

**AMENDMENT NO. 1
TO THE AGREEMENT FOR SERVICES
BETWEEN THE
CITY OF SANTA CLARA, CALIFORNIA,
AND
KOFFLER ELECTRICAL MECHANICAL APPARATUS REPAIR, INC.**

PREAMBLE

This agreement ("Amendment No. 1") is entered into between the City of Santa Clara, California, a chartered California municipal corporation (City) and Koffler Electrical Mechanical Apparatus Repair, Inc. a California 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. The Parties previously entered into an agreement entitled "Agreement for the Performance of Services by and Between the City of Santa Clara, California, and Koffler Electrical Mechanical Apparatus Repair, Inc., dated February 13, 2018 (Agreement); and
- B. The Parties entered into the Agreement for the purpose of having Contractor provide services to repair, maintain and overhaul miscellaneous motors, fans, pumps and other electrical equipment at the City's Generation Facilities, and the Parties now wish to amend the Agreement extend the term and increase the total compensation.

NOW, THEREFORE, the Parties agree as follows:

AMENDMENT TERMS AND CONDITIONS

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

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 the Effective Date of this Agreement and terminate on December 31, 2022.
- 2. Exhibit B to Agreement entitled "Fee Schedule" is hereby deleted and replaced with Exhibit B – Compensation and Fee Schedule – Amended January 15, 2021.

3. Exhibit F of the Agreement, entitled "Milestone Schedule", is hereby deleted and replaced with Exhibit F – Labor Compliance Addendum attached and incorporated into this Agreement.
4. Except as set forth herein, all other terms and conditions of the Agreement shall remain in full force and effect. In case of a conflict in the terms of the Agreement and this Amendment No. 1, the provisions of this Amendment No. 1 shall control.

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

CITY OF SANTA CLARA, CALIFORNIA
a chartered California municipal corporation

Approved as to Form:

Dated: _____

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"

KOFFLER ELECTRICAL MECHANICAL APPARATUS REPAIR, INC.
a California corporation

Dated: 1/05/2021
By (Signature): Charles A. Koffler
Name: CHARLES KOFFLER
Title: CEO/Technical
Principal Place of Business Address: 527 Whitney Street
San Leandro, CA 94577
Email Address: _____
Telephone: (510) 567-0630
Fax: (510) 567-0636
"CONTRACTOR"

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**EXHIBIT B
COMPENSATION AND FEE SCHEDULE
AMENDED JANUARY 15, 2021**

1. Compensation: The amount billed to City by Contractor for services under this Agreement as Amended will not exceed three hundred fifty thousand dollars (\$350,000).
2. Services shall be provided according to the rates below:
 - 2.1. Definitions:
 - 2.1.1. Straight Time: Up to eight (8) hours on weekdays excluding holidays
 - 2.1.2. Overtime:
 - 2.1.2.1. First four (4) Hours in excess of eight hours on weekdays or
 - 2.1.2.2. First four (4) hours worked on Saturday
 - 2.1.3. Double Time
 - 2.1.3.1. Hours worked on Sunday or Holiday (New Year's Day, President Day, Memorial Day, July 4th, Labor Day, Thanksgiving Day, Christmas Eve and Christmas Day)
 - 2.1.3.2. Over twelve (12) hours worked on weekday
 - 2.1.3.3. Over four (4) hours worked on Saturday
 - 2.2. Work at Contractor's shop
 - 2.2.1. Straight Time Labor \$153 per hour
 - 2.2.2. Overtime Labor \$209 per hour
 - 2.2.3. Double Time Labor \$265 per hour
 - 2.3. Field Service
 - 2.3.1. Straight Time Labor \$234 per hour
 - 2.3.2. Overtime Labor \$307 per hour
 - 2.3.3. Double Time Labor \$380 per hour
 - 2.4. Pick-up and delivery shall be included at no cost except as follows:
 - 2.4.1. Monday through Friday after 4:30 pm through 8:00 am.
 - 2.4.2. During hours defined as overtime or double-time in this Agreement

- 2.4.3. Where a tractor-trailer is required, the rate from from San Leandro to Santa Clara is
 - 2.4.3.1. \$1,200 for round trip during Straight Time hours
 - 2.4.3.2. \$2,400 for round trip during hours not defined as Straight Time.
- 2.4.4. Where crane services are required. Crane services may be provided at the following rates:
 - 2.4.4.1. \$1,150 minimum – includes crane and operator for first four hours
 - 2.4.4.2. \$235 per hour for additional hours
- 2.5. Labor rates shall be effective throughout the term of this Agreement.
- 3. Authorization of work:
 - 3.1. When services are requested greater than five (5) days in advance, Contractor shall provide a quote for the anticipated services. Such quote shall be approved in writing (e-mail acceptable) by one of the following: Electric Program Manager, Electric Utility Division Manager, Assistant Director Electric Utility, Chief Electric Utility Operating Officer
 - 3.2. Emergency Services --those services scheduled less than five (5) days in advance -- shall be quoted where possible and invoiced in a matter that permits the City to assure that services were provided at the rates authorized in this Purchase Order.
 - 3.3. Contractor is responsible for notifying City in a timely manner when the quoted cost may change such as due to new findings, changes in process, or changes in regulations. Contractor shall provide reason for the change.
- 4. Reimbursable Expenses
 - 4.1. Pass-Through Costs:
 - 4.1.1. In some cases, Contractor may pass-through costs such as, but not limited to, subcontracted activities or materials.
 - 4.1.2. Such Pass-Through Costs shall be included in the quote.
 - 4.1.3. When these Pass-Through Costs occur, Contractor will invoice City for these costs and may include a markup of up to ten percent (10%).
 - 4.1.4. Contractor shall provide supporting documentation such as invoices or receipts for all Pass-Through costs.
 - 4.1.5. Except in the case of emergency, Contractor will notify the City in advance when these costs are anticipated.
 - 4.2. Reimbursement of expenses is subject to the following conditions.
 - 4.2.1. 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 requested services and that such costs are not already included in the fee or hourly rate.

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

- 4.2.2.1. 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>

- 4.2.2.2. The City shall not reimburse local travel (within Santa Clara County).

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EXHIBIT F

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, 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 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.