

STANDARD SERVICES AGREEMENT

Project: 2021 South Bay Cities Energy Partnership
Locations: 2355 Crenshaw Boulevard, Suite 125, Torrance, CA 90501

This Standard Services Agreement (“Agreement”), dated and effective as of **January 1, 2021** (“Effective Date”), is entered into by and between **Southern California Gas Company** (“Company”) and **South Bay Cities Council of Governments** (“Contractor”). Company and Contractor are sometimes referred to in this Agreement individually as a “Party” and jointly as the “Parties.”

The Parties, intending to be legally bound, agree as follows:

1. **Scope.** Contractor shall perform, at its own proper cost and expense, in the most substantial and skillful manner, the services generally described in Schedule B (“Services” or “Work”). The term “Services” or “Work” as used in this Agreement includes any goods or materials provided or made available to Company as part of the Work.
2. **Term.** The term of this Agreement commences on the Effective Date and, unless terminated earlier in accordance with its terms, will continue in effect through **March 31, 2022** (as may be extended, “Term”). Notwithstanding the foregoing sentence, Company has the option, exercisable in its sole discretion and upon providing Notice to Contractor before the end of the Term, to extend the Term, it being understood that, except for the Term, all terms of this Agreement (including payment and compensation terms) will remain the same.
3. **Party Representatives.**
 - 3.1 **Company Representative.** Company designates **Tina Kashefinejad** as the “Company Representative” for all matters relating to this Agreement. The actions taken by Company Representative will be deemed the acts of Company. Company may at any time upon Notice to Contractor change the Company Representative. Company Representative is not the authorized representative for amendments to this Agreement.
 - 3.2 **Contractor Representative.** Contractor designates **Kim Fuentes** as the “Contractor Representative” for all matters relating to this Agreement. The actions taken by Contractor Representative will be deemed the acts of Contractor. Contractor may at any time upon Notice to Company change the Contractor Representative.
4. **Notices.** Any notice, request, claim, demand, or other communication between the Parties required or permitted by this Agreement, or otherwise made in connection with this Agreement (“Notice”), must be in writing and will be deemed effective: (a) when delivered in person; (b) on the next business day if transmitted by national overnight courier to a physical address (not a PO Box), with confirmation of delivery; or (c) upon transmission if sent by electronic mail, *provided* that the sender shall also either send a hard copy of the Notice on the same business day in accordance with one of the other transmission methods as confirmation of delivery or obtain written acknowledgement of receipt of the Notice from the recipient. In each of the foregoing cases, Notice must be addressed as follows (or at such other address for a Party as specified in a Notice given in accordance with this Article):

Company: Southern California Gas Company
 Attn: Director of Supply Management
 555 W. 5th Street
 Los Angeles, CA 90013
 E-mail:
 SupplyManagementSCG@socalgas.com

Contractor: South Bay Cities Council of Governments
 Attn: Kim Fuentes,
 Deputy Executive Director
 2355 Crenshaw Blvd., Suite 125
 Torrance, CA 90501
 E-mail: Kim@southbaycities.org

5. **Registration.** No later than the commencement of the Term, Contractor shall have registered with Company’s vendor information management company, Lavante, Inc., utilizing the Lavante Connect platform. Throughout the Term, Contractor shall maintain in effect such registration and ensure that all required information in such platform is up-to-date, accurate, and complete.

6. **Invoicing.**

6.1 Contractor shall submit invoices via e-mail to AP_Invoices_SCG@semprautilities.com. All invoices submitted (a) must reference this Agreement’s number and the invoice contact (i.e., **Tina Kashefinejad**), and (b) must have complete supporting documentation of all charges incurred. If Contractor’s invoice price for the Work does not match the prices set forth in this Agreement, Company shall pay Contractor the lesser amount. If Contractor is a retailer of taxable tangible personal property, Contractor shall add to the invoice a separately stated amount for sales or use tax computed at the then-current legal rate. Contractor shall separate into line items and shall exclude from taxable computation any non-taxable charges, including freight, installation, technical service, or optional warranties.

6.2 Contractor shall submit invoices no later than the fifth (5th) day of each month for Work performed in the immediately preceding month (whether or not such Work was completed in that month), *provided* that, with respect to Work to be paid pursuant to a milestone schedule, Contractor shall submit invoices no later than the tenth (10th) day following the satisfaction of the applicable milestone. Contractor acknowledges and agrees that its failure to provide to Company a complete and accurate invoice for Work no later than one hundred and twenty (120) days after the end of the applicable period set forth in the immediately preceding sentence may result in non-payment by Company for any Work covered by such invoice, and such non-payment will not be a breach or default by Company under this Agreement.

7. **Payment.** Company shall make payment **net 15 days** after receipt and approval of an undisputed invoice. Company shall, at its option, make payment by credit card, check, or as an automated clearinghouse payment (if Contractor is enrolled to receive such payments). If Company makes payment by check, such payment shall be made to the following address:

**2355 Crenshaw Boulevard, Suite 125,
Torrance, CA 90501**

Contractor agrees (a) to accept as full compensation for satisfactory performance of the Work, the compensation specified in Schedule C, and (b) that failure by Company to pay any amount in dispute until resolution of such dispute in accordance with this Agreement will not alleviate, diminish, modify, or excuse Contractor’s obligations to perform hereunder.

8. **Reserved.**

9. **Complete Agreement; List of Schedules.** This Agreement, which includes all Schedules and other documents attached hereto, constitutes the complete and entire agreement between the Parties and supersedes any previous communications, representations, or agreements, whether oral or written, with respect to its subject matter. The Parties agree that (a) there are no additions to, deletions from, or changes in any of the provisions of this Agreement, and no understandings, representations, or agreements concerning any of the same, which are not expressed in this Agreement, and (b) no trade usage, prior course of dealing, or prior course of performance hereunder will be a part of this Agreement or will be used in the interpretation or construction of this Agreement. The following Schedules are attached to this Agreement and incorporated herein by this reference:

- Schedule A – Additional Terms and Conditions
- Schedule B – Scope of Services

Schedule C – Compensation

IN WITNESS WHEREOF, each Party has caused this Agreement to be executed by its authorized representative as of the Effective Date.

Southern California Gas Company

South Bay Cities Council of Governments

By: _____

By: _____

Name: _____

Name: _____

Title: _____

Title: _____

SCHEDULE A

Additional Terms and Conditions

- 1. Changes to the Work.** Company may at any time, in writing, direct or authorize Contractor to make changes to the Work within the general scope of this Agreement. All such changes must be agreed upon and authorized in writing by each Party before Contractor's implementation thereof. Company shall not be required to make any payment for any change that is not authorized in writing. If any change is performed by Contractor without such written authorization, Company may take the same actions and exercise the same rights and remedies with respect to such change that it would have with respect to the any of the Work as though such change were in fact authorized.
- 2. Warranties.** Contractor warrants that it shall, and shall cause any and all Contractor Parties to perform the Work in a good and workmanlike manner, free from defects, in accordance with established professional business and ethical standards as well as those standards of care and diligence normally practiced by nationally recognized firms in performing services similar to the Work, and in conformity with each and every term of this Agreement, including any performance standards, drawings, specifications, and any other description of the Work set forth in this Agreement ("Performance Standards"). Company may reject any Services failing to meet such Performance Standards, and require Contractor to promptly repeat, correct or replace the Work, at no charge to Company or, at Company's election, Company may hire a third party to complete the Work at Contractor's expense. Contractor further warrants that any and all materials provided or made available in connection with the Work will be in accordance with applicable specifications, free from defects in design, material, workmanship, and title, fit for the purposes intended by Company, and of the kind and quality, and provide the performance, described in this Agreement.
- 3. Inspection.** Any and all Work is subject to inspection, testing, and acceptance or rejection by Company at all times in accordance with the testing methods and acceptance criteria set forth in the scope of services or, if none, in accordance with such methods and criteria as Company determines before or at the time of any such inspection. Notwithstanding the foregoing, such right of inspection of the Work by Company will not relieve Contractor of responsibility for the proper performance of the Work, nor shall such inspection waive Company's right to reject the Work at a later date. Contractor shall provide to Company or Company's designee access to the Work, Contractor's facility(ies) where the Work is being performed, and sufficient, safe, and proper conditions for such inspection. Contractor shall furnish to Company such information concerning its operations or the performance of the Work as Company reasonably requests. It is Contractor's responsibility to schedule such inspections in a manner that enables completion of related and subsequent Work in accordance with the applicable schedules, and to identify and make easily accessible for inspection, any Work covered.
- 4. Reserved.**
- 5. Company Documentation.**
- 5.1. Standard Practices. Company has adopted certain standard practices, policies, procedures, and environmental, health, and safety standards for gas and electric work ("Standard Practices"). To the extent that any such Standard Practices are listed in any Schedule or otherwise, or provided to Contractor during the Term either through Company's online platform, Power Advocate (or its successor), SharePoint, or otherwise in accordance with the notice provisions of this Agreement, such Standard Practices shall apply to the performance of the Work and all other activities of Contractor related to the Work, and Contractor agrees to abide by all such Standard Practices, which are incorporated herein.
- 5.2. ISN. If Contractor or any Contractor Party is classified as a Class I Contractor (as defined in the Contractor Safety Manual) by Company, Contractor and such Contractor Party shall register with Company's workplace safety management company, ISNworld ("ISN"), and shall obtain and maintain during the Term an "Approved" status from ISN.
- 5.3. Contractor Safety Manual.
- 5.3.1. Company has developed and adopted a manual describing the rules, safe work practices, and procedures that Contractor and Contractor Parties must follow and comply with when performing Work on behalf of Company or on Company Property ("Contractor Safety Manual"). The Contractor Safety Manual is available to view or download on Contractor's ISN Bulletin Board, accessible at <https://www.isnworld.com/BulletinBoard/asBulletinBoard.aspx>.
- 5.3.2. No later than ten (10) days after the Effective Date, at least once every year thereafter (no later than December 1 of each such year), and no later than thirty (30) days after receiving notification of a change to the Contractor Safety Manual, Contractor and any Contractor Party classified as a Class I Contractor shall sign the last page of the Contractor Safety Manual stating that Contractor and such Contractor Party has read and understands the requirements set forth therein, and upload such signed document into ISN. Duplicates are not necessary if there is already a signed and active Contractor Safety Manual acknowledgment on file.
- 5.3.3. Contractor shall review the Pre-Work Safety Meeting Notification and Acknowledgement provided by Company at the time of contracting (Exhibit B of the Contractor Safety Manual), sign the form, and post it on its ISN Bulletin Board before the commencement of Services.
- 5.4. Disclaimer. Company does not represent or warrant that the Standard Practices or the Contractor Safety Manual comply with Applicable Laws. Company does not undertake any obligations with respect to Contractor by virtue of the Standard Practices or the Contractor Safety Manual. Company may make changes to the Standard Practices or the Contractor Safety Manual from time to time, and the updated Standard Practices or Contractor Safety Manual will be deemed to become a part of this Agreement at the time received or deemed received by Contractor of same (including by electronic delivery, update to the website or online portal, or otherwise). Contractor shall immediately inform Company of any conflict between any Applicable Laws and the Contractor Safety Manual or any Standard Practice, but such duty to inform shall not relieve Contractor of any liability or indemnity requirement for failure to comply with all Applicable Laws.
- 6. Anti-Conduit Rules.** Contractor understands that the California Public Utilities Commission ("CPUC") and the Federal Energy Regulatory Commission ("FERC") have issued certain Affiliate Rules, including CPUC Decision ("D.") 06-12-029, FERC Order 697 (18 C.F.R. Section 35.39(g)), and FERC Order 717 (18 C.F.R. pt. 358 (2008)). Contractor and the Contractor Parties may be in receipt of or have access to non-public information that is subject to the foregoing rules. In accordance with those rules, Contractor understands and agrees, and shall cause the Contractor Parties to understand and agree not to disclose or allow access to: (1) any non-public information of San Diego Gas & Electric Company or Southern California Gas Company with any entity affiliated with such utilities by virtue of substantial, even if not majority, direct or indirect ownership other than the ultimate parent company of both such entities, Sempra Energy (each, a "Sempra Subsidiary"); (2) any non-public electric or gas marketing, procurement or transmission-related information of any Sempra Subsidiary with any other Sempra Subsidiary; (3) any non-public transmission-related information of any Sempra Subsidiary's transmission operations with persons participating in the performance of the same Sempra Subsidiary's or any other Sempra Subsidiary's electric or gas procurement, marketing or other merchant functions; or (4) any gas procurement, marketing or merchant information associated with Southern California Gas Company's merchant function with persons participating in the performance of Southern California Gas Company's or San Diego Gas & Electric Company's gas operations function. In addition, per Resolution E-4874, the CPUC prohibits electric corporations with Community Choice Aggregator Codes of Conduct from using their contractors and consultants in a manner that circumvents such Codes of Conduct, and to the extent applicable, Contractor must comply with such Codes of Conduct. Contractor and its subcontractors understand and agree that they may be required to complete training regarding the foregoing at the Company's sole discretion.
- 7. Independent Contractor; Employee Benefits.**
- 7.1. Contractor's Relationship with Company.
- 7.1.1. The Parties acknowledge and agree that (a) Contractor is an independent business separate from Company that will perform the Work as an independent contractor, and no principal-agent or employer-employee relationship or joint-venture partnership will be created with Company, (b) Company has no authority to direct or control the means or methods by which the Work will be performed, and (c) Contractor is free to contract with others for similar services.
- 7.1.2. Contractor agrees (a) to provide and maintain its own business premises, equipment, and supplies at its sole expense, (b) that, in accordance with industry practices, it will not employ or utilize for the Work any Contractor Party unskilled in the Work, (c) that it shall use prudent business practices in its relationships with each Contractor Party, and (d) that it will not hold itself or its employees out as employees or agents of Company.
- 7.1.3. Contractor represents to Company that Contractor and each Contractor Party is properly licensed, fully experienced, and possesses the requisite education, technical certifications, training, and qualifications (including all necessary authorizations) to perform the Work, in addition to being properly equipped, organized, staffed, and financed to handle such Work.
- 7.2. Individuals Performing the Work; Benefits and Affordable Care Act. Regardless of the nature or duration of any assignment with Company, neither Contractor, any Contractor Party, nor any other individuals performing Work will be eligible for or entitled to participate in any of Company's employee benefit plans, programs, policies, or practices which may now or in the future be in effect, including any pension, retirement, or 401(k) plan; any profit sharing, stock option, bonus or incentive compensation plan; any life or health insurance plan; any vacation or holiday pay plan; or any separation payment plan. Contractor shall, and shall require that the appropriate Contractor Party is contractually obligated (a) to treat individuals performing the Work as its employees for the purposes of satisfying the requirements of the Affordable Care Act, including the associated reporting requirements of requirements of IRC Sections 4980H and 6056, and the requirements of Sections 18A and 18B of the Fair Labor Standards Act, and (b) to offer minimum essential coverage that is both affordable and of minimum value to all individuals performing Work who are full-time employees (and their dependents) in accordance with IRC Section 4980H and the regulations issued thereunder, *provided* that the Contractor or applicable Contractor Party is a "large employer" subject to Section 4980H.
- 8. Reserved.**
- 9. Indemnity.**
- 9.1. General Indemnity. Contractor shall indemnify, defend, and hold Company and its current and future direct and indirect parent company(ies), subsidiaries, affiliates, and their respective directors, officers, shareholders, employees, agents, representatives, successors, and assigns, (collectively, including Company, "Indemnitees") harmless for, from,

and against any and all claims, actions, suits, or proceedings of any kind whatsoever (collectively, "Claims"), and any and all losses, liabilities, penalties, fines, damages, demands, costs, or expenses, including all reasonable consulting or attorneys' fees (including fees and disbursement of in-house and outside counsel) of any kind whatsoever (collectively, "Liabilities") arising out of, connected in any manner with, or resulting from: (a) injuries to or death of any individuals (including members of the general public, or any employee, agent, independent contractor, consultant, or affiliate of either Company or Contractor), or damage to, loss, or destruction of property (including any property of Company), in each case arising out of or connected in any manner with Contractor's provision of the Work or any defects with respect thereto; (b) any alleged, threatened, or actual violation of any Applicable Law in connection with Contractor's performance of its obligation under this Agreement; (c) Contractor's Default under or failure to comply with any term of this Agreement; (d) any unauthorized release of Hazardous Materials; (e) any insurance policy that Contractor is required to procure under this Agreement being vitiated as a result of Contractor's failure to comply with any of the requirements set forth in such policy or any other act by Contractor; or (f) any action reasonably necessary to abate, remediate or prevent a violation or threatened violation of any EH&S Law, in each case, regardless of whether (x) such Claims or Liabilities arose from or are caused by the negligence or fault of any Indemnitee, (y) such Claims or Liabilities are based on contract, tort, or any other theory of liability, or (z) liability without fault or strict liability is imposed or sought to be imposed on any Indemnitee. Notwithstanding the foregoing, the foregoing indemnification obligations will not apply to the extent Claims or Liabilities are caused by the sole negligence or willful misconduct of Company.

9.2. Liens. Contractor shall indemnify, defend, and hold each Indemnitee harmless from and against any mechanic's lien or stop notice claim against Company by Contractor or any Contractor Party pertaining to the Work. If Contractor fails to remove or discharge by bond, payment or otherwise any lien or claim within five (5) business days after Company's written demand to do so, Company may offset the compensation otherwise payable to Contractor under this Agreement or any other agreement to pay such lienors directly.

9.3. Reserved.

9.4. Indemnity Respecting Individuals Performing the Work. Contractor shall, and shall require that each Contractor Party be contractually obligated to, indemnify, defend, and hold each Indemnitee harmless from and against all Liabilities or Claims: (a) asserted by or on behalf of any individual performing Work alleging that, in connection with the Work, he or she is entitled to participate in any Indemnitee's employee benefit plans, programs, policies or practices which may now or in the future be in effect, including any pension, retirement, 401(k), profit sharing, stock option, bonus, incentive compensation, life insurance, health insurance, vacation, holiday, or separation payment plan; (b) arising out of any assertion by the Internal Revenue Service that an individual performing Work is a common law employee of an Indemnitee, including any Liability or Claim for taxes owed under IRC section 4980H; or (c) arising out of or otherwise in connection with the Section entitled "Disqualification."

9.5. Assumption of Defense. If any Claim is brought against an Indemnitee for which Contractor is required to indemnify, hold harmless, or defend under this Agreement, Contractor shall assume the defense of such Claim with counsel reasonably acceptable to such Indemnitee, unless in the opinion of counsel for such Indemnitee a conflict of interest between such Indemnitee and Contractor may exist with respect to such Claim. If a conflict precludes Contractor from assuming the defense of such Indemnitee, Contractor shall reimburse such Indemnitee on a monthly basis for such Indemnitee's defense costs through separate counsel of such Indemnitee's choice. If Contractor assumes the defense of such Indemnitee with acceptable counsel, such Indemnitee, at its sole option and expense, may participate in the defense with counsel of such Indemnitee's own choice without relieving Contractor of any of its obligations hereunder.

9.6. Reserved.

9.7. No Statutory Limitation; Survival. Contractor's obligations under this Article are not limited in any way by any limitation on the amount or type of damages, compensation, penalty, or benefits payable by or for Contractor or any Contractor Party under any statutory scheme, including any workers compensation acts, disability benefit acts or other employee benefit acts, or the expiration or termination of this Agreement.

10. Background and Drug Screening. To the extent that Contractor Personnel are performing or will perform Services, Contractor hereby certifies each such Contractor Personnel successfully passed a pre-employment: (a) background screening, which included a review and verification of such Contractor Personnel's (i) educational background, (ii) employment history for the three (3) year period immediately preceding such Contractor Personnel's date of hire with Contractor or any Contractor Party, (iii) valid driver's license and clean driving record, and (iv) court records for such Contractor Personnel's area of residence for the seven (7) years period immediately preceding his or her date of hire with Contractor or any of Contractor Party, including verification that such Contractor Personnel was not convicted of a felony or other act involving a breach of trust or act of dishonesty; and (b) drug screening, which included the Substance Abuse and Mental Health Administration's five categories of drugs, also known as the "SAMHSA 5." For purposes of this Article, the term "Contractor Personnel" means any Contractor Party performing the Services on behalf of Contractor requiring, in Company's sole discretion, access to Company network infrastructure remotely or on-site, Company email access, or a badge for identification purposes or otherwise.

10.1. Right to Audit. Without limiting the generality of the Article entitled "Audit," Company reserves the right to view or inspect Contractor's screening records at any time so long as not to induce a significant business burden on Contractor. Such inspection allows Company's employee representative(s) or Company's contracted representative(s) to conduct a compliance review, audit, or other verification.

10.2. Reporting Error. If Contractor, while acting in good faith, made an error in certifying the correct pre-employment screening status of any Contractor Personnel pursuant to this Article, Contractor shall immediately notify Company upon discovery of the error. Contractor shall then immediately remove such Contractor Personnel from Company Property and provide a qualified replacement at Contractor's sole cost and expense.

11. Insurance. Insurance requirements are set forth as follows, but do not limit the amount or scope of liability of Contractor under this Agreement. The following constitutes the minimum insurance and requirements relating thereto:

11.1. On or before the Effective Date, and thereafter during the later of the Term and, unless otherwise set forth herein, the completion of all of Contractor's obligations hereunder, Contractor shall provide Company with (a) current certificates of insurance and all renewals thereof, and (b) all endorsements required by this Article, in each case, executed by an authorized representative of each insurer, as evidence of all insurance policies required under this Article. Contractor shall submit such certificates via e-mail to sempraenergy@cbix.com. No insurance policy may be canceled, materially revised, or subject to non-renewal without at least thirty (30) days advance Notice being given to Company or, with respect to a non-payment of a premium, at least ten (10) days advance Notice. Insurance shall be maintained without lapse in coverage during the later of the Term and, unless otherwise set forth herein, the completion of all of Contractor's obligations hereunder. Upon Company's request, Contractor shall permit Company to view copies of Contractor's policies of insurance.

11.2. All required policies of insurance must be written by companies having an A.M. Best rating of "A-, VII" or better, or equivalent.

11.3. Company and its parent company, and its subsidiaries, affiliates and their respective officers, directors, and employees, shall be named as additional insureds by applicable endorsement for all policies listed in this Article except for Workers' Compensation and Professional Liability. In the event the policies include a "blanket additional insured endorsement where required by contract," the following language added to the certificate of insurance will satisfy Company's requirement: "**Southern California Gas Company**, its parent, its affiliates, and each of their respective directors, officers, agents and employees are included as additional insured with respect to liability arising out of the work performed by Contractor or any of its subcontractors." The Commercial General Liability insurance policy shall include (a) a severability of interest or cross-liability clause, and (ii) additional insured endorsements evidencing ongoing and completed operations endorsements – ISO forms CG2010 and CG2037, or their equivalent.

11.4. The required policies, and any of Contractor's policies providing coverage excess of the required policies, shall provide that the coverage is primary for all purposes and Contractor shall not seek any contribution from any insurance or self-insurance maintained by Company.

11.5. Contractor shall be solely responsible for any deductible or self-insured retention on insurance required hereunder this Agreement.

11.6. Each policy of insurance required to be obtained and maintained by Contractor as described herein shall contain a waiver of subrogation in favor of Company.

11.7. At all times during the later of the Term and, unless otherwise set forth herein, the completion of all of Contractor's obligations hereunder, Contractor shall provide and maintain, at Contractor's expense, the following types of insurance:

11.7.1. Commercial General Liability Insurance. Contractor shall maintain commercial general liability insurance written on an occurrence basis in the amount of not less than \$2,000,000 per occurrence. If the policy maintains a policy aggregate, such aggregate shall not be less than twice the per occurrence limit. Coverage shall be at least as similar to or broad as the Insurance Services Office Commercial General Liability Coverage. Such insurance shall include coverage for products/completed operations, broad form/blanket contractual liability for written contracts, property damage and personal injury liability, premises/operations, independent contractor liability, and pollution (including hostile fire) liability. Defense costs shall be provided as an additional benefit and may be included within the limits of liability. Such insurance will have no wildfire, explosion, collapse, or underground exclusions. Coverage limits may be satisfied using an umbrella or excess liability policy that satisfies the requirements of this Article.

11.7.2. Commercial Automobile Liability Insurance. Contractor shall maintain automobile liability insurance (including coverage for owned, non-owned, and hired automobiles) covering vehicles used by Contractor in connection with the Work in the amount of not less than \$1,000,000 combined single limit per occurrence for bodily injury, death and property damage (including loss of use thereof). Contractor's automobile liability insurance coverage shall contain appropriate no-fault insurance provisions or other endorsements in accordance with Applicable Laws. Coverage shall be at least as broad as the Insurance Services Office Business Auto Coverage form covering Automobile Liability, code 1 "any auto." Coverage limits may be satisfied using an umbrella or excess liability policy that satisfies the requirements of this Article.

11.7.3. Workers Compensation Insurance. In accordance with the laws of the State(s) in which the Services will be performed, Contractor shall maintain in force workers compensation insurance for all of its employees. If applicable, Contractor shall obtain U.S. Longshore and Harbor Workers compensation insurance, separately, or as an endorsement to workers compensation insurance. Contractor shall also maintain employer's liability coverage in an amount of not less than \$1,000,000 per accident and per employee for disease.

In lieu of such insurance, Contractor may maintain a self-insurance program meeting the requirements of the State(s) in which the Services will be performed along with the required employer's liability insurance.

- 11.7.4. Reserved.
- 11.7.5. Reserved.
- 11.7.6. Reserved.
- 11.7.7. Reserved.
- 11.7.8. Reserved.

11.8. Contractor shall require each Contractor Party that performs any of the Work to obtain insurance policies and limits consistent with the insurance requirements set forth in this Article, provided that (a) the requirements regarding excess or umbrella liability insurance will not apply to such Contractor Parties so long as Contractor's excess or umbrella liability insurance provides coverage for the performance of Work by all Contractor Parties, unless Company specifically requires otherwise, and (b) aviation liability insurance requirements, if any, will only apply to Contractor Parties performing aviation Work.

12. Compliance with Applicable Laws and Company Documentation. At all times during Contractor's performance of its obligations under this Agreement, Contractor shall, and shall cause each Contractor Party:

12.1. To comply with and observe all EH&S Laws and any and all other applicable laws, permits, statutes, licenses, rules, regulations, codes, ordinances, judgments, decrees, writs, legal requirements, orders or the like, of any governmental agency, and the written interpretations thereof, including any statute, law, rule, regulation, code, ordinance, judgment, decree, writ, order or the like, regulating or relating to this Agreement, Company, Contractor, or a Contractor Party (collectively, together with the EH&S Laws, "Applicable Laws");

12.2. To comply with and observe the Contractor Safety Manual and all applicable Standard Practices, *provided* that neither Contractor nor any Contractor Party shall comply with the Contractor Safety Manual or the Standard Practices if and only to the extent that such compliance would violate Applicable Laws; and

12.3. To have and maintain in effect all licenses, permits, registrations, certificates, trainings, and approvals required by any Applicable Law or governmental agency, including all necessary and appropriate licenses issued by the Contractor's State License Board.

13. Default. Contractor shall be in default under this Agreement if any of the following occurs (each such default, a "Default"): (a) Contractor becomes bankrupt or insolvent, however so evidenced; (b) Contractor fails to comply with, or otherwise breaches any representation, warranty, covenant, or obligation of Contractor under this Agreement; (c) Contractor executes any requirement or obligation of Contractor under this Agreement in bad faith; or (d) Contractor fails to make timely progress in the performance of the Services.

14. Remedies. If a Default occurs, Company will have the following rights and remedies and may elect to pursue any or all (or any combination) of them: (a) Company may (i) terminate this Agreement, or may terminate Contractor's right to proceed with all or any part of the Work, by giving Notice of such termination to Contractor, with such termination to be effective upon delivery of such Notice, and (ii) seek recovery for any and all Liabilities arising out of or in connection with such Default, including Liabilities arising out of or in connection with Company's attempts to remedy such Default; (b) Company may procure, upon such terms and in such manner as Company deems appropriate, services similar to that specified in this Agreement, and Contractor shall be liable to Company for all direct and indirect losses and excess costs in procuring the same, which losses or costs Company may offset against any payments owed or due to Contractor; or (c) Company may pursue any other right or remedy that may be available to Company at law or in equity as a result of such Default. If, following the exercise of Company's termination rights provided in this Article, it is determined for any reason by a tribunal of competent jurisdiction that Contractor was not in Default under this Agreement, the Parties' rights and obligations shall be the same as if Notice of termination had been issued pursuant to the Article entitled "Termination for Convenience."

15. Termination for Convenience. Company may terminate this Agreement (or any part thereof) at any time and for any reason for its sole convenience upon providing two (2) business days' advance Notice to Contractor ("Termination for Convenience"). Contractor's sole right to compensation as a result of such termination will be limited to amounts due and payable by Company under this Agreement incurred before the effective date of termination, including any such amounts for Work executed before to the effective date of termination ("Termination Charges"). Contractor shall fully justify and document to Company, in writing, any Termination Charges claimed. In no event shall Contractor be entitled to payment for Work that has not been authorized by Company, or is not yet performed, or any anticipated profits for any Work that has not been authorized or performed. Company shall make payment of Termination Charges no later than forty-five (45) days after receipt of Contractor's written submittal of charges and justification to Company's satisfaction. Company will have the right to review and verify any Termination Charges claimed by Contractor before payment.

16. Reserved.

17. Audit. Company may designate its own employee representative(s) or its contracted representative(s) with a certified public accounting firm, who will have the right to audit and to examine any cost, payment, settlement, or other supporting documentation relating to this Agreement. Any such audit(s) will be undertaken by Company or its representative from a certified public accounting firm at reasonable times during normal business hours. Contractor agrees to fully cooperate with such audit(s). Contractor shall include a clause similar to the one immediately above in its arrangements with each Contractor Party reserving the right to designate Contractor's own employee representative(s), its contracted representative(s) from a certified public accounting firm, or representative(s) from Company, who will have the right to audit and to examine any cost, payment, settlement or other supporting documentation resulting from any item related to this Agreement. Company shall provide Notice to Contractor of any exception taken as a result of an audit of Contractor, and Contractor shall refund to Company no later than ten (10) days of such Notice the amount of any such exception. If Contractor fails to make such payment, Contractor shall pay interest on any unpaid portion of such payment, accruing monthly, at a rate equal to the lesser of ten percent (10%) per annum and the maximum lawful rate. Company shall compute such interest from the date of the Notice of exception(s) to the date Contractor reimburses Company in full for such exception(s). Contractor shall reimburse Company for the cost for the performance of an audit if it discloses an overcharge of five percent (5%) or greater. Company's audit rights hereunder extend for a period of five (5) years following the date of final payment under this Agreement. Contractor shall and shall require each Contractor Party to retain all necessary records and documentation for the entire length of this audit period.

18. Taxes.

18.1. Contractor's Liability for Taxes. Contractor assumes exclusive liability for and shall pay before delinquency, all federal, state, regional, municipal, or local sales, use, excise and other taxes, charges or contributions imposed on, with respect to, or measured by (a) the Services, and all other materials, supplies or labor furnished hereunder, (b) the wages, salaries or other remunerations paid to individuals employed in connection with, the performance of the Services, and (c) any failure of Contractor or any Contractor Party to comply with the Affordable Care Act with respect to individuals performing the Services.

18.2. Tax Treatment of Individuals. Without limiting the generality of this Article, Contractor agrees to treat, and shall cause each Contractor Party to treat, all individuals performing the Services as employees of Contractor or Contractor Party, as applicable, for purposes of federal and state income taxes, Social Security, and Medicare taxes, unemployment and disability insurance premiums. Contractor agrees that, at any time during the performance of this Agreement, Company will have the right to audit Contractor's compliance with this provision in accordance with the Article entitled "Audit."

18.3. California Withholding. To the extent any portion of the Services is performed in the State of California, either: (a) Contractor represents that Contractor is a California resident or registered with the California Secretary of State and shall provide Company with an original and a copy of Form 590, Withholding Exemption Certificate, in accordance with California Revenue and Taxation Code Section 18662 and regulations thereunder; or (b) seven percent (7%) of all compensation payable to Contractor for the Services performed in California shall be withheld in accordance with applicable California Franchise Tax Board ("FTB") regulations, unless Company has been notified in writing by FTB that withholding is waived or a lower rate or withholding is authorized.

18.4. Minimization of Tax Liability. Contractor and Company shall cooperate in good faith to minimize their respective tax liability to the extent legally permissible (and with no duty to increase either Party's tax liability), which, with respect to Contractor, includes separately stating taxable charges on Contractor's invoices and supplying resale and exemption certificates, if applicable, and any other information reasonably requested by Company.

18.5. Confidentiality Exception. Notwithstanding anything to the contrary set forth herein or in any other written or oral understanding or agreement to which the Parties are parties or by which they are bound, the Parties acknowledge and agree that: (a) any obligations of confidentiality contained herein and therein do not apply and have not applied from the commencement of discussions between the Parties to the tax treatment and tax structure of any transaction related to the Services or any other transactions or arrangements; and (b) each Party (and each of its employees, subcontractors, suppliers, representatives, or other agents) may disclose to any and all persons or entities, without limitation of any kind, the tax treatment and tax structure of any transaction and all materials of any kind (including opinions or other tax analyses) that are provided to such Party relating to such tax treatment and tax structure, all within the meaning of Treasury Regulations Section 1.6011-4; *provided* that the foregoing is not intended to affect any privileges that each Party is entitled, in its sole discretion, to maintain, including with respect to any confidential communications with its attorney or any confidential communications with a federally authorized tax practitioner under Internal Revenue Code ("IRC") Section 7525.

19. Reserved.

20. Confidentiality.

20.1. Definition. For purposes of this Agreement, the term "Confidential Information" means proprietary information concerning the business, operations, or assets of Company, its direct and indirect parent company(ies), subsidiaries or affiliates, including (a) the terms of this Agreement, (b) any information or materials prepared in connection with the performance of the Work, (c) any related agreement, designs, drawings, specifications, techniques, models, data, business plans, documentation, source code, object code, diagrams, flow charts, research, development, processes, procedures, know-how, manufacturing, development or marketing techniques and materials, development or marketing timetables, strategies, development plans, and any other information of a similar nature, (d) any data in GIS format pertaining to Company's electric or gas transmission facilities,

including shapefiles for structures, biological and cultural resources survey shapefile data, tieline layers and access roads, electric transmission pole locations and any other information of a similar nature (collectively, “GIS Data”), (e) information relating to Company substation, compressor station, valve station, or pipeline pressure regulating station design (including design documents and drawings, security systems design, and operation and similar information constituting critical energy infrastructure information as defined by 18 C.F.R. §388.113(c)) (collectively, “CEII”), and (f) customer, supplier, or personnel names and other information related to customers, suppliers, or personnel, pricing policies and financial information, in each case whether or not reduced to writing or other tangible form, and any other trade secrets. Notwithstanding the foregoing, Confidential Information does not include: (i) information known to Contractor before obtaining the same from Company; (ii) information in the public domain at the time of disclosure by Contractor; (iii) information lawfully obtained by Contractor from a third party which did not receive the same, directly or indirectly, from Company; (iv) information developed independently by Contractor without use of, reference to, or access to Confidential Information, or (v) information approved for release by express prior written consent of an authorized officer of Company. Contractor will have the burden of proof in establishing that its use of Confidential Information is permitted by any of the foregoing exceptions.

20.2. **Limited Use; Nondisclosure.** Except as expressly set forth in this Article, Contractor shall not disclose any Confidential Information to any individual or entity other than a Contractor Party, *provided* that such Contractor Party agrees to abide by the terms of this Article as if such Contractor Party were the Contractor hereunder. Contractor shall use, and shall cause each Contractor Party to use, the Confidential Information solely for the purpose of performing the Work. Contractor shall not, and shall not permit any Contractor Party to, use the Confidential Information for their own benefit other than for the limited purpose set forth herein. To prevent unauthorized use or disclosure of the Confidential Information, Contractor agrees to use the higher of (a) the same degree of care Contractor uses with respect to its own proprietary or confidential information, and (b) a reasonable standard of care. Contractor shall cause each Contractor Party receiving Confidential Information to become familiar with and abide by the terms of this Article as if such Contractor Party were the Contractor hereunder. Contractor shall be responsible for any breach of this Article by any Contractor Party.

20.3. **Court or Administrative Order.** Notwithstanding any other provisions of this Article, Contractor may disclose any of the Confidential Information in the event, but only to the extent that, based upon reasonable advice of counsel, Contractor is required to do so by the disclosure requirements of any law, rule, or regulation, or any order, decree, subpoena, or ruling or other similar process of any court, governmental agency, or regulatory authority. Before making or permitting any such disclosure, Contractor shall provide Company with prompt Notice of any such requirement so that Company (with Contractor’s assistance if requested by Company) may seek a protective order or other appropriate remedy.

20.4. **Publicity.** Except in the event Contractor is required to disclose any Confidential Information in accordance with the foregoing provisions, Contractor shall not, without the prior written consent of Company, disclose to any third party (a) the fact that such Confidential Information has been made available to Contractor, or (b) the existence of any ongoing business relationship between the Parties.

20.5. **Document Retention.** Upon Company’s request (and, in addition, if Contractor has obtained Confidential Customer Information, at the earlier of (a) the end of the Term, and (b) any time during the Term when such Confidential Customer Information is no longer necessary to perform the Services), Contractor shall promptly deliver to Company or destroy if so directed by Company (with such destruction to be certified to Company) all documents (and all copies thereof, however stored) furnished to or prepared by Contractor that contain or are based on or derived from Confidential Information and all other portions of documents in Contractor’s possession that contain or that are based on or derived from Confidential Information. Notwithstanding the foregoing, Contractor will not be required to return or destroy Confidential Information that has been created solely by Contractor’s automatic archiving and back-up procedures, but only to the extent created and retained in a manner consistent with such procedures and not for any other purpose, and *provided* that such automatically archived or backed-up copies will be subject to the confidentiality provisions of this Article.

20.6. **Survival.** Notwithstanding the return or destruction of all or any part of the Confidential Information, the provisions of this Article shall nevertheless remain in full force and effect with respect to specific Confidential Information until the date that is five (5) years after the date of disclosure of such Confidential Information, except as to GIS Data, CEII, and Confidential Information about, regarding or attributable to Company’s or its affiliates’ customers (“Confidential Customer Information”), for which information the provisions of this Article shall remain in full force and effect in perpetuity. Moreover, Contractor represents, warrants, and covenants that security procedures and practices appropriate to the nature of the GIS Data, CEII, and Confidential Customer Information involved are in place on the Effective Date and will be used at all times to protect the GIS Data, CEII and Confidential Customer Information from unauthorized access, destruction, use, modification, or disclosure. Without limiting the generality of the foregoing or any other provision of this Agreement, Contractor shall access, collect, store, use, and disclose the Confidential Customer Information under policies, practices, and notification requirements no less protective than those under which Company operates as required by Company’s tariffs regarding privacy and security protections for energy usage data.

20.7. **Remedies.** The Parties acknowledge that the Confidential Information is valuable and unique, that damages would be an inadequate remedy for breach of this Article, and that the obligations of Contractor are specifically enforceable. Accordingly, the Parties agree that in the event of a breach or threatened breach of this Article by Contractor, Company, its direct and indirect parent company(ies), subsidiaries or affiliates, which shall be third party beneficiaries of this Agreement, shall be entitled to seek an injunction preventing such breach, without the necessity of proving damages or posting any bond. Any such relief shall be in addition to, and not in lieu of, monetary damages or any other legal or equitable remedy available to Company, its direct and indirect parent company(ies), subsidiaries or affiliates.

21. Environmental, Health, and Safety Terms.

21.1. **Definitions.** For purposes of this Agreement, the following terms have the following meanings:

21.1.1. **“Hazardous Materials”** means any chemical, substance, material, controlled substance, object, product, by-product, residual, condition, solid, hazardous waste, or any combination thereof, that is hazardous to human health, safety, or the environment due to its ignitability, corrosivity, reactivity, toxicity, or other harmful or potentially harmful properties or effects. Hazardous Materials include (a) any flammable explosives, radioactive materials, hazardous wastes, toxic substances, or related materials, and substances defined as “hazardous substances,” “hazardous material,” “hazardous wastes,” or “toxic substances” in, under, or pursuant to any EH&S Law, and (b) oil or petroleum products, asbestos, and any asbestos containing materials, radon, polychlorinated biphenyls, urea formaldehyde insulation, lead paints and coatings, and all of those chemicals, substances, materials, controlled substances, objects, conditions, and waste, or any combination thereof, that now are, or after the Effective Date become listed, defined, or regulated by any EH&S Law.

21.1.2. **“EH&S Law”** means any and all applicable federal, state, regional, county, or local law, regulation, decision of the courts, ordinance, rule, code, order, directive, guideline, permit, or permit conditions, which, on or after the Effective Date relate in any way to worker or workplace safety, environmental conditions, environmental quality or policy, or health and safety issues or concerns (including product safety). EH&S Law includes the Comprehensive Environmental Response, Compensation and Liability Act of 1980, the Resource Conservation and Recovery Act, the Federal Water Pollution Control Act, the Safe Drinking Water Act, the Hazardous Materials Transportation Act, the Carpenter-Presley-Tanner Hazardous Substance Account Act, the Toxic Substance Control Act, the Safe Drinking Water and Toxic Enforcement Act, the California Hazardous Waste Control Law, the Occupational Safety and Health Act, the California Occupational Safety and Health Act, the Porter-Cologne Water Quality Control, and, in each case, applicable regulations or rules promulgated thereunder.

21.2. **Materials and Licenses.** Contractor shall ensure that (a) all materials and equipment to be supplied or used by Contractor in the performance of the Work, including vehicles, loading equipment, and containers, are in good condition and fit for the uses for which they are employed, (b) all licenses, permits, registrations, certificates, and other approvals required by any Applicable Law are procured and maintained for such materials and equipment through the later of the Term and the completion of all of Contractor’s obligations hereunder, and (c) none of the materials or equipment used by Contractor with respect to this Agreement contains asbestos.

21.3. **Reserved.**

21.4. **Reserved.**

21.5. **Consultation.** Contractor shall comply with all applicable EH&S Laws and the requirements of governmental agencies; *provided* that Contractor shall exert all efforts to reach and consult with Company Representative before making any report to governmental agencies pursuant thereto and shall follow Company Representative’s instructions so long as they are consistent with Contractor’s legal obligations.

21.6. **Reserved.**

21.7. **No Transportation of Company’s Hazardous Material.** Contractor shall not (a) transport any Hazardous Material that Company generated for purposes of treatment, storage, recycling, or disposal, or (b) conduct any treatment, storage, recycling, or disposal of any Company-generated Hazardous Material, in each case unless authorized by Company to perform such activities in writing. If Contractor is authorized by Company to perform such activities, the following terms apply:

21.7.1. **Authorized Treatment Facility.** Before transporting Company-generated Hazardous Material, Contractor shall confirm that the treatment, storage, recycling, or disposal facility (“TSDF”) has procured and maintained in effect all licenses, permits, registrations, certificates or other authorizations required by any EH&S Law to lawfully receive, handle, transport, store, treat, recycle, incinerate, dispose of, or otherwise manage or use such Hazardous Material. Contractor shall not transport any Company-generated Hazardous Material to any TSDF that is unable or fails to provide such confirmation, and Contractor shall immediately notify Company. Company reserves the right at any time, in Company’s sole discretion, to cancel its authorization of any TSDF by Notice to Contractor.

21.7.2. **Hazardous Waste Manifest.** Company shall, when required by EH&S Law, provide Contractor with a complete and executed Hazardous Waste manifest or other shipping documentation for Company-generated Hazardous Material to be transported for treatment, storage, recycling, or disposal. Contractor’s transportation, recycling, treatment, storage, or disposal of any such Hazardous Material in accordance with this Agreement shall be documented by Contractor utilizing, among other things, the Hazardous Waste Manifest tracking system or other records as required by EH&S Law, copies of which shall be provided to Company no later than ten (10) days after shipment.

22. **Reserved.**

23. **Reserved.**

- 24. Offset.** Company may, upon providing Notice to Contractor, setoff any amount due from Contractor, whether or not under this Agreement, against any amount due Contractor or claimed to be due by Contractor under this Agreement. In addition, Company may withhold from Contractor any amount sufficient to reimburse Company for any Liability for Contractor's actual, alleged, or reasonably probable failure, based on factual evidence, to comply with the terms of this Agreement.
- 25. Contractor Diversity.** Company's policy is to provide maximum opportunities for women, minority, and service disabled veteran business enterprises, lesbian, gay, bisexual or transgender (LGBT) business enterprises, and socially and economically disadvantaged small business concerns (collectively, "DBEs") to participate in the performance of contracts. Company expects, as satisfactory performance under this Agreement, Contractor to utilize DBE Contractor Parties when feasible and to use good faith efforts to set and attain goals in parity with Company goals when contracting for work with Company. Contractor shall submit on a timely basis any documentation required by Company to report Contractor's DBE expenditures in connection with this Agreement. Contractor shall submit all documentation required by Company to report such verified DBE expenditures in accordance with Schedule D.
- 26. Assignment.** Contractor shall not permit this Agreement or any of Contractor's rights or obligations hereunder to be assigned or delegated voluntarily, involuntarily, by merger, consolidation, dissolution, operation of law, or any other manner, without Company's prior written consent, and any attempted assignment without such consent will be null and void; *provided that* (a) no such written consent by Company shall discharge Contractor from the performance of its obligations under this Agreement, and (b) Contractor shall remain jointly and severally liable with any permitted assignee or delegatee for any failure to comply fully with all obligations under this Agreement. Company may assign or delegate in whole or in part its rights and obligations under this Agreement without the consent of Contractor.
- 27. Time.** Contractor agrees that the performance of the Services are essential to Company and, hence, **TIME IS OF THE ESSENCE in performing all of Contractor's obligations hereunder.**
- 28. Governing Law.** This Agreement will be governed by the internal laws of the State of California, excluding its conflicts of law provisions.
- 29. Disputes; Venue.** Any dispute will be referred to Company's Director for Supply Management and an officer of Contractor for resolution. If Company and Contractor cannot reach an agreement within a reasonable time, Company and Contractor will have the right to pursue litigation. If litigation is initiated to enforce or interpret any term of this Agreement, the Parties agree that (a) the action will be brought in the Superior Court of the County of Los Angeles, California (or, if the federal courts have exclusive jurisdiction over the subject matter of the dispute, in the U.S. District Court for the Central District of California), and the Parties submit to the exclusive jurisdiction of said court, and (b) unless Company provides Notice to Contractor to the contrary, in no event will the litigation of any controversy or the settlement thereof delay the performance of this Agreement.
- 30. Survival.** The obligations imposed on Contractor pursuant to each Article, which by its terms contains or refer to subject matter which relates to time periods subsequent to the Term, including "Taxes," "No Publicity; Ex Parte Communications," "Disputes; Venue," and this Article, will survive termination of this Agreement and final payment to Contractor.
- 31. Equal Employment Opportunity.** Company is an equal opportunity employer and federal contractor or subcontractor. Consequently, the Parties agree that, as applicable, they will abide by the requirements of 41 CFR 60-1.4(a), 41 CFR 60-300.5(a) and 41 CFR 60-741.5(a) and that these laws are incorporated herein by reference. These regulations prohibit discrimination against qualified individuals based on their status as protected veterans or individuals with disabilities, and prohibit discrimination against all individuals based on their race, color, religion, sex, sexual orientation, gender identity, or national origin. These regulations require that covered prime contractors and subcontractors take affirmative action to employ and advance in employment individuals without regard to race, color, religion, sex, sexual orientation, gender identity, national origin, protected veteran status or disability. The Parties also agree that, as applicable, they will abide by the requirements of Executive Order 13496 (29 CFR Part 471, Appendix A to Subpart A), relating to the notice of employee rights under federal labor laws.
- 32. No Publicity; Ex Parte Communications.** Contractor shall not, without Company's prior written consent, engage in advertising, promotion, or publicity related to this Agreement, or make public use of any Company identification in any circumstances related to this Agreement or otherwise. "Identification" means any corporate name, trade name, trademark, service mark, insignia, symbol, logo, or any other product, service, or organization designation, or any specification or drawing owned by Company or its affiliates or any representation thereof. Contractor acknowledges that Company is subject to ex parte communications rules, which apply to its communications with the regulatory bodies having jurisdiction over it, including the CPUC and FERC. Contractor shall not, in the course of, or with respect to any regulatory proceeding under which such rules apply, engage in any communication with a government official relating to Company or this Agreement without Company's prior written approval.
- 33. Excusable Delays.** Contractor shall notify Company in writing immediately of any delay or anticipated delay in Contractor's performance of this Agreement due to causes or circumstances beyond the reasonable control of Contractor. Notice shall include the reason for and anticipated length of the delay. Company may determine, in its sole judgment, to extend the date of performance for a period equal to the time lost by reason of the delay. Contractor shall not be eligible under any circumstances for additional compensation due to any such extension of time. Any extension of time pursuant to this Article shall be documented by a written amendment to this Agreement signed by the parties. Examples of such possibly excusable delays are natural calamities, strikes and boycotts, war or civil unrest or governmental actions and other events that are commonly deemed force majeure events. None of the foregoing, however, shall require Company to grant any extension of time for completing the Work.
- 34. Reports.** Contractor shall provide periodic status reports as requested by Company Representative. The status reports shall make periodic comparisons of the Services rendered to date against the scope of work, including any milestones and costs. Such reports shall include an explanation of any significant variations, an identification of any potential or known developments that may impact Company, Contractor or the Services and any corrective actions implemented.
- 35. Contractor Parties.**
- 35.1. Approval of Subcontractors. If this Agreement contains a list of Contractor Parties approved by Company for the performance of some or all of the Work, Contractor must obtain Company's written consent before retaining any subcontractor, supplier, or agent other than those approved in this Agreement, if any. "Contractor Parties" means Contractor's agents, representatives, suppliers, subcontractors, and other individuals or entities, whether such Contractor Parties are employed directly or indirectly by Contractor to perform the Work.
- 35.2. Disqualification. Company reserves the right to disapprove of any Contractor Party, in its sole discretion, for the following reasons: (a) Company deems such Contractor Party unqualified to perform the Work; (b) such Contractor Party has a conflict of interest with Company, an employee of Company, Company's affiliates, or an agent, contractor or representative of Company; (c) Company determines that such Contractor Party has an unacceptable safety or quality history, record, or number of incidents, or fails to provide a drug-free workplace; or (d) such Contractor Party is unable or unwilling to follow Company's safety and security procedures. In the event Company disapproves a Contractor Party performing Work on Company Property, Contractor shall promptly remove such Contractor Party from the jobsite and find an appropriate replacement Contractor Party to perform the Work. In addition, without limiting the generality of the Article entitled "Compliance with Applicable Laws and Company Documentation," each Contractor Party performing Work hereunder, either directly or indirectly, must not constitute or otherwise be considered an "independent contractor," as that term is used in California Assembly Bill 5, unless such Contractor Party is subject to an applicable exception therein.
- 35.3. Incorporation into Subcontracts. This Agreement must be incorporated by reference in any contract executed by Contractor and its Contractor Parties, and Contractor shall cause each Contractor Party to comply with the terms of this Agreement. Contractor shall at all times be responsible for the acts and omissions of its Contractor Parties, and all obligations of this Agreement will apply to each Contractor Party, whether or not such obligations explicitly refer to Contractor Parties. Contractor shall at all times be responsible for performance of all of the Work, whether performed by Contractor or any Contractor Party. Company is not responsible for the performance of any Work by any such Contractor Party. This Agreement does not give rise to any contractual relationship between Company and any Contractor Party.
- 36. Suspension of Work.** Without terminating this Agreement, Company may immediately suspend the Work, or any portion thereof, by providing Contractor with Notice. Company may suspend Work for any reason, including in the event of a safety violation by Contractor or any Contractor Party, or in order to prevent an incident that threatens the health or safety of persons or property. Contractor shall thereupon immediately discontinue and suspend the Work except such operations as may be necessary to prevent damage to property or to the performance of the Work already accomplished, including securing all equipment, securing and protecting all work materials, and preparing the area so that it meets safety, health, and environmental requirements. Contractor shall resume the Work if and when Company serves Contractor with Notice lifting the suspension.
- 37. Validity.** The invalidity or unenforceability of any portion or provision of this Agreement will in no way affect the validity or enforceability of any other portion or provision hereof.
- 38. No Waiver.** The failure of Company to insist upon or enforce, in any instance, strict performance by Contractor of any term of this Agreement, or to exercise any rights herein conferred will not be construed as a waiver to any extent of its right to assert, or rely upon any such terms or rights on any future occasion, and no waiver will be valid unless stated in a Notice.
- 39. No Oral Modifications.** No modification or amendment of any provisions of this Agreement will be valid unless it is in writing and signed by authorized representatives of the Parties.
- 40. Interpretation.** The term "includes" or "including" will not be deemed limited by the specific enumeration of items, but will be deemed without limitation. Unless the context requires, the term "or" is not exclusive. References to "Contractor Party" or "Contractor Parties" include Contractor Parties of any tier. References containing terms such as "hereof," "herein," "hereto," and other terms of like import are not limited in applicability to the specific provision within which such references are set forth but instead refer to this Agreement taken as a whole. Whenever this Agreement specifically refers to any law, tariff or government department or agency, the reference also refers to any successor to such law, tariff or organization.
- 41. Counterparts.** This Agreement may be executed in counterparts which, taken together, constitutes a single instrument.
- 42. Authority.** Each individual executing this Agreement represents that: (a) he or she is authorized to execute and deliver this Agreement on behalf of his or her Party, and that this Agreement is binding upon such Party in accordance with its terms; (b) each Party, and with respect to Contractor, each Contractor Party, is a validly existing business entity in

good standing under the laws of the state in which it is organized (and in the state of California, if different), and has the full right, power and authority to conduct its business and execute and deliver this Agreement in accordance with its terms; and (c) the execution, delivery, and performance of this Agreement has been authorized by all requisite action of such Party, and constitutes the legal, valid, and binding obligation of such Party, enforceable against such Party in accordance with its terms.

43. Negotiated Agreement. The Parties have participated in negotiating and drafting this Agreement and, as such, the terms hereof will not be construed against a Party as the drafting Party.

44. Severally Liability. In the event that more than one legal entity acquires goods or Services hereunder from Contractor and is a party to this Agreement, compensation payable or other obligations owed by each such entity with respect to any such goods or Services shall be exclusively the obligation of the entity that acquires such goods or Services. No such entity will have any liability whatsoever (whether by direct payment, offset or otherwise) in connection with such goods or Services acquired by any other such entity. Each such entity is severally and not jointly liable to Contractor hereunder, and each such entity disclaims any and all financial or other responsibility, except with respect to goods or Services that are furnished and invoiced to such entity. If Contractor is comprised of more than one entity, all such entities shall be jointly and severally liable for all obligations of Contractor under this Agreement.

[End of Schedule A]

SCHEDULE B
Scope of Services

2021 South Bay Cities Energy Partnership Plan

Element A: Government Facilities

Government Facilities Energy Efficiency Projects

The Contractor, in coordination with the Contractor's energy engineer will work with member cities, school districts, and special districts to develop a list of potential energy efficiency projects. This list will be used to enhance agency assistance by identifying core programs implementation opportunities. The Contractor will also help with core program coordination and respond to inquiries on implementation of energy efficiency projects. Group as well as one-on-one "refresher" meetings will be conducted as needed. Additionally, the Contractor will provide assistance on incentive applications and monitor project status.

Technical assistance for project management, training, audits, etc.

Technical support will include training and education for local government, school district, and special district facility managers, energy managers, and other staff in use of best practices for identifying and implementing energy efficiency opportunities in their facilities. The Contractor, in coordination with the Contractor's energy engineer, will assist with analysis of these agencies' facilities to help prioritize projects and provide energy conservation measure alternatives.

Direct Install

The Contractor will work with cities, agencies, and businesses both public and private, on developing a list of potential Direct Install opportunities. The Contractor will continue to assist agencies on an as needed basis with issues regarding Direct Install and respond to inquiries regarding the Partnership and implementation of direct install projects.

Toolbox Trainings and Information Sharing Sessions

Through existing committee structures, the Contractor will host a forum for city staff to share information on planned projects, learn about pilot projects and case studies, and discuss the latest technological developments. The Contractor plans on coordinating four (4) information sharing sessions, where energy champions will learn from presentations focused on new technologies, best practices, or new incentives/rebates relevant to their work.

Energy Managers Meeting

As a part of the ongoing Toolbox Trainings, the Partnership will host at a minimum of four (4) Energy Champions meetings (may be held in conjunction with Toolbox Trainings or individual agency meetings), with a specific focus on Partnership activities. Topic for these meetings may include procurement and EE application requirements.

On-Bill Financing

The Contractor, with the assistance of the energy engineer, will assist cities with On-bill financing as a mechanism for facilitating the purchase and installation of comprehensive, qualified energy efficiency measures.

Element B: Strategic Plan

The Contractor will review the current Strategic Plan Menu with cities to determine if there is any applicable work that would benefit the cities. Some of the Menu items have already been incorporated into city climate action plans. For these cities, the Contractor will assistance with implementation, monitoring, and updates. The Menu includes the following:

- Reach code adoption
- Code compliance and enforcement
- Energy benchmarking
- Update the Energy Action Plan and/or energy chapter of a Climate Action Plan
- Educate local government officials on energy efficiency
- Education on revolving loan fund for energy efficiency projects
- Peer to Peer Support

Element C: Core Program CoordinationTargeted EE Campaign/Core and 3rd Party Program Coordination

The Contractor will work with Company to develop a targeted campaign designed to increase participation in Company's core program offerings (i.e. ESA/MIDI, Savings By Design, etc.). In addition, the Contractor with Company will identify strategies and activities to facilitate 3rd Party Programs as budget and resources allow. Details will be provided when programs involving 3rd Party Providers are selected. The Contractor has extensive experience working with 3rd Party Providers in the past such as direct install. Past activities included:

- Meeting with 3rd Party Providers in advance of program implementation
- Helping to identify potential facilities or business targeted for program
- Coordinating directly with city and business owners
- Working with city managers and staff to help ensure efficient installation
- Working with city elected officials to conduct outreach to businesses

Outreach Education & Marketing:

The Contractor will promote information provided by Company on energy efficiency, events, incentives, educational opportunities, public announcements, etc. Information will be promoted through e-blast, social media, and physical distribution of materials.

Community Events

The Contractor will continue to participate in Partnership cities' community events as requested including virtual events.

Newsletter and Website

The Contractor will continue to include Company information through an electronic newsletter which is distributed to elected officials and staff within member agencies. Newsletter content will highlight the Partnership’s accomplishments, feature articles on related news topics of interest, and inform about upcoming events and programs. Additionally, the Contractor will maintain a website, which will include information about the Partnership and upcoming activities with links to updated Utility Core Programs.

2021 Partnership Therm Savings Goals

The following tables provide a summary of therm savings goals for 2021.

2021 Therm Savings Target	8,000 therms
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[End of Schedule B]

SCHEDULE C
Compensation

Company shall compensate Contractor for the Services at the rates set forth below in an amount not to exceed **\$74,000.00** (as may be revised from time to time in accordance with this section, the “NTE Amount”). Contractor shall notify Company in writing when the costs incurred under this Agreement based upon this section equal 90 percent of the NTE Amount. Company will not be required to pay Contractor in excess of the NTE Amount unless and until, at Company’s sole option, Company elects in writing to increase the NTE Amount.

2021 Category Budget

Category	Estimated Cost
Administrative	\$9,000.00
Direct Implementation	\$60,000.00
Marketing & Outreach	\$5,000.00
NTE Amount	\$74,000.00

2021 Title and Rate Table

Title	Rate
Executive Director	\$180
Deputy Executive Director	\$140
Senior Project Manager	\$107
ESA III	\$87
Project Manager	\$84
Accountant	\$84
ESA II	\$78
ESA I	\$62
Administrative Assistant	\$49

[End of Schedule C]