

**AMENDMENT NO. 1  
TO THE AGREEMENT FOR SERVICES  
BETWEEN THE  
CITY OF SANTA CLARA, CALIFORNIA,  
AND  
GAVIN D. YATES  
DOING BUSINESS AS  
NORTHWEST INDUSTRIAL ENGINE & COMPRESSOR CO.**

**PREAMBLE**

This agreement ("Amendment No. 1") is entered into between the City of Santa Clara, California, a chartered California municipal corporation (City) and Gavin D. Yates, doing business as Northwest Industrial Engine & Compressor Co., a California sole proprietorship ("Contractor"). City and Contractor may be referred to individually as a "Party" or collectively as the "Parties".

**RECITALS**

- A. The Parties previously entered into an agreement entitled Agreement for Services by and Between the City of Santa Clara, California and Gavin D. Yates Doing Business as Northwest Industrial Engine & Compressor Company, dated June 21, 2023; and
- B. The Parties entered into the Agreement for the purpose of having Contractor provide gas and air compressor preventative maintenance, and as needed services; and
- C. The Parties now wish to amend the Agreement to update the Work Authorization Process and increase the maximum compensation.

NOW, THEREFORE, the Parties agree as follows:

**AMENDMENT TERMS AND CONDITIONS**

- 1. Section 6 of the Agreement, entitled "COMPENSATION AND PAYMENT" is amended to read as follows:

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

2. Section 5 of Exhibit A entitled of the Agreement is hereby amended in its entirety to read as follows: .

## **5. WORK AUTHORIZATION PROCESS**

### **5.1 Non-Emergency Work**

5.1.1 When Services are required, City will notify Contractor to provide a proposal for Services. City will provide a description of the Services required and any other relevant information (Work Request).

5.1.1. Proposal. Contractor shall prepare and submit a proposal (Proposal) for each Work Request that includes:

5.1.1.1 A work plan that includes a detailed description by task of the services to be performed.

5.1.1.2 A project timeline/schedule with discussion on any activities that may impact the project timeline/schedule.

5.1.1.3 A list of Contractor's personnel and subcontractors including subcontractor Department of Industrial Relations (DIR) number where required.

5.1.1.4 Any required drawings or documents.

5.1.1.5 A list of City responsibilities.

5.1.1.6 A final acceptance criteria.

5.1.1.7 An itemized cost proposal showing:

5.1.1.7.1 Hours and hourly rates by position as listed in Exhibit B for both Contractor and subcontractor personnel if applicable. Indicate labor subject to prevailing wage requirements.

5.1.1.7.2 Parts/materials.

5.1.1.7.3 Rental and/or specialty equipment.

5.1.1.7.4 Reimbursable expenses, in accordance with the limitations set forth in Exhibit B.

5.1.1.7.5 Any additional costs including, but not limited to freight, permits, and fees.

5.1.1.7.6 Breakdown of materials and labor sufficient to calculate all required taxes.

5.1.1.7.7 Estimated total cost including any required taxes.

5.1.1.8 All submitted pricing shall be in accordance with the rates authorized in Exhibit B of this Agreement and the Proposal shall include sufficient information for the City to determine that rates are in accordance with the Agreement.

5.1.1.9 Cost for any additional equipment, parts, or services required for completion of services as detailed in the Work Request and in Contractor's Proposal but not reflected in the Contractor's cost proposal shall be the sole responsibility of the Contractor and at no additional cost to the City.

5.1.1.10 The City will review the Proposal, and may elect to approve it, reject it, or use it as a basis for further negotiations with Contractor.

5.1.1.11 Contractor must submit a revised Proposal to the City based upon such negotiations.

5.1.2 Work Authorization:

5.1.2.1 If the completion of the services in the Proposal will not result in total costs under this Agreement exceeding the maximum compensation in Section 6 of the Agreement (when combined with all previously authorized Services), the City may authorize services as set forth in this Section.

5.1.2.2 For Proposals with a total cost exceeding \$50,000, Work Authorizations shall be issued in substantially the same format as Exhibit E. Each Work Authorization shall describe the proposed services and deliverables the Contractor must provide, the time limit within which the Contractor must complete the proposed service and deliverables, the system acceptance criteria, warranty provisions, and the compensation for the Services.

5.1.2.3 Subject to the terms and conditions of this Agreement, Contractor and City will negotiate the specific scope and requirements of each Work Authorization.

5.1.2.4 Each Work Authorization shall have a Purchase Order attached to it. A Purchase Order ("Purchase Order") is a document issued by the City of Santa Clara Finance

Department which will reference the terms and conditions of this Agreement and serves as final approval for each Work Authorization, except in those situations set forth in Section 5.1.1.5 below.

5.1.2.5 For Proposals with a total cost less than \$50,000, a signed Work Authorization is not required. The City will issue a Purchase Order authorizing services and the Purchase Order will serve as the Work Authorization.

5.1.2.6 Only the Assistant Director of the Electric Utility, Electric Utility Chief Operating Officer, or Chief Electric Utility Officer may, on behalf of the City, execute a Work Authorization. Purchase Orders are issued by the Finance Department.

5.1.3 Changes to Work Authorization:

5.1.3.1 Contractor shall notify the City immediately when a situation occurs that may result in a change to the total project cost or specific line items in an Work Authorization or purchase order. Contractor shall provide the reason for the change specific to each Work Authorization or purchase order.

5.1.3.2 In the event that unanticipated site conditions or other issues result in costs that exceed total of the Work Authorization or Purchase or changes to line items in a Purchase Order, Contractor shall submit to the City an updated Proposal for review and approval from the City in advance of performing any additional services. The City will issue a new or amended Work Authorization (if required pursuant to Section 5.1.2.2) or Purchase Order (as applicable) to authorize such additional services.

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

5.2 Emergency Work Orders

5.2.1 An emergency work order (Emergency Work Order) should be utilized only in instances of a threat to public health or safety, loss of

or damage to property, or serious disruption to essential services. An emergency is defined as an unforeseen event, circumstance, or combination of circumstances that the City reasonably determines to require immediate action.

- 5.2.2 Emergency Work Orders do not need to be in writing and may only be authorized by the Assistant Director of the Electric Utility, Electric Utility Chief Operating Officer, or Chief Electric Utility Officer. Such verbal authorizations will be confirmed by the City in writing within three (3) business days by a Purchase Order or, where applicable, a Work Authorization and Purchase Order.
- 5.2.3 When emergency services are required, Contractor shall send a Proposal to the City for the required Services as soon as possible, but no later than three (3) business days after starting Services. The Proposal shall be detailed in accordance with this Section 5 and shall also include all services required including those services already completed or initiated. The City will issue a Work Authorization (if required pursuant to Section 5.1.2.2) and a Purchase Order as soon as reasonably practicable.
- 5.3 A Work Authorization must be consistent with – and cannot alter - the terms and conditions of this Agreement. The terms and conditions of this Agreement shall prevail over any and all terms and conditions contained in a Proposal, Work Authorization, Interim Work Order, or Emergency Work Order - even if the Proposal, Work Authorization, Interim Work Order, or Emergency Work Order expressly states that it is intended to control. Any conflicting terms and conditions in a Work Authorization are invalid and unenforceable.
- 5.4 Each Work Authorization, Purchase Order, Interim Work Order, and Emergency Work Order including those authorizations issued pursuant to Section 5.2 and 5.1.3.3 shall be incorporated into the Agreement by reference and subject to its terms and conditions and the Services contained therein shall be included within the Services.
- 5.5 If Contractor begins services or fails to dispute a Purchase Order within three (3) business days, Contractor is assumed to have accepted the terms of the Purchase Order.
- 5.6 The City (through the individuals listed in Section 5.1.2.6 or, in the case of Purchase Orders, the Finance Department) may terminate a Work Authorization, Purchase Order, Interim Work Order, or an Emergency Work Order for convenience with ten (10) days prior written notice to Contractor. In such event, the Contractor shall have no further rights hereunder, except that Contractor shall be paid for all Services adequately rendered prior to such termination.

- 5.7 Proposals, pricing, and quotes are not confidential and will not be treated as confidential even if marked confidential when submitted.
- 5.8 **Except in the case of emergency which shall conform to the conditions of Section 5.2 or where the circumstances in Section 5.1.3.3 apply, Contractor shall not initiate services and the City will not compensate Contractor until the City has (1) executed the Work Authorization for such services, when applicable, (2) issued a Purchase Order, and (3) directed the Contractor to perform services.**
- 6. Except as set forth herein, all other terms and conditions of the Agreement shall remain in full force and effect. In case of a conflict in the terms of the Agreement and this Amendment No. 1, the provisions of this Amendment No. 1 shall control.

**[SIGNATURES ON FOLLOWING PAGE]**

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

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

Approved as to Form:

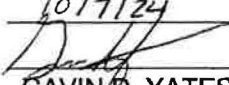
Dated: \_\_\_\_\_

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

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

"CITY"

**GAVIN YATES, DOING BUSINESS AS NORTHWEST INDUSTRIAL ENGINE &  
COMPRESSOR CO.**  
a California sole proprietorship

Dated: 10/7/24  
By (Signature):   
Name: GAVIN D. YATES  
Title: Owner  
Principal Place of Business Address: P.O. Box 737  
Riverbank, CA 95367  
Email Address: Deon\_yates@nwiec.com and  
amanda\_yates@nwiec.com  
Telephone: (209)847-2299  
Fax: (209)847-8800  
"CONTRACTOR"