

## **PROFESSIONAL SERVICES AGREEMENT**

**Consultant: General Electric Packaged Power, Inc. (GEPPi)**

**Subject: Professional Services and Parts for Aeroderivative Turbine Generators and Related Parts**

**Agreement Number: 47401**

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**AGREEMENT NUMBER 47401**

**BETWEEN  
THE CITY OF LOS ANGELES DEPARTMENT OF WATER AND POWER  
AND  
GENERAL ELECTRIC PACKAGED POWER, INC.**

**THIS AGREEMENT** is made and entered into by and between the City of Los Angeles acting by and through its Department of Water and Power, a municipal corporation, (hereinafter the "Department" or "LADWP") and General Electric Packaged Power, Inc., a Delaware corporation (hereinafter the "Consultant"). Individually, Department and Consultant are referred to under this Agreement as a "Party" and collectively as the "Parties."

**RECITALS**

**WHEREAS**, the Department needs original equipment manufacturer proprietary professional and technical services, parts, and repair services, on an as-needed basis, to support LADWP's planned outages for scheduled inspections and repairs, and forced outages for emergency repairs, of GE-manufactured aeroderivative turbine-generators; and

**WHEREAS**, the services to be performed include, but are not limited to, providing inspection procedures; conducting inspections; writing reports; troubleshooting turbine-generator equipment and proprietary control systems; providing disassembly, repair, and assembly procedures; providing technical guidance for disassembly, repair, assembly, and start-up of aeroderivative turbine generators; providing access to the GE Factory for engineering support and technical support that may include drawings, original design data, material specifications specific to the task, and design changes; locating proprietary repair parts; and transferring knowledge to LADWP personnel as needed for its performance of the specific task; and

**WHEREAS**, on September 3, 2015, the Department released a Request for Sole Source Proposal (RSSP) seeking proposals from qualified firms/organizations to provide parts, on-site and offsite repair services, craft labor services, and professional and specialty services on an as-needed basis, under individual Task Orders, to support the LADWP's planned outages for scheduled inspections and repairs, and forced outages for emergency repairs, of its aeroderivative turbine-generators, and other GE-manufactured power generation and related equipment at LADWP electric facilities; and

**WHEREAS**, the Department evaluated the proposal submitted in response to the RSSP, the Consultant being the sole qualified firm for furnishing GE specialty technical services and parts for GE aeroderivative Turbine Generators; and

**WHEREAS**, the Consultant has reviewed the services to be provided by the Consultant incorporated in this Agreement, and represents that it has the qualities, expertise, skills, and abilities to perform such work; and

**WHEREAS**, the services to be performed are of an expert, professional and occasional nature and can be performed more feasibly by independent consultants than by City employees.

NOW THEREFORE, in consideration of the premises and of the covenants, representations and agreements set forth herein, the Parties hereby covenant, represent and agree as follows:

ARTICLE I  
INTRODUCTION

101. Parties to the Agreement

The Parties to this Agreement are:

- A. The Department, having its principal office at 111 North Hope Street, Los Angeles, California 90012.
- B. The Consultant, General Electric Packaged Power, Inc., a Delaware corporation having a local office at 16415 Jacintoport Blvd, Houston, Texas 77015.

102. Representatives of the Parties and Service of Notices

102.1 Authorized Representatives

The representatives of the respective Parties (hereinafter collectively "Authorized Representatives" and individually "Authorized Representative") authorized to administer this Agreement, including, but not limited to, Task Orders and Change Orders, and to whom formal notices, demands and communications shall be given are as follows:

- A. The Authorized Representative of the Department shall be, unless otherwise stated in the Agreement:

Karen A. Iseri  
Manager of Generating Station Engineering  
Power Engineering Division  
111 North Hope Street, Room 1132  
Los Angeles, California 90012  
Facsimile Number: (213) 367-1573

And

Daryl Yonamine  
Mechanical Engineer  
Power Engineering Division  
111 North Hope Street, Room 1141  
Los Angeles, California 90012  
Facsimile Number: (213) 267-1573

B. The Authorized Representative of the Consultant shall be:

General Electric Packaged Power, Inc.  
Tim Wahl  
Senior Customer Service Manager  
22857 Giant Fir Place  
Canyon Lake, CA 92587  
Facsimile Number: (713) 957-4978

Any legal notice or termination notice shall be delivered to:

Kathleen Bardell  
General Counsel, Power Services North America  
Legal Department  
4200 Wildwood Parkway  
Atlanta, GA 30339  
Phone Number: (678) 844-7381

**102.2 Service of Notices**

Unless otherwise stated herein, formal notices, demands and communications required hereunder by either Party shall be made in writing and may be effected by personal delivery or by certified mail, overnight carrier, or confirmed facsimile and shall be deemed communicated as of the date of delivery, or in the case of a facsimile, upon receipt if transmitted during the receiving Party's normal business hours, otherwise on the first business day following receipt.

If the name or address of the person designated to receive notices, demands or communications, is changed, or additional persons are added to receive notices, demands or communications, written notice shall be given, in accord with this section, within five (5) business days of said change.

**103. Purpose of the Agreement**

The purpose of this Agreement is to allow LADWP to purchase parts, on-site and off-site repair services, craft labor services, and professional and specialty services. These will be provided on an as-needed basis, under individual Task Orders, to support LADWP's planned outages for scheduled inspections and repairs, and forced outages for emergency repairs, of its aeroderivative turbine-generators, and other GE-manufactured power generation and related equipment at LADWP electric generating facilities.

For non-GE equipment, hardware, or components, the Consultant shall furnish repair services, craft labor services, and specialty technical and professional services. These will be provided on an as-needed basis, under individual Task Orders, consistent with the Consultant's standard installation, inspection, maintenance, and operation practices. Furthermore, the Consultant shall not be obligated to provide any proprietary information for non-GE supplied equipment, hardware, or components. To the extent

specified under an applicable Task Order, the Consultant shall provide reasonable engineering support to identify any unit assembly, performance, or operational shortfalls caused by installing non-GE replacement equipment or components. LADWP shall treat the results of such engineering support as the Consultant's confidential and proprietary information, and shall not disclose it to the supplier or manufacturer of such non-GE replacement equipment or components, unless agreed to in writing by the Consultant. Any Consultant opinions, reports, or recommendations related to non-GE equipment, hardware, or components, shall be solely based on information supplied by LADWP, or by third parties on behalf of LADWP.

#### 104. Acronyms and Definitions

Key terms used in this Agreement are defined as below:

**"Authorized Representative(s)"** shall mean, in the case of the Department, the individuals identified in Section 102.1(A) and, in the case of the Consultant, the individuals identified in Section 102.1(B).

**"Board of Equalization"** shall mean the California public tax commission charged with California tax administration and fee collection for the State of California.

**"City Charter"** shall mean the Charter of the City of Los Angeles.

**"Change Order" or "Change Order Notice"** – shall mean a mutually agreed change in a Task Order Work schedule or scope as set forth in Section 902, which does not extend the term of the Agreement or increase the Total Compensation Amount.

**"Deliverable(s)"** shall mean all drawings, manuals, specifications, reports, data, procedures, and similar documents that are to be provided to the Department by Consultant as set forth in the scope of Work or specifications under an applicable Task Order.

**"Key Consultant Personnel"** shall mean those employees of the Consultant as defined in Section 403, "Consultant Personnel", who are assigned by the Consultant to perform Work at a Department Site.

**"Part(s)"** shall mean the equipment, parts, materials, supplies components, and other goods that Consultant has agreed to supply to the Department under an applicable Task Order.

**"Proposed Task Order"** shall mean a request from the Department to the Consultant for Work to be performed by the Consultant under this Agreement.

**"Service(s)"** shall mean the repair, craft labor, and specialty technical and professional services that Consultant has agreed to supply to the Department under an applicable Task Order.



**"Work"** shall include, as the context requires, the Parts, Services, and Deliverables Consultant has agreed to perform or supply to the Department under an applicable Task Order.

**"Task Order"** shall mean the agreement documenting the scope of Work to be supplied by Consultant to the Department which has been mutually agreed upon by the Parties and authorized by the Department as set forth in Article V of this Agreement.

**"Site(s)"** shall mean the Department premises where Work is performed. For the avoidance of doubt, Site(s) does not include Consultant's off-Site repair facilities, or other Consultant or Consultant Subconsultants' premises off-Site.

**"On-Site Subconsultant(s)"** shall mean the unaffiliated person, firm, and/or corporation (other than the Consultant and its employees) hired by the Consultant to perform any portion of the Work to be performed at the Site(s) under an applicable Task Order.

**"Off-Site Subconsultant(s)"** shall mean the unaffiliated person, firm, and/or corporation, (other than the Consultant and its employees) hired by the Consultant to perform any portion of the Work to be performed off-Site(s) under an applicable Task Order.

**"Standard Provisions"** shall mean the "Standard Provisions for Department of Water and Power Professional Service Contracts" as negotiated herein.

**"Subconsultant(s)"** shall collectively mean the On-Site Subconsultant(s) and Off-Site Subconsultants hired by the Consultant to perform any portion of the Work to be performed under an applicable Task Order.

**"Subsupplier"** shall mean the person, firm, and/or corporation, (other than the Consultant and its employees) hired by the Consultant to supply or manufacture any portion of the Parts to be supplied under an applicable Task Order.

**"Total Compensation Amount"** shall mean the amount identified in Section 301.1.

## ARTICLE II TERM OF THE AGREEMENT

### 201. Term of the Agreement

The term of this Agreement shall commence upon the occurrence of the events identified in Exhibit E, PSC-4 and shall terminate five (5) years thereafter, subject to the termination provisions provided herein. The Consultant shall not perform Work under this Agreement until the Consultant has fulfilled its insurance obligations required herein.

### 201.1 RESERVED

## **202. Time of Performance**

The Consultant shall complete the Work in a timely manner consistent with the applicable Task Order's requirements and mutually agreed upon schedule(s) set forth in the Task Order.

## **ARTICLE III COMPENSATION AND METHOD OF PAYMENT**

### **301. Compensation**

#### **301.1 Not-to-Exceed Amount**

The total compensation that may be paid to the Consultant by the Department under this Agreement shall not exceed \$86,000,000 (the "Total Compensation Amount").

#### **301.2 Authorized Expenditures**

Subject to the Total Compensation Amount stated in Section 301.1 above, the Department shall pay the Consultant for the Work to be performed as specified in individual Task Orders executed in accordance with Section 302, "Allowable Fees, Expenses, and Costs" and Article V, "Task Order Development and Approval" of this Agreement. The Department shall not be liable for payment of monies to Consultant under this Agreement except as provided in a written Task Order.

### **302. Allowable Fees, Expenses, and Costs**

The Department shall pay for Work established in a Task Order executed in accordance with Article V, "Task Order Development and Approval" of this Agreement. The amounts charged for Work under a Task Order shall be based upon either (i) a fixed price for a defined scope agreed upon by the Parties or (ii) a time and materials basis in accordance with the labor rates and fees established in Exhibit A, "Fee Schedule (Consultant Labor Rates and Fees)," which is attached hereto and made a part hereof. The Task Order shall indicate whether the pricing is fixed price or time and materials.

#### **302.1 Reimbursement of Subconsultant Costs**

When applicable, the Department shall reimburse Consultant at the Subconsultant rates established in the applicable Task Order for the Services being provided.

In addition to the Subconsultant rates established in the applicable Task Order, the Consultant may invoice the Department for its expenses incurred in the management, oversight, and administration of Subconsultants, including the Consultant's review and processing of Subconsultant invoices for such

Subconsultant. Notwithstanding the foregoing, the Consultant shall not markup Subconsultant rates established in the applicable Task Order.

#### **302.2 Reimbursement of Travel Expenses**

Allowable travel expenses shall be reimbursed in accordance with Exhibit B, "Allowable Travel and Living Expenses".

#### **302.3 Other Reimbursable Expenses**

For Work provided on a time and materials basis, the Department shall reimburse the Consultant for other reimbursable expenses, including the purchase of special equipment, necessary field supplies and facilities, testing and laboratory services, shipping charges in excess of ten dollars (\$10.00), parts, materials, and supplies required for the Contractor's performance of the Work pursuant to an authorized Task Order. Such reimbursable expenses shall be reimbursed by the Department, without mark-up, at the actual amount paid by Consultant for the purchased items.

For Work provided on a time and materials basis, the Department shall reimburse the Consultant for any items purchased at the request of the Department's Authorized Representative to accomplish the Work under a Task Order. The cost of such purchased items shall be reimbursed by the Department, without mark-up, at the actual amount paid by Consultant for such purchased items. Items purchased by the Consultant at the request of the Department shall become the property of the Department, and Consultant shall deliver the purchased items to the Department upon request or completion of the Task Order.

Any other items purchased by the Consultant for performance of Services pursuant to an authorized Task Order shall be the property of the Consultant, shall not be charged to the Department, and shall not be reimbursed by the Department.

#### **302.4 Conditions for Payment of Premium Labor Rates**

Any Work required on a time and materials basis by an individual in excess of eight (8) hours a day, on a weekend, holiday, or any other time in which payment of a labor rate premium would be applicable, shall be charged at the applicable labor rate premiums established in Exhibit A, "Fee Schedule (Consultant Labor Rates and Fees)" or in the applicable Task Order. In special circumstances, an overtime or labor rate premium beyond that established in Exhibit A, "Fee Schedule (Consultant Labor Rates and Fees)" or in the applicable Task Order may be allowed, at the sole option of the Department. Any such work shall be undertaken only with the prior written approval of the Department's Authorized Representative.

### 302.5 - Taxes

Other than Consultant's corporate taxes measured by its net income arising from its receipt of payment for Work performed under this Agreement, all Agreement and Task Order prices are exclusive of any applicable State of California Sales Tax, California Use Taxes, Federal Excise Tax. Such taxes are the only taxes applicable to the Work for which the Department shall be liable for payment, and any such taxes paid by the Consultant on the Department's behalf shall be separately identified on the Consultant's Invoices for reimbursement. The Consultant agrees to abide by the State of California tax commission Board of Equalization's determination for all sales or use taxes and payment thereof, and Consultant shall adjust for any overpayment or underpayment of such taxes to date on the next regularly scheduled invoice following receipt of the determination. The Consultant agrees to assist the Department in preparing and filing any application for a refund of any overpayment of such taxes. In the event that, pursuant to state or federal law, the Department is required to pay such taxes directly to the state, the amount of said taxes shall not be included on Consultant's invoice for reimbursement.

### 303 - Method of Payment

Invoices shall be paid by the Department within thirty (30) days after receipt of Consultant's invoice.

### 303.1 - Invoicing Requirements

The Consultant shall submit invoices to the Department in accordance with the applicable Task Order, with the billings against each individual Task Order tracked separately. Unless otherwise provided in the Task Order, the Consultant shall invoice for Services upon performance in accordance with the Task Order requirements and for Parts upon delivery. The Department shall not reimburse the Consultant for any amounts invoiced by the Consultant longer than twelve (12) months after the applicable invoicing date, unless otherwise approved in writing by the Department's Authorized Representative.

Invoices shall be submitted by the Consultant to the Department in triplicate. The following information shall be included in each invoice submitted by the Consultant to the Department:

1. Consultant name, address, and vendor code number as registered in the Department vendor database;
2. City of Los Angeles Business Tax Registration Number;
3. Date of invoice;
4. Invoice number;
5. Contract number;
6. Summary of the individual Task Order(s), including amount of current invoice, total invoiced to date, total authorized Task

- Order amount, Task Order percent complete and percent of authorized Task Order amount invoiced to date, and the end date of the Work to be performed under the Task Order;
7. Taxes;
  8. Total amount of invoice;
  9. Description of Work provided under each individual Task Order and associated amounts, including the Services, Parts and Deliverables that were performed or supplied and the reimbursable expenses that were incurred;
  10. For Task Orders specifying a time and materials method of payment, supporting documentation for all reimbursable costs and expenses, in a format reasonably acceptable to the Department, a summary of total hours worked by specified individual Consultant and/or Subconsultant employees, the applicable hourly rate(s), and the time sheet or payroll records as appropriate to support individual employee hours worked;
  11. Following certification statement(s) signed by the Consultant:  
"I hereby certify, under penalty of perjury, that the services rendered and billings reflected in this invoice are true, accurate and in conformance with the terms of this Agreement, including but not limited to the Living Wage Ordinance, Los Angeles Administrative Code Section 10.37 et. Seq.";  
  
"Contractor certifies that all work performed for which this invoice/bill is submitted which required access to critical facilities as designated by LADWP was conducted, and for whom no disqualifying background check information has been found."
  12. In accordance with PSC-20, all invoices related to SCWRO and LWO Contracts shall contain the following statement:  
"The Consultant fully complies with Section 10.36 et. seq. and Section 10.37 et. seq., of SCWRO and LWO, respectively, of the Los Angeles Administrative Code."
  13. Approval signature blocks for the Department project manager and the Department Authorized Representative.

Invoices shall be submitted to:

Karen A. Iserl  
Manager of Generating Station Engineering  
Power Engineering Division  
111 North Hope Street, Room 1132  
Los Angeles, California 90012

Consultant's failure to submit accurate and complete information as set forth above shall result in Department's rejection of the invoice and the possibility of delayed-payment.

**303.2 Time and Material Task Order Invoices (Not Used)**

Original provision incorporated into Section 303.1.

**303.3 Fixed Price Task Order Invoices (Not Used)**

Original provision incorporated into Section 303.1.

**303.4 Notice of Items Not Approved for Payment**

The Department project manager will review each Consultant invoice within fifteen (15) business days of receipt and notify the Consultant of any missing or required additional documents or information, questioned costs, inaccuracies, or other concerns.

In the event that any amounts invoiced by the Consultant are not approved for payment because they do not conform to the requirements of this Agreement, the Department shall provide the Consultant with detailed explanation(s) of the reason(s) for disapproval and shall meet with the Consultant in a timely manner upon Consultant's request to discuss such issues. Any disputes between the Department and the Consultant regarding invoiced amounts shall be resolved in accordance with Article X, "Disputes" of this Agreement. The Department shall pay invoiced amounts that are not disputed in accordance with the requirements above.

**303.5 Notification of Status of Task Order Expenditures**

When requested by the Department, the Consultant shall notify the Department in writing when charges under the Task Order reach seventy-five percent (75%) of the total Task Order price. Such notice shall include an assessment of whether or not the tasks assigned in the Task Order can be completed within the authorized expenditure amount, and if not, the Consultant shall propose suggested modifications to the Task Order for consideration by the Department. Failure of the Consultant to provide such written notification may result in late payment of invoices by the Department.

**303.6 Timely Invoicing (Not Used)**

Original provision incorporated into Section 303.1.

**303.7 Maximum Authorized Amount (Not Used)**

Original provision incorporated into Section 301 and Article IX.

## ARTICLE IV WORK TO BE PROVIDED

### 401.1 Parts and Services to be Provided by the Consultant

During the term of this Agreement, the Consultant shall provide the Work identified in Task Orders mutually agreed upon by the Parties and authorized by the Department in accordance with Article V, "Task Order Development and Approval", of this Agreement.

### 401.1.1 Description of Consultant Work

Work furnished under this Agreement shall support the purpose outlined in Section 103, "Purpose of the Agreement", including activities such as providing inspection procedures, conducting inspections and writing reports, troubleshooting turbine-generator equipment and proprietary control systems, making changes or upgrades to GE proprietary control system software, vibration analysis using proprietary equipment and procedures, providing disassembly, repair, and assembly procedures, providing technical guidance for disassembly, repair, assembly and start-up of aeroderivative turbine-generators, providing access to the GE factory for engineering support and technical support that may include drawings, original design data, material specifications specific to the task, and design changes, locating proprietary replacement parts, and transferring knowledge to LADWP personnel as needed for its performance of the specific task. The transfer of knowledge does not include technology transfer or Contractor proprietary information.

Notwithstanding any other provision of this Agreement, the Consultant shall perform such other work and deliver such other items as are necessary to ensure that the Work provided under this Agreement meets the requirements set forth in this Agreement, including all Exhibits.

### 401.2 Department Approval of Work

Failure to receive approval may result in withholding compensation for such services, work, tasks, and deliverable pursuant to Article III, "Compensation and Method of Payment", of this Agreement.

### 401.3 Errors and Omissions

Notwithstanding any other provisions of this Agreement, approval by the Department of any Work shall not relieve the Consultant of the responsibility to meet all of the requirements set forth in this Agreement as modified and supplemented by the requirements of any applicable Task Order. The Consultant shall have no claim for additional compensation arising out of work performed by Consultant to correct its own errors or omissions. This provision does not reduce or increase the obligations and duties of the Consultant set forth in PSC-25 "Warranty and Responsibility of Consultant".

#### 401.4 Industry Standard of Care

The Consultant shall perform the Work described herein in accordance with generally accepted standards of care for the power generation industry and shall reflect the competent professional knowledge and judgment as would ordinarily be expected in the power generation industry from a prudent service provider.

#### 401.5 Additional Work

In the event that the Department requires work in addition to that specified in Section 401.1 of this Agreement, prior to the Consultant providing such work, this Agreement shall be amended by the Parties to include the additional work in accordance with Article IX, "Amendments and Change to the Agreement" of this Agreement.

#### 401.6 Safety and Non-Interference

Prior to performing Work at a Site, the Consultant shall arrange a Site visit with the Department at which the Department shall advise the Consultant of the appropriate safety and security rules for the Site. The Consultant shall adhere to all Department restrictions and instructions of which the Consultant has been advised prior to commencement of the Work.

The Consultant's performance of the Work under this Agreement shall not interfere unnecessarily with the operation of the Department or any other City department.

#### 401.7 Background Check Certification Requirements

For all Work performed under this Agreement at LADWP critical facilities as designated by LADWP, the Contractor shall (1) perform the required background checks set forth in the "Background Check Certification" of all designated principals, employees and/or subcontractors of the Contractor; and (2) not assign principals, employees and/or subcontractors of the Contractor convicted of any felony or crime of moral turpitude, identified through the background checks required under Exhibit H, "Background Check Certification". Failure of Consultant to do so shall result in irreparable harm to LADWP and, at LADWP's option, the immediate termination for breach of contract without opportunity to cure, without liability on the part of LADWP.

Contractor agrees to submit a statement along with any invoices or billing associated with the Agreement which certifies that all work performed under this Agreement at critical facilities as designated by LADWP to Contractor was conducted by persons for whom background checks have been conducted and who do not have disqualifying background information in their histories pursuant to the "Background Check Certification". Contractor is advised that submission of a false claim for payment to LADWP may subject Contractor to



liability under the California False Claims Act (Cal. Gov't Code Sec. 12650 et. seq.). In addition, any failure to comply with the background procedures as required by this section may be considered in connection with future contracting opportunities with LADWP. The following specific language in the invoices/bills is acceptable: "Contractor certifies that all work performed for which this invoice/bill is submitted which required access to critical facilities as designated by LADWP was conducted, and for whom no disqualifying background check information has been found."

None of the remedies available to LADWP under this section shall preclude LADWP from any other remedies available in law or equity to compensate it for damages caused by the contractor's failure to comply with this section.

#### **402. Department Responsibilities**

If the Department, as a result of its own operations, delays, disrupts, and/or otherwise interferes with, and actually affects, the Consultant's performance hereunder, or if the Department is unable to approve the Work or perform its other responsibilities, in accordance with the agreed-upon time schedule established in a Task Order, the Consultant shall be entitled to an adjustment in the schedule and/or reimbursement for reasonable increases in expenses incurred by Consultant for such Task Order as a result of such delays, disruption, or interference. Subject to any adjustment in schedule or reimbursement for increases in expenses which the Consultant is entitled under this Section, the Consultant agrees to cooperate with the Department to minimize and to the extent reasonably possible, eliminate the impact of any delays under this Section on the completion of the Work. The Consultant shall promptly notify the Department if delays, regardless of the cause, begin to put the Task Order schedule or budget in jeopardy.

#### **403. Consultant Personnel**

##### **403.1. Key Consultant Personnel**

Key Consultant personnel that may be assigned to this Agreement are identified in Exhibit D, "List of Key Consultant Personnel", which is attached hereto and made a part hereof. Exhibit D, "List of Key Consultant Personnel" also contains a description of the Consultant's business location the person is assigned to, the position within the Consultant's organizational hierarchy, special expertise of the person, the number of years employed by the Consultant, and the number of years of experience for each person identified in Exhibit D.

Consultant shall utilize Key Consultant Personnel during performance of the Work as required under this Agreement. In the event Key Consultant Personnel set forth in Exhibit D are not available for a given Task Order, the Consultant shall furnish the Department with the names, titles, and qualifications of its alternative Key Consultant Personnel as required for the Work to be performed under a given Task Order.

The Department will have the right to review and approve the alternative Key Consultant Personnel prior to the performance of Work, such approval not to be unreasonably withheld. In connection with such approval, the Department may request copies of the resumes of the Key Consultant Personnel proposed to be assigned to the Work under a Task Order.

#### **403.2 Removal of Consultant Personnel**

The Consultant agrees to remove personnel from performing Work at Site under this Agreement if reasonably requested to do so by the Department within twenty-four (24) hours of the Department's request, or as soon thereafter as is practicable.

#### **404 Consultant Use of Subconsultants**

Subconsultants, including but not limited to, individuals, contract employees, sole proprietors, firms, and corporations, designated to perform Work under this Agreement are identified in Exhibit C, "List of Subconsultants." Exhibit C, "List of Subconsultants," also contains a description of the type of work, task responsibilities, and anticipated compensation for Work performed by a given Subconsultant under this Agreement.

Notwithstanding the fact that the Consultant is utilizing Subconsultants, the Consultant shall remain responsible for performing its obligations under this Agreement and for ensuring that all Work is performed in accordance with the terms and conditions of this Agreement and the applicable Task Order.

The Department has no obligation to any Subconsultant and nothing herein is intended to create any privity between the Department and the Consultant's Subconsultants.

#### **404.1 Department Pre-Approval of On-Site Subconsultants**

The Department shall pre-approve, in writing, the Consultant's utilization of any On-Site Subconsultants proposed by Consultant who are not listed in Exhibit C, "List of Subconsultants" prior to such On-Site Subconsultant's performance of the Work. Such approval shall not be unreasonably withheld. This applies to individuals, contract employees, sole proprietors, firms, and corporations.

#### **404.2 On-Site Subconsultant Subcontracting**

On-Site Subconsultant's further subcontracting or delegation of Work performed at Site is expressly prohibited unless approved in writing by the Department.

#### **404.3 Agreement Provisions Applicable to Subconsultants**

Consultant shall be responsible for its Subconsultant's compliance with Sections 404.2 and 1103, the provisions of Article VI, Ownership, and Article VII,

Confidentiality, Restrictions on Disclosure, and Reference Checks, and, PSC-13, PSC-19, PSC-21, PSC-22, and PSC-24 of this Agreement.

#### 404.4 Copies of Consultant Subconsultant Contracts

Upon written request from the Department's Authorized Representative, the Contractor shall supply the Department with any subcontractor agreement to the extent required to verify Consultant's compliance with this Agreement.

### ARTICLE V TASK ORDER DEVELOPMENT AND APPROVAL

#### 501 Task Order Development

During the term of this Agreement, the Department shall have the right to request that Consultant perform work (either on a lump sum or time and materials basis) within the general scope of Work contemplated by this Agreement pursuant to a Proposed Task Order in accordance with this Section 501. Consultant may accept or reject or propose changes to such Proposed Task Orders in accordance with Section 501.2.

#### 501.1 Task Order Proposal

A Department Proposed Task Order shall specify the following:

1. Purpose and Objective
2. Prerequisites to Consultant's performance
3. Scope of Work
4. Schedule
5. Assumptions, conditions, restrictions, Site location, etc.
6. Key Consultant and Subconsultant categories required for the task
7. Method of compensation (i.e., fixed price or time and materials basis)
8. Applicable rate schedules if Work is to be performed on a time and materials basis.
9. Department designated Task Order administrator, if different than the Department's Authorized Representative.

#### 501.2 Task Order Development

Following the Consultant's receipt of the Department's Proposed Task Order, the Consultant, at its own expense, shall prepare and deliver to the Department a written response to the Department's Proposed Task Order indicating Consultant's ability to perform the Work, the estimated schedule, any proposed use of On-Site Subconsultants and Consultant personnel for Services performed at Site, and changes to the scope of Work contemplated in the Proposed Task Order. For Work to be performed on a time and materials basis, the Consultant's response to the Proposed Task Order shall provide the Department with an estimate of the personnel, rates, and hours of effort required to

perform the scope of Work. For Work requested to be performed on a fixed price basis, Consultant's response to the Proposed Task Order shall provide a fixed price to perform the scope of Work.

In the event Consultant requires On-Site Subconsultants not included in Exhibit C, "List of Subconsultants", to complete Consultant's scope of Work in its response to the Proposed Task Order, Consultant shall specifically include such On-Site Subconsultants in its response, for approval and authorization by the Department.

In the event Consultant proposes Work to be performed by Consultant and Subconsultant personnel on a time and materials basis, and Exhibit A, "Fee Schedule (Consultant Labor Rates and Fees)" does not include rates for such personnel, then Consultant shall include the applicable rates for such personnel in its response, for approval and authorization by the Department.

Upon the Department's review of the Consultant's written response to Proposed Task Order, the Department and Consultant shall cooperatively work to develop a Task Order. To that end, informal exchanges between the Consultant and Department Task Order administrator are encouraged to aid in the development of a mutually agreed-upon Task Order.

#### **501.3 Task Order Approval and Authorization**

Upon the Parties mutual agreement on the scope, schedule, price, and conditions of a Task Order, the Task Order shall be executed by the Department's Authorized Representative, or by its designee established in writing to the Consultant by the Department's Authorized Representative, and shall be delivered to the Consultant for execution by the Consultant's Authorized Representative or by its designee established in writing to the Department by Consultant's Authorized Representative. The Task Order shall contain the full and complete agreement among the Parties regarding the Work to be completed under the Task Order. The Department shall not be liable for payment to Consultant for Work performed outside of a Task Order.

#### **501.4 Task Order Modifications**

The Department or Consultant may seek to modify a given Task Order. Such Task Order modifications shall be processed as a Change Order in accordance with Article IX, "Amendments and Change to the Agreement".

The Consultant shall notify the Department in writing as soon as the Consultant becomes aware that the Work contemplated under a Task Order may not be able to be completed within the Task Order authorized expenditure amount. In such an event the Consultant shall propose suggested modifications to the Task Order for consideration by the Department. The Consultant agrees and

acknowledges that failure to provide such notice to the Department could result in negative impacts to the Department and project completion.

## ARTICLE VI OWNERSHIP

### 601. Ownership Rights

Each Party shall retain ownership of all of its confidential and proprietary information and intellectual property which may be provided or disclosed to the other Party in connection with this Agreement or any Task Order.

#### 601.1 Use of Deliverables

Subject to the confidentiality provisions of this Agreement, the Department has the right to use or not use the Deliverables and to use, reproduce, re-use, alter, modify, edit, or change the Deliverables as it sees fit solely for its use in the maintenance and operation of Parts provided by the Consultant under this Agreement and/or the continued maintenance and operation of Department equipment. If the Department determines that a Deliverable, or any part thereof, requires correction prior to Department approval, the Department has the absolute right to use the Deliverable until such time as the Consultant can remedy the identified deficiency.

#### 601.2 Execution of Ownership Documents (Not Used)

No "Works-Made-for-Hire" to be provided under this Agreement.

### 602. Warrant Against Infringement

The Consultant warrants the performance of the Services by the Consultant or its Subconsultants of any tier, pursuant to this Agreement, shall not in any manner constitute an infringement or other violation of any trademark, copyright, patent and/or trade secret of any third party.

### 603. Subconsultants Subject to This Article VI (Not Used)

No "Works-Made-for-Hire" to be provided under this Agreement.

### 604. Survival of Provisions

The provisions of this Article VI, "Ownership", shall survive termination and expiration of this Agreement.

**ARTICLE VII**  
**CONFIDENTIALITY, RESTRICTIONS ON DISCLOSURE, AND REFERENCE CHECKS**

**701 Confidentiality**

The Department and the Consultant acknowledge that the forces of competition require that the confidentiality of information and those matters which the Consultant and the Department possess as proprietary, must be maintained in order for the Parties to effectively compete in the market place. It is the intent of the Parties to this Agreement to fully maintain the confidentiality and proprietary nature of such matters, items and information in connection with Consultant's Work under this Agreement.

**701.1 Confidential Information**

"Confidential Information" means information disclosed by either Party, its directors, officers, employees, agents or representatives, including, without limitation, its attorneys, accountants, consultants and advisors (collectively "Representatives") to the other Party in connection with this Agreement. Confidential Information shall be clearly marked or otherwise adequately identified as Confidential Information by the disclosing Party at the time that it is disclosed to the receiving Party. The Information will remain the property of the disclosing Party. Confidential Information shall not include information which (i) at the time of disclosure is within the public domain through no breach of this Agreement by either Party, (ii) has been known to, has been independently developed by, or was in the possession of the receiving Party prior to disclosure by the disclosing Party hereunder, (iii) was or is acquired from a third party who did not, to the receiving Party's knowledge, breach an obligation of confidentiality to the other Party by disclosing it to the receiving Party, or (iv) is required to be disclosed by the receiving Party to comply with any applicable law, order, regulation or ruling or other legal requirement, including but not limited to, oral questions, discovery requests, subpoenas, civil investigations or similar processes; provided, however, the receiving Party shall give timely notice to the disclosing Party of any such disclosure pursuant to these Articles. Both Parties recognize that the City of Los Angeles is subject to the California Public Records Act and the Ralph M. Brown Act.

**701.2 Permitted Use of Confidential Information**

Subject to the restrictions of Section 701.3, the receiving Party may disclose Confidential Information to those Representatives of the receiving Party who have a need to know such Confidential Information for purposes of this Agreement, provided that such Representatives have been advised of the confidential nature of the Confidential Information and the receiving Party's obligations under this Article VII. Such Confidential Information shall not be used for any purpose other than carrying out the obligations and objectives of this Agreement. Each Party shall take reasonable care to prevent its Representatives from prohibited or unauthorized disclosure of the Confidential

Information and shall be responsible for its Representatives unauthorized use or disclosure of Confidential Information received from the disclosing Party.

#### **701.3 No Disclosure**

The receiving Party agrees that without the written consent of the disclosing party's Authorized Representative, it shall not disclose Confidential Information received from the disclosing Party to any third party, other than its respective Representatives who have a need to know such Confidential Information for purposes of this Agreement.

The Department agrees that without the prior written consent of the Consultant, it shall not disclose Confidential Information received from the Consultant or its Representatives under this Article to a Competitor of the Consultant, even if such person or entity which the Department intends to disclose the Confidential Information is a Representative of the Department. For purposes of this Article, "Competitor of the Consultant" shall mean any person or entity which (i) is engaged in the manufacture or sale of parts, components or equipment similar to or of a type manufactured or sold by Consultant and its affiliates (including, without limitation, aeroderivative gas turbines, generators, or parts for aeroderivative gas turbines or generators), or (ii) is engaged in the provision of services similar to any services to be provided by Consultant under this Agreement, or (iii) is an affiliate of a person or entity engaged in any of the activity described in (i) or (ii) above in this paragraph.

#### **701.4 Notification of Disclosure**

The receiving Party's Authorized Representative shall promptly notify the disclosing Party upon learning of any unauthorized disclosure or use of any Confidential Information by the receiving Party or any of its Representatives. If a Party is requested or required, pursuant to any applicable law, order, regulation or ruling, discovery request, subpoena, or similar process to disclose any of the Confidential Information, such Party shall provide prompt written notice to the disclosing Party of such request or requirement so that at the disclosing Party's expense, the disclosing Party can seek a protective order or other appropriate remedy concerning such disclosure.

#### **701.5 Return of Confidential Information**

At any time upon the request of the disclosing Party, the receiving Party shall promptly return Confidential Information received from the disclosing Party (provided, however, the receiving Party shall be permitted to redact its own analyses, compilations or other material) and each Party's confidentiality obligations hereunder shall continue thereafter for the term of this Agreement.

At the disclosing Party's request, the receiving Party shall return or destroy all Confidential Information provided by the disclosing Party.

This provision shall not require the return of any Deliverables provided by the Consultant to the Department as required under a Task Order.

#### **701.6. No License Rights**

Supplying of Confidential Information shall not be considered to provide any license or proprietary rights, including any implied patent license.

#### **701.7 Remedies**

If either Party, inadvertently or otherwise, makes an unauthorized disclosure of the other Party's Confidential Information to a third party, the violating Party shall promptly take reasonable action to recover the improperly disclosed Confidential Information, execute a retroactive protective agreement with the unauthorized third party if practicable and promptly notify the disclosing Party whose information was improperly disclosed, and the receiving Party will use reasonable efforts to provide complete information about the unauthorized disclosure and the corrective measures being taken. If the receiving Party uses the disclosing Party's Confidential Information in an unauthorized manner, the receiving Party shall promptly halt such unauthorized use and notify the disclosing Party of the unauthorized use. The Parties agree that monetary damages are inadequate for any material breach involving an unauthorized disclosure or use when the disclosing Party reasonably believes said breach will cause it to suffer significant business harm. If the disclosing Party reasonably believes, based on the facts, it will suffer material harm from the unauthorized disclosure or use and the corrective measures being taken by the violating Party are inadequate to mitigate this harm, the Parties agree the disclosing Party shall be entitled to seek prompt injunctive relief. Both Parties other legal and equitable remedies and defenses remain unchanged by this provision except that each Party specifically agrees that any damages shall be limited to direct actual damages and in no event shall such damages include any indirect, consequential damages or punitive damages.

#### **702. Survival of Provisions**

The provisions of this Article VII, Confidentiality and Restrictions on Disclosure, and Reference Checks shall survive termination and expiration of this Agreement.

#### **703. Reference Checks**

To the extent permitted by applicable law, the Department may conduct reference checks on the Consultant, its employees, agents, and Subconsultants who shall have, or may have, access to Department customer, employee, power system, or water system information and data during performance of this Agreement. The Consultant recognizes the highly sensitive nature of such information and data and agrees to cooperate with the Department and provide, to the extent permitted by applicable law and Consultant's privacy obligations to its employees, agents, and Subconsultants, whatever information the Department requires in order to conduct reference checks. The Department may



request changes to Consultant and Subconsultant personnel pursuant to Section 403.2 of this Agreement in response to reference check information, and the Consultant shall accommodate such request for personnel changes.

## ARTICLE VII TERMINATION AND SUSPENSION

### 801. Termination for Convenience

The Department may terminate this Agreement, and all the associated Task Orders, for the Department's convenience upon its Authorized Representative giving at least thirty (30) calendar days written notice to the Consultant prior to the intended effective date of such termination. The effective date of such termination shall be specified in the termination notice.

After receipt of a notice of termination, unless otherwise agreed by the parties, the Consultant shall:

1. Stop the Work on all Task Orders issued under the Agreement by the termination effective date except to the extent specified in the notice of termination.
2. Deliver to the Department, within thirty (30) calendar days after the termination effective date, any and all data, reports, other documents, and Deliverables, or portions thereof, if any, prepared pursuant to this Agreement prior to the termination effective date and not already delivered hereunder.
3. Transfer to the Department title to completed Parts, (to the extent that title has not already been transferred) in the manner and at the times and to the extent directed by the Department in the termination notice.

The amount due the Consultant by reason of termination for the Department's convenience shall be determined as follows:

1. The Department shall pay the Consultant for all Work completed prior to the termination effective date and delivered no later than thirty (30) calendar days after the termination effective date.
2. The Department shall also pay the Consultant on a percentage completed basis for the uncompleted Parts and Services in process as of the termination effective date, plus any unreimbursed additional direct expenses reasonably incurred by the Consultant as a result of the termination.

The Department may terminate this Agreement or individual Task Order(s) for cause by giving the Consultant a written notice of a material breach of this Agreement. The Consultant shall have ten (10) calendar days from the date of the Department's written notice of breach to cure, or diligently commence to cure such breach. The Department's written notice of breach shall include a time and location for the Parties' Authorized Representatives to meet and discuss the events giving rise to the breach and any steps which may be taken to avoid termination. Such meeting shall be scheduled within ten (10) calendar days of the date of the notice of breach. If the Consultant is unable or unwilling to cure, or diligently commence to cure such breach, or to meet to discuss the breach as provided herein, the Department may terminate this Agreement or individual Task Order(s) anytime thereafter upon providing the Consultant written notice of termination. It shall be deemed a material breach if Consultant violates Section 10.36.3(c) and/or Section 10.37.5 of the Los Angeles Administrative Code

If the Department terminates this Agreement or individual Task Order(s) as provided above, the Department shall pay the Consultant for that portion of the Task Order's price allocable to the Parts completed or Services performed prior to the effective date of the termination. If the payments received by the Consultant as of the effective date of such termination are in excess of the Task Order's price allocable to the Parts completed or Services performed prior to the effective date of the termination, the Consultant shall return any overpayment to the Department. In addition, the Consultant shall pay to the Department an amount equal to the difference between that portion of the Task Order price allocable to the terminated Work and such actual and reasonable amount paid by the Department to another vendor to complete the same Work.

In the event the Department commits a material breach of a Task Order or becomes insolvent/bankrupt, the Consultant may suspend or terminate such Task Order (or any affected portion thereof) for the Department's default in accordance with this Section by giving the Department written notice of breach. The Department shall have fifteen (15) calendar days from the date of the Consultant's written notice of breach to cure, or diligently commence to cure, the breach. The Consultant's written notice of breach shall include a proposed time and location for the Parties' Authorized Representatives to meet and discuss the events leading to breach and any steps which may be taken to avoid termination. Such meeting shall be scheduled within ten (10) calendar days of the date of the notice of termination. If the Department is unable or unwilling to cure, or diligently commence to cure such breach, or meet to discuss the termination as provided herein, the Consultant may terminate the applicable Task Order any time thereafter upon providing the Department written notice of termination. Any failure of the Department to make a payment when due shall constitute a material breach of the applicable Task Order.

If the Consultant terminates a Task Order as provided above, the Department shall pay the Consultant for all Work completed prior to the effective date of termination, a percentage completed basis for the uncompleted Parts and Services in process as of the

termination effective date, and expenses reasonably incurred by the Consultant in connection with such termination.

#### **803 Suspension of Work**

The Department may orally direct the Consultant to suspend, and to subsequently resume performance of all or any of the Work. If the Department directs the Consultant to suspend or resume the Work, such direction shall be confirmed in writing within two (2) calendar days. In the event that the Department directs the Consultant to suspend Work, the schedule and price for the suspended Work shall be equitably adjusted as appropriate in accordance with the provisions of Section 501.4 of this Agreement. Suspension does not relieve the Department of its obligation to make payment for the Work completed at the time of suspension.

### **ARTICLE IX AMENDMENTS AND CHANGE TO THE AGREEMENT**

#### **901 Amendments**

Any changes in the term of this Agreement, changes in the scope of work to be provided by the Consultant, and any increase or decrease in the Total Compensation Amount, shall be incorporated into this Agreement by a written amendment executed by the Board of Water and Power Commissioners and the person authorized to bind the Consultant thereto.

Agreement extensions that result in an Agreement term of greater than three (3) years in the aggregate may require City Council approval pursuant to Section 373 of the Charter of the City of Los Angeles (hereinafter "City Charter").

#### **902 Change Requests**

##### **902.1 Department Change Requests**

During the term of this Agreement, the Department shall have the right to request changes to the Work within the general scope of work contemplated by Section 401, "Parts and Services to be Provided by the Consultant". A "change," as that term is used in this Section includes adjustments in Work made within the scope of the work to be provided by the Consultant established in Section 401 of this Agreement, adjustments to schedule, and changes which do not extend the term of the Agreement or increase the authorized amount set forth in Section 301.1 of this Agreement. The Department shall make a formal written request with respect to each change it desires to make.

##### **902.2 Change Order Development**

Within ten (10) calendar days (or such other additional time as may be reasonably required by the Consultant) following the Consultant's receipt of a Department's written change request, the Consultant, at its own expense, shall

prepare and deliver to the Department a written change order response that includes the following:

1. Impact that the requested change would have on the price or schedule for the given Task Order;
2. Impact of the requested change on any other Task Orders and any other part of this Agreement.
3. Any required and/or recommended modifications to the changes in the scope of Work requested in the change request.

The Consultant may suggest to the Department that changes be made to the Work within the general scope of the work contemplated in this Agreement. All such suggested changes shall be made in accordance with the provisions of this Section.

Upon the Department's review of the Consultant's change order response, the Department and Consultant shall cooperate to develop a mutually agreeable Change Order that details the Parties' agreement with respect to any changes in the given Task Order. To that end, informal exchanges between the Consultant and Department are encouraged to aid in the development of a Change Order.

#### **902.3 Change Order Approval and Authorization**

Upon agreement on the terms of a Change Order, the Department's Authorized Representative, or their designee established in writing, the Department shall execute and deliver to the Consultant the Change Order (hereinafter "Change Order Notice") for signature by Consultant's Authorized Representative. The Change Order Notice shall contain the full and complete agreement between the Parties regarding the modifications to the scope of Work in the Task Order.

#### **903 Order of Precedence**

In the event of any conflict between the following documents, all of which are hereby incorporated by reference into this Agreement, the order of precedence shall be as follows:

- (a) Latest Amendment
- (b) This Agreement (including its exhibits)
- (c) Latest Change Order
- (d) The Task Order
- (e) Other reference documents

(f) Consultant's response to RSSP 90306

ARTICLE X  
DISPUTES

1001 Disputes

1001.1 Dispute Resolution

Both Parties agree to make good faith efforts to reach a resolution in cases of dispute or default. If a resolution cannot be reached in the event of a dispute or a default, including one that could result in termination of a Task Order or this Agreement, the Parties shall schedule a meeting of their Authorized Representatives to make a good faith attempt to resolve the issues in dispute. Such a dispute resolution meeting shall be scheduled and held within ten (10) days of a written request by either Party (or such other time period as may be agreed to by the Parties). The meeting shall allow for a detailed presentation of each Party's views on the issues and potential solutions to the dispute or default. If possible, the meeting should result in an agreed upon course of action to resolve the dispute or default. If agreement cannot be reached between the Parties' Authorized Representatives, the Parties shall schedule a meeting between higher management to resolve the dispute within ten (10) days (or such other time period as may be agreed to by the Parties)

Notwithstanding the foregoing, either Party shall have the right at any time to bring a claim, legal action or proceeding in court to resolve the dispute in accordance with the governing law and jurisdiction set forth in Exhibit E PSC 3, "Applicable Law, Interpretation, Enforcement and Severability".

1001.2 Continued Work

The Consultant and the Department shall continue to perform undisputed portions of the Work under this Agreement during any dispute.

1001.3 Claim Procedures

The provisions of Sections 5.169 and 5.170 (Div. 5, Ch. 10, Art. 1) of the Los Angeles Administrative Code and Section 350 of the City Charter shall govern the procedure and rights of the Parties with regard to claims arising from this Agreement. Nothing herein shall be construed as a waiver of the claim requirements set forth in Government Code 900 *et. seq.*

ARTICLE XI  
STANDARD PROVISIONS

11.01 Standard Provisions for Department Contract

Except as amended below, the Consultant shall comply with the *Standard Provisions for Department of Water and Power Professional Service Contracts* attached hereto as Exhibit E, and made a part hereof.

Table of Content, PSC-16 and PSC-25, is amended to read as follows:

PSC-16 Department Property Damage

PSC-25 Warranty and Warranty Responsibility of Consultant

PSC-8 is deleted in its entirety

PSC-11 is amended to read as follows:

The Consultant may not, unless it has first obtained the written permission of the Department:

- (a) Assign or otherwise alienate any of its rights hereunder; or
- (b) Delegate, subcontract, or otherwise transfer any of its on-site duties hereunder.

Such permission may be withheld at the Department's sole discretion for any reason or no reason at all since the award of this Agreement was based upon the personal services to be provided by the Consultant.

Provided that the Consultant may assign any of its accounts receivable under this Agreement to any party without the Department's consent; provided that the Consultant shall remain responsible for performing the work, fulfilling all warranty and other obligations hereunder, and issuing invoices to the Department. All payments by Department shall continue to be only payable to the Consultant. In the event of any assignment of its accounts receivables by Consultant, Consultant agrees to indemnify and hold harmless LADWP from and against any loss or expense incurred by LADWP as a result of claims for payment asserted by or on behalf of any third party who is the transferee, owner, or assignee of any interest in the accounts receivables described in this section to the extent such claim is based upon the accounts receivables assigned.

For the avoidance of doubt, in no event shall the Department be obliged to make a payment to any party other than the Consultant for Work provided under this Agreement.

PSC-12 is amended to read as follows:

The Department shall obtain, effectuate, pay for, and maintain in force any required permit, license, exemption, filing, registration and other authorization, including, but not limited to, building and environmental (including air) permits, Import licenses, and

environmental impact assessments required for Consultant's performance of its Work at a Department's Site(s), provided that the Consultant and its officers, agents, and employees shall be responsible to obtain, pay for, and maintain all licenses, permits, certifications and other documents necessary for the Consultant to generally conduct business and perform its Work. Such licenses, permits, certifications shall be specific to the State of California or regional regulatory agencies, as applicable to Consultant's Work under this Agreement. Consultant agrees to immediately notify the Department of any suspension, termination, lapse, non-renewal, or restriction of such licenses, permits, certifications, or other documents that may affect its lawful performance of this Agreement.

PSC-16 is amended to read as follows:

#### **Department Property Damage**

##### **A. Resulting Damage to Department GE Rotating Equipment**

Except to the extent limited by Section 1106 "Limitation of Liability" and except to the extent already covered under Consultant's Warranty obligations in PSC-25, Consultant shall bear the first \$10,000,000 USD per occurrence (the "Resulting Damage Coverage Cap") of the price for Work, including, but not limited to assessment, repair, replacement, and in & out costs, ("Repair of Resulting Damage Work"), along the common shaft of any Department GE (including Alstom) manufactured Aeroderivative and Heavy Duty Gas Turbine Generator(s) and GE (including Alstom) manufactured Steam Turbine Generator(s) required to repair any resulting physical damage ("Resulting Damage") from the (i) failure of a defective Part supplied under this Agreement during the Part's applicable warranty period, or (ii) the performance of a defective Service provided under the Agreement during the Services' applicable warranty period, in both cases, subject always to the limitations provided in PSC-25. For the avoidance of doubt, the price to repair the initially failing defective Part still under Warranty in accordance with PSC-25, shall be covered under Warranty and shall not be counted against the Resulting Damage Coverage Cap. The "initially failing or defective part" is a single part and not an assembly or group of parts or components, unless Consultant cannot determine whether it was a single part or an assembly of parts that failed or were defective.

The Department will notify Consultant in writing of any occurrence or event requiring Repair of Resulting Damage Work and will make the affected equipment available for correction. Consultant will correct any damage by, at its option, repairing and re-installing damaged components of the affected unit or delivering and installing necessary replacement Parts. Consultant will confer closely with the Department during the course of performing any Repair of Resulting Damage Work as to the Parts and Services that may be required. Any additional Repair of Resulting Damage Work authorized by the Department and provided by Consultant after the Resulting Damage Coverage Cap has been reached for a given occurrence or event shall be invoiced by the Consultant and paid by the Department in accordance with Article III of this Agreement. The terms of this Agreement shall apply to all Repair of Resulting Damage Work, unless otherwise expressly set out and agreed to by the Parties in writing.

The Consultant shall have no liability, responsibility or obligations whatsoever under this section to repair or replace any Non-OEM part damaged in the affected Department piece of equipment. Whereas a "Non-OEM part" means a part or component of an Aeroderivative, Gas, or Steam Turbine-Generator unit that was not manufactured by, under license from, or on behalf of or for the Consultant or any of its affiliates.

**B. Damage to Other Department Property**

Except to the extent limited by Section 1106 "Limitation of Liability" and except to the extent already covered under PSC-25 "Warranty" and PSC-16 Item A "Resulting Damage to Department GE Rotating Equipment", Consultant shall be responsible for any physical damage to Department property to the extent caused by Consultant's negligence in connection with this Agreement, provided that Consultant's aggregate liability in connection with this Agreement for such damage shall not exceed \$3,500,000 USD (the "Other Department Property Damage Coverage Cap").

**C. Maximum Damage Coverage**

Except to the extent of Consultant's warranty obligations under Section PSC-25, Consultant maximum liability for all claims for physical loss or damage to Department property arising from any Parts provided or Services performed under this Agreement shall not exceed \$10,000,000 USD for any given occurrence or event.

PSC-17 is amended to read as follows:

**Indemnification for Non-Design Professionals**

The Consultant undertakes and agrees to indemnify and hold harmless the City of Los Angeles, the Department of Water and Power, the Board of Water and Power Commissioners of the City of Los Angeles, and all of their officers and employees (the "Department Indemnified Parties"), and, at the option of the Department, to defend the Department Indemnified Parties from and against any and all suits and causes of action, claims, charges, damages, demands, judgments, civil fines and penalties, or losses of any kind or nature whatsoever, for (i) death, bodily injury, or personal injury to any person, including the Consultant's or Consultant's officers, employees, agents or Subconsultants of any tier, and (ii) damage or destruction to any third party physical property, to the extent (i) and/or (ii) are caused by the negligent acts, errors, omissions, or willful misconduct of the Consultant acting under this Agreement, except to the extent arising from the negligence or willful misconduct of the Department Indemnified Parties.

PSC-18 is amended to read as follows:

**A. General Statement**

Acceptable evidence of required insurance, from insurers with a AM Best rating of no less than A- VIII or otherwise acceptable to the Department, is required to be submitted by the Consultant and must be maintained current by the Consultant throughout the term of this Agreement. Said evidence of insurance must be on file with the Risk Management Section in order to receive payment under any agreement for services rendered, and in order to commence work under this Agreement.



**B. Applicable Terms and Conditions**

**1. Additional Insured Status Required**

Consultant shall procure at its own expense, and keep in effect at all times during the term of this Agreement, the types and amounts of insurance specified on the attached Contract Insurance Requirements page. The specified General Liability and Automobile Liability insurance shall also, either by provisions in the policies, or by other endorsement attached to such policies, include and insure City, its Department of Water and Power, its Board of Commissioners (hereinafter referred to as "Board"), and all of its officers, employees and agents, their successors and assigns, as Additional Insureds, but only to the extent of Consultant's negligent act, errors, or omissions in its performance of this Agreement, hereunder or other related functions performed by or on behalf of Consultant. Such insurance shall not limit or qualify the liabilities and obligations of the Consultant assumed under this Agreement.

**2. Severability of Interests and Cross Liability Required**

Each specified insurance policy shall contain a Severability of Interest and Cross Liability clause and a Contractual Liability Endorsement which shall also apply to liability assumed by the insured under this Agreement with the City of Los Angeles.

**3. Primary and Non-Contributory Insurance Required**

All such insurance shall be Primary and Noncontributing with any other insurance held by the City's Department where liability arises out of or results from the negligent acts, errors, or omissions of Consultant, its agents, employees, officers, assigns, or any person or entity acting for or on behalf of Consultant. Any insurance carried by the Department which may be applicable shall be deemed to be excess insurance and the Consultant's insurance is primary for all purposes despite any conflicting provision in the Consultant's policies to the contrary.

**4. Proof of Insurance for Renewal or Extension Required**

Consultant shall provide evidence of the required insurance at least ten (10) days after the expiration date of any of the policies required on the attached Contract Requirement page, showing that the insurance coverage has been renewed or extended and shall be filed with the Department.

**5. Submission of Acceptable Proof of Insurance and Notice of Cancellation**

Consultant shall provide proof to the Department's Risk Manager of all specified insurance and related requirements by written evidence of insurance on standard AcorD forms and applicable policy endorsements in compliance with the contractual terms and conditions of this Agreement. The documents evidencing all specified coverage shall be filed with the Department prior to Consultant beginning operations hereunder. Said proof shall contain at a minimum, the applicable policy number, the inclusive dates of policy coverages, and the insurance carrier's name. It shall provide that such insurance shall not be subject to cancellation, material reduction

in coverage or non-renewal except after written notice to the City Attorney of the City of Los Angeles at least thirty (30) calendar days prior to the effective date thereof. The notification shall be sent to: The Office of the City Attorney, Water and Power Division, Post Office Box 51111, JFB Room 340, Los Angeles, California 90051-0100.

6. Claims-Made Insurance Conditions

Should any portion of the required insurance be on a "Claims Made" policy, the Consultant shall, at the policy expiration date following completion of work, provide evidence that the "Claims Made" policy has been renewed or replaced with a retroactive effective date to the policy in place at the inception of the contract with the same limits, terms and conditions of the expiring policy.

7. Failure to Maintain and Provide as Cause for Termination

Failure to maintain and provide acceptable evidence of the required insurance for the required period of coverage shall constitute a breach of contract, upon which the Department may immediately terminate or suspend this Agreement.

8. Sub-Contractor Compliance

The Consultant shall be responsible for all sub-contractors' compliance with the insurance requirements with limits applicable to the scope of work being performed.

9. Specific Insurance Requirements

See Exhibit F, "Contract Insurance Requirements – Department of Water and Power."

C. Worker's Compensation

By signing this Agreement, Consultant hereby certifies that it is aware of the provisions of Section 3700 et. seq., of the Labor Code which requires every employer to be insured against liability for Worker's Compensation or to undertake self-insurance in accordance with the provisions of that Code, and that it will comply with such provisions at all such times as they may apply during performance of the work pursuant to this Agreement.

PSC-21 is amended to read as follows:

The Consultant hereby certifies that it will comply with the Americans with Disabilities Act 42, U.S.C. Section 12101 et seq., and its implementing regulations to the extent required by law. To the extent required by law, the Consultant will provide reasonable accommodations to allow qualified individuals with disabilities to have access to and to participate in its programs, services and activities in accordance with the provisions of the Americans with Disabilities Act. In accordance with the requirements of the Americans with Disabilities Act, the Consultant will not discriminate against persons with disabilities nor against persons due to their relationship or association with a person with a disability. Any subcontract entered into by the Consultant, relating to this

Agreement, to the extent allowed hereunder, shall be subject to the provisions of this paragraph.

PSC-22 is amended to read as follows:

Consultant shall maintain all records pertaining to this Agreement, including but not limited to, reports, documents, Deliverables, employee time sheets, records of financial transactions, and other evidence, regardless of form (e.g., machine readable media such as disk, tape, etc.) or type (e.g., databases, applications software, database management software, utilities, etc.), sufficient to verify that all items performed are properly invoiced under the Agreement. If the Consultant is required to submit pricing data in connection with this Agreement, the Consultant must maintain all records and documents necessary to permit adequate evaluation of the pricing data submitted, along with the computations and projections used. All records shall be retained, and shall be subject to examination and audit by Department personnel or by the Department's agents (herein after "Authorized Auditors"), for a period of not less than four (4) years following final payment made by the Department hereunder or the expiration date of this Agreement, whichever is later. The Consultant shall make said records or to the extent accepted by the Authorized Auditors, photographs, micro-photographs, etc. or other authentic reproductions thereof, available to the Authorized Auditors at the Department's offices upon reasonable request without charge. The Authorized Auditors will have the right to reproduce, photocopy, download, transcribe, and the like any such records, subject always to the confidentiality obligations under this Agreement. Any information provided by the Consultant on machine-readable media shall be provided in a format accessible and readable by the Authorized Auditors. The Consultant shall not, however, be required to furnish the Authorized Auditors with commonly available software.

Consultant shall be subject at any time with fourteen (14) calendar days prior written notice to audits or examinations by Authorized Auditors in accordance with this provision, relating to all billings and to verify compliance with all Agreement requirements relative to billing and invoicing documentation for Work performed.

Examinations and audits under this provision will be performed using generally accepted auditing practices and principles and applicable City, State and Federal government audit standards. For Consultants that utilize or are subject to FAR, Part 30 and 31, et seq. accounting procedures, or a portion thereof, examinations and audits will utilize such information.

To the extent that the Authorized Auditor's examination or audit reveals inaccurate, incomplete or non-current records, or records are unavailable, the records shall be considered defective.

Consistent with standard auditing procedures, the Consultant will be provided fifteen (15) calendar days to review the Authorized Auditor's examination results or audit and respond to the Department prior to the examination's or audit's finalization.

If the Authorized Auditor's examination or audit indicates the Consultant has been overpaid under a previous payment application, the Identified overpayment amount shall be paid by the Consultant to the Department within fifteen (15) calendar days of written notice to the Consultant of the Identified overpayment, provided that if Consultant disagrees that an overpayment has been made, the Consultant reserves the right to dispute the audit result to the extent permitted by law.

PSC-23 is amended to read as follows:

Task Order pricing for Work shall be established in accordance with Article V, "Task Order Development and Approval".

PSC-24 is amended to read as follows:

By signing this Agreement the Consultant pledges, under penalty of perjury, to comply with all applicable federal, state, and local laws in the performance of this Agreement, including but not limited to, laws regarding health and safety, labor and employment, wages and hours, and licensing laws which effect employees. Unless prohibited by law, the Consultant further agrees to provide written notice to the Department within thirty (30) calendar days after being notified or acquiring knowledge of the following: 1) that any government agency has initiated an investigation which may result in a finding that the Consultant, or any of its Subconsultants of any tier, is not in compliance with any applicable federal, state, and local laws in the performance of this Agreement; and 2) any findings by a government agency or court of competent jurisdiction that the Consultant, or any of its Subconsultants of any tier, has violated any applicable federal, state, and local laws in the performance of this Agreement.

Further, by signing this Agreement the Consultant pledges, under penalty of perjury, that the Consultant has not been found by a court of competent jurisdiction to have violated the California or Federal False Claims Act with an act of moral turpitude or committed a crime involving moral turpitude. The Consultant further agrees to notify the Department within thirty (30) calendar days of any adverse finding by a court of competent jurisdiction related to the Consultant's violation of the California or Federal False Claims Act with an act of moral turpitude or committed a crime involving moral turpitude.

The Consultant shall contractually obligate all Consultant Subconsultants to comply with all applicable federal, state, and local laws in the performance of this Agreement and report any governmental agency investigations or violations of such applicable federal, state, and local laws or violations of the California Federal False Act to the Department consistent with the provisions of this Section.

PSC-25 is amended to read as follows:

#### **Warranty and Warranty Responsibility of Consultant**

The Consultant warrants that the Services performed under this Agreement and/or any Task Order will be performed in a workmanlike manner, and recommendations for

corrective action made in connection with technical investigations, inspections performed under this Agreement and/or any Task Order will be based on the Consultant's best judgment considering the facts then known (collectively, the "Services Warranty"). The Services Warranty shall extend for twenty-four (24) months from the date of completion of the applicable Service. The Consultant warrants that the Parts and Deliverables provided under this Agreement shall be free from defects in design that results in an electrical, mechanical, or structural failure within the warranty period, materials, workmanship and title (collectively the "Parts and Deliverables Warranty"). The Parts and Deliverables Warranty shall expire of two years after the Parts are placed into operation or thirty (30) months after their delivery, whichever occurs first.

Should any failure to conform to the above warranties appear during the specified Services, Parts, and Deliverables warranty periods, the Consultant shall correct such nonconformity, at the Consultant's option, by re-performance, repair, or replacement of the non-conforming Services, Parts, or Deliverables as applicable.

The Department shall notify the Consultant promptly upon discovery of any failure of the Services, Parts, or Deliverables to conform to the foregoing warranties in this Section. If the Parties cannot initially determine or agree if defect or failure of a Service, Part, or Deliverable is a warrantable defect covered under PSC-25, then the Department shall issue a provisional Task Order to the Consultant to assess whether the defect is warrantable using established diagnostic methods. If the defect is determined to be a warrantable defect under PSC-25, then the Consultant shall not invoice for any remedial Work associated with the defect to the extent that remedial Work is covered under PSC-25. Re-performance, repairs, or replacements under warranty shall not renew or extend the applicable Parts or Services warranty period, provided however, that any such re-performance, repairs or replacement shall be re-warranted for the time remaining in the original warranty or one year after correction, whichever is longer, provided that, in no event shall any warranty period, including any extension thereof, extend for more than twenty-four (24) months from completion of the original Service or delivery of the original Part, as applicable.

In connection with any re-performance, repair, or replacement under warranty, the Consultant shall not be responsible for the disassembly or reassembly of equipment or the removal and reinstallation of equipment, unless such disassembly and reassembly activities were part of the Consultant's original scope as set forth in the Task Order under which a warranty non-conformity is alleged.

The Services Warranty and Parts and Deliverables Warranty are conditioned upon (a) the proper storage, installation, use, operation, and maintenance of the Parts in accordance with standards provided by the Consultant and prudent industry practices (provided that any specific storage instructions for Parts shall be delivery upon or prior to delivery); (b) the Department keeping reasonable records of operation and maintenance during the warranty period consistent with prudent industry practices, and providing Consultant reasonable access to those records; and (c) the modification or repair of Parts or Services only as provided by Consultant or authorized by Consultant in writing. Failure to comply with the foregoing conditions renders the Services Warranty and Parts and Deliverables Warranty null and void.

Except for Consultant's indemnification obligations under PSC-17 and Consultant's responsibilities for Department property damage under PSC-16, this PSC-25 sets forth the exclusive remedies for all claims based on failure of or defect in the Services performed or Parts and Deliverables provided by the Consultant under this Agreement and/or any Task Order, whether such claim, however instituted, is based on contract, warranty, indemnity, tort/extra-contractual liability (including negligence), strict liability or otherwise. The foregoing warranties set forth in this PSC-25 are exclusive and are in lieu of all other warranties and guarantees whether written, oral, implied or statutory. NO IMPLIED OR STATUTORY WARRANTY OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE SHALL APPLY.

PSC-27 is amended to read as follows:

Provision incorporated into Article VI "Ownership" of Agreement.

#### **11.02 Audit Cost Recovery**

If an examination or audit undertaken pursuant to the PSC-22 "Standard Provisions for Department of Water and Power Professional Service Contracts - Retention of Records, Audit, and Reports" provision of the Standard Provisions reveals that the Department has made an overpayment to the Consultant which is more than five percent (5%) of the billings reviewed, the Consultant shall pay all expenses and costs incurred by the Department's authorized auditors for such examination or audit. Such examination or audit expenses and costs shall be paid by the Consultant to the Department within fifteen (15) calendar days of written notice (with the appropriate supporting documentation) to the Consultant of such costs and expenses.

#### **11.03 Infringement of Intellectual Property Rights**

Consultant will defend, at its expense, and hold harmless the Department in any infringement claim, demand, proceeding, suit or action ("Infringement Action" hereinafter) against the Department, its officers, directors, agents, employees, or affiliates for any misappropriation of a trade secret, or infringement or violation, actual or alleged, direct or contributory, intentional or otherwise, of any patents, copyrights, trademarks, and service marks by Consultant (collectively "Intellectual Property Rights" hereinafter) in connection with the Work provided by Consultant under this Agreement, (1) on or in any design, medium, matter, plant, article, process, method, application, equipment, device, instrumentation, software, hardware, or firmware used by the Consultant in the performance of the Work under this Agreement; or (2) occurring as a result of the Department's actual or intended use of any Work provided hereunder in a manner intended under this Agreement. Consultant also shall indemnify the Department against any loss, cost, expense, liability, and damages finally awarded against the Department for settlement as a consequence of such Infringement Action.

Consultant, however, shall have no obligation or liability to the Department hereunder with respect to any Infringement Action to the extent such Infringement Action is based upon: (i) the combination or utilization of the Work with machines or devices by other

than the Consultant or under Consultant's authorization in a manner not reasonably anticipated under this Agreement or the applicable Task Order; (ii) the modification or alteration of any Work by any party other than by the Consultant or under the Consultant's authorization; or (iii) the failure of the Department to implement any written update provided to the Department by the Consultant adequately in advance to have prevented the Infringement Action.

Consultant's liability and obligations under this Article are conditioned upon the following conditions: (i) within twenty (20) working days, the Department shall notify Consultant in writing of any such Infringement Action under this Section; (ii) the Department shall give Consultant, at Consultant's expense, primary defense responsibility to direct and control the defense of any resultant litigation, negotiation, compromise, settlement, and appeals therefrom, consistent with the City Charter, particularly Article II, Sections 271, 272 and 273 thereof, including approval by the LADWP Board of Commissioners, which approval shall not be unreasonably withheld; (iii) the Department shall provide Consultant with the full disclosure and assistance that may be reasonably required to defend any such Infringement Action, and (iv) the Department shall make no admission of liability nor take any position adverse to Consultant, provided that the Department reserves the right to participate, including as co-counsel in the defense of the Infringement Action, at its own expense (including attorneys' fees).

If any part of the Work (a) becomes the subject of an Infringement Action, (b) is determined to have infringed any Intellectual Property right, or (c) has its use enjoined or license terminated, Consultant shall, at its expense, either: (i) procure for the Department the right to continue using said Work; (ii) replace the Work with a functionally equivalent, non-infringing product; or (iii) modify the Work so it becomes non-infringing. Exercise of any of the above-mentioned options selected by Consultant shall be done in a manner to minimize undue business interruption to the Department and to best achieve the intended benefits and use of the Work by the Department under the specifications herein. To the extent options (i), (ii), or (iii) above are determined to be commercially impracticable, Consultant shall instead refund the full purchase price of the infringing Work.

The rights and remedies available to the Department under this Section 1103 shall survive the expiration or other termination of this Agreement. Further, the rights and remedies under this Section 1103 provide the Consultant's entire liability for indemnification and defense of the Department against any and all claims of an Infringement Action.

This Section 1103 shall survive the expiration or other termination of this Agreement.

#### **1104 Avoidance of Conflicts of Interest**

Consultant will not accept any employment during the term of the Agreement from any other party if such employment presents a conflict of interest between the Department and the Consultant.

**11.05. Expansion of PSC-11 (Not Used)**

Incorporated into PSC-11, "Prohibition Against Assignment or Delegation", of Exhibit E of the Standard Provisions as amended.

**11.06. Limitation of Liability**

Except for losses resulting directly or indirectly from Consultant's willful misconduct, Consultant's warranty obligations under PSC-25, or for Consultant's indemnification obligations under PSC-17 "Indemnification Provisions", the total cumulative liability of Consultant on all claims of any kind, whether in contract, patent indemnity, tort (including negligence), strict liability, or otherwise, arising out of or related to the performance or breach of this Agreement (including Task Orders authorized under this Agreement), or from use of any Parts supplied under this Agreement, regardless of the applicability of Consultant insurance coverage or not, shall not exceed the greater of twenty-two (22) million US dollar or the total compensation paid by the Department for Task Orders issued under this Agreement. All liability of Contractor on all claims of any kind shall terminate no later than four (4) years after the expiration of the applicable warranty period specified in PSC-25, "Warranty and Warranty Responsibility of Consultant" of Exhibit E.

Consultant shall not be liable for loss of profit or revenues, loss of use of equipment or systems, interruption of business, cost of replacement power, cost of capital, downtime costs, increased operating costs, any special, consequential, incidental, indirect, or punitive damages, or claims of Department's customers for any of the foregoing types of damages.

**11.07. Delivery Terms, Title Transfer, Risk of Loss**

Title and risk of loss for any Parts provided to the Department by the Consultant under this Agreement shall transfer to the Department upon delivery. However, any Parts provided shall be subject to the Parts warranty as set forth in PSC-25. Unless otherwise provided for in a Task Order, Consultant shall deliver Parts to the Department Freight-on-Board (FOB) at the Site designated in the Task Order. Partial deliveries are permitted. Upon the Department's approval, the Consultant may deliver Parts in advance of the Task Order delivery schedule. Unless otherwise provided for in the Task Order, all quoted delivery times by Consultant are approximate. The Department shall visually inspect the Parts for damage and inventory the Parts within a reasonable time after delivery and shall notify Consultant if Parts delivered are damaged or do not correspond in quantity, type or price to those itemized in the shipping invoice or documentation, the Department shall so notify Consultant. The Department may withhold payment (or receive credit if payment has already been made) for those Parts not received and for those Parts delivered in a damaged condition until such Parts are supplied if missing or properly repaired or replaced if damaged.

Notwithstanding the foregoing, Consultant grants only a license, and does not pass title, to any software provided by Consultant under this Agreement.



**1108. Software, Remote Diagnostic Services, and Leases**

If Consultant provides any software to the Department, Consultant's standard Software License Addendum or Addenda shall apply. If Consultant provides remote diagnostic services to the Department, Contactor's standard Remote Diagnostic Services Addendum shall apply. If Consultant leases equipment to the Department, Contactor's standard Lease Addendum shall apply. Any such addendums incorporated into a given Task Order shall be mutually agreed upon by the Parties.

**ARTICLE XII  
ENTIRE AGREEMENT**

**1201. Complete Agreement**

This Agreement, together with the Exhibits hereto, completely and exclusively states the entire agreement of the Parties regarding its subject matter, and its terms govern, all prior proposals, agreements, or other communications between the Parties, oral or written, regarding such subject matter. No verbal or written agreement nor conversation with any officer or employee of either Party, nor any or all prior proposals shall affect or modify any of the terms and conditions of this Agreement. This Agreement shall not be modified except in accordance with Article IX, "Amendments and Change to the Agreement", signed on behalf of the Department and Consultant and by their duly authorized representatives. Any purported oral amendment to this Agreement shall have no effect.

**1202. Number of Pages and Attachments**

This Agreement is executed in two (2) duplicate originals, each of which is deemed to be an original. This Agreement includes forty-three (43) pages and nine (9) Exhibits, which constitute the complete understanding among the Parties.

**1203. Represented by Counsel**

Each Party acknowledges that it was represented by counsel in the negotiation and execution of this Agreement.

[Signature page follows].

IN WITNESS WHEREOF, the Parties have caused this Agreement to be executed by their duly authorized representatives.

DEPARTMENT OF WATER AND POWER  
OF THE CITY OF LOS ANGELES

BY BOARD OF WATER AND POWER  
COMMISSIONERS OF THE CITY OF  
LOS ANGELES

By: \_\_\_\_\_

MARCIE L. EDWARDS  
General Manager

Date: \_\_\_\_\_

And: \_\_\_\_\_

BARBARA E. MOSCHOS  
Secretary

General Electric Packaged Power, Inc.  
(Must be signed by two authorized  
representatives of firm)

By: \_\_\_\_\_

SELMA KIVRAN  
Vice President

Date: May 10<sup>th</sup>, 2016

By: \_\_\_\_\_

CONSTANCE RODTS  
Vice-President and Assistant Secretary

Date: 11 May 2016

APPROVED AS TO FORM AND LEGALITY  
MICHAEL N. FEUER, CITY ATTORNEY

MAY 13 2016

BY \_\_\_\_\_  
DICK P. BROERSMA  
DEPUTY CITY ATTORNEY

City Business Tax Registration Certificate Number: 0002508009-0001-4 (GEPII)  
Internal Revenue Service ID Number: 76-0556188 (GEPII)  
Agreement Number: 47401

**EXHIBIT A**  
**Fee Schedule**  
**(Consultant Labor Rates and Fees)**

**Commercial Rates for Aeroderivative Services – LADWP (90306) October 2015**

Hourly Rates U.S Dollars

	Labor Rate Per Hour
Rate Classification	Straight Time
Field Representative	\$237
Specialty Field Rep	\$343
Site Manager	\$349

Rate Terms

1. The normal workday and normal work week are defined as eight (8) consecutive hours and five (5) consecutive normal workdays, respectively, excluding any holidays or weekends.

Normal	1.00 x Standard rate
Overtime 1	1.50 x Standard rate
Overtime 2	2.00 x Standard rate
<48 hour notice	1.30 x Applicable rate
2. Overtime 1 applies to billable hours on Saturday and normal workday hours greater than 8 but less than 12 consecutive hours.
3. Overtime 2 applies to billable hours on Sundays, holidays and normal workday hours greater than 12 consecutive hours.
4. Travel time will be charged at the applicable hourly rate (i.e., standard rate times applicable multiplier(s) as set forth in 1 above) on a round trip basis with point of departure based on the location of the GE representative's office/service center.
5. Travel & living (T&L) for the continental U.S.A will be billed for any portion of a day worked by the GE representative responsible for providing the service, as follows:

T&L	\$350 per day per employee
-----	----------------------------
6. Minimum billing of 8 hours for all services provided, including standby time.
7. All rates are based on this Agreement.

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All charges are USD/HR

**GE's global services network provides multiple levels of technical support for your aeroderivative gas turbines as follows:**

Field services representative

Perform the maintenance action as well as provide technical advice based on good engineering, manufacturing, installation and operation practices applicable to the equipment. Such services also include testing, adjustment, and installation and start-up. Field engineering services does not include supervision of purchaser's agents or other contractors.

Specialty field representative

May be any of the following:

LADWP – General Electric Packaged Power, Inc.  
Agreement No. 47401  
Exhibit A – Fee Schedule (Consultant Labor Rates and Fees)

**EXHIBIT A**  
**Fee Schedule**  
**(Consultant Labor Rates and Fees)**

- Gas turbine DLE mapper: Specialist skilled in methods required for adjusting the dry low Nox system to help optimize gas turbine emissions and life expectancy of combustion system components.
- Laser alignment: Specialists utilizing GE proprietary digital laser alignment equipment, technology, and fleet data, to help optimize internal component alignment and potentially provide significant reductions in outage duration over conventional alignment.
- Controls programming.
- Boro-blend: Specialists trained at blending damage to the HPC/LPC blades through the borescope ports.
- Excitation: Specialists skilled in the start-up and troubleshooting of excitation systems interfacing circuits, breakers, and power systems.
- Vibration: Specialists experienced in vibration data acquisition, vibration machinery diagnostics, rotor balance analysis, and recommendations on installation of balance weights.
- Diagnostics: Specialists skilled in performance diagnostic tests data analysis, such as plant evaluations, equipment, performance services and general consulting for plant performance issues.

**Site manager**

Manages all aspects of GE's field services work and coordinates all GE activities on site.

**Notes:**

**Applicable rates**

The normal work week is five consecutive eight-hour days, typical to specific countries, contact your regional customer service manager. Time in excess of the normal workday/work week will be billed at the overtime rate. Over Time (OT) applies to billable hours on Saturdays and normal workday hours greater than 8 hours and less than 12 hours. Double Time (DT) applies to billable hours on Sundays, holidays and normal workday hours greater than 12 hours. OT/DT will be charged as applicable to local labor laws.

**Standby time**

If the field service technician is requested to wait at the site location, standby time will be charged at minimum 8 hours per day at the applicable rate (i.e., standard rates including applicable multipliers) as set forth in the rate sheet. If the customer does not request the technician to wait, no charges will be due, the technician will not be available to work and, the technician is considered un-assigned and free to be assigned to other projects.

**Working hours**

Individual maximum working hours are 12 hours per day not to exceed 84 hours per fiscal week. Exceptions to the maximum 12 hour workday must be agreed to PRIOR to work commencing with the regional customer service manager up to a maximum of 14 hours per day per individual (followed by an appropriate 10 hour rest cycle) but not to exceed 84 hours per week. Unless otherwise contracted, working hours do not include the following: lunch or daily travel less than 30 minutes per leg between lodging and work location. Contact your local regional field service office for further clarification. In situations where local regulations or customer policies exist regarding on-duty limitations, the more conservative procedure shall take precedence.

LADWP – General Electric Packaged Power, Inc.  
Agreement No. 47401  
Exhibit A – Fee Schedule (Consultant Labor Rates and Fees)

**EXHIBIT A**  
**Fee Schedule**  
**(Consultant Labor Rates and Fees)**

**Travel time**

Travel time will be charged at the applicable hourly rate as set forth in the rate sheet, on a round trip basis, from the GE representative's point of dispatch.

**Holidays**

Holidays are specific and double time rates are applicable. A holiday schedule can be provided upon request.

**Rest and recreation:**

Due to local labor laws, Environmental Health and Safety (EHS) regulations and GE policy, field service personnel will need to rotate out of work sites on Rest and Recreation (R&R) after being onsite for certain duration of time. In such circumstances, costs related to R&R travel will be charged to the customer at current prevailing rates plus applicable multipliers.

**EXHIBIT B**  
**Allowable Travel and Living Expenses**

The Department will reimburse the Consultant, at actual cost, for reasonable, necessary, authorized and approved incidental expenses while performing the work, as follows:

Travel and Living (T&L) for the continental USA will be billed for an portion of a day worked by the GEL representative responsible for providing the services, as follows:

Travel & Living Per-Diem at \$350 per day per employee

This Per-Diem rate is all inclusive that includes, and not limited to:

- 1.0 Air fare
- 2.0 Car rental
- 3.0 Meals
- 4.0 Hotel and Lodging
- 5.0 Mileage

No additional markup or travel and living expenses will be charged.

**EXHIBIT C**  
**List of Subconsultants**

The following subconsultants are authorized to work on the Project:

<b>Name</b>	<b>Special Expertise of Firm</b>	<b>Anticipated Task/Service Responsibilities</b>	<b>Location</b>	<b>Firm Type (SBE/DVBE)</b>	<b>Anticipated Compensation*</b>
<b>Granite</b>	<b>Technical Field Services</b>	<b>Technical Field Services</b>	<b>Tampa, FL</b>	<b>OBE</b>	<b>~\$98,000 per outage</b>
<b>JRC Transportation</b>	<b>Transportation &amp; Shipping Services</b>	<b>Transportation &amp; Shipping Services</b>	<b>Unionville, IN</b>	<b>OBE</b>	<b>~\$50,000 per outage</b>
<b>Total Lubrication Management</b>	<b>Oil Filtration</b>	<b>Oil Filtration</b>	<b>Long Beach, CA</b>	<b>OBE</b>	<b>~\$55,000 per outage</b>
<b>Woodward Inc.</b>	<b>Control Valve Services</b>	<b>Control Valve Services</b>	<b>Fort Collins, CO</b>	<b>OBE</b>	<b>~\$55,000 per outage</b>

\* Subconsultant participation is estimated and may be modified to reflect actual services requested.



**EXHIBIT D**  
**List of Key Consultant Personnel**

The following people are designated as Consultant's Key Personnel:

<b>Name</b>	<b>Project Position</b>	<b>Labor Category</b>	<b>Location</b>	<b>Special Expertise</b>	<b>No. of Years Employed by Consultant/ Experience</b>
<b>Tim Wahl</b>	<b>Customer Service Manager</b>	<b>Customer Service</b>	<b>California</b>	<b>Program Management</b>	<b>&gt;25 years</b>
<b>Kevin Cunningham</b>	<b>Services North America Leader</b>	<b>Customer Service</b>	<b>Texas</b>	<b>Services Leadership</b>	<b>&gt;10 years</b>
<b>Rachel Danek</b>	<b>Product Support Engineering</b>	<b>Gas Turbine Engineer</b>	<b>Texas</b>	<b>Services Engineering Support</b>	<b>&gt;5 years</b>
<b>Mike Camp</b>	<b>Resource Manager</b>	<b>Field Service Resource Manager</b>	<b>California</b>	<b>Field Service Support</b>	<b>&gt;20 years</b>
<b>David Brownell</b>	<b>Senior Engineer/Technologist</b>	<b>LMS100 Product Engineer</b>	<b>Florida</b>	<b>LMS100 Product Engineer</b>	<b>&gt;25 years</b>
<b>Mark Knowles</b>	<b>Senior Engineer/Technologist</b>	<b>LMS600 Product Engineer</b>	<b>Florida</b>	<b>LMS600 Product Engineer</b>	<b>&gt;25 years</b>
<b>Quan Dinh</b>	<b>Houston Service Center Manager</b>	<b>Service Center Manager</b>	<b>Texas</b>	<b>Overhaul Shop Management</b>	<b>&gt;10 years</b>

*[Note: all Labor categories listed should also appear on Exhibit A Fee Schedule (Consultant Labor Rates and Fees). Any subconsultant personnel that are key to the Project should also be included in this Exhibit]*

LADWP – General Electric Packaged Power, Inc.  
Agreement No. 47401  
Exhibit C – List of Key Consultant Personnel

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**PSC-1      Construction of Provisions and Titles Herein**

All titles or subtitles appearing herein have been inserted for convenience and shall not be deemed to affect the meaning or construction of any of the terms or provisions hereof. The language of this Agreement shall be construed according to its fair meaning and not strictly against the Department or the Consultant. The word "Consultant" herein and in any amendment hereto includes the Party or Parties identified in this Agreement wherein this Exhibit is incorporated by reference; the singular shall include the plural; if there shall be more than one Consultant herein, unless expressly stated otherwise, their obligations and liabilities hereunder shall be joint and several; use of feminine, masculine, or neuter gender shall be deemed to include the genders not used.

**PSC-2      Number of Originals**

The number of original texts of this Agreement shall be equal to the number of the Parties hereto, one text being retained by each Party.

**PSC-3      Applicable Law, Interpretation, Enforcement and Severability**

Each Party's performance hereunder shall comply with all applicable laws of the United States of America, the State of California, and the City of Los Angeles, including but not limited to laws regarding health and safety, labor employment, wage and hours, workers compensation, and licensing laws which affect employees. Consultant shall comply with new, amended, or revised laws, regulations, and/or procedures that apply to the performance of this Agreement.

This Agreement was made and entered into in the City of Los Angeles and shall be governed by, interpreted and enforced in accordance with the laws of the State of California and the City of Los Angeles, without regard to conflicts of laws principles. All litigation arising out of, or relating to, this Agreement shall be brought in a State or Federal court in the County of Los Angeles in the State of California. The Parties irrevocably agree to submit to the exclusive jurisdiction of such courts in the State of California and waive any defense of *forum non conveniens*.

If any part, term or provision of this Agreement shall be held invalid, void, illegal, unenforceable, or in conflict with any law of a federal, state or local government having jurisdiction over this Agreement, the validity of the remaining parts, terms or provisions shall not be affected or impaired thereby.

The provisions of this section shall survive the expiration or termination of this Agreement.

**PSC-4      Time of Effectiveness**

Unless otherwise provided, this Agreement shall take effect when all of the following events have occurred:

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- (a) This Agreement has been signed on behalf of the Consultant by the person(s) authorized to bind the Consultant hereto.
- (b) This Agreement has been approved by the City Council or by the Board, inclusive of City Council review period, officer, or employee authorized to give such approval.
- (c) The Office of the City Attorney has indicated in writing its approval of this Agreement as to form and legality.
- (d) This Agreement has been signed on behalf of the Department by the person designated by the Board, officer or employee authorized to enter into this Agreement.

**PSC-5 Integrated Agreement**

This Agreement sets forth all of the rights and duties of the Parties with respect to the subject matter hereof, and replaces any and all previous agreements and understandings, whether written or oral, relating hereto. This Agreement may be amended only as provided for in paragraph PSC-6.

**PSC-6 Amendment**

All amendments hereto shall be in writing and signed on behalf of both Parties by the persons authorized to bind the Parties hereto.

**PSC-7 Excusable Delays**

In the event that performance on the part of any Party hereto shall be delayed or suspended as a result of circumstances beyond the reasonable control and without the fault or negligence of said Party, none of the Parties shall incur any liability to the other Parties as a result of such delay or suspension. Circumstances deemed to be beyond the control of the Parties hereunder shall include, but are not limited to, acts of God or of the public enemy; insurrection; fires; floods; epidemics; quarantine restrictions; strikes; freight embargoes; to the extent that they are not caused by the Party's willful or negligent acts or omissions, and to the extent that they are beyond the Party's reasonable control.

**PSC-8 Breach**

Except for excusable delays as defined in PSC-7, if any Party fails to perform, in whole or in part, any promise, covenant, or agreement set forth herein, or should any representation, warranty, certification or other statement made by it be untrue, any aggrieved Party may avail itself of all rights and remedies, at law or equity, in the courts of law.

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**PSC-9      Waiver**

A waiver of a default of any part, term, or provision of this Agreement shall not be construed as a waiver of any succeeding default or as a waiver of the part, term or provision itself. A Party's performance after the other Party's default shall not be construed as a waiver of that default.

**PSC-10      Independent Consultant**

The Consultant is acting hereunder as an independent contractor and not as an agent or employee of the Department or the City of Los Angeles, and all of the terms and conditions of this Agreement shall be interpreted in light of that relationship. The Consultant, including Consultant's subconsultants, suppliers, employees, and agents, shall not represent or otherwise hold out itself or any of its directors, officers, partners, employees, or agents to be an agent or employee of the Department for any purpose whatsoever. The Consultant shall not be entitled to any Department or City of Los Angeles benefits, including but not limited to, vacation, sick leave, Workers' Compensation, or pension.

**PSC-11      Prohibition Against Assignment or Delegation**

The Consultant may not, unless it has first obtained the written permission of the Department:

- (a) Assign or otherwise alienate any of its rights hereunder, including the right to payment; or
- (b) Delegate, subcontract, or otherwise transfer any of its duties hereunder.

Such permission may be withheld at the Department's sole discretion for any reason or no reason at all since the award of this Agreement was based upon the personal services to be provided by the Consultant.

**PSC-12      Licenses and Certifications**

The Consultant and its officers, agents, and employees shall obtain and maintain all licenses, permits, certifications and other documents necessary for the Consultant's performance hereunder and shall pay any fees required therefor. Such licenses, permits, certifications shall be specific to the State of California or regional regulatory agencies, as applicable to Consultant's services, work, task, and deliverables pursuant to this Agreement. Consultant agrees to immediately notify the Department of any suspension, termination, lapse, non-renewal, or restriction of such licenses, permits, certifications, or other documents.

**PSC-13      Non Discrimination/Equal Employment Practices/Affirmative Action**

**Non Discrimination and Equal Employment Practices**

The Consultant shall not discriminate in employment practices against any employee or applicant for employment because of race, religion, national origin, sex, age, or physical handicap. The Consultant

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shall comply with the terms of the "Non-Discrimination and Equal Employment Practices" (2 pages) affidavit.

**Affirmative Action Plan**

The Consultant shall have an Affirmative Action Plan on file with the Director of Supply Chain Services. The Consultant shall comply with the requirements of the City of Los Angeles and shall comply with the terms of the "Affirmative Action Plan" (3 pages) affidavit.

An Affirmative Action Plan shall be in effect and on file with the Department for the duration of the contract period.

**PSC-14      Claims for Labor and Materials**

The Consultant shall promptly pay, when due, all amounts payable for labor and materials furnished in the performance of this Agreement so as to prevent any lien or other claim under any provision of law from arising against the Department or City of Los Angeles or any of their respective property (including reports, documents, and other tangible matter produced by the Consultant hereunder), against the Consultant's rights to payments hereunder, and shall pay all amounts due under the Unemployment Insurance Act with respect to such labor.

**PSC-15      Los Angeles City Business Tax Registration Certificate Required**

The Consultant represents that it has obtained and presently holds a Business Tax Registration Certificate(s) required by the City of Los Angeles Business Tax Ordinance (Article 1, Chapter II, Section 21.00 and following, of the Los Angeles Municipal Code). For the term covered by this Agreement, the Consultant shall maintain, or obtain as necessary, all such Certificates required under said ordinance and shall not allow any such Certificate to be revoked or suspended.

**PSC-16      RESERVED**

**PSC-17      Indemnification Provisions**

**Indemnification for Non-Design Professionals**

Except for the gross negligence or willful misconduct of the Department, the Consultant undertakes and agrees to defend, indemnify and hold harmless the Department, the City of Los Angeles, including but not limited to any of its boards, commissioners, officers, agents, employees, assigns and successors in interest (hereinafter, collectively, "Indemnitees") from and against any and all suits and causes of action, claims, losses, demands, penalties, judgments, costs, expenses and disbursements of any kind or nature whatsoever, including but not limited to attorney's fees (including allocated costs of internal counsel) and costs of litigation, damage, obligation or liability of any kind or nature whatsoever, in any manner arising by reason of, incident to, or connected in any manner to performance, non-performance or



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breach of this Agreement, or willful misconduct or any other act, error or omission by or of the Consultant or Consultant's officers, employees, agents or subconsultants of any tier, including but not limited to any such act, error or omission or willful misconduct that results in death or injury to any person, including but not limited to Consultant, Consultant's officers, employees, agents, and subconsultants of any tier, or damage or destruction to property of any kind, of either Party hereto, or of third Parties, or loss of use (hereinafter, collectively, "Indemnified Liabilities"). The provisions of this paragraph shall survive expiration or termination of this Agreement, and shall be in addition to, and not exclusive of, any other rights or remedies which Indemnitees have at law, in equity, under this Agreement or otherwise. To the extent that the undertakings to defend, indemnify, pay and hold harmless set forth in this subsection may be unenforceable in whole or in part because they are violative of any law or public policy, Consultant shall contribute the maximum portion that it is permitted to pay and satisfy under applicable law to the payment and satisfaction of all Indemnified Liabilities incurred by Indemnitees or any of them. The provisions of this paragraph shall survive the expiration or termination of this Agreement.

**PSC-18 Insurance**

**A. General Statement**

Acceptable evidence of required insurance, from insurers acceptable to the Department, is required to be submitted by the Consultant and must be maintained current by the Consultant throughout the term of this Agreement. Said evidence of insurance must be on file with the Risk Management Section in order to receive payment under any agreement for services rendered, and in order to commence work under this Agreement.

**B. Applicable Terms and Conditions**

**1. Additional Insured Status Required**

Consultant shall procure at its own expense, and keep in effect at all times during the term of this Agreement, the types and amounts of insurance specified on the attached Contract Insurance Requirements page. The specified insurance shall also, either by provisions in the policies, by City's own endorsement form or by other endorsement attached to such policies, include and insure City, the Department, the Board, and all of their respective officers, employees and agents, their successors and assigns, as additional insureds (except for Professional Liability and Workers' Compensation), against the area of risk described herein as respects Consultant's acts or omissions in its performance of this Agreement, hereunder or other related functions performed by or on behalf of Consultant. Such insurance shall not limit or qualify the liabilities and obligations of the Consultant assumed under this Agreement.

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2. Severability of Interests and Cross Liability Required

Each specified insurance policy (other than Workers' Compensation and Employers' Liability and Property coverage) shall contain a Severability of Interest and Cross Liability clause which states, "It is agreed that the insurance afforded by this policy shall apply separately to each insured against whom claim is made or suit is brought except with respect to the limits of the company's liability," and a Contractual Liability Endorsement which shall state, "Such insurance as is afforded by this policy shall also apply to liability assumed by the insured under this Agreement with the City of Los Angeles."

3. Primary and Non-Contributory Insurance Required

All such insurance shall be Primary and Noncontributing with any other insurance held by the Department where liability arises out of or results from the acts or omissions of Consultant, its agents, employees, officers, assigns, or any person or entity acting for or on behalf of Consultant. Any insurance carried by the Department which may be applicable shall be deemed to be excess insurance and the Consultant's insurance is primary for all purposes despite any conflicting provision in the Consultant's policies to the contrary.

4. Deductibles Subject to Department's Discretion

Deductibles and/or self-insured retentions shall be at the sole discretion of the Risk Manager of the Department (hereinafter referred to as "Risk Manager"). The Department shall have no liability for any premiums charged for such coverage(s). The inclusion of the Department, its board, and all of its officers, employees and agents, and their agents and assigns, as additional insureds, is not intended to, and shall not, make them, or any of them a partner or joint venturer with Consultant in its operations.

5. Proof of Insurance for Renewal or Extension Required

At least ten (10) days prior to the expiration date of any of the policies required on the attached Contract Requirement page, documentation showing that the insurance coverage has been renewed or extended shall be filed with the Department. If such coverage is canceled or reduced in coverage, Consultant shall, within fifteen (15) days of such cancellation or reduction of coverage, file with the Department evidence that the required insurance has been reinstated or provided through another insurance company or companies.

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6. Submission of Acceptable Proof of Insurance and Notice of Cancellation

Consultant shall provide proof to the Risk Manager of all specified insurance and related requirements either by production of the actual insurance policy(ies), by use of Department's own endorsement form(s), by other written evidence of insurance acceptable to the Risk Manager, but always in a form acceptable to the Risk Manager and the Office of the City Attorney. The documents evidencing all specified coverage shall be filed with the Department prior to Consultant beginning operations hereunder. Said proof shall contain at a minimum, the applicable policy number, the inclusive dates of policy coverage, the date the protection begins for the Department, and the insurance carrier's name. It shall bear an original signature of an authorized representative of said carrier, and shall provide that such insurance shall not be subject to cancellation, material reduction in coverage or non-renewal except after written notice by certified mail, return receipt requested, to the City Attorney of the City of Los Angeles at least thirty (30) calendar days prior to the effective date thereof. The notification shall be sent by registered mail to: The Office of the City Attorney, Water and Power Division, Post Office Box 51111, JFB Room 340, Los Angeles, California 90051-0100.

7. Claims-Made Insurance Conditions

Should any portion of the required insurance be on a "Claims Made" policy, the Consultant shall, at the policy expiration date following completion of work, provide evidence that the "Claims Made" policy has been renewed or replaced with the same limits, terms and conditions of the expiring policy, or that an extended three (3) years discovery period has been purchased on the expiring policy at least for the agreement under which the work was performed.

8. Failure to Maintain and Provide as Cause for Termination

Failure to maintain and provide acceptable evidence of the required insurance for the required period of coverage shall constitute a breach of contract, upon which the Department may immediately terminate or suspend this Agreement.

9. Periodic Right to Review/Update Insurance Requirements

The Department and Consultant agree that the insurance policy limits specified on the attached Contract Insurance Requirements page may be reviewed for adequacy annually throughout the term of this Agreement by the Risk Manager/City Attorney, who may thereafter require Consultant to adjust the amounts and types of insurance coverage however the Risk Manager/City Attorney deems to be adequate and necessary. The Department reserves the right to have submitted to it, upon

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request, all pertinent information about the agent and carrier providing such insurance, including applicable license and ratings.

**10. Specific Insurance Requirements**

See Exhibit F, "Contract Insurance Requirements – Department of Water and Power."

**C. Worker's Compensation**

By signing this Agreement, Consultant hereby certifies that it is aware of the provisions of Section 3700 et. seq., of the Labor Code which requires every employer to be insured against liability for Worker's Compensation or to undertake self-insurance in accordance with the provisions of that Code, and that it will comply with such provisions at all such times as they may apply during performance of the work pursuant to this Agreement.

**PSC-19 Child Support Policy**

The Consultant and any subconsultant(s) must fully comply with all applicable State and Federal employment reporting requirements for the Consultant's and any subconsultant(s)' employees. The Consultant and any subconsultant(s) must fully comply with all lawfully served Wage and Earnings Assignment Orders and Notices of Assignment in accordance with the California Family Code. The Consultant and any subconsultant(s) must certify that the principal owner(s) thereof (any person who owns an interest of 10 percent or more) are in compliance with any Wage and Earnings Assignment Orders or Notices of Assignment applicable to them personally. The Consultant and any subconsultant(s) must certify that such compliance will be maintained throughout the term of this Agreement.

Failure of the Consultant and/or any subconsultant(s) to fully comply with all applicable reporting requirements or to implement lawfully served Wage and Earnings Assignments or Notices of Assignment or failure of the principal owner(s) to comply with any Wage and Earnings Assignments or Notices of Assignment applicable to them personally shall constitute a default under this Agreement. Failure of the Consultant and/or any subconsultant(s) or principal owner(s) thereof to cure the default within ninety (90) calendar days of notice of such default by the Department shall subject this Agreement to termination.

The Consultant will contractually require all subconsultants performing services under this Agreement to comply with the provisions of this section.

**PSC-20 Service Contract Worker Retention Ordinance and Living wage Policy**

Unless otherwise exempt in accordance with the provisions of this Ordinance, this contract is subject to the applicable provisions of the Living Wage Ordinance (LWO), Section 10.37 et seq. of the Los Angeles Administrative Code, as amended from time to time, and the Service Contractor Worker Retention

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Ordinance (SCWRO), Section 10.36 et seq., of the Los Angeles Administrative Code, as amended from time to time.

1. CONSULTANT assures payment of a minimum initial wage rate to employees as defined in the LWO and as may be adjusted each July 1 and provision of benefits as defined in the LWO.
2. CONSULTANT further pledges that it will comply with federal law proscribing retaliation for union organizing and will not retaliate for activities related to the LWO. CONSULTANT shall require each of its Subcontractors within the meaning of the LWO to pledge to comply with the terms of federal law proscribing retaliation for union organizing. CONSULTANT shall receive and retain on file the executed pledges from each such Subcontractor within ninety (90) days of the execution of the Subcontract. CONSULTANT'S evidence of executed pledges from each such Subcontractor shall fully discharge the obligation of the CONSULTANT to comply with the provision in the LWO contained in Section 10.37.6(c) concerning compliance with such federal law.
3. The CONSULTANT, whether an employer, as defined in the LWO, or any other person employing individuals, shall not discharge, reduce in compensation, or otherwise discriminate against any employee for complaining to the City with regard to the employer's compliance or anticipated compliance with the LWO, for opposing any practice proscribed by the LWO, for participating in proceedings related to the LWO, for seeking to enforce his or her rights under the LWO by any lawful means, or otherwise asserting rights under the LWO. CONSULTANT shall post the Notice of Prohibition Against Retaliation provided by the City.
4. Any Subcontract entered into by the CONSULTANT relating to this Agreement, to the extent allowed hereunder, shall be subject to the provisions of LWO and the SCWRO, and shall incorporate the LWO and SCWRO.
5. CONSULTANT shall comply with all rules, regulations and policies promulgated by the designated administrative agency, which may be amended from time to time.

Under the provisions of Section 10.36.3(c) and Section 10.37.5(c) of the Los Angeles Administrative Code, the City shall have the authority, under appropriate circumstances, to terminate this contract and otherwise pursue legal remedies that may be available if the City determines that the subject CONSULTANT has violated provisions of the LWO and the SCWRO or both.

Where under the LWO Section 10.37.6(d), the designated administrative agency has determined (a) that the CONSULTANT is in violation of the LWO in having failed to pay some or all of the living wage, and (b) that such violation has gone uncured, the awarding authority in such circumstances may impound monies otherwise due the CONSULTANT in accordance with the following procedures. Impoundment

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shall mean that from monies due the CONSULTANT, the awarding authority may deduct the amount determined to be due and owing by the CONSULTANT to its employees. Such monies shall be placed in the holding account referred to in LWO Section 10.37.6(d)(3) and disposed of under procedures there described through final and binding arbitration. Whether the CONSULTANT is to continue work following an impoundment shall remain in the unfettered discretion of the awarding authority. The CONSULTANT may not elect to discontinue work either because there has been an impoundment or because of the ultimate disposition of the impoundment by the arbitrator.

**Earned Income Tax Credit**

This contract is subject to the provisions of Section 10.37.4 of the Los Angeles Administrative Code, requiring employers to inform employees making less than Twelve Dollars (\$12.00) per hour of their possible right to the federal Earned Income Tax Credit (EITC). Employers must further make available to employees the forms required to secure advance EITC payments from employers.

**PSC-21      Americans with Disabilities Act**

The Consultant hereby certifies that it will comply with the Americans with Disabilities Act 42, U.S.C. Section 12101 et seq., and its implementing regulations. The Consultant will provide reasonable accommodations to allow qualified individuals with disabilities to have access to and to participate in its programs, services and activities in accordance with the provisions of the Americans with Disabilities Act. The Consultant will not discriminate against persons with disabilities nor against persons due to their relationship or association with a person with a disability. Any subcontract entered into by the Consultant, relating to this Agreement, to the extent allowed hereunder, shall be subject to the provisions of this paragraph.

**PSC-22      Standard Provisions for Department of Water and Power Professional Service Contracts –  
Retention of Records, Audit, and Reports (revised October 16, 2007)**

Consultant shall maintain, and shall cause Consultant's subconsultants and suppliers as applicable to maintain all records pertaining to the management of this Agreement and, related subcontracts, and performance of services pursuant to this Agreement, in their original form, including but not limited to, reports, documents, deliverables, employee time sheets, accounting procedures and practices, records of financial transactions, and other evidence, regardless of form (e.g., machine readable media such as disk, tape, etc.) or type (e.g., databases, applications software, database management software, utilities, etc.), sufficient to properly reflect all costs claimed to have been incurred and services performed pursuant to this Agreement. If the Consultant, the Consultant's subconsultants and/or suppliers are required to submit cost or pricing data in connection with this Agreement, the Consultant must maintain all records and documents necessary to permit adequate evaluation of the cost or pricing data submitted, along with the computations and projections used. All records shall be retained, and shall be subject to examination and audit by Department personnel or by the Department's agents (herein after

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"Authorized Auditors"), for a period of not less than four (4) years following final payment made by the Department hereunder or the expiration date of this Agreement, whichever is later.

The Consultant shall make said records or to the extent accepted by the Authorized Auditors, photographs, micro-photographs, etc. or other authentic reproductions thereof, available to the Authorized Auditors at the Consultant's offices at all reasonable times and without charge. The Authorized Auditors will have the right to reproduce, photocopy, download, transcribe, and the like any such records. Any information provided by the Consultant on machine-readable media shall be provided in a format accessible and readable by the Authorized Auditors. The Consultant shall not, however, be required to furnish the Authorized Auditors with commonly available software.

Consultant, and the Consultant's subconsultants and suppliers, as applicable to the services provided under this Agreement, shall be subject at any time with fourteen (14) calendar days prior written notice to audits or examinations by Authorized Auditors, relating to all billings and to verify compliance with all Agreement requirements relative to practices, methods, procedures, performance, compensation, and documentation.

Examinations and audits will be performed using generally accepted auditing practices and principles and applicable City, State and Federal government audit standards. For Consultants that utilize or are subject to FAR, Part 30 and 31, et seq. accounting procedures, or a portion thereof, examinations and audits will utilize such information.

To the extent that the Authorized Auditor's examination or audit reveals inaccurate, incomplete or non-current records, or records are unavailable, the records shall be considered defective.

Consistent with standard auditing procedures, the Consultant will be provided fifteen (15) calendar days to review the Authorized Auditor's examination results or audit and respond to the Department prior to the examination's or audit's finalization and public release.

If the Authorized Auditor's examination or audit indicates the Consultant has been overpaid under a previous payment application, the identified overpayment amount shall be paid by the Consultant to the Department within fifteen (15) calendar days of notice to the Consultant of the identified overpayment.

The Consultant shall contractually require all subconsultants performing services under this Agreement to comply with the provisions of this section by inserting this provision PSC- 22 in each subconsultant contract and by contractually requiring each subconsultant to insert this provision PSC-22 in any of its subconsultant contracts related to services under this Agreement. In addition, Consultant and subconsultants shall also include the following language in each subconsultant contract:

"The Department of Water and Power is a third party beneficiary of the foregoing audit provision. The benefits of the audit provision shall inure solely for the benefit of the Department of Water and Power. The designation of the Department of Water and Power as a

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third party beneficiary of the audit provision shall not confer any rights or privileges on the Consultant, subconsultant or any other person/entity."

The provisions of this section shall survive expiration or termination of this Agreement.

**PSC-23      Discount Terms**

Consultant agrees to offer the Department any discount terms that are offered to its best customers for the goods and services at the same level and volume to be provided hereunder and apply such discount to payments made under this Agreement which meet the discount terms.

**PSC-24      Consultant Responsibility**

By signing this Agreement the Consultant pledges, under penalty of perjury, to comply with all applicable federal, state, and local laws in the performance of this Agreement, including but not limited to, laws regarding health and safety, labor and employment, wages and hours, and licensing laws which effect employees. The Consultant further agrees to provide written notice to the Department within thirty (30) calendar days after being notified or acquiring knowledge of the following: 1) that any government agency has initiated an investigation which may result in a finding that the Consultant, or any of its subconsultants of any tier, is not in compliance with any applicable federal, state, and local laws in the performance of this Agreement; 2) all findings by a government agency or court of competent jurisdiction that the Consultant, or any of its subconsultants of any tier, has violated any applicable federal, state, and local laws.

Further, by signing this Agreement the Consultant pledges, under penalty of perjury, that the Consultant has not been found by a court of competent jurisdiction to have violated the California or Federal False Claims Act with an act of moral turpitude or committed a crime involving moral turpitude. The Consultant further agrees to notify the Department within thirty (30) calendar days of any adverse finding by a court of competent jurisdiction related to the Consultant's violation of the California or Federal False Claims Act with an act of moral turpitude or committed a crime involving moral turpitude.

The Consultant shall contractually obligate all Consultant subconsultants to comply with all applicable federal, state, and local laws in the performance of this Agreement and report any governmental agency investigations or violations of such applicable federal, state, and local laws or violations of the California or Federal False Claims Act to the Department, consistent with the provisions of this Section.

**PSC-25      Warranty and Responsibility of Consultant**

Consultant warrants that the work performed hereunder shall be completed in a manner consistent with professional standards practiced among those firms within the Consultants profession, doing the same or similar work under the same or similar circumstances.



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**PSC-26     RESERVED**

**PSC-27     Ownership**

Unless otherwise provided for herein, all documents, material, data, and reports originated and prepared by Consultant or Consultant's subconsultants under this Agreement shall be and remain the property of the Department for its use in any manner it deems appropriate. The provisions of this paragraph shall survive expiration or termination of this Agreement.

**PSC-28     Department of Water and Power's Recycling Policy**

The Consultant shall submit all written documents on paper with a minimum of thirty (30) percent post-consumer recycled content. Existing company/corporate letterhead/stationery that accompanies these documents is exempt from this requirement. Documents of two or more pages in length shall be duplex-copied (double-sided pages). Neon or fluorescent paper shall not be used in any written documents submitted to the Department.

**PSC-29     Taxpayer Identification Number (TIN)**

The Consultant represents that it has obtained and presently has a Tax Identification Number (TIN). For the term covered by this Agreement, the Consultant shall maintain, or obtain as necessary, a TIN. No payment will be made under this Agreement without a valid TIN number.

**PSC-30     Beneficiaries**

This Agreement is intended only for the benefit of the Parties hereto and does not, nor shall be interpreted to, create any rights in any nonsignatory to this Agreement.

**PSC-31     Consultant's Successors and Assigns**

All indemnifications and warranties provided by the Consultant pursuant to this Agreement will be assumed by and binding upon the Consultant's successors and assigns. The provisions of this paragraph shall survive expiration or termination of this Agreement.

**PSC-32     Attorney's Fees and Costs**

Both Parties hereto agree that in any action to enforce the terms of this Agreement, each Party shall be responsible for its own attorneys' fees and costs. The provisions of this paragraph shall survive expiration or termination of this Agreement.

**PSC-33     Equal Benefits Ordinance**

**EXHIBIT E**  
**Standard Provisions for Department of Water and Power**  
**Professional Services Contracts**

Unless otherwise exempted in accordance with the provisions of this Ordinance, this Contract is subject to the applicable provisions of the Equal Benefits Ordinance (EBO) Section 10.8.2.1 of the Los Angeles Administrative Code, as amended from time to time.

1. During the performance of the Contract, the CONSULTANT certifies and represents that the CONSULTANT will comply with the EBO. The CONSULTANT agrees to post the following statement in conspicuous places at its place of business available to employees and applicants for employment:

"During the performance of a Contract with the City of Los Angeles, the CONSULTANT will provide equal benefits to employees with spouses and its employees with domestic partners. Additional information about the City of Los Angeles' Equal Benefits Ordinance may be obtained from the Department of Public Works, Bureau of Contract Administration, Office of Contract Compliance at (213) 847-1922."

2. The failure of the CONSULTANT to comply with the EBO will be deemed to be a material breach of the Contract by the Awarding Authority.
3. If the CONSULTANT fails to comply with the EBO the Awarding Authority may cancel, terminate or suspend the Contract, in whole or in part, and all monies due or to become due under the Contract may be retained by the City. The City may also pursue any and all other remedies at law or in equity for any breach.
4. Failure to comply with the EBO may be used as evidence against the CONSULTANT in actions taken pursuant to the provisions of Los Angeles Administrative Code Section 10.40 et seq., Contractor Responsibility Ordinance.
5. If the Bureau of Contract Administration determines that a CONSULTANT has set up or used its Contracting entity for the purpose of evading the intent of the EBO, the Awarding Authority may terminate the Contract on behalf of the City. Violation of this provision may be used as evidence against the CONSULTANT in actions taken pursuant to the provisions of Los Angeles Administrative Code Section 10.40 et seq., Contractor Responsibility Ordinance.

**PSC-34      Contractor Responsibility Program**

Unless otherwise exempt in accordance with the provisions of the Ordinance, this Contract is subject to the provisions of the Contractor Responsibility Ordinance, Section 10.40 et seq., of the Los Angeles Administrative Code, which requires CONSULTANT to update its responses to the responsibility questionnaire within thirty calendar days after any change to the responses previously provided if such change would affect CONSULTANT'S fitness and ability to continue performing the contract. In accordance with the provisions of this Ordinance, by signing this Contract, CONSULTANT pledges, under penalty of perjury, to comply with all applicable federal, state and local laws in the performance of this

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contract, including but not limited to, laws regarding health and safety, labor and employment, wages and hours, and licensing laws which affect employees. The CONSULTANT further agrees to:

1. Notify the awarding authority within thirty calendar days after receiving notification that any government agency has initiated an investigation which may result in a finding that the CONSULTANT is not in compliance with all applicable federal, state and local laws in performance of this contract;
2. Notify the awarding authority within thirty calendar days of all findings by a government agency or court of competent jurisdiction that the CONSULTANT has violated the provisions of Section 10.40.3(a) of the Ordinance;
3. Ensure that its subcontractor(s), as defined in the Ordinance, submit a Pledge of Compliance to awarding authorities; and
4. Ensure that its subcontractor(s), as defined in the Ordinance, comply with the requirements of the Pledge of Compliance and the requirement to notify Awarding Authorities within thirty calendar days after any government agency or court of competent jurisdiction has initiated an investigation or has found that the subcontractor has violated Section 10.40.3(a) of the Ordinance in performance of the subcontract.

**PSC-35 Bidder Campaign Contribution and Fundraising Restrictions**

In accordance with the City of Los Angeles Charter Section 470(c)(12) and related ordinances, bidders may not make campaign contributions to and or engage in fundraising for certain elected City officials or candidates for elected City office from the time they submit a bid to the Department until either the contract is awarded or, for successful bidders, 12 months after the contract is executed. The bidder's principals and subcontractors performing \$100,000 or more in work on the contract, as well as the principals of those subcontractors, are also subject to the same limitations on campaign contributions and fundraising.

The Consultant shall comply with the City Ethics Commission's "CEC Form 55" (3 pages) affidavit. The affidavit requires bidders to identify their principals, their subcontractors performing \$100,000 or more in work on the contract, and the principals of those subcontractors. Consultants shall also notify their principals and subcontractors in writing of the restrictions and include the notice in contracts with subcontractors. Consultants who fail to comply with City law may be subject to penalties, termination of contract, and debarment. Additional information regarding these restrictions and requirements may be obtained from the City Ethics Commission at (213) 978-1960 or [ethics.lacity.org](http://ethics.lacity.org).

**PSC-36 Municipal Lobbying Ordinance**

The City of Los Angeles Municipal Code Section 48.01 et seq. requires certain individuals and entities to register with the City Ethics Commission and requires public disclosure of certain lobbying activities, including money received and spent. Therefore all bidders for all construction contracts, public leases, or licenses of any value and duration and bidders for goods or service contracts with a value of more than \$25,000 and a term of at least 3 months, shall comply with the City Ethics Commission's "CEC Form 50" (1 page) affidavit. A copy of the City of Los Angeles Municipal Lobbying Ordinance is available for download

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on the City Ethics Commission's website at [http://ethics.lacity.org/PDF/laws/law\\_mlo.pdf](http://ethics.lacity.org/PDF/laws/law_mlo.pdf). Additional information regarding the Municipal Lobbying Ordinance may be obtained from the City Ethics Commission at (213) 978-1960 or [ethics.lacity.org](http://ethics.lacity.org).

**PSC-37      Iran Contracting Act of 2010**

In accordance with California Public Contract Code Sections 2200-2208, all Consultants entering into, or renewing contracts with the LADWP for goods and services estimated at one million dollars (\$1,000,000) or more shall complete, sign, and submit the "Iran Contracting Act of 2010 Compliance Affidavit."

**PSC-38      Background Check Certification Requirement**

The Contractor shall (1) perform the required background checks of all designated principals, employees and/or subcontractors of the Contractor; and (2) not assign principals, employees and/or subcontractors of the Contractor convicted of any felony or offense of moral turpitude, or for whom other derogatory information has been found pursuant to criteria set forth in this Agreement or any attachment hereto (including, without limitation, Background Check Certification) shall result in irreparable harm to LADWP and, at LADWP's option, the immediate termination for breach of contract without opportunity to cure, without liability on the part of LADWP.

Contractor agrees to submit a statement along with any invoices or billing associated with this Agreement which certifies that all work performed under this Agreement at critical facilities as designated by LADWP to Contractor was conducted by persons for whom background checks have been conducted and who do not have disqualifying background information in their histories pursuant to this section.

Contractor is advised that submission of a false claim for payment to LADWP may subject Contractor to liability under the California False Claims Act (Cal. Gov't Code Sec. 12650 *et seq.*). In addition, any failure to comply with the background procedures as required by this section may be considered in connection with future contracting opportunities with LADWP. The following specific language in the invoices/bills is acceptable: "Contractor certifies that all work performed for which this invoice/bill is submitted which required access to critical facilities as designated by LADWP was performed by persons for whom background checks have been conducted, and for whom no disqualifying information (including felonies, offenses of moral turpitude, and other disqualifying criteria, if any, as specified in the Agreement between Contractor and LADWP) has been found."

None of the remedies available to LADWP under this section shall preclude LADWP from any other remedies available in law or equity to compensate it for damages caused by the contractor's failure to comply with this section.

**PSC-39      Contractor Performance Evaluation**

The Department will evaluate and record the Contractor's overall performance to determine whether the Contractor is fulfilling its obligations on the current contract and to assess the Contractor's suitability to perform work for the Department in the future. Contractors are required to meet critical contract

**EXHIBIT E**  
**Standard Provisions for Department of Water and Power**  
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provisions including, but not limited to, timely shipment and delivery of goods, completeness of delivered goods, quality of delivered goods, accuracy of billing, and conformance to the terms and conditions of the contract. If such conditions are breached, consistent with the terms of the contract, the Director of Supply Chain Services may terminate the contract for poor performance and may also debar the Contractor from doing business with the Department for a period up to five years.

**END OF STANDARD PROVISIONS**

# EXHIBIT F

## CONTRACT INSURANCE REQUIREMENTS

### DEPARTMENT OF WATER AND POWER

#### CONTRACT INSURANCE REQUIREMENTS - DEPARTMENT OF WATER AND POWER For Contractors, Service Providers, Vendors, and Tenants

Agreement/Activity/Operation: Req # 113211 GEPM Technical and Professional Services  
 Reference/Agreement: CERTIFICATE ACCEPTABLE  
 Term of Agreement: \_\_\_\_\_  
 Contract Administrator and Phone: James VanWagoner - 73324  
 Buyer and Phone Number: TBD

Contract required types and amounts of insurance as indicated below by checkmark are the minimum which must be maintained. All limits are Combined Single Limit (Bodily Injury/Property Damage) unless otherwise indicated. Firm 30 day Notice of Cancellation required by Receipted Delivery.

PER OCCURRENCE LIMITS		
<input checked="" type="checkbox"/> WORKERS' COMPENSATION (Stat. Limits)/Employer's Liability:		( \$1,000,000.00 )
<input checked="" type="checkbox"/> Broad Form All States Endorsement	<input type="checkbox"/> US L&H (Longshore and Harbor Workers)	
<input type="checkbox"/> Jones Act (Maritime Employment)	<input type="checkbox"/> Outer Continental Shelf	
<input checked="" type="checkbox"/> Waiver of Subrogation	<input type="checkbox"/> Black Lung (Coal Mine Health and Safety)	
<input type="checkbox"/> Other: _____	<input type="checkbox"/> Other: _____	
<input checked="" type="checkbox"/> AUTOMOBILE LIABILITY:		( \$1,000,000.00 )
<input checked="" type="checkbox"/> Owned Autos	<input type="checkbox"/> Any Auto	
<input checked="" type="checkbox"/> Hired Autos	<input checked="" type="checkbox"/> Non-Owned Auto	
<input type="checkbox"/> Contractual Liability	<input checked="" type="checkbox"/> Additional Insured	
<input type="checkbox"/> MCS-99 (US DOT)	<input type="checkbox"/> Truckers Form	
<input type="checkbox"/> Waiver of Subrogation	<input type="checkbox"/> Other: _____	
<input checked="" type="checkbox"/> GENERAL LIABILITY:	<input type="checkbox"/> Limit Specific to Project	<input type="checkbox"/> Per Project Aggregate (\$10,000,000.00)
<input checked="" type="checkbox"/> Broad Form Property Damage	<input checked="" type="checkbox"/> Contractual Liability	<input checked="" type="checkbox"/> Personal Injury
<input checked="" type="checkbox"/> Premises and Operations	<input checked="" type="checkbox"/> Products/Completed Ops.	<input checked="" type="checkbox"/> Independent Contractors
<input type="checkbox"/> Fire Legal Liability	<input type="checkbox"/> Garagekeepers Legal Liab.	<input type="checkbox"/> Child Abuse/Molestation
<input type="checkbox"/> Corporal Punishment	<input type="checkbox"/> Collapse/Underground	<input type="checkbox"/> Explosion Hazard
<input type="checkbox"/> Watercraft Liability	<input type="checkbox"/> Pollution	<input checked="" type="checkbox"/> Addition Insured Status
<input type="checkbox"/> Waiver of Subrogation	<input type="checkbox"/> Airport Premises	<input type="checkbox"/> Hangarkeepers Legal Liab.
<input type="checkbox"/> Marine Contractors Liability	<input type="checkbox"/> Other: _____	<input type="checkbox"/> Other: _____
<input type="checkbox"/> PROFESSIONAL LIABILITY:		( )
<input type="checkbox"/> Contractual Liability	<input type="checkbox"/> Waiver of Subrogation	<input type="checkbox"/> 3 Year Discovery Tail
<input type="checkbox"/> Additional Insured	<input type="checkbox"/> Vicarious Liability Endt.	<input type="checkbox"/> Other: _____
<input type="checkbox"/> AIRCRAFT LIABILITY:		( )
<input type="checkbox"/> Passenger Per Seat Liability	<input type="checkbox"/> Contractual Liability	<input type="checkbox"/> Hull Waiver of Subrogation
<input type="checkbox"/> Pollution	<input type="checkbox"/> Additional Insured	<input type="checkbox"/> Other: _____
<input type="checkbox"/> PROPERTY DAMAGE:	<input type="checkbox"/> Loss Payable Status (AOIMA)	( )
<input type="checkbox"/> Replacement Value	<input type="checkbox"/> Actual Cash Value	<input type="checkbox"/> Agreed Amount
<input type="checkbox"/> All Risk Form	<input type="checkbox"/> Named Perils Form	<input type="checkbox"/> Earthquake: _____
<input type="checkbox"/> Builder's Risk\$ _____	<input type="checkbox"/> Boiler and Machinery	<input type="checkbox"/> Flood: _____
<input type="checkbox"/> Transportation Floater\$ _____	<input type="checkbox"/> Contractors Equipment\$ _____	<input type="checkbox"/> Loss of Rental Income: _____
<input type="checkbox"/> Scheduled Locations/Propt.	<input type="checkbox"/> Other: _____	<input type="checkbox"/> Other: _____
<input type="checkbox"/> WATERCRAFT:		( )
<input type="checkbox"/> Protection and Indemnity	<input type="checkbox"/> Pollution	<input type="checkbox"/> Additional Insured
<input type="checkbox"/> Waiver of Subrogation	<input type="checkbox"/> Other: _____	<input type="checkbox"/> Other: _____
<input type="checkbox"/> POLLUTION:		( )
<input type="checkbox"/> Incipient/Long Term	<input type="checkbox"/> Sudden and Accidental	<input type="checkbox"/> Additional Insured
<input type="checkbox"/> Waiver of Subrogation	<input type="checkbox"/> Contractor's Pollution	<input type="checkbox"/> Other: _____
<input type="checkbox"/> CRIME:	<input type="checkbox"/> Joint Loss Payable Status	<input type="checkbox"/> Additional Insured ( )
<input type="checkbox"/> Fidelity Bond	<input type="checkbox"/> Financial Institution Bond	<input type="checkbox"/> Loss of Monies/Securities
<input type="checkbox"/> Employee Dishonesty	<input type="checkbox"/> In Transit Coverage	<input type="checkbox"/> Wire Transfer Fraud
<input type="checkbox"/> Computer Fraud	<input type="checkbox"/> Commercial Crime	<input type="checkbox"/> Forgery/Alteration of Docs.
<input type="checkbox"/> Other: _____	<input type="checkbox"/> Other: _____	
<input type="checkbox"/> ASBESTOS LIABILITY:	<input type="checkbox"/> Additional Insured	( )

## **EXHIBIT G**

### **STATEMENT OF WORK**

**1.0 Background** - The Los Angeles Department of Water and Power (LADWP) owns, operates, and maintains General Electric (GE)-manufactured aeroderivative turbine-generator units at all of the in-basin electric facilities. To provide reliable electricity to the City of Los Angeles, LADWP must conduct scheduled outages for inspection, maintenance, and repair of its GE-manufactured aeroderivative turbine-generator units. In addition to scheduled outages, LADWP also performs emergency repairs during forced outages when the turbine-generator units break.

**2.0 Project Objectives** – The purpose of this Agreement is to allow LADWP to purchase parts, on-site and offsite repair services, craft labor services, and professional and specialty services. These will be provided on an as-needed basis, under individual Task Orders, to support the LADWP's planned outages for scheduled inspections and repairs, and forced outages for emergency repairs, of its aeroderivative turbine-generators, and other GE-manufactured power generation and related equipment at LADWP electric facilities.

For non-GE equipment, hardware, or components, the Consultant shall furnish repair services, craft labor services, and specialty technical and professional services. These will be provided on an as needed basis, under individual Task Orders, consistent with the Consultant's standard installation, inspection, maintenance, and operation practices. Furthermore, the Consultant shall not be obligated to provide any proprietary information for non-GE supplied equipment, hardware, or components. To the extent specified under an applicable Task Order, the Consultant shall provide reasonable engineering support to identify any unit assembly, performance, or operational shortfalls caused by installing non-GE replacement equipment or components. LADWP shall treat the results of such engineering support as the Consultant's confidential and proprietary information, and shall not disclose it to the supplier or manufacturer of such non-GE replacement equipment or components, unless agreed to in writing by the Consultant. Any Consultant opinions, reports, or recommendations related to non-GE equipment, hardware, or components, shall be solely based on information supplied by LADWP, or by third parties on behalf of LADWP.

**3.0 Scope of Work** – Services furnished under this Agreement include, but are not limited to, providing inspection procedures; conducting inspections; writing reports; troubleshooting turbine-generator equipment and proprietary control systems; providing disassembly, repair, and assembly procedures; providing technical guidance for disassembly, repair, assembly, and start-up of aeroderivative turbine generators; providing access to the GE Factory for engineering support, technical support, drawings, original design data, material specifications specific to the task, and design changes; locating proprietary repair parts; and transferring knowledge to LADWP personnel as needed for the performance of the specific task. The transfer of knowledge does not include technology transfer or Contractor proprietary information. See Article V, Task Order Development and Approval, of Section Four, Draft Agreement, of this RSSP.

**4.0 Detailed Technical Requirements (Contractor Requirements)** – The Contractor shall provide fully trained and qualified staff to perform the following services:

- 1) Provide inspection procedures.
- 2) Conduct inspections and write reports.
- 3) Troubleshoot aeroderivative turbine-generator equipment and proprietary control systems.
- 4) Provide disassembly, repair, and assembly procedures.
- 5) Provide technical guidance for disassembly, repair, assembly, and start-up of aeroderivative turbine generators.

## **EXHIBIT G**

### **STATEMENT OF WORK**

- 6) Provide access to the GE Factory for engineering support, technical support, drawings, original design data, material specifications specific to the task, and design changes.
- 7) Provide access to an on-line inventory of proprietary repair parts.
- 8) Provide vibration analysis.
- 9) Changes or upgrades to current proprietary GE Mark VI control system software.
- 10) Any proprietary and specialized work related to GE aeroderivative turbine-generators.

Services deliverables will consist of, but are not limited to:

- 1) Provide qualified staff to perform various proprietary tasks.
- 2) Prepare, as appropriate, various quarterly, monthly, weekly, and daily reports.
- 3) Prepare schedules for various tasks.
- 4) Provide inspection and repair procedures.
- 5) Provide repair recommendations and proprietary repair parts.
- 6) Provide repair reports.
- 7) Provide vibration analysis reports and recommendations.
- 8) Provide proprietary control systems upgrades, when necessary.

Services activities shall begin with the issuance of the notice-to-proceed and will continue for the duration of the Agreement. The notice-to-proceed will be issued by the LADWP Contract Administrator within 45 calendar days from the acceptance of the Task Order.

**5.0 Reporting** - The Contractor shall provide the Contract Administrator with written monthly progress updates of its activities. The monthly progress update shall include, but is not limited to, the status of each task, expenditures for each task, balance remaining for each task, percent of each task that has been completed, and percent of funds that has been spent for each task.



# **EXHIBIT H** **BACKGROUND CHECK CERTIFICATION**

<b>Applicant Information</b>				
Last Name		First Name		Middle Name
Contractor/Subcontractor Name		Contractor/Subcontractor Address		Contractor/Subcontractor Business Number
Background Consisted of the following components:				
<b>Social Security Number (SSN) Trace/Identity Verification</b> a. Validates the SSN based on the issuance data published by the Social Security Administration (not work eligibility verification). b. Provides independent address history going back at least 7 years; sources include multiple commercial databases, including header information from three credit bureaus. c. For non-U.S. citizens, Identity Verification via passport. Date conducted: _____ Derogatory Information <input type="checkbox"/> Yes <input type="checkbox"/> No Live Scan Operators Initials _____				
<b>Expanded Criminal History Search</b> (search for felony and misdemeanor records in all jurisdictions of known employment and residence in the past 7 years (includes State, County, and Federal levels). a. Includes direct source searches of known employment and residence in the past 7 years. The entire Federal District Court level is automatically covered with the exception of four appeals courts. Date conducted: _____ Derogatory Information <input type="checkbox"/> Yes <input type="checkbox"/> No Live Scan Operators Initials _____				
<b>Auxiliary National Criminal Index (ANCI) or equivalent</b> a. Includes over 180 million felonies, misdemeanors, infractions, and sex offender records. Data sources from over 50 states, plus the District of Columbia, Puerto Rico, and Guam, consist of one or more of the following: County Court indexes, State Administrative and police repositories, State Department of Corrections, and sex offender registries. Date conducted: _____ Derogatory Information <input type="checkbox"/> Yes <input type="checkbox"/> No Live Scan Operators Initials _____				
<b>Office of Foreign Asset Control (OFAC) Watch List:</b> a. A list of over 5,000 known terrorists, national drug traffickers, specifically designated and black persons as identified by the OFAC, a Department of the United States (U.S.) Department of Treasury. b. Based on U.S. foreign trade policy and national security goals, persons on the list should not be engaged in economic or commercial activities in the U.S. Date conducted: _____ Derogatory Information <input type="checkbox"/> Yes <input type="checkbox"/> No Live Scan Operators Initials _____				
Transmitting Agency		Live Scan Operator		
Agency Name	ORI No.	Last Name	First Name	ATI No. for Transaction

I, the undersigned Agency Official, certify that all information provided on this form was reviewed and evaluated in accordance with all applicable laws and regulations, including those governing the processing and privacy of the individual's information.

Name (Print)	Signature	Date

## EXHIBIT H

### BACKGROUND CHECK CERTIFICATION

1. The Contractor shall (1) perform the required background checks of all designated principals, employees and/or subcontractors of the Contractor; (2) perform the required background checks of all designated employees and/or subcontractors with any government, municipal or public agency approved as a Department of Justice (DOJ) certified service provider. A list of DOJ certified providers can be accessed at DOJ website or the following link <http://ag.ca.gov/fingerprints/publications/contact.php> and (3) not assign principals, employees and/or subcontractors of the Contractor convicted of any felony or offense of moral turpitude, or for whom other derogatory information has been found pursuant to criteria set forth in the Agreement or any attachment hereto (including, without limitation, the attachment entitled "Background Check Certification Form," and "Background Check Certification" attached. Failure to perform either (1) or (2) or (3) above or any other requirement of this section shall result in the irreparable harm to LADWP and, at LADWP's option, the immediate termination for breach of contract without opportunity to cure, and without liability on the part of LADWP.
2. The Contractor agrees to submit a statement along with any invoices or billing associated with this Agreement which certifies that all work performed under this Agreement at critical facilities as designated by LADWP to Contractor was conducted by persons for whom background checks have been conducted and who do not have disqualifying background information in their histories pursuant to this section. Contractor is advised that submission of a false claim for payment to LADWP may subject Contractor to liability under the California False Claims Act (Cal. Gov't Code Sec. 12650 et seq.). In addition, any failure to comply with the background procedures as required by this section may be considered in connection with future contracting opportunities with LADWP. The following specific language in the invoices/bills is acceptable: "Contractor certifies that all work performed for which this invoice/bill is submitted which required access to critical facilities as designated by LADWP was performed by persons for whom background checks have been conducted, and for whom no disqualifying information (including felonies, offenses of moral turpitude, and other disqualifying criteria, if any, as specified in the Agreement between Contractor and LADWP) has been found."
3. None of the remedies available to LADWP under this section shall preclude LADWP from any other remedies available in law or equity to compensate it for damages caused by the contractor's failure to comply with this section.

**EXHIBIT I**  
**CONFIDENTIALITY AGREEMENT**  
**FOR LADWP PROPRIETARY INFORMATION**

**A. Confidentiality**

All documents, records, and information provided by LADWP to the Contractor, or accessed or reviewed by the Contractor, during performance of this Agreement shall remain the property of LADWP. All documents, records and information provided by LADWP to the Contractor, or accessed or reviewed by the Contractor during performance of this Agreement, are deemed confidential. The Contractor agrees not to provide these documents and records, nor disclose their content or any information contained in them, either orally or in writing, to any other person or entity. The Contractor agrees that all documents, records, or other information used or reviewed in connection with the Contractor's work for LADWP shall be used only for the purpose of carrying out LADWP business and cannot be used for any other purpose. The Contractor shall be responsible for protecting the confidentiality and maintaining the security of LADWP documents, records, and information in its possession.

**B. Document Access/Control**

1. The Contractor shall make the confidential information provided by LADWP to the Contractor, or accessed or reviewed by the Contractor during performance of this Agreement, available to its employees, agents and /or subcontractors, only on a need-to-know basis. Further, the Contractor shall provide written instructions to all of its employees, agents and subcontractors, with access to the confidential information about the penalties for its unauthorized use or disclosure.
2. The Contractor shall store and process confidential information in an electronic format in such a way that unauthorized persons cannot retrieve the information by computer, remote terminal or other means.
3. The Contractor shall not remove documents, records, or information used or reviewed in connection with the Contractor's work for LADWP from LADWP facilities without prior approval from LADWP. The Contractor shall not use, other than in direct performance of work required pursuant to the Agreement, or make notes of any home address or home telephone numbers contained in personnel or customer files, confidential information, documents, or records provided by LADWP that are reviewed during work on this Agreement.
4. The Contractor shall not make or retain copies of any such documents, written and electronic materials, notes, documents, confidential information, records, or other information. Provided however, with prior written approval from LADWP, the Contractor may make copies of such documents, written materials, notes, documents, confidential information, or other information, as necessary to perform its duties under this Agreement.
5. The Contractor shall document and immediately report to LADWP any unauthorized use or disclosure of confidential information of which the Contractor becomes aware.

**EXHIBIT I**  
**CONFIDENTIALITY AGREEMENT**  
**FOR LADWP PROPRIETARY INFORMATION**

6. The Contractor shall require that all its employees, agents, and subcontractors who shall, or may, review, be provided, or have access to LADWP data, information, personnel or customer files, confidential information, documents, or records during the performance of this Agreement, execute a confidentiality agreement that incorporates the provisions of this Confidentiality Agreement, prior to performing work under this Agreement.

**C. Return of All Documents to LADWP**

The Contractor shall, at the conclusion of this Agreement or at the request of LADWP, promptly return any and all written materials, notes, documents, records, confidential information, or other information obtained by the Contractor during the course of work under this Agreement to LADWP, and all paper and electronic copies thereof. Provided however, the Contractor may retain duplicates and originals, as appropriate, of Contractor's administrative communications, records, files, and working papers relating to the services provided by the Contractor pursuant to this Agreement.

**D. Work Product and Deliverable Confidentiality**

Any reports, findings, deliverables, analyses, studies, notes, information or data generated as a result of this Agreement are to be considered confidential. The Contractor shall not make such information available to any individual, agency, or organization except as provided for in this Agreement or as required by law. Notwithstanding the foregoing, the Contractor may reference its work under this Agreement in general terms in presentations and proposals, provided that in doing so, the Contractor does not disclose any non-public information. The Contractor may not release any information, whether or not such information is public information, to the media without prior written approval from LADWP.

**E. Subcontractors Subject to the Confidentiality Agreement**

Any subcontract entered into pursuant to the terms of this Agreement shall be subject to, and shall incorporate, the provisions of this Confidentiality Agreement.

Bidder has caused their duly authorized representative to execute this Agreement as follows:

Date: \_\_\_\_\_

Signature: \_\_\_\_\_

Firm: \_\_\_\_\_

Title: \_\_\_\_\_