21-1036 **Agenda Date: 8/24/2021**

REPORT TO COUNCIL

SUBJECT

Authorize the City Manager to:

1. Execute Amendment No. 1 to the Agreement for the Performance of Services with Nalco Company LLC extending the term through August 31, 2023;
2. Authorize the City Manager to make minor changes to the proposed amendment attached subject to approval by City Attorney; and
3. Add or delete services consistent with the scope of the agreement and allow future rate adjustments subject to request and justification by contractor, approval by the City, and the appropriation of funds.

COUNCIL PILLAR

Deliver and Enhance High Quality Efficient Services and Infrastructure

BACKGROUND

Silicon Valley Power requires a water treatment program to help support its ongoing operations at the Donald Von Raesfeld (DVR) and Cogeneration (Cogen) power plants. The water treatment program generally includes support for water quality testing performed by SVP Operations staff, chemicals, and related services. The water treatment program is specialized for each plant, accounting for the specific machinery, operating profile, and regulatory requirements at each facility. Having a water treatment program in place extends the lives of the DVR and Cogen power plant assets by avoiding corrosion and scale buildup, and meets additional SVP business needs including:

- Safety and environmental compliance,
- Maximizing plant reliability and availability,
- Optimizing the heat rate and efficiency, and
- Minimizing the total cost of operation for the site.

DISCUSSION

In 2018, the City executed agreements with Nalco Company LLC, to provide water treatment products and associated services for the DVR and Cogen power plants as the result of a competitive Request for Proposals (RFP) process. A separate agreement was executed for each facility.

Nalco provides the following routine services at each facility: routine visits to collect operator testing data and perform inventory of treatment chemicals; ongoing guidance to SVP operators to optimize chemical usage; monitoring of control capability of water treatment systems; and submittal of reports after each visit. Additionally, Nalco makes recommendations for process improvements and cost savings measures; supports implementation of recommended improvements, submits quarterly and annual reports, provides annual training, and is available 24/7 to respond to emergency calls for

service.

Currently there are separate agreements for each plant. Staff recommends combining these agreements into a single agreement to reduce administrative time and assure consistency between the agreements. The proposed extends the term of the agreement from three years to five years and increases the maximum compensation. While the City has previously entered into three-year agreements, the City has moved to five-year agreements as an industry standard to maximize the value and time investment in the bid or RFP process. Under the separate agreements, the annual maximum compensation averaged $198,000 per year for three years. Under the combined agreement, the maximum compensation averages $212,000 for five years. Total costs for each product or chemical are estimated as variations in chemical usage are expected.

This proposed amendment has been developed in collaboration with the Purchasing Division of the Finance Department.

ENVIRONMENTAL REVIEW

The actions being considered do not constitute a “project” within the meaning of the California Environmental Quality Act (“CEQA”) pursuant to CEQA Guidelines section 15378 (b)(2) in that the contracts involve continuing maintenance activities.

FISCAL IMPACT

The proposed Amendment No. 1 to the Agreement for the Performance of Services with Nalco would increase the maximum compensation from $429,785 for three-years for DVR only to $900,000 for five-years to include DVR and Cogen. (The total cost of both agreements for three years was $593,718. Sufficient funds are available in the Biennial Operating Budget for FY 21/22 and 22/23 in the Generation and Pumping Expense allocation for the asset requiring products or services.

Funds required for this agreement in future years will be included in proposed budgets for those corresponding years.

COORDINATION

This report has been coordinated with the Finance Department and City Attorney’s Office.

PUBLIC CONTACT

Public contact was made by posting the Council agenda on the City’s official-notice bulletin board outside City Hall Council Chambers. A complete agenda packet is available on the City’s website and in the City Clerk’s Office at least 72 hours prior to a Regular Meeting and 24 hours prior to a Special Meeting. A hard copy of any agenda report may be requested by contacting the City Clerk’s Office at (408) 615-2220, email clerk@santaclaraca.gov <mailto:clerk@santaclaraca.gov>.

RECOMMENDATION

1. Authorize the City Manager to execute Amendment No. 1 to the Agreement for the Performance of Services with Nalco Company, LLC to extend the term of the Agreement through August 31, 2023 and increase the maximum compensation to $900,000;
2. Authorize the City Manager to make minor changes to the proposed amendment attached subject to approval by City Attorney: and
3. Authorize the City Manager to add or delete services consistent with the scope of the agreements, and allow future rate adjustments subject to request and justification by contractor, approval by the

City, and the appropriation of funds.

Reviewed by: Manuel Pineda, Chief Electric Utility Officer
Approved by: Deanna J. Santana, City Manager

ATTACHMENTS
1. Original Agreement with Nalco Company, LLC
2. Proposed Amendment No. 1 with Nalco Company, LLC

Ebix Insurance No. S200001195

AMENDMENT NO. 1
TO THE AGREEMENT FOR THE PERFORMANCE OF SERVICES BETWEEN THECITY OF SANTA CLARA, CALIFORNIA, AND NALCO COMPANY LLC

PREAMBLE

This agreement ("Amendment No. 1") is entered into between the City of Santa Clara, California, a chartered California municipal corporation (City) and Nalco Company LLC, a Delaware limited liability company, (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 Nalco Company LLC, dated August 31, 2018 (Agreement); and

B. The Parties entered into the Agreement for the purpose of having Contractor provide water treatment services at the Donald Von Raesfeld (DVR) Power Plant, and the Parties now wish to amend the Agreement to extend the term, increase maximum compensation, add services at the Cogeneration Plant (Cogen), and thereby supersede the Agreement for the Performance of Services by and Between the City of Santa Clara, California and Nalco Company LLC, dated August 31, 2018 related to the Cogen Plant as of September 1, 2021.

NOW, THEREFORE, the Parties agree as follows:

AMENDMENT TERMS AND CONDITIONS

1. Reinstatement of Agreement. The termination of the Agreement is hereby revoked and, except as expressly modified by this Amendment, the Agreement is reinstated in its entirety and shall be in full force and effect as if the same had never been terminated.

2. Section 5 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 August 31, 2023.

3. Exhibit A – Scope of Services shall be deleted and replaced with the attached Exhibit A – Scope of Services – Amended September 1, 2021.

4. Exhibit B – Schedule of Fees shall be deleted and replaced with the attached Exhibit B – Schedule of Fees and Payment Provisions – Amended September 1, 2021.

5. 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.
6. Except as set forth herein, all other terms and conditions of the Agreement shall remain in full force and effect. In case of a conflict in the terms of the Agreement and this Amendment No. 1, the provisions of this Amendment No. 1 shall control.

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:

City Attorney's Office

Dated: 11/10/2021

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

"CITY"

NALCO COMPANY, LLC
a Delaware limited liability company

DS BJM

Dated: 11/4/2021

By (Signature): DocuSigned by: CF452FB51FBE459

Name: Matt Rocca

Title: Assistant Vice President

Principal Place of Business Address: 1601 West Diehl Road, Naperville, Illinois, 60563

Email Address:

Telephone: ( )

Fax: ( )

"CONTRACTOR"

AMENDMENT NO. 1
TO THE AGREEMENT FOR THE PERFORMANCE OF SERVICES BETWEEN THE CITY OF SANTA CLARA, CALIFORNIA AND NALCO COMPANY LLC
EXHIBIT A – SCOPE OF SERVICES – AMENDED SEPTEMBER 1, 2021

1. Service Plan / Work Scope

Contractor shall provide services for Silicon Valley Power (SVP) as outlined below and according to the schedules in this Exhibit A and Exhibit A-1 (DVR Annual Water Treatment Schedule) and Exhibit A-2 (Cogen Annual Water Treatment Service Schedule) incorporated by reference.

1.1. Bi-Weekly Service – Contractor will perform the following services every two weeks:

1.1.1. Visit Donald Von Raesfeld (DVR) and Cogeneration (Cogen) power plants to collect operator testing data and inventory of treatment chemicals.

1.1.2. Provide continual guidance to SVP Operators to help optimize chemical usage on a bi-weekly basis

1.1.3. Monitor the control capability of each of the water treatment systems at DVR and to troubleshoot any existing problems in the plant.

1.1.4. Provide a written service report following each visit documenting contractor's findings and recommendations for improvement and optimization of the water chemistry program. Each report shall be issued within 48 hours of Contractor's visit and shall include:

1.1.4.1. Trend graphs of normalized Reverse Osmosis (RO) performance data and recommendations for membrane cleaning

1.1.4.2. Trend graphs of daily operator wet chemistry data

1.1.4.3. Trend graphs from the cooling water automation equipment

1.1.4.4. Chemical inventory, usage, and ordering

1.1.4.5. Recommendations for improvement and optimization of the entire water treatment program

1.2. Quarterly Services - Contractor will perform quarterly Legionella testing services for cooling tower to meet the risk management guidelines in each plant's business plan.

1.3. Annual Services - Contractor will perform the following services annually:

1.3.1. Provide an annual business review to summarize accomplishments from the previous year and set goals for the coming year.

1.3.2. Provide annual operator training seminars for SVP in Santa Clara about water treatment on a schedule mutually agreed upon between the Parties. Training seminars shall include

1.3.2.1. Water treatment philosophy, best practices, chemical safety, and troubleshooting

1.3.2.2. Training for new operators and refresher training for experienced operators.

1.4. Off-site Analytical Services:

Contractor offers an extensive array of analytical testing services at its corporate lab in Naperville, IL. Contractor will be provide the following testing services at no additional charge for the duration of this agreement:

1.4.1. Quarterly Legionella testing for cooling tower

1.4.2. A complete cation, anion mineral analysis of the reclaimed water at least twice per year

1.4.3. Mineral analysis, particle analysis, and or bacteria analysis for on-going troubleshooting

1.4.4. Deposit analysis from boiler and/or cooling tower deposits removed during inspections.

1.5. Ongoing Services

1.5.1. Contractor will order chemical as needed to maintain proper inventory levels at the site.

1.5.2. Contractor will provide its Zero Defect Portafeed Transfer Service Delivery Program to insure the safest possible delivery and inventory management for delivery of products at the site.

1.5.3. Contractor's 3DTRASAR automation technology is currently installed and in use at the DVR cooling tower which helps to optimize both the performance of the system and the chemical costs in the cooling tower.

1.5.4. Attend meetings with SVP staff on request

1.5.5. Recommend cost savings and performance improvement projects and assist with implementation of improvements. Such improvements may include, but are not limited to: condenser performance

monitoring, Heat Recovery Steam Generators (HRSG) treatment best practices and improvements associated with water and energy savings. Updates on such proposed projects shall be provided quarterly as outlined in Section 1.2 of this Exhibit A.

1.5.6. Develop and manage operator log sheets and electronic database for wet chemistry data management.

1.5.7. Develop and maintain a program administration manual and test procedures manual

1.5.8. Review chemistry trends from PI system

1.5.9. Assist SVP staff in setting up and maintaining an on-site water testing lab.

1.5.10. Provide emergency response to plant problems and questions 24 hours a day and seven days per week.

1.5.11. Equipment: Use of the following Contractor equipment installed or placed at DVR is at no additional cost. Such equipment shall remain the property of Contractor. Contractor shall perform ongoing maintenance, calibration, and repair or replacement parts for this equipment including full replacement, if required through the period of this Agreement at no additional cost.

1.5.11.1. Nalco's Portafeed Basetanks

1.5.11.2. Nalco's 3DTRASAR Automation Equipment

1.6. As Needed Services:

1.6.1. Contractor will be available for equipment inspections of the boilers (DVR and Cogen) and cooling water systems (DVR) as needed during both planned and unplanned maintenance outages.

1.6.2. The following services may be provided upon request and authorization as outlined in Exhibit B.

1.6.2.1. Detailed metallurgical testing and/or membrane autopsy analyses

1.6.2.2. Assistance with mechanical installations, equipment repair, cooling tower cleanings, and/or other unusual service needs.

1.7. Contractor shall provide services aligned with the following key business drivers identified by Contractor and SVP:

1.7.1. Safety and environmental compliance,

1.7.2. Maximizing plant reliability and availability,

1.7.3. Optimizing the heat rate and efficiency, and

1.7.4. Minimizing the total cost of operation for the site.

2. Contractor-Owned Equipment Terms.

For equipment (including Porta-Feed units, 3D TRASAR and other proprietary equipment of Contractor and any associated computer hardware or software) furnished to City on a rental or use basis (the "Equipment"), the following terms and conditions shall also apply.

2.1. Equipment shall remain the sole personal property of Contractor even though City may attach Equipment to realty. Contractor may cause such Equipment to be marked to indicate its ownership, and City agrees to provide reasonable cooperation including executing any financing statements Contractor files with respect to the Equipment. City shall take no action which is inconsistent with Contractor's title to the Equipment, and shall not move, encumber or alter the Equipment without Contractor's written authorization. City shall be responsible for any personal property or use taxes associated with the Equipment.

2.2. City shall not use the Equipment with any materials or products other than those recommended or approved by Contractor. The proper functioning of the Equipment is conditioned upon City operating it in accordance with Contractor's recommendations.

2.3. City shall install and provide the utilities necessary for the Equipment, and will provide a suitable location for the Equipment, including but not limited to shelter, tank pads, spill protection, foundations, etc., as appropriate. City shall receive, unload, place and remove Equipment at no cost to Contractor and should be responsible for procuring any necessary permits or licenses for such actions. With respect to Porta-Feed units, City agrees to provide access for a standard truck (min. 40 feet end-to-end, 14 feet high) to be driven safely to an area (e.g. loading dock) in the vicinity of the base tank to offload refill units.

2.4. City shall not alter the Equipment without Contractor's written authorization.

2.5. City shall allow Contractor to subcontract portions of work to be performed under this Agreement with respect to Equipment including but not limited to data-hosting, transmission of data through internet service providers and use other service providers. Contractor shall have the right to inspect and service Equipment during normal business hours.

2.6. Upon termination of this Agreement by either Contractor or City, City shall return Equipment to Contractor at City's sole expense in

the same condition as received, ordinary wear and tear excepted. In the event Equipment is lost, damaged or destroyed, City shall pay to Contractor the cost of replacement, or of repair at Contractor's standard charges then in effect. During the term of this Agreement, the Equipment will remain the exclusive property of Contractor.

2.7. Contractor reserves the right to use non-union labor for supervised, installation, testing and service of Equipment.

2.8. City agrees to inform Contractor of any special or unusual safety precautions that should be taken because of conditions in City's plant or process.

2.9. Notwithstanding anything in any agreement or otherwise to the contrary, all data generated or collected by the Equipment that is transmitted to Contractor (or to a Contractor third-party provider) is owned by City but City hereby grants to Contractor a perpetual, non-exclusive, royalty-free license to use that data (and that license will survive the termination or expiration of this Agreement). City agrees to maintain reasonable measures to ensure the security of its information, computer and internet systems, including data security, and will hold Contractor and its affiliates harmless from claims relating thereto including, without limitation, third-party actions in connection therewith, excluding only damages to the extent caused by Contractor's willful misconduct or fraud.

3. Contractor Responsibilities:

3.1. Contractor shall possess all licenses and/or certifications necessary to perform the services described in this Exhibit A.

3.2. Contractor shall provide qualified and skilled employees as necessary to perform the services in this Agreement.

3.3. Contractor shall be solely responsible for selecting, hiring, employing, paying, supervising, training and discharging all personnel necessary for the providing efficient services.

3.3.1. Contractor shall employ only competent craftsmen/skilled workers who are appropriately trained and licensed to perform the required services.

3.3.2. 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, Department of Transportation (DOT) requirements for commercial driver's license and required drug testing if applicable.

3.3.3. City may request verification of the assigned employees' or subcontractors' qualifications at any time. Contractor shall promptly provide such verification upon request by City.

3.3.4. Contractor's employees and any subcontractors shall supply proper identification when requested by City.

3.3.5. City reserves the right to request the removal of any Contractor employee(s) or subcontractor 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.

3.4. Contractor shall provide a Project Manager/General Manager who is responsible for the day-to-day management and supervision of the required services. Project Manager responsibilities shall include, but not be limited to: correcting problems, managing conflicts and complaints, and overseeing work schedules, personnel, and equipment requirements. Contractor has assigned Chris Buchholz as the Primary Service Representative. In the event Chris is unavailable, Derek Roberts or Scott Isherwood will be available for on-site services.

3.5. Contractor shall provide all parts, materials, tools, equipment, and consumables necessary for all tasks

3.6. All Contractor Sales and Service Representatives participate in a minimum of 16 hours per year of Safety Training related to the following topics:

3.6.1. Hearing Conservation

3.6.2. Fall Protection

3.6.3. Confined Space Entry

3.6.4. Defensive Driving

3.6.5. Safe Handling of Oxidizers

3.6.6. Transporting and Shipping Hazardous Materials

3.6.7. Respiratory Protection

3.6.8. Risk Assessment

3.6.9. Safety On Site

3.7. Safety:

3.7.1. Contractor shall ensure that all its employees, subcontractors, and agents abide by established local, state and federal safety rules and regulations.

3.7.2. Contractor employees, and any subcontractors shall always act in a safe manner while on City property.

3.7.3. 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. Contractor's failure to be thoroughly familiarized with the safety provisions shall not relieve Contractor from compliance with the obligations and penalties resulting therefrom.

3.7.4. 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 and subcontractors in general safe work practices and shall include specific instructions with regard to hazards unique to the employee's or subcontractor's job assignment. A copy of Contractor's IPP shall be submitted to City prior to the execution of an agreement and be made available on site upon request.

3.7.5. 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.

3.7.6. Contractor 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 or subcontractor has a current doctor's prescription) on City property and while performing services for the City. Employees or subcontractors using prescribed medication will not engage in any work if the medication can potentially

impair the employee's or subcontractor's ability to perform the work safely.

3.7.7. 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.

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

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

3.7.10. Workmanship:

3.7.10.1. Contractor shall perform the required services in an environmentally responsible manner.

3.7.10.2. 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.

3.7.10.3. Contractor shall take all necessary precautions to protect City 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 City. Any expenses incurred by City to repair property damage will be deducted from Contractor's compensation or billed to Contractor at City's discretion.

3.7.10.4. Contractor shall keep their work site(s) free from all surplus material, waste material, dirt and rubbish caused by Contractor's performance of services.

3.7.10.5. 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.

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

3.7.10.7. City 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 the City.

AMENDMENT NO. 1 TO THE AGREEMENT FOR THE PERFORMANCE OF SERVICES BY AND BETWEEN THE CITY OF SANTA CLARA AND NALCO COMPANY LLC

EXHIBIT A-1: DVR ANNUAL WATER TREATMENT SERVICE SCHEDULE

	JAN	FEB	MAR	APR	MAY	JUN	JUL	AUG	SEP	OCT	NOV	DEC
HRSG, COOLING TOWER, RO PLANT												
Bi-Weekly Service												
Review Log Sheets	X X	X X	X X	X X	X X	X X	X X	X X	X X	X X	X X	X X
Provide Service Report	X X	X X	X X	X X	X X	X X	X X	X X	X X	X X	X X	X X
Download 3DTRASAR	X X	X X	X X	X X	X X	X X	X X	X X	X X	X X	X X	X X
Download RO Performance Data	X X	X X	X X	X X	X X	X X	X X	X X	X X	X X	X X	X X
Troubleshooting	X X	X X	X X	X X	X X	X X	X X	X X	X X	X X	X X	X X
Implement Best Practices	On-Going											
INVENTORY CONTROL												
Check Inventory	X X	X X	X X	X X	X X	X X	X X	X X	X X	X X	X X	X X
Check Lab Reagent Inventory	X X	X X	X X	X X	X X	X X	X X	X X	X X	X X	X X	X X
Place Orders	X X	X X	X X	X X	X X	X X	X X	X X	X X	X X	X X	X X
EQUIPMENT INSPECTIONS												
HRSG	As Needed											
Cooling Tower	As Needed											
Quarterly Legionella Testing			X			X			X			X
Update 6 Service Standards			X									
Operator Training	At least once per year. Schedule as mutually agreed between Parties.											
Project Work (On Going)	X	X	X	X	X	X	X	X	X	X	X	X
Review Project List			X			X			X			X
BUSINESS REVIEW								X				

AMENDMENT NO. 1 TO THE AGREEMENT FOR THE PERFORMANCE OF SERVICES BY AND BETWEEN THE CITY OF SANTA CLARA AND NALCO COMPANY LLC

EXHIBIT A-2: COGEN ANNUAL WATER TREATMENT SERVICE SCHEDULE

	JAN	FEB	MAR	APR	MAY	JUN	JUL	AUG	SEP	OCT	NOV	DEC
HRSG Boilers												
Bi-Weekly Service												
Review Log Sheets	X X	X X	X X	X X	X X	X X	X X	X X	X X	X X	X X	X X
Provide Service Report	X X	X X	X X	X X	X X	X X	X X	X X	X X	X X	X X	X X
Troubleshooting	X X	X X	X X	X X	X X	X X	X X	X X	X X	X X	X X	X X
Implement Best Practices	On-Going											
INVENTORY CONTROL												
Check Inventory	X X	X X	X X	X X	X X	X X	X X	X X	X X	X X	X X	X X
Place Orders	X X	X X	X X	X X	X X	X X	X X	X X	X X	X X	X X	X X
EQUIPMENT INSPECTIONS												
HRSG	As Needed											
Update 6 Service Standards								X				
Project Work	On-going											
Review Project List			X			X			X			X
BUSINESS REVIEW								X				

AMENDMENT NO. 1
TO THE AGREEMENT FOR THE PERFORMANCE OF SERVICES
BETWEEN THE CITY OF SANTA CLARA, CALIFORNIA
AND NALCO COMPANY LLC
EXHIBIT B – SCHEDULE OF FEES AND PAYMENT PROVISIONS –
AMENDED SEPTEMBER 1, 2021

1. Compensation: The amount billed to City by Contractor for services under this Agreement as Amended will not exceed nine hundred thousand dollars ($900,000). Additional services that exceed that amount shall only be authorized by a written addendum to this agreement in advance of services being performed.

    1.1. No products or services that will commit or authorize funds in excess of the authorized amount in this Agreement are authorized. 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 unless a written amendment is executed between the Parties.

    1.2. Contractor shall not initiate any activity that will result in costs exceeding the compensation in the Agreement or are anticipated to extend past the term of this Agreement.

2. Products and Services shall be provided according to the rates in Exhibit B-1 (DVR Chemical Applications Pricing) and Exhibit B-2 (Cogen Chemical Applications Pricing)

    2.1. Except as outlined in this Exhibit, chemicals shall be provided at the price per pound listed for each chemical in Exhibit B-1 or Exhibit B-2. This pricing is delivered pricing to the site and includes all transportation and delivery costs.

    2.2. Total Estimated costs per year in Exhibit B-1 or B-2 for chemicals are estimated as some variation in usage should be expected to occur and not all scenarios affecting future chemical usage can be foreseen.

3. Annual Price Adjustment

    3.1. Nalco's chemical pricing is estimated based upon a fixed price increase of 5% to be applied on January 1, 2022, and Jan. 1, 2023. The price sheets in Exhibit B-1 and B-2 reflect this fixed price adjustment as well as the current 2021 price list and annual estimate.

    3.2. Hardships / Extraordinary Inflationary Disruption:

        3.2.1. Contractor may increase the prices for specific products or services if, at any time during the term of this Agreement, an Extraordinary Inflationary Disruption occurs.

3.2.2. Extraordinary Inflationary Disruption is defined as an increase in raw materials, freight, labor, or energy costs beyond the control of Contractor of at least seven (7%) percent and sustained over a three-month period.

3.2.3. In case of such an Extraordinary Inflationary Disruption, Contractor may increase the price of the affected products up to the full amount of the increase in its costs (raw materials, freight, labor or energy) by giving City at least thirty (30) days written notice.

3.2.4. The baseline for determining such increase shall be on an individual product basis.

3.2.5. If Contractor's costs decline back to a baseline level, Contractor is permitted to maintain product prices at the elevated level for the same period of time Contractor previously maintained pricing prior to the hardship price increase.

3.2.6. Contractor shall fully disclose product cost information with City prior to any Hardship / Extraordinary Inflationary Disruption adjustment and Contractor will work in good faith to find cost effective alternatives in place of any such adjustment.

4. Authorization of work:

4.1. When services or products not included in Exhibit B1 are requested by City 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, and Chief Electric Utility Operating Officer.

4.2. 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.

4.3. All quotes and invoices shall contain detail sufficient for City to verify that services are provided at the rates specified in this Agreement.

4.4. 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.

5. Payment Provisions:

   5.1. A separate invoice will be created for each product order at the time of delivery.

   5.2. Contractor will bill City on a monthly basis for services provided by Contractor during the preceding month on an invoice and in a format approved by City and subject to verification and approval by City including, where applicable, receipt and verification of associated certified payroll using LCP tracker or such other system as defined by the City.

   5.3. If there are no issues with an invoice, City process for payment.

AMENDMENT NO. 1 TO THE AGREEMENT FOR THE PERFORMANCE OF SERVICES BY AND BETWEEN THE CITY OF SANTA CLARA AND NALCO COMPANY LLC

EXHIBIT B-1: DVR -CHEMICAL APPLICATIONS - PRICING

DVR CHEMICAL APPLICATIONS 2021 (EFFECTIVE SEPTEMBER 1, 2021 - DECEMBER 31, 2021)

Application Point	Application Description	Basis for Calculating Annual Quantity	Nalco Product Name	Basetank/Chem Storage Size	Delivery Method	% Active	Recommended Dosage (ppm)	Operator Testing Method	Unit Price	Quantity per Container or Delivery	Lbs/yr	Estimated Number of Containers per Year	Estimated Total Cost per Year
HRSG 1&2HP Drum	Corrosion Inhibitor	Annual Ave BD rate of 11 gpm	BT-3000	Basetank Provided by Supplier	Mini-bulk Transfer to Basetank	5%	0.4 ppm	Ortho Phosphate	$ 3.62	55 gallons	90	0.1	$ 108.60
Cooling Tower	Mineral Dispersant	Annual Ave BD rate of 91 gpm	3DT120	Basetank Provided by Supplier	Mini-bulk Transfer to Basetank	30%	20 ppm	Nalco Active Polymer	$ 2.97	200 gallons	15112	8.0	$ 14,960.88
	Corrosion Inhibitor	Annual Ave BD rate of 91 gpm	3DT179	Basetank Provided by Supplier	Mini-bulk Transfer to Basetank	30%	30 ppm	Total Phosphate	$ 2.76	200 gallons	12516	6.0	$ 11,514.72
	Antifoam	Annual Ave BD rate of 91 gpm	PP01-3911	55-gallon Drum	Drop Off Delivery	88%	As needed	Visual - Subjective	$ 2.17	55 gallons	2070	5.0	$ 1,497.30
	Bio-Dispersant	Dosed Twice Per Year During Tower Cleaning	73550	5-gallon Pail	Drop Off Delivery	52%	2.5 per dose	N/A	$ 5.49	5 gallons	92	2.0	$ 168.36
Ultrafilter	Filter Aid	Annual Ave Flow Rate 190 gpm	8131	Basetank Provided by Supplier	Mini-bulk Transfer to Basetank	50%	8 ppm	RO Feed SDI	$ 1.68	200 gallons	8536	4.0	$ 4,780.16
	Low pH Cleaner	2 Offline Cleanings per year	8344	5-gallon Pail	Drop Off Delivery	49%	2.5 gallons per cleaning batch	pH	$ 4.81	5 gallons	106	2.0	$ 169.95
RO System	Mineral Dispersant	Annual Ave Flow Rate 170 gpm	PC-191T	Basetank Provided by Supplier	Mini-bulk Transfer to Basetank	36%	4 ppm	Nalco TRASAR Test	$ 2.37	55 gallons	6864	11.0	$ 5,422.56
	Non-Oxidizing Biocide	Annual Ave Flow Rate 170 gpm	PC-11	Basetank Provided by Supplier	Mini-bulk Transfer to Basetank	20%	80 ppm for 3 Hours/week	No Test Available, Use RO Membrane Fouling to determine success	$ 5.28	55 gallons	3000	7.0	$ 5,280.00
	High pH Cleaner	2 Offline Cleanings per year 1st Pass	PC-98	5-gallon Pail	Drop Off Delivery	28%	15 gallons per cleaning batch	pH	$ 4.39	5 gallons	378	9.0	$ 553.14
	Low pH Cleaner	1 Offline Cleaning per year Second Pass	PC-77	5-gallon Pail	Drop Off Delivery	5%	15 gallons per cleaning batch	pH	$ 3.83	5 gallons	98	2.0	$ 125.11
Total Annual Expected Chemical Cost													$ 44,580.79
Total Annual Fixed Service Fee ($911.62/month)													$ 3,646.48
Total Cost of Nalco Portafeed Basetank Installation													included in pricing
Total Annual Cost of 3DTRASAR Cooling Water Automation Equipment													included in pricing
Offsite Analytical Testing (Legionella, Mineral Analysis, Particle Analysis)													included in pricing
Total Annual Cost													$ 48,227.27

AMENDMENT NO. 1 TO THE AGREEMENT FOR THE PERFORMANCE OF SERVICES BY AND BETWEEN THE CITY OF SANTA CLARA AND NALCO COMPANY LLC

EXHIBIT B-1: DVR -CHEMICAL APPLICATIONS - PRICING

DVR CHEMICAL APPLICATIONS 2022 (EFFECTIVE JANUARY 1, 2022 - DECEMBER 31, 2022)

Application Point	Application Description	Basis for Calculating Annual Quantity	Nalco Product Name	Basetank/Chem Storage Size	Delivery Method	% Active	Recommended Dosage (ppm)	Operator Testing Method	Unit Price	Quantity per Container or Delivery	Lbs/yr	Estimated Number of Containers per Year	Estimated Total Cost per Year
HRSG 1&2HP Drum	Corrosion Inhibitor	Annual Ave BD rate of 11 gpm	BT-3000	Basetank Provided by Supplier	Mini-bulk Transfer to Basetank	5%	0.4 ppm	Ortho Phosphate	$ 3.80	55 gallons	90	0.1	$ 342.09
Cooling Tower	Mineral Dispersant	Annual Ave BD rate of 91 gpm	3DT120	Basetank Provided by Supplier	Mini-bulk Transfer to Basetank	30%	20 ppm	Nalco Active Polymer	$ 3.12	200 gallons	15112	8.0	$ 47,126.77
	Corrosion Inhibitor	Annual Ave BD rate of 91 gpm	3DT179	Basetank Provided by Supplier	Mini-bulk Transfer to Basetank	30%	30 ppm	Total Phosphate	$ 2.90	200 gallons	12516	6.0	$ 36,271.37
	Antifoam	Annual Ave BD rate of 91 gpm	PP01-3911	55-gallon Drum	Drop Off Delivery	88%	As needed	Visual - Subjective	$ 2.28	55 gallons	2070	5.0	$ 4,716.50
	Bio-Dispersant	Dosed Twice Per Year During Tower Cleaning	73550	5-gallon Pail	Drop Off Delivery	52%	2.5 per dose	N/A	$ 5.76	5 gallons	92	2.0	$ 530.33
Ultrafilter	Filter Aid	Annual Ave Flow Rate 190 gpm	8131	Basetank Provided by Supplier	Mini-bulk Transfer to Basetank	50%	8 ppm	RO Feed SDI	$ 1.76	200 gallons	8536	4.0	$ 15,057.50
	Low pH Cleaner	2 Offline Cleanings per year	8344	5-gallon Pail	Drop Off Delivery	49%	2.5 gallons per cleaning batch	pH	$ 5.05	5 gallons	106	2.0	$ 535.35
RO System	Mineral Dispersant	Annual Ave Flow Rate 170 gpm	PC-191T	Basetank Provided by Supplier	Mini-bulk Transfer to Basetank	36%	4 ppm	Nalco TRASAR Test	$ 2.49	55 gallons	6864	11.0	$ 17,081.06
	Non-Oxidizing Biocide	Annual Ave Flow Rate 170 gpm	PC-11	Basetank Provided by Supplier	Mini-bulk Transfer to Basetank	20%	80 ppm for 3 Hours/week	No Test Available, Use RO Membrane Fouling to determine success	$ 5.54	55 gallons	3000	7.0	$ 16,632.00
	High pH Cleaner	2 Offline Cleanings per year 1st Pass	PC-98	5-gallon Pail	Drop Off Delivery	28%	15 gallons per cleaning batch	pH	$ 4.61	5 gallons	378	9.0	$ 1,742.39
	Low pH Cleaner	1 Offline Cleaning per year Second Pass	PC-77	5-gallon Pail	Drop Off Delivery	5%	15 gallons per cleaning batch	pH	$ 4.02	5 gallons	98	2.0	$ 394.11
Total Annual Expected Chemical Cost													$ 140,429.48
Total Annual Fixed Service Fee ($957.20/month)													$ 11,486.40
Total Cost of Nalco Portafeed Basetank Installation													included in pricing
Total Annual Cost of 3DTRASAR Cooling Water Automation Equipment													included in pricing
Offsite Analytical Testing (Legionella, Mineral Analysis, Particle Analysis)													included in pricing
Total Annual Cost													$ 151,915.88

AMENDMENT NO. 1 TO THE AGREEMENT FOR THE PERFORMANCE OF SERVICES BY AND BETWEEN THE CITY OF SANTA CLARA AND NALCO COMPANY LLC

EXHIBIT B-1: DVR -CHEMICAL APPLICATIONS - PRICING

DVR CHEMICAL APPLICATIONS 2023 (EFFECTIVE JANUARY 1, 2023 - AUGUST 31, 2023)

Application Point	Application Description	Basis for Calculating Annual Quantity	Nalco Product Name	Basetank/Chem Storage Size	Delivery Method	% Active	Recommended Dosage (ppm)	Operator Testing Method	Unit Price	Quantity per Container or Delivery	Lbs/yr	Estimated Number of Containers per Year	Estimated Total Cost per Year
HRSG 1&2HP Drum	Corrosion Inhibitor	Annual Ave BD rate of 11 gpm	BT-3000	Basetank Provided by Supplier	Mini-bulk Transfer to Basetank	5%	0.4 ppm	Ortho Phosphate	$ 3.99	55 gallons	90	0.1	$ 239.46
Cooling Tower	Mineral Dispersant	Annual Ave BD rate of 91 gpm	3DT120	Basetank Provided by Supplier	Mini-bulk Transfer to Basetank	30%	20 ppm	Nalco Active Polymer	$ 3.28	200 gallons	15112	8.0	$ 33,044.91
	Corrosion Inhibitor	Annual Ave BD rate of 91 gpm	3DT179	Basetank Provided by Supplier	Mini-bulk Transfer to Basetank	30%	30 ppm	Total Phosphate	$ 3.04	200 gallons	12516	6.0	$ 25,389.96
	Antifoam	Annual Ave BD rate of 91 gpm	PP01-3911	55-gallon Drum	Drop Off Delivery	88%	As needed	Visual - Subjective	$ 2.39	55 gallons	2070	5.0	$ 3,301.55
	Bio-Dispersant	Dosed Twice Per Year During Tower Cleaning	73550	5-gallon Pail	Drop Off Delivery	52%	2.5 per dose	N/A	$ 6.05	5 gallons	92	2.0	$ 371.23
Ultrafilter	Filter Aid	Annual Ave Flow Rate 190 gpm	8131	Basetank Provided by Supplier	Mini-bulk Transfer to Basetank	50%	8 ppm	RO Feed SDI	$ 1.85	200 gallons	8536	4.0	$ 10,540.25
	Low pH Cleaner	2 Offline Cleanings per year	8344	5-gallon Pail	Drop Off Delivery	49%	2.5 gallons per cleaning batch	pH	$ 5.30	5 gallons	106	2.0	$ 374.75
RO System	Mineral Dispersant	Annual Ave Flow Rate 170 gpm	PC-191T	Basetank Provided by Supplier	Mini-bulk Transfer to Basetank	36%	4 ppm	Nalco TRASAR Test	$ 2.61	55 gallons	6864	11.0	$ 11,956.74
	Non-Oxidizing Biocide	Annual Ave Flow Rate 170 gpm	PC-11	Basetank Provided by Supplier	Mini-bulk Transfer to Basetank	20%	80 ppm for 3 Hours/week	No Test Available, Use RO Membrane Fouling to determine success	$ 5.82	55 gallons	3000	7.0	$ 11,642.40
	High pH Cleaner	2 Offline Cleanings per year 1st Pass	PC-98	5-gallon Pail	Drop Off Delivery	28%	15 gallons per cleaning batch	pH	$ 4.84	5 gallons	378	9.0	$ 1,219.67
	Low pH Cleaner	1 Offline Cleaning per year Second Pass	PC-77	5-gallon Pail	Drop Off Delivery	5%	15 gallons per cleaning batch	pH	$ 4.22	5 gallons	98	2.0	$ 275.87
Total Annual Expected Chemical Cost													$ 98,356.80
Total Annual Fixed Service Fee ($1005.06/month)													$ 8,040.48
Total Cost of Nalco Portafeed Basetank Installation													included in pricing
Total Annual Cost of 3DTRASAR Cooling Water Automation Equipment													included in pricing
Offsite Analytical Testing (Legionella, Mineral Analysis, Particle Analysis)													included in pricing
Total Annual Cost													$ 106,397.28

BY AND BETWEEN THE CITY OF SANTA CLARA AND NALCO COMPANY LLC

EXHIBIT B-2: COGEN -CHEMICAL APPLICATIONS - PRICING

COGEN CHEMICAL APPLICATIONS 2021 (EFFECTIVE SEPTEMBER 1, 2021 - DECEMBER 31, 2021)

Application Point	Application Description	Basis for Calculating Annual Quantity	Product Name	Basetank/Chem Storage Size	Delivery Method	% Active	Recommended Dosage (ppm)	Operator Testing Method	Unit Price (Lbs)	Quantity per Container or Delivery	Lbs/Yr	Gallons per Year	Estimated Number of Containers per Year	Estimated Total Cost per Year
HRSG #1 and #2	Scale Inhibitor	Average BFW Flow Rate of 82 gpm (6 cycles of concentration and 0.5 ppm Hardness on average)	22310	Basetank Provided by Supplier	Mini-bulk Transfer to Basetank	25%	12 ppm	Nalco TRASAR Hand- held Test	$ 2.28	200 gallons	13902	1400	7	$ 10,565.52
	Oxygen Scavenger	Average BFW Flow Rate of 82 gpm (6 cycles of concentration, 25 ppm Sulfite Residual in Boilers)	1720	Basetank Provided by Supplier	Mini-bulk Transfer to Basetank	25%	20 ppm	Sulfite Residual - Titration	$ 1.38	200 gallons	16560	1600	8.0	$ 7,617.60
Total Annual Chemical Cost														$ 18,183.12
Annual Service Fee ($303.88/month)														$ 1,215.52
Total Annual Cost														$ 19,398.64

COGEN CHEMICAL APPLICATIONS 2022 (EFFECTIVE JANUARY 1, 2022 - DECEMBER 31, 2022)

Application Point	Application Description	Basis for Calculating Annual Quantity	Product Name	Basetank/Chem Storage Size	Delivery Method	% Active	Recommended Dosage (ppm)	Operator Testing Method	Unit Price (Lbs)	Quantity per Container or Delivery	Lbs/Yr	Gallons per Year	Estimated Number of Containers per Year	Estimated Total Cost per Year
HRSG #1 and #2	Scale Inhibitor	Average BFW Flow Rate of 82 gpm (6 cycles of concentration and 0.5 ppm Hardness on average)	22310	Basetank Provided by Supplier	Mini-bulk Transfer to Basetank	25%	12 ppm	Nalco TRASAR Hand- held Test	$ 2.39	200 gallons	13902	1400	7.0	$ 33,281.39
	Oxygen Scavenger	Average BFW Flow Rate of 82 gpm (6 cycles of concentration, 25 ppm Sulfite Residual in Boilers)	1720	Basetank Provided by Supplier	Mini-bulk Transfer to Basetank	25%	20 ppm	Sulfite Residual - Titration	$ 1.45	200 gallons	16560	1600	8.0	$ 23,995.44
Total Annual Chemical Cost														$ 57,276.83
Annual Service Fee ($319.07/month)														$ 3,828.84
Total Annual Cost														$ 61,105.67

BY AND BETWEEN THE CITY OF SANTA CLARA AND NALCO COMPANY LLC

EXHIBIT B-2: COGEN -CHEMICAL APPLICATIONS - PRICING

COGEN CHEMICAL APPLICATIONS 2023 (EFFECTIVE JANUARY 1, 2023 - AUGUST 31, 2023)

Application Point	Application Description	Basis for Calculating Annual Quantity	Product Name	Basetank/Chem Storage Size	Delivery Method	% Active	Recommended Dosage (ppm)	Operator Testing Method	Unit Price (Lbs)	Quantity per Container or Delivery	Lbs/Yr	Gallons per Year	Estimated Number of Containers per Year	Estimated Total Cost per Year
HRSG #1 and #2	Scale Inhibitor	Average BFW Flow Rate of 82 gpm (6 cycles of concentration and 0.5 ppm Hardness on average)	22310	Basetank Provided by Supplier	Mini-bulk Transfer to Basetank	25%	12 ppm	Nalco TRASAR Hand- held Test	$ 2.51	200 gallons	13902	1400	7.0	$ 23,296.97
	Oxygen Scavenger	Average BFW Flow Rate of 82 gpm (6 cycles of concentration, 25 ppm Sulfite Residual in Boilers)	1720	Basetank Provided by Supplier	Mini-bulk Transfer to Basetank	25%	20 ppm	Sulfite Residual - Titration	$ 1.52	200 gallons	16560	1600	8.0	$ 16,796.81
Total Annual Chemical Cost														$ 40,093.78
Annual Service Fee ($335/month)														$ 2,680.00
Total Annual Cost														$ 42,773.78

AMENDMENT NO. 1
TO THE AGREEMENT FOR THE PERFORMANCE OF SERVICES BETWEEN THE CITY OF SANTA CLARA, CALIFORNIA AND NALCO COMPANY LLC

EXHIBIT F - LABOR COMPLIANCE ADDENDUM

To the extent the services provided by Contractor are subject to the California Labor Code section 1720 et seq. requiring the payment of prevailing wages, the training of apprentices, and compliance with other applicable requirements, the following provisions apply.

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.

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.