

City of Moreno Valley

AGREEMENT FOR PROFESSIONAL SERVICES

This Agreement is made by and between the City of Moreno Valley, California, a municipal corporation, with its principal place of business at 14177 Frederick Street, Moreno Valley, CA 92552, hereinafter referred to as the “City”, and CLP Operations & Maintenance, Inc., a California S Corporation, with its principal place of business at 6312 S Fiddlers Green Cir., Suite 200E Greenwood Village, CO 80111, hereinafter referred to as the “Vendor,” based upon City policies and the following legal citations:

RECITALS

- A. Government Code Section 53060 authorizes the engagement of persons to perform special services as independent Vendors;
- B. Vendor desires to perform and assume responsibility for the provision of professional Utility Operations Services required by the City on the terms and conditions set forth in this Agreement. Vendor represents that it is experienced in providing professional Utility Operations Services and is licensed in the State of California, if applicable;
- C. City desires to engage Vendor to render such services for the Utility Operations Services as set forth in this Agreement;
- D. The public interest, convenience, necessity, and general welfare will be served by this Agreement; and
- E. This Agreement is made and entered into effective the date the City signs this Agreement.

TERMS

1. VENDOR INFORMATION:

Vendor’s Name: CLP Operations& Maintenance, Inc.

Address: 6312 S Fiddlers Green Cir., Suite 200E

City: Greenwood Village State: CO Zip: 80111

Business Phone: 720 305-0400 Fax No. 720 528-7779

Other Contact Number: 562-708-0456

Business License Number: 785392

Federal Tax I.D. Number: 95-4689634

2. VENDOR SERVICES, FEES, AND RELEVANT DATES:

- A. The Vendor's scope of service is described in Exhibit "A" attached hereto and incorporated herein by this reference.
- B. The City's responsibilities, other than payment, are described in Exhibit "B" attached hereto and incorporated herein by this reference.
- C. Payment terms are provided in Exhibit "C" attached hereto and incorporated herein by this reference.
- D. The term of this Agreement shall be from July 1, 2025 to June 30, 2029 unless terminated earlier as provided herein. The City acknowledges that it will not unreasonably withhold approval of the Vendor's requests for extensions of time in which to complete the work required. The Vendor shall not be responsible for performance delays caused by others or delays beyond the Vendor's reasonable control (excluding delays caused by non-performance or unjustified delay by Vendor, his/her/its employees, or subcontractors), and such delays shall extend the time for performance of the work by the Vendor.

3. **STANDARD TERMS AND CONDITIONS:**

- A. Control of Work. Vendor is solely responsible for the content and sequence of the work and will not be subject to control and direction as to the details and means for accomplishing the anticipated results of services. The City will not provide any training to Vendor or his/her/its employees.
- B. Intent of Parties. Vendor is, and at all times shall be, an independent Vendor and nothing contained herein shall be construed as making the Vendor or any individual whose compensation for services is paid by the Vendor, an agent or employee of the City, or authorizing the Vendor to create or assume any obligation or liability for or on behalf of the City, or entitling the Vendor to any right, benefit, or privilege applicable to any officer or employee of the City.
- C. Subcontracting. Vendor may retain or subcontract for the services of other necessary Vendors with the prior written approval of the City. Payment for such services shall be the responsibility of the Vendor. Any and all subcontractors shall be subject to the terms and conditions of this Agreement, with the exception that the City shall have no obligation to pay for any subcontractor services rendered. Vendor shall be responsible for paying prevailing wages where required by law [See California Labor Code Sections 1770 through 1777.7].
- D. Conformance to Applicable Requirements. All work prepared by Vendor shall be subject to the approval of City.
- E. Substitution of Key Personnel. Vendor has represented to City that certain key personnel will perform and coordinate the services under this Agreement. Should one or more of such personnel become unavailable, Vendor may substitute other

personnel of at least equal competence upon written approval of City. In the event that City and Vendor cannot agree as to the substitution of key personnel, City shall be entitled to terminate this Agreement for cause. As discussed below, any personnel who fail or refuse to perform the services in a manner acceptable to the City, or who are determined by the City to be uncooperative, incompetent, a threat to the adequate or timely completion of the project or a threat to the safety of persons or property, shall be promptly removed from the project by the Vendor at the request of the City. The key personnel for performance of this Agreement will be determined prior to commencement of the services and conveyed to the City.

- F. City's Representative. The City hereby designates the City Manager, or his or her designee, to act as its representative for the performance of this Agreement ("City's Representative"). Vendor shall not accept direction or orders from any person other than the City's Representative or his or her designee.
- G. Vendor's Representative. Vendor hereby designates Brad Weber, or his designee, to act as its representative for the performance of this Agreement ("Vendor's Representative"). Vendor's Representative shall have full authority to represent and act on behalf of the Vendor for all purposes under this Agreement. The Vendor's Representative shall supervise and direct the services, using his or her best skill and attention, and shall be responsible for all means, methods, techniques, sequences and procedures and for the satisfactory coordination of all portions of the services under this Agreement.
- H. Legal Considerations. The Vendor shall comply with applicable federal, state, and local laws in the performance of this Agreement. Vendor shall be liable for all violations of such laws and regulations in connection with services. If the Vendor performs any work knowing it to be contrary to such laws, rules and regulations and without giving written notice to the City, Vendor shall be solely responsible for all costs arising therefrom. Vendor shall defend, indemnify and hold City, its officials, directors, officers, employees and agents free and harmless, pursuant to the indemnification provisions of this Agreement, from any claim or liability arising out of any failure or alleged failure to comply with such laws, rules or regulations.
- I. Standard of Care; Performance of Employees. Vendor shall perform all services under this Agreement in a skillful and competent manner, consistent with the standards generally recognized as being employed by professionals in the same discipline in the State of California. Vendor represents and maintains that it is skilled in the profession necessary to perform the services. Vendor warrants that all employees and subcontractor shall have sufficient skill and experience to perform the services assigned to them. Finally, Vendor represents that it, its employees and subcontractors have all licenses, permits, qualifications and approvals of whatever nature that are legally required to perform the services and that such licenses and approvals shall be maintained throughout the term of this

Agreement. Any employee of the Vendor or its subcontractors who is determined by the City to be uncooperative, incompetent, a threat to the adequate or timely completion of the project, a threat to the safety of persons or property, or any employee who fails or refuses to perform the services in a manner acceptable to the City, shall be promptly removed from the project by the Vendor and shall not be re-employed to perform any of the services or to work on the project.

- J. Vendor Indemnification. Vendor shall indemnify, defend and hold the City, the Moreno Valley Housing Authority, and the Moreno Valley Community Services District (CSD), their officers, agents and employees harmless from any and all claims, damages, losses, causes of action and demands, including, without limitation, the payment of all consequential damages, expert witness fees, reasonable attorney's fees and other related costs and expenses, incurred in connection with or in any manner arising out of Vendor's performance of the work contemplated by this Agreement and this Agreement. Acceptance of this Agreement signifies that the Vendor is not covered under the City's general liability insurance, employee benefits, or worker's compensation. It further establishes that the Vendor shall be fully responsible for such coverage. Vendor's obligation to indemnify shall survive expiration or termination of this Agreement, and shall not be restricted to insurance proceeds, if any, received by the City, the Moreno Valley Housing Authority, and the CSD, and their officers, agents and employees.
- K. Additional Indemnity Obligations. Vendor shall defend, with counsel of City's choosing and at Vendor's own cost, expense and risk, any and all claims, suits, actions or other proceedings of every kind covered by Section "J" that may be brought or instituted against City, the Moreno Valley Housing Authority, and the CSD, and their officers, agents and employees. Vendor shall pay and satisfy any judgment, award or decree that may be rendered against City, the Moreno Valley Housing Authority, and the CSD, and their officers, agents and employees as part of any such claim, suit, action or other proceeding. Vendor shall also reimburse City for the cost of any settlement paid by City, the Moreno Valley Housing Authority, and the CSD, and their officers, agents and employees as part of any such claim, suit, action or other proceeding. Such reimbursement shall include payment for City's attorney's fees and costs, including expert witness fees. Vendor shall reimburse City, the Moreno Valley Housing Authority, and the CSD, and their officers, agents and employees for any and all legal expenses and costs incurred by each of them in connection therewith or in enforcing the indemnity herein provided.
- L. CalPERS Retiree Disclosure. Vendor hereby expressly agrees to clearly and conspicuously disclose to City in writing any and all persons working for Vendor who are retirees under the California Public Employees' Retirement System (CalPERS) whom receives a monthly CalPERS retirement allowance, and whom are,

subject to City approval, assigned by Vendor to provide services to City under the Agreement, prior to such person performing any services hereunder. Nothing herein shall be deemed or interpreted to limit a CalPERS retiree's obligations under applicable law, rules or regulations.

- M. CalPERS Indemnity. To the fullest extent permitted by law, in addition to obligations set forth in this section, in the event that any person providing services under this Agreement is determined by a court of competent jurisdiction or CalPERS to be eligible for enrollment in CalPERS as an employee of the City, to the fullest extent of the law, Vendor shall indemnify, defend, and hold harmless City for any costs and expenses incurred by City, including without limitation, payment that City is required as a result to make to CalPERS, whether in the form of employee and/or employer contributions, taxes, or any similar obligations, as well as for the payment of any penalties and interest.
- N. CalPERS Participation. As set forth in this Agreement and in the Request for Qualifications, City has an obligation to treat all persons working for or under the direction of Vendor as an independent Vendor of City and agents and employees of Vendor, and not as agents or employees of City. Vendor and City acknowledge and agree that City participates in a defined benefit plan ("CalPERS"), and that it is possible that CalPERS may find that persons providing services pursuant to this Agreement are employees of City and should be registered with the CalPERS as employees of City.
- O. Civil Code Section 1542 Waiver. Vendor expressly waives any and all rights and benefits conferred upon it by the provisions of Section 1542 of the California Civil Code which reads as follows:

"A general release does not extend to claims that the creditor or releasing party does not know or suspect to exist in his or her favor at the time of executing the release and that, if known by him or her, would have materially affected his or her settlement with the debtor or released party."

This waiver shall be effective as a bar to any and all actions, fees, damages, losses, claims, liabilities and demands of whatsoever character, nature and kind that are known or unknown, or suspected or unsuspected, including, without limitation, claims of entitlements under CalPERS that are only afforded to employees and not independent contractors. Vendor further represents and warrants that it understands this waiver and that if it does not understand this waiver, it shall seek the advice of a qualified attorney before executing this Agreement.
- P. Joint Cooperation. In the event that CalPERS initiates an inquiry that includes examination of whether individuals providing services under this Agreement to City are City's employees, Vendor shall reply within five days and share all communications and documents from CalPERS that it may legally share. In the

event that either Vendor or City files an appeal or court challenge, Vendor and City each agree to cooperate with each other in responding to the inquiry and any subsequent administrative appeal or court challenge of an adverse determination.

- Q. Insurance Requirements. Throughout the life of this Agreement, Vendors shall pay for and maintain in full force and effect all insurance as required.

If at any time during the life of this Agreement or any extension, Vendor or any of its subcontractors fail to maintain any required insurance in full force and effect, all services and work under this Agreement shall be discontinued immediately, and all payments due or that become due to Vendor shall be withheld until notice is received by City that the required insurance has been restored to full force and effect and that the premiums therefore have been paid for a period satisfactory to City. Any failure to maintain the required insurance shall be sufficient cause for City to terminate this Agreement. No action taken by City pursuant to this section shall in any way relieve Vendor of its responsibilities under this Agreement. The phrase "fail to maintain any required insurance" shall include, without limitation, notification received by City that an insurer has commenced proceedings, or has had proceedings commenced against it, indicating that the insurer is insolvent.

The fact that insurance is obtained by Vendor shall not be deemed to release or diminish the liability of Vendor, including, without limitation, liability under the indemnity provisions of this Agreement. The duty to indemnify City shall apply to all claims and liability regardless of whether any insurance policies are applicable. The policy limits do not act as a limitation upon the amount of indemnification to be provided by Vendor. Approval or purchase of any insurance contracts or policies shall in no way relieve from liability nor limit the liability of Vendor, its principals, officers, agents, employees, persons under the supervision of Vendor, suppliers, invitees, consultants, sub-consultants, subcontractors, or anyone employed directly or indirectly by any of them.

Upon request of City, Vendor shall immediately furnish City with a complete copy of any insurance policy and associated documentation required under this Agreement, including all endorsements, with said copy certified by the underwriter to be a true and correct copy of the original policy. This requirement shall survive expiration or termination of this Agreement.

Where determined applicable by the City, Vendor will comply with the following insurance requirements at its sole expense. Insurance companies shall be rated (A Minus: VII-Admitted) or better in Best's Insurance Rating Guide and shall be legally licensed and qualified to conduct business in the State of California.

Minimum Scope of Insurance: Coverage shall be at least as broad as:

1. The most current version of Insurance Services Office (ISO) Commercial General Liability Coverage Form CG 00 01 covering on an "occurrence" basis, which shall include insurance for "bodily injury," "property damage" and "personal and advertising injury" with coverage for premises and operations, products and completed operations, and contractual liability.
2. The most current version of Insurance Service Office (ISO) Business Auto Coverage Form CA 00 01, which shall include coverage for all owned, hired, and non-owned automobiles or other licensed vehicles (Code 1- Any Auto).
3. Workers' Compensation insurance as required by the State of California, California Labor Code and Employer's Liability Insurance, with Statutory Limits, and Employer's Liability Insurance with limits of no less than \$1,000,000 per accident for bodily injury or disease.
4. Professional Liability (Errors and Omissions) insurance appropriate to Vendor's profession.

Minimum Limits of Insurance:

- a. General Liability Insurance. Without limiting the generality of the forgoing, to protect against loss from liability imposed by law for damages on account of bodily injury, including death, and/or property damage suffered or alleged to be suffered by any person or persons whomever, resulting directly or indirectly from any act or activities of the Vendor, sub-contractor, or any person acting for the Vendor or under its control or direction. Such insurance shall be maintained in full force and effect throughout the terms of this Agreement and any extension thereof in the minimum amounts provided below:
 - \$1,000,000 per occurrence for bodily injury and property damage
 - \$1,000,000 per occurrence for personal and advertising injury
 - \$2,000,000 aggregate for products and completed operations
 - \$2,000,000 general aggregate
- b. Automobile Liability
 - \$1,000,000 per accident for bodily injury and property damage
- c. Employer's Liability (Worker's Compensation)
 - \$1,000,000 each accident for bodily injury
 - \$1,000,000 disease each employee
 - \$1,000,000 disease policy limit

- d. Workers' Compensation insurance policy: In such amounts as will fully comply with the laws of the State of California and which shall indemnify, insure and provide legal defense for both the Vendor and the City, HA, and CSD against any loss, claim or damage arising from any injuries or occupational diseases happening to any worker employed by the Vendor in the course of carrying out this Agreement. Workers' Compensation insurance policy is to contain, or be endorsed to contain, the following provision: Vendor and its insurer shall waive any right of subrogation against City of Moreno Valley, CSD, Housing Authority and each of their officers, officials, employees, agents and volunteers.
- e. Professional Liability (Errors and Omissions): Limits of no less than \$1,000,000 per occurrence or claim, \$2,000,000 aggregate.
- f. Endorsements. Unless otherwise specified hereunder, each insurance policy required herein shall be with insurers possessing a Best's rating of no less than A,VII and shall be endorsed with the following specific language:
 - The insurer waives all rights of subrogation against the City, its appointed officials, officers, employees or agents.

Other Insurance Provisions: The General Liability, Automobile Liability and Workers Compensation insurance policies are to contain, or be endorsed to contain, the following provisions:

- a. City of Moreno Valley, the City of Moreno Valley Community Services District, the Moreno Valley Housing Authority and each of their officers, officials, employees, agents and volunteers are to be covered as additional insureds.
- b. The coverage shall contain no special limitations on the scope of protection afforded to City, CSD, Housing Authority and each of their officers, officials, employees, agents and volunteers.

All policies of insurance required hereunder shall be endorsed to provide that the coverage shall not be cancelled, non-renewed, reduced in coverage or in limits except after 30 calendar day written notice by certified mail, return receipt requested, has been given to the City. Upon issuance by the insurer, broker, or agent of a notice of cancellation, non-renewal, or reduction in coverage or in limits, Vendor shall furnish the City with a new certificate and applicable endorsements for such policy(ies). In the event any policy is due to expire during the work to be performed for the City, Vendor shall provide a new certificate, and applicable endorsements, evidencing renewal of such policy not less than 15 calendar days prior to the expiration date of the expiring policy.

Acceptability of Insurers: All policies of insurance required hereunder shall be placed with an insurance company(ies) admitted by the California Insurance Commissioner to do business in the State of California and rated not less than "A-

VII" in Best's Insurance Rating Guide; or authorized by the City Manager or designee.

Verification of Coverage: Vendor shall furnish City with all certificates(s) and **applicable endorsements** effecting coverage required hereunder. All certificates and **applicable endorsements** are to be received and approved by the City Manager or designee prior to City's execution of this Agreement and before work commences. The following applicable endorsements will be required:

1. **Additional Insured endorsement for ongoing operations, completed operations and primary & non-contributory endorsement for general liability coverage**
2. **Additional Insured endorsement for auto liability coverage**
3. **Waiver of Subrogation for workers compensation coverage**

R. **Intellectual Property.** Any system or documents developed, produced or provided under this Agreement, including any intellectual property discovered or developed by Vendor in the course of performing or otherwise as a result of its work, shall become the sole property of the City unless explicitly stated otherwise in this Agreement. The Vendor may retain copies of any and all material, including drawings, documents, and specifications, produced by the Vendor in performance of this Agreement. The City and the Vendor agree that to the extent permitted by law, until final approval by the City, all data shall be treated as confidential and will not be released to third parties without the prior written consent of both parties.

S. **Entire Agreement.** This Agreement constitutes the entire agreement between the parties. There are no understandings, Agreements, or representations of warranties, expressed or implied, not specified in this Agreement. This Agreement applies only to the current proposal as attached. This Agreement may be modified or amended only by a subsequent written Agreement signed by both parties. Assignment of this Agreement is prohibited without prior written consent.

T. **Termination.** The following clauses apply:

1. The City may terminate the whole or any part of this Agreement at any time without cause by giving at least thirty (30) days written notice to the Vendor. The written notice shall specify the date of termination. Upon receipt of such notice, the Vendor may continue work through the date of termination, provided that no work or service(s) shall be commenced or continued after receipt of the notice which is not intended to protect the interest of the City. The City shall pay the Vendor within thirty (30) days after receiving any invoice after the date of termination for all non-objected to services performed by the Vendor in accordance herewith through the date of termination.

2. If, in the opinion of the City of Moreno Valley, Vendor fails to perform or provide prompt, efficient service, the City may terminate or cancel this Agreement upon five (5) days written notice, and pay Provider for the value of the actual work satisfactorily performed to the date of termination.
 3. Either party may terminate this Agreement for cause. In the event the City terminates this Agreement for cause, the Vendor shall perform no further work or service(s) under the Agreement unless the notice of termination authorizes such further work.
 4. If this Agreement is terminated as provided herein, City may require Vendor to provide all finished or unfinished documents and data and other information of any kind prepared by Vendor in connection with the performance of services under this Agreement. Vendor shall be required to provide such documents and other information within fifteen (15) days of the request.
 5. In the event this Agreement is terminated in whole or in part as provided herein, City may procure, upon such terms and in such manner as it may determine appropriate, similar to those terminated.
- U. Payment. Payments to the Vendor pursuant to this Agreement will be reported to Federal and State taxing authorities as required. The City will not withhold any sums from compensation payable to Vendor. Vendor is independently responsible for the payment of all applicable taxes. Where the payment terms provide for compensation on a time and materials basis, the Vendor shall maintain adequate records to permit inspection and audit of the Vendor's time and materials charges under the Agreement. Such records shall be retained by the Vendor for three (3) years following completion of the services under the Agreement.
- V. Restrictions on City Employees. The Vendor shall not employ any City employee or official in the work performed pursuant to this Agreement. No officer or employee of the City shall have any financial interest in this Agreement in violation of federal, state, or local law.
- W. Choice of Law and Venue. The laws of the State of California shall govern the rights, obligations, duties, and liabilities of the parties to this Agreement, and shall govern the interpretation of this Agreement. Any legal proceeding arising from this Agreement shall be brought in the appropriate court located in Riverside County, State of California.
- X. Delivery of Notices. All notices permitted or required under this Agreement shall be given to the respective parties at the following address, or at such other address as the respective parties may provide in writing for this purpose:

Vendor:

CLP Operations & Maintenance, Inc.
6312 S Fiddlers Green Cir Suite 200E
Greenwood Village, CO 80111
Attn: Brad Weber

City:

City of Moreno Valley
14177 Frederick Street
P.O. Box 88005
Moreno Valley, CA 92552
Attn: Electric Utility Division Manager

Such notice shall be deemed made when personally delivered or when mailed, forty-eight (48) hours after deposit in the U.S. Mail, first class postage prepaid and addressed to the party at its applicable address. Actual notice shall be deemed adequate notice on the date actual notice occurred, regardless of the method of service.

- Y. Time of Essence. Time is of the essence for each and every provision of this Agreement.
- Z. City's Right to Employ Other Vendors. City reserves right to employ other Vendors in connection with this project.
- AA. Amendment; Modification. No supplement, modification, or amendment of this Agreement shall be binding unless executed in writing and signed by both parties.
- BB. Waiver. No waiver of any default shall constitute a waiver of any other default or breach, whether of the same or other covenant or condition. No waiver, such attempted assignment, hypothecation or transfer.
- CC. Supplementary General Conditions (for projects that are funded by Federal programs). The following provisions, pursuant to 44 Code of Federal Regulations, Part 13, Subpart C, Section 13.36, as it may be amended from time to time, are included in the Agreement and are required to be included in all subcontracts entered into by Vendor for work pursuant to the Agreement, unless otherwise expressly provided herein. These provisions supersede any conflicting provisions in the General Conditions and shall take precedence over the General Conditions for purposes of interpretation of the General Conditions. These provisions do not otherwise modify or replace General Conditions not in direct conflict with these provisions. Definitions used in these provisions are as contained in the General Conditions.

1. Vendor shall be subject to the administrative, contractual, and legal remedies provided in the General Conditions in the event Vendor violates or breaches terms of the Agreement.
2. City may terminate the Agreement for cause or for convenience, and Vendor may terminate the Agreement, as provided the General Conditions.
3. Vendor shall comply with Executive Order 11246 of September 24, 1965, entitled Equal Employment Opportunity, as amended by Executive Order 11375 of October 13, 1967, and as supplemented in Department of Labor regulations (41 CFR chapter 60). (All construction contracts awarded in excess of \$10,000 by City and/or subcontracts in excess of \$10,000 entered into by Vendor.)
4. Vendor shall comply with the Copeland Anti-Kickback Act (18 U.S.C. 874) as supplemented in Department of Labor regulations (29 CFR Part 3) (All contracts and subcontracts for construction or repair.)
5. Vendor shall comply with the Davis-Bacon Act (40 U.S.C. 276a to 276a7) as supplemented by Department of Labor regulations (29 CFR Part 5).
6. Vendor shall comply with Sections 103 and 107 of the Contract Work Hours and Safety Standards Act (40 U.S.C. 327330) as supplemented by Department of Labor regulations (29 CFR Part 5).
7. Vendor shall observe City requirements and regulations pertaining to reporting included in the General Conditions.
8. Patent rights with respect to any discovery or invention which arises or is developed in the course of or under the Agreement shall be retained by the City.
9. Copyrights and rights in data developed in the course of or under the Agreement shall be the property of the City. FEMA/CalOES reserve a royalty-free, nonexclusive, irrevocable license to reproduce, publish or otherwise use or authorize to others to use for federal purposes a copyright in any work developed under the Agreement and/or subcontracts for work pursuant to the Agreement.
10. Vendor shall provide access by the City, the Federal grantor agency, the Comptroller General of the United States, or any of their duly authorized representatives to any books, documents, papers, and records of the Vendor which are directly pertinent to that specific contract for the purpose of making audit, examination, excerpts, and transcriptions.

11. Vendor shall retain all required records for three years after City makes final payments and all other pending matters relating to the Agreement are closed.
 12. Vendor shall comply with all applicable standards, orders, or requirements issued under section 306 of the Clean Air Act (42 U.S.C. 1857(h)), section 508 of the Clean Water Act (33 U.S.C. 1368), Executive Order 11738, and Environmental Protection Agency regulations (40 CFR part 15). (This provision applies to contracts exceeding \$100,000 and to subcontracts entered into pursuant to such contracts.)
 13. Vendor shall comply with mandatory standards and policies relating to energy efficiency which are contained in the State energy conservation plan issued in compliance with the Energy Policy and Conservation Act (Pub. L. 94163, 89 Stat. 871).
- DD. Authority To Execute. The representative executing this Agreement on behalf of each party hereby represents and warrants that he or she has full power and authority to execute this Agreement on behalf of such party and that all approvals and other actions necessary in connection with the effective execution by him or her have been obtained and are in full force and effect as of his or her execution hereof.

SIGNATURE PAGE TO FOLLOW

IN WITNESS HEREOF, the parties have each caused their authorized representative to execute this Agreement.

City of Moreno Valley

CLP Operations & Maintenance, Inc.

BY: _____

City Manager

Date

BY: _____

TITLE: _____

BY: _____

TITLE: _____

(Corporate Secretary)

INTERNAL USE ONLY

APPROVED AS TO LEGAL FORM:

City Attorney

Date

RECOMMENDED FOR APPROVAL:

Department Head

Date

EXHIBIT A

1 Scope of Work

1.1 Background/Overview

MVU's power delivery system consists of three substations and 22 12kV Circuits. There are 4 115kV to 12kV substation transformers and approximately 30 circuit breakers.

Nearly all of MVU's distribution lines are installed underground in conduits. MVU does not have a transmission system so the only ties between stations are 12kV circuit switches in the field. MVU has (2) 115-kV line ties through Southern California Edison ("SCE") to the California Independent System Operator ("CAISO").

While the design of the MVU system is fairly robust, MVU's challenges reside in expanding the existing system to accommodate new developments. The selected bidder will work with developers to expand the distribution system to accommodate their needs. MVU has a reputation for fast and flexible coordination with developers and we need the selected Vendor to maintain this reputation. A number of distribution expansion projects are being considered to ensure that the system continues to serve the community reliably. The selected bidder will perform MVU's primary construction and operations functions with a mix of continuous and supplemental services.

1.2 Construction Services

The Vendor shall be a highly qualified firm experienced in the Electric Utility sector and related regulatory codes for the state of California. The Vendor shall provide all necessary services to enhance and maintain Moreno Valley's Electric, Streetlighting and Fiber Optic Systems. These services shall include, but are not limited to; high voltage switching, routine maintenance, emergency repairs, troubleshooting, inspections, and streetlight repairs.

All work shall be performed in accordance with the City's construction and operation standards, General Orders 95, 128, 165, 174, NEC (where applicable), EUSERC, CalOSHA and good utility practice.

The Vendor shall perform underground 12kV distribution work energized whenever possible in order to minimize customer outages. The Vendor must have and maintain an extensive safety program and all appropriate hot tools to perform energized work.

If a new facility is to be constructed by the City, the Vendor shall be allowed an opportunity to submit a proposal to construct any such facility. The City reserves the right to permit the customer to construct any customer facilities and to negotiate agreements with any Vendors, including the Vendor, if the city is to construct such facility. The City is not obligated to use the Vendor for such services.

1.2.1 *Emergency Response*

The Vendor shall respond to emergency calls, troubleshooting calls, or service calls after work hours within one hour after the call is placed by Moreno Valley Staff or Automated response system. The Vendor will provide a weekly list of the dedicated staff that will be available to respond to such calls.

The Vendor shall carry out troubleshooting activities including responding to customer calls and complaints, traveling to various sites in the City of Moreno Valley, assessing and estimating failures or damages, safely restoring service as quickly as possible and reporting the changes to MVU staff upon the completion of work.

Emergency repairs shall be initiated as soon as possible by the Vendor under a pre-assigned work-order number. The Vendor shall coordinate with the Electric Utility Division Manager or their designee at the start of the next business day following the emergency event. The Vendor shall provide as-built information upon completion of the work.

1.2.2 Distribution System Enhancement

At the direction of Moreno Valley Utilities (MVU), make all modifications, extensions, additions, and improvements in and to MVU's Electric Distributions System, Streetlight System and Fiber Optic System as shall be required to serve electric power and streetlighting to the public in a safe and reliable manner. The Vendor will furnish all labor, supervision, equipment and tools to facilitate a safe, productive and efficient work force as deemed appropriate to maintain MVU's power distribution system.

These projects will typically involve a civil component such as the trenching and installation of conduit, the installation of underground distribution vaults, the installation of equipment pads and the restoration of the surfaces.

These projects will typically involve an electrical component such as the installation of conductors within the newly installed conduits, the installation of transformers on the newly installed pads, the installation of switches on newly installed pads, testing of the newly installed equipment and switching to energize the newly installed equipment.

These projects will typically involve a fiber optic or communications component such as the installation of routers, modems, switches, patch panels, fiber optic lines, service drops, and other facilities on the fiber optic system required to communicate with newly installed equipment.

Distribution system enhancement projects will be authorized on a work-order basis, where the Vendor will provide an estimate for the work to be completed in the form of a work-order response. Please see the attachments for a sample of the work-order response template.

1.2.3 Electric System Maintenance and Inspections

At the direction of MVU perform necessary inspections and maintenance to ensure compliance with all local, state and national required reporting. The Vendor shall maintain a database to track and report inspection results and corresponding repairs / corrections. These inspections shall meet or exceed the requirements of CPUC general orders 165 and 174, and provide sufficient record to meet CEC and AQMD reporting requirements. The maintenance and inspection shall include, but not be limited to:

- Streetlight Inspection
- Streetlight repairs/replacements
- Substation Inspections
- Substation maintenance
 - Transformer oil testing
 - Breaker testing and repair
 - Relay testing and repair
 - Insulator washing
 - SCADA testing and repair
 - Substation racks and bus work inspection and repair
- Vault and Manhole inspections
- Underground Cable inspections

- Distribution Switch inspections and replacements
- Distribution Transformer inspections and replacements
- Meter testing and replacement
- Fiber Optic System inspection and repairs

Electric System Maintenance and Inspection projects will be authorized on a work-order basis, where MVU will authorize a specific maintenance and inspection program as a blanket work-order (such as substation GO 174 inspections or switch replacements) and the Vendor will perform work against the work-order. MVU and the Vendor will coordinate to ensure the budgetary limit of the work-order is not exceeded and there is sufficient capacity to meet the inspection and repair needs of MVU.

1.2.4 Substation Improvements

At the direction of Moreno Valley Utilities (MVU), the Vendor will make minor improvements or repairs to the substations to facilitate new customers or as may be required to reconfigure the distribution system. The Vendor will be responsible for filling any gaps in a major substation improvement project to ensure a complete and reliable distribution system. This work will include but is not limited to;

- Ensuring the interface of new substation components with existing or new distribution components works
- Changing out older relays or equipment for new preferred system
- Manage the interface of new technology tools with existing substation equipment
- Add new monitoring devices to improve the reliability of the station

Substation Improvement projects will be authorized on a work-order basis, where the Vendor will provide an estimate for the work to be completed in the form of a work-order response. Please see the attachments for a sample of the work-order response template.

1.2.5 Service Planning and Inspections

The Vendor will be required to install metering facilities for all new customer installs and upgrades. Inspect, maintain, troubleshoot, and repair existing customer metering facilities. Perform solar system inspections, customer gear inspections, customer installed equipment inspections.

These projects include but are not limited to private property transformer jobs, large industrial facility projects, Commercial building coordination, electric vehicle infrastructure charging stations, small cellular antenna service applications, maintenance scheduled outages for large and medium customers, etc. These services should also include technical support and customer service duties in support of engineering designs, construction, inspection, and maintenance activities. Vendor should be familiar and observe industry standard engineering service requirements, Electric Utility Service Equipment Requirements Committee (EUSERC), National Electric Code (NEC), California Electrical Code and any other state and local codes.

1.3 Supplemental Services

The Vendor will supply supplemental services necessary for the operations of an Electric Utility. These services are not specifically listed as construction activities but are typically performed by operations personnel and the Vendor is expected to provide these services as needed by MVU.

1.3.1 Materials and Inventory

MVU shall provide major materials and supplies required for major and routine work required by the Vendor. The Vendor shall coordinate with MVU staff to ensure sufficient levels of inventory are on hand at all times. The Vendor shall be responsible for providing any materials that MVU does not have on hand and are required for the maintenance or construction work-order that the Vendor is performing. Before purchasing materials or supplies, the Vendor shall check with MVU and obtain approval before purchasing to ensure that the materials and supplies are not available from MVU.

MVU shall compensate the Vendor for such materials and supplies at cost plus the mark-up indicated in the Vendor's bid documents. However if MVU arranges for a pre-payment of materials, no mark-up will be allowed. MVU typically provides the following materials:

- High Voltage Distribution Switches
- Distribution Transformers
- Substation Transformers
- Substation Breakers
- Substation Relays
- Meters
- Streetlights

1.3.2 Tools and Equipment

The Vendor will be required to provide all vehicles, tools and equipment required to perform the scope of work. The tools shall be whatever is required to facilitate a safe, productive, and efficient work force as deemed appropriate to maintain the City's power distribution system, substations, and streetlights. This equipment will include, but not be limited to:

- Small Bucket Trucks
 - For maintaining streetlights
- Service Trucks
- Light towers
- Arrow Boards
- Small Cable Puller
 - Capable of underground pulls up to 3,500lbs
- Large Cable Puller
 - Capable of underground pulls up to 10,000lbs
- Generators
 - 50kW
 - 300kW
- Fork Lift
- Excavator/trenching equipment for underground construction

The Vendor will also be expected to provide standard test equipment as listed below. But if MVU requests future testing that is not included below, the Vendor will be expected to acquire the test equipment and the equipment below:

- Meter Testing Equipment
- Transformer Test Equipment
 - TTR, Losses
- Relay Test Equipment

- Cable Test equipment
 - Tan-Delta, Thumper

1.3.3 MVU Facilities

MVU shall provide use of city-owned facilities, structures and storage yard on city owned property in connection with the services performed under the agreement. The Vendor will be responsible for all tenant-type improvements and security in connection with the use of such City-owned property. A list of City-owned properties and a description of the facilities is provided as an attachment.

1.3.4 Construction and Project Management Functions

The selected Vendor will provide construction and project management services, including field inspections, to verify compliance with project plans and specifications, and as-built record preparations for each scope of work described above in the section above. Vendor shall have at least five (5) years of experience providing construction managements services for utility projects. Field services shall include project on-site inspections, including special deputy inspections, daily inspection logs, daily extra work verifications in accordance with project specifications. Vendor staff shall include qualified electric worker inspectors with construction management experience.

1.3.5 Handheld Devices

The selected Vendor is required to provide all handheld/communication devices (e.g. smartphone, tablet, etc.) for services including, but not limited to: communication with office staff; access and usage of City-developed application(s). No City devices will be provided for the Vendor use under this Contract.

1.4 General Terms and Conditions

1.4.1 Ownership of Materials

All material, including information developed on computer(s), which shall include, but not be limited to, data, sketches, tracings, drawings, plans, diagrams, quantities, estimates, specifications, proposals, tests, maps, calculations, photographs, reports and. other material developed, collected, prepared or caused to be prepared for the City under this Agreement shall be the property of City but the Vendor may retain and use copies thereof for purposes of fulfilling its obligations under this Agreement only. City shall not be limited in any way or at any time in its use of said material.

1.4.2 Reasonable Cooperation and Coordination

The Parties shall cooperate with each other as may reasonably be required in connection with the transactions contemplated by this Agreement, including furnishing each other with such records, accounts, data, documents and other information and providing reasonable assistance and cooperation in defending, administering or managing any third party claim related to this Agreement. The Parties shall use their best efforts to ensure that all information furnished to the other Party is true and correct in all material respects. The Parties will develop policies and procedures for maintenance, storage and mutual access to meter usage data.

1.4.3 Change Order Management

Any additional work identified during the course of the project that is deemed necessary, but outside the original Scope of Services, must be recorded as a Change Order and approved by the Division Manager of Moreno Valley Utility or their designee in writing before work is started.

1.4.4 Customer Care Standards

The Vendor must adhere to the City's Customer Care Standards (see separate attachment), made part of the RFP, in all interactions with the public and City personnel.

1.4.5 Completion Timelines

For work conducted under Task-Order Services, completion timelines will be agreed to in advance through the Task-Order Form. Each Task-Order Form has a proposed date of completion which will be filled in by MVU, and the Vendor shall fill the agreed date of completion after discussion with MVU staff. This date will become the expected completion date which will be the basis for any penalties related to timely completion of work.

1.4.6 Scheduling of Work

For work conducted under Task-Order Services, completion timelines will be agreed to in advance through the Task-Order Form. Each Task-Order Form has a proposed date of completion which will be filled in by MVU, and the Vendor shall fill the agreed date of completion after discussion with MVU staff. This date will become the expected completion date which will be the basis for any penalties related to timely completion of work.

1.4.7 Working Hours

For the purposes of this contract, typical working hours will be considered Mon-Fri (8am – 5pm). Any scheduled overtime will need to be agreed to in advance of conducting the work, with the exception of emergency response work.

1.5 Specific Requirements

The Vendor is required to provide MVU services as requested by the City to support the maintenance and expansion of the electric distribution system. The Vendor will be required to comply with the most current versions of California State General Orders, EUSERC and General Utility Practice when designing utility infrastructure. The Vendor must also be familiar with NEC requirements to coordinate with installations downstream from the meter.

1.5.1 Dedicated MVU staff

The Vendor will provide dedicated staff to MVU. These staff's primary responsibility will be to support developer projects in the city, maintain the streetlight system and support the metering network. These dedicated staff members will be expected to perform supplemental work as directed by the Electric Utility Division Manager when there are no developer projects.

One Full-Time Operations Manager

- a. Will be responsible for coordinating operations efforts for MVU
- b. Will be responsible for safety of all construction staff
- c. Schedule Mon-Fri, 8am-5pm
- d. Experience working with customer interconnections is desirable
- e. Experience working with Municipal Utilities is desirable

- f. Will be based on-site at MVU office or at the Utility Field Office

Three Full-time Qualified Electrical Worker Staff

- a. Minimum of 4 years of experience in High voltage and Low voltage construction
- b. Schedule to be Mon-Fri, 8am-5pm
- c. Experience working with Itron AMI Meters is desirable
- d. Experience performing CPUC required inspections is desired
- e. Experience working with a municipal utility is desirable
- f. Bilingual proficiency (Spanish) is desirable
- g. Will be based on-site at MVU office or at the Utility Field Office

In addition to providing the staffing above, the Vendor will be required to provide additional staff, as needed, to meet the demands of an increase in workload. The costs to provide these dedicated staff need to be captured in one of the approved task-orders listed in the section above. It is expected that dedicated staff will be compensated primarily through task orders related to section 1.2.3 Maintenance and Inspection above. The pricing for the full time dedicated MVU staff will be listed in Part A of Exhibit C of this agreement.

1.5.2 On-Call Services

The Vendor will supply on-call services when requested by MVU through Task Order request. These supplemental services will be billed in accordance Time and Materials Rates in the Pricing Proposal. The Task Order form will provide the Vendor with the date that the requested work should be completed.

1.6 Compensation

The Electric Utility experiences busy and slow periods of customers requesting to be interconnected. The Vendor will be expected to supplement onsite staff with offsite staff when needed to accommodate developer timelines, streetlight maintenance, meter system support and system inspection requirements.

MVU is experiencing a growth in applications and infrastructure, so over the length of the contract, MVU may need more than the proposed full-time staff listed in section 1.5.1 above. To properly compensate the Vendor if our base work load grows, or for labor outside of normal business working hours, the Vendor will be compensated through time and materials rates provided in Part B and Part C in Exhibit C of this agreement.

2 Pricing Terms and Conditions

Pricing Terms and Conditions

- A. Quantities: listed Line Items are annual estimates based on historical information or anticipated and may vary significantly. City does not imply or make any commitment to purchase any specific quantity.
- B. Term: is for a four-year base period with up to four two-year optional renewals.
- C. Price Changes: After the base period, price changes shall be negotiated, but shall not exceed the most recent available 12-month period for the Riverside-San Bernardino-Ontario, CA Consumer Price Index (CPI) for All Urban Consumers. In the event market conditions cause a significant change in price, the Provider may request relief by providing verifiable documentation for change request at least 30 days in advance of the requested price change date.
- D. Unit Price: include all costs including travel and housing to have staff available in Moreno Valley when needed. This price will include materials and equipment reasonably needed to perform work, including but not limited to; computer workstation, AutoCAD software, cell phone, Microsoft office software, vehicle, hand tools and minor equipment, etc. Vendor will only charge per the line items on this pricing proposal.
- E. Additional Charges: none; do not charge any fees or charges not listed in the Price Sheets.
- F. Fixed Prices: prices are fixed for each year of the agreement.
- G. Proposal Price Sheet: The awarded Provider's Price Sheet, as accepted by City, are part of this Agreement.

EXHIBIT B

CITY RESPONSIBILITIES

EXHIBIT C

TERMS OF PAYMENT

1. The Vendor's compensation shall not exceed \$8,846,399.37.
2. The Vendor will obtain, and keep current during the term of this Agreement, the required City of Moreno Valley business license. Proof of a current City of Moreno Valley business license will be required prior to any payments by the City. Any invoice not paid because the proof of a current City of Moreno Valley business license has not been provided will not incur any fees, late charges, or other penalties. Complete instructions for obtaining a City of Moreno Valley business license are located at: <https://moval.gov/departments/financial-mgmt-svcs/svc-biz-license.html>
3. The Vendor will electronically submit an invoice to the City on a monthly basis for progress payments along with documentation evidencing services completed to date. The progress payment is based on actual time and materials expended in furnishing authorized professional services since the last invoice. At no time will the City pay for more services than have been satisfactorily completed and the City's determination of the amount due for any progress payment shall be final. The Vendor will submit all original invoices to Accounts Payable staff at AccountsPayable@moval.org
 - a. Accounts Payable questions can be directed to (951) 413-3073.
 - b. Copies of invoices may be submitted to the Electric Utility Division at mvuinvoices@moval.org or calls directed to (951) 413-3500.
4. The Vendor agrees that City payments will be received via Automated Clearing House (ACH) Direct Deposit and that the required ACH Authorization form will be completed prior to any payments by the City. Any invoice not paid because the completed ACH Authorization Form has not been provided will not incur any fees, late charges, or other penalties. The ACH Authorization Form is located at: http://www.moval.org/city_hall/forms.shtml#bf
5. The minimum information required on all invoices is:
 - a. Vendor Name, Mailing Address, and Phone Number
 - b. Invoice Date
 - c. Vendor Invoice Number
 - d. City-provided Reference Number (e.g. Project, Activity)
 - e. Detailed work hours by class title (e.g. Manager, Technician, or Specialist), services performed and rates, explicit portion of a contract amount, or detailed billing information that is sufficient to justify the invoice amount; single, lump amounts without detail are not acceptable.

6. The City shall pay the Vendor for all invoiced, authorized professional services within thirty (30) days of receipt of the invoice for same.
7. Reimbursement for Expenses. Vendor shall not be reimbursed for any expenses unless authorized in writing by City.
8. Maintenance and Inspection. Vendor shall maintain complete and accurate records with respect to all costs and expenses incurred under this Agreement. All such records shall be clearly identifiable. Vendor shall allow a representative of City during normal business hours to examine, audit, and make transcripts or copies of such records and any other documents created pursuant to this Agreement. Vendor shall allow inspection of all work, data, documents, proceedings, and activities related to the Agreement for a period of three (3) years from the date of final payment under this Agreement.
9. Non-Performance Damages/Penalties. The Vendor have agreed to non-performance damages/penalties with respect to Vendor's failure to complete the Work within the Agreement Time intervals and/or frequencies as set forth in this agreement and/or in the Scope of Work, or as directed by the City. For each of the categories set forth hereinabove, **the penal sum of 1% of the total Agreement amount per working day will be assessed for each working day the deficiencies remain uncorrected.** If non-performance damages/penalties are to be assessed, the Vendor will be notified immediately by written email, facsimile transmission, letter, or by telephone. The Vendor will not be assessed non-performance damage/penalties for delays caused by the City or are deemed outside the Vendor's control by the City.

Vendor and City acknowledge and agree that the amount of such non-performance damages/penalties are impossible to ascertain as of the date of execution hereof and have agreed to such non-performance damages/penalties to fix the City's damages and to avoid later disputes. It is understood and agreed by Vendor that non-performance damages/penalties payable pursuant to this Agreement and that such amounts are not manifestly unreasonable under the circumstances existing as of the date of execution of this Agreement.

It is further mutually agreed that the City will have the right to deduct non-performance damages/penalties against progress payments or retainage and that the City will issue a Change Order and reduce the Agreement Price accordingly. In the event the remaining unpaid Agreement Price is insufficient to cover the full amount of non-performance damages/penalties, Vendor shall pay the difference to the City.

City may at any time deduct non-performance damages/penalties as are payable hereunder from money due or to become due to Vendor, or pursue any other legal remedy to collect such non-performance damages/penalties from Vendor and/or its Insurance, Surety, etc. Neither the City's failure or delay in deducting non-performing damages/penalties from payments otherwise due Vendor, nor City's failure or delay in

notifying Vendor of the accrual of non-performance damages/penalties, shall be deemed a waiver of City's right to non-performance damages/penalties.

City's rights under this Section shall not be interpreted as precluding or limiting:

- 1) any right or remedy of City arising from an event of Vendor default other than a failure to complete the Work within the Agreement Time; or
- 2) City's right to order an acceleration, at Vendor's expense, of performance of the Work to overcome delay, including, without limitation, a delay for which City has the right to assess and/or accrue non-performance damages/penalties.

The availability of non-performance damages/penalties shall not limit City's right to terminate the Vendor's performance and accrual and/or assessment of non-performance damages/penalties does not constitute a waiver of such rights.

10. Compensation.

PART A

| Line Item | Description | Unit of Measure | Quantity | Unit Cost |
|-----------|---|-----------------|----------|-----------|
| 1 | Hourly Rate for Operations Manager | Hours | 2080 | \$179.20 |
| 2 | Hourly Rate for Qualified Electrical Worker | Hours | 6240 | \$159.01 |

PART B

| Line Item | Description | Unit of Measure | Unit Cost |
|-----------|---|-----------------|-----------|
| 3 | Hourly Rate for General Foreman | Hours | \$167.27 |
| 4 | Hourly Rate for Accountant | Hours | \$68.23 |
| 5 | Hourly Rate for Line Crew Foreman | Hours | \$155.70 |
| 6 | Hourly Rate for Substation Foreman | Hours | \$155.70 |
| 7 | Hourly Rate for Groundman | Hours | \$96.38 |
| 8 | Hourly Rate for Trouble man | Hours | \$147.54 |
| 9 | Hourly Rate for Substation Electricians | Hours | \$147.54 |
| 10 | Hourly Rate for Office Assistant | Hours | \$46.56 |

| Line Item | Description | Unit of Measure | Unit Cost |
|-----------|---|-----------------|-----------|
| 11 | Hourly Rate for Warehouse Staff | Hours | \$46.56 |
| 12 | Hourly Rate for Mechanic | Hours | \$115.85 |
| 13 | Hourly Rate for Maintenance Worker | Hours | \$61.00 |
| 14 | Overtime/After Hours Hourly Rate for Operations Manager | Hours | \$283.76 |
| 15 | Overtime/After Hours Hourly Rate for Qualified Electrical Worker | Hours | \$246.43 |
| 16 | Overtime/After Hours Hourly Rate for Accountant | Hours | \$86.48 |
| 17 | Overtime/After Hours Hourly Rate for Line Crew Foreman | Hours | \$261.77 |
| 18 | Overtime/After Hours Hourly Rate for Substation Forman | Hours | \$261.77 |
| 19 | Overtime/After Hours Hourly Rate for Groundman | Hours | \$148.76 |
| 20 | Overtime/After Hours Hourly Rate for Trouble man | Hours | \$246.43 |
| 21 | Overtime/After Hours Hourly Rate for Substation Electricians | Hours | \$246.43 |
| 22 | Overtime/After Hours Hourly Rate for Office Assistant | Hours | \$54.05 |
| 23 | Overtime/After Hours Hourly Rate for Warehouse Staff | Hours | \$54.05 |
| 24 | Overtime/After Hours Hourly Rate for Mechanic | Hours | \$186.74 |
| 25 | Overtime/After Hours Hourly Rate for Maintenance Worker | Hours | \$75.67 |

PART C

| Line Item | Description | Unit of Measure | Unit Cost |
|-----------|--------------------|-----------------|------------|
| 26 | Small Bucket Truck | Months | \$4,075.00 |
| 27 | Service Truck | Months | \$3,790.00 |
| 28 | Light Tower | Days | \$61.25 |
| 29 | Arrow Boards | Days | \$120.00 |
| 30 | Small Cable Puller | Months | \$4,745.00 |
| 31 | Large Cable Puller | Weeks | \$1,380.00 |
| 32 | Generator (50kW) | Hours | \$23.05 |
| 33 | Generator (300kW) | Hours | \$54.20 |
| 34 | Fork Lift | Months | \$3,415.00 |
| 35 | Excavator/trencher | Weeks | \$1,255.00 |