

**AGREEMENT FOR SERVICES
BETWEEN THE
CITY OF SANTA CLARA, CALIFORNIA,
AND
ACCO ENGINEERED SYSTEMS, INC.**

PREAMBLE

This Agreement is made and entered into on the date last signed by the Parties (“Effective Date”) between the City of Santa Clara, California, a chartered California municipal corporation (City) and ACCO Engineered Systems, Inc., 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 (“Services”) 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 goods and/or required Services and goods of the quality and type which meet objectives and requirements of City; and,
- C. The Parties agree that Contractor will perform the Services under the terms and conditions set forth in this Agreement.

NOW, THEREFORE, for and in consideration of the mutual promises, covenants, and conditions herein contained, the Parties hereto 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

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 written amendment to this Agreement, the term of this Agreement shall begin on **November 1, 2025**, and terminate on **October 31, 2027** ("Initial Term").
- B.** After the Initial Term, City reserves the right, at its sole discretion, to extend the term of this Agreement ten (10) additional years through **October 31, 2037** ("Option Periods"), in such increments as determined by City. The Option Periods shall be authorized through an Amendment to this Agreement executed by the Parties. The Initial Term and Option Periods shall collectively be referred to as the "Term".

3. SCOPE OF SERVICES AND 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 Services or materials and charge Contractor for the cost incurred by City.

5. QUALIFICATIONS OF CONTRACTOR - STANDARD OF CARE

- A.** Contractor represents and maintains that it is skilled in the professional calling necessary to perform the Services, including its duties and obligations, expressed and implied, contained herein. Contractor shall perform all Services under this Agreement in a skillful and competent manner, consistent with the standards generally recognized as being employed by professionals in the same discipline in the State of California. City expressly relies upon Contractor's representations regarding its skills and knowledge.

- B.** Contractor warrants that all employees and subcontractor, if any, shall have sufficient skill and experience to perform the Services assigned to them.
- C.** Contractor shall comply with all applicable federal, state and local laws in the performance of the Services; including but not limited to those of the Occupational Safety and Health Administration (OSHA) and the California Department of Industrial Relations and State Division of Industrial Safety and the professional standard of care. Where any applicable laws or ordinances conflict with the City's requirements, the more stringent requirement(s) shall be followed. Contractor's failure to be thoroughly familiarized with the provisions of any applicable federal, state, and local regulations, ordinances and codes shall not relieve Contractor from compliance with the obligations and penalties resulting therefrom.
- D.** Contractor represents and warrants to the City that it has, shall obtain, and shall keep in full force in effect during the Term hereof, at its sole cost and expense, all licenses, permits, qualifications, insurance and approvals of whatsoever nature that is legally required of Contractor to practice its profession and to perform Services.

6. COMPENSATION AND PAYMENT

In consideration for Contractor's complete performance of Services, City shall pay Contractor for all Services rendered and material provided by Contractor in accordance with Exhibit B, entitled "SCHEDULE OF FEES AND PAYMENT PROVISIONS." The maximum compensation of this Agreement is set forth in Section 1 of Exhibit B, 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 supplies, materials 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. For purposes of this Section 7.B., the word "Default" shall mean the failure of Contractor to perform any of Contractor's duties or obligations or the breach by Contractor of any of the terms and conditions set forth in this Agreement. In addition, Contractor shall be deemed to be in Default upon Contractor (i) applying for, consenting to, or suffering of, the appointment of a receiver, trustee or liquidator for all or a substantial portion of its assets; (ii) making a general assignment for the

benefit of creditors; (iii) being adjudged bankrupt; (iv) filing a voluntary petition or suffering an involuntary petition under any bankruptcy, arrangement, reorganization or insolvency law (unless in the case of an involuntary petition, the same is dismissed within thirty (30) days of such filing); or (v) suffering or permitting to continue unstayed and in effect for fifteen (15) consecutive days any attachment, levy, execution or seizure of all or a substantial portion of Contractor's assets or of Contractor's interests hereunder. In the event of any Default by Contractor, 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.
- D.** In the event of termination under sections 7.A. or 7.B., Contractor shall have no further rights hereunder

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

- A.** "Confidential Information" means, with respect to a Party hereto, all information or material which either (1) is marked or identified as

“Confidential,” “Restricted,” or “Proprietary Information” or other similar marking or identification, or (2) the other Party knew, as recipient, or under the circumstances, should have known, was considered confidential or proprietary by the Disclosing Party (as defined below), except that this Agreement, Contractor pricing, and Contractor proposals incorporated into this Agreement shall not be deemed Confidential Information. Confidential Information shall consist of all information, whether in written, oral, electronic, or other form, furnished in connection with this Agreement by the Disclosing Party or its Representatives (“Representative” is defined as any elected and appointed officials, affiliate, director, officer, employee, agent, advisor or Contractor of a Party or any of its subsidiaries or affiliates) to the Receiving Party (as defined below) or to its Representatives, and specifically includes but is not limited to the City’s individually identifiable customer information, and the City’s customer usage data and financial data.

- B.** Contractor and the City shall each hold the other’s Confidential Information in confidence. Neither Party shall make the other’s Confidential Information available in any form to any third party or use the other’s Confidential Information for any purpose other than as specified in this Agreement. The Party providing Confidential Information (“Disclosing Party”) to the other Party (“Receiving Party”) shall remain the sole owner of such information. Except as provided elsewhere within this Agreement, nothing contained in this Agreement shall be construed as granting or conferring any right or license in any Confidential Information or in any patents, copyrights, software or other technology, either expressly or by implication to the Receiving Party, or to its Representatives or to others. The term Confidential Information shall not include any of the following: (1) information already in possession of, or already known to, the Receiving Party as of the Effective Date without an obligation of confidentiality; (2) information in the public domain at the time of the disclosure, or which, after such disclosure, enters into the public domain through no breach of this Agreement by the Receiving Party or its Representative(s); (3) information lawfully furnished or disclosed to the Receiving Party by a non-party to this Agreement without any obligation of confidentiality and through no breach of this Agreement by the Receiving Party or its Representative(s); (4) information independently developed by the Receiving Party without use of any Confidential Information of the Disclosing Party; (5) information authorized in writing by the Disclosing Party to be released from the confidentiality obligations herein; or (6) this Agreement and Contractor’s proposals and Purchase Orders.
- C.** By virtue of this Agreement, each Party hereto may disclose to the other Party information that is Confidential Information. This Agreement does not diminish, revoke or supersede any existing confidentiality, non-disclosure or similar agreement between the Parties that does not pertain to the subject matter of this Agreement. However, any Confidential Information,

whether or not previously disclosed, that pertains to the subject matter of this Agreement shall be governed by the terms of this Section 11 which shall supersede any such previous agreement with respect to such Confidential Information and any Confidential Information relating to the subject matter of this Agreement that was exchanged under such previous agreement shall be treated as though it was exchanged under this Agreement as of the date of such exchange.

- D.** The Receiving Party will treat all Confidential Information of the Disclosing Party, no matter written, electronic, or oral, as confidential and proprietary, and the Receiving Party shall only use such information in furtherance of this Agreement. As such, the Receiving Party shall hold in confidence the Confidential Information of the Disclosing Party and ensure that such Confidential Information is not disclosed to any other person or entity, except as expressly permitted by this Agreement or as authorized in writing by the Disclosing Party. The Receiving Party shall not disclose Confidential Information of the Disclosing Party received under this Agreement to any person other than its Representatives who require knowledge of such Confidential Information in furtherance of this Agreement. The Receiving Party shall inform its Representatives of the confidential nature of the Confidential Information of the Disclosing Party and advise such Representatives of the limitations on the use and disclosure and prohibition on making copies or summaries of such Confidential Information. The Receiving Party shall be responsible for any breach of this Agreement by its Representatives. Neither Party shall use the Confidential Information of the other Party for any commercial purpose.
- E.** If the Receiving Party becomes legally compelled (by oral questions, interrogatories, request for information or documents, subpoena, civil investigative demand, or similar process) to disclose any Confidential Information of the Disclosing Party or is requested Confidential Information pursuant to the California Public Records Act or similar law, the Receiving Party will provide the Disclosing Party with written notice of such an occurrence (if so permitted) as soon as possible. Thereafter, at its sole costs and expense, the Disclosing Party may seek a protective order or other appropriate remedy or waive compliance with the provisions of this Agreement. If the disclosing Party (i) waives compliance, (ii) fails to respond to the Receiving Party within five (5) business days, or (iii) after providing the notice and assistance required under this Section, the Receiving Party remains required by law to disclose any Confidential Information, the Receiving Party shall disclose only that portion of the Confidential Information that the Receiving Party is legally required to disclose. So long as it is consistent with applicable law, the Receiving Party will not oppose action by, and the Receiving Party will cooperate with, the Disclosing Party, at the Disclosing Party's sole cost and expense, to obtain an appropriate protective order or other reliable assurance that confidential treatment will be accorded the Confidential Information. If the Disclosing Party fails to

obtain such protective order or other remedy, or if the Disclosing Party waives compliance with the requirements of the preceding sentence, the Receiving Party will disclose only that Confidential Information that it is legally required to disclose, and will exercise commercially reasonable efforts, at Disclosing Party's expense, to obtain reliable assurance that confidential treatment will be accorded the Confidential Information so disclosed.

- F.** In the event the Receiving Party discloses, disseminates or releases any Confidential Information, except as expressly permitted by this Agreement, such disclosure, dissemination or release will be deemed a material breach of this Agreement and the Disclosing Party may demand prompt return of all Confidential Information previously provided to the Receiving Party. As soon as the Receiving Party becomes aware that it has made an unauthorized disclosure of Confidential Information, the Receiving Party shall take any and all necessary actions to recover the improperly disclosed Confidential Information and immediately notify Disclosing Party regarding the nature of the unauthorized disclosure and the corrective measures being taken. Each Party agrees that any breach of their confidentiality obligations could cause irreparable harm to the other Party, the amount of which would be extremely difficult to estimate. Accordingly, it is understood and agreed that monetary damages would not be a sufficient remedy for any material breach of this Agreement and that specific performance and injunctive relief in addition to monetary damages shall be appropriate remedies for any breach or any threat of such breach. The provisions of this Paragraph are in addition to any other legal rights or remedies the Disclosing Party may have.
- G.** Within two (2) weeks of the termination of this Agreement, Contractor will return to the City or destroy, to the extent permitted by law, any and all Confidential Information, including all originals, copies, translations, transcriptions or any other form of material, without retaining any copy or duplicate thereof; provided that Contractor may retain Confidential Information contained on backup media created in the ordinary course of business provided further that there is no effort to access such Confidential Information and Contractor's confidential obligations with respect to such information shall continue so long as such information is retained. Contractor shall certify in writing the destruction of the Confidential Information. The City may perform an audit of Contractor's records to confirm the return or destruction of the Confidential Information. The City shall have this audit right for two (2) years after the termination of this Agreement.
- H.** Notwithstanding the termination of this Agreement, this Confidentiality Section shall survive the expiration or earlier termination of this Agreement.

12. OWNERSHIP OF MATERIAL

- A.** City shall furnish to Contractor such documents and materials as may be relevant and pertinent to the provision of Services hereunder as City may possess or acquire.
- B.** All documents and materials furnished by City to Contractor, pursuant to Section 12.A., shall remain the property of City and shall be returned to City upon termination of this Agreement, for any reason. All documents or material prepared or caused to be prepared by Contractor, its officers, employees, agents and subcontractors, in the course of implementing this Agreement, shall be considered works made for hire and shall become the exclusive property of the City, and City shall have the sole right to use such documents and materials without restriction or limitation on their use in City's discretion without further compensation to Contractor or any other party. Contractor shall, at Contractor's sole cost and expense, provide such documents and material to City upon written request.
- C.** Documents and material prepared by Contractor, pursuant to this Agreement, are not intended or represented to be suitable for reuse by City or others on any other project. Any use of completed documents for other projects and any use of incomplete documents without specific written authorization from Contractor will be at City's sole risk and without liability to Contractor. Further, any and all liability arising out of changes made to Contractor's deliverables under this Agreement by City or persons other than Contractor, is waived against Contractor and City assumes full responsibility for such changes unless City has given Contractor prior notice and has received from Contractor written consent for such change.

13. RIGHT OF CITY TO INSPECT RECORDS OF CONTRACTOR

- A.** 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 ("Audit Period"), to audit the books and records of Contractor for the purpose of verifying any and all Contractor invoices and charges.
- B.** Contractor shall keep records and invoices in connection with the Services for the length of the Audit Period. 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.
- C.** Contractor shall use recognized accounting methods in preparing reports and invoices submitted to the City in connection with the Services. City reserves the right to designate its own employee representative(s) or its contracted representative(s) with a certified public accounting firm who shall have the right to audit Contractor's accounting procedures and internal

controls of Contractor's financial systems and to examine any cost, revenue, payment, claim, other records or supporting documentation resulting from any items set forth in this Agreement. If Contractor fails to provide supporting documentation satisfactory to City for costs charged, then Contractor agrees to reimburse City for those costs. Any such audit(s) shall be undertaken by City or its representative(s) at reasonable times and in conformance with generally accepted auditing standards. Contractor agrees to fully cooperate with any such audit(s).

- D. Contractor will be notified in writing of any exception taken as a result of an audit. Any adjustments and/or payments which must be made as a result of any such audit or inspection of Contractor's invoices and/or records shall be made within thirty (30) days from presentation of City's findings to Contractor. If Contractor fails to make such payment, Contractor agrees to pay interest, accruing monthly, at a rate of ten percent (10%) per annum unless another section of this Agreement specifies a higher rate of interest, then the higher rate will prevail. Interest will be computed from the date of written notification of exception(s) to the date Contractor reimburses City for any exception(s). If an audit inspection or examination in accordance with this Section discloses overcharges (of any nature) by Contractor to City in excess of one percent (1%) of the value of that portion of the Agreement that was audited, the actual cost of City's audit shall be reimbursed to City by Contractor.
- E. 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 the Services.

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, 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 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 sole active negligence or sole 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.

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
and manager@santaclaraca.gov

And to Contractor addressed as follows:

ACCO Engineered System, Inc.
888 E Walnut Street
Pasadena, CA 91101
and by e-mail at rmontenegro@accoes.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 (<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.

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.

CITY OF SANTA CLARA, CALIFORNIA
a chartered California municipal corporation

Approved as to Form:

Dated: _____

GLEN R. GOOGINS
City Attorney

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

“CITY”
ACCO ENGINEERED SYSTEMS, INC.
a California corporation

Dated: _____
By (Signature): _____
Name: Hugh Palmer
Title: Assistant Secretary
Principal Place of Business Address: 888 East Walnut Street
Pasadena, CA 91101
Email Address: e-sign@accoes.com
Telephone: (818) 730-5556
“CONTRACTOR”

EXHIBIT A
SCOPE OF SERVICES

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SECTION 1. GENERAL

- 1.1** Contractor shall provide all labor, materials, tools, delivery, and supervision necessary to complete the following on a turnkey basis at Donald Von Raesfeld (DVR) Power Plant for Silicon Valley Power (“SVP”), the Electric Utility of the City of Santa Clara (“City” or “SVP”).
 - 1.1.1** Remove two (2) existing air compressors and two (2) air dryers
 - 1.1.2** Provide and install two (2) new air compressors and two (2) new air dryers
 - 1.1.3** Supply all tools and equipment required for the removal and installation process
 - 1.1.4** Perform commissioning services
- 1.2** Contractor shall provide ongoing preventative maintenance and repair services.
- 1.3** The term “Services” refers to all work required under this Agreement, including but not limited to installation, commissioning, and any tasks necessary for proper system functionality, maintenance, and repair.
- 1.4** The term “Systems” refers to the two (2) new air compressors and two (2) new air dryers as well as any additional equipment added during the Term.
- 1.5** Contractor shall perform the Services in accordance with generally accepted industry best practices and the original equipment manufacturer (OEM) specifications, including but not limited to:
 - 1.5.1** Building Energy Efficiency Standards
 - 1.5.2** Any deviations must be approved in writing by City
- 1.6** To the extent not inconsistent with this Agreement, the City’s RFB 24-25-46 (including subsequent updates) and Contractor’s proposal response dated April 21, 2025, are hereby incorporated by reference herein and shall supplement this Exhibit 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 RFB 24-25-46 or Contractor’s proposal, the Agreement (including its Exhibits) shall govern.

SECTION 2. SERVICES TO BE PERFORMED

- 2.1 Systems Specifications.** The air compressors and air dryers shall meet the following minimum requirements:
 - 2.1.1 Air Compressor**
 - 2.1.1.1** Model: Ingersoll Rand, Model H125A, or approved equal

- 2.1.1.2** Type: Oil-free, with 100% system redundancy
- 2.1.1.3** Capacity: 523 cubic feet (ft.) per minute (CFM) at 125 per square inch gauge (psig)
- 2.1.1.4** Voltage: 480V
- 2.1.1.5** Input/Output (I/O): I/O shall be hardwired to terminal blocks. The I/O shall include, at a minimum, the following signals: run status, trouble status, start command, stop command, lead command, and lag command.
- 2.1.1.6** Controller Access: Provide full access to the controls and setpoints. The controller shall be unlocked to allow access to all software tools necessary for communication and configuration.
- 2.1.1.7** Enclosure Requirements:
 - 2.1.1.7.1** Protect all equipment from all elements and accommodate installation within the existing footprint or with only minor modifications.
 - 2.1.1.7.2** Avoid excessive dismantling of enclosures for easy access during maintenance and repairs
 - 2.1.1.7.3** Reduce sound pressure levels (SPL) to a maximum of 85 expressed in decibels (dBA), measured in a free field 3 ft. horizontally from the enclosure
 - 2.1.1.7.4** SPL stated are expressed in decibels (dB) referenced to 20 micropascals

2.1.2 Air Dryer

- 2.1.2.1** Model: Ingersoll Rand, Model TZ600, or approved equal
- 2.1.2.2** Type: Heatless regenerative non-hazardous desiccant
- 2.1.2.3** Capacity: 523 CFM
- 2.1.2.4** Outlet Dew Point Temperature: -40 Fahrenheit (F)
- 2.1.2.5** Air Trains: Air supplied at a dewpoint of -40 F, with 100% system redundancy
- 2.1.2.6** Performance: Capable of maintaining a constant air supply to the instrument air system

- 2.1.2.7** Vessel Requirements: Air dryer vessels shall handle the pressures and temperatures provided by the new Systems
- 2.1.2.8** I/O: All I/O shall be hardwired to terminal blocks and include run status, trouble status, start command, stop commands, lead command, and lag command.
- 2.1.2.9** Controller Access: Provide full access to controls and setpoints. The controller shall be unlocked to allow access to all software tools necessary for communication and configuration.

2.2 Implementation Services. Contractor shall provide the following services:

2.2.1 Pre-Installation Services

- 2.2.1.1** Provide shop drawings with schematic diagrams, within four (4) weeks after City's execution of the agreement. Drawings must be submitted for City's written approval before placing any Systems order.
- 2.2.1.2** Review any piping modifications with the City before installation and upon completion of the work.
- 2.2.1.3** Coordinate with City to schedule the delivery and installation of the Systems.
- 2.2.1.4** Provide a detailed installation plan and schedule covering all implementation activities, including but not limited to the removal, installation, and testing of the Systems.

2.2.2 Delivery

- 2.2.2.1** Ensure that all products, materials, and equipment are insured against "all risks" from the time they are placed in the possession of the carrier for shipment to/from City until final acceptance by the City.
- 2.2.2.2** Pack and ship all products, materials, and equipment in accordance with good commercial practices.
- 2.2.2.3** Deliveries shall be made during business hours (7:00 A.M. – 5:00 P.M.) to the following address:

City of Santa Clara - DVR Power Plant
850 Duane Avenue
Santa Clara, CA 95054

2.2.3 Removal and Installation Services

- 2.2.3.1** Proceed with the removal and installation after all pre-installation services have been completed and approved by the City.
- 2.2.3.2** Remove and dispose existing systems, including all related equipment and materials.
- 2.2.3.3** Provide complete turnkey installation of the new Systems, and related equipment and materials.
- 2.2.3.4** Provide new piping to connect the Systems to the existing plant systems.

2.2.4 Commissioning Services

- 2.2.4.1** Test all safety controls to ensure full functionality.
- 2.2.4.2** Verify proper operation of the following:
 - 2.2.4.2.1** Pressure control systems
 - 2.2.4.2.2** Integrated systems
 - 2.2.4.2.3** Failover capability performance
 - 2.2.4.2.4** Ability of the Systems to maintain continuous air system between 90 125 psig
 - 2.2.4.2.5** Air supply performance with a dew point of -40°F
 - 2.2.4.2.6** Air delivery performance of 525 standard CFM
 - 2.2.4.2.7** Functionality of the alarm and indicators. The alarm signals and system status indications shall be transmitted to the DVR's Ovation Distributed Control System (DCS). Contractor shall coordinate with City to obtain access to DCS.
- 2.2.4.3** Provide detailed test and inspection reports demonstrating proper operation of the Systems.
- 2.2.4.4** Provide the programming software associated with the Systems.
- 2.2.4.5** Provide training for SVP personnel on basic operation and maintenance procedures.

2.2.5 Final Acceptance and Deliverables

- 2.2.5.1** Perform a final test and inspection for City's approval. Contractor and City shall collaborate to develop a checklist for the final performance acceptance test.
- 2.2.5.2** Provide a final report that includes the Systems' operational requirements outlined in Section 2.2.4.
- 2.2.5.3** Provide a commissioning report that includes detailed test and inspection results, manufacturer's start-up checklist, and a performance evaluation.
- 2.2.5.4** Provide as-built drawings showing the updated layout of the new Systems and related systems (e.g., electrical, piping).
- 2.2.5.5** Provide operating and maintenance (O&M) manuals, warranty documentation, licensed control software, communication cables, and a full backup of the final controller configuration.
- 2.2.5.6** Conduct a joint inspection with the City before final acceptance. The date of final acceptance is the date that the Final Acceptance Certificate (Appendix A-1) is executed by the City. Final acceptance will be required before the release of the final payment.

2.3 Additional Services. When authorized in accordance with the process outlined in Section 9, Contractor shall provide the following services:

- 2.3.1** Routine quarterly, semiannually, and annual maintenance in accordance with the O&M manuals. Services may include, but are not limited to:
 - 2.3.1.1** Take service readings before and after maintenance.
 - 2.3.1.2** Check and replace air filter elements.
 - 2.3.1.3** Check and replace filter element of gear case breather.
 - 2.3.1.4** Check and replace cycle and diaphragm of air throttle valve.
 - 2.3.1.5** Replace shaft bushing and overhaul air intake valve.
 - 2.3.1.6** Replace blow-off silencer.
 - 2.3.1.7** Verify check valve operation.

- 2.3.1.8** Check coolers function, conditions of balance piston diaphragm, and condensate drain(s).
 - 2.3.1.9** Overhaul check valve and main drive motor.
 - 2.3.1.10** Replace inserts, drive coupling, main shaft bearings, and rubber buffers.
 - 2.3.1.11** Change oil/coolant replacement, including compressor oil filter.
 - 2.3.1.12** Perform other OEM-recommended services and parts necessary for continued operation.
- 2.3.2** Repair and replace parts and consumables. Such parts and consumables include, but not limited to:
 - 2.3.2.1** Compressors and motors
 - 2.3.2.2** Bearings, coolers, and receivers
 - 2.3.2.3** Belts, pumps, and air dryers
 - 2.3.2.4** Relief valves, regulators, and desiccant
 - 2.3.2.5** Instrumentation, filters, and local gauges
 - 2.3.2.6** Hoses, Tubing, and Piping
- 2.3.3** Provide rental of temporary systems and related equipment as needed to support System functionality during repairs or to accommodate an increase in system capacity.
- 2.3.4** Provide miscellaneous maintenance and repair services related to the Systems.

SECTION 3. SPECIFIC REQUIREMENTS

- 3.1** Contractor shall be responsible for providing the following, as required for the Services:
- 3.1.1** Supervision and administrative support
 - 3.1.2** Program and project management services
 - 3.1.3** Scheduling and logistical planning
 - 3.1.4** Subcontractor management

- 3.1.5** On-site crane support
- 3.1.6** On-site cribbing and rigging
- 3.1.7** On-site scaffolding services (if needed)
- 3.1.8** On-site miscellaneous services (portable restroom facilities, rental equipment such as light standards, generators, fueling services, etc.)
- 3.1.9** Expedited procurement and transportation of materials, parts, and equipment when requested by the City.

SECTION 4. REPORTS

4.1 Service Reports

- 4.1.1** For the additional services outlined in Section 2.3 of this Exhibit, and within seven (7) days after final acceptance by the City of Services Contractor shall provide a report to the City, which shall include the following information:
 - 4.1.1.1** Type of service such as preventative maintenance, inspection, repair, testing
 - 4.1.1.2** Summary of existing conditions
 - 4.1.1.3** Description of noted issues/deficiencies (including photos) and recommended corrective action
 - 4.1.1.4** Description of service/repairs performed
 - 4.1.1.5** Summary list of spare parts and materials inventory including serial number of all parts removed and installed
 - 4.1.1.6** Other information that may be requested by the City.

4.2 Status Reports

- 4.2.1** Contractor shall provide regular cost, schedule, and status updates on Services performed throughout the Term.
- 4.2.2** Depending on the nature and scope of the Services, Contractor may be required to provide status updates daily, weekly, or monthly at the direction of City.

- 4.3** Contractor shall provide all reports in electronic format and hard copy if requested by the City.

SECTION 5. COMPLETION OF SERVICES

All Services shall be completed in a timely, efficient manner so as to ensure the site, equipment, and/or system is operational as soon as possible.

SECTION 6. HOURS AND DAYS OF SERVICE

Contractor will generally perform the required Services during regular business hours, Monday through Friday. City will, at its discretion, allow access during non-business hours when required.

SECTION 7. SCHEDULING AND PLANNING

- 7.1** Contractor will coordinate with City to schedule outages associated with performance of Services. When requested by City, Contractor shall be able to plan, staff and execute scheduled maintenance and inspections with thirty (30) days advance notice.
- 7.2** Contractor may be required to work shifts longer than twelve (12) hours per day or alternative shifts including night shifts.
- 7.3** Emergency Services. Contractor shall be available to provide 24-hour emergency services, seven (7) days per week, 365 days per year. Contractor shall provide an answering service contact phone number at which an individual can be reached at any time. Contractor shall respond via phone or email to an emergency request within 24 hours of the City's notification. Contractor and City shall mutually agree on scheduling the required emergency service.
 - 7.3.1** Contractor shall be on-site within 48 hours from notification to perform the Services.
 - 7.3.2** Contractor shall repair the affected equipment or resolve the emergency within seven (7) business days. If Contractor is unable to repair the affected equipment or resolve the emergency within seven (7) business days, Contractor shall provide to the City a plan and schedule detailing when the emergency shall be resolved.

SECTION 8. SERVICE CHANGE REQUESTS (SCR)

- 8.1** During the performance of the Services, changes to the Services may be necessary to address unforeseen conditions, site constraints, or operational requirements
- 8.2** Either the Contractor or City may propose an SCR. The proposed SCR shall be documented in writing and describe:
 - 8.2.1** The nature of the change.

8.2.2 The reason for the change.

8.2.3 The impact on schedule.

8.2.4 The impact on cost, if any.

8.3 The City's designated Project Manager shall have authority to review and approve SCRs, provided that the maximum compensation authorized under the applicable Purchase Order is not exceeded and the SCR does not materially alter the terms of the Agreement, except to modify the scope of Services.

8.4 Upon the City's Project Manager's written approval, Contractor shall proceed with the change. If the SCR exceeds the maximum compensation of a Purchase Order, City will review and issue a revised Purchase Order, if appropriate. All approved SCRs shall be incorporated into the Services .

SECTION 9. PURCHASE ORDER ISSUANCE AND ADDITIONAL SERVICES

9.1 General Requirement. All Services under this Agreement must be approved by the City prior to commencement of work through a valid Purchase Order issued by the City. Contractor shall not perform any Services without such authorization. No Purchase Order or cumulative Purchase Order shall exceed the maximum compensation of the Agreement. All issued Purchase Order shall be incorporated the Agreement.

9.2 Additional Services

9.2.1 "Additional Services" means any services listed in Section 2.3 of this Exhibit, or other services not expressly included within the Scope of Services but are related or necessary for their completion. Additional Services may include, but are not limited to, repairs, replacement of parts, or rentals of temporary systems.

9.2.2 Prior to commencing any Additional Services, Contractor shall submit a proposal outlining the scope of the Additional Services to be provided, an estimate for labor and materials, and the proposed maximum fee. The City shall approve all Additional Services in writing.

9.2.3 Such services shall be billed at either the rates set forth in Appendix B-1, if applicable, or at a fixed price mutually agreed upon by the Parties. Once approved in writing by the City, these Additional Services shall be incorporated into the Agreement and deemed part of the Services without requiring a formal amendment. Contractor shall provide the approved Additional Services.

SECTION 10. WORKMANSHIP

- 10.1** Contractor shall perform all Services in a professional and environmentally responsible manner that meets or exceeds industry and professional standards of performance. All Services shall be performed by a Contractor employee skilled in the particular task to which they are assigned.
- 10.2** All parts and/or components replaced or newly installed in the system shall be factory new and free of defects in title, materials and workmanship at the time of their delivery and installation. However, if approved by the City, Contractor may use rebuilt parts or new parts from another manufacturer if such alternate parts and/or components are approved by the original manufacturer and/or City for use in the specific piece of equipment of the system.
- 10.3** Poor or inferior workmanship, as determined at the sole discretion of the City, shall be removed and replaced to conform to the quality standards of the industry, or otherwise corrected to the City's satisfaction, at Contractor's sole expense.
- 10.4** City reserves the right to inspect any Services performed by Contractor and its subcontractors. If, upon inspection, the City determines that there is any unsatisfactory or defective Services, the Contractor must correct the Services at no additional cost to the City.

SECTION 11. PERMITS AND LICENSES

- 11.1** Contractor shall obtain, maintain, and pay for all licenses, permits, and certificates required by any statute, ordinance, rule, or regulation in order to perform the Services.
- 11.2** Contractor is responsible for obtaining an 811-dig permit for any Services that require digging.

SECTION 12. WARRANTY

- 12.1 Services.** All Services shall carry a warranty of a minimum of twelve (12) months from the date of completion of Services. Contractor shall perform all warranty-related work at no additional cost to the City.
- 12.2 Systems and Parts.** Contractor shall provide a minimum warranty of no less than the greater of either twelve (12) months or 8,000 hours from the final acceptance date 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 shall include a warranty of twelve (12) months. Contractor shall provide the City with a copy of the any manufacturer's warranty or extended manufacturer's warranty.

- 12.3** 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 13. CITY FURNISHED MATERIALS

Contractor shall credit the City for any City-furnished materials that are used, lost, stolen, damaged or rendered unusable by actions of Contractor.

SECTION 14. WORK AREA

- 14.1** Contractor shall ensure that work area, where Services or other related work are being performed, is free from all surplus materials, waste materials, debris, spills, dirt and rubbish caused by Contractor's performance of Services. Upon completion of the scheduled Services or at the end of each day, whichever comes first, Contractor shall ensure the work area is in a clean safe condition. The City shall be the sole judge as to the adequacy of the cleanup.
- 14.2** Contractor shall follow all directions of City with regard to clean-up both during the course of, and upon completion of Services. If Contractor fails to clean up the work area within forty-eight hours (48) after demand by the City, City may charge Contractor for any costs of clean-up or other services required to adequately protect the City's electrical or other facilities or to restore work area to a safe condition. City may invoice Contractor or deduct costs from Contractor's invoice at City's sole discretion.
- 14.3** Contractor must provide work and traffic signage as required to warn pedestrians and vehicular traffic of work in progress. 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.
- 14.4** Contractor shall make all reasonable efforts to minimize obstructions and inconvenience to City's operations and others who may be impacted by Contractor's Services.

SECTION 15. CONTRACTOR'S EQUIPMENT, TOOLS, AND MATERIALS

- 15.1** Contractor shall provide all equipment, tools (including any specialty tooling), and materials required for the performance of the Services. City will not loan tools or equipment to Contractor. Neither Contractor nor its workers shall attempt to borrow tools or other materials from City personnel.

- 15.2** Contractor shall maintain tools and equipment in proper operating condition and used only for the purpose for which they were designed. City reserves the right to suspend Services if improper tools or equipment are being used or operated.
- 15.3** Contractor shall safely store and secure tools, equipment, and vehicles under lock and key when not in use. Contractor will not leave keys in any vehicles or equipment when not in use. Contractor shall promptly report to the City any loss or damage to tools, equipment, or vehicles.
- 15.4** City will not be responsible for the loss of tools, equipment, or materials.

SECTION 16. DISPOSAL OF WASTE AND SCRAPS

- 16.1** All wastes generated or encountered in the performance of Services must be managed in accordance with all applicable local, State, and federal regulations and laws. Contractor is solely responsible for arranging and implementing proper handling, management, storage, transport, and disposal of all wastes including any hazardous materials.
- 16.2** Contractor shall provide the City with a written report of all disposal of materials within twenty-four (24) hours of disposal unless a shorter timeline is required by local, state, and/or federal regulations.
- 16.3** Contractor shall recycle all material scraps, and credit the value to the City.

SECTION 17. SAFETY

- 17.1** Safety must always be the top priority. Contractor shall take all necessary precautions for the safety of all persons at the work site. Contractor must erect and properly maintain at all times, as required by the conditions and progress of the Services, all necessary safeguards for the protection of all persons and the public including posting danger signs and warnings against known or unusual hazards.
- 17.2** Contractor shall perform Services according to accepted industry standards and work/safety practices, including but not limited to the National Fire Protection Association (NFPA) Codes NFPA 70, 70B, and 70E, National Electrical Manufacturer's Association (NEMA), NETA, and IEEE standards.
- 17.3** Contractor shall maintain an effective Injury and Illness Prevention Program (IIPP) in writing pursuant to Section 3203, Title 8 of the California Code of Regulations (CCR). The written plan shall include specific instructions with regard to hazards unique to the employee's job assignment. Contractor will submit a copy of Contractor's IIPP at the City's request and Contractor shall make Contractor's IIPP available on-site.

- 17.4** Contractor shall schedule safety inspections as necessary and as may be requested by the City to identify and correct unsafe conditions and practices. The City reserves the right to accompany Contractor during these inspections.
- 17.5** Contractor must comply with all site-specific safety requirements and procedures including but not limited to Lockout/Tagout (LOTO), Energy Isolation, Confined Space, Fall Protection, Chemical Safety, Hazardous Waste, and Personnel Protective Equipment (PPE). Contractor must comply with SVP's clearance program for equipment safety requirements. City will provide the clearance program to the Contractor.
- 17.6** Contractor's employees (including any subcontractors) must use appropriate Personal Protective Equipment (PPE) and Fire Resistant (FR) clothing, as required. Any required PPE and FR clothing shall be provided at the expense of Contractor.
- 17.7** When requested by the City, Contractor shall provide an on-site Safety Manager/Supervisor to ensure compliance with all applicable safety rules and regulations. The onsite Safety Manager will perform daily audits and submit daily reports to the City that identify discrepancies or non-compliance, and provide direction in regards to safety rules and regulations to Contractor Project Manager/On-Site Supervisor (as defined in Section 18) and Contractor employees.

SECTION 18. INJURY/PROPERTY DAMAGE

Contractor shall notify the City immediately in the event of an injury or property damage that occurs during the performance of Services. Contractor shall investigate the reported injury or damage upon request from City and provide City with regular updates including all accident reports until the investigation is resolved. City reserves the right to perform its own investigation. Should City choose to conduct its own investigation, Contractor shall assist as required.

SECTION 19. CONTRACTOR PERSONNEL

19.1 Project Manager/On-Site Supervisor

Contractor must designate one (1) Project Manager or On-Site Supervisor to communicate with the City during the performance of Services. The Project Manager/On-Site Supervisor is the designated point of contact for the City to communicate tasks and receive feedback. The Project Manager/On-Site Supervisor must be capable of communicating effectively with City staff.

19.2 Staffing

- 19.2.1** Contractor shall be responsible for its employees' professional and technical competence and will select appropriate individuals who are qualified, certified, and/or licensed to perform the assigned task.

- 19.2.2** Contractor shall ensure its employees and any subcontractors supply proper identification when requested by the City.
- 19.2.3** Contractor shall inform City immediately of any change in key personnel assigned to this agreement. Contractor shall submit the resumes and other qualifications of the proposed replacement employee(s) to City for review and approval.
- 19.2.4** City may reasonably request reassignment of key staff, including the Project Manager. In the event of a request, Contractor shall submit the resumes and other qualifications of proposed replacement employee(s) to City for review and approval.

19.3 Employee Training

- 19.3.1** At Contractor's sole cost and expense, Contractor shall provide recurring, periodic (no less than annual) training to its employees (including subcontractors) appropriate to the duties and responsibilities of each employee.
- 19.3.2** It is essential that all employees be thoroughly trained and familiar with the equipment and procedures to be followed.
- 19.3.3** Contractor's training program shall follow Contractor's standard policies and procedures and shall be in compliance with all applicable federal, state, and local laws, including but not limited to safety and injury prevention training requirements contained in the OSHA standards.
- 19.3.4** Contractor shall be familiar with SVP's operating standards. All employees are required to watch SVP's safety video once per calendar year or prior to the commencement of the Services.
- 19.3.5** At the City's request, Contractor shall submit copies of training records for its employees.

19.4 Standards of Conduct

- 19.4.1** Contractor is solely responsible for its employees while on or about the work site. This includes but is not limited to, maintaining discipline, ensuring standards of conduct are adhered to, and enforcing safety policies, procedures, and orders. Contractor shall ensure that while on or about the work site, its employees do not:
 - 19.4.1.1** Display a discourteous, abrupt, abrasive, or belligerent attitude.

- 19.4.1.2** Use any prescribed or over-the-counter medications which can potentially impair the employee's ability to perform the Services safely.
- 19.4.1.3** Present or identify themselves as employees of the City of Santa Clara.
- 19.4.1.4** Possess or use any firearms, narcotics, drugs, intoxicants, or other restricted materials while on City premises or performing Services.
- 19.4.2** If a Contractor employee fails to meet these standards of conduct, Contractor shall immediately remove the employee and provide a replacement. Contractor shall determine appropriate disciplinary actions in accordance with its own policy, a copy of which may be requested by the City at any time.
- 19.4.3** In the event that a complaint is made against a Contractor employee, Contractor shall notify the City immediately and provide a written explanation detailing how the situation was resolved.

SECTION 20. E-BUILDER

- 20.1** Use of e-Builder. When required by City, Contractor shall use e-Builder for submission of data and documents to City throughout the Term. 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.
- 20.2** Access to e-Builder. 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 at any time.
- 20.3** E-builder Training. Contractor is required to obtain all necessary training to use the e-builder software. Contractor must participate in at least one classroom training or a web-based seminar as determined by City.
- 20.4** Connectivity to e-Builder. e-Builder is a web-based environment and therefore it is subject to the inherent speed and connectivity limitations of the Internet. 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 Contractor's use of e-Builder including, but not limited to slow response time, downtime 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 Contractor's use of e-Builder be grounds for a time extension or cost adjustment to the Agreement.

- 20.5** Acceptance of Information. 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. Contractor is responsible for managing, tracking, and documenting the Services and to comply with the requirements of this Agreement. The City's acceptance of documentation in e-builder 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.
- 20.6** Format of Project Documents. In addition to submittal of documents through e-Builder, at the City's sole discretion, the City may require Contractor to submit documents in hard copy format, or both electronic and hard copy format.
- 20.7** Project Communication. While regular email may still be used for communication, when requested by City, e-Builder shall be used as much as possible in connection with all document and information management required in the performance of work where City has directed the use of e-Builder. Contractor shall be responsible for scanning or otherwise converting to electronic format all submittals, correspondence, drawings, sketches, payment requests, change orders, reports, and other documents, and uploading them to the e-Builder website. Contractor shall be responsible for the validity of its information placed in e-Builder. Contractor shall use the existing forms and processes in e-Builder to the maximum extent possible. If a required form does not exist in e-Builder, Contractor may include a form of its own or one provided by the City (if available) as an attachment to a submittal or process.
- 20.8** 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 e-Builder for the duration of the Agreement. Such data shall be available to City, and authorities with the jurisdiction (including funding agencies or representatives) on demand.
- 20.9** Should the City replace e-Builder with a different project management tool, Contractor, and subcontractors shall be required to use the new project management tool selected by the City.

SECTION 21. TRANSPORTATION, SHIPPING AND FREIGHT

- 21.1** Contractor shall be responsible for shipment and delivery of all required products, parts, materials, and equipment to City. Contractor will pay all freight charges which may be reimbursed subject to the terms of Section 2 of Exhibit B. All products, parts, materials, and equipment shall be entirely at Contractor's risk from

the time they are placed in possession of the carrier for shipment to/from City until final acceptance by the City.

- 21.2** Contractor will pack and ship all products, parts, materials, and equipment in accordance with good commercial practices.
- 21.3** Contractor shall ensure that products, parts, 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 the City until received by the City at the location set forth in the applicable Purchase Order.
- 21.4** Contractor shall notify City at least sixty (60) minutes prior to arrival of any deliveries to City. City will provide a contact name and phone number to the Contractor.

**APPENDIX A-1
FINAL ACCEPTANCE CERTIFICATE**

After the City is satisfied with the Air Compressor and Air Dryer ("Systems") installation, as specified herein, the City will initiate execution of the Final Acceptance Certificate.

Customer Name: **City of Santa Clara ("City")**

Project Name: **Air Compressor and Air Dryer Replacement and Maintenance Services, RFB # 24-25-46**

This Final Acceptance Certificate memorializes the occurrence of System Acceptance.

Contractor and the City acknowledge that:

1. Contractor has completed all Services promised under this Agreement.
2. The Systems are accepted, and all punch list items generated during testing have been completed.
3. By acknowledging the Final Acceptance of the Systems, the City agrees to pay any remaining and approved outstanding invoices to Contractor, including previously withheld retainage.

**City of Santa
("City")**

**ACCO Engineered Systems, Inc.
("Contractor")**

By: _____ By: _____

Name: _____ Name: _____

Title: _____ Title: _____

Date: _____ Date: _____

EXHIBIT B
SCHEDULE OF FEES AND PAYMENT PROVISIONS

SECTION 1. MAXIMUM COMPENSATION

- 1.1** The maximum compensation payable to Contractor during the Term shall not exceed \$900,000 (Maximum Compensation). This amount includes the fixed system implementation cost set forth in Section 2.1 and any City-approved additional services.

SECTION 2. SYSTEM IMPLEMENTATION COST

- 2.1** Contractor shall provide all equipment, materials, and labor to provide System replacement as specified in Section 2.1 and 2.2 of Exhibit A on a firm fixed fee basis as set forth in Table B1.

Table B1: System Implementation Cost

Services	Amount
System Replacement	\$516,800
On-site Services: Removal, Installation, and Commissioning	\$197,000
Subtotal - Firm Fixed Price	\$713,800
Estimated Taxes (9.125%) for the total systems cost of \$516,800	\$47,158
Total System Implementation Cost	\$760,958

- 2.2** If Contractor requires changes to the firm-fixed-price scope, 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 or field conditions. Any approved increase in the fixed fee shall utilize funds set aside for additional services under the Maximum Compensation. Contractor shall not be entitled to additional payment for issues such as errors in the calculation of original pricing or other changes that are not directly related to changes requested by City.
- 2.3** Payment shall be made to Contractor by City following acceptance of designated milestones, as shown in Table B2 of this Exhibit. Contractor shall prepare an invoice that includes an itemization of all time spent and activities performed. Contractor shall not invoice amounts requiring submittal of certified payroll in advance of the performance of those services.
- 2.4** All payments are based upon City's acceptance, as evidenced by the successful completion of each milestone. City shall have no obligation to pay unless

Contractor has successfully completed, and City has approved the milestone for which payment is due.

- 2.5** The signed Final Acceptance Certificate (Appendix A-1) triggers final payment and the start of the warranty period.

Table B2: Milestone Payment Schedule:

Milestone	Payment Percentage	Payment Amount
Final Approval of Shop Drawings	10%	\$71,380
Delivery of Systems	30%	\$214,140
After Installation	50%	\$356,900
Final Acceptance	10%	\$71,380
Subtotal		\$713,800
Estimated Taxes to be paid on total systems cost of \$516,800 upon delivery		\$47,158
Total Payments		\$760,958

SECTION 3. RATES FOR ADDITIONAL SERVICES

- 3.1** Rates. Except for those Services authorized at fixed price, Contractor shall submit proposals and invoice all Services at the rates listed in Table B3 in Appendix B-1 (RATES) attached and incorporated by reference.
- 3.2** Rates listed in Table B3 are fully burdened and will remain fixed for the first two (2) years of the Agreement.
- 3.3** Rate Changes.
- 3.3.1** Rate Increase. After the first two (2) years of the Agreement, Contractor may request a pricing increase not to exceed two percent (2%) 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.
- 3.3.2** Rate Changes. Rate changes other than rate increases such as, but not limited to, addition of labor classifications shall be negotiated and authorized pursuant to this section in advance of performing services for which rates are applicable.
- 3.3.3** Any rate increases are subject to approval by the City and must be substantiated by the Contractor to the satisfaction of the City.

- 3.4** Reimbursable Expenses. Contractor may pass through costs such as, but not limited to printing, materials, equipment, and travel as listed in the Reimbursable Expenses Schedule in this Section. Any and all reimbursable expenses related to each Purchase Order shall be described in Contractor's proposal and accounted for in the total cost for each proposal 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 by City, (4) Contractor submits receipts, invoices, or other supporting documentation demonstrating that such reimbursable costs were incurred, and (5) any Mark Up conforms with the Reimbursable Expense Schedule below.

Reimbursable Expense Schedule		Mark Up
1.	The cost of mailing, shipping and/or delivery of any documents or materials.	No Markup
2.	The cost of photographing, printing, reproducing and/or copying any documents or materials.	No Markup
3.	Charges for outside parts, materials, equipment, and services (including subcontractor fees, equipment, rental equipment, materials, and facilities not furnished directly by Contractor).	Not to exceed 10%
4.	Contractor may charge allowable mileage at the prevailing IRS rate per mile. Mileage is not applicable to rental cars. Rental cars are reimbursed at actual fuel cost only.	No Markup
5.	Unless approved in writing (e-mail acceptable) in advance, reimbursement to Contractor (and any subcontractors) for meals, lodging, and related per diem will not exceed the rates outlined by United States General Services Administration (GSA). https://www.gsa.gov/travel-resources . Airfare or rental car, where applicable shall be at economy rates.	No Markup
6.	Other reimbursable expenses with prior written approval from the City.	No Markup

SECTION 4. PAYMENT PROVISIONS

- 4.1** System Replacement Services. For the fixed price services specified in Section 2.1 and 2.2 of Exhibit A, Contractor shall invoice pursuant to the payment milestones in Section 1 of this Exhibit.

- 4.2** Time and Materials. For Services authorized to be paid on a time and materials, Contractor shall provide an invoice to the City aligned with each Purchase Order. The invoice must include the following information:
- 4.2.1** Invoice Number, Purchase Order Number, and Invoice Period.
 - 4.2.2** Current amount due with a time and materials breakdown: titles, hours, hourly rates, and any City approved reimbursable expenses itemized with supporting documentation.
 - 4.2.3** Sufficient detail for City to verify (a) that the charges are in accordance with the Purchase Order, (b) that rates listed in Appendix B-1 are charged, and (c) where applicable, hours worked can be matched to certified payroll submittals.
- 4.3** 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 Purchase Order 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 and subject to the following:
- 4.3.1** Invoices must include the following information:
 - 4.3.1.1** Invoice Number, Purchase Order Number, and Invoice Period.
 - 4.3.1.2** Detailed information on the Services performed on each deliverable or task completed on each project, as applicable.
 - 4.3.2** Contractor shall not invoice labor costs subject to prevailing wages in advance of performing the applicable Services.
 - 4.3.3** With regard to milestone payments, Contractor shall invoice each milestone payment in full. Contractor shall not separate milestone payments into multiple invoices.
- 4.4** Pre-Payment. City shall not be required to pay a deposit or any other form of pre-payment prior to Contractor beginning the Services.
- 4.5** 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.
- 4.6** 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.

- 4.7** Accurate Invoice. If the invoice submitted by Contractor is not accurate, the invoice may be returned to Contractor to correct and resubmit before payment can be processed.
- 4.8** 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.
- 4.9** Confidential. Invoices are not confidential even if marked as confidential when submitted.

APPENDIX B-1 RATES

1. RATES

- 1.1. Contractor shall charge, and the City shall pay for actual Services rendered and authorized by the City. The rates applicable for the Additional Services are listed below in Table B3 - Labor, Service, and Equipment Rates.
- 1.2. In cases where services are required but not listed below, Contractor shall submit rates for approval by the City in advance, in writing before performing the services in accordance with the process outlined in Section 9 of Exhibit A.

Table B3: Labor, Service and Equipment Rates:

Labor Classification	Straight Time Hourly Rate	Overtime Hourly Rate	Double Time Hourly Rate
Project Manager	\$175.00	N/A	N/A
Foreman	\$225.00	\$337.50	\$450.00
Journeyman	\$225.00	\$337.50	\$450.00
Apprentice	\$215.00	\$322.50	\$430.00
Supervisor	\$225.00	\$337.50	\$450.00
Service Technician	\$225.00	\$337.50	\$450.00
Chiller and Plumbing Technician	\$242.00	\$385.50	\$514.00
Technician Truck with Tools	\$95.00 per visit / per technician		
Service	Rate		
Oil and Coolant Replacement	\$7,000 per visit / per system		
Oil Disposal of Hazardous Material	\$50.00 per gallon		

Equipment	Daily Rates
OXE / Torch / Welding	\$75.00
Vibration Analyzer	\$400.00
Laser Alignment	\$300.00
Parts	
Parts manufactured by Contractor shall be at price authorized by the City. Parts from the original equipment manufacturer shall be at Contractor's actual cost plus a 10% markup. Where a markup is applied, Contractor shall provide receipts or invoices pursuant to Section 3.4 of Exhibit B.	

2. DEFINITIONS

The following definitions apply to the rates listed in Table B3.

- 2.1. **"Straight Time"** means the first eight (8) hours worked per day Monday through Friday, excluding Holidays ("Holidays").
- 2.2. **"Holidays"** means New Year's Day, Martin Luther King's Birthday, Washington's Birthday, Good Friday, Friday before Memorial Day, Memorial Day, working day before Independence Day, Independence Day, Friday before Labor Day, Labor Day, Veteran's Day, Thanksgiving Day, the day after Thanksgiving, Christmas Eve, Christmas Observed, the day after Christmas, and New Year's Eve.
- 2.3. **"Overtime"** means the:
 - 2.3.1. hours worked in excess of eight (8) hours per day, from Monday through Friday; or
 - 2.3.2. first eight (8) hours worked on Saturdays.
- 2.4. **"Double Time"** means the:
 - 2.4.1. hours worked in excess of twelve (12) hours per day Monday through Friday; or
 - 2.4.2. hours worked in excess of eight (8) hours on Saturdays; or
 - 2.4.3. hours worked during Holidays; or
 - 2.4.4. hours worked on Sundays.

EXHIBIT C

INSURANCE REQUIREMENTS

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:

A. COMMERCIAL GENERAL LIABILITY INSURANCE

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
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.
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:
 - a. Coverage shall be on a "pay on behalf" basis with defense costs payable in addition to policy limits;
 - b. There shall be no cross liability exclusion which precludes coverage for claims or suits by one insured against another; and
 - c. 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.
4. 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.

B. BUSINESS AUTOMOBILE LIABILITY INSURANCE

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 one million dollars (\$1,000,000) 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.

2. 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.

C. WORKERS' COMPENSATION

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.
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).
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.

D. POLLUTION LIABILITY

Pollution Liability with a limit of not less than \$2,000,000 per occurrence and in the aggregate. Policy shall provide coverage while onsite, during transport and for any disposal required. Coverage under a "claims made" policy will remain in effect for a period of five (5) years after the final completion date of all Work.

E. COMPLIANCE WITH REQUIREMENTS

All of the following clauses and/or endorsements, or similar provisions, must be part of each commercial general liability, business automobile liability, pollution liability, and each umbrella or excess policies.

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.
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.

3. Cancellation.

- a. 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.
- b. 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 non-renewal, written notice shall be given at least thirty (30) days prior to the effective date of non-renewal.

4. 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 D of this Exhibit C, above.

F. ADDITIONAL INSURANCE RELATED PROVISIONS

Contractor and City agree as follows:

1. 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.
2. 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

3. 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.

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.

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 Electric Department
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

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

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. 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.

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 who fail to register and maintain their status as a public works contractor shall not be permitted to perform work on the project.
10. Should any contractor or subcontractors not be a registered public works contractor and perform work on the project, Contractor agrees to fully indemnify the City for any fines assessed by the California Department of Industrial Relations against the City for such violation, including all staff costs and attorney's fee relating to such fine.
11. This project is subject to compliance monitoring and enforcement by the Department of Industrial Relations.

B. Audit Rights

All records or documents required to be kept pursuant to this Agreement to verify compliance with this 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.

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 Exhibit.
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.