

**AGREEMENT FOR SERVICES
BETWEEN THE
CITY OF SANTA CLARA, CALIFORNIA,
AND
JT THORPE INDUSTRIAL INC.
DBA LIBERTY INDUSTRIAL GROUP, INC.**

PREAMBLE

This Agreement is entered into between the City of Santa Clara, California, a chartered California municipal corporation (City) and JT Thorpe Industrial Inc. dba Liberty Industrial Group, Inc., a Nevada corporation, (Contractor). City and Contractor may be referred to individually as a "Party" or collectively as the "Parties" or the "Parties to this Agreement."

RECITALS

- A. City desires to secure the services more fully described in this Agreement, at Exhibit A, entitled "Scope of Services";
- B. Contractor represents that it, and its subcontractors, if any, have the professional qualifications, expertise, necessary licenses and desire to provide certain goods and/or required services 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

Exhibit C – Insurance Requirements

Exhibit D – Labor Compliance

This Agreement, including the Exhibits set forth above, contains all the agreements, representations and understandings of the Parties, and supersedes and replaces any previous agreements, representations and understandings, whether oral or written. In the event of any inconsistency between the provisions of any of the Exhibits and the Terms and Conditions, the Terms and Conditions shall govern and control. The Agreement for Services dated March 30, 2023, will terminate effective August 31, 2023, and has no applicability to this Agreement.

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.
- B. After the Initial Term, City reserves the right, at its sole discretion, to extend the term of this Agreement for up to one (1) additional one-year term through June 30, 2029 (“Option Period”). Such extension of term shall be authorized through an Amendment to this Agreement executed by the Parties.

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

Contractor expressly warrants that the Services and any materials or equipment furnished in connection therewith shall be free from defect and shall conform to the specifications, requirements and instructions upon which this Agreement is based. Contractor agrees to promptly replace or correct any incomplete, inaccurate or defective Services at no further cost to City when defects are due to the negligence, errors or omissions of Contractor. Contractor expressly warrants all material and equipment for a period of one (1) year from the date of their acceptance by City. If Contractor fails to promptly correct or replace materials or services, City may make corrections or replace materials or services and charge Contractor for the 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 materials provided and Services rendered by Contractor in accordance with Exhibit B, entitled "SCHEDULE OF FEES." The maximum compensation of this Agreement is five hundred thousand dollars (\$500,000), subject to budget appropriations, which includes all payments that may be authorized for Services and for expenses, supplies, materials and equipment required to perform the Services. All work 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. If Contractor fails to perform any of its material obligations under this Agreement, in addition to all other remedies provided by law, City may terminate this Agreement immediately upon written notice to Contractor.
- C. Upon termination, each Party shall assist the other in arranging an orderly transfer and close-out of services and the payment of any invoices for work satisfactorily completed through the termination date. 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.

13. RIGHT OF CITY TO INSPECT RECORDS OF CONTRACTOR

City, through its authorized employees, representatives or agents shall have the right during the term of this Agreement 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 of this Agreement, and for any time period set forth in Exhibit C, Contractor shall provide and maintain in full force and effect, at no cost to City, insurance policies as set forth in Exhibit C.

16. WAIVER

Contractor agrees that waiver by City of any one or more of the conditions of performance under this Agreement shall not be construed as waiver(s) of any other condition of performance under this Agreement. Neither City's review, acceptance nor payments for any of the Services required under this Agreement

shall be constructed to operate as a waiver of any rights under this Agreement or of any cause of action arising out of the performance of this Agreement.

17. NOTICES

All notices to the Parties shall, unless otherwise requested in writing, be sent to City addressed as follows:

City of Santa Clara
Attention: Electric Department
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:

JT Thorpe Industrial Inc.
dba Liberty Industrial Group, Inc.
Attn: Robert Pinz
205 S. 29th Street
Phoenix, AZ 85034
and by e-mail at Robert.pinz@JTThorpe.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 to this Agreement.

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: _____

GLEN R. GOOGINS
City Attorney

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

“CITY”

JT THORPE INDUSTRIAL INC.
DBA LIBERTY INDUSTRIAL GROUP, INC.
a Nevada corporation

7/18/2023 | 12:15:34 PM MDT

Dated: _____

By (Signature): Robert Prinz
Name: Robert Prinz

Title: President and CEO

Principal Place of Business Address: 205 S. 29th Street
Phoenix, Arizona 85034

Email Address: Robert.pinz@JTThorpe.com

Telephone: (480) 568-7007

“CONTRACTOR”

EXHIBIT A SCOPE OF SERVICES

The Services to be performed for the City by the Contractor under this Agreement are set forth in this Exhibit.

1 GENERAL

- 1.1** Contractor shall furnish all labor, materials, tools, and equipment necessary to perform inspection, maintenance, and repair for Insulation and heat trace work for the City of Santa Clara's Electric Department, Silicon Valley Power (SVP).
- 1.2** Contractor shall perform the services in accordance with generally accepted industry best practices, and all applicable federal, state, or local regulations.
- 1.3** Contractor shall repair or replace insulation system with equivalent systems. Contractor shall obtain SVP's written approval to change the type of insulation an insulation system uses prior to repair or replacement.
- 1.4** Any deviations from the requirements described in this Exhibit A, whether due to emergencies or any other unforeseen events, must be approved in writing by SVP.
- 1.5** City reserves the right to request competitive price proposals on specific projects and award similar services to other qualified vendors during the term of this Agreement.
- 1.6** The terms "City" and "SVP" are used interchangeably throughout this Exhibit.

2 SERVICES TO BE PROVIDED

- 2.1** Contractor shall provide insulation and heat trace services, including but not limited to:
 - 2.1.1** Repair and replacement of insulation blankets.
 - 2.1.2** Repair and replacement of Calcium Silicate (CALSil) Insulation Systems.
 - 2.1.3** Repair and replacement of ceramic fiber insulation systems (KAOWOOL - a type of high-temperature mineral wool made from the mineral kaolin).
 - 2.1.4** Supply of all types of insulation products.

- 2.1.5 Removal and installation of steam turbine insulation blankets.
- 2.1.6 Removal and installation of insulation on piping.
- 2.1.7 Removal and installation of insulation on valves.
- 2.1.8 Removal and installation of insulation on tanks and heaters.
- 2.1.9 Plant wide insulation audits of three in-city power plants annually.
- 2.1.10 Installation and commissioning of heat trace systems.
- 2.1.11 Other miscellaneous insulation and heat trace work to support the successful operation of power plants.

2.1 Other included services:

- 2.1.1 Contractor shall be responsible for the disposal of all materials generated during the performance of services.
- 2.1.2 Contractor shall recycle all material scraps, and the value credited to City.
- 2.1.3 Contractor shall provide project management and scheduling services.
- 2.1.4 Contractor shall manage major project evolutions and interface with SVP.

**3 PROCESS FOR REQUESTING AND AUTHORIZING AS NEEDED
INSULATION SERVICES**

- 3.1 When insulation services are needed, City will request a quote from one or multiple contractors (Work Request).
- 3.2 Contractor shall submit a quote for the services requested. The quote shall include the following details:
 - 3.2.1 The specific service(s) to be performed. Detail of the services should have a level of detail reflective of the scope, timeline, and cost of the specific project.
 - 3.2.2 Estimated cost for the requested services, including:
 - 3.2.2.1 Labor costs (prevailing wage and non-prevailing wage);
 - 3.2.2.2 Project management costs (if applicable);
 - 3.2.2.3 Subcontractors, including subcontractor DIR number;

- 3.8.1** An emergency service shall be defined as an unforeseen event, circumstance, or combination thereof that City reasonably determines to require immediate action, presents an ongoing danger to public health and safety, and/or imperils SVP facilities and equipment.
- 3.8.2** Emergency services may only be authorized, by an Assistant Director of the Electric Utility, Electric Utility Chief Operating Officer, or Chief Electric Utility Officer. (Written authorization by e-mail is acceptable.)
- 3.8.3** Emergency services may be approved verbally, where appropriate, only by the SVP staff identified above. When verbal authorization is given, Contractor shall follow up with City for written confirmation within three (3) calendar days.
- 3.8.4** When emergency services are required, Contractor shall send a quote to City for the required services as soon as possible, but no later than three (3) business days after starting work. The quote shall be detailed in accordance with this Section 2 and shall also include any completed work.

3.9 Changes

- 3.9.1** Contractor shall notify City immediately when a situation occurs that may result in a change to the quoted project cost. Contractor shall provide reason for the change specific to each Work Authorization.
- 3.9.2** In the event that unanticipated site conditions or other issues result in costs that exceed the approved quote, Contractor shall submit to updated quote to City for review and approval in advance of performing the work. City shall authorize such changes by issuing an updated Purchase Order authorizing the additional work.
- 3.9.3** In the event that issues are identified that can be most efficiently and economically resolved while on site, changes may be approved verbally (in the field), by telephone, or e-mail by the following authorized individuals: Assistant Director of the Electric Utility, Electric Utility Chief Operating Officer, or Chief Electric Utility Officer. Contractor shall provide an updated quote within two (2) business days so that such changes can be documented in a Purchase Order within four (4) business days.
- 3.9.4** Contractor shall not initiate any work which will extend past the term in Section 2 of the Agreement or exceed the maximum compensation in Section 6 of the Agreement.

4 SERVICE LOCATION

- 4.1** Contractor services will primarily be performed in the City of Santa Clara at the following locations:
 - 4.1.1** Donald Von Raesfeld Power Plant (DVR), 850 Duane Ave., Santa Clara, CA 95054;
 - 4.1.2** Gianera Generating Station, 2339 Gianera St., Santa Clara, CA 95054; and
 - 4.1.3** Cogen, 524 Robert Ave., Santa Clara, 95050
- 4.2** Contractor may be requested to perform services at the following remote locations:
 - 4.2.1** Stony Creek Hydroelectric System near Orland, CA;
 - 4.2.2** Grizzly Hydroelectric Project System located in Plumas County, CA; and
 - 4.2.3** Additional City and SVP facilities as needed.

5 SCHEDULE

- 5.1** City will include requested schedule for work in each Work Authorization.
- 5.2** For scheduled outages, Contractor shall be available to provide services within thirty (30) days of request by City.
- 5.3** Contractor shall be available to plan, staff, and execute scheduled outages with two-weeks' notice.
- 5.4** Remedial measures shall be completed in a timely, efficient manner so as to ensure the power plant equipment is operational as soon as possible.
- 5.5** Rework and repair shall be completed in a timely, efficient manner so as to ensure the utility plant equipment is operational as soon as possible. This may require shifts greater than twelve (12) hours per day or working alternative shifts including night shifts.
- 5.6** Except where otherwise directed by City, Contractor shall perform the required services between 7:00 AM - 7:00 PM, Monday through Sunday.
- 5.7** For emergency services, Contractor shall be available to arrive onsite within six-hours of City request and immediately evaluate the labor, tooling, rental equipment, and subcontracted services needed to perform the necessary work.

6 REPORTING AND DOCUMENTATION

- 6.1** Contractor shall provide regular status updates on services performed during the term of the agreement. Depending on work activity, status updates may be required daily, weekly, or monthly at the direction of SVP.
- 6.2** Reports may include cost and schedule updates for services Contractor is providing to City.

7 E-BUILDER

Upon request of City, Contractor will use e-Builder for submission of data and documents throughout the term of this agreement.

- 7.1** e-Builder is a web-based construction management application hosted by e-Builder, Inc. For certain projects to be defined by City, e-Builder shall be the primary means of project information submission and management or as otherwise agreed upon with City.
- 7.2** City will establish Contractor's access to e-Builder by providing licenses to Contractor's personnel at City's cost. Contractor's designated users will be required to set up their computers/systems to use e-Builder in accordance to the e-Builder User Training Guide. City reserves the right to limit the licenses issued to Contractor in the future.
- 7.3** Contractor is required to obtain all necessary training to use the software. City will provide one classroom training or a web-based seminar. A training session is 1 - 2 hours.
- 7.4** e-Builder is a web-based environment and therefore it is subject to the inherent speed and connectivity limitations of the Internet. Contractor is responsible for its own connectivity to the Internet. e-Builder's response time is dependent on Contractor's equipment, including processor speed, Internet access speed, etc. and current traffic on the Internet. City will not be liable for any delays associated from the usage of e-Builder including, but not limited to: slow response time, down time periods, connectivity problems, or loss of information. Contractor shall ensure connectivity to the e-Builder system whether at the home office or job site. Under no circumstances will usage of e-Builder be grounds for a time extension or cost adjustment to the Agreement.
- 7.5** Data entered in a collaborative mode (entered with the intent to share as determined by permissions and workflows within the e-Builder system) by City and Contractor will be jointly owned.
- 7.6** Contractor is responsible for managing, tracking, and documenting the work to comply with the requirements of this Agreement. City's acceptance via automated system notifications or audit logs extends only

to the face value of the submitted documentation and does not constitute validation of Contractor's submitted information.

7.7 At City's sole discretion, project documents may be processed and distributed digitally over the internet or may be required to be presented in hard copy format.

7.8 While regular email may still be used for communication, when requested by City, e-Builder shall be utilized as much as possible in connection with all document and information management required in the performance of projects where City has directed the use of e-Builder. Contractor shall be responsible for scanning or otherwise converting to electronic format all project submittals and Contractor correspondence, drawings, sketches, etc., and uploading them to the e-Builder web site and shall be responsible for the validity of its information placed in e-Builder. Contractor shall use the existing forms and processes in e-Builder to the maximum extent possible. If a required form does not exist in e-Builder, Contractor shall include a form of its own or one provided by City (if available) as an attachment to a submittal or process. Documents and information to be submitted electronically include, but are not limited to:

7.8.1 Correspondence;

7.8.2 Meeting minutes;

7.8.3 Submittals and shop drawings;

7.8.4 Product Data, reports, certifications, etc. must be submitted in PDF format. (If a sample is able to be scanned, it is requested a scanned PDF copy is submitted with the sample.);

7.8.5 Requests for Information (RFI's);

7.8.6 Change order requests and documentation, including record copies of change orders, proposals, modifications;

7.8.7 Pay applications;

7.8.8 "Official" correspondence (such as letters) including informal correspondence, such as e-mail;

7.8.9 Pre-Task Plans (PTPs);

7.8.10 Daily construction reports and other daily reports including Contractor Quality Control (CQC) reports;

7.8.11 Quality Control (QC) documentation;

- 7.8.12 All official reports, such as commissioning reports;
 - 7.8.13 Notices and claims;
 - 7.8.14 Operations and maintenance manuals;
 - 7.8.15 All Close-out documents; and
 - 7.8.16 All testing results.
- 7.9 Archive Copies: When requested by City, Contractor shall keep an archive copy of all digital data created by Contractor, or submitted to Contractor via e- mail, or resident on the e-Builder for the duration of the Project. Such data shall be available to City, authorities with jurisdiction (including funding agencies or representatives) on demand.
- 7.10 Should City replace e-Builder with a different project management tool, Contractor, and subcontractors, shall be required to utilize the new project management tool selected by City.

8 STAFFING

- 8.1 Contractor shall be solely responsible for selecting, hiring, employing, paying, supervising, training and discharging all personnel necessary for the efficient testing, inspection, maintenance, and repair work. Contractor shall select and hire only persons, who are neat, well-groomed, and courteous, and who can act in the utmost professional manner.
- 8.2 Contractor shall employ only competent craftsmen/skilled workers who are well-qualified to perform the job duties for which they are being hired, appropriately trained, licensed to perform the required services.
- 8.3 Contractor shall be responsible for understanding and complying with any training and licensing required for the performance of the services described in this Attachment A, including but not limited to, Department of Transportation (DOT) requirements for commercial driver's license and required drug testing if applicable.
- 8.4 Contractor shall ensure that all its employees and agents abide by established local, state, and federal safety rules and regulations.
- 8.5 Contractor's employees and any subcontractors shall supply proper identification when requested by City.
- 8.6 Classification and Duties of Employees

Contractor may be requested to include the classifications of employee positions and the duties of each position in their proposal and each response to Work Request.

- 8.7 Contractor shall inform City immediately of any change in key personnel assigned to this project.
- 8.8 When requested by City, Contractor shall submit the resumes and other information supporting qualifications of the proposed replacement employee(s) to City for review and approval. City shall not unreasonably withhold approval.
- 8.9 City reserves the right to request the removal of any Contractor employee(s) who does not conduct themselves in a courteous, professional manner, or whose actions endanger the safety of people or property. Contractor shall promptly respond to requests for replacement personnel.

9 EMPLOYEE TRAINING

- 9.1 Contractor shall train all employees (including subcontractors) assigned to perform services.
- 9.2 Contractor's employee training shall be at no additional cost to SVP.
- 9.3 Contractor shall ensure that all employees (including subcontractors) who will be involved in the performance of services understand how to safely inspect, maintain, and perform installation and repairs as required for their respective positions.
- 9.4 Contractor shall provide ongoing training as required by law or to perform their duties. Contractor shall ensure that all assigned employees attend this training.
- 9.5 Contractor shall review its training procedures annually and shall submit any revisions in writing to City at City's request.

10 SAFETY

- 10.1 Contractor shall be responsible for creating a safe work environment for all personnel and City employees as well as for traffic control at the job site.
- 10.2 Contractor shall secure any incomplete work in a manner that does not present a hazard to City or public.
- 10.3 Contractor, its employees, and any subcontractors shall always act in a safe manner while on City property.

- 10.4** Contractor's safety provisions shall be in accordance with all applicable federal, state, county, and local laws, ordinances, and codes.
- 10.5** Contractor shall perform all services to operate and maintain all equipment in compliance with state and federal regulations including, but not limited to, the Occupational Safety and Health Administration (OSHA), while performing services for City.
- 10.6** Contractor shall comply with all site-specific safety requirements and procedures including but not limited to Lockout/Tagout (LOTO), Confined Space, Fall Protection, Chemical Safety, Hazardous Waste and Personnel Protective Equipment (PPE).
- 10.7** Contractor shall provide safety training records for its employees upon request.
- 10.8** Contractor shall be responsible for remaining up to date on all applicable federal, state, county, and local laws, ordinances, and codes in the event they are amended. Where any amended applicable laws or ordinances conflict with City's requirements, the more stringent requirement(s) shall be followed. Contractor's failure to be thoroughly familiarized with the safety provisions shall not relieve Contractor from compliance with the obligations and penalties resulting therefrom.
- 10.9** Contractor shall provide and maintain an Injury and Illness Prevention Program (IIPP) pursuant to Title 8, Section 3203 of the California Administrative Code. The program shall include, but not be limited to, a safety training program instructing Contractor's employees in general safe work practices and shall include specific instructions with regard to hazards unique to the employee's job assignment. A copy of Contractor's IIPP shall be submitted to City prior to the execution of an agreement and be made available on site upon request.
- 10.10** Contractor shall schedule periodic safety inspections to identify and correct unsafe conditions and work practices. City reserves the right to accompany Contractor during these inspections.
- 10.11** Contractor's employees (including any subcontractors) shall not use or possess alcohol, narcotics, firearms, or drugs of any nature other than medical (for which Contractor's employee has a current doctor's prescription) on City property and while performing services for City. Employees using prescribed medication will not engage in any work if the medication can potentially impair the employee's ability to perform the work safely.
- 10.12** Contractor's employees (including any subcontractors) shall utilize appropriate Personal Protective Equipment (PPE) and Fire Resistant (FR)

clothing, as required. Contractor shall provide the required PPE and FR clothing at its own expense.

- 10.13** Contractor shall immediately remove any personnel who is acting in an unsafe or dangerous manner.
- 10.14** Contractor shall provide work and traffic signage as required to warn pedestrians and vehicular traffic of work in progress. Contractor may be required to direct pedestrians and traffic around the work area. Contractor shall also be responsible for providing all equipment and personnel necessary to properly perform the traffic control measures, including but not limited to, flaggers, cones, reflectors, electronic signs, barricades, caution tape, temporary paving, or steel plates.
- 10.15** Contractor shall notify City immediately in event of an injury or property damage that occurs during the performance of the services. Contractor shall investigate the reported injury or damage upon request from SVP and provide SVP with regular updates until the investigation is resolved. SVP reserves the right to perform its own investigation. Should SVP choose to conduct its own investigation, Contractor shall assist City as required.
- 10.16** Contractor's employees and all subcontractors, if utilized shall be required to watch an SVP safety video once per calendar year or prior to the commencement of work.

11 TOOLS AND EQUIPMENT

- 11.1** Contractor is responsible for the provision of all tools and equipment (including any specialty tooling) necessary to perform work. SVP will not loan tools or equipment to Contractor.
- 11.2** In Contractor's quote or proposal, Contractor shall identify any equipment or tooling to be provided by City that is required to perform any aspect of the proposed service.
- 11.3** 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, the Occupational Safety and Health Administration (OSHA).
- 11.4** SVP may suspend work where they observe that proper tools and equipment are being used / operated improperly.
- 11.5** Contractor shall assume full responsibility for the protection and safekeeping of material and tools stored at the site and shall lock all Contractor vehicles when parked and unattended, to prevent unauthorized

use. Contractor shall not leave vehicles or equipment unattended with the motor running or the ignition key in place.

- 11.6 Upon the end of the workday, or suspension of work, Contractor shall remove all equipment and obstructions from any property typically open for use by the public traffic.

12 PROFESSIONAL BEHAVIOR

- 12.1 Contractor shall be responsible for the conduct, demeanor and appearance of its employees while on or about the job site or while acting in the course and scope of employment.
- 12.2 Contractor's employees shall be neat and clean and shall act in a courteous and professional manner. No employee shall use improper language or act in a loud, offensive, or otherwise improper manner.
- 12.3 Contractor's employees shall be trained as to the requirements of their positions and the importance of performing their jobs according to the SVP's instructions.
- 12.4 Contractor's employees shall be all times polite and courteous in their dealings with SVP staff and members of the public, treating them with patience and respect.
- 12.5 Contractor's employees shall speak clearly and in a professional manner while interacting with members of the public, offering the assistance needed by each person.
- 12.6 Contractor shall submit any complaints received against it to City immediately.

13 WORKMANSHIP

- 13.1 Contractor shall perform the required services in an environmentally responsible manner.
- 13.2 Contractor shall take all necessary precautions to protect SVP, City and private property from damage during the performance of the required services. Contractor shall be responsible for the repair of any property damaged during the performance of services. Damage to City property that cannot be repaired shall be replaced at Contractor's sole expense, prior to issuance of payment to Contractor by SVP. Any expenses incurred by SVP to repair property damage will be deducted from Contractor's compensation or invoiced by City at City's sole discretion.

- 13.3** Contractor will make all reasonable efforts to minimize obstructions and inconvenience to private owners such as, but not limited to, noise associated with testing.
- 13.4** SVP shall have the right to inspect any work performed by Contractor and any subcontractors. Should City determine upon inspection any unsatisfactory or defective work, Contractor shall immediately correct the work at no additional cost to SVP.
- 13.5** SVP shall not perform any work for Contractor except in an emergency situation or as determined necessary by City such as, but not limited to adequately protect the SVP's electrical or other facilities or to restore work area to a safe condition. SVP will be reimbursed for any work done for Contractor (deduction from Contractor's invoice or invoice from City to Contractor at the sole discretion of SVP). This will include all costs (direct straight time or overtime wages, all overhead, administration, engineering, vehicle, and equipment costs).
- 13.6** Contractor shall keep their work site(s) free from all surplus material, waste material, dirt and rubbish caused by Contractor's performance of services.
- 13.7** Contractor shall leave the work site in a neat and orderly condition. All clean-up work will be done to the satisfaction of City, and at the sole expense of Contractor.

14 WARRANTY

- 14.1** Manufacturer's warranty shall apply to all parts.
- 14.2** Parts fabricated by Contractor shall have a warranty equal to or greater than manufacturer's warranty for similar parts.
- 14.3** Labor shall be warranted for at least twelve (12) months from the date of acceptance.
- 14.4** Contractor shall correct any deficiencies and/or errors in Contractor's work discovered during the warranty period, at no cost to City.

EXHIBIT B
SCHEDULE OF FEES AND PAYMENT PROVISIONS

1 MAXIMUM COMPENSATION

- 1.1 The maximum amount of compensation to be paid to Contractor during the Initial Term of this Agreement shall be the amount specified in Section 6 (COMPENSATION AND PAYMENT) of the Agreement.
- 1.2 There is no guaranteed minimum compensation in this time and materials agreement.

2 RATES

- 2.1 Contractor shall invoice City in accordance with the rates specified in Exhibit B-1 –Rates.
- 2.2 Definitions:
 - 2.2.1 Straight time: All hours worked within an eight (8) hour working day Monday-Friday.
 - 2.2.2 Overtime:
 - 2.2.2.1 Hours exceeding eight (8) hours and up to twelve (12) hours Monday -Friday.
 - 2.2.2.2 The first eight (8) hours worked on Saturday.
 - 2.2.3 Double time: All hours worked over twelve (12) hours Monday-Friday. All hours worked over eight (8) hours on Saturday and all hours on Sunday and holidays listed in this section.
 - 2.2.4 Holidays: New Year's Day, Martin Luther King's Day, Presidents' Day, Memorial Day, Independence Day, Labor Day (Triple Time), Veterans Day, Thanksgiving Day. The day after Thanksgiving, and Christmas Day.
 - 2.2.5 Holidays shall coincide with the day of national observance. When a holiday falls on a Saturday, the preceding Friday shall be considered a holiday. When a holiday falls on a Sunday, the following Monday shall be considered a holiday.
 - 2.2.6 No work shall be performed on Labor Day, except in special cases of emergency when life and/or property are in danger. Work performed on Labor Day shall be charged at a Triple time rate.
- 2.3 All services shall be quoted and authorized using the Work Authorization process outlined in Exhibit A, Section 3 – Process for Requesting and Authorizing As Needed Insulation Services.
- 2.4 Rates for the initial two years of the Agreement shall be as described in Exhibit B-1. After the initial two years, Contractor may request

adjustments to the compensation rates no more than annually.

- 2.4.1 Contractor must demonstrate to the satisfaction of City that a price increase is warranted.
- 2.4.2 City approval or denial of the requested rate adjustment will be provided in writing (e-mail acceptable). Once accepted, such rates shall be incorporated into the agreement by reference.

3 REIMBURSABLE EXPENSES

Contractor may submit invoices for reimbursement of expenses set forth below, subject to the following conditions:

- 3.1 Contractor must include estimated reimbursable expenses in each quote for service and shall provide invoices depicting actual costs with each invoice including reimbursable expenses.
- 3.2 Reimbursable expenses shall be reimbursable only to the extent that Contractor submits sufficient documentation to City that the expenses were directly incurred in providing the required services and that such expenses aren't included in fixed or hourly rates.
- 3.3 Provided that the provisions of this Section 3 have been met, Contractor may invoice and the City will reimburse the following expenses at actual cost plus a mark-up not to exceed 10%:
 - 3.3.1 Consumables, safety supplies;
 - 3.3.2 Third party invoices and equipment; and
 - 3.3.3 Contracted freight.
- 3.4 Provided that the provisions of this Section 3 have been met, Contractor may invoice and the City will reimburse the following expenses at actual cost:
 - 3.4.1 Travel-related expenses (mileage, lodging, meals, etc.).
 - 3.4.1.1 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>
 - 3.4.1.2 Rental car and airfare, where required, shall be at economy class.
 - 3.4.1.3 City shall not reimburse local travel (within Santa Clara County).
 - 3.4.2 The rental of any specialized equipment to the extent City has preapproved, in writing, the cost of such rental.
 - 3.4.3 The cost of mailing, shipping and/or delivery of any documents or

materials on behalf of City.

3.4.4 Any other expenses expressly identified as being reimbursable.

3.5 City will reimburse these expenses at actual cost only.

4 INVOICING AND PAYMENTS

4.1 Contractor shall submit an invoice to City monthly, in arrears, for payment for services performed the previous month, pursuant to this Agreement.

4.2 Each invoice shall include the task costs for the previous month and each invoice, shall include sufficient detail for City to verify that the rates in this agreement were charged, and shall only include only work associated with a single work authorization or quote.

4.3 City shall review the invoice submitted by Contractor and shall notify Contractor of any discrepancies or deficiencies in said invoice.

4.4 If City disputes an expense in an invoice, City may deduct the disputed expense from the payment of that invoice, provided that City submits to Contractor a written explanation of why the expense is being disputed.

4.5 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 to be paid within forty-five (45) days from date of invoice.

EXHIBIT B-1 - RATES

Labor Rates Valid from 07/01/23 to 06/30/24			
Classification	Straight Time Rate	Overtime Rate	Double Time Rate
Superintendent	\$ 207.90	\$ 295.05	\$ 382.20
General Foreman	\$ 194.49	\$ 274.94	\$ 355.38
Foreman	\$ 181.08	\$ 254.82	\$ 328.57
Journeyman/Mechanic	\$ 167.67	\$ 234.71	\$ 301.75
Apprentice 8	\$ 160.97	\$ 224.66	\$ 288.34
Apprentice 7	\$ 154.26	\$ 214.60	\$ 274.94
Apprentice 6	\$ 147.56	\$ 204.54	\$ 261.53
Apprentice 5	\$ 140.86	\$ 194.49	\$ 248.12
Apprentice 4	\$ 134.15	\$ 184.43	\$ 234.71
Apprentice 3	\$ 127.45	\$ 174.38	\$ 221.30

Labor Rates Valid from 07/01/24 to 06/30/25			
Classification	Straight Time Rate	Overtime Rate	Double Time Rate
Superintendent	\$ 218.07	\$ 310.31	\$ 402.55
General Foreman	\$ 203.88	\$ 289.02	\$ 374.17
Foreman	\$ 189.69	\$ 267.74	\$ 345.79
Journeyman/Mechanic	\$ 175.50	\$ 246.45	\$ 317.41
Apprentice 8	\$ 168.40	\$ 235.81	\$ 303.21
Apprentice 7	\$ 161.31	\$ 225.17	\$ 289.02
Apprentice 6	\$ 154.21	\$ 214.52	\$ 274.83
Apprentice 5	\$ 147.12	\$ 203.88	\$ 260.64
Apprentice 4	\$ 140.02	\$ 193.24	\$ 246.45
Apprentice 3	\$ 132.93	\$ 182.59	\$ 232.26

Misc. Rates

Classification	Misc. Rate
Pick-up (includes fuel)	\$125.00/per shift
On-Site Training	Billable at craft rate for hours required.
Cartage	Billable at craft rates for hours required.

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:

\$1,000,000 Each Occurrence
\$2,000,000 General Aggregate
\$2,000,000 Products/Completed Operations Aggregate
\$1,000,000 Personal Injury

2. Exact structure and layering of the coverage shall be left to the discretion of Contractor; however, any excess or umbrella policies used to meet the required limits shall be at least as broad as the underlying coverage and shall otherwise follow form.
3. The following provisions shall apply to the Commercial Liability policy as well as any umbrella policy maintained by the Contractor to comply with the insurance requirements of this Agreement:
 - a. Coverage shall be on a "pay on behalf" basis with defense costs payable in addition to policy limits;
 - b. There shall be no cross liability exclusion which precludes coverage for claims or suits by one insured against another; and
 - c. Coverage shall apply separately to each insured against whom a claim is made or a suit is brought, except with respect to the limits of liability.

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 one million dollars (\$1,000,000) each accident using, or providing coverage at least as broad as, Insurance Services Office form CA 00 01. Liability coverage shall apply to all owned, non-owned and hired autos.

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. 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. Cancellation.
 - a. Each insurance policy shall contain language or be endorsed to reflect that no cancellation or modification of the coverage provided due to non-payment of premiums shall be effective until written notice has been given to City at least ten (10) days prior to the effective date of such modification or cancellation. In the event of non-renewal, written notice shall be given at least ten (10) days prior to the effective date of non-renewal.

- b. Each insurance policy shall contain language or be endorsed to reflect that no cancellation or modification of the coverage provided for any cause save and except non-payment of premiums shall be effective until written notice has been given to City at least thirty (30) days prior to the effective date of such modification or cancellation. In the event of non-renewal, written notice shall be given at least thirty (30) days prior to the effective date of non-renewal.
4. Other Endorsements. Other endorsements may be required for policies other than the commercial general liability policy if specified in the description of required insurance set forth in Sections A through D of this Exhibit C, above.

E. ADDITIONAL INSURANCE RELATED PROVISIONS

Contractor and City agree as follows:

1. Contractor agrees to ensure that subcontractors, and any other party involved with the Services who is brought onto or involved in the performance of the Services by Contractor, provide the same minimum insurance coverage required of Contractor, except as with respect to limits. Contractor agrees to monitor and review all such coverage and assumes all responsibility for ensuring that such coverage is provided in conformity with the requirements of this Agreement. Contractor agrees that upon request by City, all agreements with, and insurance compliance documents provided by, such subcontractors and others engaged in the project will be submitted to City for review.
2. Contractor agrees to be responsible for ensuring that no contract used by any party involved in any way with the project reserves the right to charge City or Contractor for the cost of additional insurance coverage required by this Agreement. Any such provisions are to be deleted with reference to 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.
3. The City reserves the right to withhold payments from the Contractor in the event of material noncompliance with the insurance requirements set forth in this Agreement.

F. 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,

EXHIBIT D LABOR COMPLIANCE

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

A. Prevailing Wage Requirements

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

Code Section 1720 *et seq*, as well as any additional documentation requested by the City or its designee including, but not limited to: certified payroll, fringe benefit statements and backup documentation such as monthly benefit statements, employee timecards, copies of wage statements and cancelled checks, proof of training contributions (CAC2 if applicable), and apprenticeship forms such as DAS-140 and DAS-142.

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

B. Audit Rights

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

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

Notwithstanding the foregoing, City shall not be entitled to audit any information that would enable City to determine the make-up of any lump sum, or any fixed or established amounts, rates or multipliers permitted under this Agreement; provided, however that City shall be permitted such information for the limited purposes of determining compliance with the Work and applicable laws.

C. Enforcement

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