Overtime	Double Time
Project Manager	\$171.00	\$226.00	\$281.00	\$177.00	\$235.00	\$292.00
General Foreman	\$167.00	\$219.00	\$272.00	\$172.00	\$228.00	\$283.00
Foreman	\$161.00	\$211.00	\$262.00	\$167.00	\$220.00	\$273.00
Crane Operator/ Welder	\$154.00	\$201.00	\$248.00	\$160.00	\$210.00	\$259.00
Journeyman	\$152.00	\$199.00	\$245.00	\$158.00	\$207.00	\$256.00
Apprentice – 8 <sup>th</sup>	\$147.00	\$191.00	\$236.00	\$153.00	\$200.00	\$246.00
Apprentice – 7 <sup>th</sup>	\$142.00	\$184.00	\$226.00	\$147.00	\$192.00	\$236.00
Apprentice – 6 <sup>th</sup>	\$137.00	\$176.00	\$216.00	\$142.00	\$184.00	\$225.00
Apprentice – 5 <sup>th</sup>	\$132.00	\$169.00	\$206.00	\$136.00	\$176.00	\$215.00
Apprentice – 4 <sup>th</sup>	\$113.00	\$148.00	\$183.00	\$117.00	\$154.00	\$191.00
Apprentice – 3 <sup>rd</sup>	\$108.00	\$140.00	\$173.00	\$112.00	\$146.00	\$181.00
Apprentice – 2 <sup>nd</sup>	\$98.00	\$128.00	\$158.00	\$102.00	\$134.00	\$165.00
Apprentice – 1 <sup>st</sup>	\$87.00	\$115.00	\$143.00	\$ 90.00	\$120.00	\$149.00
Technical Advisor	\$225.00	\$338.00	\$143.00	\$260.00	\$390.00	X
<b>Tool Truck Service Fee</b>						
Contractor will charge \$300.00 per shift for a Foreman, General Foreman, and Project Manager.						

**EXHIBIT B-2**  
**EQUIPMENT BILLING RATES**

<b>Equipment</b>	<b>Rate</b>
24' and 26' Tool Trailer	\$1,750.00 per week
49" Portable Milling Machine	\$850.00 per day
250 AMP Portable Welding Machine	\$150.00 per shift
Electronic Radiant Alignment Gauge (ERAG)	\$750 per day
<b>Hydraulic Tooling (Hytorc) Pump</b>	
W/1" or ¾" Head	\$230.00 per shift
W/1" ½" Head	\$375.00 per shift
W/2 ½: Head	\$475.00 per shift
Wire Alignment Kit	\$150.00 per shift
Laser Alignment Kit	\$250.00 per shift
<b>Parts manufactured by Contractor shall be at the price authorized in the Work Authorization. Parts from the original equipment manufacturer shall be at Contractor's actual cost plus a 15% markup.</b>	

**EXHIBIT C**  
**INSURANCE REQUIREMENTS**

1. Without limiting the Contractor's indemnification of the City, and prior to commencing any of the Services required under this Agreement, the Contractor shall provide and maintain in full force and effect, at its sole cost and expense, the following insurance policies with at least the indicated coverages, provisions and endorsements:

**2. COMMERCIAL GENERAL LIABILITY INSURANCE**

2.1. Commercial General Liability Insurance policy which provides coverage at least as broad as Insurance Services Office form CG 00 01. Policy limits are subject to review, but shall in no event be less than, the following:

\$5,000,000 Each occurrence  
\$5,000,000 General Aggregate  
\$5,000,000 Products/Completed Operations Aggregate  
\$5,000,000 Personal Injury  
\$5,000,000 Project Aggregate

2.2. Exact structure and layering of the coverage shall be left to the discretion of Contractor; however, any excess or umbrella policies used to meet the required limits shall be at least as broad as the underlying coverage and shall otherwise follow form.

2.3. The following provisions shall apply to the Commercial Liability policy as well as any umbrella policy maintained by the Contractor to comply with the insurance requirements of this Agreement:

2.3.1. Coverage shall be on a "pay on behalf" basis with defense costs payable in addition to policy limits;

2.3.2. There shall be no cross-liability exclusion which precludes coverage for claims or suits by one insured against another; and

2.3.3. Coverage shall apply separately to each insured against whom a claim is made or a suit is brought, except with respect to the limits of liability.

**3. BUSINESS AUTOMOBILE LIABILITY INSURANCE**

3.1. Business automobile liability insurance policy which provides coverage at least as broad as ISO form CA 00 01 with policy limits a minimum limit of not less than five million dollars (\$5,000,000) each accident using, or providing coverage at least as broad as, Insurance Services Office form CA 00 01. Liability coverage shall apply to all owned, non-owned and hired autos.

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

#### **4. WORKERS' COMPENSATION**

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

#### **5. POLLUTION LIABILITY**

- 5.1.** In the event that this Agreement involves hazardous or regulated wastes and/or hazardous or regulated materials, Contractor and/or its subcontractors shall provide a Contractor's Pollution Liability Insurance policy with coverage limits not less than two million dollars (\$2,000,000) each claim in connection with the Work performed under this Contract. All activities contemplated in this agreement shall be specifically scheduled on the policy as "covered operations." Any deductible must be declared to and approved by City. Such policy shall cover, at a minimum, liability for bodily injury, damage to and loss of use of property, and clean-up costs arising from sudden, accidental and gradual pollution and remediation in connection with the Work under this Agreement. Contractor will use its best efforts to have the City, Council, officers, employees and volunteers added as additional insureds under this policy. The following provisions shall apply:

- 5.1.1. The policy shall provide coverage for the hauling of waste from the project site to the final disposal location, including non-owned disposal sites.
- 5.1.2. Products/completed operations coverage shall extend a minimum of three (3) years after project completion.
- 5.1.3. Coverage shall be included on behalf of the insured for covered claims arising out of the actions of independent contractors.
- 5.1.4. If the insured is using subcontractors the Policy must include work performed “by or on behalf” of the insured.
- 5.1.5. Policy shall contain no language that would invalidate or remove the insurer’s duty to defend or indemnify for claims or suits expressly excluded from coverage. Policy shall specifically provide for a duty to defend on the part of the insurer.

## **6. COMPLIANCE WITH REQUIREMENTS**

- 6.1. All of the following clauses and/or endorsements, or similar provisions, must be part of each commercial general liability policy, and each umbrella or excess policy.
  - 6.1.1. Additional Insureds. City of Santa Clara, its City Council, commissions, officers, employees, volunteers and agents are hereby added as additional insureds in respect to liability arising out of Contractor’s work for City, using Insurance Services Office (ISO) Endorsement CG 20 10 11 85 or the combination of CG 20 10 03 97 and CG 20 37 10 01, or its equivalent.
  - 6.1.2. Primary and non-contributing. Each insurance policy provided by Contractor shall contain language or be endorsed to contain wording making it primary insurance as respects to, and not requiring contribution from, any other insurance which the indemnities may possess, including any self-insurance or self-insured retention they may have. Any other insurance indemnities may possess shall be considered excess insurance only and shall not be called upon to contribute with Contractor’s insurance.
  - 6.1.3. General Aggregate. The general aggregate limits shall apply separately to Contractor’s work under this Agreement providing coverage at least as broad as Insurance Services Office (ISO) Endorsement CG 2503, 1985 Edition, or insurer’s equivalent (CGL);
  - 6.1.4. Cancellation.

**6.1.5.** Each insurance policy shall contain language or be endorsed to reflect that no cancellation or modification of the coverage provided due to non-payment of premiums shall be effective until written notice has been given to City at least ten (10) days prior to the effective date of such modification or cancellation. In the event of non-renewal, written notice shall be given at least ten (10) days prior to the effective date of non-renewal.

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

**6.2.** Other Endorsements. Other endorsements may be required for policies other than the commercial general liability policy if specified in the description of required insurance set forth in Sections A through E of this Document 00820.

## **7. ADDITIONAL INSURANCE RELATED PROVISIONS**

**7.1.** Contractor and City agree as follows:

**7.1.1.** Requirements of specific insurance coverage features described in this Agreement shall not be construed to be a limitation of liability on the part of Contractor or any of its subcontractors, nor to relieve any of them of any liability or responsibility under the Agreement, as a matter of law or otherwise. Such requirements are not intended by any Party to be limited to providing coverage for the vicarious liability of the City or to the supervisory role, if any, of City. All insurance coverage provided pursuant to this Agreement in any way relating to City is intended to apply to the full extent of the policies involved.

**7.1.2.** Contractor shall maintain all required insurance policies in full force and effect during entire period of performance of the Services under this Agreement. Contractor shall also keep such insurance in force during warranty and guarantee periods. At time of making application for extension of time, Contractor shall submit evidence that insurance policies will be in effect during requested additional period of time.

**7.1.3.** City reserves the right, at any time during the term of this Agreement to change the amounts and types of insurance



required by giving the Contractor thirty (30) days advance written notice of such change. If such change results in substantial additional cost to the Contractor, the City will negotiate in good faith additional compensation proportional to the increased benefit to City.

- 7.1.4.** Any type of insurance or any increase of limits of liability not described in this Exhibit which Contractor requires for its own protection or in compliance with applicable statutes or regulations, shall be Contractors' responsibility and at its own expense.
- 7.1.5.** No liability insurance coverage provided by Contractor to comply with the terms of this Agreement shall prohibit Contractor, or Contractor's employees, or agents, from waiving the right of subrogation prior to a loss. Contractor waives its right of subrogation against Indemnitees. Any property insurance policies affected by Contractor shall be endorsed to delete the subrogation condition as to indemnitees or shall specifically allow Contractor to waive subrogation prior to a loss. Contractor hereby waives any right of recovery against the indemnitees and agrees to require any subcontractor to do so.
- 7.1.6.** Contractor agrees to ensure that subcontractors, and any other party involved with the Services who is brought onto or involved in the performance of the Services by Contractor, provide the same minimum insurance coverage required of Contractor, except as with respect to limits. Contractor agrees to monitor and review all such coverage and assumes all responsibility for ensuring that such coverage is provided in conformity with the requirements of this Agreement. Contractor agrees that upon request by City, all agreements with, and insurance compliance documents provided by, such subcontractors and others engaged in the project will be submitted to City for review.
- 7.1.7.** Contractor shall cooperate fully with City and Contractor's insurance companies in any safety and accident prevention program and claims handling procedures as established for the performance of Services under this Agreement.
- 7.1.8.** All coverage types and limits required under this Agreement are subject to approval, modification and additional requirements by the City, as the need arises. Contractor shall not make any reductions in scope of coverage which may affect City's protection without City's prior written consent.

- 7.1.9.** For purposes of applying insurance coverage only, all contracts pertaining to the performance of services will be deemed to be executed when finalized and any activity commences in furtherance of performance under this agreement.
- 7.1.10.** Contractor acknowledges and agrees that any actual or alleged failure on the part of City to inform Contractor of non-compliance with any of the insurance requirements set forth in this Agreement in no way imposes any additional obligations on City nor does it waive any of the City's rights under this Agreement or any other regard.
- 7.1.11.** Any provision in this Agreement dealing with the insurance coverage provided pursuant to these requirements, is subordinate to and superseded by the requirements contained herein. These insurance requirements are intended to be separate and distinct from any other provision in this Agreement and are intended by the Parties here to be interpreted as such.
- 7.1.12.** Contractor agrees to be responsible for ensuring that no contract used by any party involved in any way with the project reserves the right to charge City or Contractor for the cost of additional insurance coverage required by this Agreement. Any such provisions are to be deleted with reference to City. It is not the intent of City to reimburse any third party for the cost of complying with these requirements. There shall be no recourse against City for payment of premiums or other amounts with respect thereto.
- 7.1.13.** Contractor agrees to obtain and provide to City evidence of Professional Liability insurance for Architects or Engineers if engaged by Contractor to perform any of the Services required under this Agreement. City shall determine the minimum coverage and policy limits required, after consultation with Contractor.
- 7.1.14.** The City acknowledges that some insurance requirements contained in this Agreement may be fulfilled by self-insurance on the part of the Contractor. The Contractor's insurance obligations under this Agreement under may be satisfied in whole or in part by adequately funded self-insurance retention, but only after approval from the City Attorney's Office upon satisfactory evidence of financial capacity.
- 7.1.15.** The City reserves the right to withhold payments from the Contractor in the event of material noncompliance with the insurance requirements set forth in this Agreement.

## **8. EVIDENCE OF COVERAGE**

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

## **9. EVIDENCE OF COMPLIANCE**

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

EBIX Inc.  
City of Santa Clara  
P.O. Box 100085 – S2      or      1 Ebix Way  
Duluth, GA 30096                      John's Creek, GA 30097

Telephone number: 951-766-2280  
Fax number: 770-325-0409  
Email address: [ctsantaclara@ebix.com](mailto:ctsantaclara@ebix.com)

## **10. QUALIFYING INSURERS**

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

**EXHIBIT D**  
**LABOR COMPLIANCE EXHIBIT**

1. 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.

**2. PREVAILING WAGE REQUIREMENTS**

2.1. Contractor shall be obligated to pay not less than the General Prevailing Wage Rate, which can be found at [www.dir.ca.gov](http://www.dir.ca.gov) and are on file with the City Clerk's office, 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.

2.2. 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.

2.3. 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](http://www.dir.ca.gov) .

2.4. 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.

2.5. 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. Contractors shall submit certified payroll through LCP Tracker or similar system as directed by the City. 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.

- 2.6.** In addition to submitting the certified payrolls and related documentation to City, Contractor and all subcontractors shall be required to submit certified payroll 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.
- 2.7.** 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)].
- 2.8.** 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.
- 2.9.** 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 you fail to register and maintain their status as a public works contractor shall not be permitted to perform work on the project.
- 2.10.** 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.
- 2.11.** This project is subject to compliance monitoring and enforcement by the Department of Industrial Relations.

### **3. AUDIT RIGHTS**

- 3.1.** All records or documents required to be kept pursuant to this Agreement to verify compliance with this Exhibit 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.

#### **4. ENFORCEMENT**

- 4.1.** 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.
- 4.2.** Based on State funding sources, this project may be subject to special labor compliance requirements of Proposition 84.
- 4.3.** 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 Exhibit.
- 4.4.** 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.

**EXHIBIT E  
SAMPLE WORK AUTHORIZATION FORM**

This work authorization (“Work Authorization”) is made pursuant to the Agreement for Service between the City of Santa Clara and Erwin Services Corporation (“Agreement”). This Work Authorization is governed by the provisions of the Agreement and is hereby incorporated into the Agreement by reference. All Services are subject to the terms and rates included in the Agreement. In the event of any inconsistency between the terms and conditions of the Work Authorization and the Agreement, the terms and conditions of the Agreement shall govern and control.

**PART A: GENERAL INFORMATION**

<b>WORK AUTHORIZATION NUMBER:</b>		<input type="checkbox"/> Original
<b>Contract No.</b>		<input type="checkbox"/> First Revised
<b>Contractor Name/Address:</b>		<input type="checkbox"/> Second Revised
<b>Expiration Date of Agreement:</b>		<input type="checkbox"/> Other _____
<b>Contractor’s Project Manager:</b>	<b>Name:</b>	<b>Email:</b>
<b>City’s Project Manager</b>	<b>Name:</b>	<b>Email:</b>
<b>Period of Performance for this Work Authorization:</b>	<b>Start Date:</b>	<b>Expected Completion Date:</b>
<b>Maximum Compensation of Agreement:</b>		
<b>Previously Committed Funds:</b>		
<b>Available Funds</b>		
<b>Maximum Compensation for this Work Authorization</b>		
<b>Remaining Available Funds</b>		
<b>Sufficient funds are available in Fund #:</b> (to be completed by City)		
<b>Contractor Representative Name (Print)</b>		
<b>Contractor Representative Signature</b>		
<b>Contractor Representative Signature Date</b>		
<b>City Project Manager Name (Print)</b>		
<b>Authorized City Representative (Print)</b>		
<b>City Representative Signature</b>		
<b>City Representative Signature Date</b>		
<i>* Authorized City Representatives include Electric Utility Assistant Director, Chief Electric Utility Operating Officer, Chief Electric Utility Officer</i>		

**PART B: SERVICES TO BE PERFORMED**

**1. REVISED WORK AUTHORIZATION**

- No
- If yes, provide a brief description of the change(s).

**2. SCOPE OF SERVICES TO BE PERFORMED**

The Contractor shall perform the service(s) described below in accordance with all of the terms and conditions of the Agreement. (Insert a detailed scope of work below or attach as a separate file.) Scope of Services and cost proposal shall meet all of the provisions of Section 5 of Exhibit A and Section 2 of Exhibit B.

**3. COMPENSATION**

- a. **Basis of Compensation:**     Time & Materials     Fixed Fee
- b. **Reimbursable Expenses:**
  - No expenses are reimbursable.
  - Expenses are separately reimbursable in the maximum amount of:  
\_\_\_\_\_
- c. **Payment Schedule:**
  - Monthly     Completion of Deliverable/Milestone     Completion of Work
- d. **Payment Terms.** Provide payment terms below or attach as a separate file.

\*Payment for on-site labor may not be paid in advance. On-site labor shall not be invoiced until completed and Customer will not make payment until certified payroll is approved.

**4. LIQUIDATED DAMAGES**

- Liquidated Damages do not apply.
- Liquidated Damages apply as follows:



It is mutually agreed by Contractor and City that, in event completion of the Services to be provided by the Contractor under this Agreement is delayed beyond \_\_\_\_\_, 20\_\_\_\_, City will suffer damages and will incur other costs and expenses of a nature and amount which is difficult or impractical to determine. The Parties agree that by way of ascertaining and fixing the amount of damages, costs and expenses, and not by way of penalty, Contractor shall pay to City the sum of \_\_\_\_\_dollars (\$\_\_\_\_\_) per day in liquidated damages to a cap of \_\_\_\_\_. Contractor agrees that City may deduct the amount of said unpaid damages from any money due or that may become due to Contractor under this Agreement.

Notwithstanding the foregoing both Parties understand and agree that no liquidated damages shall accrue for delivery delays due to any modification of the work scope, for delays caused by or attributable to the City, for delays caused by or attributable to third parties not under the direct control of Contractor or any force majeure event during the period of service of this Work Authorization.

Such liquidated damages shall be the City's sole and exclusive remedy for Contractor's failure to meet the agreed delivery schedule.

**5. ACCEPTANCE CERTIFICATE**

- Acceptance Certificate not required.
- Acceptance Certificate required.