

JUN 22 2022

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City of South Gate

CITY COUNCIL

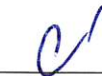
AGENDA BILL

For the Regular Meeting of: **June 28, 2022**Originating Department: **Public Works**

Department Director:


 Arturo Cervantes

Interim City Manager:


 Interim Chris Jeffers

SUBJECT: AGREEMENT WITH DEKRA-LITE FOR THE REPLACEMENT AND MAINTENANCE OF THE DECORATIVE STREET TREE LIGHTS LOCATED ON TWEEDY BOULEVARD, FROM STATE STREET TO HUNT AVENUE

PURPOSE: The street trees on Tweedy Boulevard have decorative lights that are in need of replacement. A sole-source agreement is recommended with Dekra-Lite, who installed and previously maintained the existing decorative street tree light system.

RECOMMENDED ACTIONS: The City Council will consider:

- Approving an Agreement with Dekra-Lite on a sole-source basis to replace the decorative street tree lights on 128 trees on Tweedy Boulevard from State Street to Hunt Avenue, in the amount of \$195,429, and to provide maintenance from FY 2022/23 to FY 2025/26 in the amount of \$81,354, for a total contract amount of \$276,783;
- Appropriating \$225,429 in General Funds to Account No. 100-710-12-9400 to fund the \$195,429 in replacement costs and a construction contingency of \$30,000; and
- Authorizing the Mayor to execute the Agreement in a form acceptable to the City Attorney.

FISCAL IMPACT: The Agreement is in the amount of \$306,733, and it will be funded with General Funds. The appropriation is in the amount of \$225,429 in General Funds to Account No. 100-710-12-9400. It is necessary to fund replacement costs and a contingency. Maintenance costs in the amount of \$81,354 will be funded in Fiscal Years 2023/24 to 2025/26.

Fiscal Year	Replacement	Contingency	Maintenance	Total
2021/22	\$195,429	\$30,000		\$225,429
2022/23			\$0	\$0
2023/24			\$25,611	\$25,611
2024/25			\$25,611	\$25,611
2025/26			\$30,132	\$30,132
Total	\$195,429	\$30,000	\$81,354	\$306,783

ANALYSIS: The street trees located in the Tweedy Mile are equipped with a decorative lighting system that was installed in 2015. The decorative lights are in a deteriorated condition due to exposure to weather, sun, vandalism and tree growth. The decorative lights have a 4-year and 5-year life cycle and were due for replacement in FY 2020/21.

The proposed agreement is recommended to be awarded on a sole-source basis. According to the City Attorney's Office, the City may contract with Dekra-Lite on a sole-source basis because the replacement of the deficient decorative lights is a maintenance function. Further, Dekra-Lite is intimately familiar with the existing and proposed decorative lights system, and its maintenance needs because they installed the existing lighting system in 2015 and maintained it through 2018.

BACKGROUND: Tweedy Boulevard has street trees within the Tweedy Mile of which 173 have decorative lights. These lights were installed in 2015 and were due for replacement in 2020/21. In 2021, lights on 45 trees were replaced with new lights by the City's tree contractor in conjunction with the tree trimming program, because they damaged the lights. There is a need to replace the remaining deficient lights on 128 street trees.

Under the proposed Agreement, Dekra-Lite will provide the decorative lights, and remove and replace decorative lighting on 128 trees. The proposed lights will be the exact same lights as the 45 that were already replaced. The lighting system will start from the top of the tree trunk, approximately eight feet above the ground, and light 100% of the crown of each tree.

Dekra-lite will also perform maintenance of the lights on 173 trees over a 4 ½-year period. The first 18 months of annual maintenance is at no additional cost to the City. The remaining 36 months of annual maintenance is at the City's expense.

Annual maintenance consists of inspection, service, and repair of light strings and equipment. The entire light strand will be replaced, if that is necessary. Maintenance excludes repairs required due to vandalism.

The \$195,429 amount includes \$90,563 to purchase the street tree lights, \$103,202 for other materials and labor, a \$9,500 credit and \$11,172 for taxes.

Dekra-lite is scheduled to complete the tree light installation by October of 2022. This reflects a lead time of two months to procure materials and one month to install the tree lights.

In 2015, the City Council approved \$250,000 to fund the Decorative Street Tree Light Installation on Tweedy Boulevard from State Street to Hunt Avenue, City Project No. 534-LT, as a part of a plan to enhance the Tweedy Mile Shopping District. The project included installing decorative lighting on the 173 street trees that are located within the Tweedy Mile Shopping District. In August 2015, the City released a Request for Proposal (RFP) to fourteen companies and received a total of three proposals. Based upon a ranking criterion, Dekra-Lite received the highest overall ranking and was awarded Contract No. 3151 in the amount of \$199,429. Two amendments were subsequently approved, Amendment No. 1 for \$39,272 for additional work and Amendment No. 2 for \$45,904 to provide quarterly maintenance services of the tree lighting system through October 2018.

ATTACHMENT: Proposed Agreement

OH:lc

Agreement for Maintenance Services

Tweedy Mile Decorative Tree Lighting Replacement and Maintenance

THIS AGREEMENT FOR MAINTENANCE SERVICES (this "**Agreement**") is entered into as of May 24, 2022, by and between the City of South Gate, a California municipal corporation (the "**City**"), and Dekra-Light Industries Incorporated, a California corporation ("**Contractor**"), with reference to the following facts:

RECITALS

A. Decorative tree lighting (the "**Lighting**") has been installed in 173 trees located in the public right-of-way on Tweedy Boulevard between State Street and Hunt Avenue (the "**Trees**").

B. Much of the Lighting needs to be replaced, and all of the Lighting needs to be maintained on a regular basis.

C. Contractor has represented and does hereby represent to the City that Contractor has the requisite skills, knowledge, qualifications, manpower and expertise to replace and maintain the Lighting, and Contractor does hereby offer to perform replacement and maintenance services with respect thereto, as more particularly identified below in this Agreement.

D. The City is willing to accept that offer, subject to the terms and conditions of this Agreement.

Now, therefore, the City and Contractor hereby agree as follows:

AGREEMENT

1. **Engagement and Scope of Work.** The City hereby engages the Contractor, and the Contractor accepts such engagement, to perform the replacement and maintenance services (collectively, the "**Work**") described below. The specific Trees upon which such Work is to be performed have been identified by the City and inspected by Contractor prior to the execution of this Agreement. The Work to be performed by Contractor hereunder is as follows:

1.1 **Replacement.** Contractor shall remove and dispose of the existing Lighting from 128 Trees designated by the City, and shall install new Lighting on those Trees. The new Lighting shall begin at the top of the Tree trunk (approximately eight feet above the ground), shall extend upwards to the top of the Tree, and shall light 100% of the crown of the Tree. The new Lighting shall consist of the materials identified in Contractor's Sales Installation Quote number QT096023 having an Order Date of September 14, 2021, a copy of which is attached hereto as Exhibit "A". To the extent that anything contained in that Sales Installation Quote (including without limitation terms and conditions attached thereto) conflicts with anything else in this Agreement, the terms of this Agreement shall control.

1.2 **Maintenance.** Throughout the entire Term of this agreement, Contractor shall perform routine maintenance on all 173 Trees. That maintenance shall consist of Contractor's inspection of the Lighting in each of the Trees, replacement of burned-out bulbs, and repair of light strings and other equipment which have become damaged or inoperable. Contractor shall conduct such maintenance activities as frequently as reasonably required to maximize the time in which all of the Trees are fully lit, and shall replace burned-out bulbs or non-working light-strings within seven (7) days of discovery (or notice from the City) that any Tree is not 100% lit. Notwithstanding the foregoing, Contractor shall have no duty under this Agreement to repair or replace equipment that has been stolen or rendered inoperable by vandalism; to the extent the City requires stolen equipment or vandalism-related damages to be repaired or replaced by Contractor, that shall be subject to a separate agreement or an amendment to this Agreement.

2. **Compensation Payable by City to Contractor.** The maximum amount of compensation to be paid to Contractor hereunder shall not exceed Two Hundred Seventy-Six Thousand Seven Hundred Eighty-Three Dollars (\$276,783), which shall be full compensation for the Work and which shall be allocated among the various components of the Work as follows:

Removal and Replacement (per § 1.1 above):	\$195,429.00
Annual Maintenance during months 1-18:	\$0.00
Annual Maintenance during months 19-30:	\$ 25,611.00
Annual Maintenance during months 31-42:	\$ 25,611.00
Annual Maintenance during months 43-54:	<u>\$ 30,132.00</u>
Total:	\$276,783.00

Contractor shall not be paid hereunder for any travel time or expenses incurred in the performance of the Work. On or before the twentieth (20th) day of each calendar month following the commencement of the Work, Contractor shall file its request for payment, accompanied by evidence satisfactory to the City justifying the request for payment, including a report of Work accomplished and tasks completed in the previous month. If, after review by the City, the Work is found to be unacceptable, Contractor, at its expense, shall expeditiously correct such unacceptable Work. If Contractor fails to correct unacceptable Work, the City may withhold from any payment due an amount that the City reasonably believes will equal the cost of correcting the Work. Subject to the City's right to reject all or any part of the charges set forth in such invoice as provided herein, the City shall pay Contractor the amount of such invoice within thirty (30) days of receipt and approval of such invoice.

3. **Term of Agreement.** The term of this Agreement ("Term") shall commence on the date when this Agreement is approved by the South Gate City Council, and shall terminate four and one-half years (54 months) thereafter, unless terminated sooner pursuant to the provisions of this Agreement. This Agreement shall not be automatically renewed or extended. Performance by Contractor of any Work following said termination date shall be prohibited, and Contractor shall not be entitled to compensation therefore, in the absence of a written agreement pertaining to such additional Work executed by the City and Contractor pursuant to Section 20.10.

4. **Commencement of the Work.** The execution and delivery of this Agreement by the City and Contractor does not constitute an authorization for Contractor to proceed with the Work. Contractor shall commence performance of the Work within seven (7) days after the City issues

to Contractor a written notice, signed by the City's Director of Public Works ("**Director**"), instructing Contractor to proceed with the Work. Contractor represents and warrants to the City that Contractor will be able to commence the Work within that time in compliance with all requirements of this Agreement, including without limitation those set forth in Sections 6, 7 and 8 below.

5. **Inspection of Work.** The Director, the City's Field Operation's Manager ("**Manager**"), the City's Electrical and General Maintenance Superintendent ("**Superintendent**"), and any of their designees, shall have the right to review and inspect the Work performed by Contractor hereunder at any and all times, with respect to the quality of the Work and Contractor's conformance to the terms of this Agreement, pursuant to the City's established review and approval procedures as the same may be amended from time to time. Without limiting the City's rights under Section 2 above, if the Director, Manager, Superintendent, or any of their designees determines as a result of any such inspection that any aspect of the Work is unsatisfactory for any reason (including without limitation failure to meet the performance standards specified in Section 8 below), then Contractor shall promptly correct the Work at no additional cost to the City.

6. **South Gate Business License.** Without limiting the generality of Section 8 below, Contractor shall obtain a City of South Gate business license before performing any Work under this Agreement.

7. **Contractor Must Pay Prevailing Wages to its Employees.** Pursuant to regulations established by the California Department of Industrial Relations and codified at 8 CCR §§ 16000 and 16001(f), Contractor's performance hereunder is subject to Contractor's compliance with prevailing wage rate payment requirements under California Labor Code § 1771. Contractor must pay "prevailing wages" to all personnel employed by Contractor who perform any portion of the Work. Information regarding prevailing wage determinations can be found on the web site of the California Department of Industrial Relations, which is located at <http://www.dir.ca.gov/OPRL/DPreWageDetermination.htm>. It is Contractor's responsibility to interpret and implement any prevailing wage requirements. Contractor agrees to pay any penalty or civil damages resulting from a violation of prevailing wage laws with respect to this Agreement. The City advises Contractor to familiarize itself with those laws, including without limitation those set forth at California Labor Code §§ 1720 through 1861, inclusive.

8. **Performance Standards and Requirements.** Contractor shall perform and complete the Work promptly, diligently, and in a manner satisfactory to the City. Contractor shall furnish all equipment, tools, materials, labor and other services necessary to fully and adequately perform the Work, and shall pay all applicable fees and expenses associated therewith. Contractor and its subcontractors shall perform all acts required to complete the Work under this Agreement (i) in a skillful and workmanlike manner, (ii) consistent with the standards generally recognized as being employed by other lighting and maintenance companies in the State of California, and (iii) in accordance with all federal state and local laws, regulations and ordinances applicable to the operation of Contractor's business and to its performance of the Work under this Agreement. Contractor warrants that (a) all of its employees and subcontractors shall have sufficient skills and experience to perform those portions of the Work assigned to them, (b) they shall have all licenses, permits, qualifications and approvals of whatever nature that are legally required to perform the

Work, and (c) such licenses, permits, qualifications and approvals shall be maintained throughout the Term of this Agreement.

9. **Independent Contractor.** In performing its duties hereunder, Contractor shall at all times act as an independent contractor. Contractor shall complete the services required of it hereunder according to its own means and methods of work, which shall be in the exclusive charge and control of Contractor and not subject to the control or supervision of the City except as to the results of the work and except as otherwise specifically set forth in this Agreement. In no event shall Contractor have any authority or power under this Agreement to incur any debt, obligation or liability on behalf of the City. Neither Contractor nor its employees are employees of the City, and nothing in this Agreement shall render Contractor an employee, partner, agent of, or joint venturer with the City for any purpose. Neither Contractor nor its employees shall represent themselves as employees of the City. Personnel employed or subcontractors retained by Contractor shall not acquire any rights or status regarding the City. Neither Contractor nor its employees shall have any claim against the City hereunder or otherwise for salary, vacation pay, sick leave, retirement benefits, social security, worker's compensation, health or disability benefits, unemployment insurance benefits, or employee benefits of any kind. Contractor is responsible for complying with all obligations of an employer imposed under federal or state law. The City shall not withhold Social Security and Medicare taxes from any payments made to Contractor hereunder, nor shall the City make any such payments on Contractor's behalf. The City shall not make state or federal unemployment contributions on Contractor's behalf or withhold state or federal income tax from Contractor's payments hereunder. Contractor shall pay all applicable taxes related to the performance of services under this Agreement including all federal, state or local income, Social Security, Medicare, and self-employment taxes. Contractor will also pay all unemployment contributions for its employees related to the performance of services under this Agreement. Neither Contractor nor its employees or contractors are eligible to participate in any employee, pension, health, vacation pay, sick pay or other fringe benefit plan of the City. Contractor shall complete and submit to the City an IRS Form W-9 and acknowledges that the City will issue to Contractor an IRS Form 1099 for non-employee compensation for all payments for the Work rendered hereunder. Contractor agrees to indemnify and hold the City harmless from and against any and all liability arising from any failure of Contractor to pay any income or other tax when due on account of the compensation paid to Contractor by the City hereunder (and Contractor's obligation to indemnify the City under this Section 9 shall survive the expiration or sooner termination of this Agreement).

10. **Non-Discrimination and Equal Employment Opportunity.** In the performance of this Agreement, Contractor shall not discriminate against any employee or applicant for employment because of race, color, creed, religion, ancestry, national origin, sex, sexual orientation, disability or other handicap, age, marital/familial status, or status with regard to public assistance. Contractor will take affirmative action to ensure that all employment practices, including those of any subcontractors retained by Contractor to perform services under this Agreement, are free from such discrimination. Such employment practices include but are not limited to hiring, upgrading, demotion, transfer, recruitment, recruitment advertising, layoff, termination, rates of pay or other forms of compensation, and selection for training, including apprenticeship. Contractor shall include the foregoing non-discrimination provisions in all solicitations or advertisements placed by or on behalf of Contractor for personnel or subcontractors to perform any services under this

Agreement. Upon written request, the City shall have right to inspect and have access to all of Contractor's (and its subcontractors') documents, data and books and records for purposes of determining compliance with the equal employment opportunity and non-discrimination provisions of this Section 10. Contractor agrees that all applicable provisions of Executive Order No. 11246 shall be incorporated into this Agreement by this reference. A copy of Executive Order No. 11246 is available to Contractor for inspection and on file with the City's Public Works Department.

11. **Contractor's Representations and Warranties.** In addition to the other representations and warranties set forth elsewhere in this Agreement, Contractor hereby represents and warrants to the City as follows:

11.1 **Familiarity with Work.** Contractor has thoroughly investigated and considered the scope of services to be performed hereunder, has carefully considered how that Work should be performed, and understands the circumstances which may restrict or otherwise impact Contractor's performance of the Work under this Agreement.

11.2 **Site Inspection.** Contractor has inspected each of the Trees where the Work is to be performed and is fully acquainted with the conditions existing at such sites.

11.3 **No Solicitation.** Contractor has not employed or retained any person or entity, other than a bona fide employee working exclusively for Contractor, to solicit or obtain this Agreement.

11.4 **No Fees, Commissions, Gifts or Other Consideration.** Contractor has not paid or agreed to pay any person or entity, other than a bona fide employee working exclusively for Contractor, any fee, commission, percentage, gift, or any other consideration contingent upon or resulting from the execution of this Agreement. Upon such breach or violation of this warranty, the City shall have the right, in its sole discretion, to terminate this Agreement without further liability, or, in the alternative, to deduct from any sums payable hereunder the full amount or value of any such fee, commission, percentage or gift.

11.5 **No Conflict of Interest by City.** Contractor has no knowledge that any officer or employee of the City has any interest, whether contractual, non-contractual, financial, proprietary, or otherwise, in this transaction or in the business of Contractor, and that if any such interest comes to the knowledge of Contractor at any time, a complete written disclosure of such interest will be made to the City, even if such interest would not be deemed a prohibited "conflict of interest" under applicable laws.

11.6 **No Conflict of Interest by Contractor.** Upon execution of this Agreement, Contractor has no interest, direct or indirect, in any transaction or business entity which would conflict with or in any manner hinder the performance of Work required by this Agreement, nor shall any such interest be acquired during the Term of this Agreement.

12. **Non-Exclusivity.** The City does not warrant to contract-exclusivity with a single contractor to perform the type of removal, installation and maintenance services which Contractor is performing under this Agreement. As such, Contractor may not be the only company providing

those types of services to the City. The City reserves the right to enter into similar contracts with third parties for maintenance services for City property other than the Trees and/or in areas of the City other than the segment of Tweedy Boulevard identified in Recital A above.

13. **No Assignment.** Contractor shall not assign, delegate, or subcontract or assign its duties or rights hereunder, either in whole or in part, without the prior written consent of the Director, which may be granted, conditioned or withheld by the Director in his sole and absolute discretion. This prohibition shall not apply to subcontracts and subcontractors identified by Contractor to the City in connection with any formal bid documents submitted by Contractor to the City in connection with the City's award of this Agreement to Contractor. Any proposed delegation, assignment or subcontract shall provide a description of the services to be covered, identification of the proposed assignee, delegatee or subcontractor, and an explanation of why and how the same was selected, including the degree of competition involved. Any proposed agreement with an assignee, delegatee or subcontractor shall include both (a) the amount involved, together with Contractor's such cost or price; and (b) a provision requiring that any subsequent modification or amendment shall be subject to the City's prior written consent. Any assignment, delegation or subcontract shall be made in the name of Contractor and shall not bind or purport to bind the City and shall not release Contractor from any obligation under this Agreement including, but not limited to, the duty to properly supervise and coordinate the work of employees, assignees, delegates and subcontractors. No such assignment, delegation or subcontract shall result in any increase in the amount of total compensation payable to Contractor under this Agreement.

14. **Public Employees Retirement System.** Notwithstanding any other local, state or federal policy, rule, regulation, law or ordinance to the contrary, neither Contractor nor any of its employees, agents or subcontractors shall qualify for or become entitled to – and each hereby agrees to waive any claims to – any compensation, benefit or incident of employment by the City, including but not limited to eligibility to enroll in the California Public Employees Retirement System (“PERS”) as an employee of the City and entitlement to any contribution to be paid by the City for employer contribution and/or employee contributions for PERS benefits. Without limiting the generality of Section 19 below, if Contractor or any employee, agent or subcontractor of Contractor claims (or is determined by a court of competent jurisdiction or by PERS) to be eligible for enrollment in PERS as an employee of the City, then Contractor shall indemnify, defend (using counsel acceptable to the City) and hold harmless the City for the payment of any employee and/or employer contributions for PERS benefits on behalf of Contractor or its employees, agents or subcontractors, as well as for the payment of any penalties and interest on such contributions which would otherwise be the responsibility of the City.

15. **Insurance.** During the Term of this Agreement, Contractor shall at its expense maintain in full force and effect policies of insurance as required by Sections 15.2, 15.3 and 15.4 below and also, if required by the City, policies of insurance as required by Section 15.1 below:

15.1 **Property Damage/Casualty Insurance.** The City may require a policy or policies of insurance covering loss or damage to the Trees or other City-owned or privately-owned property in the vicinity of the Trees, in amounts deemed necessary by the City to cover the full replacement cost of the Trees and such other property. Said insurance shall provide protection against all perils typically included within the classifications of “all-risk”, “fire legal liability”, and “personal injury” insurance.

15.2 **Liability Insurance.** Liability, bodily injury, personal injury and property damage insurance with a combined single limit of One Million Dollars (\$1,000,000.00) per occurrence and Two Million Dollars (\$2,000,000.00) in the annual aggregate, insuring against any and all liability of the insured with respect to the Contractor's performance of (or failure to perform) its obligations under this Agreement. Each such policy shall be in the form of an Insurance Services Office ("ISO") Commercial General Liability Insurance policy, an ISO Comprehensive General Liability Insurance policy with Broad Form General Liability endorsement, or in any similar, commercially reasonable form. Without limiting the scope of coverage to be provided thereby, all such insurance shall specifically insure Contractor's performance of the indemnity provisions contained in Section 19 below as to liability for injury to or death of persons and injury or damage to property.

15.3 **Worker's Compensation Insurance.** Workers' Compensation Insurance as required by California law. This insurance must include (in the policy itself or by endorsement) a Waiver of the Right of Subrogation for General Liability against the City.

15.4 **Automobile Liability Insurance.** Automobile Liability Insurance, including owned, non-owned and hired vehicles, with at least the following limits of liability: (a) Primary Bodily Injury with limits of at least \$1,000,000 per person, \$2,000,000 per occurrence, and (b) Primary Property Damage of at least \$1,000,000 per occurrence.

15.5 **Qualifications of Insurers.** Each policy shall be issued by an insurance company having a "Best's Rating" of at least A and having a "Financial Size Categories" rating of at least VIII in the most current edition of "Best's Insurance Reports" issued by A.M. Best Company. In addition, each policy shall be issued by an "admitted" insurance company (*i.e.*, one that is qualified and licensed to do business in the State of California).

15.6 **City to be Named as Additional Insured Party.** All policies (other than worker's compensation insurance policies) must include an Additional Insured Endorsement (**CG 20 10 11 85**) naming the City and its agents as an additional insured on the applicable insurance coverage with respect to the City's and its agent's interests under this Agreement.

15.7 **Primary Insurance.** Insurance obtained pursuant to this Section 15 shall be primary insurance, and other insurance (if any) maintained by the City shall be excess of Contractor's insurance and shall not contribute with the insurance required hereunder.

15.8 **Blanket Policies.** Any or all policies to be obtained by Contractor hereunder may, at Contractor's option, be provided under a separate policy covering only the items and matters to be insured under this Agreement, or included in one or more blanket policies covering not only those items and matters but also additional property and matters owned or otherwise insured by Contractor. All such combined or blanket policies must, however, comply with each and every provision of this Section 15.

15.9 **Restrictions on Cancellation and Reduction.** Each insurance policy required hereunder shall specify that the insurance company issuing the policy will give the City at least thirty (30) days' written notice prior to the effective date of (a) any cancellation, interruption or lapse of coverage, and (b) any reduction in the amount, type or extent of coverage.

15.10 **Waivers of Subrogation.** The parties release each other from any claims for damage to any person or property, and to the fixtures, personal property, improvements, and alterations thereon, that are caused by or result from risks insured against under any insurance policies carried by Contractor and in force at the time of any such damage. Furthermore, each insurance policy obtained hereunder shall provide that the issuing insurance company waives all rights of recovery by way of subrogation.

15.11 **Verification of Coverage.** Prior to or concurrent with Contractor's execution and delivery of this Agreement, and not later than thirty (30) days prior to the expiration of any insurance policy carried hereunder (with respect to policies which will replace said expiring policies during the Term of this Agreement), Contractor shall deliver to the City original certificates of insurance and amendatory endorsements evidencing and effecting insurance coverage required hereunder. All such certificates and any endorsements pertaining to the insurance coverage required hereunder shall be signed by a person authorized by the insurer to bind coverage on the insurer's behalf, and shall be on forms provided or approved by the City. In no event shall Contractor commence any construction, demolition, grading or other work relative to the Improvements until all evidences of insurance coverage required under this paragraph have been delivered to the City as required hereby. The City shall have the right, at any and all times, to require Contractor to provide the City with complete copies of any and all policies of insurance that Contractor is required to maintain hereunder, and Contractor shall deliver such copies to the City not later than ten (10) days following such request.

15.12 **Form of Policies.** All insurance policies required hereunder shall be in a form acceptable to the City and its agents; and shall include those endorsements which are necessary to extend coverage which is appropriate to the nature of this Agreement.

15.13 **Policy Limits Do Not Limit Contractor's Liability.** The minimum limits of policies of insurance required of Contractor under this Agreement shall in no event limit Contractor's liability under this Agreement.

16. **Termination for Convenience.** The City may terminate this Agreement at any time, with or without cause, upon sending a written notice of termination to Contractor (the "**Termination Notice**") that specifies a termination date (the "**Early Termination Date**") at least thirty (30) days after the date of the Termination Notice. Upon receipt of the Termination Notice, Contractor shall acknowledge receipt to the City in writing and take all steps necessary to cease all Work in a reasonable and orderly manner by no later than the Early Termination Date; provided, however, that any Work performed after the Early Termination Date that is reasonably necessary to terminate the Work in an orderly manner must be specifically authorized in writing by the Director prior to its performance and prior to the Early Termination Date. Upon termination by the City, Contractor shall be paid or reimbursed for all Work performed by Contractor under the Agreement up to the Early Termination Date (less all payments previously made), plus ten percent (10%) of the balance that would otherwise be due to Contractor during the remaining Term of this Agreement as reimbursement for profits lost to Contractor by virtue of the City's early termination of this Agreement. In no event shall any amounts paid or reimbursed upon termination of this Agreement exceed the total maximum compensation Specified in Section 2 above.

17. **Notice of Default and Termination for Cause.** If the City delivers written notice to Contractor notifying Contractor that it is in default of one or more of its obligations under this Agreement, specifying the nature of the default, and stating what steps Contractor must take to cure the default ("**Default Notice**"), and if such default remains uncured within ten (10) days following the City's delivery of the Default Notice, then the City may at any time thereafter immediately terminate this Agreement upon written notice to Contractor. Upon such termination, the City shall pay Contractor an amount equal to the value of the Work satisfactorily performed hereunder as of the date of the Default Notice; provided, however, that the City retains all rights to recover damages incurred by the City as a result of Contractor's default, including without limitation the right of offset against amounts otherwise due to Contractor hereunder, and the rights specified in Section 18 below. Contractor shall have no right to any reimbursement for profit or lost profit. Following such termination, the City may procure, upon such terms and in such manner as the City deems appropriate, maintenance services similar to those terminated hereunder. If, after notice of termination of this Agreement under the provisions of this Section 17, the City determines, for any reason, that Contractor was not in default hereunder, or that such default had been cured, then the rights and obligations of the City and Contractor shall be the same as if the notice of termination had been a termination for convenience issued pursuant to Section 16 above.

18. **City's Remedies for Contractor's Failure to Perform.** Upon Contractor's default of any of its obligations hereunder, and at any time after any such default, the City may take any one or more of the following actions:

18.1 **Forfeiture of Bond/Negotiation of Security.** The City may cause to be forfeited to the City all or a portion of any security given for the faithful performance of Contractor's obligations, and may further cause to be negotiated any instrument of credit deposited with and assigned to the City in such amount as may be required to complete the Improvement work.

18.2 **Performance by City at Contractor's Expense.** Upon Contractor's default, the City may make written demand upon Contractor, or Contractor's surety (if any), or both, to immediately remedy the default and complete the Work. If the required Work is not substantially commenced within ten (10) days after the City's delivery of that written demand, or if it is not thereafter diligently prosecuted to a completion acceptable to the City within the timeframe set forth in the City's written demand, then without limiting any other remedy available to the City, the City may complete (or arrange for the completion of) all remaining Work and/or conduct such other remedial activity as in its sole and absolute discretion it believes is necessary or advisable. All such Work or remedial activity shall be at the sole and absolute expense and obligation of Contractor (and its surety, if any) without the necessity of giving any further notice to Contractor or its surety. The City's right to take such actions shall in no way be limited by the fact that the Contractor or its surety may have commenced or completed any of the required Work at the time of the City's demand for performance. If the City elects to complete (or arrange for completion of) the remaining Work, then the City may require all Work by the Contractor and/or its surety to cease in order to permit adequate coordination and completion by the City or its designee of the remaining Work.

18.3 **Issuance of Cease and Desist Order.** The City may issue a cease and desist order by delivering written notice to Contractor demanding that Contractor immediately

discontinue any actions specified in that written notice. Contractor agrees to immediately comply with any such cease and desist order.

18.4 **Injunctive Relief.** The City shall have the right to apply for and obtain temporary and/or permanent injunctive relief or other equitable relief from a court of competent jurisdiction to enforce its rights and Contractor's obligations created by this Agreement, including without limitation relief in the form of a temporary restraining order and/or permanent injunction restraining Contractor from committing or continuing to commit any breach or threatened breach of this Agreement. The City shall have the right to seek such relief without showing or proving any actual damage sustained by the City, and without posting bond or other security. In connection with the City's right to apply for the injunctive relief which is the subject of this Section 18.4, Contractor hereby acknowledges that Contractor's breach of its obligations hereunder will cause irreparable harm and injury to the City if such breach continues unabated following the City's request for injunctive relief.

18.5 **Other Relief.** The City may seek any other remedies or relief, and take any other actions, available to the City under this Agreement, at law, or in equity.

19. **Indemnification and Defense.** Contractor and its sureties (if any) shall indemnify, hold harmless and defend (using counsel acceptable to the City) the City and its officers, managers, directors, agents and employees from and against all losses, claims, costs, expenses, liabilities, damages, actions, causes of action and judgments, including without limitation reasonable attorney's fees, arising out of or attributable to Contractor's performance or failure to perform its obligations under this Agreement.

20. **Miscellaneous.**

20.1 **Notices.** All written notices required to be given pursuant to the terms hereof shall be either (a) personally delivered, (b) deposited in the United States express mail or first class mail, registered or certified, return receipt requested, postage prepaid, (c) delivered by overnight courier service, or (d) delivered by facsimile or e-mail transmission. All such notices shall be deemed delivered upon actual receipt (or upon the first attempt at delivery pursuant to the methods specified in clauses (a), (b) or (c) above if the intended recipient refuses to accept delivery). All such notices shall be delivered to the following addresses, or to such other address as the receiving party may from time to time specify by written notice to the other party:

To the City:
City of South Gate
8550 California Avenue
South Gate, California, 90280
Attention: Osie Harrell,
Electrical and General
Maintenance Superintendent
Telephone No.: (323) 563-5786
Fax No.: (323) 5864-5216
E-mail: oharrell@sogate.org

With a copy (which shall not constitute notice) to:
Craig D. Hardwick, Esq.
AlvaradoSmith
1 MacArthur Place, Suite 200
Santa Ana, California 92707
Telephone No.: (714) 852-6800
Fax No.: (714) 852-6899
E-mail: CHardwick@AlvaradoSmith.com

To Contractor:

Dekra-Lite Industries Incorporated
3102 West Alton Avenue
Santa Ana, California 92704

Attn: _____
Telephone No.: (714) 436-0705
Fax No.: () _____
E-mail: _____@_____

With a copy (which shall not constitute notice)
to:

_____, California 9 _____

Attn: _____
Telephone No.: () _____
Fax No.: () _____
E-mail: _____@_____

20.2 **Time**. Time is of the essence of every provision contained in this Agreement.

20.3 **Incorporation of Recitals and Exhibits**. All of the recitals set forth in this Agreement, and all of the exhibits attached to this Agreement, are by this reference incorporated in and made a part of this Agreement as though fully set forth herein.

20.4 **Successors and Assigns**. Without limiting the generality of Section 13 above, this Agreement shall inure to the benefit of and be binding upon the parties hereto and their successors and assigns.

20.5 **Force Majeure**. Neither party hereto shall be considered in default in the performance of its obligations hereunder to the extent that the performance of any such obligation is prevented or delayed by any cause which is beyond the reasonable control of such party, provided that (a) the party affected gives written notice to the other of the cause and anticipated duration of the delay within three (3) days after the delay commences, and (b) this paragraph shall not extend either party's time for performance by more than thirty (30) days, regardless of the cause of the delay.

20.6 **Construction**. The parties acknowledge that each party and its counsel have reviewed and revised this Agreement and that the normal rule of construction to the effect that any ambiguities are to be resolved against the drafting party shall not be employed in the interpretation of this Agreement or any amendments hereto.

20.7 **Governing Law**. This Agreement shall be construed and interpreted in accordance with and shall be governed and enforced in all respects according to the laws of the State of California, without regard to conflicts of laws principles.

20.8 **Consent to Jurisdiction and Service of Process**. All judicial proceedings brought against any party hereto arising out of or relating to this Agreement may be brought in any state or federal court of competent jurisdiction in the County of Los Angeles, State of California, and by execution and delivery of this Agreement each party accepts for itself and in connection with its properties, generally and unconditionally, the exclusive jurisdiction of the aforesaid courts (both personal jurisdiction and subject matter jurisdiction), waives any defense of forum non conveniens and irrevocably agrees to be bound by any judgment rendered thereby in connection with this Agreement. Each party hereby agrees that service of all process in any such proceeding

in any such court may be made by registered or certified mail, return receipt requested, to any other party at its address provided herein, such service being hereby acknowledged by each party to be sufficient for personal jurisdiction in any action against said party in any such court and to be otherwise effective and binding service in every respect. Nothing herein shall affect the right to serve process in any other manner permitted by law.

20.9 **Counterparts.** This Agreement may be executed in one or more counterparts, each of which shall be deemed an original but all of which shall constitute one and the same instrument. In addition, this Agreement may contain more than one counterpart of the signature page and may be executed by the affixing of the signatures of each of the parties to any one of such counterpart signature pages; all of such counterpart signature pages shall read as though one and they shall have the same force and effect as though all of the signers had signed a single signature page.

20.10 **Entire Agreement.** This Agreement, the Plans and Specifications, and the municipal codes and other laws cited in this Agreement, together contain the entire understanding of the parties and supersede any and all other written or oral understanding. No alteration or amendment to this Agreement shall be effective unless given in writing and signed by the party or parties sought to be charged or bound by the alteration or amendment.

20.11 **Captions.** Any captions or headings to the Sections and subsections in this Agreement are solely for the convenience of the parties hereto, are not a part of this Agreement, and shall not be used for the interpretation or determination of validity of this Agreement or any provision hereof.

20.12 **Severability.** If any one or more of the provisions contained in this Agreement shall for any reason be held to be invalid, illegal or unenforceable in any respect, such invalidity, illegality or unenforceability shall not affect any other provision hereof, and this Agreement shall be construed as if such invalid, illegal, or unenforceable term or provision had never been contained herein.

20.13 **Further Assurances.** Each party shall cooperate with the other and shall execute such other documents as may be reasonably necessary to carry out the provisions of this Agreement.

20.14 **No Waiver.** Any waiver, consent or approval by either party of any breach, default or event of default of any provision, condition or covenant of this Agreement must be in writing and shall be effective only to the extent set forth in writing. No waiver of any breach, default or event of default shall be deemed a waiver of any later breach, default or event of default of the same or any other provision of this Agreement. Any failure or delay on the part of either party in exercising any power, right or privilege under this Agreement shall not operate as a waiver thereof, nor shall any single or partial exercise of any such power, right or privilege preclude any further exercise thereof.

20.15 **Rights and Remedies.** No right or remedy conferred by any of the specific provisions of this Agreement is intended to be exclusive of any other right or remedy given hereunder or hereafter existing at law or in equity. The exercise of any one or more rights or the

election of any one or more remedies by any party shall not constitute a waiver of the right to exercise other available rights or pursue other available remedies.

20.16 **Joint and Several Liability.** If Contractor constitutes more than one person or entity, then the obligations of each such person or entity shall be joint and several.

20.17 **No Third-Party Beneficiaries.** The parties hereto acknowledge and agree that no provision in this Agreement may be enforced by any third party.

20.18 **Patriot Act Compliance.** Contractor represents, warrants and covenants that neither Contractor nor any of its shareholders, officers, directors, members, managers or partners (i) is listed on the Specially Designated Nationals and Blocked Persons List maintained by the Office of Foreign Asset Control, Department of the Treasury ("OFAC") pursuant to Executive Order No. 13224, 66 Fed. Reg. 49079 (Sept. 25, 2001) ("Order") and all applicable provisions of Title III of the USA Patriot Act (Public Law No. 107-56 (October 26, 2001)); (ii) is listed on the Denied Persons List and Entity List maintained by the United States Department of Commerce; (iii) is listed on the List of Terrorists and List of Disbarred Parties maintained by the United States Department of State, (iv) is listed on any list or qualification of "Designated Nationals" as defined in the Cuban Assets Control Regulations 31 C.F.R. Part 515; (v) is listed on any other publicly available list of terrorists, terrorist organizations or narcotics traffickers maintained by the United States Department of State, the United States Department of Commerce or any other governmental authority or pursuant to the Order, the rules and regulations of OFAC (including without limitation the Trading with the Enemy Act, 50 U.S.C. App. 1-44; the International Emergency Economic Powers Act, 50 U.S.C. §§ 1701-06; the un repealed provision of the Iraq Sanctions Act, Publ.L. No. 101-513; the United Nations Participation Act, 22 U.S.C. § 2349 aa-9; The Cuban Democracy Act, 22 U.S.C. §§ 60-01-10; The Cuban Liberty and Democratic Solidarity Act, 18.U.S.C. §§ 2332d and 233; and The Foreign Narcotic Kingpin Designation Act, Publ. L. No. 106-120 and 107-108, all as may be amended from time to time); or any other applicable requirements contained in any enabling legislation or other Executive Orders in respect of the Order (the Order and such other rules, regulations, legislation or orders are collectively called the "**Orders**"); (vi) is engaged in activities prohibited in the Orders; or (vii) has been convicted, pleaded nolo contendere, indicted, arraigned or custodially detained on charges involving money laundering or predicate crimes to money laundering, drug trafficking, terrorist-related activities or other money laundering predicate crimes or in connection with the Bank Secrecy Act (31 U.S.C. §§ 5311 et. seq.).

20.19 **City Council Approval Required for Effectiveness of Agreement.** Notwithstanding any earlier execution of this Agreement by any officer, employee or representative of the City, this Agreement shall not be binding upon or enforceable against the City unless and until it has been approved or ratified by the City Council of the City at a public meeting noticed and conducted in accordance with applicable provisions of the California Government Code.

Contract No. _____

“City”

**The City of South Gate,
a California public body**

“Contractor”

**Dekra-Lite Industries Incorporated,
a California corporation**

By: _____
Al Rios, Mayor

By: _____
Jeffrey Lopez, President

Dated: _____, 2022


By: _____
Adriana Penunuri, Secretary

Attested by:

Yodit Glaze, City Clerk

Dated: _____, 2022

Approved as to Form:



Raul F. Salinas,
City Attorney

Contract No. _____

Exhibit "A"

Sales Installation Quote No. QT096023



Dekra-Lite
3102 W. Alton Ave.
Santa Ana, CA, 92704
Phone: (714) 436-0705
Web: www.dekra-lite.com

Quote

Sales Install No.: QT096023
Order Date: 9/14/2021
Ship Date: 6/17/2022
Customer ID: SOU142
Currency: USD

BILL TO:	SHIP TO:
City of South Gate Public Works Dept 8650 California Ave. South Gate CA 90280-3075 Attn: Osie Harrell 323-563-9500	City of South Gate Tweedy Blvd. (between Hunt Ave. & Virginia Ave.) South Gate CA 90280 Attn: Osie Harrell 323-563-9500

CUSTOMER P.O. NO.	TERMS	SALES REP
	50%/NET 30	Dulce Diaz
SALES TAX CODE	SHIPPING TERMS	SHIP VIA
City of South Gate		INSTALLATION

NO.	ITEM	DESCRIPTION	QTY	UOM	PRICE	EXTENDED PRICE
1	LMPTW6LED12VWWCL	LED Clip Light 12V Warm White (2800-3000K), Clear Wire (330ft per spool, 666 LED Bulbs per spool, 5.91" bulb spacing, adjustable cut length, transformer not included)	38,400.00	FT	2.36	90,562.56
2	TR-DEK750-12	750w 120vAC 12v Transformer with 6' Primary cord & 3 x 15' Secondary Leads (labeled 1026-12 with leads)	22.00	EA	775.00	17,050.00
3	INSTLMATERIALS	Materials	128.00	EA	85.00	10,880.00
	LED Clip Lighting Materials needed for Installation					
4	LABOROTHER	Labor	128.00	EA	588.00	75,264.00
	Removal of Existing Old Light Line and Installation of New LED Clip Lighting Approx. 300' of Light Line per Tree. Trees to be lit starting from the "Y" and 8' from the ground					
5	DISCOUNTMAT	Corporate Partner Discount - Materials	1.00	EA	-9,500.00	-9,500.00

Signature:

Date:

Please sign and email or fax to (714) 436-0612
Install Date: TBD 2022
Removal Date: N/A (Year Round)

*Installation Date Range is Not Guaranteed Until Order is Approved

*Tax Subject to Change per California Sales and Use Tax Regulations

50% due upon acceptance of proposal
50% due Net 30 at time of install

Option 2: Replace Tree Lighting "Y" only to Remainder Trees

Sub Total: 184,256.56
Freight & Misc.: 0.00
Tax Total: 11,171.73
Total (USD): 195,428.29

Dekra-Lite Terms and Conditions

Prices: All Prices subject to change without notice. All minimums are per color/or size (solid pack). Mixing colors to meet minimums is not acceptable. All orders are F.O.B. Santa Ana, California.

Payment Terms:

Credit Card - We Accept: AMEX, Discover, MasterCard, Visa ACH, EFT and Wire Transfers.

Any order being paid for with a credit card is subject to a maximum limit of \$15,000.

Prepaid - please add estimated freight of 15% to order total.

Upon approved credit we will determine Net Terms and Credit Limit.

New Customers - Please furnish five (5) references, complete and sign our credit application. Credit approval may take 10 business days, so you may prefer your first order to be credit card or prepaid.

Warranty: We warranty to the original buyer that all of our displays and accessories will be free from manufacturer's defects. Under normal conditions of use and service, this protection is extended for six (6) seasons on all steel frames, five (5) seasons on garland, three (3) seasons on electrical wiring, and one (1) season on all computerized lighting modules. This warranty does not apply to light bulbs or light strands. Pole Mount displays are designed to withstand up to 40 mph winds with no ice load. Obligation under this warranty is limited to repairing or replacing any part that is found to be defective.

LED Light strands have a warranty for three (3) 60 day seasons or 25,000 hours, whichever comes first. Simply ship the product to us and we will replace the LED Light strand free of charge.

Frame Trees are covered by a ten (10) year warranty against defect under normal conditions and use.

All items not specifically listed are covered by a one (1) season (60 day) warranty.

Under this warranty, the company's obligation to repair or replace is on a non pro-rated basis.

Labor to install and the cost of shipping are not included in this warranty and are expressly in lieu of all other warranties expressed or implied. Bulb burnouts or electrical damage caused by the buyer or weather elements, or damage caused by rough handling in transit are not covered by this warranty. Therefore, units should be inspected and tested for bulb outage upon delivery and prior to installation. All merchandise is carefully inspected before packing and is packed in an approved manner in approved cartons when it leaves the warehouse.

For the purposes of this warranty one (1) season is defined as one installation and removal for a duration lasting no more than 60 days.

Return Policy: Any returned products under the following conditions will result in a 20% restocking fee and the customer will incur the freight charges: Customer ordered incorrect product. Never opened or used product for its intended purpose. No merchandise returns will be accepted without prior written authorization. Return requests will be accepted for credit if submitted and approved within 30 days of receipt of product.

Acceptance of Merchandise: Consignee/customer is responsible to notify Dekra-Lite of all impending claim(s) of merchandise delayed, lost or damaged in transit. When accepting shipment, consignee/customer must inspect all merchandise completely and any claims of any missing cartons or visible damage must be noted on delivery driver's bill of lading or the receipt of delivery. All claims must be filed with Dekra-Lite within 48 hours of delivery or in the case of concealed damage, within 48 hours of identifying the concealed damages. Customer/consignee is to provide required information and evidence of damage or loss according Dekra-Lite claims procedure. This may include preservation of evidence of damage/loss for future inspection. Failure to follow Dekra-Lite claims procedure may result in claim denial by the carrier.

General Terms: The parties agree to the following additional terms of this contract. This contract is governed by California law and is the entire contract between the parties, superseding all prior conversations and writings between the parties. In the event of a dispute arising out of this Contract, the parties shall arbitrate in Orange County, CA before a single arbitrator selected through J.A.M.S./ENDISPUTE. Any judgment upon the award rendered by the arbitrator may be entered in any court having jurisdiction thereof. The prevailing party in arbitration shall be entitled to its reasonable attorney's fees and costs. A deposit of 50% plus any applicable sales tax is due upon execution of any contract with installation services, custom or special product. The balance is due on the installation date or upon shipping unless specified in payment terms on the proposal/order. Cancellation and reductions are subject to a 20% restocking fee. Any amount not paid when due, is subject to a late charge of 1.5% per month (18% per annum). All payments are due according to the terms of each individual proposal/order.

Installation: All requested changes to the described work on the proposal/order will be subject to additional charges. Installation dates are approximate and generally scheduled as a date range. All installation or ship dates specified are subject to change due to inclement weather, acts of God or unforeseen circumstances beyond our control. Changes may occur for reasons including but not limited to, weather conditions, property accessibility, early project completion, or acts of God.

Electrical Requirements: Owner is responsible for providing and maintaining adequate and functional electrical outlets adjacent to the proposed locations for lit decorations, tree lights and building lights. GFI receptacles can, will, and should interrupt power to decor or lighting in the presence of water or heavy moisture sometimes caused by rain, fog, dew, and sprinklers. Wet decor, lighting, outlets and surrounding areas may take several hours after exposure, and in some cases days, to completely dry before receptacles can be reset and power restored. Dekra-Lite is not responsible for outlets that will not reset due to the presence of moisture. Lighting or decor outages must be reported to our operations department. Dekra-Lite is not responsible for unreported outages that we have never been made aware of. Dekra-Lite is not responsible for any products damaged or lost due to vandalism, extreme weather conditions, or acts of God. This includes leased product. The owner accepts all responsibility while the decor is installed on their property. Dekra-Lite will make efforts when possible to replace such product for an additional charge.

Storage: Storage charges and dates begin upon removal of decor each year and end November 1st annually. Items not installed must be picked up or have a storage fee paid prior to November 1st of the current year. Unpaid storage or unclaimed items may be discarded without further notice.

Insurance: Our standard liability coverage limits are \$2,000,000.00 General Aggregate; 2,000,000.00 Products-Comp/Op Aggregate.; \$1,000,000.00 Personal & Adv. Injury; \$1,000,000.00 Each Occurrence; \$1,000,000.00 Automobile Liability; \$1,000,000.00 Workers' Compensation. Our excess liability coverage limits are \$2,000,000.00 General Aggregate; \$2,000,000.00 Products-Comp/Op Aggregate.; \$2,000,000.00 Each Occurrence. Other insurance requirements including special language, endorsements or additional coverage may be able to be obtained at the expense of the customer.

Section 301 Tariffs:

The US Government has taken action on Chinese-origin goods subject to additional tariffs under Section 301. While you will find slight increases throughout our product lines, our goal is to minimize the impact to our valued customers and partners. We will continue to monitor the developments of these tariffs and

Contract No. _____

Exhibit "B"

Sales Installation Quote No. QT096400



Dekra-Lite
3102 W. Alton Ave.
Santa Ana, CA, 92704
Phone: (714) 436-0705
Web: www.dekra-lite.com

Quote

Service Order No.: QT096400
Order Date: 2/2/2022
Ship Date: 11/25/2022
Customer ID: SOU142
Currency: USD

BILL TO:

City of South Gate
Public Works Dept
8650 California Ave.
South Gate CA 90280-3075
Attn: Osie Harrell
323-563-9500

SHIP TO:

City of South Gate
Tweedy Blvd. (between Hunt Ave. & Virginia Ave.)
South Gate CA 90280
Attn: Osie Harrell
323-563-9500

CUSTOMER P.O. NO.		TERMS	SALES REP	
		Net 30	Dulce Diaz	
SALES TAX CODE		SHIPPING TERMS	SHIP VIA	
City of South Gate		Installation	INSTALLATION	

NO.	ITEM	DESCRIPTION	QTY	UOM	PRICE	EXTENDED PRICE
1	INSTLMATERIALS	Materials	1.00	EA	3,958.93	3,958.93

All Materials needed to bring Trees to 100% Lit

2	LABOROTHER	Labor	1.00	EA	21,246.27	21,246.27
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Service to conduct Annual Maintenance beginning 18 Months after initial Installation for (173) Trees lit starting from the "Y" and 8' from the ground - trees to 100% lit

*Does not include Vandalism, Tree Trimming, Accidents or Act of God

Service Year (TBD)

Signature:

Date:

Please sign and email or fax to (714) 436-0612
Install (Service) Date: Nov. 1-24, 2022
Removal Date: N/A (Year Round)

First 6 Months Warranty - 1st Maintenance to Start 18 Months from Original Installation Date

Annual Maintenance
Year 1 - \$25,205.20*
Year 2 - \$25,205.20*
Year 3 - \$27,329.83*

*plus applicable sales tax

*Year 3 Approximately 10% increase on labor to cover Cost of Living

Sub Total: 25,205.20
Freight & Misc.: 0.00
Tax Total: 405.79
Total (USD): 25,610.99

Dekra-Lite Terms and Conditions

Prices: All Prices subject to change without notice. All minimums are per color/or size (solid pack). Mixing colors to meet minimums is not acceptable. All orders are F.O.B. Santa Ana, California.

Payment Terms:

Credit Card - We Accept: AMEX, Discover, MasterCard, Visa ACH, EFT and Wire Transfers.

Any order being paid for with a credit card is subject to a maximum limit of \$15,000.

Prepaid - please add estimated freight of 15% to order total.

Upon approved credit we will determine Net Terms and Credit Limit.

New Customers - Please furnish five (5) references, complete and sign our credit application. Credit approval may take 10 business days, so you may prefer your first order to be credit card or prepaid.

Warranty: We warranty to the original buyer that all of our displays and accessories will be free from manufacturer's defects. Under normal conditions of use and service, this protection is extended for six (6) seasons on all steel frames, five (5) seasons on garland, three (3) seasons on electrical wiring, and one (1) season on all computerized lighting modules. This warranty does not apply to light bulbs or light strands. Pole Mount displays are designed to withstand up to 40 mph winds with no ice load. Obligation under this warranty is limited to repairing or replacing any part that is found to be defective.

LED Light strands have a warranty for three (3) 60 day seasons or 25,000 hours, whichever comes first. Simply ship the product to us and we will replace the LED Light strand free of charge.

Frame Trees are covered by a ten (10) year warranty against defect under normal conditions and use.

All items not specifically listed are covered by a one (1) season (60 day) warranty.

Under this warranty, the company's obligation to repair or replace is on a non pro-rated basis.

Labor to install and the cost of shipping are not included in this warranty and are expressly in lieu of all other warranties expressed or implied. Bulb burnouts or electrical damage caused by the buyer or weather elements, or damage caused by rough handling in transit are not covered by this warranty. Therefore, units should be inspected and tested for bulb outage upon delivery and prior to installation. All merchandise is carefully inspected before packing and is packed in an approved manner in approved cartons when it leaves the warehouse.

For the purposes of this warranty one (1) season is defined as one installation and removal for a duration lasting no more than 60 days.

Return Policy: Any returned products under the following conditions will result in a 20% restocking fee and the customer will incur the freight charges: Customer ordered incorrect product. Never opened or used product for its intended purpose. No merchandise returns will be accepted without prior written authorization. Return requests will be accepted for credit if submitted and approved within 30 days of receipt of product.

Acceptance of Merchandise: Consignee/customer is responsible to notify Dekra-Lite of all impending claim(s) of merchandise delayed, lost or damaged in transit. When accepting shipment, consignee/customer must inspect all merchandise completely and any claims of any missing cartons or visible damage must be noted on delivery driver's bill of lading or the receipt of delivery. All claims must be filed with Dekra-Lite within 48 hours of delivery or in the case of concealed damage, within 48 hours of identifying the concealed damages. Customer/consignee is to provide required information and evidence of damage or loss according Dekra-Lite claims procedure. This may include preservation of evidence of damage/loss for future inspection. Failure to follow Dekra-Lite claims procedure may result in claim denial by the carrier.

General Terms: The parties agree to the following additional terms of this contract. This contract is governed by California law and is the entire contract between the parties, superseding all prior conversations and writings between the parties. In the event of a dispute arising out of this Contract, the parties shall arbitrate in Orange County, CA before a single arbitrator selected through J.A.M.S./ENDISPUTE. Any judgment upon the award rendered by the arbitrator may be entered in any court having jurisdiction thereof. The prevailing party in arbitration shall be entitled to its reasonable attorney's fees and costs. A deposit of 50% plus any applicable sales tax is due upon execution of any contract with installation services, custom or special product. The balance is due on the installation date or upon shipping unless specified in payment terms on the proposal/order. Cancellation and reductions are subject to a 20% restocking fee. Any amount not paid when due, is subject to a late charge of 1.5% per month (18% per annum). All payments are due according to the terms of each individual proposal/order.

Installation: All requested changes to the described work on the proposal/order will be subject to additional charges. Installation dates are approximate and generally scheduled as a date range. All installation or ship dates specified are subject to change due to inclement weather, acts of God or unforeseen circumstances beyond our control. Changes may occur for reasons including but not limited to, weather conditions, property accessibility, early project completion, or acts of God.

Electrical Requirements: Owner is responsible for providing and maintaining adequate and functional electrical outlets adjacent to the proposed locations for lit decorations, tree lights and building lights. GFI receptacles can, will, and should interrupt power to decor or lighting in the presence of water or heavy moisture sometimes caused by rain, fog, dew, and sprinklers. Wet decor, lighting, outlets and surrounding areas may take several hours after exposure, and in some cases days, to completely dry before receptacles can be reset and power restored. Dekra-Lite is not responsible for outlets that will not reset due to the presence of moisture. Lighting or decor outages must be reported to our operations department. Dekra-Lite is not responsible for unreported outages that we have never been made aware of. Dekra-Lite is not responsible for any products damaged or lost due to vandalism, extreme weather conditions, or acts of God. This includes leased product. The owner accepts all responsibility while the decor is installed on their property. Dekra-Lite will make efforts when possible to replace such product for an additional charge.

Storage: Storage charges and dates begin upon removal of decor each year and end November 1st annually. Items not installed must be picked up or have a storage fee paid prior to November 1st of the current year. Unpaid storage or unclaimed items may be discarded without further notice.

Insurance: Our standard liability coverage limits are \$2,000,000.00 General Aggregate; 2,000,000.00 Products-Comp/Op Aggregate.; \$1,000,000.00 Personal & Adv. Injury; \$1,000,000.00 Each Occurrence; \$1,000,000.00 Automobile Liability; \$1,000,000.00 Workers' Compensation. Our excess liability coverage limits are \$2,000,000.00 General Aggregate; \$2,000,000.00 Products-Comp/Op Aggregate.; \$2,000,000.00 Each Occurrence. Other insurance requirements including special language, endorsements or additional coverage may be able to be obtained at the expense of the customer.

Section 301 Tariffs:

The US Government has taken action on Chinese-origin goods subject to additional tariffs under Section 301. While you will find slight increases throughout our product lines, our goal is to minimize the impact to our valued customers and partners. We will continue to monitor the developments of these tariffs and