

AGREEMENT
FOR
INFORMATION TECHNOLOGY PRODUCTS
&
SERVICES

Dated _____

Agreement No.: 47279-5

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**AGREEMENT
FOR
INFORMATION TECHNOLOGY PRODUCTS & SERVICES**

THIS AGREEMENT FOR INFORMATION TECHNOLOGY PRODUCTS & SERVICES (“Agreement”), is entered into on this 1st day of January, 2015 by and between the **LOS ANGELES DEPARTMENT OF WATER AND POWER** (the “LADWP”), acting by and through the **BOARD OF WATER AND POWER COMMISSIONERS** (Board), and **Itron, Inc**, a Washington corporation with a principal place of business at 2111 N. Molter Road, Liberty Lake, WA 99019 (“Contractor”).

For good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties hereby agree as follows:

1. DEFINITIONS. Capitalized terms used in this Agreement shall have the following meanings:

- a) **“Authorized Subcontractor”** shall mean a subcontractor or service provider of Contractor who has been approved by LADWP beforehand and in writing to carry out any part of Contractor’s obligations under this Agreement.
- b) **“Background Technology”** is not applicable to this Agreement.
- c) **“Board”** shall mean Board of Water and Power Commissioners.
- d) **“Change Order”** shall have the meaning assigned to it in **SECTION 3 (“CHANGE ORDER PROCESS”)**.
- e) **“Confidential Information”** shall have the meaning assigned to it in **Subsection 18(a) (“Protection”)**.
- f) **“Contract Administrator”** shall mean the LADWP’s representative who has been identified as such from time to time by the LADWP, and who shall have authority to act for the LADWP under this Agreement.
- g) **“Contractor’s Quality Assurance Program”** is not applicable to this Agreement.
- h) **“Deliverables”** shall mean collectively all items provided or to be provided by Contractor hereunder, including without limitation all Hardware, Software and Services, and as may be set forth in a Statement of Work.
- i) **“LADWP Work Product”** is not applicable to this Agreement.
- j) **“Developed Software”** is not applicable to this agreement.
- k) **“Disclosing Party”** shall have the meaning assigned to it in **Subsection 18(a) (“Protection”)**.
- l) **“Documentation”** shall mean all information, published or otherwise, reasonably necessary or as described in a Statement of Work, to be provided by Contractor to LADWP which describes or relates to the form, functions, features or operation of the Deliverables, and which is contained in a tangible medium, such as written format, tape, magnetic or other media, and including without limitation all Updates of Documentation and Documentation which the Contractor may

provide to LADWP from time to time.

m) **“Effective Date”** shall mean the first date upon which all of the following shall have occurred: (a) this Agreement has been signed by the LADWP authorized representative and also signed by the Contractor’s authorized representative(s); (b) this Agreement has been approved by the City Council or by the Board, or by the City’s or Board’s officer or employee authorized to give such approval; and (c) the Office of the City Attorney has indicated in writing its approval of this Agreement as to form and legality.

n) **“Error”** shall mean any material failure of any Deliverable to conform with its Specifications.

o) **“Escrow Agent”** shall have the meaning assigned to it in **Subsection 18(f)** (**“Escrow”**).

p) **“Escrow Agreement”** shall mean a written agreement as described in **Subsection 18(f)** **“Escrow.”**

q) **“Escrow Materials”** is not applicable to this Agreement.

r) **“Existing Software”** is not applicable to this Agreement.

s) **“Fees”** shall mean those amounts to be paid to Contractor hereunder, and which are described as such in the Schedule 1, ‘Fee Schedule and Personal Services’.

t) **“Force Majeure”** shall have the meaning assigned to it in **SECTION 11** (**“FORCE MAJEURE”**).

u) **“Hardware”** is identified on Attachment A.

v) **“Hardware Maintenance”** is identified

on Exhibit I.

w) **“Indemnified Parties”** shall have the meaning assigned to it in **SECTION 19** (**“INTELLECTUAL PROPERTY AND DELIVERABLES INDEMNITY”**).

x) **“Invention”** is not applicable to this Agreement.

y) **“Invoice”** shall have the meaning assigned to it in **Subsection 12 (c)** (**“Invoices”**).

z) **“Job Cost Report”** is not applicable to this Agreement.

aa) **“Maintenance”** shall mean: (i) Hardware Maintenance; and (ii) Software Maintenance, as detailed in Exhibit I and Exhibit J, respectively.

bb) **“Object Code”** shall mean computer software programs, not readily perceivable by humans, and which are suitable for machine execution without the intervening steps of interpretation or compilation.

cc) **“Prior Work Product”** is not applicable to this Agreement.

dd) **“Project Plan”** shall mean that portion of the SOW specifying the Deliverables and the Schedule (including without limitation all start and end dates for all Tasks).

ee) **“Proprietary Rights”** is not applicable to this Agreement.

ff) **“Receiving Party”** shall have the meaning assigned to it in **Subsection 18(a)** (**“Protection”**).

gg) **“Response”** shall mean Contractor’s written response to the RFP in **EXHIBIT F** (**“RESPONSE”**).

hh) “**RFP**” is not applicable to this Agreement. RSSP No. 90199 is applicable to this Agreement.

ii) “**Schedule**” shall mean the schedule of Deliverables, dates and Fees and Personal Services described as such in a Statement of Work.

jj) “**Services**” shall mean collectively, the Tasks described in each Statement of Work. These Services are not provided under the Maintenance coverage, which include, but are not limited to Personal / Professional Services, Upgrade Services and Supplemental Services, as described in **Schedule 1, “Service Requests and Fee Schedule”**.

kk) “**Shrink-Wrap Agreement**” is not applicable to this Agreement.

ll) “**Software**” shall mean collectively) the Software, in Object Code format (but subject to **Subsection 18(f) (“Escrow”)**), which exists as of the Effective Date and has been previously licensed to LADWP as identified on Attachment A, and including all Documentation.

mm) “**Software Maintenance**” shall have the meaning assigned to it in **Subsection 20(b) (“Software Maintenance, Support and Upgrades”)** and as detailed in **Exhibit J**.

nn) “**Source Code**” shall mean computer software programs, in human readable form and not in machine readable format, and which is not suitable for machine execution without the intervening steps of interpretation or compilation.

oo) “**Specifications**” shall mean collectively the applicable published Contractor

functional specifications for an item of software, or other specifications with respect to any Deliverables, including without limitation all Documentation, and those specifications described in a particular Statement of Work.

pp) “**Statement of Work**” (SOW) - shall mean the description of the work to be carried out by Contractor, the Deliverables to be provided by Contractor, the Schedule to be met by Contractor, and the Fees and/or Personal Services to be paid, and contained in the format described in **EXHIBIT A (“STATEMENT OF WORK”)**.

qq) “**Task Assignment**” shall mean a written description of work activity provided by the LADWP describing work to be carried out by Contractor, and consisting of at least one (1) Task and an associated Fee.

rr) “**Tasks**” shall mean the smallest units of work activity described under each Statement of Work.

ss) “**Update**” shall mean any modification of or addition to the Software or Documentation, including without limitation all new releases, versions, sub-versions, corrections, “patches”, maintenance releases, which Contractor may prepare, provide, or have available at any time.

tt) “**Upgrades**” shall mean Itron Software Improvements, if any, provided through Software Releases and Updates, at Itron’s then-current price for such Improvements (or at no charge if such Improvements are made available to Itron customers generally at no charge), as referenced in **Exhibit J**.

uu) “**Viruses**” shall have the meaning assigned to it in **Subsection 21(d) (“Viruses”)**.

vv) “**Work Product**” is not applicable to this

Agreement.

2. DELIVERABLES.

a) **Services.** Contractor shall perform Services, strictly in accordance with each Statement of Work.

b) **Hardware.** Hardware purchased and used by LADWP is outlined in Attachment A, with Maintenance detailed in Exhibit I.

c) **Software.** Software licensed and used by LADWP is outlined in Attachment A, with Maintenance detailed in Exhibit J.

d) **Documentation.** Contractor shall prepare and deliver to the LADWP all Documentation, strictly in accordance with each Schedule.

e) **Authorized Subcontractors.** With prior approval of the LADWP, the Contractor may enter into contracts and agreements with Authorized Subcontractors for the performance of portions of this Agreement. The Contractor shall at all times be responsible for the acts, errors or omissions of its Authorized Subcontractors and persons directly or indirectly employed by them. Nothing in this Agreement shall constitute any contractual relationship between any others and the LADWP or any obligation on the part of the LADWP to pay, or to be responsible for the payment of, any sums to any Authorized Subcontractors or any other third party. No such Authorized Subcontractor shall be a third party beneficiary of this Agreement. Upon written request from the Contract Administrator, the Contractor shall promptly supply the LADWP with all subcontractor agreements, subject to LADWP's obligations of confidentiality under this Agreement.

f) **Site Visits by Contractor.** All visits by

Contractor to the LADWP's facilities must have prior approval by the Contract Administrator. Visiting Contractor representatives must carry LADWP-issued identification badges, and conform to such security, safety and other requirements as the LADWP may from time to time impose.

g) **Permits.** The Contractor and its Authorized Subcontractors, officers, agents and employees shall obtain and maintain all permits and licenses necessary for the Contractor's performance hereunder and shall pay any third-party Fees and/or Personal Services required therefore.

3. CHANGE ORDER PROCESS.

a) **Process.** Unless expressly agreed to otherwise in a Statement of Work, the Specifications, the Schedule and the Fees and Personal Services are as described in such Statement of Work, and shall not be changed without the prior, written consent of the LADWP. Provided, however, that in the event that the LADWP wishes to change the Specifications or the Schedule, then the LADWP shall so notify the Contractor in writing, describing the changes to be made. The Contractor shall respond to such notification promptly in writing (and in no event later than thirty (30) days thereafter) describing any increase in Fees which the Contractor seeks with respect to such changes.

If thereafter agreed to by the parties, the parties shall record their agreement with respect to such changes, and increase in Fees and/or Personal Services (if any) in a written change order ("Change Order"), to be signed by the parties, and which will amend this Agreement. Invoices for Fees and/or Personal Services pursuant to Change Orders will be identified and issued separately from other Invoices.

b) No Obligation. EXCEPT AS PROVIDED IN THIS SECTION 3 (“CHANGE ORDER PROCESS”), THE LADWP SHALL HAVE NO OBLIGATION TO PAY, AND SHALL NOT PAY, ANY INCREASE IN FEES REGARDLESS OF ANY ADDITIONAL WORK CARRIED OUT UNDER THIS AGREEMENT BEYOND THAT WHICH IS EXPRESSLY DESCRIBED IN EACH STATEMENT OF WORK or as described as Maintenance.

4. PACKING AND SHIPMENT.

a) Packing. Contractor agrees to pack all Deliverables to be shipped hereunder in suitable containers for protection in shipment and storage, and in accordance with applicable Specifications. Each container of a multiple container shipment shall be identified so as to:

(i) conspicuously show the number of the container and the total number of containers in the shipment; and

(ii) conspicuously show the number of the container in which the packing sheet has been enclosed; and

(iii) conspicuously show such other information as the LADWP may from time to time require.

b) Packing Sheets. Packing Sheets does not apply to this Agreement.

5. DELIVERY. Contractor shall strictly adhere to the Schedule specified in this Agreement. Time shall be of the essence of Contractor’s performance under this Agreement. Time, if stated as a number of days, shall mean business days unless otherwise specified. The quantities of

Deliverables specified herein are the only quantities required. If Contractor delivers in excess of the quantities of Deliverables specified herein, the LADWP shall not be required to make any payment for the excess Deliverables, and may at the LADWP’s discretion dispose of such excess Deliverables, return such excess Deliverables to Contractor at Contractor’s expense and risk, or make such excess Deliverables available for pick-up by Contractor.

6. SUBSTITUTIONS AND QUALITY.

a) Substitutions. Substitution of any other goods or services for Deliverables called for in any Statement of Work may not be tendered without the prior, written consent of the Contract Administrator. Unless otherwise agreed to by the parties. Contractor shall not use any specification in lieu of the Specifications contained in each Statement of Work.

b) Quality. The Contractor’s work shall reflect competent professional knowledge, judgment, and accepted industry practice. Subject to **SECTION 13 (“TERM AND TERMINATION”)**, the Contractor shall promptly correct, or remedy any work, errors, or omissions, at its sole expense, which do not conform to the provisions of this Agreement in accordance with Contractor's warranty obligations set forth in Section 21 herein.

c) Drawing Quality. This section does not apply to this Agreement.

d) Professional Licensure and Certification. This section does not apply to this Agreement.

7. DELIVERY, INSPECTION, ACCEPTANCE AND REJECTION.

a) Delivery. Contractor shall make commercially reasonable efforts to deliver all Deliverables according to the Schedule and commitments to such addresses as may be from time to time specified by the LADWP.

b) Inspection. The LADWP shall have a reasonable period, in no event less than five (5) days, commencing with the date of delivery of each shipment of Deliverables to inspect and test such Deliverables to ensure that such Deliverables fully conform to this Agreement, fully conform to their Specifications, fully conform to their Documentation, and fully comply with all representations and statements made by Contractor with respect thereto (including, without limitation, any corresponding Response). Contractor shall fully cooperate and assist the LADWP in the course of such inspection and delivery at no cost to the LADWP. In the event of any failure of such Deliverables to so fully comply with any of the foregoing (each such condition to be considered an "Error"), the LADWP may, at its discretion and upon notice, reject any or all such Deliverables. In such case, Contractor shall within forty-eight (48) hours of such notice promptly take commercially reasonable steps to repair or replace such Deliverables with conforming Deliverables.

c) Acceptance and Rejection. Upon the completion of the inspection and testing described in **Subsection 7(b) ("Inspection")**, the LADWP shall inform Contractor of whether the corresponding Deliverables are accepted by the LADWP. Any failure of the LADWP to provide such notice within thirty (30) days of delivery shall be deemed an acceptance thereof. Acceptance of Deliverables shall not be construed to waive any warranty rights that

the LADWP might have at law or by this Agreement.

d) Quality Program. This section does not apply to this Agreement.

e) Facilities. This section does not apply to this Agreement

8. SAMPLES. This section does not apply to this Agreement.

9. SAFETY AND ACCIDENT PREVENTION.

The LADWP agrees to provide a suitable and safe environment at its facilities with respect to Services to be provided under this Agreement. The parties understand and agree that Contractor has not included in its charges any expense for dealing with or removing potentially hazardous substances, such as asbestos, unless otherwise expressly provided by a Statement of Work. If not so provided in such Statement of Work, the LADWP shall be responsible for handling such substances at its own cost. In performing work under this Agreement, Contractor shall conform to all specific safety requirements contained in the Agreement and as required by law or regulation. Contractor shall take any additional precautions as the LADWP may reasonably require for safety and accident prevention purposes, and shall at all times exercise reasonable and prudent judgment with respect thereto. Any violation of such requirements, laws or regulations shall be considered a material breach of this Agreement.

10. PERSONNEL.

a) Information. The LADWP shall provide reasonably necessary representatives with authority to act on the LADWP's behalf with respect to approvals, requests, and

meeting scheduling.

b) Capacity. Contractor warrants that the size of the staff employed by the Contractor in its performance hereunder shall be reasonably adequate in number and quality at all times to perform the work required by this Agreement and to add such addition personnel as are necessary to quote and accomplish any work required by any Change Order.

c) Identification. With respect to Services, the Contractor shall furnish the LADWP from time to time upon request, if applicable, the names, titles, and qualifications of its key project personnel and subcontractors, including without limitation individual resumes, and the tasks to be performed by such individuals. Upon receipt of such request, the Contractor shall respond within ten (10) business days.

d) Approval. The Contract Administrator shall have the right to revise all personnel of Contractor and Authorized Subcontractors performing Services under this Agreement. If applicable pursuant to a specific Deliverable or Statement of Work, resumes of individual personnel will be reviewed and approved by the LADWP's Contract Administrator before the individual shall be assigned work. The Contractor shall, to the extent practicable, minimize changes to any Contractor personnel with respect to any Statement of Work. The LADWP shall have the right to reasonably request key personnel changes and to review and approve key personnel changes proposed by the Contractor. No change can be made without LADWP approval, which said approval shall not be unreasonably withheld, conditioned, or delayed. Notwithstanding the foregoing, LADWP's approval is not required with respect to key personnel who: (i) voluntarily resigns from Contractor's employment, (ii)

is dismissed by Contractor, in its sole discretion, for misconduct, (iii) fails to perform his or her duties and responsibilities as key personnel, (iv) dies or is unable to work due to his disability, (v) takes family leave, (vi) voluntarily suspends employment for an extended period or (viii) refuses or is unable to continue work due to extraordinary emotional or personal events specific to such person beyond the reasonable control of Contractor. The LADWP shall have the right to require removal of any personnel which removal shall be effected no later than seventy-two (72) hours in the case of any removal requested for security or work rule reasons, immediately.

e) Control. The Contractor's and the Authorized Subcontractors' personnel shall at all times remain under the control of the Contractor.

11. FORCE MAJEURE. Neither party will be responsible for any failure or delay in performing any obligation hereunder if such failure or delay is due to a cause beyond the Party's reasonable control, including, but not limited to strikes, lockouts, labor disputes, embargos, acts of God, governmental regulations, judicial orders, enemy or hostile governmental action beyond the reasonable control of the Contractor or its Authorized Subcontractors ("Force Majeure"). In the case of a Force Majeure event, then such party shall immediately notify the other party in writing, and such party's performance shall be suspended for the period equal to the period time of such cause for suspension of performance.

12. FEES, INVOICES AND PAYMENT.

a) Fees. The LADWP shall pay the Fees described in each Statement of Work for Services and Deliverables which have been

accepted by the LADWP. Any Fees called for in any Statement of Work shall not increase for at least one (1) year after the date of such Statement of Work, unless expressly agreed to otherwise by the LADWP. Unless expressly stated in a Statement of Work, all salaries, wages, or other payments (including without limitation any overtime) to any third parties, Authorized Subcontractors or employees, shall be the sole responsibility of the Contractor, and the Contractor hereby agrees to fully indemnify, defend and hold harmless the LADWP with respect thereto.

b) Travel and Costs. Travel time of the Contractor's personnel shall not be charged to, or paid by, the LADWP unless specifically provided for in the Response and the Statement of Work. Any allowed travel time shall be at the LADWP's own normal rates.

c) Invoices. Services performed on a time and materials basis will be invoiced at the end of the calendar month in which they are performed. Services that are performed on a fixed fee basis will be invoiced as set forth on the applicable Statement of Work or, if not set forth on a Statement of Work, upon completion.

Contractor shall invoice LADWP for Maintenance to be provided during the first maintenance year as soon as practicable following the Effective Date. Each such Invoice shall meet all the invoice criteria described in **EXHIBIT G ("INVOICE CRITERIA")**, and shall contain the contract/purchase order number, the vendor code number, the City of Los Angeles Business Tax Registration Certificate Number, and the identification of material, equipment and/or services covered by the Invoices. In all cases the amount of applicable sales tax or use tax shall be separately stated on the Invoice. All

Invoices shall be accompanied by such written documentation as the LADWP may reasonably require in order to support the amount and calculation of all corresponding Fees.

d) Payment. Such Invoices, if correct, will be certified, and paid within thirty (30) days after receipt of Invoice. Invoice payments will not be made if the Invoice is received more than six (6) months after acceptance of corresponding Deliverables. No such Invoice shall be certified for payment, or paid, unless and until it shall first conform

with **Subsection 12(c) ("Invoices")** above. In the event of any dispute of any Fees and/or Personal Services under any Invoices, the LADWP agrees to make payment of all undisputed amounts as hereinabove provided.

e) Tax Registration Certificate. Contractor shall obtain and keep in full force and effect during the Term of this Agreement all "Business Tax Registration Certificates" 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. Contractor's current Business Tax Registration Certificate Number or, for those firms that are exempt, a Vendor Registration Number, must be shown on all Invoices submitted for payment.

f) Taxpayer Identification Number ("TIN"). Contractor hereby represents and warrants that its TIN is **94-3290577**. No Fees and/or Personal Services shall be payable or paid to Contractor unless and until such TIN is verified by the LADWP as valid.

g) Third Party Claims. The Contractor 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 any LADWP property (including reports, documents, and other tangible matter or Deliverables produced hereunder), against the Contractor's rights to payments hereunder, or against the City, and shall pay all amounts due under the Unemployment Insurance Act with respect to such labor.

13. TERM AND TERMINATION.

a) Term. The term of this Agreement ("Term") shall commence January 1, 2015 and shall expire *Five Years* thereafter, unless earlier terminated or otherwise extended as hereinafter provided.

b) Termination without Cause. This Agreement may be terminated by the LADWP, without cause, upon ninety (90) days written notice. Upon receipt of such notice, the Contractor shall immediately stop all work under this Agreement. The Contractor shall be entitled to payment of Fees and/or Personal Services for all Deliverables completed, including without limitation Services provided (in both cases where accepted by the LADWP), until the date of such notice, and also to reimbursement for reasonable and documented re-stocking charges imposed on Contractor by third party suppliers due to such termination, where such charges have been called to the LADWP's attention beforehand and in writing. The Contractor shall then deliver to the LADWP, in an organized and usable form, all Deliverables "work in process" as of such date.

c) Termination for Material Breach. Either party may terminate this Agreement upon notice, in whole or in part, for the material breach of this Agreement by the

other party (including without limitation, in the case of Contractor, any such breach by Contractor's Authorized Subcontractors) which has remained uncured for a period of thirty (30) days from the date of notice thereof to the breaching party.

Upon a termination by Contractor for material breach, LADWP's license to any Software and right to receive maintenance and support for such Software shall immediately terminate and LADWP shall (i) delete any Software from all of its computers, (ii) immediately deliver to Contractor or destroy all copies of such Software and any related Documentation and (iii) certify in writing to Contractor within 10 days of any such termination that, to the best of LADWP's knowledge, LADWP has complied with this Section.

d) Disqualification. In the event Contractor receives one (1) or more notices of material breach as described in **Subsection 13(c) ("Termination for Material Breach")**, whether such material breaches are cured or not, the LADWP may consider such material breaches in making any subsequent determination of responsibility with respect to future awards.

e) Remedies Not Exclusive. Any election by the LADWP to seek any remedy under this **SECTION 13 ("TERM AND TERMINATION")**, including without limitation any right to reject Deliverables or to require expedited shipping, shall not limit any other rights or remedies hereunder which the LADWP may have with respect to any breach of this Agreement.

f) Suspension of a Statement of Work. The Contract Administrator may orally direct the Contractor to suspend, and to subsequently resume performance of all or any part of the

Services. Such direction shall be confirmed in writing. An equitable adjustment in the Services completion schedule and corresponding Fees (if fixed price) shall be negotiated and confirmed by a Change Order or a revision to a task assignment if such suspension impacts the cost of the Services and/or Services completion schedule. The LADWP shall pay the Fees and/or Personal Services due for the suspended work up to the effective date of suspension notice and shall resume Fee payments effective as of the work resumption date. Itron's Maintenance services are invoiced annually and cannot be suspended and restarted. If such a suspension was imposed, Software Maintenance re-initiation fees and Hardware Maintenance re-certification fees would apply for all LADWP Software and Hardware items.

g) Errors and Omissions. The Contractor will be responsible for correcting or remedying any errors or omissions which occur in performance of the services under this Agreement and which are the result of the Contractor's negligence, action or omission, regardless of whether the foregoing are a material breach hereof or not. The cost of correcting or remedying any such error or omission shall be borne by the Contractor and shall be performed pursuant to Contractor's warranty obligations set forth in Section 21 herein.

Revising Contractor-prepared documents at the request of the LADWP to incorporate comments by the public or by agencies having jurisdiction in matters of the particular task assignment is not considered to be a remedy of errors or omissions, but is considered an integral part of document preparation which may be called for by a Task Assignment.

14. TAXES. Unless otherwise required by law, the LADWP is exempt from Federal excise taxes. The LADWP will only pay for any State or local sales or use taxes on the Services rendered or other Deliverables supplied to the LADWP pursuant to this Agreement.

15. NEWLY MANUFACTURED DELIVERABLES. This section does not apply to this Agreement.

16. RECORDS AND AUDIT.

a) Records and Audits. Incorporated by Reference. See Exhibit K

b) Progress Reports. The Contractor shall, as required by the Contract Administrator from time to time, submit reports summarizing all the Tasks under this Agreement, the work accomplished, work left to be done, work to be done in the coming months, and the estimated completion dates, including without limitation any deviations or reasonably likely deviations from the Schedule. Each such report shall be organized by Task and shall include the Task number, Task coordinator, Task title, the authorized Fee, the start date and completion date, and the total of Fees received to date by the Contractor. Such report shall also show the total Fees and/or Personal Services received by the Contractor under this Agreement.

c) Right to Review. The LADWP reserves the right to review any portion of the Services performed by the Contractor under this Agreement, and the Contractor agrees to cooperate to the fullest extent, based on reports available at the time of request. Contractor shall furnish to the LADWP such reports, statistical data, and other information pertaining to the Contractor's Services as shall be reasonably required by

the LADWP. The right of the LADWP to conduct such review shall not relieve the Contractor of any obligation set forth herein.

17. INTELLECTUAL PROPERTY AND LICENSES.

a) Patents and Copyrights. Between Contractor and LADWP, all patents, copyrights, mask works, trade secrets, trademarks and other proprietary rights in or related to any product, software or deliverable provided by Contractor pursuant to this Agreement are and will remain the exclusive property of Contractor. Any modification or improvement to a Contract product or deliverable that is based on LADWP's feedback shall be the exclusive property of Contractor. LADWP will not take any action that jeopardizes Contractor's proprietary rights nor will it acquire any right in any such product, software or deliverable or Contractor's confidential information other than rights granted in this Agreement.

b) Future Development. This Agreement shall not preclude the Contractor from developing materials outside this Agreement that are competitive with, irrespective of their similarity to, Deliverables which are delivered to the LADWP pursuant to this Agreement.

c) Existing Software License. With respect to the Software, Contractor hereby grants to the LADWP a worldwide, perpetual or term as applicable, irrevocable, nonexclusive, royalty-free, paid up, non-transferable license to the Software set forth on Attachment A, in order to use, copy, execute, publicly perform, publicly display, and digitally perform its rights and obligations under this Agreement.

d) New Software License. With respect to

any new software to be licensed by LADWP or otherwise provided as a Deliverable pursuant to the Services performed under this Agreement, Contractor hereby grants to the LADWP a worldwide, perpetual, irrevocable, nonexclusive, royalty-free, paid up, non-transferable license to the software in order to use, copy, execute, publicly perform, publicly display, and digitally perform its rights and obligations under this Agreement.

e) Documentation License. Consistent with the license grant in subsections (d) and (e) above, Contractor hereby grants to the LADWP a worldwide, irrevocable, non-exclusive, royalty free, paid up, limited perpetual or term, as applicable, nontransferable license to the corresponding Documentation in order to use, copy, execute, publicly perform, publicly display, and digitally perform its rights and obligations under this Agreement.

f) Deliverables License. Contractor hereby grants to Customer a worldwide, perpetual, irrevocable, non-exclusive, royalty free, paid up, non transferable license to use the Deliverables identified in any Statement of Work solely for Customer's internal business purposes.

g) Restrictions. As a condition to the foregoing license grants, LADWP shall not (i) violate any restriction set forth Schedule 1, (ii) modify or create any derivative work from the Software, (iii) include the Software in any other software, (iv) use the Software to provide processing services to third parties or on a service bureau basis, (v) reverse assemble, decompile, reverse engineer or otherwise attempt to derive Source Code (of the underlying ideas, algorithms, structure or organization) from Software, or (vi) use the Software to process business information concerning customers derived through merger, asset acquisition or

other entity combination.

Except as expressly permitted in this Agreement, (i) the Software may not be installed on a computer that is not part of the LADWP's computer network, (ii) LADWP may not copy the Software other than to make one machine readable copy for disaster recovery or archival purposes, and (iii) installation of the Software shall be limited to one Production Environment and one Test Environment. LADWP may only make copies of Documentation as reasonably necessary for the use contemplated herein. The Software and Documentation shall be considered the confidential information of Contractor and, as such, shall be subject to the confidentiality provisions of this Agreement.

h) Audit. During the Term of this Agreement LADWP will maintain accurate and detailed records as necessary to verify compliance with this Agreement. Contractor may audit these records to verify compliance at any time during LADWP's regular business hours after giving notice 5 business days in advance of the audit. Except as described below, Contractor will bear all costs and expenses associated with the exercise of its audit rights. Any errors in license fee payments identified will be corrected by LADWP by appropriate adjustment.

i) Other Provisions. LADWP shall not, directly or indirectly, export or transmit the Software to any country to which such export or transmission is prohibited by any applicable regulation or statute. The parties agree that Software provided under this Agreement shall be deemed to be "goods" within the meaning of Article 2 of the Uniform Commercial Code, except when such a practice would cause an unreasonable result. The parties agree that the Uniform

Computer Information Transaction Act (or a version thereof or substantially similar law) shall not govern this Agreement.

18. CONFIDENTIAL INFORMATION AND SOURCE CODE ESCROW.

a) Protection. Each party (the Disclosing Party") may from time to time during the term of this Agreement disclose to the other party (the "Receiving Party") certain non-public information regarding the Disclosing Party's business, including technical, marketing, financial, personnel, planning and other information ("Confidential Information"). The Disclosing Party shall mark all such Confidential Information intangible form with the legend "confidential", "proprietary", or with similar legend. With respect to Confidential Information disclosed orally, the Disclosing Party shall describe such Confidential Information as such in writing within thirty (30) days after the date of oral disclosure.

b) Protection of Confidential Information. Except as expressly permitted by this Agreement, the Receiving Party shall not disclose the Confidential Information of the Disclosing Party (using the same degree of care which the Receiving Party ordinarily uses with respect to its own proprietary information, but in no event with less than reasonable care). The Receiving Party shall also not use the Confidential Information of the Disclosing Party for any purpose not expressly permitted by this Agreement, and shall limit the disclosure of the Confidential Information of the Disclosing Party to the employees or agents of the Receiving Party who have a need to know such Confidential Information of the Disclosing Party to the employees or agents of the Receiving Party who have a need to know such Confidential Information for purposes of this Agreement, and who are, with respect to the Confidential Information of the Disclosing Party, bound

in writing by confidentiality terms no less restrictive than those contained herein. The Receiving Party shall provide copies of such agreements to the Disclosing Party upon request; provided, however, that such agreement copies shall themselves be deemed the Confidential Information of the Receiving Party. Notwithstanding the foregoing, after the expiration or termination of this Agreement and the return by the Receiving Party of the Confidential Information of the Disclosing Party as provided in subsection 18(e) ("Return of Confidential Information"), the Receiving Party shall be free to use internally and for purposes consistent with the scope of this Agreement (but not disclose) any ideas, concepts and know-how contained in such Confidential Information: (i) which relate to the business of the Receiving Party.

c) State Law Requirements - Protection For Personal Information State law (See S.B. 1386 and A.B. 1950) requires a person or entity that owns or licenses computerized data that includes personal information, of a California resident, to disclose any breach of the data base security system and to implement and maintain procedures and practices to protect personal information from unauthorized access, destruction, use, modification, or disclosure and, shall require by contract, that nonaffiliated third party recipients of such personal information, implement and maintain security procedures and practices to protect the personal information. Accordingly, Contractor agrees to implement and maintain such security procedures and practices, in conformance with S.B. 1386 and A.B. 1950, with respect to any personal identification information received under this Agreement, as well as notify the LADWP of any breach insecurity. In addition, Contractor shall not share, disclose, or in any way transfer the personal identification information without the

written approval of the LADWP.

Contractor shall be responsible for any and all liabilities, including but not limited to those stated below in this paragraph, that result from any violation of S.B. 1386 or A.B. 1950 that Contractor, its employees, agents, or subcontractors may cause pursuant to the activities performed under this Agreement. Accordingly, Contractor agrees to indemnify and hold harmless the City of Los Angeles, its respective agencies, LADWPs, boards, all of their commissioners, officers, employees, and authorized agents, and, at the option of the City of Los Angeles, to provide a defense, reasonably acceptable to the LADWP, 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 caused or brought by any person, including any aggrieved party, as defined in S.B. 1386, arising out of Vendor's intentional or negligent breach of any of its duties and obligations under S.B. 1386 or A.B. 1950. The indemnification herein includes all awards, damages, interest, costs and attorneys' fees, if any. Such defense will be consistent with City Charter, Sections 271, 272 and 273.

d) Exceptions. Notwithstanding anything herein to the contrary, Confidential Information shall not be deemed to include any information which: (i) was already lawfully known to the Receiving Party at the time of disclosure by the Disclosing Party as reflected in the written records of the Receiving Party; (ii) was or has been disclosed by the Disclosing Party to a third party without obligation of confidence; (iii) was or becomes lawfully known to the general public without breach of this Agreement; (iv) is independently developed by the Receiving Party without access to, or

use of, the Confidential Information; (v) is approved in writing by the Disclosing Party for disclosure by the Receiving Party; (vi) is required to be disclosed in order for the Receiving Party to enforce its rights under this Agreement; or (vii) is required to be disclosed by law or by the order of a court or similar judicial or administrative body; provided, however, that the Receiving Party shall notify the Disclosing Party of such requirement immediately and in writing, and shall cooperate reasonably with the Disclosing Party, at the Disclosing Party's expense, in the obtaining of a protective or similar order with respect thereto.

e) Return of Confidential Information.

The Receiving Party shall return to the Disclosing Party, destroy or erase all Confidential Information of the Disclosing Party in tangible form upon the written request of the Disclosing Party (except for Deliverables and any other items which the LADWP is otherwise entitled to retain under this Agreement) and the Receiving Party shall certify promptly and in writing that it has done so.

f) Escrow.

(i) LADWP as Beneficiary. No later than thirty (30) days after the Effective Date, Contractor shall, at LADWP's expense, add LADWP as a multiple beneficiary under Contractor's existing Escrow Agreement with Escrow Tech, International (the "Escrow Agent") under which LADWP may be entitled to receive the Source Code for the Software licensed to LADWP in the event Contractor becomes insolvent or ceases to carry on business and the business of Contractor is not continued by a receiver, trustee, or assignees. LADWP will, subject to certain release conditions, be allowed to acquire a copy of the Source Code, including updates thereto, for the covered,

licensed Software for the sole purpose of facilitating LADWP's use of the Software as authorized under this Agreement.

The Source Code shall remain the property of Contractor, and LADWP shall only use the Source Code in conjunction with, and to maintain the Software as provided under this Agreement, and for no other purpose.

(ii) License Grant. Subject to **SECTION 18 ("CONFIDENTIAL INFORMATION AND SOURCE CODE ESCROW")**, Contractor hereby grants to LADWP a perpetual, irrevocable, nonexclusive, royalty-free, fully paid up, nontransferable (except as provided in **Subsection 24(j) ("Assignment")**) license with respect to the Source Code to use, execute, copy and modify such Source Code solely as reasonably necessary or desirable in order to exercise the LADWP's rights under this Agreement and consistent with the terms of this Agreement. Notwithstanding anything to the contrary herein, however, LADWP understands and agrees that it shall not exercise the license granted in this **Subsection 18(f)(ii) ("License Grant")** with respect to the Source Code unless and until the Source Code is released to LADWP pursuant to the Escrow Agreement.

19. INTELLECTUAL PROPERTY AND DELIVERABLES INDEMNITY.

a. General Indemnification.

The Contractor 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, and, at the option of the LADWP, defend the LADWP, and any and all of their Boards, officers, agents, representatives, employees, assigns and successors in interest 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 death, bodily injury or personal injury to any person, including contractor's employees and agents, or damage or destruction to any property of either party hereto, or third persons in any manner arising by reason of the negligent acts, errors, omissions or willful misconduct incident to the performance of this contract on the part of the contractor, or the contractor's officers, agents, employees, or subcontractors of any tier, except for the willful misconduct of the LADWP, its Board, officers, agents, representatives or employees.

b. Infringement Indemnity.

Contractor will, at its own expense, defend, indemnify and hold harmless the LADWP from and against any claim or action brought against LADWP by an unaffiliated third party to the extent that the action is based upon a claim that any product manufactured, software licensed or service provided by Contractor hereunder directly infringes any U.S. patent (issued as of the Effective Date) or any copyright or trademark and Contractor will pay those costs and damages awarded against LADWP (or settled) in any such action that are specifically attributable to such claim. The foregoing indemnity does not apply to products not manufactured by Contractor or software licensed by third parties.

c. Conditions to Infringement Indemnity.

Contractor's infringement indemnity obligations under this Section are conditioned on LADWP's agreement that if the applicable product or service becomes, or in Contractor's opinion is likely to become, the subject of such a claim, LADWP will permit Contractor, at Contractor's option and expense, either to

procure the right for LADWP to continue using the affected product or service or to replace or modify the same so that it becomes non-infringing. Such replacements or modifications will be functionally equivalent to the replaced product or service. If the foregoing alternatives are not available on terms that are reasonable Contractor shall have the right to require LADWP to cease using the affected product or service in which case Itron will refund to LADWP the depreciated value of the affected product or service.

d. Exclusions.

Contractor shall have no obligation under this Agreement to the extent any claim of infringement or misappropriation results from: (i) use of a product or service, other than as permitted under this Agreement or as intended by Contractor, if the infringement would not have occurred but for such use; (ii) use of any product or service in combination with any other product, equipment, software or data, if the infringement would not have occurred but for such combination; (iii) any use of any release of a software or any firmware other than the most current release made available to LADWP, (iv) any claim based on LADWP's use of a product after Contractor has informed LADWP of modifications or changes to the product required to avoid such claims and offered to implement those modification or changes, if such claim would have been avoided or mitigated by the implementation of Contractor's suggestions, (v) any modification to a product made by a person other than Contractor or an authorized representative of Contractor, or (vi) compliance by Contractor with specifications or instructions supplied by LADWP. Contractor shall not be liable hereunder for enhanced or punitive damages that could have been avoided or reduced by actions within the control of LADWP.

e. Indemnity Disclaimer

THIS SECTION CONSTITUTES ITRON'S SOLE AND EXCLUSIVE OBLIGATION WITH RESPECT TO THIRD PARTY CLAIMS BROUGHT AGAINST LADWP.

f) Use of Funds. Contractor certifies that it has appropriate systems and controls in place to ensure that LADWP funds will not be used in the performance of this Agreement for the acquisition, operation or Maintenance of computer software in violation of copyright laws.

20. MAINTENANCE, SUPPORT and UPGRADES

a) Hardware Maintenance. Commencing on the Effective Date Contractor shall provide Hardware Maintenance for the Hardware listed on Schedule 1 and Attachment A, which shall consist of those activities and services described as such in **EXHIBIT I (“HARDWARE MAINTENANCE”)**. Hardware Maintenance for any Hardware purchased or subsequent to the Effective Date of this Agreement shall commence upon the expiration of the warranty period for said Hardware.

b) Software Maintenance, Support and Upgrades.

Commencing on the Effective Date Contractor shall provide Software Maintenance for the Software listed on ATTACHMENT A which shall consist of those support activities described in **Exhibit J “Software Maintenance”** and Services as described in Schedule 1 **“Service Requests and Fee Schedule”**. Software Maintenance for any software licensed subsequent to the Effective Date of this Agreement shall commence upon Delivery of such software. **“Delivery”** with respect to software, means that Contractor has either made the software

available to LADWP via electronic means or has provided the software to a carrier on physical media for delivery to LADWP.

c) Failure to Provide Maintenance.

Any failure of Contractor to timely provide Maintenance hereunder shall thereupon immediately suspend any obligation of the LADWP to pay any Fees, and may, in addition and at the LADWP's option, be considered a material breach of this Agreement for purposes of **SECTION 13 (“TERM AND TERMINATION”)**.

d) Availability. This Section does not apply to this Agreement.

21. WARRANTIES.

a) Software. Contractor warrants to Customer for a period of 90 days from the date of Delivery that any software will perform substantially in accordance with its Specifications. Contractor does not warrant that the software will operate uninterrupted or error-free. Contractor's sole obligation and LADWP's exclusive remedy in connection with the breach of a warranty provided under this Section shall be for Contractor to repair or replace the non-conforming software. If Contractor, in its sole discretion, is unable to repair or replace non-conforming software, Contractor will refund to LADWP the amount paid for such software. Software that is repaired or replaced pursuant to this Section will be warranted for the remainder of the original warranty period or 30 days, whichever is longer. LADWP's license to software for which it has received a refund hereunder shall terminate upon its receipt of a refund.

The warranty provided in this Section shall not apply to the extent that non-compliance relates to or is the result of (i) use of the software in combination with software, equipment or communications networks not provided by Contractor, (ii) a change to the

software's operating environment not made or authorized by Contractor, (iii) LADWP's failure to install any correction or enhancement provided by Contractor, (iv) viruses introduced through no fault of Contractor, (v) any use of the software not authorized by this Agreement. The warranty provided in this Section is valid only if LADWP has complied with the terms of this Agreement (including paying the applicable software license fees) and shall be void to the extent of any modification to the software not authorized by Contractor.

b) Services. Contractor warrants to LADWP that it shall perform the Services with reasonable care and in a diligent and competent manner. Contractor's sole obligation and LADWP's exclusive remedy in connection with a breach of the foregoing warranty shall be to correct or re-perform the non-conforming Services. If Contractor, in its sole discretion, is unable to correct or re-perform non-conforming Services, its sole obligation will be to refund to LADWP the amount paid for such Services. LADWP must report any deficiencies in the Services to Contractor in writing within 60 days of performance to receive the warranty remedies described herein

c) General. Contractor represents and warrants that: (i) Contractor has full power and authority to enter into this Agreement and the person signing the Agreement on Contractor's behalf has been duly authorized and empowered to enter into this Agreement; (ii) the Deliverables shall not contain any materials which are unlawful, defamatory, libelous, threatening, abusive, racist, vulgar, harassing, pornographic or obscene; (iii) Neither the Deliverables (including without limitation the provision of Services) nor any element thereof, infringes or shall infringe or misappropriate the intellectual property rights of any third party, including without limitation any

patent, copyright, trademark or trade secret rights; (iv) the Deliverables shall not be subject to any restrictions, including without limitation any liens, mortgages, pledges, security interests, encumbrances, or encroachments; (v) Contractor is not under, and shall not enter into any, obligation or obligations inconsistent with the provisions of this Agreement; and (vi) Contractor shall not violate any law, statute, ordinance, or regulation in the course of its performance under this Agreement.

d) Viruses. Contractor represents and warrants that it has exercised and shall exercise its most diligent efforts to ensure that no viruses, "Trojan Horses", "Worms" or other damaging, dangerous or objectionable code (collectively, "Viruses") are included with the Deliverables. If at any time a Virus may be found and proven to exist in or have emanated from the Deliverables, or any electronic data, information or report generated thereby, Contractor agrees, at its sole expense, to exercise its most diligent efforts (including but not limited to providing appropriate replacement products, software, installation, and diagnostic testing) to remove such Virus within five (5) days of LADWP's notice.

e) Disclaimer. EXCEPT AS EXPRESSLY STATED IN THIS AGREEMENT, CONTRACTOR HEREBY DISCLAIMS ALL OTHER WARRANTIES, EXPRESS AND IMPLIED, INCLUDING BUT NOT LIMITED TO THE WARRANTIES OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE.

22. LIMITATION OF LIABILITY. IN NO EVENT SHALL THE TOTAL LIABILITY OF EITHER PARTY UNDER THIS AGREEMENT EXCEED ONE MILLION (\$1,000,000) REGARDLESS OF THE CAUSE OF ACTION, IN TORT,

CONTRACT OR OTHERWISE. EXCEPT FOR BREACH OF CONFIDENTIALITY (SECTION 18) OR THE DEPARTMENT'S BREACH OF CONTRACTOR'S INTELLECTUAL PROPERTY RIGHTS HEREUNDER, IN NO EVENT WILL EITHER PARTY BE LIABLE TO THE OTHER FOR ANY LOSS OF PROFITS, LOSS OF USE, BUSINESS INTERRUPTION, LOSS OF DATA, COSTS OF COVER OR INDIRECT, SPECIAL INCIDENTAL OR CONSEQUENTIAL DAMAGES OF ANY KIND IN CONNECTION WITH OR ARISING OUT OF THE FURNISHING, PERFORMANCE OR USE OF THE SOFTWARE,

HARDWARE OR DOCUMENTATION, ANY MATERIALS OR SERVICES FURNISHED UNDER THIS AGREEMENT, WHETHER ALLEGED AS A BREACH OF CONTRACT OR TORT (INCLUDING NEGLIGENCE OR STRICT PRODUCT LIABILITY). THIS LIMITATION SHALL APPLY EVEN IF A PARTY HAD BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES. The provisions of this Section allocate risks under this Agreement between the Department and Contractor. Contractor's pricing reflects this allocation of risks and limitation of liability.

23. SURVIVAL AND ORDER OF PRECEDENCE. In the event of any expiration or termination of this Agreement, the provisions of Section 1 ("Definitions"), Subsection 3(b) ("No Obligation"), Section 13 ("Term and Termination"), Section 16 ("Records and Audit"), Section 17 ("Intellectual Property and Licenses"),

Section 18 ("Confidential Information and Source Code Escrow"), Section 19 ("Intellectual Property and Deliverables Indemnity"), Section 21 ("Warranties"), Section 22 ("Limitation of Liability"), Section 23 ("Survival and Order of Precedence"), and Section 24 ("General") shall survive and shall continue to bind the parties. In the event of any conflict between the terms of this Agreement and the terms of any exhibit, the terms of the exhibit shall control. 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 Change Order
- b. Task Assignment
- c. Agreement
- d. Other referenced documents
- e. Itron Response to RSSP 90199 dated June 13, 2014.

24. GENERAL.

a) Governing Law. This Agreement shall be governed in all respects by the laws of the United States of America and the State of California without regard to conflicts of law principles. The parties agree that the United Nations Convention on Contracts for the International Sale of Goods is specifically excluded from application to this Agreement.

b) Attorneys' Fees. In the event any proceeding or lawsuit is brought by the LADWP or Contractor in connection with this Agreement, each party shall bear its own attorneys' fees and costs.

c) Forum. 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. The State and Federal Courts located in the City of Los Angeles shall have exclusive jurisdiction over any disputes under this Agreement, and the parties hereby submit to the personal jurisdiction of such courts.

d) Injunctive Relief. It is understood and agreed that, notwithstanding any other provisions of this Agreement, breach of the provisions of this Agreement by Contractor will cause the LADWP irreparable damage for which recovery of money damages would be inadequate, and that the LADWP shall therefore be entitled to obtain timely injunctive relief to protect the LADWP's rights under this Agreement in addition to any and all remedies available at law.

e) Notices. All notices or reports permitted or required under this Agreement shall be in writing and shall be delivered by personal delivery or by certified or registered mail, return receipt requested, and shall be deemed given upon personal delivery or five (5) days after deposit in the mail. Any such notice or report directed to the LADWP shall be delivered to:

LOS ANGELES DEPARTMENT OF WATER AND POWER

Mariko Marianes
111 North Hope Street, Room 956
Los Angeles, California 90012-2694

With a Copy To:
Chief Assistant City Attorney
111 North Hope Street
Los Angeles, California 90012-2694

Any such notice or report directed to the Contractor shall be delivered to:

**Legal Department
Itron, Inc
2111 North Molter
Liberty Lake, WA 99201**

Either party, by written notice, may designate different or additional person(s) or different addresses.

f) Agency. Nothing contained herein shall be construed as creating any agency, partnership, or other form of joint enterprise between the parties.

g) Waiver. The failure of either party to require performance by the other party of any provision hereof shall not affect the full right to require such performance at any time thereafter; nor shall the waiver by either party of a breach of any provision hereof be taken or held to be a waiver of the provision itself.

h) Severability. In the event that any provision of this Agreement shall be unenforceable or invalid under any applicable law or be so held by applicable court decision, such unenforceability or invalidity shall not render this Agreement unenforceable or invalid as a whole, and, in such event, such provision shall be changed and interpreted so as to best accomplish the objectives of such unenforceable or invalid provision within the limits of applicable law or applicable court decisions.

i) Headings. The section headings appearing in this Agreement are inserted only as a matter of convenience and in no way define, limit, construe, or describe the scope or extent of such section or in any way affect this Agreement.

j) Assignment. Neither party will assign this Agreement, directly or indirectly, without the prior written consent of an authorized

executive officer of the other party, provided that either party may assign all or any part of this Agreement to its successor in a merger, consolidation or comparable transaction or to the purchaser of all or substantially all of its assets (or the assets associated with a particular line of business) so long as such successor or purchaser agrees in writing to comply with the terms and conditions of this Agreement and, provided further that Contractor may assign this Agreement to an affiliate, including to a parent, subsidiary or sister entity.

k) Counterparts. This Agreement may be executed simultaneously in two (2) or more counterparts, each of which will be considered an original, but all of which together will constitute one and the same instrument.

l) Relationship of the Parties. The Contractor is acting hereunder as an independent Contractor and not as an agent or employee of the LADWP. The Contractor 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 LADWP.

m) Entire Agreement. This Agreement together with the Exhibits hereto completely and exclusively states the agreement of the parties regarding its subject matter. This Agreement supersedes, and its terms govern, all prior proposals, agreements, or other communications between the parties, oral or written, regarding such subject matter. The terms of any Shrink-Wrap Agreement accompanying any Software delivered to the LADWP hereunder shall, to the extent

inconsistent with the terms of this Agreement, have no effect whatsoever. This Agreement shall not be modified except by a subsequently dated written amendment or exhibit signed on behalf of the LADWP and Contractor by their duly authorized representatives. Any purported oral amendment to this Agreement shall have no effect.

AGREED TO:

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

Title: General Manager

Date: _____

AND:

By: _____

BARBARA E. MOSCHOS
Board Secretary

Date: _____

ITRON, INC.

By: 

RICHARD CHRISTENSEN
Vice President, Finance
Itron, Inc.

Title: _____

Date: 10/9/14

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

SEP 24 2014

BY 

DIRK P. BROERSMA
DEPUTY CITY ATTORNEY

EXHIBIT A

STATEMENT OF WORK (SOW)

Scope of Work

Purpose

Itron, Inc. will provide license renewals, software upgrades, maintenance, support services, on-site training, and professional services support for five (5) years for various LADWP divisions and groups.

Description of Work

The work to be performed by Itron includes:

A. Budget, Rates and Financial Planning Division

The Rates Section has been using numerous critical software programs for more than 19 years to remotely retrieve data from approximately 25,000 meters, which provide approximately 42 percent of the Los Angeles Department of Water and Power's power revenue. These software programs include MV90xi used for meter data translation; MVWEB which provides an interface that allows customers to view their accounts via the internet with secure customer user ID and passwords; MV-PBS which supports financial settlements and produces customized billing determinants and financial reports for complex rates and special contracts using interval meter data; TMS data collection system which is used for two-way meter data transactions over public communication networks; Load Research software module which is used in conjunction with MV90xi for load profiling and research analysis, and MVLT-Laptop which is a multi-vendor laptop data collection software for use in conjunction with MV90xi to download load profile data directly from meters.

In addition, the Rates Section has utilized Itron's Metrix LT, Metrix ND and Forecast Manager for the past 14 years. Metrix LT is used to analyze load shapes. Metrix ND aids in developing statistical models to forecast sales and peak demands. Forecast Manager will be used for automated data collection and report writing on monthly variances in varying areas of interest including power load, economic forecasting, construction forecasting, and weather data analysis.

This contract includes continued maintenance, upgrade and professional service support for MV90xi, MVWEB, MV-PBS, TMS, and Load Research and MVLT-Laptop, Metrix LT, Metrix ND, and Forecast Manager software. Also, included is an option to add, at LADWP's sole discretion, MV90xi meter licenses and Maintenance for up to a total of 40,000 meters. The professional services include, in-house training, in-house software upgrade support for all products listed above, and consulting services for Forecast Management analysis.

B. Customer Service Division

The Customer information and Analytics Group has used Itron Enterprise Edition (IEE) Customer Care Suite software for the past 12 years to support mid-to large-sized commercial and industrial customers who subscribe to the Energy Load Monitoring (ELM) Program. This program allows customers to view and analyze their detailed energy load via the internet. System and metering costs for this program are recovered by a monthly fee charged to customers. This contract includes continued maintenance, software upgrade, and professional service support for IEE Customer Care Suite software. Weather Services is used for weather service analysis. Also, included is an option to add at LADWP's sole discretion, licensing for additional meters. The professional services include in-house training and in-house software upgrade support.

C. Metering Reading Unit of Customer Service Division

The Meter Reading Unit of CSD has used a version of Itron's FC300 for the past eleven (11) years. The FC300 was developed by Itron to ensure an efficient and timely upgrade by providing compatibility with current meters, elimination of requirements for programming new file interfaces, and the ability to import and export Premierplus4 data files. This system currently supports more than 17 million electric and water meter reads annually. The professional services include in-house training and in-house software upgrade support.

DELIVERABLES

The deliverables will be license renewals and or upgrades for the following:

1. Rates and Financial Planning
 - A. MV90xi Maintenance
 - B. MVWEB Maintenance
 - C. MV-PBS Maintenance
 - D. TMS Maintenance
 - E. Load Research Maintenance
 - F. MVLT-Laptop Maintenance
 - G. MetrixND Maintenance
 - H. MetrixLT Maintenance
 - I. Forecast Manager licensing
 - J. Forecast Manager Maintenance
 - K. Option, at the Department's sole discretion, for additional MV90xi meter licenses and Maintenance for up to 40,000 meters
 - L. Professional Services include in-house training, consulting and software upgrade services

2. Customer Information and Analytics Group
 - A. IEE Customer Care-Energy Analyst Maintenance
 - B. IEE Customer Care-Cost Analyst Maintenance
 - C. Option, at the Department's sole discretion, for licensing and Maintenance upgrade to include 800 additional meters
 - D. MV90 Collection engine Maintenance
 - E. Weather Services Maintenance
 - F. Professional Services include in-house training, consulting and software upgrade services

3. Meter Reading Unit of Customer Service Division
 - A. FC300 with Bluetooth, 512 MB SD Card, Sread radio and English Win CE 5.0 Professional, Maintenance
 - B. DST-TOU Optical Probe Maintenance
 - C. Field Collection Software with TOU IDR and software licenses for 2.5 million meters, maintenance, support, and licenses
 - D. Ethernet Multi-Drop Desk Docks for five units, maintenance
 - E. Professional Services include in-house training, consulting and software upgrade services

Transmittal and Delivery

The deliverables will be in the form of:

- A. Call in service support; or
- B. In-house service support; or
- C. Call in professional service support; or
- D. In-house professional support.

EXHIBIT B
GOVERNMENT AND INSURANCE TERMS

1. Business Policies.

1.1 Los Angeles Department of Water and Power's Recycling Policy.

A. The LADWP of Water and Power supports the use of recycled-content products of all types. Recycled-content products help conserve natural resources, including water and energy, and reduce demands upon landfills.

B. The Contractor shall submit all written documents on paper with a minimum of 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 LADWP.

1.2 Affirmative Action.

A. During the performance of any contract, the Contractor shall not discriminate in its employment practices against any employee or applicant for employment because of race, religion, national origin, ancestry, sex, age or physical handicap. All subcontracts awarded under any such contract shall contain a like nondiscrimination provision. The applicable provisions of Executive Order No. 11246 of September 24, 1965; Part 60-741 of 41 CFR pertaining to handicapped workers, including 60-741.4 Affirmative Action Clause; and Sections 10.8 to 10.13 of the Los Angeles Administrative Code pertaining to nondiscrimination in employment in the performance of City contracts are incorporated herein by reference and made a part hereof as if they were fully set forth herein.

1.3 Minority and Women Business Enterprise (MBE/WBE)

A. It is the policy of the LADWP to provide Minority Business Enterprises (MBEs), Women Business Enterprises (WBEs) and all other business enterprises an equal opportunity to participate in the performance of all LADWP contracts. The Consultant shall assist the LADWP in implementing this policy and shall use its best effort to attain MBE and WBE participation of 15 percent and 7 percent, respectively, and to ensure that all available business enterprises, including MBEs and WBEs, have an equal opportunity to compete for and participate in the work of this Agreement.

B. "Minority Business Enterprise" (MBE) or "Women's Business Enterprise" (WBE), as used herein means a business enterprise that meets both of the following criteria:

I. A business that is at least 51 percent owned by one or more minority person(s) or women or, in the case of any business whose stock is publicly held, at least 51 percent of the stock is owned by one or more minority person(s) or women.

II. A business whose management and daily business operations are controlled by one or more minority person(s) or women.

C. Efforts to obtain participation of MBEs, WBEs, and other business enterprises could reasonably be expected to produce a level of participation by interested subcontractors, including 15 percent MBEs and 7 percent WBEs. Good faith efforts to reach out to MBEs, WBEs, and all other business enterprises shall be determined by the following factors:

I. Meetings with MBEs, WBEs, associations representing MBEs, WBEs and other groups.

II. Identification of selected portions of the work to be performed by subcontractors in order to provide participation by MBEs, WBEs, and other business enterprises. The Contractor shall, when economically feasible, divide total contract requirements into small portions or quantities to permit maximum participation of MBEs, WBEs, and other business enterprises.

III. Requests for proposals from interested business enterprises or proposals in newspapers, trade association publications, minority or trade-oriented publications, trade journals, or other appropriate media.

IV. Providing written notice to those business enterprises, including MBEs and WBEs, having an interest in participating in this Agreement. The Contractor shall document that invitations were sent to available MBEs, WBEs, and other business enterprises for each portion of the work.

V. Documenting efforts to follow up initial solicitations of interest by contacting the business enterprises to determine whether the enterprises are interested in participating in the work.

VI. Providing interested enterprises with information about the plans, specifications, and requirements for the selected subcontracting

VII. Requesting assistance from organizations that provide assistance in the recruitment and placement of MBEs, WBEs, and other business enterprises.

VIII. Negotiating in good faith with interested MBEs, WBEs, and other business enterprises and not unjustifiably rejecting proposals prepared by any enterprise. As documentation, the bidder shall submit a list of all documentation, the bidder shall submit a list of all sub-bidders for each portion of potential work for MBEs, WBEs, and other business enterprises.

IX. Documenting efforts to advise and assist interested MBEs, WBEs and other business enterprises in obtaining bonds, lines of credit, or required insurance.

D. The Contractor shall submit monthly reports to the Contract Administrator demonstrating compliance with the LADWP's Outreach Program, and make related records available to the LADWP upon request. The reports shall be submitted on LADWP forms which can be obtained from the Contract Administrator, and show the following:

- I.** The name of each participating subcontractor;
- II.** Description of work each subcontractor has contracted to perform;
- III.** the percentage of completion for the work under each subcontract;
- IV.** the compensation contracted to be paid to each subcontractor (attach copy of subcontractor's invoice);
- V.** the cumulative compensation earned by each subcontractor; and
- VI.** the cumulative compensation paid to each subcontractor.

1.4 Service Contract Worker Retention And Living Wage Policy.

A. General Provisions. This contract is subject to the Service Contractor Worker Retention Ordinance (SCWRO), Section 10.36 et. seq., and the Living Wage Ordinance (LWO), Section 10.37 et. seq., of the Los Angeles Administrative Code. The Ordinances require that, unless specific exemptions apply, employers who are awarded service contracts that involve expenditures in excess of \$25,000, and have a duration of at least three months;

and any persons who receive City financial assistance of one million dollars or more in any 12-month period, shall comply with the following provisions of the ordinances: Retention for a 90-day transition period, the employees who were employed for the preceding 12 months or more by the terminated Contractor or subcontractor, if any, as provided for in the SCWRO; Payment of a minimum initial wage rate to employees as defined in the LWO, of \$8.27 per hour, with health benefits of at least \$1.25 per hour, or otherwise \$9.52 per hour without benefits.

B. Termination Provisions. Under the provisions of Section 10.36.3(c) and Section 10.37.5 (c) of the Los Angeles Administrative Code, the LADWP of Water and Power, shall have the authority, under appropriate circumstances, to terminate this contract and otherwise pursue legal remedies that may be available, if the LADWP of Water and Power determines that the subject Contractor or financial assistance recipient violated the provisions of the referenced Code Section.

C. Invoice Provisions. All invoices related to SCWRO and LWO Contracts shall contain the following statement: "The Contractor fully complies with Section 10.36 et. and Section 10.37 et. seq., SCWRO and LWO, respectively, of the Los Angeles Administrative Code."

1.5 Child Support Policy. The Contractor and any Subcontractor(s) must fully comply with all applicable State and Federal employment reporting requirements for the Contractor's and any Subcontractor(s)' employees. The Contractor and any Subcontractor(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 Contractor and any Subcontractor(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 Contractor and any Subcontractor(s) must certify that such compliance will be maintained throughout the term of the Contract. Failure of the Contractor and/or any Subcontractor(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 the Contract. Failure of the Contractor and/or any Subcontractor(s) or principal owner(s) thereof to cure the default within 90 days of notice of such default by the City shall subject the Agreement to termination.

2. Insurance Requirements.

2.1 Insurance

It is the policy of Los Angeles Department of Water and Power (LADWP) that upon the award of a contract, the selected Bidder/Bidder/Tenant must provide evidence of insurance that conforms to the insurance requirements of the bid/proposal/agreement. Insurance requirements are explained in detail in the attached language and "Contract Insurance Requirements" sheet, which specifically outlines the types and amounts of coverage required for this project/tenancy. For your information and use, "Special Endorsement Forms", "Guidance for Submitting Evidence of Insurance" and information on our insurance program for small vendors are available on our website. When and if you are awarded a contract/agreement, acceptable evidence of required insurance, from insurers acceptable to the LADWP, will be required to be submitted within 30-days of the date of award and maintained current throughout the term of

the contract. Said evidence of insurance must be on file with the Risk Management Section in order to receive payment under any contract for services rendered, and in order to commence work/tenancy under your contract.

For further information regarding these requirements, please contact:

Los Angeles Department of Water and Power
Risk Management Section
Phone: (213) 367-4674
Fax: (213) 367-0214
Web: <http://www.ladwp.com/ladwp/cms/ladwp005363.jsp>

2.2 Additional Insured Status Required

Contractor/Vendor 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 the 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 Insured (except for Professional Liability and Workers' Compensation), against the area of risk described herein as respects Contractor's/Vendor's acts or omissions in its performance of the agreement, hereunder or other related functions performed by or on behalf of Contractor/Vendor. Such insurance shall not limit or qualify the liabilities and obligations of the Contractor/Vendor assumed under the contract.

2.3 Severability of Interests and Cross Liability Required

Each specified insurance policy (other than Workers' Compensation and Employers' Liability and Property coverages) 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."

2.4 Primary and Non-Contributory Insurance Required

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

2.5 Deductibles Subject to LADWP's Discretion

Deductibles and/or self-insured retentions shall be the sole responsibility of the Risk Manager of the LADWP (hereinafter referred to as "Risk Manager"). The LADWP shall have no

liability for any premiums charged for such coverage(s). The inclusion of the LADWP, its Board, and all of its officers, employees and agents, and their agents and assigns, as additional insured, is not intended to, and shall not, make them, or any of them a partner or joint venture with Contractor/Vendor in its operations.

2.6 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 LADWP. If such coverage is canceled or reduced in coverage, Contractor/Vendor shall, within fifteen (15) days of such cancellation or reduction of coverage, file with the LADWP evidence that the required insurance has been reinstated or provided through another insurance company or companies.

2.7 Submission of Acceptable Proof of Insurance and Notice of Cancellation

Contractor shall provide proof to LADWP's Risk Manager of all specified insurance and related requirements by use of LADWP's own endorsement form(s), or 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 coverages shall be filed with LADWP prior to Contractor beginning operations hereunder. Said proof shall contain at a minimum, the applicable policy number, the inclusive dates of policy coverages, the date the protection begins for the Department of Water and Power, 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 (thirty (30) calendar days for non-payment of premium). The notification shall be sent by registered mail to: Risk Management, Post Office Box 51111, JFB Room 465, Los Angeles, California 90051-0100.

2.8 Claims-Made Insurance Conditions

Should any portion of the required insurance be on a "Claims Made" policy, the Contractor/Vendor 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 contract under which the work was performed.

2.9 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 LADWP may immediately terminate or suspend the agreement in accordance with the terms of the agreement.

2.10 Sub-Contractor Compliance

The Contractor/Vendor shall be responsible for all sub-contractors'/sub-vendors' compliance with the insurance requirements.

2.11 Periodic Right to Review/Update Insurance Requirements

The LADWP and Contractor/Vendor 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. City reserves the right to have submitted to it, upon request, all pertinent information about the agent and carrier providing such insurance, including applicable license and ratings.

2.12 Specific Insurance Requirements

The Bidder shall confirm to the requirements listed in the “Contract Insurance Requirements” sheet per Exhibit H.

2.13 Indemnification

The Contractor 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, and, at the option of the LADWP, defend the LADWP, and any and all of their Boards, officers, agents, representatives, employees, assigns and successors in interest 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 death, bodily injury or personal injury to any person, including contractor's employees and agents, or damage or destruction to any property of either party hereto, or third persons in any manner arising by reason of the negligent acts, errors, omissions or willful misconduct incident to the performance of this contract on the part of the contractor, or the contractor's officers, agents, employees, or subcontractors of any tier, except for the active negligence or willful misconduct of the LADWP, its Board, officers, agents, representatives or employees.

EXHIBIT C
ESCROW AGREEMENT

LADWP will be added as a beneficiary to Itron's existing escrow arrangement. See Section 18.f.

EXHIBIT D

CONTRACTOR'S QUALITY ASSURANCE PROGRAM

A Contractor's Quality Assurance Program will not be utilized under this Agreement.

EXHIBIT E
BACKGROUND TECHNOLOGY

Background Technology will not be listed in this Agreement.

EXHIBIT F RESPONSE

Itron will provide annual Software and Hardware for the three year term requested, under the following Technical support requirements and commitments.

Technical Support

a. Support Services.

Itron will make available qualified technical representatives by telephone, email or other remote means during its then-current normal business hours to assist Customer Coordinators (defined below) with the operation of and answer questions related to the software (the "**Software**") and equipment (the "**Equipment**") identified on Attachment A (together, the "**Products**"), which are covered by the services described herein (the "**Maintenance Services**"). Such technical support shall include, but is not limited to, troubleshooting, problem diagnosis, release or system management, and recommendations for fully utilizing the Products. Itron's current Support Services contact and support hours are described in the "Itron Support Services Contacts" document (the "**Contacts Document**"), which can be obtained by calling (877) 487-6602. Consistent with Section 1.c hereof, Customer will not use Support Services technical representatives in lieu of having qualified and trained support personnel of its own.

b. Field Support.

Upon mutual agreement of the Parties, Itron will dispatch support personnel to Customer's location to provide technical support. Such support will be billed at Itron's then-current hourly rates (with reasonable travel and living expenses invoiced at Itron's cost) unless the cause of the reported problem is found to be the fault of Itron.

c. Customer Coordinators and Service Requests.

Customer will identify no more than 2 supervisory level employees (each a "**Customer Coordinator**") for each Itron product line, as identified in the Contacts Document, to serve as administrative liaisons to Itron for all matters pertaining to the Maintenance Services for such product line. Customer Coordinators shall report problems with Software or Equipment (each such report, a "**Service Request**") as soon as practicable for entry into Itron's support tracking system. Before a Customer Coordinator interfaces with Itron, he or she will attend training sessions offered by Itron to ensure that he or she is (a) knowledgeable about the operation of the Products, and (b) qualified to perform problem determination and remedial functions with respect to the Products. Such training sessions will be at Itron's then-current rates. Customer will be solely responsible for all travel and other expenses incurred in connection with such training sessions. If Itron notifies Customer that additional training is necessary, Customer will promptly ensure that all applicable employees and/or Customer Coordinators receive such training.

EXHIBIT G INVOICE CRITERIA

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 on 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 individual Task Orders, including amount of current invoice, total invoiced to date, total authorized Task Order amount, Task Order percent complete, and percent of authorized Task Order cost invoiced to date, and the end date of the Task Order.
7. Taxes
8. Total amount of invoice
9. Description of services and deliverables provided related to each individual Task Order and associated costs
10. Supporting documentation for all costs and expenses, in a format acceptable to the Department.
11. Following certification statement 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.
12. Approval signature blocks for Department project manager and Department authorized representative(s) identified in Section 102.1, are not included on Itron Invoices as currently provided.
13. An accompanying LADWP Subcontractor Tracking Form, or its successor reporting format, identifying the amounts paid to each authorized subconsultant for both the current invoice and total invoiced to date. The Consultant shall explain any deviations from the anticipated subconsultant percentages identified in Exhibit C, List of Subconsultants, attached hereto and made a part hereof, and recommendations for recovering any shortfalls in subconsultant utilization.
14. Submit a statement along with any invoices or billings 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."

EXHIBIT H
PRIOR WORK PRODUCT

Prior Work Product will not be mentioned in this Agreement.

EXHIBIT I HARDWARE MAINTENANCE

The following section outlines Itron committed deliverables as applied for Hardware Maintenance coverage.

Hardware Maintenance

a. Preventive and Corrective Maintenance.

Upon receipt of an item of Itron Hardware (defined below) for which Customer has subscribed to receive Maintenance Services ("**Covered Hardware**"), Itron shall (i) perform the preventive Maintenance Services that it determines is reasonably necessary to maintain such Hardware in Operational Condition (defined below), and (ii) diagnose and correct any failure in such Hardware as necessary to meet Operational Condition (excluding minor cosmetic deficiencies such as blemishes, dents or scratches). The term "**Itron Hardware**" refers to Hardware identified on Attachment A as "Itron Hardware." The term "**Operating Condition**" means capable of performance in accordance with Itron's published specifications.

b. Maintenance Procedures.

Customer shall initiate a request for Maintenance Services for an item of Itron Hardware by delivering the item to the applicable Itron address identified on the Itron Hardware Repair Table (the "**Repair Table**"), which can be obtained by calling (877) 487-6602, at Customer's expense and in accordance with the applicable return material authorization procedure. Upon receipt of an item of Itron Hardware with the required information, Itron shall assess the item to determine whether it is Covered Hardware and whether the maintenance requested is included within the Maintenance Services and not otherwise excluded from coverage as provided herein. If the item of Itron Hardware is Covered Hardware and the maintenance requested is included in the Maintenance Services, Itron shall provide the applicable Maintenance Services and shall make commercially reasonable efforts to return the item of Itron Hardware to Customer at Itron's expense within the applicable turnaround identified on the Repair Table. Itron Hardware that is not Covered Hardware or maintenance or support that is requested but not included in the Maintenance Services shall be addressed as described in Section d hereof.

c. Exclusions.

The Hardware Maintenance Services described herein do not include repairs related to:

- i. Damage due to external causes, including accident, abuse, misuse, inadequate maintenance, problems with electrical power, acts of God; usage not in accordance with product instructions or in a configuration not approved by Itron;
- ii. Service (including installation or de-installation) not performed or authorized by Itron;
- iii. Use of parts, configurations or repair depots not certified by Itron;
- iv. Customer's failure to perform Customer responsibilities in accordance with this Agreement, including caring for Products in accordance with user documentation; or
- v. Products for which Itron has discontinued Maintenance Services.

d. Estimation Fees

Itron will provide Customer with a price quote for the estimated cost, including labor, materials and shipping, for any repairs that are requested but not included in the Maintenance Services (whether because the item of Hardware is not covered by Maintenance Services or because the nature of the repair is not included in Maintenance Services). If Customer elects to have Itron proceed with the requested maintenance on any such item, Itron shall provide such services at its then-current rates. If Customer elects not to proceed with the requested repair, Itron will return the item of Hardware at Customer's expense. Itron may charge Customer its then-current handling, inspection and shipping fees for any such returned Hardware.

e. Adding/Restoring Hardware to Maintenance Services.

Following the Effective Date, additional Itron Hardware purchased by Customer, of a similar type and model already covered by Maintenance Services, shall automatically be deemed to be Covered Hardware following expiration of the warranty for such Hardware. If Customer declines Hardware coverage after the end of warranty or if Customer discontinues Maintenance Services for any Covered Hardware, and thereafter wishes to add such Hardware as Covered Hardware, Itron may, prior to such Hardware being included as Covered Hardware, (i) inspect such Hardware at its then-current rates to determine whether it is in Operating Condition and/or (ii) charge its then-current re-certification fee, in addition to the Hardware's first term maintenance fee.

f. Customer Responsibilities.

Itron shall make available, and Customer shall obtain, a copy of Itron's user documentation for items of Covered Hardware and Customer shall perform regular preventive maintenance for each such item in accordance with such documentation. Customer shall also keep accurate records of Hardware serial numbers and locations to assist Itron with the Maintenance Services.

g. Loaner Hardware Program.

Subject to the requirements below, Itron shall make commercially reasonable efforts to provide Customer with a Mobile Collector or Handheld unit, as applicable, for the Customer to use (each an item of "**Loaned Hardware**") while a Mobile Collector or Handheld unit, as applicable, that is Covered Hardware is receiving Maintenance Services. Itron shall provide Loaned Hardware if all the following criteria are satisfied:

i. Customer has maintained an inventory of spare Mobile Collectors or Handheld units equal to at least 10 percent of the number of Mobile Collectors or Handheld units deployed in Customer's service territory (with at least one Mobile Collector) and such inventory has been depleted;

ii. Itron has provided preventive Maintenance Services for each of Customer's Mobile Collectors or Handheld Devices (as applicable) that are Covered Hardware in the 12-month period prior to Customer's request for Loaned Hardware; and

iii. Itron is unable to return the Mobile Collector or Handheld Devices, as applicable, receiving Maintenance Services within the applicable turnaround time set forth on Attachment A.

iv. Loaned Hardware will remain the property of Itron and shall be returned to Itron promptly upon receipt of the corresponding item of Itron Hardware. For Loaned Hardware that is not returned within 14 days from shipment of the corresponding item of Itron

Hardware, Itron may charge a late fee equal to 10 percent of the then-current list price for the item of Loaned Hardware for each 30 day period during which the item of Loaned Hardware remains unreturned. Itron shall pay the cost of delivering Loaned Hardware to Customer and Customer shall pay the cost of returning Loaned Hardware to Itron.

EXHIBIT J SOFTWARE MAINTENANCE

The following section outlines Itron committed deliverables as applied for Software Maintenance or Upgrade coverage.

Software Maintenance

a. Definitions.

1. "**Error**" means a failure of the Itron Software to substantially comply with the applicable published Itron specifications.
2. "**Fix**" means a correction of an Error, including a work-around, in order for the Itron Software to function in accordance with the applicable published Itron specifications.
3. "**Improvement**" means an update, modification, enhancement, extension, new version (regardless of name or number), new module, or other change to the Itron Software that is developed or otherwise provided by Itron.
4. "**Itron Software**" means Software identified on Attachment A as "Itron Software."
5. "**Software Release**" means a collection of Fixes or Improvements made available to Itron customers (either via physical media or download access).

b. Fixes.

Itron shall make commercially reasonable efforts to provide Fixes for Errors identified in a Service Request in accordance with the Response Time, Effort Level, and Escalation Path guidelines (together, the "**Service Levels**") outlined below for the applicable Severity Levels identified therein. Itron's obligations with respect to Service Levels are contingent upon Customer (i) devoting the same level of effort to resolving the Error as is required of Itron, (ii) responding to requests made by Itron within the applicable Response Time, and (iii) assigning its most qualified personnel to help Itron address the Error.

| Severity Level | Response Times | Effort Level and Escalation Path |
|--|--|--|
| <p>Severity Level 1. An Error for which there is no work-around that causes the Software to be unavailable.</p> | <p>Itron will respond to the Service Request within 4 business hours of receipt and will update Customer at three hour intervals each day for unresolved Service Requests, or as otherwise agreed by the Parties. Customer will respond to an Itron inquiry or request within three hours.</p> | <p>Itron will have technical analysts make diligent efforts on a 24x7 basis*, or as otherwise agreed by the Parties. A Service Request shall be escalated to Itron's Call Center Manager if a Fix is not provided within 1 business day of Itron's receipt of a Service Request. *24X7 support for Severity Level 1 Errors is not available for Itron Meter and Distribution products as outlined in Attachment B.</p> |
| <p>Severity Level 2. An Error other than a Severity Level 1 Error for which there is no work-around that results in a severe loss of access to the Software or that causes essential features of the Software to not work.</p> | <p>Itron will respond to the Service Request within 1 business day and will update Customer at least every other day. Customer will respond to an Itron inquiry or request within 1 business day.</p> | <p>Itron will have technical analysts make diligent efforts during normal business hours. Service Requests shall be escalated to Itron's Call Center manager if a Fix is not provided within 3 business days of Itron's receipt of a Service Request.</p> |
| <p>Severity Level 3. An Error other than a Severity Level 1 or Severity Level 2 Error that has a material impact on the functionality of the Software (e.g., a feature is not working as documented but a work-around is available and significant business functions are not materially impaired).</p> | <p>Itron will respond to the Service Request within 2 business days.</p> | <p>Itron will have technical analysts make diligent efforts during normal business hours.</p> |

| Severity Level | Response Times | Effort Level and Escalation Path |
|--|--|--|
| Severity Level 4. An Error other than a Severity Level 1, Severity Level 2 or Severity Level 3 Error. | Itron will respond to the Service Request within 3 business days, or as otherwise agreed by the Parties. | Itron will have its support analysts devote commercially reasonable efforts during normal business hours. |
| Severity Level 5. A Service Request for an enhancement or new functionality. | N/A | Itron will pass the Service Request to its internal Product Management for review. If the enhancement or new functionality requires more immediate attention, Itron Consulting Services can be engaged to create a customized proposal at Itron's then-current services rates. |

c. Improvements.

Itron shall provide Improvements, if any, at its then-current price for such Improvements (or at no charge if such Improvements are made available to Itron customers generally at no charge).

d. Software Releases.

i. **Release Numbering Convention.** Fixes and/or Improvements are made available to customers through periodic Software Releases. For informational purposes, Itron's current practice (which may be changed at any time in Itron's discretion) is to provide Releases using the numbering convention "XX.YY.ZZ."

- The "XX" in Itron's numbering convention refers to a "**System Release**," which is a new version of the item of Itron Software. A System Release may include Fixes, Improvements or interfaces to new functional modules or platforms not previously supported by Itron.

- The "YY" in Itron's numbering convention refers to a "**Service Pack Release**," which is an update to a System Release. Service Pack Releases may include Fixes or Improvements and are provided to Itron customers generally on a periodic basis.

- The "ZZ" in Itron's numbering convention refers to a "**Hot Fix Release**," which an unscheduled release is provided to one or more customers as a short-term, temporary fix to a Severity Level 1 Error. While not utilized by all Itron Software product lines, Hot Fix Releases are not made available to Itron customers generally but may be included in the next scheduled Service Pack for general release.

ii. **Support for Releases of Itron Enterprise Edition and OpenWay Software.** This subsection applies only to Itron Enterprise Edition and OpenWay software products. Maintenance Services for Itron Enterprise Edition and OpenWay software products

shall be limited to the most recent System Release and the prior System Release (and the most current Service Pack Release associated with such System Release). Customer will test and install Service Pack Releases associated with the System Release in use by Customer within 6 months of such Service Pack Releases being made available to Customer. Customer will upgrade to the latest System Release at least every twenty-four (24) to thirty-six (36) months. At Customer's request, Itron will assist with any such upgrade at its then-current hourly rates. Itron may elect to provide Maintenance Services for an unsupported Release of Itron Software at its then-current rates for customer support.

iii. **Support for Releases of all Other Itron Software.** This subsection applies to all Itron Software other than Itron Enterprise Edition and OpenWay Software products. Maintenance Services for all Itron Software other than Itron Enterprise Edition and OpenWay software products shall be limited to the most recent System Release and the two prior Service Pack Releases. Customer will test and install System Releases and Service Pack Releases within 12 months of such Releases being made available to Customer. At Customer's request, Itron will assist with any such upgrade at its then-current hourly rates. Itron may elect to provide Maintenance Services for an unsupported Release of Itron Software at its then-current rates for customer support.

e. Interoperability.

Itron makes no representation or warranty regarding the ability of the Itron Software to interoperate with third party hardware or software other than software or hardware identified as compatible with the Itron Software in Itron's published documentation for such Itron Software (the "**Documentation**").

f. Documentation and Software Library.

Itron will make an electronic copy of the Documentation available to Customer at no additional charge via physical media or download access. Itron will maintain a copy of its most recent supported version of the executable Itron Software to be made available to Customer as necessary in the event of corrupted or inoperative Itron Software.

g. Restoring Software to Maintenance Services.

If Customer declines Maintenance Services after the end of warranty or discontinues Maintenance Services for any Itron Software, and thereafter wishes to resume Maintenance Services for the most recent Release of such Itron Software, Customer shall, prior to receiving such Maintenance Services, notify Itron in writing of its request for Maintenance Services and pay Itron's then-current re-initiation fee.

h. Exclusions.

Itron shall have no obligation to Customer to the extent any Itron Software is adversely affected by: (i) use of the Itron Software in combination with other software, equipment or communications networks that are not referenced in the Documentation; (ii) any modification to the software or operating environment that is made other than through the fault of Itron, after the Effective Date; (iii) the use of a version of the Itron Software that is not supported by Itron; (iv) Customer's failure to implement a Fix provided by Itron; (v) the operation or maintenance of the Itron Software other than through the fault of Itron; (vi) viruses introduced through no fault of Itron; (vii) use of the Itron Software other than as permitted by Itron; or (viii) Customer's failure to perform Customer responsibilities in accordance with this Agreement.

i. *Customer Responsibilities.*

i. Remote Communications.

Customer will obtain, install, operate, and maintain remote communications software and equipment in a manner that will allow for remote access to the Software. Customer will make such remote access available to Itron representatives, as necessary, for remote diagnosis and troubleshooting of the Software.

ii. System Configuration and Administration.

Customer will ensure that its equipment, operating system, and data communications environment associated with the Software is configured, operated, and maintained in accordance with the Documentation and any applicable third party documentation. These administrative activities shall include but not be limited to: checking audit logs, clearing discovered exceptions, and performing daily, weekly, and monthly operational tasks and system responsibilities. Customer will consult with Itron prior to making changes that may affect the operation of the Software.

iii. Network Administration.

Customer will monitor and maintain, repair, replace and upgrade its local, and wide area network components (if any)—including network servers, network clients, network hubs, routers, modems, and other software components necessary for efficient and reliable network operations associated with the Software—to ensure continued conformance with the Documentation. In addition, Customer will administer related host names, Internet Protocol addresses, network interfaces, access, security, communications, and equipment and software version control.

iv. Database Administration.

Customer will administer the agreed upon database(s) associated with the Software, including hardware and software components, in accordance with the Documentation or any applicable third party documentation, which administration shall include, monitoring the database server, backing up electrical power sources, and configuring and administering of database schema, application interfaces, networking operating system, communications, and file transfer software. Customer will maintain database files (e.g., truncate, cleanup, and delete files consistent with industry standard practices) and perform regular data backup and data archiving.

v. Data Review.

If Itron determines that it is necessary to evaluate Customer data in order to reproduce error conditions not reproducible with Itron's standard test data sets, Customer will provide Itron with access to such data. Itron will manage such data in a secure manner while in use and delete the data from Itron systems upon completion of the investigation. Itron shall not be liable for any delay or failure to resolve the problem if access to such production data is denied to Itron.

EXHIBIT K RIGHT TO AUDIT CLAUSE

Except for costs associated with fixed priced product, shrink wrap software, and the fixed price annual maintenance agreement.

Right to Audit: The Contractor and the Contractor's subcontractors and suppliers shall be subject at any time with 7 calendar days prior written notice to audits by the Department or the Department's agents, collectively defined as "Authorized Auditors", relating to all billings and to verify compliance with all contract requirements relative to practices, methods, procedures, and documentation. The Authorized Auditors shall have access to all records and data relating to the contract. The audits will be performed using FAR, Part 30 and 31, et seq., generally accepted accounting practices and principles, and City Contractor Cost Guidelines, and any other applicable City, State and Federal government audit standards if any. The Contractor shall maintain and the Authorized Auditors will have the right to examine and audit all books, records, documents, accounting procedures and practices, 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 or anticipated to be incurred in performing the Contract. Any information provided on machine-readable media shall be provided in a format accessible and readable by the Authorized Auditors. The Contractor shall not, however, be required to furnish the Authorized Auditors with commonly available software. If the Contractor, the Contractor's subcontractors and/or suppliers are required to submit cost or pricing data in connection with the Contract and/or the Contract Amendment, the Authorized Auditors will have the right to examine all documents necessary to permit adequate evaluation of the cost or pricing data submitted, along with the computations and projections used. The Authorized Auditors will also have the right to reproduce, photocopy, download, transcribe, and the like any such records. The Contractor shall make said evidence or to the extent accepted by the Authorized Auditors, photographs, microphotographs etc. or other authentic reproductions thereof available to the Authorized Auditors at the Contractor's offices at all reasonable times and without charge. The Contractor and the Contractor's subcontractors and suppliers shall keep and preserve all such records for a period of not less than 3 years from and after Final Payment or, if the Contract is terminated in whole or in part, until 3 years after final Contract closeout.

The Contractor, the Contractor's subcontractors and suppliers shall account for and be responsible for unallowable costs and mutually agreed unallowable costs. The detail and depth of records required as backup support for proposals, billings, or claims shall be that which adequately establishes and maintains visibility of identified unallowable costs, costs directly associated to unallowable costs, and allowable costs.

All Changes are subject to audit. Changes with an absolute value of one hundred thousand (\$100,000) dollars or more shall require an audit. The City may waive the right to audit where there was adequate price competition, an established catalog or market prices for commercial items sold in substantial quantities to the public, and/or prices set by law or regulation.

The Contractor shall maintain and segregate cost and pricing data, books, records, documents,

and any other accounting evidence sufficient to properly reflect all direct and indirect costs of whatever nature claimed to have been incurred or anticipated to be incurred by a Contract Amendment, including a change order.

For a period of 3 years from the date of Final Payment under the Contract, and prior to the execution of any Contract Amendment that exceeds an absolute value of one hundred thousand dollars (\$100,000), the Authorized Auditors will have the right to examine all books, records, documents, and any other applicable data or evidence that relate to the negotiation and/or performance of the Contract and/or a contract amendment for the purpose of evaluating the accuracy and completeness of the cost or pricing data submitted by the Contractor. To the extent that the examination reveals inaccurate, incomplete, or non-current data, the data shall be considered defective; if the audit indicates the Contractor has been overpaid under a previous payment application, such overpayment, after 10 calendar days notice to the Contractor, shall be paid to the Department.

The Authorized Auditors may require that the Contractor supply appropriate documentation to support the costs or prices proposed for a Contract amendment, including a change order, and will refuse to complete negotiations until satisfactory documentation is submitted. The Contractor's books, records, documents and any other applicable data or evidence that relate to the negotiations and/or performance of the contract amendment shall be subject to audit and inspection.

Also subject to audit shall be the Contractor's records, books, documents and any other applicable data or evidence relating to those items on a billing that relates to:

- a.** Work performed under the contract and/or a change order;
- b.** Goods not yet incorporated into the work;
- c.** Services or work performed under a contract amendment negotiated on an indefinite quantity basis; and
- d.** Fixed-price change orders to validate the claimed percentage of completion on the payment application.

Notwithstanding the foregoing, if the audit reveals that the overpayment is more than 5% of the billing, the Contractor shall pay all expenses and costs incurred by the Authorized Auditors arising out of or related to the audit.

EXHIBIT L
CONTRACT INSURANCE REQUIREMENTS
DEPARTMENT OF WATER AND POWER

EXHIBIT M
List of Subconsultants

The following subconsultants are authorized to work on the Project:

| Name | Special Expertise of Firm | Anticipated Task/Service Responsibilities | Location | Firm Type (SBE/DVBE) | Anticipated Compensation* |
|---------------------|--|---|---------------|---------------------------|---------------------------|
| Guidry & Associates | Computer System Design, Management and Support | TMS Operations and Data Support | LADWP Offices | SBE via DBE certification | \$6,000 / month |
| | | | | | |
| | | | | | |

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

SCHEDULE 1

Service Requests and Fee Schedule

Service Requests allow LADWP the opportunity to fulfill the need for Services outside those provide in the Maintenance Program, including but not limited to training, software customization / Upgrades and on-site software installation support.

Pursuant to LADWP request for these Services, Itron will response to each request in the form of a Statement of Work (SOW), and on approval from both Parties, Itron will perform these Services in accordance with the work description, the delivery schedule and the billing/payment terms as included in the SOW. Itron will bill the LADWP for reasonable and approved personal services, travel, and expenses at actual costs and as allowed at the LADWP's normal rates.

Services performed on a fixed fee basis will be invoiced as set forth in the applicable SOW, or if not set forth on a SOW, upon completion of the Service.

Services for Upgrades may be performed for the following products: MV-90, MV Web, MV-PBS, TMS, Forecast Manager, Metrix LT, Metrix NT, IEE Custom, and FCS300 Meter Reading software. As intended by LADWP, Upgrade Service fees shall not exceed \$25,000 during the term of this Agreement.

As intended by LADWP, Personal / Professional Services are only applicable for the following software applications: MV-90, MV Web, MV-PBS, TMS, Forecast Manager, Metrix LT, Metrix NT, IEE Custom and FCS300 Meter Reading. As intended by LADWP, Personal / Professional Services shall not exceed \$678,335 during the term of this Agreement.

Personal / Professional Services Fees

| Role Classifications | Standard Hourly Rate |
|--|-----------------------------|
| Project Executive / Program Manager | \$250.00 |
| Business Consultant | \$225.00 |
| Lead Technical Consultant | \$225.00 |
| Project Manager | \$225.00 |
| SW Development Engineer | \$225.00 |
| Technical Consultant / Senior Analyst | \$190.00 |
| Installation Manager | \$190.00 |
| RF Network Engineer | \$190.00 |
| Field Services Engineer | \$190.00 |
| Project / Business Analyst | \$175.00 |

Support Services Fees

| Post Installation Technical Phone / Training Support | | Hourly Rate |
|---|---|--------------------|
| | | |
| Extended support / Supplemental Services for Maintenance customers | Mon. through Fri. 5 pm to 5 am PST | \$190.00 |
| | Saturday and Sunday | \$225.00 |
| | Holidays | \$250.00 |

Personal / Professional Service Role Descriptions

| Roles | Role Description |
|---------------------------------------|---|
| Project Executive / Program Manager | The Project Executive is the senior member of the delivery team, responsible for overall client satisfaction and delivery of contracted services. The Project Executive has extensive utility and contract experience. The Project Executive serves as the single point of accountability to resolve issues, manage progress, and ensure successful implementation of the project. The Project Executive builds and maintains executive relationships with the customer, systems integrator, installation contractor; and is accountable for overall project success. The Project Executive usually has a seat on the Utilities Projects Program Management Office. |
| Project Manager | Is the main point of contact for the Project. Involved from the Project kickoff to Project completion. Responsible for managing scope, cost, resources and the day-to-day activities of other consultants working on your Project. In addition, this individual will also be responsible for overseeing solution design, testing and training activities. |
| Lead Technical Consultant | Leads overall system design, including technical architecture, data flow, systems integration, systems configuration and system scalability. Has a strong understanding of Itron systems, communication protocols, technology platforms, and legacy utility systems that must work together to deliver the project needs and objectives. |
| Business Consultant | Itron Business Consultants complement the Technical Consultant with deep product understanding to exploit the product's functionality to meet business objectives. They focus on the customer's business requirements, identify any gaps, and recommend how to best configure the system to meet specific business objectives and business process needs. They frequently play an active role on project specific documentation (gaps, test plans, "to-be" process, and training) as well as conducting system testing. |
| SW Development Engineer | Responsible for the requirements review, software design, development, test and release of software system enhancements and supplemental software services. |
| Technical Consultant / Senior Analyst | Responsible for the design, installation, configuration, technical training and testing of Itron systems. Works with the utility or third party contractors on data flow and integrating Itron systems into the larger utility solution. Leads technical systems testing. |
| Installation Manager | Oversight responsibility for the installation of meters, meter modules, cell relays, CCU's, repeaters. Responsibility includes inventory accountability and status (from the factory, install, and network registration), field operations management, back office operations, customer communications, data synchronization / integrity and exception processing. |

| | |
|----------------------------|--|
| RF Network Engineer | Responsible for the design, field sitting, and deployment of the RF system components including the cell relay, CCU, repeater locations, WAN backhaul design, and Zigbee Home Area Network design. The RF Network Engineer will be involved to resolve any read performance issues linked to the physical network during deployment. |
| Field Services Engineer | Supports the RF Network Engineer to meet network performance goals. Works with the Network Operators to investigate system issues in the field. Will provide oversight and direction to field technicians who are investigating non-responding meters. |
| Project / Business Analyst | Responsible for system performance reporting, issue tracking (including closure of issues). May lead focused sub-projects related to deployment and network performance. |

ATTACHMENT A: Hardware and Software Maintenance Fees

The following ATTACHMENT A quotes included applicable hardware and software maintenance coverage and pricing by each Itron product owned / operated by LADWP. A five year term is included for all quotes, unless otherwise stated. These quotes are subject to change upon joint approval of both Parties under conditions provided within this Agreement.

- 1. Forecasting and IEE 5 Year Maintenance Proposal Pricing**
- 2. MV-90, Web, Load Research SW 5 Year Maintenance Pricing**
- 3. MV-PBS SW 5 Year Maintenance Pricing**
- 4. TMS System Software 5 Year Maintenance Proposal Pricing**
- 5. Meter Reading 5 Year Maintenance Proposal Pricing**

Software and Equipment Maintenance Fees


The following quotes include applicable software and equipment maintenance coverage terms and pricing, separated by each Itron product type owned and operated by LADWP. A five year term is included for all quotes, unless otherwise stated. These quotes are subject to change upon joint approval of both Parties under the conditions provided within this Agreement.

1. Forecasting and IEE Software – 5 Year License - Maintenance Pricing
2. MV-90xi, MV-Web, Load Research Software – 5 Year License - Maintenance Pricing
3. PV-PBS Software – 5 Year License - Maintenance Pricing
4. TMS System Software - 5 Year License - Maintenance Pricing
5. Meter Reading Software / Equipment (FCS, FC300 Handhelds, DST Probes) – 5 Year License - Maintenance Pricing


Software and Equipment Upgrades - Purchase and Maintenance Pricing

Per LADWP's request, Itron had included new tier license pricing and maintenance fees for IEE and MV-90xi software, and new FC300 and DST Probe hardware purchase pricing and maintenance fees for FCS. The Upgrade purchase and maintenance pricing is included in the assumptions section of each Attachment A quote.


Forecasting and IEE Software Maintenance Pricing

| | | | | | | | 2057 - Los Angeles Department of Water and Power | | | | | | | | | |
|--|-----|---|---|--------------------------------|-------------------------------------|--------------|--|--------------|--------------------|---------------------|---------------------|--------------------|----------------------|------|------|------|
|  <i>Knowledge to Shape Your Future</i> | | | | | | | 111 N. Hope Street - Room 1068 | | | | | | | | | |
| | | | | | | | Los Angeles, CA 90012-2607 | | | | | | | | | |
| | | | | | | | Customer Address | | | | | | | | | |
| Forecasting and IEE 5 Year Maintenance Proposal Pricing | | | | | | | | | | | | | | | | |
| Date of Quote: [6/18/14] | | | | | | | | | | | | | | | | |
| | | | | | | | Annual Increase Applied | | | | | | | | | |
| | | | | | | | Agreement Dates | | Price | | | | | | | |
| | | | | | | | Warranty | Start | End | Number of | Annual | 2015 | 2016 | 2017 | 2018 | 2019 |
| Hardware | Qty | Component Name | Expiration Date | | | | Months | Fee/Unit | | | | | | | | |
| Current | - | - | | | | | 0 | \$ - | \$ - | \$ - | \$ - | \$ - | \$ - | \$ - | \$ - | |
| | - | - | | | | | | \$ - | \$ - | \$ - | \$ - | \$ - | \$ - | \$ - | \$ - | |
| Hardware Subtotal | | | | | | | | | \$ - | \$ - | \$ - | \$ - | \$ - | \$ - | | |
| Software | | | | | | | | | | | | | | | | |
| Forecasting | 1 | MetrixND SW Term License / Maintenance | Ended | 1/1/2015 | 12/31/2019 | 12 | \$ 4,243.24 | \$ 4,243.24 | \$ 4,370.54 | \$ 4,501.65 | \$ 4,636.70 | \$ 4,775.80 | | | | |
| | 1 | MetrixLT SW Term License / Maintenance | Ended | 1/1/2015 | 12/31/2019 | 12 | \$ 4,243.24 | \$ 4,243.24 | \$ 4,370.54 | \$ 4,501.65 | \$ 4,636.70 | \$ 4,775.80 | | | | |
| | 1 | Forecast Manager Subscription | Ended | 1/1/2015 | 12/31/2019 | 12 | \$ 8,486.47 | \$ 8,486.47 | \$ 8,741.06 | \$ 9,003.29 | \$ 9,273.39 | \$ 9,551.60 | | | | |
| | 1 | Forecast Manager Maintenance | Ended | 1/1/2015 | 12/31/2019 | 12 | \$ 1,738.91 | \$ 1,738.91 | \$ 1,791.08 | \$ 1,844.81 | \$ 1,900.15 | \$ 1,957.16 | | | | |
| IEE Customer Care | 1 | Customer Care Energy Analysis License - Maintenance | Ended | 1/1/2015 | 12/31/2019 | 12 | \$ 20,658.26 | \$ 20,658.26 | \$ 21,278.01 | \$ 21,916.35 | \$ 22,573.84 | \$ 23,251.06 | | | | |
| | 1 | Customer Care Cost Analysis License - Maintenance | Ended | 1/1/2015 | 12/31/2019 | 12 | \$ 12,624.49 | \$ 12,624.49 | \$ 13,003.23 | \$ 13,393.33 | \$ 13,795.13 | \$ 14,208.98 | | | | |
| | 1 | MV90 Collection Engine License - Maintenance | Ended | 1/1/2015 | 12/31/2019 | 12 | \$ 4,173.38 | \$ 4,173.38 | \$ 4,298.59 | \$ 4,427.54 | \$ 4,560.37 | \$ 4,697.18 | | | | |
| | 1 | Weather Services License - Maintenance | Ended | 1/1/2015 | 12/31/2019 | 12 | \$ 2,898.18 | \$ 2,898.18 | \$ 2,985.13 | \$ 3,074.68 | \$ 3,166.92 | \$ 3,261.93 | | | | |
| | - | - | | | | | \$ - | \$ - | \$ - | \$ - | \$ - | \$ - | | | | |
| Software Subtotal | | | | | | | | | \$ 59,066.18 | \$ 60,838.17 | \$ 62,663.31 | \$ 64,543.21 | \$ 66,479.51 | | | |
| Hardware & Software Total | | | | | | | | | \$59,066.18 | \$ 60,838.17 | \$ 62,663.31 | \$64,543.21 | \$ 66,479.51 | | | |
| Total Maintenance Fees (USD) | | | | | | | | | | | | | \$ 313,590.38 | | | |
| Comments and/or Assumptions: | | | | | | | | | | | | | | | | |
| | | | Increased endpoint count by 800 endpoints. Moving tiers from Tier 4 / 501 - 1,500 endpoints to Tier 5 / 501 - 5,000: | Incremental License Fee | First year Add-on Maint. Fee | | | | | | | | | | | |
| | | | Adding 800 Meters to CC Energy Analysis | \$42,350 | \$8,470 | | | | | | | | | | | |
| | | | Adding 800 Meters to CC Cost Analysis | \$18,150 | \$3,630 | | | | | | | | | | | |
| 2) Assuming LADWP adds the 800 meters to both CC Energy Analysis and CC Cost Analysis by 1/1/2015, the total fee by product would then be: | | | | | | | | | | | | | | | | |
| | | | | 2015 | 2016 | 2017 | 2018 | 2019 | | | | | | | | |
| | | | New Maintenance Fees for CC Energy Analysis | \$ 29,128.26 | \$ 30,002.11 | \$ 30,902.18 | \$ 31,829.24 | \$ 32,784.12 | | | | | | | | |
| | | | New Maintenance Fees for CC Cost Analysis | \$ 16,254.49 | \$ 16,742.13 | \$ 17,244.39 | \$ 17,761.72 | \$ 18,294.58 | | | | | | | | |

MV-90xi, MV-Web, Load Research Maintenance Pricing

| | | | | | | | | | | | | |
|--|------------|---|---|--------------------------------|-------------------------------------|-------------------------|---|---------------------|---------------------|---------------------|----------------------|---------------------|
|  <p><i>Knowledge to Shape Your Future</i></p> | | | | | | | <p align="right">2057 - Los Angeles Department of Water and Power 111 N. Hope Street - Room 956 Los Angeles, CA 90012-2607</p> | | | | | |
| <p>MV-90, Web, Load Research SW 5 Year Maintenance Pricing Date of Quote: 6/18/14</p> | | | | | | | | | | | | |
| | | | | | | | Annual Increase Applied | | | | | |
| | | | Agreement Dates | | | Price | | | | | | |
| Hardware | Qty | Component Name | Warranty Expiration Date | Start | End | Number of Months | Annual Fee/Unit | 2015 | 2016 | 2017 | 2018 | 2019 |
| | - | - | | | | | \$ - | \$ - | \$ - | \$ - | \$ - | \$ - |
| | - | - | | | | | \$ - | \$ - | \$ - | \$ - | \$ - | \$ - |
| Hardware Subtotal | | | | | | | | \$ - | \$ - | \$ - | \$ - | \$ - |
| Software | | | | | | | | | | | | |
| Current | 1 | MV-90xi SW License - Maintenance, 32,000 meters | Ended | 1/1/2015 | 12/31/2019 | 12 | \$ 54,674.89 | \$ 54,674.89 | \$ 56,315.14 | \$ 58,004.59 | \$ 59,744.73 | \$ 61,537.07 |
| | 1 | MVWEB SW License - Maintenance | Ended | 1/1/2015 | 12/31/2019 | 12 | \$ 11,211.85 | \$ 11,211.85 | \$ 11,548.20 | \$ 11,894.65 | \$ 12,251.49 | \$ 12,619.03 |
| | 1 | Load Research SW License - Maintenance | Ended | 1/1/2015 | 12/31/2019 | 12 | \$ 6,340.97 | \$ 6,340.97 | \$ 6,531.20 | \$ 6,727.13 | \$ 6,928.95 | \$ 7,136.82 |
| | 1 | MVLT or MVLTxi Laptop SW License - Maintenance | Ended | 1/1/2015 | 12/31/2019 | 12 | \$ 2,959.12 | \$ 2,959.12 | \$ 3,047.89 | \$ 3,139.33 | \$ 3,233.51 | \$ 3,330.51 |
| | - | - | | | | | \$ - | \$ - | \$ - | \$ - | \$ - | \$ - |
| Software Subtotal | | | | | | | | \$ 75,186.83 | \$ 77,442.43 | \$ 79,765.71 | \$ 82,158.68 | \$ 84,623.44 |
| Hardware & Software Total | | | | | | | | \$ 75,186.83 | \$ 77,442.43 | \$ 79,765.71 | \$ 82,158.68 | \$ 84,623.44 |
| Annual Maintenance Fee Subtotals | | | | | | | | | | | | |
| | | | | | | | | | | | \$ 399,177.08 | |
| Total Maintenance Fees (USD) | | | | | | | | | | | | |
| | | | | | | | | | | | \$ 399,177.08 | |
| Comments and/or Assumptions: | | | | | | | | | | | | |
| | | | Increased endpoint count from 32,000 to: | Incremental License Fee | First year Add-on Maint. Fee | | | | | | | |
| | | | 40,000 | \$16,000 | \$3,200 | | | | | | | |
| 1) The version of MV90xi software which will support more than 32,000 meters on a single server is schedule to be available 1/1/2015. 2) Assuming LADWP moves to the 40,000 meter MV-90 license on 1/1/2015, the total MV-90xi SW Maintenance line would change as follows: | | | | | | | | | | | | |
| | | | | | | | 2015 | 2016 | 2017 | 2018 | 2019 | |
| MV-90xi SW Maintenance, 40,000 meters | | | | | | | \$ 57,874.89 | \$ 59,611.14 | \$ 61,399.47 | \$ 63,241.46 | \$ 65,138.70 | |
| Hardware and Software Total (would change to) | | | | | | | \$ 78,386.83 | \$ 80,738.43 | \$ 83,160.59 | \$ 85,655.40 | \$ 88,225.07 | |
| | | | | | | | Total Maintenance Fees (USD) | \$ 416,166.31 | | | | |

MV-PBS Software Maintenance Pricing

| | | | | | | | | | | | | | |
|---|------------|--|-----------------|--------------|------------|------------------|--|-------------|---------------------|---------------------|---------------------|----------------------|--|
|  <i>Knowledge to Shape Your Future</i> | | | | | | | 2057 - Los Angeles Department of Water and Power 111 N. Hope Street - Room 956 Los Angeles, CA 90012-2607 | | | | | | |
| MV-PBS SW 5 Year Maintenance Pricing Date of Quote: 6/18/14 | | | | | | | | | | | | | |
| | | | | | | | Annual Increase Applied | | | | | | |
| | | | | | | | Agreement Dates | | | | | | |
| | | | | | | | Price | | | | | | |
| | | | | | | | Warranty | | | | | | |
| | | | | | | | Expiration Date | | | | | | |
| | | | | | | | Start | | | | | | |
| | | | | | | | End | | | | | | |
| | | | | | | | Number of | | | | | | |
| | | | | | | | Months | | | | | | |
| | | | | | | | Annual | | | | | | |
| | | | | | | | Fee/Unit | | | | | | |
| | | | | | | | 2015 | | | | | | |
| | | | | | | | 2016 | | | | | | |
| | | | | | | | 2017 | | | | | | |
| | | | | | | | 2018 | | | | | | |
| | | | | | | | 2019 | | | | | | |
| Hardware | Qty | Component Name | Warranty | Start | End | Number of | Annual | 2015 | 2016 | 2017 | 2018 | 2019 | |
| | - | - | | | | | \$ - | \$ - | \$ - | \$ - | \$ - | \$ - | |
| | - | - | | | | | \$ - | \$ - | \$ - | \$ - | \$ - | \$ - | |
| Hardware Subtotal | | | | | | | | \$ - | \$ - | \$ - | \$ - | \$ - | |
| Software | | | | | | | | | | | | | |
| Current | 1 | MV-PBS Software Base | Ended | 3/1/2016 | 12/31/2019 | 10 | \$ - | \$ - | \$ - | \$ - | \$ - | \$ - | |
| | 1 | MV-PBS MV-PBS BASE LICENSE - Maintenance 1001-2500 ELECT DEL | Ended | 3/1/2016 | 12/31/2019 | 10 | \$ 40,180.66 | \$ - | \$ 33,483.88 | \$ 41,386.08 | \$ 42,627.66 | \$ 43,906.49 | |
| | - | - | | | | | \$ - | \$ - | \$ - | \$ - | \$ - | \$ - | |
| Software Subtotal | | | | | | | | \$ - | \$ 33,483.88 | \$ 41,386.08 | \$ 42,627.66 | \$ 43,906.49 | |
| Hardware & Software Total | | | | | | | | \$ - | \$ 33,483.88 | \$ 41,386.08 | \$ 42,627.66 | \$ 43,906.49 | |
| Annual Maintenance Fee Subtotals | | | | | | | | | | | | \$ 161,404.12 | |
| Discount for three year pre-payment | | | | | | | | | | | | \$ - | |
| Total Maintenance Fees (USD) | | | | | | | | | | | | \$ 161,404.12 | |
| Comments and/or Assumptions: | | | | | | | | | | | | | |
| 1) MV-PBS SW license - maintenance will under the 5 year offer on 3/1/2016, after the original maintenance terms between LADWP and Itron have ended, 2/28/2016. | | | | | | | | | | | | | |

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

Agreement/Activity/Operation: Itron-Software Maintenance, software upgrades/training & professional services
 Reference/Agreement: Sole Source
 Term of Agreement: Five Years
 Contract Administrator and Phone: _____
 Buyer and Phone Number: _____
 Risk Manager /Date: _____ MRM 5/12/14

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

- (x) WORKERS' COMPENSATION(Stat. Limits)/Employer's Liability: (\$1,000,000.00)
 - (x) Broad Form All States Endorsement () US L&H (Longshore and Harbor Workers)
 - () Jones Act (Maritime Employment) () Outer Continental Shelf
 - (x) Waiver of Subrogation () Black Lung (Coal Mine Health and Safety)
 - () Other: _____ () Other: COI w/ WOS ok
- (x) AUTOMOBILE LIABILITY: (\$1,000,000.00)
 - (x) Owned Autos () Any Auto
 - (x) Hired Autos (x) Non-Owned Auto
 - () Contractual Liability (x) Additional Insured
 - () MCS-90 (US DOT) () Trucker's Form
 - () Waiver of Subrogation (x) Other: COI w/ AI ok
- (x) GENERAL LIABILITY: () Limit Specific to Project () Per Project Aggregate (\$1,000,000.00)
 - (x) Broad Form Property Damage (x) Contractual Liability (x) Personal Injury
 - (x) Premises and Operations (x) Products/Completed Ops. (x) Independent Contractors
 - () Fire Legal Liability () Garagekeepers Legal Liab. () Child Abuse/Molestation
 - () Corporal Punishment () Collapse/Underground () Explosion Hazard
 - () Watercraft Liability () Pollution (x) Addition Insured Status
 - () Waiver of Subrogation () Airport Premises () Hangarkeepers Legal Liab.
 - () Marine Contractors Liability () Other: _____ (x) Other: COI w/ AI ok
- (x) PROFESSIONAL LIABILITY: (\$2,000,000.00)
 - (x) Contractual Liability () Waiver of Subrogation (x) 3 Year Discovery Tail
 - () Additional Insured () Vicarious Liability Endt. (x) Other: COI ok
- () AIRCRAFT LIABILITY: ()
 - () Passenger Per Seat Liability () Contractual Liability () Hull Waiver of Subrogation
 - () Pollution () Additional Insured () Other: _____
- () PROPERTY DAMAGE: () Loss Payable Status (AOIMA) ()
 - () Replacement Value () Actual Cash Value () Agreed Amount
 - () All Risk Form () Named Perils Form () Earthquake: _____
 - () Builder's Risk:\$ _____ () Boiler and Machinery () Flood: _____
 - () Transportation Floater:\$ _____ () Contractors Equipment\$ _____ () Loss of Rental Income: _____
 - () Scheduled Locations/Propt. () Other: _____ () Other: _____
- () WATERCRAFT: ()
 - () Protection and Indemnity () Pollution () Additional Insured
 - () Waiver of Subrogation () Other: _____ () Other: _____
- () POLLUTION: ()
 - () Incipient/Long Term () Sudden and Accidental () Additional Insured
 - () Waiver of Subrogation () Contractor's Pollution () Other: _____
- () CRIME: () Joint Loss Payable Status () Additional Insured ()
 - () Fidelity Bond () Financial Institution Bond () Loss of Monies/Securities
 - () Employee Dishonesty () In Transit Coverage () Wire Transfer Fraud
 - () Computer Fraud () Commercial Crime () Forgery/Alteration of Docs.
 - () Other: _____ () Other: _____
- () ASBESTOS LIABILITY: () Additional Insured ()

Page 2. **CONTRACT INSURANCE REQUIREMENTS (continued)**

PER OCCURRENCE LIMITS

() _____ (\$ _____)
(type of coverage)

() _____ () _____ () _____

() _____ () _____ () _____

() _____ () _____ () _____

() _____ (\$ _____)
(type of coverage)

() _____ () _____ () _____

() _____ () _____ () _____

() _____ () _____ () _____

() _____ (\$ _____)
(type of coverage)

() _____ () _____ () _____

() _____ () _____ () _____

() _____ () _____ () _____