

**AGREEMENT FOR SERVICES  
BETWEEN THE  
CITY OF SANTA CLARA, CALIFORNIA,  
AND  
ENERGY PROJECT SOLUTIONS LLC**

**PREAMBLE**

This Agreement is entered into between the City of Santa Clara, California, a chartered California municipal corporation (City) and Energy Project Solutions, a California Limited Liability 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**

City desires to secure the services more fully described in this Agreement, at Exhibit A, entitled “Scope of Services”;

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,

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 – Compensation and Fee Schedule

Exhibit C – Insurance Requirements

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**

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 October 1, 2020 and terminate on June 30, 2021.

## **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 all materials and services 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 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. 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 "COMPENSATION AND FEE SCHEDULE." The maximum compensation of this Agreement is five hundred twenty-five thousand dollars (\$525,000), 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. Unless authorized in writing through an amendment to this

Agreement, 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. 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](mailto:svpcontracts@santaclaraca.gov), and  
[manager@santaclaraca.gov](mailto:manager@santaclaraca.gov)

And to Contractor addressed as follows:

Michael Finch  
Energy Project Solutions LLC  
841 Mohawk Street, Suite 120  
Bakersfield CA 93309  
Phone: 661-809-4956  
Email: [mfinch@energyprojectllc.com](mailto:mfinch@energyprojectllc.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: \_\_\_\_\_

\_\_\_\_\_  
BRIAN DOYLE  
City Attorney

\_\_\_\_\_  
DEANNA J. SANTANA  
City Manager  
1500 Warburton Avenue  
Santa Clara, CA 95050  
Telephone: (408) 615-2210  
Fax: (408) 241-6771

"CITY"

**ENERGY PROJECT SOLUTIONS, LLC**  
A California Limited Liability Corporation

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

By (Signature): \_\_\_\_\_

Name: \_\_\_\_\_

Title: \_\_\_\_\_

Principal Place of  
Business Address: \_\_\_\_\_

Email Address: \_\_\_\_\_

Telephone: ( ) \_\_\_\_\_

Fax: ( ) \_\_\_\_\_

"CONTRACTOR"



**AGREEMENT FOR SERVICES  
BETWEEN THE  
CITY OF SANTA CLARA, CALIFORNIA (CITY),  
AND  
ENERGY PROJECT SOLUTIONS, LLC (CONTRACTOR)**

**EXHIBIT A – SCOPE OF SERVICES**

**1 GENERAL**

- 1.1** Contractor shall furnish all labor, materials, tools, and equipment necessary to provide In-line Inspection (ILI) of SVP's Silicon Valley Power's (SVP) 12-inch Gas Pipeline.
- 1.2** The Contractor shall possess all licenses and/or certifications necessary to perform the services described in this Attachment A. Contractor shall also secure all permits necessary (including payment of any charges and fees) to perform the required services.
- 1.3** Contractor shall perform the services in accordance with generally accepted industry best practices, and all applicable federal, state, or local regulations. In particular, Contractor shall comply with United States Department of Transportation (USDOT) Pipeline Hazardous Materials Safety Administration (PHMSA) policies, guidelines, and regulations including, but not limited to, the following.
  - 1.3.1** Federal Pipeline Safety program 49 CFR 191 and 192 (Electronic Code of Federal Regulations, Title 49, Subtitle B, Chapter 1, Subchapter D).
  - 1.3.2** Schedule required by PHMSA gas pipeline regulations.
  - 1.3.3** National Association of Corrosion Engineers, as applicable.
- 1.4** Contractor shall perform associated Jurisdictional Analysis including identification of agencies that need to be contacted in the event of gas pipeline activity, and communication and coordination with other local, state, and federal agencies impacted by the pipeline including, but not limited to, other City departments, the Department of Fish and Game, California Highway Patrol, railroad system, and the California Department of Transportation (Caltrans).
- 1.5** Any deviations from the requirements described in this Attachment A, whether due to emergencies or any other unforeseen events, must be approved in writing by the City. An emergency shall be defined as an unforeseen event, circumstance, or combination of circumstances that the City reasonably determines to require immediate action and/or presents an ongoing danger to public health and safety and/or imperils the SVP gas pipeline distribution system

**2 MAJOR GAS PIPELINE INSPECTION**

- 2.1** Contractor will perform major in-line inspections (ILI) to check the internal integrity of the 12-inch gas pipelines, in accordance with 49 CFR Part 192, Subpart O and all of its references.

- 2.2** During each inspection, Contractor will modify inspection tool (Pig) launchers and receivers as well as perform hydro test preparation for long term storage. Contractor modifications shall:
  - 2.2.1** Help prevent long term corrosion of launchers and receivers.
  - 2.2.2** Ensure current ILI tools (smart pigs) can pass through to perform complete inspections of piping and welds.
  - 2.2.3** The inspections shall include weld mapping.
- 2.3** Contractor shall complete the inspection of the 12-inch gas pipeline inspections before December 31, 2020. City and Contractor shall finalize the date of time of this inspection.
- 2.4** Prior to performing pipeline inspections, Contractor shall
  - 2.4.1** Submit a recommended inspection tool to the City for review and approval. The City shall not unreasonably withhold approval. The approved inspection tool shall be used and 12-inch pipeline.
  - 2.4.2** Provide a preliminary project plan and schedule to the City for review and approval.
    - 2.4.2.1** The project plan shall provide a detailed scope of work and schedule for the project.
    - 2.4.2.2** The project schedule shall point out 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 potential for delays.
- 2.5** Required Reporting
  - 2.5.1** Within 30 days of the ILI, Contractor shall provide a preliminary report identifying any anomalies requiring immediate attention.
  - 2.5.2** Within 60 days of the ILI, Contractor shall provide a final report identifying any anomalies needing attention.
  - 2.5.3** Upon completion of the project, Contractor shall update any drawings as needed.
- 2.6** Contractor may recommend modifications to piping based on inspection findings. Any recommended modifications to piping shall be in accordance with applicable American Society of Mechanical Engineers (ASME) standards, including but not limited to B31.8.
- 2.7** The City may participate in or observe any inspection.

### **3 REMEDIAL MEASURES**

- 3.1** Upon written approval of the City, Contractor shall perform remedial measures as required. Remedial measures are services performed, beyond normal O&M services, to address issues discovered during inspections of the pipelines. If such measures result in

additional costs exceeding the total cost specified in the Agreement, an amendment may be required.

**3.2 Remedial measures shall include but not be limited to:**

- 3.2.1** Repair or replacement of pipe casings, pipeline coating, emergency valves, relief valves, pipe segments, and rectifiers;
- 3.2.2** Pipeline leak repairs;
- 3.2.3** Mitigation of corrosive properties in the gas (e.g. installing corrosion coupons, injection corrosion inhibitor, etc.);
- 3.2.4** Mitigation of low cathodic protection readings (e.g. Close Interval Surveys, installing anodes, etc.); and
- 3.2.5** Moving pipeline due to new construction or city/county building requirements.

**3.3 Contractor shall provide labor, materials, and equipment necessary to perform any required remedial services.**

**3.4 Contractor shall be responsible for disposing of all hazardous material generated during the performance of remedial services.**

**3.5 Contractor shall be responsible for obtaining any City permits to perform any required remedial services.**

**3.6 Contractor is responsible for obtaining an 811-dig permit for any remedial services that require digging.**

**3.7 Contractor shall provide a quote for remedial measures upon request from the City. The quote shall detail the specific issue, service(s) to be performed, and estimated price for the services.**

**3.8 Except in the case of emergency, at no time shall Contractor begin work before the City has approved the submitted quote and executed an addendum, if required.**

**3.9 Remedial measures shall be completed in a timely, efficient manner so as to ensure the pipeline is operational as soon as possible.**

**4 REPORTING AND DOCUMENTATION**

**4.1 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 the City.**

**4.2 At the end of each project, Contractor shall provide a complete report with any redlines to SVP's drawings, photo evidence, modifications, recommendations and a narrative of the work completed.**

**4.3 At the end of each project, Contractor shall also provide as-built drawings identifying any changes including source of authorization for change.**

## **5 SCHEDULE**

- 5.1** Contractor shall perform the required services during regular business hours (7:00 AM - 3:30 PM, Monday through Friday).
- 5.2** If the City requires services outside of regular business hours, Contractor shall provide to the City a quote for the required services (listing labor costs and parts/equipment costs separately). Contractor shall not begin work until the City has given written approval.

## **6 STAFFING REQUIREMENTS**

- 6.1** The Contractor shall be solely responsible for selecting, hiring, employing, paying, supervising, training and discharging all personnel necessary for providing services included in this Agreement.
- 6.2** Contractor shall ensure the following employment standards for all employees (including subcontractors) are complied with and enforced throughout the term of the contract.
  - 6.2.1** United States of America citizenship or verified legal alien status.
  - 6.2.2** At least eighteen (18) years of age.
  - 6.2.3** Sufficiently fluent in English to: (a) comprehend the instructions of Contractor personnel; (b) offer the level of customer service established by the Manager; (c) understand the safety and operating instructions on any equipment used; and (d) communicate with emergency personnel during emergencies;
  - 6.2.4** No known criminal background or record of conviction for other than minor vehicle code/traffic violations. Valets (if applicable) shall have clean driving records without recent moving violations within the last 3 years.
  - 6.2.5** Possession of a current, valid U.S. driver's license permitting operation of a two-axle vehicle.
  - 6.2.6** Ability to perform normal or emergency duties requiring moderate to arduous physical exertion.
- 6.3** Contractor shall employ only competent craftsmen/skilled workers who are appropriately trained and licensed to perform the required services.
- 6.4** Contractor shall be responsible for understanding and complying with any training and licensing required for the performance of the services described in this Agreement, including but not limited to, DOT requirements for commercial driver's license and required drug testing if applicable.
- 6.5** The City may request verification of the assigned employees' qualifications at any time. Contractor shall promptly provide such verification upon request by the City.
- 6.6** Contractor shall ensure that all its employees and agents abide by established local, state and federal safety rules and regulations.

- 6.7** Contractor's employees and any subcontractors shall supply proper identification when requested by the City.
- 6.8** Contractor shall select and hire only persons who are well-qualified to perform the job duties for which they are being hired, who are neat, well-groomed, and courteous, and who can act in the utmost professional manner when interacting with City staff and the general public.
- 6.9** Classification and Duties of Employees

The Contractor shall include the classifications of employee positions and the duties of each position in their proposal. Classifications may include, but are not limited to:

- 6.9.1** Project Manager/General Manager: Responsible for the day-to-day management and supervision of the required services. On-site responsibilities shall also include, but not be limited to, correcting problems, managing conflicts and complaints, and overseeing work schedules, personnel, and equipment requirements. If the Project Manager/General Manager is off-site or otherwise unable to give direction to Contractor's employees (including subcontractors), the City may give directions to the personnel until the Project Manager/General Manager returns.
  - 6.9.2** Technical/Field Personnel: Performs the required pipeline inspection, maintenance and repair services.
  - 6.9.3** Administrative Personnel: Assists in the administration and reporting of the required services.
- 6.10** Contractor shall inform the City immediately of any change in key personnel assigned to this project.
  - 6.10.1** Contractor shall submit the resumes and other qualifications of the proposed replacement employee(s) to the City for review and approval.
  - 6.10.2** The City shall not unreasonably withhold approval.
- 6.11** The 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. The Contractor shall promptly respond to requests for replacement personnel.

## **7 EMPLOYEE TRAINING**

- 7.1** Contractor shall train all employees (including subcontractors) assigned to perform the required services
- 7.2** Contractor's employee training shall be at no cost to the City.
- 7.3** Contractor shall ensure that all employees (including subcontractors) who will be involved in the performance of services for the City understand how to safely inspect, maintain, and repair the gas pipeline system as required for their respective positions.

- 7.4 Contractor shall review its training procedures annually, and shall any revisions in writing to the City.
- 7.5 Contractor shall provide ongoing training at least once per year. Contractor shall ensure that all assigned employees attend this annual training.

## **8 SAFETY**

- 8.1 Contractor, its employees, and any subcontractors shall always act in a safe manner while on City property.
- 8.2 The 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.
- 8.3 Contractor's safety provisions shall be in accordance with all applicable federal, state, county, and local laws, ordinances and codes.
- 8.4 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 are in conflict with the City's requirements, the more stringent requirement(s) shall be followed. The Contractor's failure to be thoroughly familiarized with the safety provisions shall not relieve the Contractor from compliance with the obligations and penalties resulting therefrom.
- 8.5 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 the Contractor's IIPP shall be submitted to the City prior to the execution of an agreement, and be made available on site upon request.
- 8.6 Contractor shall schedule periodic safety inspections to identify and correct unsafe conditions and work practices. The City reserves the right to accompany Contractor during these inspections.
- 8.7 Contractor's employees (including any subcontractors) shall not use or possess alcohol, narcotics, firearms, or drugs of any nature other than medical (for which the Contractor's employee has a current doctor's prescription) on City property and while performing services for the 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.
- 8.8 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.
- 8.9 Contractor shall provide work and traffic signage as required to warn pedestrians and vehicular traffic of work in progress. The 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, and electronic signs.

**8.10** Contractor shall immediately remove any personnel who is acting in an unsafe or dangerous manner.

**8.11** Contractor shall notify the City immediately in event of an injury or property damage that occurs during the performance of the services described in this Attachment A. Contractor shall investigate the reported injury or damage upon request from the City, and provide the City with regular updates until the investigation is resolved. The City reserves the right to perform its own investigation. Should the City choose to conduct its own investigation, Contractor shall assist the City as required.

## **9 TOOLS AND EQUIPMENT**

**9.1** Contractor is responsible for identifying all tools and equipment necessary to perform work. The City will not loan tools or equipment to the Contractor.

**9.2** 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).

**9.3** The City may suspend work where they observe that proper tools and equipment are not being used.

## **10 PROFESSIONAL BEHAVIOR**

**10.1** 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.

**10.2** 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.

**10.3** Contractor's employees shall be trained as to the requirements of their positions and the importance of performing their jobs according to the City's instructions.

**10.4** Contractor's employees shall be all times polite and courteous in their dealings with City staff and members of the public, treating them with patience and respect.

**10.5** 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.

**10.6** Contractor shall submit any complaints received against it to the City immediately.

## **11 WORKMANSHIP**

**11.1** The Contractor shall perform the required services in an environmentally responsible manner.

- 11.2** 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.
- 11.3** Contractor shall take all necessary precautions to protect 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 the Contractor's sole expense, prior to issuance of payment to the Contractor by the City. Any expenses incurred by the City to repair property damage will be deducted from the Contractor's compensation.
- 11.4** Contractor will make all reasonable efforts to minimize obstructions and inconvenience to private property owners. These efforts may include, but not be limited to, rescheduling work at a property owner's request, and removing all waste in a timely manner.
- 11.5** Contractor will make all reasonable efforts to minimize obstructions and inconvenience to public traffic. Contractor shall comply with all City, County, and State traffic control requirements, including the State of California Manual of Traffic Controls for Maintenance and Work Zones, most current version (Part 6 of California Manual of Uniform Traffic Control Devices), including all revisions.
- 11.6** Contractor shall keep their work site(s) free from all surplus material, waste material, dirt and rubbish caused by Contractor's performance of services.
- 11.7** Contractor shall leave the work site in a neat and orderly condition. All clean-up work will be done to the satisfaction of the City, and at the sole expense of Contractor.
- 11.8** 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 public traffic. Any incomplete work shall be secured in a manner that does not present a hazard to the City or public.
- 11.9** The City shall have the right to inspect any work performed by the Contractor and any subcontractors. Should the City determine upon inspection any unsatisfactory or defective work, the Contractor shall immediately correct the work at no additional cost to the City.
- 11.10** The City shall not perform any work for Contractor except in an emergency situation or as determined necessary by the City such as, but not limited to adequately protect the City's electrical or other facilities or to restore work area to a safe condition. The City will be reimbursed for any work done for the Contractor (deduction from the Contract or invoice to Contractor at the sole discretion of the City). This will include all costs (direct straight time or overtime wages, all overhead, administration, engineering, vehicle, and equipment costs).

## **12 WARRANTY**

- 12.1** Manufacturer's warranty shall apply to all parts.



**12.2** Labor shall be warranted for twelve (12) months from the date of repair.

**12.3** Contractor correct any deficiencies and/or errors in Contractor's work discovered during the warranty period, at no cost to the City.

### **13 ADDITIONAL TERMS**

**13.1** Notwithstanding anything in this agreement to the contrary (including, without limitation, Section 14 of the Agreement, should any of the in-line inspection equipment ("Equipment") become stuck, lost, damaged or irrecoverable in the pipeline, City shall assume full responsibility for all costs associated with recovery and repair of the Equipment in the shortest time possible according to the specific circumstances as agreed by the Parties, including but not limited to repair of the pipeline following retrieval of the Equipment. City shall pay Contractor for any lost or unrepairable Equipment in accordance with the in-line inspection subcontractor's tool replacement schedule, together with all sums due and owing for Services performed. Proper credit, as determined by Contractor and its subcontractor, will be issued for any Equipment subsequently recovered and returned to Contractor. Furthermore, City shall also pay Contractor the Equipment stand-by charges set forth in its subcontractor's applicable quotation starting on the day the Equipment becomes stuck until the Equipment is recovered or Contractor is paid for the replacement of the Equipment.

**13.2** Notwithstanding anything in this Agreement to the contrary, and to the fullest extent permitted by law, neither Contractor nor its subcontractors will be liable to City, or its affiliates for damages resulting from loss of profit, loss of revenue, business interruption and loss of product, even if a remedy fails of its essential purpose and such damages shall be considered waived by City and its affiliates.

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**EXHIBIT B - COMPENSATION AND FEE SCHEDULE**

**1 COMPENSATION:**

The amount billed to City by Contractor for services under this Agreement as Amended will not exceed five hundred twenty five thousand dollars (\$525,000).

**2 FEE SCHEDULE:**

Services to inspect the 12 in x 2.16 mi shall be provided by two subcontractors as follows:

**2.1 TD Williamson (TDW) – provide tool for ILI**

#	Quantity	Part Number	Description	Total Price
Provide Tool for ILI				
1	1	DEF.12	DEFORMATION INSPECTION, 12in Go / No-Go for MDS Inspection	\$ 18,280.00
2	1	DEF.MFL.SMFL.12	DEF+MFL+SMFL INSPECTION, 12in	\$ 117,810.00
3	1	ILI.MDS.MOB.DEMOB	ILI MDS MOB/DEMOB	\$ 3,250.00
4	1	XYZ.12	MAPPING, 12in	\$ 8,500.00
5	1	ADDITIONAL.ANALYSIS	Selective Seam Weld Corrosion Analysis Up to 500 Defects	\$ 7,500.00
Tracking and Surveying				
6	5	PS.MOB/DEMOB	DEFORMATION INSPECTION, 12in Go / No-Go for MDS Inspection	\$ 16,000.00
7	1	PS.AGM	DEF+MFL+SMFL INSPECTION, 12in	\$ 3,200.00
8	1	PS.PT	ILI MDS MOB/DEMOB	\$ 3,200.00
9	1	ADD ON REPORT	Level 2 Box matching corrosion growth rate	\$ 10,000.00

**2.2 Dick Brown Technical Services (DBTS) – field support to run ILI tool**

**2.2.1 Field Support to Run ILI Tool**

**2.2.1.1** Labor and Equipment: \$41,832.40

**2.2.1.2** Subcontractors: \$17,346

**2.2.1.3** Materials (Cost of nitrogen as the gas volumes from PG&E are not enough to push the tool at the required speed): \$96,996

**2.2.2** Field Support to Run ILI Tool

**2.2.2.1** Labor and Equipment: \$57,706.16

**2.2.2.2** Subcontractors: \$5,428

**2.2.2.3** Materials: \$1,622

**2.2.2.4** Modification of Launcher and Receiver: \$1,800

**2.3** Project Management and Contractor Mark Up Costs

**2.3.1** Project Management: Up to 10 days: \$10,000

**2.3.2** Subcontractor Markup: In recognition of contractor costs of managing subcontractors, Contractor may markup subcontractor's invoice in an amount not to exceed 10%. Contractor shall provide supporting documentation such as invoices or receipts for all subcontractor costs: \$41,047.06 (10% of TDW and DBTS costs)

**2.4** Fees outlined above are based on assumed field conditions. In event of unanticipated field issues such as, but not limited to, those listed below, Contractor may submit a quote for additional work.

**2.4.1** Any delays caused by underground obstructions

**2.4.2** Unanticipated Demo

**2.4.3** Any unforeseen conditions which includes but not limited to:

**2.4.3.1** Brush growth or soils erosion will be a change order.

**2.4.3.2** Underground Obstructions

**2.4.3.3** Any Storm Water Pollution Prevention Plan (SWPPP) or Best Management Practice (BMP)

**2.4.3.4** Specialty Equipment not in DBTS standard rates

**2.4.3.5** Delays due to permits/subcontractors/weather/redirects

**2.4.3.6** Concrete & Soils Testing

**2.4.3.7** Overtime

**2.5** Reimbursable Expenses

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

**2.5.2** Expenses shall be reimbursable only to the extent that the Contractor submits sufficient documentation to the City that the expenses were directly incurred in providing the required gas pipeline services.

**2.5.3** The following expenses shall be reimbursable by the City.

**2.5.3.1** Travel-related expenses (mileage, lodging, meals, etc.).

**2.5.3.1.1** 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>

**2.5.3.1.2** The City shall not reimburse local travel (within Santa Clara County).

**2.5.3.2** The rental of any specialized equipment to the extent the City has preapproved, in writing, the cost of such rental.

**2.5.3.3** The cost of mailing, shipping and/or delivery of any documents or materials on behalf of the City.

**2.5.3.4** Any other expenses expressly identified as being reimbursable.

**2.5.4** Except as specified above, the City will reimburse these expenses at actual cost only.

## **2.6** Contingency:

**2.6.1** The City has established a project contingency of \$63482.38 for unanticipated cost associated with this project. Use of this contingency requires written approval by City of a quote provided by contractor. Written quote shall include:

**2.6.1.1** Justification for additional costs such as, but not limited to, conditions described in Section 2.4

**2.6.1.2** The specific project requirements and estimated price for the project. Pricing for labor, materials and equipment, permits, etc. shall be listed separately in the quote.

**2.6.1.3** The quote shall include the hourly rates for all labor to use during the project, and identify any labor subject to prevailing wage requirements.

**2.6.1.4** The quote shall include a total not-to-exceed price.

**2.6.2** At no time shall Contractor begin work before the City has approved the submitted quote.

**2.6.3** In the event that the unanticipated activity exceeds the specified contingency, a written amendment shall be required in advance of completing work.

## **3** PAYMENT SCHEDULE:

**3.1** Where prevailing wage is required the City may withhold payment until required certified payroll is submitted to the Department of Industrial Relations (DIR)

**3.2** Payment schedule for TDW shall be as follows:

**3.2.1** 25% Tool Preparation and Engineering

**3.2.2** 30% Mobilization

- 3.2.3** 25% Field Work and Preliminary Report
  - 3.2.4** 20% Final Report
  - 3.2.5** TDW shall receive payment in full for “Tool Preparation and Engineering” and “Mobilization” before it is required to mobilize to the field.
  - 3.2.6** Invoices may include subcontractor mark up as described in Section 2.3.
- 3.3** For all other work associated with this Agreement, Contractor shall submit an invoice within thirty (30) calendar days after satisfactory completion of performance. If approved, City shall make payment within thirty (30) calendar days after receipt of such invoice.

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**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:  
  
\$2,000,000 each occurrence  
\$2,000,000 General aggregate  
\$2,000,000 Products/Completed Operations aggregate  
\$2,000,000 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.

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. PROFESSIONAL LIABILITY

Professional Liability or Errors and Omissions Insurance as appropriate shall be written on a policy form coverage specifically designed to protect against negligent acts, errors or omissions of the Contractor. Covered services as designated in the policy must specifically include work performed under this agreement. Coverage shall be in an amount of not less than one million dollars (\$1,000,000) per claim or two million dollars (\$2,000,000) aggregate. Any coverage containing a deductible or self-retention must first be approved in writing by the City Attorney's Office.

#### 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 D of this Exhibit C, above.

F. ADDITIONAL INSURANCE RELATED PROVISIONS

Contractor and City agree as follows:

1. Contractor agrees to ensure that subcontractors, and any other party involved with the Services who is brought onto or involved in the performance of the Services by Contractor, provide the same minimum insurance coverage



required of Contractor, except as with respect to limits. Contractor agrees to monitor and review all such coverage and assumes all responsibility for ensuring that such coverage is provided in conformity with the requirements of this Agreement. Contractor agrees that upon request by City, all agreements with, and insurance compliance documents provided by, such subcontractors and others engaged in the project will be submitted to City for review.

2. Contractor agrees to be responsible for ensuring that no contract used by any party involved in any way with the project reserves the right to charge City or Contractor for the cost of additional insurance coverage required by this Agreement. Any such provisions are to be deleted with reference to 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.

#### 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  
P.O. Box 100085 – S2  
Duluth, GA 30096

or 1 Ebix Way  
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.

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**EXHIBIT D - LABOR COMPLIANCE ADDENDUM**

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

## **B. Audit Rights**

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

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.