

**DEPOSIT AGREEMENT
BETWEEN
THE CITY OF SANTA CLARA, CALIFORNIA
AND
INTEL CORPORATION**

PREAMBLE

This Deposit agreement ("Agreement") is by and between Intel Corporation, a Delaware corporation, with its principal place of business located at 2200 Mission College Boulevard, Santa Clara, California 95054 ("Customer"), and the City of Santa Clara, California, a chartered California municipal corporation with its primary business address at 1500 Warburton Avenue, Santa Clara, California 95050, doing business as Silicon Valley Power (the "City" or "SVP"). SVP and Customer may be referred to individually as a "Party" or collectively as the "Parties" or the "Parties to this Agreement."

The City and Customer agree as follows:

- I. Customer is proposing to expand the capacity of the Juliette Substation by the addition of a third transformer bank.
- II. Customer requires engineering design services from SVP (Services) as is further outlined in Exhibit A – Scope of Services and Cost Estimate- attached hereto this Agreement and incorporated herein by reference, and City agrees to perform or cause to perform the Services in conformance with that Exhibit. Customer shall pay the actual costs of the Services and related costs and expenses, including, but not limited to labor, materials, subcontracted services, permits, right-of-way procurement, taxes, fees, and overhead that may be identified by City required to complete Services (Cost of Services).
 - A. City agrees to perform Services requested by Customer as outlined in Exhibit A (Scope of Services).
 - B. City has estimated the Costs of Services including related costs such as, but not limited to labor, materials, subcontracted services, permits, and easements as well as any other City costs such as taxes, fees, and overhead that may be identified by City required to complete Services. An estimate of the Cost of Services is included in Exhibit A, Section 3.
- III. Customer agrees to deposit \$1,702,313 (Deposit) with the City to fund the estimated Cost of Services.
 - A. Deposit shall be equal to the estimated Cost of Services plus a twenty-five percent (25%) contingency.
 - B. Customer understands that such Deposit is a retainer based on estimated Cost of Services and is not a fixed fee for required services.

- C. Deposit must be received by City before Services are initiated by City.
- D. City shall maintain accounting for Deposit using a process that will permit City to provide routine reporting to Customer upon request. Customer understands that periodic reporting will be based on invoices and other information received as of the time of the report and there may be additional costs that have not yet been invoiced to City.
- E. Customer shall have reasonable access to SVP records to confirm the accuracy of the reconciliation.
- F. Upon completion or termination of Services, City shall reconcile Cost of Services against Deposit
 - 1. If, after reconciliation, City determines that Deposit was greater than Cost of Services, City shall refund remaining funds to Customer within sixty (60) days of the conclusion of invoicing by any third parties performing work associated with Services.
 - 2. If, after reconciliation, City determines that Cost of Services exceeded Deposit, City shall invoice Customer for any outstanding amounts. Customer shall make payment within thirty (30) days of invoice.

IV. Changes to Deposit or changes to Services:

- A. Customer is responsible for all actual costs of services even if City does not notify the customer of changes to the Cost of Services.
- B. In the event that it becomes known to the City that the Exhibit A cost estimate will be exceeded and those additional costs do not exceed the total Deposit, those additional costs may be passed through to Customer and deducted from Deposit without additional notification.
- C. In the event that it becomes known to the City that the Cost of Services estimate must be revised such that the Deposit is insufficient to complete the Services, City shall notify Customer, in writing, of the updated cost estimate as soon as practicable. The parties shall accept such updated estimates through execution of an Amendment to this Agreement including an update to Exhibit A.
 - 1. If Customer agrees for City to continue Services, Customer shall remit additional deposit funds as required by City (Additional Deposit). Upon execution of an Amendment to this Agreement and receipt of such Additional Deposit, City shall resume Services.
 - 2. Should Customer decide not to authorize costs exceeding initial estimates and discontinue work, Customer shall be responsible for all costs up to the halt of Services. This may also include costs associated with cancelling or terminating services requested from

others such as cancellation of materials purchases or other termination charges that may be incurred by City. In the event of cancellation under this provision, City shall complete accounting for Cost of Services as defined in Section II.

V. Term

The term of this Agreement shall begin on the last date listed on the signature page and shall end six months after completion of Services and Customer's fulfillment of its payment obligations unless earlier terminated under the provisions of Section III of this Agreement.

VI. Termination of Services:

- A. In the event that either Party determines that it does not wish to continue Services, that Party will provide written notice to the other Party.
- B. Upon receipt of such written notice from Customer, City will stop all work associated with the Services as soon as practicable and not more than thirty (30) days from the date of the notice from Customer.
- C. The actual Cost of Services shall be reconciled against Deposit as outlined in Section II.

VII. The performance of Services by SVP does not constitute conditional approval by the City of any portion of the Customer's project or a commitment by SVP to serve the Customer's anticipated electric load. Nothing in this Agreement shall be construed as a commitment by City to grant or issue any preliminary or final approvals in connection with provision of electric service or capacity, project planning, construction, including for General Plan Amendments, Rezoning, Development Plans, Subdivision Maps, Development Agreements, Environmental Impact Reports, and building permits. Customer acknowledges and agrees that nothing in this Agreement limits City's discretion. Customer agrees that it shall remain obligated to pay all costs for all work performed by SVP, regardless of whether any aspect of the Customer's project is ultimately approved.

VIII. Hold Harmless/Indemnification

- A. To the extent permitted by law, Customer 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 reasonable attorney's fees in providing a defense to any such claim or other action, and whether sounding in law, contract, tort, or equity, in any manner arising from, or alleged to arise in whole or in part from, or in any way connected with Customer's obligations under this Agreement – including claims of any kind by Customer's employees or persons contracting with

Customer to perform any portion of this Agreement.

- B. Customer'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 Customer against City (either alone, or jointly with Customer), regardless of venue/jurisdiction in which the claim is brought and the manner of relief sought.

IX. 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, and
manager@santaclaraca.gov

And to Customer addressed as follows:

MSO Legal M/S 410
2500 Mission College Blvd., Santa Clara, CA 95054
CC: Marty Sedler, Director of Utilities
and by e-mail at marty.sedler@intel.com
Tel. 480-299-8129

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.

X. Force Majeure

- A. For the purpose of this Agreement, "Force Majeure" shall be defined as any cause beyond the control of the Party affected, and which by exercise of reasonable due diligence such Party could not reasonably have been expected to avoid and which by exercise of due diligence it has been unable to overcome or obtain or cause to be obtained a commercially reasonable substitute therefore.
- B. Force Majeure includes Acts of God, flood, drought, earthquake, storm, tornado, fire, explosion, lightning, epidemic, public emergency, war, riot, civil disobedience, labor strike, labor dispute, labor or materials shortage (however labor or materials shortage does not include the mere inability to obtain that labor or material at a particular price), sabotage, restraint by court order, restraint by public authority, or action or non-action by governmental authority or accident.

- C. No Party shall be relieved of liability for failure of performance if such failure is due to causes arising out of its own negligence or due to the removal of remediable causes which it fails to take reasonable efforts to remove or remedy within a reasonable time, or due to mere fluctuations in market prices. Nothing contained herein shall be construed to require a Party to settle any strike or labor dispute in which it may be involved. Either Party rendered unable to fulfill any of its obligations under this Agreement by reason of Force Majeure shall give prompt written notice of such fact to the other Party and shall exercise due diligence to remove such inability with all reasonable dispatch.

[SIGNATURES ON FOLLOWING PAGE]

The Parties acknowledge and accept the terms and conditions of this Agreement as evidenced by the following signatures of their duly authorized representatives. The Effective Date is the date that the final signatory executes the Agreement. It is the intent of the Parties that this Agreement shall become operative on the Effective Date.

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

Approved as to Form:

Dated: _____

GLEN R. GOOGINS
City Attorney
City of Santa Clara

Office of the City Manager
City of Santa Clara
1500 Warburton Avenue
Santa Clara, CA 95050
Telephone: (408) 615-2210
Fax: (408) 241-6771

“CITY”

INTEL CORPORATION,
a Delaware corporation

Dated: _____

By (Signature): _____

Name: Marty Sedler

Title: Director, Global Utilities

Principal Place of Business Address: 2200 Mission College Blvd., Santa Clara, CA 95054

Telephone: (480) 299-8129

“CUSTOMER”

**DEPOSIT AGREEMENT BETWEEN
THE CITY OF SANTA CLARA, CALIFORNIA AND
INTEL CORPORATION
EXHIBIT A – SCOPE OF SERVICES AND COST ESTIMATE**

1. PROJECT DESCRIPTION

- 1.1. Customer anticipates increased load growth at the Juliette Substation Expansion (Substation Expansion) to increase the capacity from 62MVA to 100MVA by adding a third transformer bank.
- 1.2. To support the Substation Expansion, SVP will select a consultant to serve as the Engineer-of-Record (EOR) for the design of the Substation Expansion. The Services include work performed by the EOR as well as services performed by SVP.

2. SCOPE

- 2.1. The EOR selected by SVP will perform design services for the Substation Expansion.
- 2.2. The EOR will perform services to design the new transformer, the 60kV control building expansion, and the protection and controls systems related to the protection, operation, and maintenance of SVP's facilities.
- 2.3. The EOR will design a new 60kV control enclosure which will include relay and control panels for the protection of SVP's 60kV transmission system. The control enclosure will include Supervisory Control and Data Acquisition (SCADA) communication equipment, AC/DC station service panels, station batteries and charger, and communication equipment.
- 2.4. The EOR will design the relay control panel upgrades, as required, to accommodate the expanded substation at the adjacent Central Substation and San Tomas Junction Substations.
- 2.5. The EOR will perform a review of the existing substation layout and the development of a general arrangement plan that includes the new transformer, expanded control building, and any other on-site existing equipment rearrangements.
- 2.6. The EOR will perform a review of the existing transmission line and the development of a preliminary route for a rebuilt line for service to the substation.
- 2.7. The EOR will prepare a design for upgraded physical security.
- 2.8. The EOR will schedule site visits to the Juliette Substation along with the adjacent substations to compare the provided record drawings with the

- existing field conditions. This includes performing point-to-point inspections.
- 2.9. The EOR will create the general arrangement plan and prepare civil drawings for the Substation Expansion.
 - 2.10. The EOR will design the expansion to the existing control building which will include additional relay and control panels for the protection of SVP's 60 kV system as required by the placement of the third transformer.
 - 2.11. SVP will select a consultant to serve as the Environmental Consultant for the project.
 - 2.11.1. Services are intended to be performed in parallel with the negotiation of a substation agreement.
 - 2.11.2. The Environment Consultant will perform research to determine if a Categorical Exemption for the CEQA clearance is needed for the Substation Expansion.
 - 2.11.2.1. If a Categorical Exemption is appropriate the Environmental Consultant will prepare and submit the appropriate documents
 - 2.11.2.2. If a Categorical Exemption is not appropriate the Environmental Consultant will prepare a cost estimate and scope required for the CEQA clearances
 - 2.12. SVP will be responsible for coordinating reviews, Requests for Information (RFIs), and other communications between the EOR and Customer.

3. **COST ESTIMATE**

Item	Estimate (Rounded)	Description
Engineering Design Consultant		
Project Management	\$100,000.00	
Substation Design	\$953,000.00	
Procurement Drawings, Specifications and Bidding	\$139,000.00	
Support	\$45,000.00	EOR to provide engineering support to City or other consultants such as environmental consultants or easement review
<u>Subtotal</u>	\$1,237,000.00	
Environmental Consultant		

Item	Estimate (Rounded)	Description
CEQA	\$10,000.00	Environmental consultant to prepare a Notice of Exemption (NOE) and supporting technical memo
<u>Subtotal</u>	\$10,000.00	
City Services		
City Staff	\$50,000.00	
<u>Subtotal</u>	\$50,000.00	
<u>Total</u>	\$1,297,000.00	
Other Fees		
Contingency (25%)	\$324,250.00	
5% contribution in lieu	\$81,063.00	
<u>Grand Total</u>	\$1,702,313	