

**AGREEMENT FOR SERVICES
BETWEEN THE
CITY OF SANTA CLARA, CALIFORNIA,
AND
DAVEY TREE SURGERY COMPANY**

PREAMBLE

This Agreement is entered into between the City of Santa Clara, California, a chartered California municipal corporation ("City") and Davey Tree Surgery Company, a Delaware 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 more fully described in this Agreement, at Exhibit A, entitled "Scope of Services" ("Services");
- B. Contractor represents that it, and its subcontractors, if any, have the professional qualifications, expertise, necessary licenses and desire to provide certain Services and goods of the quality and type which meet objectives and requirements of City; and,
- C. The Parties have specified herein the terms and conditions under which such Services will be provided and paid for.

The Parties agree as follows:

AGREEMENT TERMS AND CONDITIONS

1. AGREEMENT DOCUMENTS

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

Exhibit A – Scope of Services

Exhibit B – Schedule of Fees and Payment Provisions

Exhibit C – Insurance Requirements

Exhibit D – Labor Compliance Exhibit

Exhibit E – Work Authorization Form

This Agreement, including the Exhibits set forth above, contains all the

agreements, representations and understandings of the Parties, and supersedes and replaces any previous agreements, representations and understandings, whether oral or written. In the event of any inconsistency between the provisions of any of the Exhibits and the Terms and Conditions, the Terms and Conditions shall govern and control.

2. TERM OF AGREEMENT

- A. Unless otherwise set forth in this Agreement or unless this paragraph is subsequently modified by a written amendment to this Agreement, the term of this Agreement shall begin on July 1, 2023 and terminate on June 30, 2028 (“Initial Term”).
- B. After the Initial Term, City reserves the right, at its sole discretion, to extend the term of this Agreement for up to five (5) additional years through June 30, 2033 (“Option Periods”) in such increments as determined by City. Such extensions of term shall be authorized through an Amendment to this Agreement executed by the Parties. The Initial Term and Option Periods shall collectively be referred to as “Term”.

3. SCOPE OF SERVICES & PERFORMANCE SCHEDULE

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

4. WARRANTY

In addition to those warranties contained in Exhibit A, Contractor expressly warrants that all Services and materials covered by this Agreement shall be fit for the purpose intended, shall be free from defect and shall conform to the specifications, requirements and instructions applicable to this Agreement. For a period of one (1) year following completion of the applicable Services, Contractor agrees to promptly replace or correct any incomplete, inaccurate or defective Services or materials at no further cost to City when defects are due to the negligence, errors or omissions of Contractor. If Contractor fails to promptly correct or replace Services or materials, City may make corrections or replace materials or Services and charge Contractor for the reasonable cost incurred by City.

5. QUALIFICATIONS OF CONTRACTOR - STANDARD OF CARE

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

6. COMPENSATION AND PAYMENT

In consideration for Contractor's complete performance of Services, City shall pay Contractor for all Services and materials in accordance with Exhibit B, entitled "SCHEDULE OF FEES AND PAYMENT PROVISIONS." The maximum compensation of this Agreement is twenty-five million dollars (\$25,000,000), subject to budget appropriations, which includes all payments that may be authorized for the Services and for expenses, supplies, materials and equipment required to perform the Services. All Services performed or materials 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. In addition to all other remedies provided by law, if either Party fails to perform any of its duties or obligations or the breach by any of the terms and conditions set forth in this Agreement, the other Party may terminate this Agreement if the defaulting party has failed to cure such default for a period of thirty (30) days after receipt of written notice from the other Party specifying in reasonable detail the nature and extent of any such failure.
- C. Upon termination, each Party shall assist the other in arranging an orderly transfer and close-out of Services. As soon as possible following the notice of termination, but no later than ten (10) days after the notice of termination, Contractor will deliver to City all City information or material that Contractor has in its possession.

8. ASSIGNMENT AND SUBCONTRACTING

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

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

9. NO THIRD PARTY BENEFICIARY

This Agreement shall not be construed to be an agreement for the benefit of any third party or parties and no third party or parties shall have any claim or right of

action under this Agreement for any cause whatsoever.

10. INDEPENDENT CONTRACTOR

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

11. CONFIDENTIALITY OF MATERIAL

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

12. OWNERSHIP OF MATERIAL

All material, which shall include, but not be limited to, data, sketches, tracings, drawings, plans, diagrams, quantities, estimates, specifications, proposals, tests, maps, calculations, photographs, reports, designs, technology, programming, works of authorship and other material developed, collected, prepared or caused to be prepared under this Agreement shall be the property of City but Contractor may retain and use copies thereof. City shall not be limited in any way or at any time in its use of said material. However, Contractor shall not be responsible for damages resulting from the use of said material for work other than Project, including, but not limited to, the release of this material to third parties. This Section 12 shall not apply to any existing intellectual property owned by Contractor and used during the performance of this Agreement but shall be limited to new inventions created during the performance of this Agreement. All inventions, discoveries, documents, works of authorship, methods, and the derivative works thereof, developed or created by Contractor prior to the start of the Services shall remain the sole and exclusive property of Contractor.

13. RIGHT OF CITY TO INSPECT RECORDS OF CONTRACTOR

City, through its authorized employees, representatives or agents shall have the right during the Term and for four (4) years from the date of final payment for goods or Services provided under this Agreement, to audit the books and records of Contractor for the purpose of verifying any and all charges made by Contractor in connection with Contractor compensation under this Agreement, including termination of Contractor. Contractor agrees to maintain sufficient books and records in accordance with generally accepted accounting principles to establish

the correctness of all charges submitted to City. Any expenses not so recorded shall be disallowed by City. Contractor shall bear the cost of the audit if the audit determines that there has been a substantial billing deviation in excess of five (5) percent adverse to the City.

Contractor shall submit to City any and all reports concerning its performance under this Agreement that may be requested by City in writing. Contractor agrees to assist City in meeting City's reporting requirements to the State and other agencies with respect to Contractor's Services hereunder.

14. HOLD HARMLESS/INDEMNIFICATION

- A. To the extent permitted by law, Contractor agrees to protect, defend, hold harmless and indemnify City, its City Council, commissions, officers, employees, volunteers and agents from and against any claim, injury, liability, loss, cost, and/or expense or damage, including all costs and attorney's fees in providing a defense to any such claim or other action, and whether sounding in law, contract, tort, or equity, in any manner arising from, or alleged to arise in whole or in part from, or in any way connected with the Services performed by Contractor pursuant to this Agreement – including claims of any kind by Contractor's employees or persons contracting with Contractor to perform any portion of the Scope of Services – and shall expressly include passive or active negligence by City connected with the Services. However, the obligation to indemnify shall not apply if such liability is ultimately adjudicated to have arisen through the 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

Waiver by either Party 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:

Davey Tree Surgery Company
Attention: Kevin Peters
2617 South Vasco Rd.
Livermore, CA 94550
And by phone at (925) 443-1723 x3240
and by e-mail at Kevin.Peters@Davey.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.

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: _____

Office of the City Attorney
City of Santa Clara

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

"CITY"

***DAVEY TREE SURGERY COMPANY**
a Delaware corporation

Dated: 5/26/2023

By (Signature): 

Name: Kevin Peters

Title: Vice President of Operations

Principal Place of Business Address: 2617 South Vasco Rd.
Livermore, CA 94550

Email Address: kevin.peters@davey.com

Telephone: (925) 443 1723 x 3240

Fax: (925) 443 1751

"CONTRACTOR"

EXHIBIT A SCOPE OF SERVICES

The Services to be performed for the City by the Contractor under this Agreement shall consist of line clearance work as further described in this Exhibit A for the City's Electric Utility, Silicon Valley Power (SVP). The terms "City" and "SVP" are used interchangeably throughout this Exhibit.

1. GENERAL REQUIREMENTS

- 1.1.** Contractor shall furnish all supervision, labor, materials, tools, permits, equipment, personal protective gear, and supplies necessary to provide tree removal, trimming, and pruning Services for power line clearance. Services will primarily be associated with high voltage power lines, but may also include Services around communication lines, SVP structures, and other related tree-trimming Services.
- 1.2.** Contractor must provide a fully qualified supervisor to supervise field crews and meet with the SVP Representative as needed for the purposes of correcting problems/conflicts and coordinating Services schedules. The City reserves the right to request removal of any employee of the Contractor for good cause.
- 1.3.** Before starting the Services, Contractor shall designate in writing the General Foreperson who an on-site field representative shall have complete authority to act for Contractor in all matters concerning the technical and commercial aspects of the Services. An Alternate Field Representative shall also be designated for those brief periods when the Contractor's General Foreperson may be unavailable due to illness or other short-term matters. The General Foreperson or the Alternate Field Representative shall be readily available whenever Services are in progress. The General Foreperson or Alternate Field Representative shall be reachable during all working hours.
- 1.4.** Contractor shall keep the SVP Representative informed in writing as to the name, local address, and telephone number of the General Foreperson who must be available outside normal working hours and responsible for emergencies and clean up.
- 1.5.** After contract award and prior to commencement of Services, Contractor, together with the General Foreperson, shall attend a meeting with the SVP Representative and other individuals identified by the Parties to discuss the key elements of the Services.
- 1.6.** Services may take place on City-owned property, easements (including in private yards, assets or other areas as determined by SVP). This may include Services activities outside of the City limits of Santa Clara such as

at City properties in Glenn or Tehama counties.

- 1.7. Contractor shall procure all permits and licenses, pay all charges and fees, and give all notices necessary and incidental to the due and lawful prosecution of the Services.
- 1.8. Contractor shall remain informed of all existing state and federal laws and all municipal ordinances and regulations of the City that in any manner affect those engaged or employed in the Services.
- 1.9. For any deviation from specifications as may be required by unforeseen events or emergencies, Contractor must obtain prior written approval in all cases by an authorized SVP Representative.
- 1.10. Contractor shall assist with all communication with regulatory agencies when requested.
- 1.11. Contractor shall determine and follow protocols for State and City protected trees.
- 1.12. Contractor shall perform tree trimming, removal and pruning in strict accordance with the International Society of Arboriculture (ISA) guidelines for tree maintenance, the California Public Utilities Commission (CPUC) Standards for Vegetation Utility Line Clearance, and SVP Standard Document OH 1230 - Tree Clearances From Overhead Electric Lines, as may be amended by the City from time to time. Contractor shall take appropriate precautions to assure that power lines and communication lines are not cut while trimming trees.
- 1.13. Contractor shall establish a field office or yard area in the City of Santa Clara, at Contractor's expense, as a base for daily operations. City may provide staging area subject to a "Right of Entry Agreement". Contractor is responsible for all office and security needs of the field office or yard. SVP is not responsible for loss, damaged or stolen equipment, vehicles, or any other Contractor's property.

2. DEFINITIONS

- 2.1. "SVP Representative" shall mean the employee designated in overall charge of the SVP line clearance program. The SVP Representative is responsible for assigning Services to the Contractor and is the single point of contact for the Contractor under this Agreement.
- 2.2. "General Foreperson" shall mean the employee of Contractor who will be in overall charge of the Contractor's crews performing the Services. The General Foreperson will be on site, perform all customer notifications of tree trimming, coordinate all Services, and is the primary contact for

emergency response.

- 2.3. "Line Clearance Qualified Tree Trimmer (LCQTT)" shall mean a Contractor employee trained to provide Services in proximity of energized power transmission and distribution lines.
- 2.4. "Line Clearance Tree Trimmer" shall mean a Contractor employee trained as an apprentice level tree trimmer trainee (0-18 months).
- 2.5. "Line Clearance Qualified Tree Trimming Foreperson" shall mean a Contractor supervisory position who is in direct charge of Contractor's tree trimming crew, and who is journey level line clearance qualified.
- 2.6. "ISA Certified Arborist" shall mean the individuals who have achieved a level of knowledge in the art and science of tree care through experience and by passing a comprehensive examination developed by some of the nation's leading experts on tree care.
- 2.7. "Emergency Services" is defined as an unforeseen event, circumstance, or combination of circumstances that City determines to require immediate action and/or presents an ongoing danger to public health and safety and/or imperils SVP's distribution system.
- 2.8. "SVP System Operator" shall mean the City employee with 24/7 control of the SVP electric network and is responsible for dispatching resources.

3. SCOPE OF SERVICES

There are three service categories under this Agreement: Daily Work, Emergency Services, and As-Needed Services, as described below.

3.1. DAILY WORK

- 3.1.1. SVP will provide Contractor with the prioritization of Services through a Computerized Maintenance Management System and Services order list (which may include workplans and maps) on a weekly basis for Contractor to schedule daily work (Daily Work).
- 3.1.2. Contractor shall provide tree trimming Services, including, but not limited to hazardous and line clearance tree pruning, tree removal, and associated Services, including stump grinding, brush and log disposal, chipping, and all other disposal methods.
- 3.1.3. When requested by City or when otherwise discovered by Contractor, Contractor shall inspect and report any trees of concern, along SVP Right of Way (ROW) including all SVP-owned and operated lines.

- 3.1.4.** Crew Minimum Requirements: Contractor shall provide the following resources for Daily Work within the City.
 - 3.1.4.1.** Eight (8) crews of Qualified Line Clearance Tree Trimmers; two (2) persons per crew.
 - 3.1.4.2.** One (1) Qualified Line Clearance Tree Trimmer to supplement crews as needed.
 - 3.1.4.3.** One (1) General Foreperson, on-site overall supervisor of Contractor work.
- 3.1.5.** One (1) Line Clearance Tree Trimmer , two (2) person crew to be called in as needed to assist with clean-up or general tree trimming as requested by SVP.
- 3.1.6.** As Contractor becomes aware of trees presenting a public safety hazard or an increased potential to create a power outage, Contractor shall immediately notify SVP of these hazard locations.
- 3.1.7.** As SVP becomes aware of trees presenting a public safety hazard or an increased potential to create a power outage the City will provide a trimming priority list (Trimming Priority List) for these hazard locations. Contractor shall respond and begin these Services on the Trimming Priority List within one business day of the City's notification.

3.2. EMERGENCY SERVICES

- 3.2.1.** Emergency Services shall be provided as part of the Services included in this Agreement. Emergency Services are provided in instances of a threat to public health or safety, loss of or damage to property, or 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.
- 3.2.2.** Emergency Services may be authorized by the SVP Representative, SVP System Operator, or higher authority, through an email; provided that, if that is not possible, a verbal authorization may be made.
- 3.2.3.** Contractor shall provide 24-hour, seven-days per week, Emergency Services including holidays. Contractor shall provide a 24 X 7 answering service contact phone number at which an individual can be reached at any time.
 - 3.2.3.1.** The General Foreperson shall respond to all requests

for Emergency Services within 30 minutes of notification.

- 3.2.3.2.** Once contacted, Contractor will have staff at the site of an Emergency and ready to perform Services with proper tools and equipment within 90 minutes unless otherwise authorized by SVP. Failure to respond within this timeframe may result in the termination of this Agreement, at the sole discretion of SVP.

3.3. AS NEEDED SERVICES

- 3.3.1.** As needed services (As Needed Services) are services not included in Daily Work or Emergency Services (further described in Section 3.1 and 3.2 of this Exhibit), that support the City's needs such as services listed in this Section.

- 3.3.2.** Additional tree trimming services not included in Daily Work or Emergency Services such as tree trimming services at remote sites.

- 3.3.3.** Wildfire Mitigation Plan (WMP): City may use Contractor to perform services in accordance with SVP WMP (Attachment A-1), as amended from time to time and prepared pursuant to Public Utilities Code (PUC) section 8387. Contractor shall provide advisory and reporting Services, including but not limited to:

- 3.3.3.1.** Provide a WMP subject matter expert to provide advisory Services for the WMP annual review.

- 3.3.3.2.** Evaluate changes to regulatory requirements related to the management and documentation of vegetation control.

- 3.3.3.3.** Provide regulatory input, discovery, mitigation and improvements related to the management of the vegetation program.

- 3.3.3.4.** Provide on-call Tree Risk Assessment Qualified (TRAQ) arborist to assess Services, inspections, and reporting as required.

- 3.3.4.** Forester / Arborist: SVP may request Contractor to perform an annual Forester/Arborist inventory patrol of trees in the vicinity of SVP facilities including:

- 3.3.4.1.** Perform pre-inspection and Geographic Information System (GIS) inventory of necessary vegetation

Services along the SVP Right-of-Way (ROW).

- 3.3.4.2.** Produce a report, and, if determined by inventory patrol, provide a scope of vegetation management services necessary to maintain compliance with California Public Utility Commission (CPUC) Public Resource Code (PRC) 4293 and General Order 95 for one year from date of inspection. Scope shall include Services to maintain reliability and facilitate system hardening and must be approved SVP.
- 3.3.4.3.** Store inventory results and reports in an environment provided by the Contractor and accessible to City through a web portal.
- 3.3.4.4.** These Services shall be completed between February 1st and May 31st each year.
- 3.3.4.5.** SVP will use the results of this inventory and proposed scope to assign as needed vegetation management services pursuant to this Section.
- 3.3.4.6.** Post-work inspection, documentation and final report of all tree Services shall be completed by the Contractor. All reports and inventory data shall meet the scrutiny of the California Office of Energy and any other regulatory agencies.
- 3.3.5.** Training for City staff associated with Contractor's area(s) of expertise.
- 3.3.6.** When As Needed Services are required by City, City shall request services pursuant to Section 16 (Work Authorization Process). Contractor shall submit a Proposal as defined in Section 16.2 and such Proposal shall conform with the requirements of Section 16.2.
- 3.3.7.** Contractor shall receive, respond to, and complete all Work Authorization Forms (Exhibit E) assigned by SVP.
- 3.3.8.** For As Needed Services, Contractor shall use resources other than those already assigned to the City to complete Daily Work.

4. PROCESS FOR REQUEST TO DE-ENERGIZE CONDUCTORS:

- 4.1.** When City and/or Contractor determines that an electrical hazard exists in a tree that has to be climbed and this hazard cannot be cleared with a non-conductive pole pruner or pole saw, Contractor shall request the City to de-energize and ground the circuit for the length of time required to

perform the Service.

- 4.2. If the electrical hazard is an emergency, then Contractor shall immediately communicate this to the City, and the City will de-energize the circuit as soon as possible.
- 4.3. If the work requiring conductors to be deenergized is not an emergency, Contractor shall notify SVP within the timeframe specified in SVP's requirements (typically a minimum of three weeks' notice prior to start of Service).

5. HOURS OF WORK / DAYS OF WORK

- 5.1. Regular Work Hours / Days of Work: Contractor shall perform regular, non-Emergency Services from 7:00 am through 3:30 pm Monday through Friday. No adjustment in the contract amount will be made for nonconforming work hours or workdays. Contractor shall be responsible for completing routine Services within regular work hours in a manner that is most economical and efficient to SVP with consideration of any State, Federal, or Local laws or regulations affecting pay and break or mealtimes.
- 5.2. Services exceeding eight (8) working hours shall be approved in advance, by the SVP Representative or designee. A second approval shall be required for shifts or employee work exceeding twelve (12) hours in a day or a single shift. All Services in excess of the normal working day must be paid in accordance with applicable Federal, State, and local labor laws.
- 5.3. Temporary Suspension: The SVP Representative shall have the authority to suspend Services wholly or in part, for such period as the City may deem necessary such as due to unsuitable weather or such other conditions as are considered unfavorable for the Services. Payment due will be only for those hours actually worked before the Temporary Suspension.

6. ASSIGNMENT AND SUPERVISION OF WORK SERVICES

- 6.1. Contractor shall regularly meet with the SVP Representative to assure understanding of priorities and work assignments. The timing of such meetings shall be mutually agreed to between the General Foreperson and SVP Representative.
- 6.2. Contractor shall perform the Services in an efficient and expeditious manner on a timeline mutually agreed to between City and Contractor.
- 6.3. For any portion of the Service, which is to be performed by a subcontractor, Contractor is solely responsible for managing and supervising their work, and ensuring subcontractors are fully informed of

all existing state and federal laws and all municipal ordinances and regulations of the City. Subcontractors must hold an appropriate license for their specialty. SVP has the right to request the removal or replacement of any subcontractor.

- 6.4.** Contractor is responsible for any delays caused by Contractor, its agents, or subcontractors, or caused by factors directly or indirectly under its control. No extension of time for performance shall be given for such delays. Contractor is responsible for providing warranty for subcontracted Services.
- 6.5.** The General Foreperson shall be responsible for coordinating all Service activity with the SVP Representative. Contractor shall establish a uniform time schedule for performance of routine tree Services that shall be in conformance with general work hours or special Service requirements, and as agreed to by the SVP Representative.
- 6.6.** Contractor shall submit a detailed Daily Work schedule to the SVP Representative by 6:45 a.m. of each workday to allow the SVP Representative to properly schedule inspections and any other related services. The schedule shall be neatly printed or typed and shall be signed by the Contractor's field representative.
- 6.7.** Contractor must provide for adequate supervision and inspection of all the Services performed to ensure that the requirements set forth in this Agreement are consistently met to SVP's satisfaction.
- 6.8.** Contractor shall provide an escalation process including a fully qualified and authorized representative of the Contractor with management authority of General Foreperson who will be readily available to meet with the SVP Representative, as requested, for the purpose of correcting problems, conflicts, complaints, Service schedules, personnel, and equipment requirements.
- 6.9.** SVP will always have access to the Services and may from time to time inspect adequacy of the Services. Contractor shall be available for inspections with SVP staff as needed. In the event, an inspection finds unsatisfactory Services, Contractor will immediately correct the defective Services as directed by the SVP Representative at no additional cost to the City.

7. NOTIFICATION OF PROPERTY OWNERS

- 7.1.** If work is occurring on private property, Contractor shall notify a property owner or resident a minimum of twenty-four (24) hours prior to any scheduled line clearance tree Service. If the Contractor cannot obtain permission to perform the necessary Services, Contractor shall notify the SVP Representative who will assist in notifying the property owner.

- 7.1.1.** If Emergency Services are needed, Contractor will attempt to make immediate contact with the property owner or resident. If contact is not made by the Contractor, Contractor shall leave a door hanger to notify property owner or resident that Emergency Services were required and proceed to carry out Services at that location.
- 7.2.** If a property owner or resident objects to the Services, Contractor shall delay the Services until the objection is resolved. If the objection occurs while Service is in progress, Contractor shall immediately stop Service and immediately notify the SVP Representative. Contractor shall not resume the Services until authorized by the SVP Representative.
- 7.3.** Neither Party shall be liable for any expense to the other Party arising from Services delayed by a property owner or resident's objections to the services.

8. REQUIRED MINIMUM CLEARANCES

- 8.1.** Contractor shall comply with minimum clearances as outlined in the below sections as those regulations may be amended. While the below regulations are outlined, Contractor is responsible for compliance with any and all Federal, State, and Local regulations associated with Services including any updates to regulations. Within each Work Authorization, the City may further define any additional clearance based on potential growth of the tree being trimmed.
- 8.2.** General Order of the California Public Utilities Commission (GO) 95, and Rule 3, provides minimum pruning where a service conductor shows strain or evidence of abrasion from tree contact. In instances where large branches or tree trunks are involved, Contractor shall notify the SVP Representative for possible rerouting of service drop(s) or installation of tree guard(s) by SVP.
- 8.3.** Contractor shall perform the Services in compliance with SVP Standard Document OH 1230 "Tree Clearances from Overhead Electric Lines", as may be amended from time to time, on the tree pruning zones and vegetation that may be planted near SVP Overhead lines.
- 8.4.** Contractor shall perform Services in compliance with OSHA 1910.269 and CalOSHA Title 8, Subchapter 5, Article 38.
- 8.5.** While obtaining minimum clearance, consideration shall be given to conductor sag due to changes in temperature. In any event, Contractor shall assume a minimum of a two (2) foot additional sag for 12kV and 115kV circuits. This additional clearance must be added to the applicable clearances as set forth in this section.
- 8.6.** Where conditions exist that prohibit the Contractor from obtaining the

required minimum clearances (i.e., to comply with state or local ordinances, for designated heritage trees, for major trunks or leads, etc.), clearance may be reduced, where agreed to by the SVP Representative in writing.

9. MITIGATION

- 9.1.** Contractor shall be held responsible for any damage caused by Contractor including on all unpaved roadways, SVP easements, and City rights-of-way (ROW) within the area used by the Contractor to access power lines for the purpose of line or pole clearance Services. After Contractor has completed Services, City may inspect the condition of the roadways, easements, and ROW and report any damage requiring correction to the General Foreperson. If repairs are not carried out in a timely manner, SVP reserves the right to contract the repairs to an outside vendor and deduct the amount from a future payment due to the Contractor or bill directly to the Contractor. If Contractor is invoiced pursuant to this section and fails to make payment as indicated on that invoice, SVP may withhold payment from a future invoice or withhold all payments until payment is received.
- 9.2.** Contractor shall take pictures before and after Service is completed on any unpaved roadways, easements, or ROW and report any discrepancies to the SVP Representative. Contractor shall work with SVP and other City Departments such as Public Works to identify other actions needed such as erosion control or broadcasting chips into ROW.

10. CLEANUP

- 10.1.** For normal and routine Services, Contractor shall promptly remove all tree pruning brush, wood, and debris from the Work site and properly and legally dispose of materials at its own expense.
- 10.2.** For Emergency or after-hours work, Contractor shall remove all equipment and other obstructions from that portion of the roadway open for use by public traffic and assure that any incomplete Service is left in a manner that does not present a hazard. Debris shall be hauled away the next business day.
- 10.3.** Contractor shall be entirely responsible for any damage to other trees, shrubs, etc. attributable to the conduct of its performance of the Services, and all such damage will be repaired by Contractor when and as directed by the SVP Representative, and as required to place the area in as good condition as before the commencement of the Contractor's work. Final cleanup of the Service area shall be satisfactory to the SVP Representative and affected property owner(s).

11. SAFETY

- 11.1.** Contractor shall adhere to all safety provisions in accordance with all federal, state, and local electric line clearance tree trimming, aerial device, and vehicle traffic safety orders, regulations, and standards.
- 11.2.** Contractor shall ensure all employees and equipment working within a ten (10) foot proximity of energized conductors in excess of 600 volts are compliant with the requirements identified in OSHA 1910.269 and CalOSHA Title 8, Subchapter 5, Article 38, as may be amended from time to time.
- 11.3.** Contractor shall be solely and completely responsible for conditions of the work site, including safety of all persons (including Contractor's employees), traffic control, Service conditions, and property during performance of the Services and until acceptance by SVP. Safety provisions shall conform to all applicable federal, state, county, and local laws, ordinances, regulations code (as may be amended) as well as the requirements set forth in this Agreement. Where any of these are in conflict, the more stringent requirement shall be followed. Contractor's failure to be thoroughly familiarized with the aforementioned safety provisions shall not relieve the Contractor from compliance with the obligations and penalties resulting therefrom.
- 11.4.** Contractor will comply with Minimum Approach Distance (MAD) as defined by Occupational Safety and Health Administration (OSHA). In addition to shock hazards (addressed by MAD) there exists an Arc-Flash hazard when working near energized electric lines. An Arc-Flash is a dangerous condition associated with the possible release of energy caused by an electric arc. Contractor shall perform all Services in compliance with all applicable laws and regulations to avoid exposure to these hazards.
- 11.5.** Contractor shall have established and maintain an Injury and Illness Prevention Program (IIPP) pursuant to Title 8, Section 3203 of the California Administrative Code as amended from time to time. Such program shall include, but not be limited to, a safety training program instructing Contractor's employees in general safe Service practices and shall include specific instructions with regard to hazards unique to the employee's job assignment. Contractor shall schedule periodic inspections to identify and correct unsafe conditions and Service practices. A copy of this program shall be submitted to SVP upon the effective date of the Agreement and made available on site upon request.
- 11.6.** At the end of each day's Services and at other times when tree-pruning operations are suspended for any reason, Contractor shall remove all equipment and other obstructions from that portion of the roadway open for use by public traffic and assure that any incomplete work is left in a

manner that does not present a hazard.

- 11.7.** If any person employed by the Contractor fails or refuses to carry out directives of the SVP Representative or appears to the SVP Representative to be incompetent or to act in a disorderly or improper manner, that individual shall be removed immediately on the request of the SVP Representative and such person shall not again be employed to perform Services under this Agreement.
- 11.8.** The SVP Representative may request either written or verbal verification of the qualifications of the Contractor's employees to perform the Services assigned. Any such request shall be complied with expeditiously.
- 11.9.** In the event on an injury associated with this Agreement, Contractor shall notify the SVP Representative immediately. Contractor shall provide updates to SVP as requested and permitted, perform an investigation into the cause of the accident, and provide the City with regular updates until any investigation is resolved.

12. TOOLS AND EQUIPMENT

- 12.1.** All equipment shall be operated and well-maintained in a satisfactory condition at all times and in compliance with state and federal regulations including, but not limited to OSHA.
- 12.2.** Contractor is responsible for identifying all tools and equipment necessary to perform the Services. The following outlines tools and equipment known to the City and is not intended to be a comprehensive list.
 - 12.2.1.** Contractor must maintain standard tree trimming equipment at all times and have at a minimum seven (7) aerial trucks, eight (8) chippers, and one (1) climber truck on demand. All equipment, including trucks, chippers, and other heavy equipment, must be maintained in a good operating condition and in compliance with State and Federal/OSHA regulations and manufacturer's specifications. Equipment not suitable to produce the quality of Services required by the City shall not be used.
 - 12.2.2.** Equipment used for Emergency Services at night shall be suitably equipped with warning lights and Service lights.
 - 12.2.3.** Each crew shall, in addition to having a vehicle and chipper, have all the necessary small tools, climbing lines, rigging, ropes, and lines to efficiently and safely complete routine pruning, and removal of trees for any portion of the Services which may include but is not restricted to, pole pruners, hand pruners, axes, safety saddles, hand saws, tree climbers, and a leaf blower.

- 12.2.4. In addition to the above, each truck-mounted aerial device crew shall have at least one of the each of the following: Hydraulic Pruner, Hydraulic Saw, Gas-Powered Chain Saw.
- 12.2.5. Contractor shall install signs on both sides of all trucks stating "Line Clearing Contractor for Silicon Valley Power– Call 408-615-5600".
- 12.3. Contractor shall provide appropriate smart devices (laptop, iPad, notebook computer, or similar) for access to SVP's Computerized Maintenance Management System.
- 12.4. SVP will not loan tools or equipment to the Contractor.
- 12.5. The SVP Representative may suspend the Services where they observe that proper tools and equipment are not being used to perform the Services.

13. STAFFING AND TRAINING

- 13.1. Contractor shall be solely responsible for selecting, hiring, employing, paying, supervising, training, and discharging all personnel necessary for the provision of the required Services.
- 13.2. Contractor shall employ only competent skilled workers who are appropriately trained and licensed to perform the required Services.
- 13.3. Contractor's employee training shall be at no cost to the City.

14. WORKMANSHIP

- 14.1. Contractor warrants that Services provided hereunder shall conform with the generally accepted professional practices and standards appropriate to the nature of the Services rendered, that the personnel furnishing said Services shall be qualified to perform the Services assigned to them and that the recommendations, guidance and performance of such personnel shall meet the standard of care normally practiced by contractors performing the same or similar Services.
- 14.2. Contractor shall be required to correct, at no expense to City, all deficiencies in the performance of the services that results from Contractor's failure to observe and adhere to Section 13.1 above and which are detected within one (1) year from the date of completion of the Services. Contractor shall be required to reimburse City for all expenditure of funds resulting from Contractor's deficient performance of its Services.
- 14.3. City may monitor the Services performed under this Agreement to determine whether Contractor's operation conforms to City policy and to the terms of this Agreement. City may also monitor the Services to be

performed to determine whether operations are conducted in accordance with applicable City, county, state, and federal requirements. If in the course of monitoring and evaluation, City believes it has discovered any practice, actions, procedure, or policy of Contractor which deviates from the terms of this Agreement, City may notify Contractor in writing. Contractor agrees to respond in writing to City within seven (7) calendar days regarding such action, procedure, or policy. However, if any action of Contractor constitutes a breach of this Agreement, City may terminate this Agreement.

- 14.4.** Contractor shall be responsible for understanding and complying with any training and licensing requirements for the Scope of Services to be performed including Department of Transportation (DOT) requirements for commercial driver's license and required drug testing.
- 14.5.** Contractor shall perform the Services in an environmentally responsible manner.
- 14.6.** Contractor understands that Services performed under this Agreement is an integral part of a continuing City service to which the citizens are accustomed. All public contact shall be courteous, congenial.
- 14.7.** Contractor agrees to prohibit the use or possession of alcohol, narcotics, firearms, or drugs of any nature other than prescription drugs (for which the Contractor's employee has a current doctor's prescription). Employees using medical prescriptions will not engage in any Service if such use impairs the employee's abilities to perform the Service safely.
- 14.8.** All Contractor personnel shall be required to wear uniforms bearing the Contractor's company name while performing the Services. Uniforms shall consist of a shirt and/or jacket with company and employee name neatly screen printed or embroidered and conspicuous. All Contractor personnel shall be clearly identified with the name of the company on their uniform. Tank tops and shorts are not allowed. Shirts must always be worn, and personnel shall maintain a neat and clean appearance. All personnel must wear high visibility safety vests that meet ANSI standards while working in traffic areas.
- 14.9.** Contractor shall provide employees with and require employees to use appropriate Personal Protective Equipment (PPE) and Fire Resistant (FR) clothing at Contractor's sole cost and expense. Contractor shall immediately remove any personnel from the Service site who are observed to be violating this provision.
- 14.10.** Contractor shall take precautions to prevent damage or injury to any adjacent trees or other plant life not covered by the Services, and any other personal or real property. Any damage to property that can be

repaired shall be repaired by the Contractor to the satisfaction of the SVP Representative. In the event that damage to property cannot be repaired to the satisfaction of the SVP Representative, Contractor shall replace that damaged property at the Contractor's sole expense. Any expenses incurred by SVP to repair damage will be deducted from the any payment due to the Contractor or billed directly to the Contractor at the discretion of the City.

- 14.11.** Contractor will conduct their operations in a manner to cause the least possible obstructions and inconvenience to private property owners. These measures include but are not limited to rescheduling Services at the property owners reasonable request and removing all waste from the property unless given explicit permission from the property owner.
- 14.12.** Contractor shall conduct their operations in a manner to cause the least possible obstructions and inconvenience to public traffic. Contractor shall comply with all applicable state and local requirements for traffic control. Traffic control measures shall be in conformance with the State of California, Manual of Traffic Controls for Maintenance and Service Zones, most current version (Part 6 of California Manual of Uniform Traffic Control Devices), amended from time to time.
- 14.13.** Contractor shall provide informational Services, traffic, and other signage as required to adequately warn pedestrian and vehicular traffic of the Services in progress. Contractor may be required to direct pedestrians and traffic around the Service area.
- 14.14.** Contractor shall provide all necessary equipment and personnel to ensure that the traffic control measures are preformed appropriately, including but not limited to, flaggers, cones, reflectors, and electronic signs.
- 14.15.** Contractor will cooperate in a timely and responsible manner in resolving local community or other agency/utility complaints arising from the Contractor's Services or operations. This shall include, but not be limited to, any community complaint directed at the speed of the Contractor's vehicles arriving/departing the site; vehicular/equipment noise; dust, litter, or other contaminants; vehicle degradation of road surfaces; and actions of Contractor's staff both on and near the work site, etc. On SVP's receipt of any local community complaint, the SVP Representative will notify the Contractor as soon as reasonably possible of the nature of the complaint for the Contractor's timely resolution. If, in the reasonable opinion of the SVP Representative, the complaint is reasonable and the Contractor fails to correct the situation or moves too slowly in attempting to correct it, SVP will act in both its and the community's interest. Any ascertainable cost incurred by the City or SVP for taking any action(s) that should have rightly been performed by the Contractor to resolve the complaint, will be deducted from a future payment.

- 14.16. Contractor shall review these provisions with the personnel employed by the Contractor for the Services.
- 14.17. In the event of an injury during the course of performance of services, Contractor shall immediately notify the SVP Representative and keep SVP informed as to status as required by SVP.

15.REPORTING AND DOCUMENTATION

- 15.1. Contractor shall comply with the SVP Vegetation Clearance Workflow Procedures, see (Attachment A-2), as amended from time to time.
- 15.2. SVP will provide access to the SVP Computerized Maintenance Management System. Contractor is required to use this system and any subsequent electronic systems used by the City or maintenance or vegetation management.
- 15.3. Contractor shall complete Work Requests with all information pertaining to the Services completed on a given Work Request. The Work Request report shall include type of tree trimmed, and number of trees trimmed.
- 15.4. Contractor shall record the number of trees trimmed or removed. This record will be included in the contractor's monthly invoice.
- 15.5. Contractor shall provide all reports in an electronic format acceptable to the City and shall include the ability for the City to sort or sum reports to provide periodic data. SVP reserves the right to reasonably modify the format and submittal requirements of reports to meet the needs of future vegetation management systems.
- 15.6. Contractor shall submit reports, notifications, and applications to agencies including, but not limited to the California Department of Fish and Wildlife (CDFW), and the Santa Clara Water District (SCWD) as required and as requested by SVP.
- 15.7. The General Foreperson shall immediately report any abnormal issues such as injuries, damages, or customer issues to the SVP Representative.

16.WORK AUTHORIZATION PROCESS FOR AS NEEDED SERVICES

- 16.1. When As Needed Services are required, the City will request a Proposal from Contractor (Work Request).
- 16.2. Contractor shall prepare and submit a Proposal for each Work Request that includes:
 - 16.2.1. A work plan that includes a detailed description by task of the service(s) to be performed.

- 16.2.2.** Location where Services will be performed.
- 16.2.3.** The project timeline/schedule which shall be approved by SVP. Such schedule shall indicate any activities and/or products or materials that may impact the project timeline, including but not limited to, lead time(s) for material sourcing; shipping and receiving delays; and any other delays.
- 16.2.4.** Any required drawings or documents.
- 16.2.5.** A list of City responsibilities.
- 16.2.6.** A list of Contractor's personnel and subcontractors including Department of Industrial Relations (DIR) Number for any Subcontractors.
- 16.2.7.** Estimated cost for the requested Services, including:
 - 16.2.7.1.** Hours and rates by position and/or service as listed in Exhibit B for both Contractor and subcontractor personnel if applicable. Indicate labor subject to prevailing wage requirements.
 - 16.2.7.2.** Parts/materials
 - 16.2.7.3.** Rental and/or specialty equipment
 - 16.2.7.4.** Reimbursable expenses, in accordance with the limitations set forth in Exhibit B.
 - 16.2.7.5.** Any additional costs including, but not limited to freight, permits, fees
 - 16.2.7.6.** Estimated total amount including sales tax
- 16.2.8.** All submitted pricing shall be in accordance with the rates authorized in Exhibit B of this Agreement and the Proposal shall include sufficient information for the City to determine that rates are in accordance with the Agreement.
- 16.2.9.** Pricing for any additional equipment, parts, or services required for completion of the work as detailed in the Work Request and in Contractor's Proposal but not reflected in the Contractor's cost proposal shall be the sole responsibility of the Contractor and at no cost to the City.
- 16.2.10.** The City will review the Proposal, and may elect to approve it, reject it, or use it as a basis for further negotiations with Contractor.

- 16.2.11.** Provided that Contractor's original Proposal includes all items listed in Section 16.2.7, Contractor and City may negotiate whether the cost for the work will be fixed price (lump sum) or for based on specific rates of compensation (e.g. time and materials) for completion of the work.
- 16.2.12.** Contractor must submit a revised Proposal to the City based upon such negotiations. If a fixed fee or lump sum is authorized, a payment schedule shall be included. The final Proposal shall include a clear breakdown of materials and labor indicating taxable and non-taxable items and an estimate of sales tax.

16.3. Work Authorization:

- 16.3.1.** If the completion of Services included in the Proposal along with ongoing work activities will not exceed the maximum compensation in Section 6 of the Agreement, additional services may be authorized as set forth in this Section.
- 16.3.2.** For Proposals with a total cost exceeding \$50,000, Work Authorizations shall be issued in substantially the same format as Exhibit F. Each Work Authorization shall describe the services and deliverables the Contractor must provide, the time limit within which the Contractor must complete the service and deliverables, and the compensation for the additional services.
- 16.3.3.** Subject to the terms and conditions of this Agreement, Contractor and City will negotiate the specific scope and requirements of each approved Work Authorization. Upon execution by the Parties, the Work Authorization shall become an Approved Work Authorization (Approved Work Authorization).
- 16.3.4.** Each Approved Work Authorization shall have a purchase order attached to it.
- 16.3.5.** For Proposals with a total cost less than \$50,000, a signed Work Authorization is not required. The City will issue a purchase order authorizing work and the purchase order will serve as the Approved Work Authorization.
- 16.3.6.** Each Approved Work Authorization and purchase order 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.
- 16.3.7.** An Approved 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 an Approved Work Authorization and Proposal – even if the Approved Work Authorization expressly states that it is intended to control. Any conflicting terms and conditions in an Approved Work Authorization or Proposal are invalid and unenforceable.

16.3.8. If Contractor begins work or fails to dispute a Purchase Order within three (3) business days, Contractor is assumed to have accepted the terms of the Purchase Order.

16.4. Changes to Work Authorization:

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

16.4.2. If Contractor requires changes to a fixed price Work Authorization, Contractor shall only be permitted to request changes with justification such as additional scope requested by City or unanticipated field conditions. For such changes, Contractor shall submit justification demonstrating that changes in cost are associated with changes in scope. Contractor shall not be entitled to additional compensation for issues such as errors in calculation of original pricing, changes in staff, or other changes that are not directly related to changes requested by City.

16.4.3. In the event that unanticipated site conditions or other issues result in costs that exceed the Work Authorization or changes to line items in the Approved Work Authorization, Contractor shall submit to the City an updated Proposal for review and approval from the City in advance of performing the work. If the change is approved, City will issue a new or amended Work Authorization and/or purchase order. Each changed Work Authorization shall amend the Services and be incorporated into the Services by reference.

16.5. Contractor shall not initiate any additional Services which will extend past the term in Section 2 (TERM OF AGREEMENT) of the Agreement or exceed the maximum compensation in Section 6 (COMPENSATION AND PAYMENT) of the Agreement.

16.6. Pricing and Proposals are not confidential and will not be treated as confidential even if marked confidential when submitted.

EXHIBIT B
SCHEDULE OF FEES AND PAYMENT PROVISIONS

1. MAXIMUM COMPENSATION

- 1.1. The maximum amount of compensation to be paid to Contractor under this Agreement shall not exceed the amount specified in Section 6 (COMPENSATION AND PAYMENT).
- 1.2. Any Services or materials requested by the City that exceeds the Maximum Compensation shall require the execution of an amendment to this Agreement before commencement of Services.
- 1.3. The City does not guarantee a minimum compensation under this Agreement.

2. RATES AND FEES

- 2.1. Contractor shall perform the required Services in accordance with the hourly rates specified in Table B-1 – Hourly Rates. All Proposals and invoices shall include sufficient detail to confirm that these hourly rates were charged.
- 2.2. Hourly rates are fully loaded and include wages, benefits, payroll taxes, workers' compensation, overhead, product liability, general automotive liability, and all other required insurances, permits, and taxes except sales and use taxes.
 - 2.2.1. Dump fees are not included in the rates and will be invoiced pursuant to Section 3 of this Exhibit B.
 - 2.2.2. Rates do not include state sales or use taxes. Contractor shall bill any required sales or use taxes on any applicable invoice and include an estimate of sales or use taxes on any Proposals.
- 2.3. Definitions:
 - 2.3.1. Composite Hourly Crew Rate is defined as a blended crew rate that includes qualified employees and equipment.
 - 2.3.1.1. During Regular Service Hours, the General Foreperson rate is included in the Composite Hourly Crew Rate.
 - 2.3.1.2. During Overtime and Holiday Hours, the General Foreperson shall be paid at the Overtime Rate and shall be billed separately from and in addition to the After Hours Composite Hourly Crew Rate.
 - 2.3.2. Standard Time is defined as hours worked within the Regular Work Hours and Days of Work, Monday through Friday, eight (8) consecutive hours (exclusive of lunch period) between the hours of

7:00 am through 3:30 pm Monday through Friday, excluding Holidays, and shall be paid at the Standard Rate.

2.3.3. Overtime is defined as hours worked outside of Regular Work Hours and Days of Work (After Hours Services), which shall be approved in advance in writing (e-mail is acceptable) by the SVP Representative or designee, and shall be paid the Overtime Rate.

2.3.4. Holidays include New Year's Day, Martin Luther King Jr. Day, Presidents' Day, Good Friday, Memorial Day, Independence Day, Labor Day, Veterans Day, Thanksgiving Day and the Day after Thanksgiving, Christmas Day.

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

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

2.4. Other than the annual increases specified in Table B-1, Contractor shall notify the City ninety (90) days in advance of any proposed rate increase. Rate adjustments will be made in accordance with the contractual Memorandum of Understanding (MOU) between the Contractor and the bargaining unit for rates after May 31, 2027. If the City approves such rate increase, the Parties shall execute an Amendment to this Agreement.

2.5. SVP shall not be required to pay a deposit or any other form of pre-payment prior to the Contractor beginning Services.

2.6. Job Classifications are defined in Exhibit A, Section 2.

2.7. Equipment and additional rates are outlined in Table B-2 – Additional Rates

2.8. For additional charges such as specialized equipment rental or subcontractor expenses, Contractor shall notify SVP in advance of incurring the charge and secure approval in writing before proceeding unless the Emergency provisions of Section 5.2 of Exhibit A are applicable.

3. REIMBURSABLE EXPENSES

- 3.1. Reimbursable Expenses. Contractor may submit invoices for reimbursement of expenses set forth subject to the following conditions. Any reimbursement to the Contractor is limited to the expenses set forth below in the Reimbursable Expense Schedule.

Reimbursable Expense Schedule		Mark Up
1.	Dump Fees	15%
2.	Charges for outside services (including subcontractor fees, equipment, materials, and facilities not furnished directly by Contractor to the extent the City has preapproved, in writing, the cost of such services).	15%
3.	Other reimbursable expenses with prior written approval from the City	No Markup
4.	Unless approved in writing (e-mail acceptable) in advance, meals, lodging, and related per diem shall not exceed the rates outlined by United States General Services Administration (GSA). https://www.gsa.gov/travel-resources . Airfare or rental car, where applicable shall be at economy rates.	No Markup

- 3.2. 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) Contractor submits receipts, invoices, or other supporting documentation demonstrating that such reimbursable costs were incurred, and (4) where applicable, Contractor received City's prior written approval in advance of incurring such expenses.

4. INVOICING AND PAYMENT

- 4.1. Contractor shall provide an invoice to the City on a monthly basis for services completed in the preceding month. The invoice must include the following information:
- 4.1.1. Invoice Number and Invoice Period.
 - 4.1.2. For Daily, Emergency and As Needed Services provided based on time and materials:
 - 4.1.2.1. Current amount due with a time and materials breakdown: titles, hours, hourly rates, and any City approved reimbursable expenses itemized with supporting documentation.
 - 4.1.2.2. Each invoice shall provide sufficient detail for City to verify that the rates in Exhibit B are charged and invoices shall include sufficient detail to compare to certified payroll

submittals for accuracy.

4.1.3. For As Needed Services provided with a fixed price:

4.1.3.1. An invoice to the City based on either (a) the percentage of services completed during the previous month or (b) lump sum amount upon completion of a deliverable(s), as specified in the Work Authorization. Detailed information on the work performed on each deliverable or task completed on each project, as applicable.

4.1.3.2. In the event of milestone payments, each milestone payment must be invoiced in full. Contractor shall not break milestone payments into multiple invoices.

- 4.2. **Pre-Payment.** City shall not be required to pay a deposit or any other form of pre-payment prior to Contractor beginning of the Services.
- 4.3. **Payment Limited to Satisfactory Services.** Contractor is not entitled to any payments until the City concludes that the Services have been satisfactorily completed, which determination shall not be unreasonably delayed.
- 4.4. **Disputed Invoices.** If the City in good faith disputes any portion of an invoice, the City shall pay the undisputed portion of the invoice within thirty (30) days of receipt of the invoice and submit written notice to Contractor regarding the disputed amount. The notice shall include documentation supporting the disputed amount.
- 4.5. **Certified Payroll.** When applicable, Contractor shall submit all necessary certified payrolls with its request for payment, in accordance with Exhibit D and such submittals are subject to verification by City. In no event shall services subject to Certified Payroll be invoiced in advance of the services being performed.
- 4.6. **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 and pay Contractor within thirty (30) days of approval of the invoice.

Table B-1 – Hourly Rates

UTILITY LINE CLEARANCE CERTIFIED CREW RATES								
	July 1, 2023 - May 31, 2024		June 1, 2024 - May 31, 2025		June 1, 2025 - May 31, 2026		June 1, 2026 - May 31, 2027	
Position	Standard Rate	Overtime Rate	Standard Rate	Overtime Rate	Standard Rate	Overtime Rate	Standard Rate	Overtime Rate
General Foreperson	\$123.88	\$180.86	\$128.84	\$188.09	\$133.99	\$195.62	\$139.35	\$203.44
Qualified Line Clearance Tree Trimmer	\$116.39	\$169.92	\$121.05	\$176.72	\$125.89	\$183.79	\$130.92	\$191.14
LCQTT Foreperson	\$119.28	\$174.15	\$124.05	\$181.12	\$129.01	\$188.36	\$134.17	\$195.90
AS NEEDED (ARBORIST SUPPORT/NON-HIGH VOLTAGE) SERVICES RATES								
Position	Standard Rate	Overtime Rate	Standard Rate	Overtime Rate	Standard Rate	Overtime Rate	Standard Rate	Overtime Rate
ISA Certified Arborist	\$145.00	\$211.70	\$150.80	\$220.17	\$156.83	\$228.97	\$163.11	\$238.13
TRAQ Qualified/ISA Arborist	\$150.00	\$219.00	\$156.00	\$227.76	\$162.24	\$236.87	\$168.73	\$246.35
Wildfire Mitigation Specialist	\$145.00	\$211.70	\$150.80	\$220.17	\$156.83	\$228.97	\$163.11	\$238.13
General Foreperson	\$123.88	\$180.86	\$128.84	\$188.09	\$133.99	\$195.62	\$139.35	\$203.44
Line Clearance Tree Trimmer	\$111.41	\$169.92	\$115.87	\$176.72	\$120.50	\$183.79	\$125.32	\$191.14
LCQTT Foreperson	\$119.28	\$174.15	\$124.05	\$181.12	\$129.01	\$188.36	\$134.17	\$195.90

Table B-2 – Additional Rates

2023 High Voltage Line LCQTT Crew Rate – SVP								
	July 1, 2023 - May 31, 2024		June 1, 2024 - May 31, 2025		June 1, 2025 - May 31, 2026		June 1, 2026 - May 31, 2027	
Position	Standard Rate	Overtime Rate	Standard Rate	Overtime Rate	Standard Rate	Overtime Rate	Standard Rate	Overtime Rate
General Foreperson	\$123.88	\$180.86	\$128.84	\$188.09	\$133.99	\$195.62	\$139.35	\$203.44
LCQTT Foreperson	\$116.26	\$169.73	\$120.91	\$176.52	\$125.75	\$183.58	\$130.78	\$190.92
LCQTT Tree Trimmer	\$105.39	\$153.87	\$109.61	\$160.02	\$113.99	\$166.43	\$118.55	\$173.08
Equipment	Standard Rate	Overtime Rate	Standard Rate	Overtime Rate	Standard Rate	Overtime Rate	Standard Rate	Overtime Rate
Aerial Lift Truck equipped with necessary tools	\$23.91	\$23.91	\$24.87	\$24.87	\$25.86	\$25.86	\$26.90	\$26.90
Manual Chip Truck equipped with necessary tools	\$15.41	\$15.41	\$16.03	\$16.03	\$16.67	\$16.67	\$17.33	\$17.33
Field Pickup (as needed)	\$11.76	\$11.76	\$12.23	\$12.23	\$12.72	\$12.72	\$13.23	\$13.23
Chipper	\$6.89	\$6.89	\$7.17	\$7.17	\$7.45	\$7.45	\$7.75	\$7.75
Traffic Sign Board (as needed)	\$6.89	\$6.89	\$7.17	\$7.17	\$7.45	\$7.45	\$7.75	\$7.75
Composite Crew Rate	Regular Services	After Hours Services	Regular Services	After Hours Services	Regular Services	After Hours Services	Regular Services	After Hours Services
Composite Hourly Crew Rate	\$249.67	\$364.52	\$259.66	\$379.10	\$270.04	\$394.26	\$280.84	\$410.03

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
\$5,000,000 Project Aggregate

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.

B. BUSINESS AUTOMOBILE LIABILITY INSURANCE

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

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

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

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

1. The policy shall provide coverage for the hauling of waste from the project site to the final disposal location, including non-owned disposal sites.

2. Products/completed operations coverage shall extend a minimum of three (3) years after project completion.
3. Coverage shall be included on behalf of the insured for covered claims arising out of the actions of independent contractors.
4. If the insured is using subcontractors the Policy must include work performed "by or on behalf" of the insured.
5. Policy shall contain no language that would invalidate or remove the insurer's duty to defend or indemnify for claims or suits expressly excluded from coverage. Policy shall specifically provide for a duty to defend on the part of the insurer.

E. COMPLIANCE WITH REQUIREMENTS

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

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. General Aggregate. The general aggregate limits shall apply separately to Contractor's work under this Agreement providing coverage at least as broad as Insurance Services Office (ISO) Endorsement CG 2503, 1985 Edition, or insurer's equivalent (CGL);
4. 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.

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

F. ADDITIONAL INSURANCE RELATED PROVISIONS

Contractor and City agree as follows:

1. Requirements of specific insurance coverage features described in this Agreement shall not be construed to be a limitation of liability on the part of Contractor or any of its subcontractors, nor to relieve any of them of any liability or responsibility under the Contract Documents, as a matter of law or otherwise. Such requirements are not intended by any Party to be limited to providing coverage for the vicarious liability of the City or to the supervisory role, if any, of City. All insurance coverage provided pursuant to this Agreement in any way relating to City is intended to apply to the full extent of the policies involved.
2. Contractor shall maintain all required insurance policies in full force and effect during entire period of performance of the Services under this Agreement of Contract Documents. Contractor shall also keep such insurance in force during warranty and guarantee periods. At time of making application for extension of time, Contractor shall submit evidence that insurance policies will be in effect during requested additional period of time.
3. City reserves the right, at any time during the term of this Agreement to change the amounts and types of insurance required by giving the Contractor thirty (30) days advance written notice of such change. If such change results in substantial additional cost to the Contractor, the City will negotiate in good faith additional compensation proportional to the increased benefit to City.
4. Any type of insurance or any increase of limits of liability not described in this Exhibit which Contractor requires for its own protection or in

compliance with applicable statutes or regulations, shall be Contractors' responsibility and at its own expense.

5. No liability insurance coverage provided by Contractor to comply with the terms of this Agreement shall prohibit Contractor, or Contractor's employees, or agents, from waiving the right of subrogation prior to a loss. Contractor waives its right of subrogation against Indemnitees. Any property insurance policies affected by Contractor shall be endorsed to delete the subrogation condition as to indemnitees or shall specifically allow Contractor to waive subrogation prior to a loss. Contractor hereby waives any right of recovery against the indemnitees and agrees to require any subcontractor to do so.
6. Contractor agrees to ensure that subcontractors, and any other party involved with the Services who is brought onto or involved in the performance of the Services by Contractor, provide the same minimum insurance coverage required of Contractor, except as with respect to limits. Contractor agrees to monitor and review all such coverage and assumes all responsibility for ensuring that such coverage is provided in conformity with the requirements of this Agreement. Contractor agrees that upon request by City, all agreements with, and insurance compliance documents provided by, such subcontractors and others engaged in the project will be submitted to City for review.
7. Contractor shall cooperate fully with City and Contractor's insurance companies in any safety and accident prevention program and claims handling procedures as established for the performance of Services under this Agreement.
8. All coverage types and limits required under this Agreement are subject to approval, modification and additional requirements by the City, as the need arises. Contractor shall not make any reductions in scope of coverage which may affect City's protection without City's prior written consent.
9. For purposes of applying insurance coverage only, all contracts pertaining to the performance of services will be deemed to be executed when finalized and any activity commences in furtherance of performance under this agreement.
10. Contractor acknowledges and agrees that any actual or alleged failure on the part of City to inform Contractor of non-compliance with any of the insurance requirements set forth in this Agreement in no way imposes any additional obligations on City nor does it waive any of the City's rights under this Agreement or any other regard.

11. Any provision in this Agreement dealing with the insurance coverage provided pursuant to these requirements, is subordinate to and superseded by the requirements contained herein. These insurance requirements are intended to be separate and distinct from any other provision in this Agreement and are intended by the Parties here to be interpreted as such.
12. Contractor agrees to be responsible for ensuring that no contract used by any party involved in any way with the project reserves the right to charge City or Contractor for the cost of additional insurance coverage required by this Agreement. Any such provisions are to be deleted with reference to City. It is not the intent of City to reimburse any third party for the cost of complying with these requirements. There shall be no recourse against City for payment of premiums or other amounts with respect thereto.
13. Contractor agrees to obtain and provide to City evidence of Professional Liability insurance for Architects or Engineers if engaged by Contractor to perform any of the Services required under this Agreement. City shall determine the minimum coverage and policy limits required, after consultation with Contractor.
14. The City acknowledges that some insurance requirements contained in this Agreement may be fulfilled by self-insurance on the part of the Contractor. The Contractor's insurance obligations under this Agreement under may be satisfied in whole or in part by adequately funded self-insurance retention, but only after approval from the City Attorney's Office upon satisfactory evidence of financial capacity.
15. The City reserves the right to withhold payments from the Contractor in the event of material noncompliance with the insurance requirements set forth in this Agreement.

G. EVIDENCE OF COVERAGE

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.

H. EVIDENCE OF COMPLIANCE

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 – Silicon Valley Power

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

I. QUALIFYING INSURERS

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

**EXHIBIT D
LABOR COMPLIANCE EXHIBIT**

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

A. Prevailing Wage Requirements

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

payroll, fringe benefit statements and backup documentation such as monthly benefit statements, employee timecards, copies of wage statements and cancelled checks, proof of training contributions (CAC2 if applicable), and apprenticeship forms such as DAS-140 and DAS-142. Contractors shall submit certified payroll through LCP Tracker or similar system as directed by the City.

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

B. Audit Rights

All records or documents required to be kept pursuant to this Agreement to verify compliance with this Addendum shall be made available for audit at no cost to City, at any time during regular business hours, upon written request by the City Attorney, City

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

C. Enforcement

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

**EXHIBIT E
WORK AUTHORIZATION FORM**

This Work Authorization is issued by the City of Santa Clara ("City) acting by and through its **Electric Utility, Silicon Valley Power** (the "Department") to the contractor listed below. This Work Authorization shall constitute a binding legal contract between the City and Contractor. In the event of any inconsistency between this Work Authorization and the Terms and Conditions of the Agreement, the Terms and Conditions of the Agreement shall govern and control.

PART A: GENERAL INFORMATION

Work Authorization Number:		Date:	
Work Authorization Name:			
Contractor Name:			
Agreement Name:			
Expiration Date of Agreement:			
Council Approval Required:	<input type="checkbox"/> If yes, enter RTC# _____ <input type="checkbox"/> No		
Contractor's Project Manager:	Name:	Email:	
City's Project Manager	Name:	Email:	
Period of Performance for this Work Authorization:	Start Date:	Expected Completion Date:	
Maximum Work Authorization Compensation:			
Sufficient funds are available in Fund #: (to be completed by City)			
Signatures:			
Contractor Name [Print]:		Date:	
_____		_____	
<i>Signature</i>			
City's Project Manager/Contract Manager Name [Print]:		Date:	
_____		_____	
<i>Signature</i>			
City's Department Director Name [Print]:		Date:	
_____		_____	
<i>Signature</i>			

PART B: SERVICES TO BE PERFORMED FOR WORK AUTHORIZATION

The Contractor shall perform the service(s) described below in accordance with all of the Terms and Conditions of the Agreement. *(Copy the table as required for additional services under the same Work Authorization.)*

Service No.:			
Description:			
Scope of work to be performed			
<input type="checkbox"/> See attached scope of work (use separate attachment for the scope of work if more than one page)			
Deliverable(s)/Milestone(s):			
	Description	Completion Date	Amount¹
1.			
2.			
3.			
4.			
¹ Provide amount if payment schedule is tied to deliverable/milestone.			
Completion Time:	<input type="checkbox"/> On or before the following date: _____ <input type="checkbox"/> On or before _____ Business Days from _____		
Contractor Key Personnel:			
	Name	Area of Work/Title	Rate²
1.			
2.			
3.			
4.			
² Provide rate if basis of compensation is time and materials.			
Subcontractors: Whichever of the following is marked applies to this Work Authorization:			
<input type="checkbox"/> The Contractor cannot use any subconsultants.			
<input type="checkbox"/> The Contractor can use the following subcontractors to assist in providing the required services and deliverables:			
	Name	Area of Work/Title	Rate²
1.			
2.			
3.			
4.			
² Provide rate if basis of compensation is time and materials.			
Maximum Compensation for this service:			
Basis of Compensation: <input type="checkbox"/> Time & Materials <input type="checkbox"/> Fixed Fee			
Reimbursable Expenses:			
<input type="checkbox"/> No expenses are reimbursable.			
<input type="checkbox"/> Expenses are separately reimbursable in the maximum amount of: _____			
Payment Schedule: <input type="checkbox"/> Monthly <input type="checkbox"/> Completion of Deliverable/Milestone <input type="checkbox"/> Completion of Work			
Additional Information:			