

**AMENDMENT NO. 3
TO THE AGREEMENT FOR SERVICES
BETWEEN THE
CITY OF SANTA CLARA, CALIFORNIA,
AND
ADVANCED CHEMICAL TRANSPORT, INC. (ACT)**

PREAMBLE

This agreement ("Amendment No. 3") is entered into between the City of Santa Clara, California, a chartered California municipal corporation (City) and Advanced Chemical Transport, Inc., a California Corporation (Contractor). City and Contractor may be referred to individually as a "Party" or collectively as the "Parties" or the "Parties to this Agreement."

RECITALS

- A. The Parties previously entered into an agreement entitled "Agreement for the Performance of Services by and between the City of Santa Clara, California and Advanced Chemical Transport, Inc." ("Agreement") dated on or about January 25, 2018 for the purpose of having Contractor provide hazardous waste services; and
- B. The Agreement was previously amended by Amendment No. 1, dated October 21, 2020 and by Amendment No. 2 dated July 18, 2022. The Agreement and all previous amendments are collectively referred to herein as the "Agreement as Amended"; and
- C. The Parties now wish to amend the Agreement as Amended to extend the Agreement term and increase the maximum compensation.

NOW, THEREFORE, the Parties agree as follows:

AMENDMENT TERMS AND CONDITIONS

- 1. Section 5 of the Agreement, entitled "Term of Agreement", is amended to read as follows: "Unless otherwise set forth in this Agreement or unless this paragraph is subsequently modified by a written amendment to this Agreement, the term of this Agreement shall begin on the Effective Date of this Agreement and terminate on June 30, 2023. The Parties agree that this Agreement did not expire on the previous expiration date of December 31, 2022, and it remains valid through the new expiration date set forth in this Amendment No. 3"
- 2. Section 37 of the Agreement, entitled "Progress Schedule", is hereby amended in its entirety to read as follows:

“Prevailing Wage

Contractor shall comply with the prevailing wage and labor compliance provisions of Exhibit F.”

3. Exhibit B of the Agreement is amended and replaced with Exhibit B – Fee Schedule of Fees - Effective January 1, 2023 which is attached hereto and incorporated into the Agreement as Amended by reference.
4. Exhibit F – Milestone Schedule is deleted and replaced with Exhibit F – Labor Compliance which is attached hereto and incorporated into the Agreement as Amended by reference. Except as set forth herein, all other terms and conditions of the Agreement as Amended shall remain in full force and effect. In case of a conflict in the terms of the Agreement as Amended and this Amendment No. 3, the provisions of this Amendment No. 3 shall control.

[SIGNATURES ON FOLLOWING PAGE]

The Parties acknowledge and accept the terms and conditions of this Amendment No. 3 as evidenced by the following signatures of their duly authorized representatives.

CITY OF SANTA CLARA, CALIFORNIA
a chartered California municipal corporation

Approved as to Form:

Daniel Ballin

Daniel Ballin (Jan 9, 2023 11:47 PST)

Office of the City Attorney
City of Santa Clara

Dated: 11/2/2023

Rajeev Batra
Rajeev Batra
City Manager

1500 Warburton Avenue
Santa Clara, CA 95050
Telephone: (408) 615-2210
Fax: (408) 241-6771

"CITY"

ADVANCED CHEMICAL TRANSPORT, INC.

a California corporation

Dated: 11/9/22

By (Signature): [Signature]

Name: Kevin Carnahan

Title: Dir of Sales

Principal Place of

Business Address: (to be filled in by City staff)

Email Address: KCarnahan@actenvi.com

Telephone: () 707-980-2311

Fax: ()

"CONTRACTOR"

EXHIBIT B
FEE SCHEDULE – EFFECTIVE JANUARY 1, 2023

Contractor shall provide services at the rates and fees set forth in the attached Exhibits B1, B2, and B3. Rates shall be based on the date service is provided:

In no event shall the amount billed to City by Contractor for services under this Agreement exceed one million eight hundred thousand dollars (\$1,800,000) during the Agreement term, subject to budget appropriations.

Exhibit B-1 - Rates 11/25/2018 through 4/26/2020

| | Standard Hourly Rate | Overtime Hourly Rate |
|---|--------------------------|------------------------|
| | 11/25/2018 - 4/26/2020 | 11/25/2018 - 4/26/2020 |
| Onsite Technician | \$ 55.00 | \$ 83.00 |
| Chemist | \$ 67.00 | \$ 101.00 |
| Tanker Driver (Including Tanker Truck) | \$ 95.00 | \$ 143.00 |
| Consulting Services | \$ 95.00 | N/A |
| Manifest | No Charge | |
| Profile Fee | No Charge | |
| Per Diem | \$125 per overnight stay | |
| Labor is portal to portal from Sunnyvale headquarters | | |
| Minimum billing hours for on-site is 2 hours | | |
| Transportation | | |
| Description | Per Drum Charge | |
| 5-20 Gallon | \$ 20.00 | |
| 30-55 Gallon drum | \$ 33.00 | |
| 275 Gallon Totes | \$ 100.00 | |
| Materials. | | |
| Description | Unit Cost | Unit of Measure |
| PPE | \$ 8.00 | Each |
| 5 Gallon closed top poly carboy | \$ 16.00 | Each |
| 5 Gallon open top poly drum | \$ 18.00 | Each |
| 30 Gallon open top | \$ 55.00 | Each |
| 55 Gallon poly closed top drum | \$ 55.00 | Each |
| 55 Gallon poly open top drum | \$ 58.00 | Each |
| 55 Gallon metal closed top drum | \$ 52.00 | Each |
| 55 Gallon metal open top drum | \$ 55.00 | Each |
| pH Strips | \$ 1.00 | Each |
| Spilfyters | \$ 9.00 | Each |
| VOC Sampling (8206 B) | \$ 225.00 | Each |
| Cam 17 Sampling | \$ 350.00 | Each |
| Decontamination Supplies | \$ 100.00 | Per Project |
| Pogo Pump | \$ 50.00 | Per Project |
| Expendable Material / New Costs / Outside Services | Quoted | Per Project |
| Stabilization Kit | \$ 200.00 | Per Project |
| Fuel and Energy Surcharge | 8% of invoice total | |

Exhibit B-2 - Rates 4/27/2020 through 12/31/2022

| | Standard Hourly Rate | Overtime Hourly Rate |
|--|--------------------------|------------------------|
| | 4/27/2020 - 12/31/2022 | 4/27/2020 - 12/31/2022 |
| Onsite Technician | \$ 55.00 | \$ 83.00 |
| Chemist | \$ 67.00 | \$ 101.00 |
| Hazardous Waste Endorsed Driver | \$ 67.00 | \$ 101.00 |
| Tanker Driver (Including Tanker Truck) | \$ 95.00 | \$ 143.00 |
| Project Manager | \$ 125.00 | \$ 188.00 |
| Project Lead Emergency Response | \$ 210.00 | |
| Emergency Response (Team of 2) | \$ 300.00 | |
| Manifest | \$ 30.00 | |
| Profile Fee | No Charge | |
| Per Diem | \$125 per overnight stay | |
| Labor is portal to portal from San Jose headquarters | | |
| Minimum billing hours for on-site is 2 hours | | |
| Transportation | | |
| Description | Per Drum Charge | |
| 5-20 Gallon | \$ 20.00 | |
| 30-55 Gallon drum | \$ 33.00 | |
| 275 Gallon Totes | \$ 100.00 | |
| Materials. | | |
| Description | Unit Cost | Unit of Measure |
| PPE | \$ 8.00 | Each |
| 5 Gallon closed top poly carboy | \$ 16.00 | Each |
| 5 Gallon open top poly drum | \$ 18.00 | Each |
| 30 Gallon open top | \$ 55.00 | Each |
| 55 Gallon poly closed top drum | \$ 55.00 | Each |
| 55 Gallon poly open top drum | \$ 58.00 | Each |
| 55 Gallon metal closed top drum | \$ 52.00 | Each |
| 55 Gallon metal open top drum | \$ 55.00 | Each |
| Gear Truck | \$ 125.00 | |
| pH Strips | \$ 1.00 | Each |
| Spilfyters | \$ 9.00 | Each |
| VOC Sampling (8206 B) | \$ 225.00 | Each |
| Cam 17 Sampling | \$ 350.00 | Each |
| Decontamination Supplies | \$ 100.00 | Per Project |
| Pogo Pump | \$ 50.00 | Per Project |
| Expendable Material / New Costs / Outside Services | Quoted | Per Project |
| Stabilization Kit | \$ 200.00 | Per Project |
| Fuel and Energy Surcharge | 8% of invoice total | |

Exhibit B-3 - Rates 1/1/2023 through 6/30/2023

| | Standard Hourly Rate | Overtime Hourly Rate | Weekend/Holiday Hourly Rate |
|--|-----------------------------|----------------------|-----------------------------|
| | 1/1/2023 - 6/30/2023 | 1/1/2023 - 6/30/2023 | 1/1/2023 - 6/30/2023 |
| Onsite Technician Prevailing Wage | \$ 85.00 | \$110.00 | \$ 134.00 |
| Project Manager | \$ 81.00 | \$125.00 | \$ 145.00 |
| Chemist Prevailing Wage | \$ 85.00 | \$110.00 | \$ 134.00 |
| Site Safety Officer | \$ 111.00 | \$130.00 | \$ 150.00 |
| Professional / Consulting Services | \$125.00 per hour | | |
| Tanker Driver (Including Tanker Truck) Prevailing Wage | \$ 96.00 | \$123.00 | \$ 145.00 |
| Hazardous Waste Endorsed Driver- Prevailing Wage | \$ 95.00 | \$122.00 | \$ 122.00 |
| Onsite personnel Includes prevailing wage | \$ 85.00 | \$110.00 | \$ 134.00 |
| Project Lead Emergency Response | \$ 86.00 | \$110.00 | \$ 135.00 |
| Emergency Response (Team of 2) | \$ 175.00 | \$220.00 | \$ 268.00 |
| Labor is portal to portal from San Jose headquarters | | | |
| Minimum billing hours for on-site is 2 hours | | | |
| Other Fees | | | |
| Description | Standard Rate | | |
| Manifest | \$ 35.00 | | |
| Profile | No Charge | | |
| Per Diem | \$ 125.00 | | |
| Environmental Surcharge | 12% of total invoice | | |
| Disposal | | | |
| Description | Standard Rate | | |
| Bulk Oil | \$ 0.25 per Gallon | | |
| Oil <10% water | \$ 85.00 per 55 Gallon Drum | | |
| Bulk Oily water | \$ 1.50 per Gallon | | |
| Oily Debris | \$ 76.00 per 55 Gallon Drum | | |
| Aerosols | \$168.00 per 55 Gallon Drum | | |
| Glycol | \$ 95.00 per 55 Gallon Drum | | |
| Oily Water | \$ 95.00 per 55 Gallon Drum | | |
| PCB Transformers 0-5 PPM | \$0.85 per Pound | | |
| PCB Transformers 5-49 PPM | \$1.60 per Pound | | |
| Transportation | | | |
| Description | Per Drum Charge | | |
| 5-20 Gallon | \$ 21.00 | | |
| 30-55 Gallon drum | \$ 38.00 | | |
| 275 Gallon Totes | \$ 150.00 | | |
| Gear Truck | \$ 125.00 | | |

Exhibit B-3 - Rates 1/1/2023 through 6/30/2023

| Material | |
|---|----------------------|
| Description | Unit Cost / Quantity |
| PPE-Level D | \$13.00 |
| 5 Gallon closed top poly carboy | \$17.00 |
| 5 Gallon open top poly drum | \$20.00 |
| 30 Gallon open top poly drum - Recon | \$57.00 |
| 55 Gallon poly closed top drum - Recon | \$35.00 |
| 55 Gallon poly open top drum - Recon | \$47.00 |
| 55 Gallon metal closed top drum - Recon | \$58.00 |
| 55 Gallon metal open top drum - Recon | \$92.00 |
| Parts washer solution-Assumes water based—55 Gallons | \$325.00 |
| Weekly onsite services Supplies | \$95.00 |
| pH Strips | \$1.00 |
| Spilfyters | \$19.00 |
| VOC Sampling - 5 Day Turnaround | \$105.00 |
| Cam 17 Sampling - 5 Day Turnaround | \$120.00 |
| PCB Field test kits - Emergency Response (ER) use only | \$26.00 |
| PCB Testing - 3 Day Turnaround Formal lab testing per transformer | \$225.00 |
| PCB Testing - Same Day Turnaround Formal lab testing per transformer during ER's | \$1,200.00 |
| Decontamination Kit | \$150.00 |
| Pogo Pump | \$50.00 |
| Expendable Material / New Costs / Outside Services | \$ Varies |
| Stabilization Kit | \$200.00 |
| Metal Revenue provided to City of Santa Clara Silicon Valley Power: \$100 per ton | |

EXHIBIT F LABOR COMPLIANCE

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

A. PREVAILING WAGE REQUIREMENTS

1. Contractor shall be obligated to pay not less than the General Prevailing Wage Rate, which can be found at www.dir.ca.gov 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. Specifically, contractors are reminded of the need for compliance with Labor Code Section 1774-1775 (the payment of prevailing wages and documentation of such), Section 1776 (the keeping and submission of accurate certified payrolls) and 1777.5 in the employment of apprentices on public works projects. Further, overtime must be paid for work in excess of 8 hours per day or 40 hours per week pursuant to Labor Code Section 1811-1813.
3. Special prevailing wage rates generally apply to work performed on weekends, holidays and for certain shift work. Depending on the location of the project and the amount of travel incurred by workers on the project, certain travel and subsistence payments may also be required. Contractors and subcontractors are on notice that information about such special rates, holidays, premium pay, shift work and travel and subsistence requirements can be found at www.dir.ca.gov.
4. Only bona fide apprentices actively enrolled in a California Division of Apprenticeship Standards approved program may be employed on the project as an apprentice and receive the applicable apprenticeship prevailing wage rates. Apprentices who are not properly supervised and employed in the appropriate ratio shall be paid the full journeyman wages for the classification of work performed.
5. As a condition to receiving progress payments, final payment and payment of retention on any and all projects on which the payment of prevailing wages is required, Contractor agrees to present to City, along with its request for payment, all applicable and necessary certified payrolls (for itself and all applicable subcontractors) for the time period covering such payment request. The term "certified payroll" shall include all required documentation to comply with the mandates set forth in Labor Code Section 1720 et seq, as well as any additional documentation requested by the City or its designee including, but not limited to: certified

payroll, fringe benefit statements and backup documentation such as monthly benefit statements, employee timecards, copies of wage statements and cancelled checks, proof of training contributions (CAC2 if applicable), and apprenticeship forms such as DAS-140 and DAS-142.

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

B. AUDIT RIGHTS

1. All records or documents required to be kept pursuant to this Agreement to verify compliance with this Addendum shall be made available for audit at no cost to City, at any time during regular business hours, upon written request by the City Attorney, City Auditor, City Manager, or a designated representative of any of these officers. Copies of such records or

documents shall be provided to City for audit at City Hall when it is practical to do so. Otherwise, unless an alternative is mutually agreed upon, the records or documents shall be made available at Contractor's address indicated for receipt of notices in this Agreement.

C. ENFORCEMENT

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