

**AMENDMENT NO. 1 TO CONTRACT NO. C20176920
BETWEEN THE CITY OF PALO ALTO AND
DAVEY TREE SURGERY COMPANY**

This Amendment No. 1 (this "Amendment") to Contract No. C20176920 (the "Contract" as defined below) is entered into as of June 17, 2024 by and between the CITY OF PALO ALTO, a California chartered municipal corporation ("CITY"), and DAVEY TREE SURGERY COMPANY, a Delaware corporation, located at 2617 South Vasco Road, Livermore, CA 94550 ("CONTRACTOR"). CITY and CONTRACTOR are referred to collectively as the "Parties" in this Amendment.

RECITALS

A. The Contract (as defined below) was entered into by and between the Parties hereto for the provision of utility line and pole tree clearing services, as detailed therein.

B. The Parties now wish to amend the Contract in order to add more hourly line clearing and contingency funding for the electric grid modernization pilot project, increasing compensation by Three Million One Hundred Three Thousand Four Hundred Eighty-Four Dollars (\$3,103,484.00) from Fourteen Million Four Hundred Eighty-Six Thousand Fifty-Six Dollars and Eighty-Eight Cents (\$14,486,056.88) to a new total not to exceed amount of Seventeen Million Five Hundred Eighty-Nine Thousand Five Hundred Forty Dollars and Eighty-Eight Cents (\$17,589,540.88).

NOW, THEREFORE, in consideration of the covenants, terms, conditions, and provisions of this Amendment, the Parties agree:

SECTION 1. Definitions. The following definitions shall apply to this Amendment:

- a. **Contract.** The term "Contract" shall mean Contract No. C20176920 between CONSULTANT and CITY, dated June 1, 2020.
- b. **Other Terms.** Capitalized terms used and not defined in this Amendment shall have the meanings assigned to such terms in the Contract.

SECTION 2. Section 5 "COMPENSATION FOR ORIGINAL TERM" of the Contract is hereby amended to read as follows:

"COMPENSATION FOR ORIGINAL TERM. CITY shall pay and CONTRACTOR agrees to accept as not-to-exceed compensation for the full performance of the Services and reimbursable expenses, if any:

A sum calculated in accordance with the fee schedule set forth at Exhibit C, not to exceed a total maximum compensation amount of Seventeen Million Five Hundred Eighty-Nine Thousand Five Hundred Forty Dollars and Eighty-Eight Cents (\$17,589,540.88).

CONTRACTOR agrees that it can perform the Services for an amount not to exceed the total maximum compensation set forth above. Any hours worked or services performed by CONTRACTOR for which payment would result in a total exceeding the maximum amount of compensation set forth above for performance of the Services shall be at no cost to CITY.

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Included in the maximum compensation amount set forth above, CITY has set aside the sum of Three Million One Hundred Eighty-Four Thousand Ten dollars and Sixty cents (\$3,184,010.60) for Additional Services. If requested by CITY, CONTRACTOR shall provide Additional Services only by advanced, written authorization from the City Manager or designee. CONTRACTOR, at the CITY's request, shall submit a detailed written proposal including a description of the scope of services, schedule, level of effort, and CONTRACTOR's proposed maximum compensation, including reimbursable expense, for such services. Compensation shall be based on the rates set forth in Exhibit C-1 (whichever is applicable), or if such rates are not applicable, a negotiated lump sum. CITY shall not authorize and CONTRACTOR shall not perform any Additional Services for which payment would exceed the amount set forth above for Additional Services. Performance of and payment for Additional Services is subject to all requirements and restrictions in this Agreement."

SECTION 3. The following exhibit(s) to the Contract is/are hereby amended or added, as indicated below, to read as set forth in the attachment(s) to this Amendment, which is/are hereby incorporated in full into this Amendment and into the Contract by this reference:

- a. Exhibit "C" entitled "SCHEDULE OF FEES", AMENDED, REPLACES PREVIOUS.
- b. The portion of Exhibit C-1 entitled "RATE SCHEDULE YEAR 5 (6/1/2024- 5/31/2025)", AMENDED, REPLACES PREVIOUS.

SECTION 4. Legal Effect. Except as modified by this Amendment, all other provisions of the Contract, including any exhibits thereto, shall remain in full force and effect.

SECTION 5. Incorporation of Recitals. The recitals set forth above are terms of this Amendment and are fully incorporated herein by this reference.

(SIGNATURE BLOCK FOLLOWS ON THE NEXT PAGE.)

SIGNATURES OF THE PARTIES

IN WITNESS WHEREOF, the Parties have by their duly authorized representatives executed this Amendment effective as of the date first above written.

CITY OF PALO ALTO

City Manager

APPROVED AS TO FORM:

City Attorney or designee

DAVEY TREE SURGERY COMPANY

DocuSigned by:
By: Larry Evans
1F2AC466C0564AA...
Name: Larry Evans

Title: President & General Manager

DocuSigned by:
By: Erika Schoenberger
930D75FE4EB741A...
Name: Erika Schoenberger

Title: General Counsel, Secretary

EXHIBIT C SCHEDULE OF FEES

Compensation based upon fee schedule

CITY shall pay CONTRACTOR for Services rendered as assigned by the City according to the contract year fee schedule table below and the detailed rate schedule provided in Exhibit C-1 for the applicable contract year. The maximum amount of compensation to be paid to CONTRACTOR, including both payment for Services and any specified reimbursable expenses, shall not exceed the amounts set forth in Section 5 of the Agreement. Any Services provided or hours worked for which payment would result in a total exceeding the maximum amount of compensation set forth herein shall be at no cost to CITY. Unless a different timeframe is agreed upon by CITY and CONTRACTOR, the CONTRACTOR will invoice completed work to the CITY monthly.

Hourly Basis and Per-Unit Basis

The parties understand and agree that the CITY may assign work to the CONTRACTOR on an hourly basis or a per-unit basis, in the CITY's sole discretion, based on the nature of the work and the CITY's needs. Hourly pricing and per-unit pricing are set forth in Exhibit C-1.

90-day Per-Unit Pricing Review

The CITY's assignment of per-unit work to the CONTRACTOR depends in part on the CONTRACTOR's per-unit pricing. Within 90 calendar days of the start of this Agreement, after having completed work for the CITY hereunder and having gained greater familiarity with the CITY's trees and work assignments, CONTRACTOR will assess whether its perunit pricing can be decreased, and CONTRACTOR will notify the CITY of the results of its assessment in writing to the CITY's Project Manager. If CONTRACTOR does find that it can lower its per-unit pricing, it will include its revised, lower per-unit price in the aforementioned notice to the CITY's Project Manager. This 90-day per-unit pricing review will benefit the CONTRACTOR by providing the potential to be assigned more work by the CITY on a per-unit basis, and will benefit the CITY by providing the potential of greater affordability for per-unit work.

During the initial 90-day period, CONTRACTOR will be paid at the hourly rate. If production results during the 90-day period are mutually favorable to the CITY and the CONTRACTOR, and the CONTRACTOR provides a lower per-unit rate, as detailed above, the parties will execute an amendment to this Agreement as provided for in Section 27.4 herein, memorializing the lower per-unit rate, and the line clearance trimming work will be shifted to per-unit cost pricing. If unfavorable, CONTRACTOR will be assigned and paid at the hourly rate unless and until a re-proposed, lower per-unit price is mutually agreed to via an amendment to this Agreement. Notwithstanding the forgoing two

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sentences, the assignment and payment of work on an hourly basis or a per-unit basis will remain a determination made by the City in its sole discretion, based on the CITY's needs.

	Services	Additional Services (if any, per Section 5)	Subtotals / Totals
Contract Year 1	\$2,598,989.60	\$129,949.48	\$2,728,939.08
Contract Year 2	\$2,676,563.39	\$133,828.17	\$2,810,391.56
Contract Year 3	\$2,756,827.12	\$137,841.36	\$2,894,668.48
Contract Year 4	\$2,839,500.77	\$141,975.04	\$2,981,475.81
Contract Year 5	\$3,533,649.40	\$2,640,416.55	\$6,174,065.95
Subtotals / Totals	\$14,405,530.28	\$3,184,010.60	\$17,589,540.88

EXHIBIT C-1
RATE SCHEDULE - YEAR 5 (6/1/2024 to 5/31/2025)

EXHIBIT C-1						
RATE SCHEDULE - YEAR 5 (6/1/2024 to 5/31/2025)						
ITEM	ESTIMATED QUANTITIES PER YEAR	UNITS	DESCRIPTION & PROPOSALITEM		RATE	TOTALPRICE
01	3100	EA	UNIT COST LINE CLEARING(PER TREE UNIT)		\$306.60	\$950,460.00
02	20	EA	UNIT COST POLE CLEARING(PER POLE)		\$168.83	\$3,376.60
03	10	EA	UNIT COST POLE CLEARING& SPRAYING(PER POLE)		\$196.96	\$1,969.60
04	7453	HR	HOURLYCOST LINECLEARING- 2 PERSON CREW + EQUIPMENT & TOOLS		\$296.67	\$2,211,081.51
05	80	HR	HOURLYCOST LINECLEARING (AS NEEDED)	2 PERSON CREW OVERTIME	\$430.36	\$34,428.80
06	525	HR		3 PERSON CREW + EQUIP & TOOLS	\$401.12	\$210,588.00
07	10	HR		3 PERSON CREW OVERTIME	\$581.69	\$5,816.90
08	475	HR		1 PERSON CREW + EQUIP & TOOLS	\$153.17	\$72,755.75
09	10	HR		1 PERSON CREW OVERTIME	\$222.12	\$2,221.20
10	16	HR	EMERGENCY RESPONSERATES (AS NEEDED)	2 PERSON CREW M-F AFTER HOURS AND ALL DAY ON WEEKENDS/HOLIDAYS	\$430.36	\$6,885.76
11	16	HR		3 PERSON CREW M-F AFTER HOURS AND ALL DAY ON WEEKENDS/HOLIDAYS	\$581.64	\$9,306.24
12	17	HR		1 PERSON CREW M-F AFTER HOURS AND ALL DAY ON WEEKENDS/HOLIDAYS	\$222.12	\$3,776.04
13	200	HR	SPECIAL EQUIPMENT(AS NEEDED)	70FT AERIAL LIFT TRUCK	\$44.14	\$8,828.00
14	100	HR		100FT AERIAL LIFT TRUCK	\$121.55	\$12,155.00
TOTAL, ITEMS 01-14						\$3,533,649.40
TOTAL IN WORDS: Three Million Five Hundred Thirty-Three Thousand Six Hundred Forty-Nine Dollars and Forty Cents						