CITY OF PALO ALTO CONTRACT NO. C08125587

AGREEMENT BETWEEN THE CITY OF PALO ALTO AND
3 DEGREES GROUP, INC.
FOR PROFESSIONAL SERVICES
(GREEN ENERGY PROGRAM MARKETING & ADMINISTRATION)

This AGREEMENT is entered into ______________, by and between the CITY OF
PALO ALTO, a charter city and a municipal corporation of the State of California ("CITY"), and
3DEGREES GROUP, INC., a California corporation located at 6 Funston Avenue, San Francisco,
CA 94129 ("CONSULTANT").

RECITALS

The following recitals are a substantive portion of this Agreement.

A. CITY intends to operate the “Palo Alto Green Program” – voluntary green energy programs
(“Project”) and desires to engage a consultant to provide marketing and administrative support
services in connection with the Project (“Services”).

B. CONSULTANT has represented that it has the necessary professional expertise,
qualifications, and capability, and all required licenses and/or certifications to provide the Services.

C. CITY in reliance on these representations desires to engage CONSULTANT to provide the
Services as more fully described in Exhibit “A”, attached to and made a part of this Agreement.

NOW, THEREFORE, in consideration of the recitals, covenants, terms, and
conditions, this Agreement, the parties agree:

AGREEMENT

SECTION 1. SCOPE OF SERVICES. CONSULTANT shall perform the Services described in
Exhibit “A” in accordance with the terms and conditions contained in this Agreement. The
performance of all Services shall be to the reasonable satisfaction of CITY.

SECTION 2. TERM. The term of this Agreement shall be from the date of its full execution
through “completion of the services in accordance with the Schedule of Performance attached as
Exhibit “B” unless terminated earlier pursuant to Section 19 of this Agreement.

SECTION 3. SCHEDULE OF PERFORMANCE. Time is of the essence in the performance of
Services under this Agreement. CONSULTANT shall complete the Services within the term of this
Agreement and in accordance with the schedule set forth in Exhibit “B”, attached to and made a part
of this Agreement. Any Services for which times for performance are not specified in this Agreement
shall be commenced and completed by CONSULTANT in a reasonably prompt and timely manner
based upon the circumstances and direction communicated to the CONSULTANT. CITY’s
agreement to extend the term or the schedule for performance shall not preclude recovery of damages

Professional Services
Revised 10/18/07
for delay if the extension is required due to the fault of CONSULTANT.

SECTION 4. NOT TO EXCEED COMPENSATION. The compensation to be paid to CONSULTANT for performance of the Services described in Exhibit “A”, including both payment for professional services and reimbursable expenses, shall not exceed One million four hundred fifty thousand Dollars ($1,450,000.00). The applicable rates and schedule of payment are set out in Exhibit “C”, entitled “COMPENSATION,” which is attached to and made a part of this Agreement.

Additional Services, if any, shall be authorized in accordance with and subject to the provisions of Exhibit “C”. CONSULTANT shall not receive any compensation for Additional Services performed without the prior written authorization of CITY. Additional Services shall mean any work that is determined by CITY to be necessary for the proper completion of the Project, but which is not included within the Scope of Services described in Exhibit “A”.

SECTION 5. INVOICES. In order to request payment, CONSULTANT shall submit monthly invoices to the CITY describing the services performed and the applicable charges (including an identification of personnel who performed the services, hours worked, hourly rates, and reimbursable expenses), based upon the CONSULTANT’s billing rates (set forth in Exhibit “C”). If applicable, the invoice shall also describe the percentage of completion of each task. The information in CONSULTANT’s payment requests shall be subject to verification by CITY. CONSULTANT shall send all invoices to the City’s project manager at the address specified in Section 13 below. The City will generally process and pay invoices within thirty (30) days of receipt.

SECTION 6. QUALIFICATIONS/STANDARD OF CARE. All of the Services shall be performed by CONSULTANT or under CONSULTANT’s supervision. CONSULTANT represents that it possesses the professional and technical personnel necessary to perform the Services required by this Agreement and that the personnel have sufficient skill and experience to perform the Services assigned to them. CONSULTANT represents that it, its employees and subconsultants, if permitted, have and shall maintain during the term of this Agreement all licenses, permits, qualifications, insurance and approvals of whatever nature that are legally required to perform the Services.

All of the services to be furnished by CONSULTANT under this agreement shall meet the professional standard and quality that prevail among professionals in the same discipline and of similar knowledge and skill engaged in related work throughout California under the same or similar circumstances.

SECTION 7. COMPLIANCE WITH LAWS. CONSULTANT shall keep itself informed of and in compliance with all federal, state and local laws, ordinances, regulations, and orders that may affect in any manner the Project or the performance of the Services or those engaged to perform Services under this Agreement. CONSULTANT shall procure all permits and licenses, pay all charges and fees, and give all notices required by law in the performance of the Services.

SECTION 8. ERRORS/OMISSIONS. CONSULTANT shall correct, at no cost to CITY, any and all errors, omissions, or ambiguities in the work product submitted to CITY, provided CITY gives notice to CONSULTANT. If CONSULTANT has prepared plans and specifications or other design documents to construct the Project, CONSULTANT shall be obligated to correct any and all errors,
omissions or ambiguities discovered prior to and during the course of construction of the Project. This obligation shall survive termination of the Agreement.

SECTION 9. COST ESTIMATES. If this Agreement pertains to the design of a public works project, CONSULTANT shall submit estimates of probable construction costs at each phase of design submittal. If the total estimated construction cost at any submittal exceeds ten percent (10%) of the CITY’s stated construction budget, CONSULTANT shall make recommendations to the CITY for aligning the PROJECT design with the budget, incorporate CITY approved recommendations, and revise the design to meet the Project budget, at no additional cost to CITY.

SECTION 10. INDEPENDENT CONTRACTOR. It is understood and agreed that in performing the Services under this Agreement CONSULTANT, and any person employed by or contracted with CONSULTANT to furnish labor and/or materials under this Agreement, shall act as and be an independent contractor and not an agent or employee of the CITY.

SECTION 11. ASSIGNMENT. The parties agree that the expertise and experience of CONSULTANT are material considerations for this Agreement. CONSULTANT shall not assign or transfer any interest in this Agreement nor the performance of any of CONSULTANT’s obligations hereunder without the prior written consent of the city manager. Consent to one assignment will not be deemed to be consent to any subsequent assignment. Any assignment made without the approval of the city manager will be void.

SECTION 12. SUBCONTRACTING.

CONSULTANT shall not subcontract any portion of the work to be performed under this Agreement without the prior written authorization of the city manager or designee.

CONSULTANT shall be responsible for directing the work of any subconsultants and for any compensation due to subconsultants. CITY assumes no responsibility whatsoever concerning compensation. CONSULTANT shall be fully responsible to CITY for all acts and omissions of a subconsultant. CONSULTANT shall change or add subconsultants only with the prior approval of the city manager or his designee.

SECTION 13. PROJECT MANAGEMENT. CONSULTANT will assign Dan Lieberman as the project director to have supervisory responsibility for the performance, progress, and execution of the Services and Ian McGowan as the project coordinator to represent CONSULTANT during the day-to-day work on the Project. If circumstances cause the substitution of the project director, project coordinator, or any other key personnel for any reason, the appointment of a substitute project director and the assignment of any key new or replacement personnel will be subject to the prior written approval of the CITY’s project manager. CONSULTANT, at CITY’s request, shall promptly remove personnel who CITY finds do not perform the Services in an acceptable manner, are uncooperative, or present a threat to the adequate or timely completion of the Project or a threat to the safety of persons or property.

The City’s project manager is Brian Ward, Utilities Department, Customer Service Division, Palo Alto, CA 94303, Telephone: (650) 329-2251. The project manager will be CONSULTANT’s point
of contact with respect to performance, progress and execution of the Services. The CITY may designate an alternate project manager from time to time.

SECTION 14. OWNERSHIP OF MATERIALS. Upon delivery, all work product, including without limitation, all writings, drawings, plans, reports, specifications, calculations, documents, other materials and copyright interests developed under this Agreement shall be and remain the exclusive property of CITY without restriction or limitation upon their use. CONSULTANT agrees that all copyrights which arise from creation of the work pursuant to this Agreement shall be vested in CITY, and CONSULTANT waives and relinquishes all claims to copyright or other intellectual property rights in favor of the CITY. Neither CONSULTANT nor its contractors, if any, shall make any of such materials available to any individual or organization without the prior written approval of the City Manager or designee. CONSULTANT makes no representation of the suitability of the work product for use in or application to circumstances not contemplated by the scope of work.

SECTION 15. AUDITS. CONSULTANT will permit CITY to audit, at any reasonable time during the term of this Agreement and for three (3) years thereafter, CONSULTANT’s records pertaining to matters covered by this Agreement. CONSULTANT further agrees to maintain and retain such records for at least three (3) years after the expiration or earlier termination of this Agreement.

SECTION 16. INDEMNITY.

16.1. To the fullest extent permitted by law, CONSULTANT shall protect, indemnify, defend and hold harmless CITY, its Council members, officers, employees and agents (each an “Indemnified Party”) from and against any and all demands, claims, or liability of any nature, including death or injury to any person, property damage or any other loss, including all costs and expenses of whatever nature including attorneys fees, experts fees, court costs and disbursements (“Claims”) resulting from, arising out of or in any manner related to performance or nonperformance by CONSULTANT, its officers, employees, agents or contractors under this Agreement, regardless of whether or not it is caused in part by an Indemnified Party.

16.2. Notwithstanding the above, nothing in this Section 16 shall be construed to require CONSULTANT to indemnify an Indemnified Party from Claims arising from the active negligence, sole negligence or willful misconduct of an Indemnified Party.

16.3. The acceptance of CONSULTANT’s services and duties by CITY shall not operate as a waiver of the right of indemnification. The provisions of this Section 16 shall survive the expiration or early termination of this Agreement.

SECTION 17. WAIVERS. The waiver by either party of any breach or violation of any covenant, term, condition or provision of this Agreement, or of the provisions of any ordinance or law, will not be deemed to be a waiver of any other term, covenant, condition, provisions, ordinance or law, or of any subsequent breach or violation of the same or of any other term, covenant, condition, provision, ordinance or law.
SECTION 18. INSURANCE.

18.1. CONSULTANT, at its sole cost and expense, shall obtain and maintain, in full force and effect during the term of this Agreement, the insurance coverage described in Exhibit "D". CONSULTANT and its contractors, if any, shall obtain a policy endorsement naming CITY as an additional insured under any general liability or automobile policy or policies.

18.2. All insurance coverage required hereunder shall be provided through carriers with AM Best's Key Rating Guide ratings of A-.VII or higher which are licensed or authorized to transact insurance business in the State of California. Any and all contractors of CONSULTANT retained to perform Services under this Agreement will obtain and maintain, in full force and effect during the term of this Agreement, identical insurance coverage, naming CITY as an additional insured under such policies as required above.

18.3. Certificates evidencing such insurance shall be filed with CITY concurrently with the execution of this Agreement. The certificates will be subject to the approval of CITY's Risk Manager and will contain an endorsement stating that the insurance is primary coverage and will not be canceled, or materially reduced in coverage or limits, by the insurer except after filing with the Purchasing Manager thirty (30) days' prior written notice of the cancellation or modification, CONSULTANT shall be responsible for ensuring that current certificates evidencing the insurance are provided to CITY's Purchasing Manager during the entire term of this Agreement.

18.4. The procuring of such required policy or policies of insurance will not be construed to limit CONSULTANT's liability hereunder nor to fulfill the indemnification provisions of this Agreement. Notwithstanding the policy or policies of insurance, CONSULTANT will be obligated for the full and total amount of any damage, injury, or loss caused by or directly arising as a result of the Services performed under this Agreement, including such damage, injury, or loss arising after the Agreement is terminated or the term has expired.

SECTION 19. TERMINATION OR SUSPENSION OF AGREEMENT OR SERVICES.

19.1. The city manager may suspend the performance of the Services, in whole or in part, or terminate this Agreement, with or without cause, by giving thirty (30) days prior written notice thereof to CONSULTANT. Upon receipt of such notice, CONSULTANT will immediately discontinue its performance of the Services.

19.2. CONSULTANT may terminate this Agreement or suspend its performance of the Services by giving thirty (30) days prior written notice thereof to CITY, but only in the event of a substantial failure of performance by CITY.

19.3. Upon such suspension or termination, CONSULTANT shall deliver to the City Manager immediately any and all copies of studies, sketches, drawings, computations, and other data, whether or not completed, prepared by CONSULTANT or its contractors, if any, or given to CONSULTANT or its contractors, if any, in connection with this Agreement. Such materials will become the property of CITY.
19.4. Upon such suspension or termination by CITY, CONSULTANT will be paid for the Services rendered or materials delivered to CITY in accordance with the scope of services on or before the effective date (i.e., 10 days after giving notice) of suspension or termination; provided, however, if this Agreement is suspended or terminated on account of a default by CONSULTANT, CITY will be obligated to compensate CONSULTANT only for that portion of CONSULTANT's services which are of direct and immediate benefit to CITY as such determination may be made by the City Manager acting in the reasonable exercise of his/her discretion.

19.5. No payment, partial payment, acceptance, or partial acceptance by CITY will operate as a waiver on the part of CITY of any of its rights under this Agreement.

19.6 Neither Party shall be liable in any respect for failure or delay in the fulfillment or performance of this Agreement, including but not limited to, the obligation to make or accept deliveries, if performance is hindered or prevented, directly or indirectly by war, riots, embargo, national emergency, shortage or inability to obtain transportation or transfer facility, plant breakdown, inability to secure fuel, power, material or labor, fire, flood, windstorm, or other acts of God; strikes, lockouts, or other labor disturbances (whether among employees of the parties, their suppliers, or other); delays, failure, or refusal of suppliers to supply materials; orders or acts of any government or governmental agency or authority; or any other cause of like or different kind beyond reasonable control.

SECTION 20. NOTICES.

All notices hereunder will be given in writing and mailed, postage prepaid, by certified mail, addressed as follows:

To CITY: Office of the City Clerk
City of Palo Alto
Post Office Box 10250
Palo Alto, CA 94303

With a copy to the Purchasing Manager
To CONSULTANT: Attention of the project director
at the address of CONSULTANT recited above

SECTION 21. CONFLICT OF INTEREST.

21.1. In accepting this Agreement, CONSULTANT covenants that it presently has no interest, and will not acquire any interest, direct or indirect, financial or otherwise, which would conflict in any manner or degree with the performance of the Services.

21.2. CONSULTANT further covenants that, in the performance of this Agreement, it will not employ subconsultants, contractors or persons having such an interest. CONSULTANT certifies that no person who has or will have any financial interest under this Agreement is an officer or employee of CITY; this provision will be interpreted in accordance with the applicable provisions.

21.3. If the Project Manager determines that CONSULTANT is a “Consultant” as that term is defined by the Regulations of the Fair Political Practices Commission, CONSULTANT shall be required and agrees to file the appropriate financial disclosure documents required by the Palo Alto Municipal Code and the Political Reform Act.

SECTION 22. NONDISCRIMINATION. As set forth in Palo Alto Municipal Code section 2.30.510, CONSULTANT certifies that in the performance of this Agreement, it shall not discriminate in the employment of any person because of the race, skin color, gender, age, religion, disability, national origin, ancestry, sexual orientation, housing status, marital status, familial status, weight or height of such person. CONSULTANT acknowledges that it has read and understands the provisions of Section 2.30.510 of the Palo Alto Municipal Code relating to Nondiscrimination Requirements and the penalties for violation thereof, and agrees to meet all requirements of Section 2.30.510 pertaining to nondiscrimination in employment, including completing the form furnished by CITY and set forth in Exhibit “E.”

SECTION 23. MISCELLANEOUS PROVISIONS.

23.1. This Agreement will be governed by the laws of the State of California.

23.2. In the event that an action is brought, the parties agree that trial of such action will be vested exclusively in the state courts of California in the County of Santa Clara, State of California.

23.3. The prevailing party in any action brought to enforce the provisions of this Agreement may recover its reasonable costs and attorneys' fees expended in connection with that action. The prevailing party shall be entitled to recover an amount equal to the fair market value of legal services provided by attorneys employed by it as well as any attorneys' fees paid to third parties.

23.4. This document represents the entire and integrated agreement between the parties and supersedes all prior negotiations, representations, and contracts, either written or oral. This document may be amended only by a written instrument, which is signed by the parties.

23.5. The covenants, terms, conditions and provisions of this Agreement will apply to, and will bind, the heirs, successors, executors, administrators, assignees, and consultants of the parties.

23.6. If a court of competent jurisdiction finds or rules that any provision of this Agreement or any amendment thereto is void or unenforceable, the unaffected provisions of this Agreement and any amendments thereto will remain in full force and effect.

23.7. All exhibits referred to in this Agreement and any addenda, appendices, attachments, and schedules to this Agreement which, from time to time, may be referred to in any duly executed amendment hereto are by such reference incorporated in this Agreement and will be
deemed to be a part of this Agreement.

23.8. This Agreement is subject to the fiscal provisions of the Charter of the City of Palo Alto and the Palo Alto Municipal Code. This Agreement will terminate without any penalty (a) at the end of any fiscal year in the event that funds are not appropriated for the following fiscal year, or (b) at any time within a fiscal year in the event that funds are only appropriated for a portion of the fiscal year and funds for this Agreement are no longer available. This Section 24.8 shall take precedence in the event of a conflict with any other covenant, term, condition, or provision of this Agreement.

23.9. The individuals executing this Agreement represent and warrant that they have the legal capacity and authority to do so on behalf of their respective legal entities.

IN WITNESS WHEREOF, the parties hereto have by their duly authorized representatives executed this Agreement on the date first above written.

CITY OF PALO ALTO

APPROVED AS TO FORM:

Senior Asst. City Attorney

APPROVED:

Assistant City Manager

Director of Administrative Services

Attachments:

EXHIBIT “A”: SCOPE OF WORK
EXHIBIT “B”: SCHEDULE OF PERFORMANCE
EXHIBIT “C”: COMPENSATION
EXHIBIT “D”: INSURANCE REQUIREMENTS
EXHIBIT “E”: CERTIFICATION OF NONDISCRIMINATION
EXHIBIT “F”: CONFIRMATION LETTER SAMPLE

3DEGREES GROUP, INC.

By:

Daniel M. Kalafatas
President and COO
3Degrees Group, Inc.

Taxpayer Identification No.

20-8434582
1. **CITY Responsibilities shall include but are not limited to:**

1.1. **Calculation of Customer Consumption**
City shall provide 3Degrees with CPAU “green power” electric consumption totals by the 10th day of the month for the calculation and invoicing of services rendered the previous month.

1.2. **Marketing, Media, and Advertising Roles**
1.2.1. City shall be responsible for procurement and costs of marketing collateral after 3Degrees fulfills obligations on information and design. This includes but is not limited to; bill inserts, posters, banners, and programming for web site.
1.2.2. City shall be responsible for procurement and costs of print media as necessary to support the program after 3Degrees fulfills obligations on information and design. The annual marketing budget designated by the city on behalf of PaloAltoGreen shall not be less than $25,000 per year.

1.3. **Direct Sales to Businesses, Civic Organizations, and Neighborhood Associations**
City shall engage its Account Managers to develop direct sales in a joint effort with 3Degrees to win business from local area businesses and non-profits. The City’s responsibilities include but may not be limited to; initial customer contact, arrangement of meetings, follow-on sales efforts and after-sales service as needed. Customer contact will be managed by City personnel.

1.4. **Training and Program Integration**
City shall engage its Customer Service Managers and staff to support internal infrastructure around Customer Service Management. Responsibilities include but may not be limited to; fielding phone inquiries, entering orders, and developing and utilizing coding and tracking mechanisms.

2. **3Degrees’s Responsibilities shall include, but are not limited to:**

2.1. **MARKETING SUPPORT SERVICES**

2.1.1. **Marketing Plan:** 3Degrees shall provide a marketing plan that includes sales and marketing support services to the City, including but not limited to training for City personnel, information needed for advertising or billing inserts, program design and marketing advice, outreach print materials, and web-based communication. Customer contact will be managed by City personnel. 3Degrees shall provide estimates of participation levels based on the 3Degrees’ experience with local
demographics and similar size utilities and programs. The 3Degrees will present a detailed marketing plan with specific targets and tactics every 3 months.

2.1.2. Training: 3Degrees shall train all new customer service representatives, as well as perform biannual in-service trainer on industry advances.

2.1.3. Marketing Outreach: 3Degrees shall staff all outreach events up to a maximum of 15 events per year. Events to staff will be determined by CPAU employees and communicated to 3Degrees. This total includes the events referenced in Exhibit B, Section 2.2.4.

2.1.4. Media Content and Production: 3Degrees shall coordinate the assembly and sending of welcome kits to each new subscriber to the program; the specific work may be done by 3Degrees’ staff or a CPAU intern. Welcome Kits may be changed at the mutual agreement of CPAU staff and 3Degrees. All costs other than labor associated with this task will be borne by CPAU.

2.1.5. Marketing and Collateral: 3Degrees shall design all program marketing and sign-up collateral, upon the approval of CPAU staff. Examples of such material include a program brochure, utility bill inserts, utility bill bang-tails, direct mail letters, and so on. 3Degrees shall coordinate printing and mailing these pieces at CPAU’s expense.

2.1.6. Online Content: 3Degrees shall be responsible for creating updated content for the PaloAltoGreen web site a minimum of two times per year or whenever mandated by CRS to stay in compliance with Green E Certification. 3Degrees will provide a carbon calculator with PAG branding designed for PaloAltoGreen customer use.

2.1.7. Participant Data Entry and Tracking: When provided direct and full access to necessary customer databases, 3Degrees shall maintain a copy of CPAU’s Customer database of all PAG members. This database shall include information on the customer’s name, address, utility account number, sign-up date, sign-up mechanism, and dates for leaving the utility system or the PAG program. 3Degrees shall provide monthly update reports to CPAU program manager.

2.1.8. Marketing Reports: When provided direct and full access to necessary customer databases, and detailed costs of marketing and sign-up collateral, 3Degrees shall produce a monthly report of all new enrollments based on cost of acquisition (COA) by sign-up mechanism, as well as a report of all exits (churn).
2.1.9. **Staffing:** 3Degrees will provide one staff person for up 8 hours at least once every two weeks to input data and coordinate sending out welcome kits to new customers. The staff person will be directed by the CPAU program manager on tasks to perform.

2.2. **TRACKING, REPORTING, AND COMPLIANCE VERIFICATION**

2.2.1. **Green-e WREGIS Registration:** 3Degrees shall ensure that all Renewable Energy Certificates (RECs) utilized by the program, and provided by the 3Degrees, are registered with the Western Renewable Generation Information System ("WREGIS") in accordance with WREGIS Operating Rules, dated June 4, 2007, or a subsequently amended or modified or replaced. City assumes all cost of WREGIS registration and submittals applicable to purchasing, retiring or resale of RECs.

2.2.2. **Green-e Program Standards and Code of Conduct:** 3Degrees shall adhere to the Green-e Renewable Energy Certification program National Standard Version 1.4 or as subsequently amended, and the associated Code of Conduct and Customer Disclosure Requirements.

2.2.3. **Green-e Program Compliance Verification:** When provided direct and full access to information about the RECs used in the program, 3Degrees shall complete all necessary paperwork, forms and information submittals to the Center for Resource Solutions (CRS) in accordance with the Green-e program verification process requirements, including, if required, annual or biannual audits in accordance with the Green-e Verification Process Audit Protocols. 3Degrees will also provide a time line for submittal and data gathering no later then January 1 of each year of the contract.

2.2.4. **California Power Source Disclosure Reporting and Verification:** When provided direct and full access to information about the RECs used in the program, 3Degrees shall complete all necessary paperwork, forms and information submittals to the California Energy Commission (CEC) and the City’s Scheduling Coordinator (Northern California Power Agency). These reports include, but are not limited to, an official copy of all RECs, also known as “Green Tag Certificate” or “ Tradable Renewable Certificates”. No later than March 1 of each year, 3Degrees shall submit Schedule 4 (Power Purchased Out of Pool) of the Annual Report to the California Energy Commission, describing the Green Tags Purchased, by resource type (in kWh) in accordance with the California Power Source Disclosure Program. 3Degrees shall verify the validity of all RECs utilized by the Program. 3Degrees will provide a supplemental document attesting to the validity of the RECs for each resource provided by 3Degrees. The CEC Power Content Label Annual Report Attestation Form may be used for this purpose, or a suitable substitute subject to City’s prior written
Exhibit A
Green Power Scope of Services

approval. The report shall also include a general description of each resource, including the location, technology, and if web links to relevant web sites if available. Additionally, if a program audit is required in addition to the Green-e verification process audit, the Supplier shall conduct an audit using the Agreed-Upon Procedures found in the California Code of Regulations, Title 20, Section 1394, Appendix C (see Amended Regulations governing SB 1305).

3. **Contract Term**
The term of this agreement shall be for twelve (12) months period from the date of execution of this agreement, and may be extended by mutual agreement for up to four 12-month periods for a maximum of 60 consecutive months, subject to the City of Palo Alto’s annual approval of each current year’s budget and appropriation of funds. Notwithstanding the foregoing, either Party may terminate the agreement as specified in Section 10 of the Contract.
1. **CITY Responsibilities shall include but are not limited to:**

1.1. **Calculation of Customer Consumption**
City shall provide 3Degrees with CPAU biogas consumption totals by the 10th day of the month for the calculation and invoicing of services rendered the previous month.

1.2. **Marketing, Media and Advertising Roles**
1.2.1. City shall be responsible for procurement and costs of marketing collateral after 3Degrees fulfills obligations on information and design. This includes but is not limited to; bill inserts, posters, banners, and programming for web site.
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1.3. **Direct Sales to Businesses, Civic Organizations, and Neighborhood Associations**
City shall engage its Account Managers to develop direct sales in a joint effort with 3Degrees to win business from local area businesses and non-profits. Responsibilities include but may not be limited to; initial customer contact, arrangement of meetings, follow-on sales efforts and after-sales service as needed. Customer contact will be managed by City personnel.

1.4. **Training and Program Integration**
City shall engage its Customer Service Managers and staff to support internal infrastructure around Customer Service Management. Responsibilities include but may not be limited to; fielding phone inquiries, entering orders, and developing and utilizing coding and tracking mechanisms.

2. **3Degrees’s Responsibilities shall include, but are not limited to:**

2.1. **PROGRAM DESIGN SERVICES – Priced separately in Exhibit C**

2.1.1. **Program Development:** Upon contract execution, 3Degrees will develop a reasonable, detailed timeline for program launch. This timeline will be developed with the assistance and approval of the program manager and will include detailed budget estimates. The timeline will include the following components, to be delivered by 3Degrees:

- Market Research
- Product Design
- Building Internal and External Support
- Internal process changes
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   - Market Research
   - Product Design
   - Building Internal and External Support
   - Internal process changes
Exhibit A
Biogas Scope of Service

Design and production of marketing materials
Web site content developed and posted
Internal training
System testing
Media outreach
Plan and host launch
Produce and distribute first direct enrollment pieces
Post launch follow up

2.1.2. Marketing Estimates: Based on Palo Alto customer demographics and utility data from sign-up rate for PaloAltoGreen, develop a market adoption projection for the next five years.

2.2. MARKETING SUPPORT SERVICES - Priced separately in Exhibit C

2.2.1. Marketing Plan: 3Degrees shall provide a marketing plan that includes sales and marketing support services to the City, including but not limited to training for City personnel, information needed for advertising or billing inserts, program design and marketing advice, outreach print materials, and web-based communication. Customer contact will be managed by City personnel. 3Degrees shall provide estimates of participation levels based on the 3Degrees’ experience with local demographics and similar size utilities and programs. 3Degrees will present a detailed marketing plan with specific targets and tactics every 3 months.

2.2.2. Marketing expenditures: 3Degrees shall budget $10,000 to assist with marketing outreach as mutually agreed upon by 3Degrees and CPAU staff.

2.2.3. Training: 3Degrees shall train all new customer service representatives as well as perform biannual in-service trainer on industry advances.

2.2.4. Marketing Outreach: 3Degrees shall staff all outreach events up to a maximum of 15 events per year, as directed by the CPAU project manager. This total includes the events referenced in Exhibit A, Section 2.1.3.

2.2.5. Media Content and Production: 3Degrees shall coordinate the assembly and sending of welcome kits to each new subscriber to the program; the specific work may be done by 3Degrees’ staff or a CPAU intern. Welcome Kits may be changed at the mutual agreement of CPAU staff and 3Degrees. All costs other than labor associated with this task will be borne by CPAU.
Exhibit A
Biogas Scope of Service

2.2.6. **Participant Data Entry and Tracking:** When provided direct and full access to information about the REC's used in the program, 3Degrees shall maintain a database of all Biogas program participants. This database shall include information on the customer's name, address, utility account number, sign-up date, sign-up mechanism, and dates for leaving the utility system or the Biogas program. 3Degrees shall provide monthly update reports to CPAU program manager.

2.3. **TRACKING, REPORTING, AND COMPLIANCE VERIFICATION**

2.3.1. **Green-e GHG Product Standards:** If 3Degrees provides supply resources for the biogas program, 3Degrees shall adhere to the Green-e Greenhouse Gas Emission Reduction Product Certification Program Standard Version 1.0 or as subsequently amended.

2.3.2. **Green-e Verification (if applicable):** If the City elects to seek Green-e certification for the Biogas program, 3Degrees shall complete all necessary paperwork, forms and information submittals to the Center for Resource Solutions (CRS) in accordance with the Green-e GHG Product verification process requirements, including, if required, annual or biannual audits in accordance with the Green-e Verification Process Audit Protocols. 3Degrees will also provide a timeline for submittal and data gathering no later then January 1 of each year of the contract.

3. **Contract Term**
The term of this agreement shall be for twelve (12) months period from the date of execution of this agreement, and may be extended by mutual agreement for up to four 12-month periods for a maximum of 60 consecutive months, subject to the City of Palo Alto's annual approval of each current year's budget and appropriation of funds. Notwithstanding the foregoing, either Party may terminate the agreement as specified in Section 10 of the Contract.
Exhibit B
Supply Options and Prices

1. Periodic Price Quotes - At any time, the City may request a price quote from 3Degrees for a specified quantity of Wind or Solar RECs generated in the WECC. The City must specify the quantity and other applicable attributes at the time of request. The RECs may be generated at any time during the applicable Green-e Reporting Year (e.g. Reporting Year 2008 is: July 1, 2007 to March 31, 2009; Reporting Year 2009 is: xxx).

3Degrees shall respond to City’s request no more than 2 business days after the receipt of request (response date shall be by close of business on business day #3, with business day #1 being the day the City made the request for price quote). The City shall have 3 business days (until the close of business on business day #6) to accept 3Degrees offer. Upon acceptance by the City, 3Degrees shall prepare and send a partially executed copy of the Conformation Letter (Exhibit F) to the City to confirm the transaction. City shall return a copy of the fully executed contract within 3 business days after the receipt of the partially executed Confirmation Letter from 3Degrees.

The same process shall be followed in the event of sale of surplus RECs by the City to 3Degrees.

2. True-up of Wind RECs - At the City’s request and for “true-up” purposes, 3Degrees will provide up to 10,000 RECs in the Calendar year 2008 for $10.00 per REC supplied. RECs shall originate from wind resources inside the NERC WECC Region. The City must notify 3Degrees by December 1, 2008 if any purchase will be made. The price of this product may change for Calendar year 2009 and beyond.

3. True-up of Solar RECs – At the City’s request and for “true-up” purposes, 3Degrees will provide up to 250 RECs in the Calendar year 2008 for $50.00 per REC supplied. RECs shall originate from solar resources inside the NERC WECC Region. The City must notify 3Degrees by December 1, 2008 if any purchase will be made. The price of this product may change for Calendar year 2009 and beyond.

RECs shall be from “new” resources, defined by Green-e as projects that began production after January 1, 1997.

The City reserves the right to self-provide the RECs from its own power purchases or to procure RECs separately from this contract.

The term of this agreement shall be for twelve (12) months period from the date of execution of this agreement, and may be extended by mutual agreement for up to four 12-month periods for a maximum of 60 consecutive months, subject to the City of Palo Alto’s annual approval of each current year’s budget and appropriation of funds. Notwithstanding the foregoing, either Party may terminate the agreement as specified in Section 10 of the Contract.
Exhibit C
FEE SCHEDULE

3Degrees will provide services as described under “Marketing Support Services” in Exhibit A for a fee of $3.00 per REC supplied to program participants.

3Degrees will provide the services described under “Program Design Services” in Exhibit B for a fee of $60,000. This fee will be 50% payable upon final program approval from city council and leadership of Palo Alto Utilities and 50% payable when the biogas product is launched.

3Degrees will provide services for the biogas product as described under “Marketing Support Services” in Exhibit B following this fee schedule:

$.06 per therm of gas supplied to program participants for the first 3,000,000 therms sold.
$.054 per therm for therms 3,000,001 through 6,000,000 of gas supplied to program participants
$.049 per therm for therms 6,000,001 and above of biogas supplied to program participants.
**EXHIBIT D**

**ACORD CERTIFICATE OF LIABILITY INSURANCE**

**PRODUCER**
(909) 592-2215 FAX: (909) 305-0391  
Southern California Insurance Brokerage, Inc.  
P.O. Box 758  
License #OC91978  
Glendora CA 91740-0758

**INSURED**
3Degrees Group Inc  
Presidio of San Francisco  
6 Punston Ave.  
San Francisco CA 94129

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**COVERAGES**

The policies of insurance listed below have been issued to the insured named above for the policy period indicated. Notwithstanding any requirement, term or condition of any contract or other document with respect to which this certificate may be issued or may pertain, the insurance afforded by the policies described herein is subject to all the terms, exclusions and conditions of such policies. Aggregate limits shown may have been reduced by paid claims.

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<thead>
<tr>
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<th>NAIC #</th>
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**GENERAL LIABILITY**

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<td>2/14/2008</td>
<td>2/14/2009</td>
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<td></td>
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<td>DAMAGE TO RENTED PREMISES (EACH OCCURRENCE): $300,000</td>
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<td>MED EXP (Any one person): $10,000</td>
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<td>PERSONAL &amp; ADV INJURY (Per person): $1,000,000</td>
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<td>GENERAL AGGREGATE: $2,000,000</td>
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<td>PRODUCTS COMPL AGG: $2,000,000</td>
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**AUTOMOBILE LIABILITY**

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<td>72 UUN VZ1994</td>
<td>2/14/2008</td>
<td>2/14/2009</td>
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**GARAGE LIABILITY**

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**EXCESS/UMBRELLA LIABILITY**

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**WORKERS COMPENSATION AND EMPLOYERS LIABILITY**

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<tr>
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<tbody>
<tr>
<td>If yes, describe under SPECIAL PROVISIONS below</td>
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</table>

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<thead>
<tr>
<th>POLICY NUMBER</th>
<th>POLICY EFFECTIVE DATE</th>
<th>POLICY EXPIRATION DATE</th>
</tr>
</thead>
</table>

**DESCRIPTION OF OPERATIONS/LOCATIONS/VEHICLES/EXCLUSIONS ADDED BY ENDORSEMENT/SPECIAL PROVISIONS**

**CERTIFICATE HOLDER**

CITY OF PALO ALTO  
PURCHASING AND CONTRACT ADMINISTRATION  
P.O. BOX 10250  
PALO ALTO, CA 94303

**CANCELLATION**

Should any of the above described policies be cancelled before the expiration date thereof, the issuing insurer will endeavor to mail 10 days written notice to the certificate holder named to the left, but failure to do so shall impose no obligation or liability of any kind upon the insurer, its agents or representatives.

AUTHORIZED REPRESENTATIVE  
Diana Kubo, CISR/JNP

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EXHIBIT E

Certification of Nondiscrimination

As suppliers of goods or services to the City of Palo Alto, the firm and individuals listed below certify that they do not discriminate in employment of any person because of race, skin color, gender, age, religion, disability, national origin, ancestry, sexual orientation, housing status, marital status, familial status, weight or height of such person; that they are in compliance with all Federal, State and local directives and executive orders regarding nondiscrimination in employment.

1. If Proposer is INDIVIDUAL, sign here:

Date: ______________

Proposer's Signature

Proposer's typed name and title

2. If Proposer is PARTNERSHIP or JOINT VENTURE, at least (2) Partners or each of the Joint Venturers shall sign here:

Partnership or Joint Venture Name (type or print)

Date: ______________

Member of the Partnership or Joint Venture signature

Date: ______________

Member of the Partnership or Joint Venture signature

3. If Proposer is a CORPORATION, the duly authorized officer(s) shall sign as follows:

Title: PRESIDENT and CEO

Title: EVP MARKETING & BUSINESS DEVELOPMENT

Of the corporation named below; that they are designated to sign the Proposal Cost Form by resolution (attach a certified copy, with corporate seal, if applicable, notarized as to its authenticity or Secretary's certificate of authorization) for and on behalf of the below named CORPORATION, and that they are authorized to execute same for and on behalf of said CORPORATION.

Corporation Name: (type or print)

By: ____________ Date: 2-7-08

Title: ______________

By: ______________ Date: 2-7-08

Title: ______________

City of Palo Alto – RFP 125587
EXHIBIT F

Confirmation Letter #

The following describes a transaction between the City and 3Degrees for the sale, purchase and Delivery of Renewable Energy Certificates ("RECs") pursuant to the terms of the Renewable Energy Certificate Purchase and Sale Agreement between the Parties dated ____ (the "Agreement"). Provided, that, to the extent there is a conflict between a provision of the Agreement and this Confirmation Letter, the terms of this Confirmation Letter shall control for the purposes of this transaction.

Initially capitalized terms used and not otherwise defined herein are defined in the Agreement.

### Basic Commercial Terms:

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<tbody>
<tr>
<td>Transaction Reference:</td>
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<td>Seller:</td>
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<td></td>
</tr>
<tr>
<td>Facility:</td>
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<td>Eligible Renewable Resource Type:</td>
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<td>Geography:</td>
<td>WECC</td>
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<tr>
<td>Vintage(s):</td>
<td>July 1, 2007 – March 31, 2009</td>
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<tr>
<td>Product Quantity:</td>
<td></td>
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<tr>
<td>Contract Price ($/MWh):</td>
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<tr>
<td>Total Contract Price:</td>
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<tr>
<td>Delivery Deadline:</td>
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### Product Specific Terms:

| Applicable Standard:                | Green-e National Standard Version 1.5 |
| Environmental Attributes retained by Seller, if any: | None |
| Applicable Tracking System:         | WREGIS, if possible |
| Attestation Form [yes, no]          |  |

This Confirmation Letter is being provided pursuant to and in accordance with the Agreement, and constitutes part of and is subject to the terms and provisions of the Agreement.

The Parties agree to the transaction set forth herein.

### 3Degrees Group Inc. | The City of Palo Alto Utilities

<table>
<thead>
<tr>
<th>Signature</th>
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<tbody>
<tr>
<td>Name</td>
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<tr>
<td>Title</td>
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