



PROFESSIONAL SERVICES AGREEMENT NO. 47857

Company Name: Enervue Corporation

Subject: Online Commercial and Residential Energy Efficient
Product Marketplace Platform Services

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AGREEMENT NUMBER 47857

**BETWEEN
THE CITY OF LOS ANGELES DEPARTMENT OF WATER AND POWER
AND
ENERVEE CORPORATION**

THIS AGREEMENT is made and entered into by and between the City of Los Angeles acting by and through its Department of Water and Power, a municipal corporation, (hereinafter "LADWP") and Enervée Corporation, located at 11845 West Olympic Boulevard, Suite 1100W #32, Los Angeles, CA 90064 (hereinafter the "Consultant" or "Contractor"). Individually, LADWP and Consultant are referred to under this Agreement as a "Party" and collectively as the "Parties."

In consideration of the mutual covenants of the parties as set forth below, the parties hereby agree as follows:

ARTICLE I: PARTIES AND NOTICE

1.1 Parties to the Agreement

The Parties to this Agreement are:

Los Angeles Department of Water and Power (LADWP)
111 North Hope Street
Los Angeles, California 90012

and

Enervée Corporation
11845 West Olympic Boulevard, Suite 1100W #32
Los Angeles, CA 90064

1.2 Service of Notices

All notices, demands and communications regarding the interpretation of the terms of this Agreement or changes thereto shall be made in writing and may be effected by personal delivery or by certified mail, overnight carrier, or confirmed facsimile and shall be deemed communicated as of the date of delivery or the date of mailing, whichever is applicable, or in the case of a facsimile or email, upon receipt if transmitted during the receiving Party's normal business hours, otherwise on the first business day following receipt.

If the name or address of the person(s) designated to receive notices, demands or communications, is changed, or additional persons are added to receive

notices, demands or communications, written notice shall be given to the other Party, in accord with this article, of said change.

The authorized representatives to receive said notices shall be:

Authorized representatives of LADWP:

Elvia Paulina Garcia
Contract Administrator
Los Angeles Department of Water and Power
Corporate Environmental Affairs and Distributed Energy Solutions
111 North Hope Street, Room 1057
Los Angeles, California 90012
Phone Number: (213) 367-4612
Email Address: ElviaPaulina.Garcia@ladwp.com

and

Leslie McKay-Martin
Utility Services Manager
Los Angeles Department of Water and Power
Corporate Environmental Affairs and Distributed Energy Solutions
111 North Hope Street, Room 1057
Los Angeles, California 90012
Phone Number: (213) 367-3614
Email Address: Leslie.McKay-Martin@ladwp.com

and

Maychelle Yee
Utility Services Manager
Los Angeles Department of Water and Power
Corporate Environmental Affairs and Distributed Energy Solutions
111 North Hope Street, Room 1057
Los Angeles, California 90012
Phone Number: (213) 367-2528
Email Address: Maychelle.Yee@ladwp.com

Authorized representatives of the Consultant:

Roopali Mehta
Chief Finance & People Officer
11845 West Olympic Boulevard, Suite 1100W #32
Los Angeles, CA 90064
Phone Number: (512) 745-1954
Email Address: Roopali@enervee.com

and

Toby Welch
VP Partner Solutions
11845 West Olympic Boulevard, Suite 1100W #32
Los Angeles, CA 90064
Phone Number: (440) 670-6858
Email Address: Toby@enervee.com

1.3 Execution of Task Orders and Contract Administration

The LADWP authorized representatives identified in Article 1.2 above are authorized to execute Task Orders, and perform Contract Administration duties such as issue Change Order Notices, formally approve Deliverables, review invoices submitted for payment, etc.

ARTICLE II: TERM OF THE AGREEMENT

2.1 Term of the Agreement

The term of this Agreement shall commence upon execution of this Agreement by all Parties hereto and shall terminate five years thereafter, subject to the termination provisions herein. Performance shall not begin until the Consultant has obtained LADWP approval of insurance required herein.

ARTICLE III: TIME

LADWP and the Consultant understand and agree that "Time is of the Essence" in performance of this Agreement.

ARTICLE IV: COMPENSATION AND PAYMENT

4.1 Compensation

4.1.1 Not-to-Exceed Amount

The total compensation that may be paid to the Consultant by LADWP for complete and satisfactory performance of services under this Agreement shall not exceed twenty-nine million dollars (\$29,000,000).

4.1.2 Authorized Expenditures

Of the total amount of compensation included in Article 4.1.1 above, LADWP shall pay the Consultant for services performed, tasks implemented, and deliverables provided as specified in individual Task

Orders executed in accordance with Article 4.2, Allowable Fees and Costs, and Article VI, Task Order Development and Approval, of this Agreement. LADWP shall not be liable for payment of monies unless there is a written Task Order approved by LADWP's authorized representative(s) identified in Article 1.2 of this Agreement. Therefore, there is no guarantee that the Consultant shall receive any amount of work during the term of this Agreement.

4.2 Allowable Fees and Costs

LADWP shall pay for services established in a Task Order executed in accordance with Article VI, Task Order Development and Approval, of this Agreement and based upon the Consultant and Subconsultant labor rates established in **Exhibit C, Fee Schedule**, which is attached hereto and made a part hereof. Such labor rates are inclusive of salary, employee benefits, overhead, profit, general office expenses, administrative services, invoice preparation and processing, routine telecommunications, internet, personal computer, facsimile, routine postage, individual shipping charges of less than ten dollars (\$10.00), incidental copying, one hard copy of deliverables, and one electronic copy of deliverables costs.

4.2.1 Payment of Subconsultant Costs

LADWP shall pay for Subconsultant expenses at the actual amount to be paid by the Consultant to the Subconsultant, consistent with the Subconsultant labor rates and fees established in **Exhibit C, Fee Schedule**, or the Subconsultant rates established in an authorized Task Order for services provided in accordance with this Agreement. In the event of a conflict between the Subconsultant rates established in **Exhibit C, Fee Schedule**, and an authorized Task Order, Subconsultant costs shall be paid at the lowest rate.

The Consultant may invoice for direct services in the management, oversight, and administration of Subconsultants, including the Consultant's reviewing and processing of Subconsultant invoices. No markup of any kind by the Consultant or Subconsultant for Subconsultant services of any tier shall be allowed.

4.2.2 Reimbursement of Travel Expenses

Travel expenses necessary to perform required work for LADWP pursuant to an authorized Task Order must be pre-approved by LADWP. LADWP approved travel expenses shall be paid at the actual cost of such expenses, consistent with **Exhibit D, Allowable Travel Expenses**, which is attached hereto and made a part hereof. No markup of any kind by the

Consultant or Subconsultant of any tier for travel expenses shall be allowed.

4.2.3 Other Reimbursable Expenses

Other reimbursable expenses include purchase of special equipment, necessary field supplies and facilities, testing and laboratory services, individual shipping charges in excess of ten dollars (\$10.00), materials, supplies used in the work performed for LADWP pursuant to an authorized Task Order. Reimbursable expenses shall be paid by LADWP at the actual cost of such expenses, the expense rates established in **Exhibit C, Fee Schedule**, or the expense rates established in an authorized Task Order, as applicable. In the event of a conflict between the expense rates established in **Exhibit C, Fee Schedule**, and an authorized Task Order, expenses shall be reimbursed at the lowest rate. No markup of any kind by the Consultant, Subconsultant of any tier, or supplier for other reimbursable expenses shall be allowed.

Any items purchased at the request of LADWP to accomplish the work shall become the property of LADWP upon purchase and shall be delivered to LADWP at the conclusion of the work. Any other items purchased by the Consultant for performance of services pursuant to an authorized Task Order shall be the property of the Consultant, shall not be charged to LADWP, and shall not be reimbursed by LADWP.

4.2.4 Conditions for Payment for Overtime

Any work required by an individual in excess of eight (8) hours a day, or on a weekend, holiday, or any other instance in which payment of an overtime or labor rate premium could be applicable shall be based on the labor rates established in **Exhibit C, Fee Schedule**. In special circumstances, an overtime or labor rate premium may be allowed at the sole option of LADWP, with prior written approval by an LADWP authorized representative designated in Article 1.2 of this Agreement. The overtime billing rate shall be calculated based upon the employee's salary rather than the entire fully loaded billing rate.

4.3 Method of Payment

Payment for Consultant services shall be made in accordance with authorized Task Orders. The Consultant shall submit invoices to LADWP in accordance with authorized Task Orders, with the billings against each individual Task Order tracked separately.

4.3.1 Required Invoice Information

A hard copy of the invoice shall be submitted to:

Attn: Elvia Paulina Garcia
Contract Administrator
Department of Water and Power
City of Los Angeles
PO Box 51111, Room 1057
Los Angeles, CA 90051-5700

An electronic copy of the invoice must be concurrently submitted and emailed to ElviaPaulina.Garcia@ladwp.com, and invoices shall be submitted to:

Accounts Payable Business Unit
Los Angeles Department of Water and Power
PO Box 51211, Room 424
Los Angeles, CA 90051-5511

The following information shall be included in each invoice submitted by the Consultant to LADWP:

1. Consultant name, address, and vendor code number as registered on LADWP vendor database
2. City of Los Angeles Business Tax Registration Number
3. Internal Revenue Service ID Number
4. Date of invoice
5. Invoice number
6. Contract number
7. 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
8. Description of services and deliverables provided related to each individual Task Order and associated costs
9. Supporting documentation for all costs and expenses, in a format acceptable to LADWP
10. 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."
11. Taxes
12. Total amount of invoice

13. Approval signature blocks for LADWP project manager and LADWP authorized representative(s) identified in Article 1.1, Parties to the Agreement and Service of Notices, of this Agreement
14. An accompanying LADWP Subcontractor Utilization Form, **Exhibit L**, 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 E, List of Subconsultants**, attached hereto and made a part hereof, and recommendations for recovering any shortfalls in Subconsultant utilization
15. The following specific language in the invoices/bills is acceptable: "Consultant 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 or moral turpitude, and other disqualifying criteria, if any, as specified in the Agreement between the Consultant and LADWP) has been found."

Consultant's failure to submit accurate and all required information shall result in LADWP's rejection of the invoice and non-payment.

4.3.2 Time and Material Task Order Invoices

For Task Orders specifying a time and materials method of payment, the Consultant shall invoice LADWP on a monthly basis for costs and expenses. The Consultant shall provide documents supporting costs and expenses, including original receipts or invoices for expenses in excess of \$25.00, summary of total hours worked by specified individual Consultant employees and the applicable hourly rate, and time sheets or payroll records as appropriate to support individual employee hours worked, with each monthly invoice. Payment shall be made within forty-five (45) calendar days of receipt of the Consultant's invoice prepared in accordance with the requirements of Article 4.3.1 of this Agreement.

4.3.3 Fixed Price Task Order Invoices

For Task Orders specifying a fixed price method of payment, payment shall be made within forty-five (45) calendar days after review and approval of the deliverable by LADWP or receipt of the Consultant's invoice prepared in accordance with the requirements of Article 4.3.1, whichever is later.

4.3.4 Notice of Items Not Approved for Payment

LADWP's project manager will review the Consultant invoice within fifteen (15) working days and notify the Consultant in writing of any missing or required additional documents, questioned costs, inaccuracies, or concerns.

In the event that any deliverables, labor, or reimbursable expenses invoiced by the Consultant are not approved for payment, LADWP shall provide the Consultant with detailed comments addressing the shortfalls or costs of concern and shall meet with the Consultant to discuss such issues. Any disputes between LADWP and the Consultant regarding invoices costs and expenses shall be resolved in accordance with Article XI, Disputes, of this Agreement. LADWP shall pay undisputed invoice amounts.

4.3.5 Notification of Status of Task Order Expenditures

The Consultant shall notify LADWP in writing when costs reach 50 and 75 percent of the authorized Task Order amount. Such notice shall include an assessment of whether or not the tasks assigned in the Task Order can be completed within the authorized expenditure amount, and if not the Consultant shall propose suggested modifications to the Task Order for consideration by LADWP. Failure of the Consultant to provide such written notification may result in late payment of invoices by LADWP.

The notice shall state the estimated amount of additional funds required to continue performance for the period specified in the Schedule. At the time of the Notice, the Consultant shall notify the Authorized Representative in writing of the estimated amount of additional funds, if any, required to continue timely performance under the Task Order, and when the funds will be required.

If, after notification, additional funds are not approved by the end of the Task Order period or another agreed-upon date, upon the Consultant's written request the LADWP Authorized Representative may in its sole discretion terminate the Task Order.

4.3.6 Timely Invoicing

All charges related to the performance of the Consultant's work or services for any Task Order, including Subconsultant and other reimbursable expenses, shall be invoiced by the Consultant to LADWP within six (6) months of the cost or expenses being incurred by the Consultant or Subconsultant. LADWP shall not reimburse the Consultant for any costs, expenses, work, or services invoiced to LADWP six (6)

months after the date the costs were incurred by the Consultant or Subconsultant.

4.3.7 Maximum Authorized Amount

Notwithstanding any other provision of this Agreement, any changes or additions hereto that would increase LADWP's total obligation above the maximum authorized amount set forth in Article 4.1.1 of this Agreement shall be subject to prior approval by the Board of Water and Power Commissioners. LADWP shall not be obligated to pay for work performed by the Consultant for any such changes made in violation of this Agreement.

ARTICLE V: PROVISION OF SERVICES

5.1 Services to be Provided by the Consultant

During the term of this Agreement, the Consultant shall provide the services, tasks, and deliverables identified in the **Statement of Work (Exhibit H)** included herein, authorized by LADWP in this Agreement, and as set forth and agreed to by the Parties in individual Task Orders.

5.1.1 Description of Consultant Services

Consultant shall provide the services described in **Exhibit H**, and as set forth and agreed to by the Parties in individual Task Orders.

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

5.1.2 LADWP Approval of Work

All services, work, tasks, and deliverables are subject to LADWP approval, which approval shall not be unreasonably withheld. Failure to receive approval may result in withholding compensation for such services, work, tasks, and deliverables pursuant to Article IV, Compensation and Payment, of this Agreement.

LADWP reserves the right to contract separately with other consultants to review the Consultant's deliverables and other work products produced in accordance with the terms of this Agreement. If LADWP contracts separately with other consultants to assist LADWP in reviewing the

Consultant's deliverables and other work products, the Consultant agrees to cooperate fully and coordinate with such other consultants.

The Consultant shall provide access and make available to LADWP the Consultant's internal documents, reports, and reviews directly related to the work being performed pursuant to this Agreement, such as Project Schedule related documents and performance and project management audits.

5.1.3 Industry Standard of Care

The Consultant shall perform the work described herein in accordance with industry standards of care and shall reflect competent professional knowledge and judgment.

5.2 Consultant Personnel

5.2.1 Key Consultant Personnel

Key Consultant personnel to be assigned to this Agreement are identified in the **List of Key Consultant Personnel** set forth in **Exhibit F**. Key Consultant Personnel shall be available to perform under the terms and conditions of this Agreement immediately upon commencement of the term of this Agreement. LADWP considers the services of the Consultant's key personnel listed in **Exhibit F** essential to the Consultant's performance under this agreement.

The Consultant shall not reassign any key personnel without LADWP's prior written consent. LADWP shall review and approve or disapprove any personnel who are designated as key personnel in **Exhibit F** for any reason at its sole discretion. LADWP shall act reasonably in exercising its discretion to approve or disapprove any key personnel.

5.2.2 Unavailability of Key Personnel

In the event individual key personnel listed in **Exhibit F** are terminated either with or without cause, or if individual key personnel are otherwise unavailable to perform services for the Consultant, the Consultant shall provide to LADWP written notification detailing the circumstances of the unavailability. The written notification shall designate replacement personnel prior to the effective date of individual key personnel termination or unavailability date, to the maximum extent feasible, but no later than five (5) business days after the effective date of the individual key personnel termination or unavailability. The Consultant shall propose replacement personnel who have a level of experience and expertise

equivalent to the unavailable individual key personnel for LADWP review and approval.

The Consultant recognizes and agrees that early notification of the unavailability of key Consultant personnel and proposed replacement personnel is essential to avoiding delays in completing the services, work, tasks, and deliverables established in this Agreement or authorized Task Orders since the award of this agreement was predicated upon the competency of the Key Personnel provided.

5.2.3 Removal of Consultant Personnel

LADWP shall have the right, in its absolute discretion, to require the removal of Consultant's personnel at any level assigned to the performance of the Services or Work, if LADWP considers such removal necessary in the best interests of the Program and requests such removal in writing. Such personnel shall be promptly removed from the Project by the Consultant at no cost or expense to LADWP. Further, an employee who is removed from the Project for any reason shall not be re-employed on the Project.

5.3 Consultant Use of Subconsultants

Subconsultants, including but not limited to individuals, contract employees, sole proprietors, firms, and corporations, designated to perform work under this Agreement are identified in **Exhibit E, List of Subconsultants**. **Exhibit E, List of Subconsultants**, also contains a description of the service, task responsibilities, and anticipated participation (percentage of overall cost of services) of each Subconsultant identified in **Exhibit E**.

Notwithstanding the fact that the Consultant is utilizing Subconsultants, the Consultant shall remain responsible for performing all aspects of this Agreement and for ensuring that all services, work, and tasks are performed in accordance with the terms and conditions of this Agreement and authorized Task Orders.

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

5.3.1 LADWP Pre-Approval of Subconsultants

LADWP shall pre-approve, in writing, any reduction, addition or substitution to the Subconsultants listed in **Exhibit E, List of Subconsultants**, in accordance with **Exhibit B, Special Provisions, Subconsultant Substitution, Reduction, or Addition**, under **SP-5**. This applies to individuals, contract employees, sole proprietors, firms, and corporations.

5.3.2 Subconsultant Subcontracting

Subconsultants may not subcontract or delegate assigned work unless Consultant obtains LADWP's prior written consent.

5.3.3 Agreement Provisions Applicable to Subconsultants

Consultant shall require any subcontract entered into pursuant to this Agreement to be subject to Articles 5.3.2, the provisions of Article VII, Ownership, and Article VIII, Confidentiality and Restrictions on Disclosure of this Agreement.

The Consultant is solely responsible for ensuring that all subcontracts comply with the provisions and the terms of this Agreement, as applicable.

5.3.4 Copies of Consultant Subconsultant Contracts

Upon request, the Consultant shall provide LADWP with copies of Consultant Subconsultant contracts associated with the performance of this Agreement.

ARTICLE VI: TASK ORDER DEVELOPMENT AND APPROVAL

6.1 Task Order Request for Proposal (TORP)

During the term of this Agreement, LADWP shall have the right to request submittal of a Task Order Proposal within the general scope of work contemplated by this Agreement and consistent with **Exhibit C, Fee Schedule**. Task Orders may be based either upon a fixed price or a time and materials basis. For each task requested, LADWP shall prepare and transmit a TORP to any Consultant(s) which will include the following elements:

1. Task order number
2. Task name or title
3. Purpose and Objective of the task assignment
4. Prerequisites to Consultant's performance
5. Scope of Work
6. Premises (assumptions, conditions, restrictions, project location, etc.)
7. References (from past projects for similar work)
8. Key Consultant and Subconsultant personnel required for the task
9. Anticipated SBE/DVBE/MBE/WBE Subconsultant participation
10. Method of compensation (fixed price or time-and-materials basis)
11. Estimated total expenditures, including not-to-exceed cost or mutually established fixed price costs, to be paid to the Consultant to perform the task assignment

12. Detailed cost estimate with work breakdown, personnel or labor category, labor hours, labor rates, and expenditures as basis for the amount in Item 11
13. Applicable Consultant and Subconsultant Labor Rates and Fees, if not included in **Exhibit C, Fee Schedule** of the Agreement
14. Schedule, including expected progress reports and expected completion date
15. LADWP's designated Task Order Authorized Representative(s) as identified in the TORP
16. Deliverables
17. The methodology for evaluation of the successful task order proposal

6.2 Task Order Proposal

Upon receipt of LADWP's written TORP, the Consultant, at its own expense, shall prepare and deliver to LADWP a written response within ten (10) calendar days or as otherwise requested by LADWP. The Consultant's written response shall be in the form of a Task Order Proposal.

The Consultant may suggest to LADWP that changes be made to the work and services contemplated in the TORP. As part of the Task Order Proposal, the Consultant shall provide LADWP with a detailed cost estimate proposal, including identification of all required personnel, rates, and hours of effort.

In the event that Consultant personnel, Subconsultants, or expenses not included in **Exhibit E, List of Subconsultants**, or **Exhibit C, Fee Schedule**, are required by the Consultant to complete the task, the Task Order Proposal shall specifically include such additions to the appropriate Agreement Exhibits for approval and authorization by LADWP.

The Consultant shall comply with Article 5.3.1 of this Agreement and provide a summary of overall Subconsultant utilization for the Task Order and the Agreement as whole, and explain any deviations from the anticipated Subconsultant participation identified in **Exhibit E, List of Subconsultants**, and recommendations for recovering any shortfalls in Subconsultant utilization.

6.3 Evaluation of Task Order Proposal

LADWP will review and evaluate the Task Order Proposal for completeness, clarity, Consultant's ability to perform the work and services, schedule, and proposed use of Subconsultants and Consultant personnel.

During the review of the Consultant's Task Order Proposal, LADWP and the Consultant shall cooperatively work to develop a Task Order. To that end, informal exchanges between the Consultant and LADWP Task Order administrator or project manager are encouraged to aid in the development of the Task Order.

Any particular Task Order may be performed either on a time-and-materials basis with a not-to-exceed amount established for each Task Order, or upon a lump-sum basis, or a combination thereof. The particular method of compensation for each Task Order shall be determined by the Parties during its development. LADWP and the Consultant shall select the method of compensation that is most compatible with the particular Task Order, provides the least cost to LADWP, and assures the Consultant adequate compensation consistent with this fee schedule in **Exhibit C**.

LADWP and the Consultant agree to make a good faith effort to reach a mutually agreed upon fixed price or time and materials Task Order for services based upon the Consultant labor rates established in **Exhibit C, Fee Schedule**. Failure to agree on the price of such Task Orders shall be treated as a dispute and subject to the provisions of Article XI, Disputes, of this Agreement.

Upon agreement over the final form of a Task Order, the Consultant shall transmit the Task Order, signed by the Consultant's Authorized Representative, to LADWP.

6.4 Task Order Approval and Authorization

Upon LADWP's acceptance of an executed Task Order, the LADWP's Authorized Representative(s) as identified in Article 1.2 of this Agreement, or their designee established in writing, shall provide written authorization to the Consultant to commence the work described in the Task Order. A Task Order authorization letter executed by LADWP's Authorized Representative shall be transmitted to the Consultant to document all Task Orders.

The Task Order authorization letter shall describe the full and complete agreement among the Parties regarding the work and services contemplated in the Task Order. LADWP shall not be liable for payment for Consultant services, work, task, deliverables, or costs that are performed outside an authorized Task Order.

6.5 Task Order Modifications

LADWP or Consultant may seek modifications to an authorized Task Order to address needed services, work, tasks, subtasks, deliverables, schedules, or costs associated with the authorized Task Order or to address changed conditions. Such Task Order modifications shall be processed in accordance with the Task Order development procedures established in this Article VI, Task Order Development and Approval.

ARTICLE VII: OWNERSHIP

7.1 Ownership Rights

It is understood and agreed that the deliverables are being developed by the Consultant for the sole and exclusive use of LADWP and that LADWP shall be deemed the sole and exclusive owner of all right, title, and interest therein, including all copyright and proprietary rights relating thereto. All work performed by the Consultant on deliverables and any supporting documentation therefor shall be considered as "Works-Made-for-Hire" (as such are defined under the U.S. Copyright Laws and international treaties) and, as such, shall be owned by and for the benefit of LADWP. LADWP owns any and all trademarks, patents, copyrights, and any other intellectual property rights for any and all deliverables generated as a result of this Agreement, regardless of the state of completion of said deliverables.

In the event it should be determined that any such deliverables or supporting documentation, or parts thereof, do not qualify as a "Works-Made-for-Hire," the Consultant shall and hereby does transfer and assign to LADWP for no additional consideration, all rights, title, and interest that it may possess in such deliverables and documentation including, but not limited to, all copyrights to the work and all rights comprised therein, and all proprietary rights relating thereto. Upon request, the Consultant shall take such steps as are reasonably necessary to enable LADWP to record such assignment. Further, the Consultant shall contractually require all persons performing under this Agreement, including all Subconsultants, to assign to LADWP all rights, title, and interest, including copyrights to all such "Works-Made-for-Hire."

7.1.1 Use of Deliverables

LADWP has the right to use or not use the deliverables and to use, reproduce, re-use, alter, modify, edit, or change the deliverables as it sees fit and for any purpose. If LADWP determines that a deliverable, or any part thereof, requires correction prior to LADWP approval, LADWP has the absolute right to use the deliverable until such time as the Consultant can remedy the identified deficiency.

7.1.2 Execution of Ownership Documents

The Consultant shall sign, upon request, any documents needed to confirm that the deliverables or any portion thereof are "Works-Made-for-Hire" and to effectuate the assignment of its rights to LADWP.

7.2 Warranty Against Infringement

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

7.3 Survival of Provisions

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

ARTICLE VIII: CONFIDENTIALITY AND RESTRICTIONS ON DISCLOSURE

8.1 Confidentiality

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

8.2 Reference Background Checks

To the extent permitted by applicable law, LADWP may conduct reference checks on the Consultant, its employees, agents, and Subconsultants who shall have, or may have, access to LADWP customer, employee, power system, or water system information and data during performance of this Agreement. The Consultant recognizes the highly sensitive nature of such information and data and agrees to cooperate with LADWP and provide, to the extent permitted by applicable law, whatever information LADWP requires in order to conduct reference checks. LADWP may request changes to Consultant personnel pursuant to Article 5.2.1 of this Agreement in response to reference check information, and the Consultant shall accommodate such request for personnel changes.

ARTICLE IX: TERMINATION AND SUSPENSION

9.1 Termination for Convenience

9.1.1 Notice of Termination

LADWP may terminate this Agreement, or any Task Order, for its convenience upon giving at least thirty (30) calendar days written notice to the Consultant prior to the effective date of such termination, which date shall be specified in such notice.

9.1.2 Receipt of Notice of Termination

After receipt of a notice of termination and except as otherwise directed by LADWP, the Consultant shall:

- A. Stop work under the Agreement or Task Order on the termination effective date and to the extent specified in the notice of termination.
- B. Place no further orders with Subconsultants for any work except as may be necessary for completion of such portions of the services or work expressly excluded from the Notice of Termination.
- C. Communicate any Notice of Termination to the affected Subconsultants at any tier.
- D. Terminate all orders and contracts with Subconsultants that relate to the performance of the services or work.
- E. Settle outstanding liabilities and claims arising out of such termination of orders and contracts with Subconsultants, with the acceptance of LADWP if required (which acceptance will be for the final purposes of this Article).
- F. Deliver to LADWP, within ten (10) calendar days after termination, any and all data, reports, other documents, and deliverables, or portions thereof, if any, prepared pursuant to this Agreement, but not already delivered.
- G. Transfer title to LADWP (to the extent that title has not already been transferred) in the manner and at the times and to the extent directed by LADWP, the work in process, completed work, and other material produced as part of or required in respect to performance of this Agreement.

- H. Comply with any other requirements of LADWP as may be specified in the Notice of Termination.

9.1.3 Amount Due

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

- A. The Consultant shall be paid on the basis of work completed as set forth in authorized Task Orders after LADWP reviews and approves of the work.
- B. The Consultant shall also be compensated by LADWP on a percentage completed basis of the applicable Deliverables for work in process, when appropriate, in compliance with authorized Task Orders after LADWP review and approval of the work.

9.2 Termination for Cause

LADWP may terminate this Agreement for cause by giving the Consultant a written notice of breach. The Consultant shall have ten (10) calendar days from the date of LADWP's notice of breach to cure, or diligently commence to cure such breach. LADWP's notice of breach shall include a time and location for the individuals identified in Article 1.2 of this Agreement to meet and discuss the notice of the breach. Such meeting shall be scheduled within ten (10) calendar days of the date of the notice of breach. If the Consultant is unable or unwilling to cure, or diligently commence to cure, such breach, or meet within the ten (10) day timeframe, LADWP may terminate this Agreement anytime thereafter upon providing the Consultant written notice.

If this Agreement is terminated for cause, the Consultant shall comply with Article 9.1.2, above. LADWP shall pay for LADWP accepted deliverables, less the amount of any damages incurred as a result of the Consultant's failure to perform its responsibilities under this Agreement.

9.3 Suspension of Work

Upon written notice, LADWP may direct the Consultant to suspend, and to subsequently resume performance of all or any of the work. In the event that LADWP suspends work, the authorized Task Order schedule and budget shall be adjusted as appropriate in accordance with the provisions of Article 6.5 of this Agreement.

9.4 Termination Transition

When a replacement Consultant has been identified, the Consultant shall provide reasonable cooperation in the transition of its responsibilities to the replacement Consultant selected by LADWP to perform the tasks described in the scope of work and formerly performed by the Consultant for this Agreement during the fifteen (15) calendar day period prior to termination of the Agreement. The Consultant for this Agreement shall accept no additional tasks with respect to the scope of work after the effective date of the termination.

ARTICLE X: AMENDMENTS AND ADMINISTRATIVE CHANGES TO THE AGREEMENT

10.1 Amendments

10.1.1 Request for Amendment

During the term of this Agreement, LADWP shall have the right to request an Amendment to change the terms of this Agreement, including changes in the services to be performed by the Consultant, extension of the term, and any increase or decrease in the amount of compensation authorized in Article 4.1 of this Agreement. LADWP shall make a formal written request with respect to the Amendment.

10.1.2 Development of Amendments

Within ten (10) calendar days following the Consultant's receipt of LADWP's written request for an Amendment, the Consultant, at its own expense, shall prepare and deliver to LADWP a detailed written statement regarding the implementation and impact of the Amendment, including a proposal of the estimated cost impact.

Upon LADWP's review of the Consultant's written response to the request for an Amendment, LADWP and Consultant shall cooperatively work to develop an Amendment to the Agreement. To that end, informal exchanges between the Consultant and LADWP are encouraged.

10.1.3 Approval and Authorization of Amendments

Once both Parties agree to the language of the Amendment, the Amendment shall be signed by the person(s) authorized to bind the Consultant thereto. LADWP shall deliver a copy of the fully executed Amendment to the Consultant. After complete and authorized signatures by both Parties, the Amendment shall be effective and binding on both Parties and shall take precedence over any conflicting provisions in the Agreement.

Amendments that result in an Agreement term of greater than five (5) years in the aggregate may require City Council approval pursuant to Section 373 of the Charter of the City of Los Angeles (hereinafter “City Charter”).

10.2 Administrative Changes

10.2.1 Request for Administrative Changes

During the term of this Agreement, LADWP or the Consultant may request changes to the work within the Agreement that are administrative in nature, including but not limited to changes to the authorized representatives, key Consultant or Subconsultant personnel, reporting documentation, and/or the implementation of pre-approved cost of living adjustments in fee schedules. LADWP or the Consultant shall make a formal written request with respect to each administrative change it desires to make.

10.2.2 Development of Administrative Changes

When a change is requested by either Party, the receiving Party will review the implementation and impact of the administrative change. Within ten (10) calendar days following the receipt of the written administrative change request, LADWP or the Consultant, at its own expense, shall prepare and deliver to the originating Party a detailed written statement regarding the implementation and impact (including cost, if any) of the administrative change.

Upon review of the written response to the administrative change request, LADWP and Consultant shall cooperatively work to develop an Administrative Change to the Agreement. To that end, informal exchanges between the Consultant and LADWP are encouraged.

10.2.3 Approval and Authorization of Administrative Changes

Upon approval of the Administrative Change to the Agreement prepared pursuant to Article 10.2.2, LADWP’s authorized representatives as identified in Article 1.2, of this Agreement, or their designee established in writing, shall deliver to the Consultant an Administrative Change authorization to the Agreement (hereinafter “ Notice of Administrative Change”) for execution.

10.3 Order of Precedence

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:

- Latest Amendment
- Agreement
- Latest Administrative Change (as set forth in Section 10.2 above)
- Task Order Assignment
- Other reference documents
- Proposal response dated September 7, 2023
- Request for Proposal No. 90714R1 dated July 25, 2023, and any amendments thereto.

Except as otherwise specified, in the event of any conflict between the Special Provisions and the General Conditions contained herein, the Special Provisions will control.

Each party shall notify the other immediately upon the determination of any such conflict or inconsistency.

Should anything necessary for a clear understanding of the Work be omitted from the Agreement Documents, or should the requirements appear to be in conflict, the Consultant shall secure written instructions from LADWP before furnishing the Work affected thereby.

ARTICLE XI: DISPUTES

11.1 Disputes

11.1.1 Dispute Resolution

The parties shall use their best efforts to resolve disputes under this Agreement. If a settlement cannot be reached, or in the event of default that could result in termination of this Agreement, LADWP and the Consultant shall schedule a meeting of the individuals identified in Article 1.2 in a good faith attempt to resolve the issues in dispute. Such a Dispute Resolution meeting shall be scheduled and held within ten (10) business days of written request by either party. The meeting shall allow for a detailed presentation of each Party's views on the issues and potential solutions to the dispute or default. If possible, the meeting should result in an agreed upon course of action to resolve the dispute or default.

11.1.2 Continued Work

The Consultant and LADWP shall continue to perform work under the Agreement during any dispute.

11.1.3 Claim Procedures

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

ARTICLE XII: ENTIRE AGREEMENT

12.1 Number of Pages and Attachments

This Agreement may be executed in one or more counterparts, and by the parties in separate counterparts, each of which when executed shall be deemed to be an original but all of which taken together shall constitute one and the same agreement. The parties further agree that facsimile signatures or signatures scanned into .pdf (or signatures in another electronic format designated by LADWP) and sent by e-mail shall be deemed original signatures.

This Agreement includes twenty-four (24) pages and fifteen (15) Exhibits, which constitute the complete understanding among the Parties.

12.2 Represented by Counsel

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

[Signature page follows.]

SIGNATURE PAGE

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

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

ENERVEE CORPORATION

By signing below, the signatories attest that they have no personal, financial, beneficial, or familial interest in this contract.

By: _____
JANISSE QUIÑONES
Chief Executive Officer and Chief Engineer

By: _____
MATTHIAS KURWIG
Chief Executive Officer

Date: _____


Date: 12/05/2024

And: _____
CHANTE L. MITCHELL
Board Secretary

By: _____
ROOPALI MEHTA
Chief Finance & People Officer

Date: 12/05/2024

APPROVED AS TO FORM AND LEGALITY
HYDEE FELDSTEIN SOTO, City Attorney

By _____
BETHANY A. BURGESS
Deputy City Attorney
Date: December 10, 2024

Vendor Code: 066818001

City Business Tax Registration Certificate Number: 0003244460-00011-2

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GC-1 Construction of Provisions and Titles Herein

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

GC-2 Applicable Law, Interpretation, Enforcement and Severability

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

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

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

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

GC-3 Time of Effectiveness

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

- A. This Agreement has been signed on behalf of the Consultant by the person(s) authorized to bind the Consultant hereto.

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- B. This Agreement has been approved by the City Council or by the Board, inclusive of City Council review period, officer, or employee authorized to give such approval.
- C. The Office of the City Attorney has indicated in writing its approval of this Agreement as to form and legality.
- D. This Agreement has been signed on behalf of LADWP by the person designated by the Board, officer or employee authorized to enter into this Agreement.

GC-4 Integrated Agreement

This Agreement sets forth all of the rights and duties of the Parties with respect to the subject matter hereof, and replaces any and all previous agreements and understandings, whether written or verbal, relating hereto. This Agreement may be amended only as provided for in Article X, Amendments and Administrative Changes to the Agreement of this Agreement.

GC-5 Force Majeure

If either Party is unable to perform its obligations because of strikes, lockouts, labor disputes, embargos, acts of God, governmental regulations, judicial orders, enemy or hostile governmental action beyond the reasonable control of the Consultant or its Authorized Subconsultants ("Force Majeure"), and such event continues, or is expected to continue, for more than thirty (30) days, either Party may suspend unperformed services upon notice to the other party in writing, and such party's performance shall be suspended for the period equal to the period of time of such cause for suspension of performance. Both parties shall use reasonable efforts to mitigate the effect of a force majeure event. This section does not excuse either party's obligation to pay for services provided.

GC-6 Waiver

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

GC-7 Independent Consultant

The Consultant is acting hereunder as an independent Consultant and not as an agent or employee of LADWP or the City of Los Angeles, and all of the terms and conditions of this Agreement shall be interpreted in light of that relationship. The Consultant, including Consultant's Subconsultants, suppliers, employees, and agents, shall not represent or otherwise hold out itself or any of its directors, officers, partners,

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employees, or agents to be an agent or employee of LADWP for any purpose whatsoever. The Consultant shall not be entitled to any LADWP or City of Los Angeles benefits, including but not limited to, vacation, sick leave, Workers' Compensation, or pension.

GC-8 Prohibition Against Assignment or Delegation

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

- A. Assign or otherwise alienate any of its rights hereunder, including the right to payment; or
- B. Delegate, subcontract, or otherwise transfer any of its duties hereunder.

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

GC-9 Licenses and Certifications

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

GC-10 Non-Discrimination/Equal Employment Practices/Affirmative Action

A. Non-Discrimination and Equal Employment Practices

The Agreement shall comply with the provisions of Los Angeles Administrative Code Section 10.8.2, Non-Discrimination Clause and Section 10.8.3, Equal Employment Practices. By affixing its signatures on the Agreement that is subject to the Equal Employment Practices Provisions, the Consultant shall agree to adhere to the provisions in the Equal Employment Practices Provisions for the duration of the Agreement.

Furthermore, the Consultant shall include similar provisions in all subcontracts awarded for work to be performed under the Agreement with LADWP and shall impose the same obligations. The contract with the Subconsultant that contains similar language shall be made available to LADWP upon request.

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B. Affirmative Action Program

The Agreement shall comply with the provisions of Los Angeles Administrative Code 10.8.4, Affirmative Action Program. By affixing its signature on the Agreement that is subject to the Affirmative Action Program provisions, the Consultant shall agree to adhere to the provisions in the Affirmative Action Program for the duration of the Agreement.

Furthermore, the Consultant shall include similar provisions in all subcontracts awarded for work to be performed under the Agreement with LADWP and shall impose the same obligations. The contract with the Subconsultant that contains similar language shall be made available to LADWP upon request.

GC-11 Claims for Labor and Materials

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

GC-12 Los Angeles City Business Tax Registration Certificate Required

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

GC-13 Indemnification Provisions

A. General Indemnification

The Consultant undertakes and agrees to indemnify and hold harmless the City of Los Angeles, the Department of Water and Power, the Board of Water and Power Commissioners of the City of Los Angeles, and all of their officers and employees, and, at the option of LADWP, defend LADWP and any and all of its Board, 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

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injury or personal injury to any person, including Consultant's employees and agents, or damage or destruction to any property of either party hereto, or third persons in any manner caused by the acts, errors, or omissions incident to the performance of this contract on the part of the Consultant, or the Consultant's officers, agents, employees, or Subconsultants of any tier, except for the sole negligence or willful misconduct of LADWP, its Board, officers, agents, or employees.

B. Intellectual Property Indemnity

Consultant will indemnify, defend at its expense and hold harmless LADWP against any loss, cost, expense, liability, and damages paid by LADWP as a result of any judgment or settlement as a consequence of any infringement claim, demand, proceeding, suit or action (hereinafter "Action") against LADWP, its officers, directors, agents, employees, or affiliates for any infringement or violation, actual or alleged, direct or contributory, intentional or otherwise, of any intellectual property rights, including patents, copyrights, trade secrets, trademarks, service marks, and other proprietary information or rights (collectively "Intellectual Property Rights" hereinafter), (1) on or in any design, medium, matter, plant, article, process, method, application, equipment, device, instrumentation, software, hardware, or firmware used by the Consultant in the construction of the work under this Agreement; or (2) as a result of LADWP's actual or intended use under the specifications contained herein by LADWP of any product furnished by Consultant (hereinafter "Consultant Product"). Consultant Product herein includes, without limitation, any hardware, software, firmware, equipment, device, instrumentation, design, medium, matter, plant, article, process, method, and application. Consultant, however, shall have no liability to LADWP herein with respect to any claim of infringement which is based upon the combination or utilization of the Consultant Product with machines or devices not reasonably anticipated hereunder; or based upon a modification by LADWP of the Consultant Product furnished hereunder.

In Consultant's defense of LADWP, negotiation, compromise, and settlement of any such infringement action, LADWP shall retain discretion in and control of the litigation, negotiation, compromise, settlement, and appeals therefrom, as required by the City Charter, particularly Article II, Sections 271, 272 and 273 thereof.

In addition, if any part of the Consultant Product (a) becomes the subject of an action, (b) is adjudicated as infringing any Intellectual Property right, or (c) has its use enjoined or license terminated, Consultant shall, with LADWP's consent, do one of the following immediately at its expense: (i) procure for LADWP the right to continue using said infringing part of the product; (ii) replace the product with a functionally equivalent, non-

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infringing product; or (iii) modify the product so it becomes non-infringing.

Exercise of any of the above-mentioned options shall not cause undue business interruption to LADWP or diminish the intended benefits and use of the Consultant Product by LADWP under the specifications herein. If Consultant proves, to LADWP's satisfaction, that none of the options (i), (ii), or (iii) are feasible, Consultant shall instead refund the full purchase price of the product.

Rights and remedies available to LADWP hereinabove shall survive the expiration or other termination of this Agreement. Further, the rights and remedies are cumulative of those provided for elsewhere in this Agreement and those allowed under the laws of the United States, the State of California, and the City of Los Angeles.

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

GC-14 Insurance

A. General Statement

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

B. Applicable Terms and Conditions

1. Additional Insured Status Required

The Contractor 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 "Contract Insurance Requirements – Department of Water and Power" page. The insurance shall also by scheduled endorsement(s) attached to such policies, include, the City of Los Angeles, the LADWP, its Board of Commissioners (hereinafter referred to as "Board"), and all of its officers, employees and agents, their successors and assigns, as Additional Insureds against the area of risk described herein as respects Contractor's acts, errors, or omissions in its performance of the agreement, hereunder or other related functions performed by or on behalf of Contractor. Such insurance shall not limit or

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qualify the liabilities and obligations of the Contractor assumed under the Agreement.

2. **Separation of Insured's Interest and Cross Liability Required**

Each specified insurance policy, as applicable, shall contain a Separation of Interest and Cross Liability clause and shall apply separately to each insured against whom a claim is made or suit is brought and a Contractual Liability Endorsement which shall also apply to liability assumed by the insured under this Agreement with LADWP.

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

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

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

The Contractor shall provide evidence of the required insurance no later than ten (10) calendar days after the expiration date of any of the policies required on the "Contract Insurance Requirements – Department of Water and Power" showing that the insurance coverage has been renewed or extended and such proof shall be filed with the LADWP Risk Management section.

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

The Contractor shall provide proof to the LADWP's Risk Manager of all specified insurance and related requirements using either an Acord certificate of insurance along with any required scheduled endorsements, or using LADWP's own endorsement form(s) or using other written evidence of insurance (i.e. self-insurance) acceptable to the Risk Manager. Any evidence of coverage provided must be in a form acceptable to the Risk Manager. The documents evidencing all specified coverages shall be filed with LADWP prior to Contractor beginning operations hereunder. Said

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proof shall contain at a minimum, the applicable policy number, the inclusive dates of policy coverages, the date the scheduled endorsement for LADWP was attached to a specific policy, and the insurance carrier's name. It shall provide that such insurance shall not be subject to cancellation, material reduction in a required coverage or non-renewal (other than for non-payment) except after written notice to the LADWP Risk Management Section (30) calendar days prior to the effective date thereof. The cancellation notification shall be sent by first class or electronic mail to:

The Risk Management Section,
Los Angeles Department of Water and Power,
Post Office Box 51111, JFB Room 465,
Los Angeles, California 90051-0100.
Email: Riskmanagement.Risky@ladwp.com

The proof of insurance shall be uploaded to **LADWP's Insurance Compliance System**, which can be accessed through the LADWP Risk Management website:

(<http://www.ladwp.com/riskmanagement>)

If assistance is required, please feel free to review the instructions on the website or contact risk management at:

Email: Riskmanagement.Risky@ladwp.com

6. Claims-Made Insurance Conditions

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

7. Failure to Maintain and Provide as Cause for Termination

After prior notices have been provided, any failure by the contractor to maintain and provide acceptable evidence of the required insurance for the required period of coverage shall constitute a breach of contract, upon which LADWP may immediately terminate or suspend the agreement.

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8. Sub-Contractor Compliance

The Contractor shall be responsible for all subcontractors' compliance with the insurance requirements with limits applicable to the scope of work/services being performed and in accordance with the Contractor's standard agreements with such subcontractors.

9. Specific Insurance Requirements

The Contractor/consultant shall provide LADWP with coverages specified in **Exhibit G, Contract Insurance Requirements – Department of Water and Power**.

GC-15 Child Support Policy

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

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

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

GC-16 Service Contract Worker Retention Ordinance and Living Wage Policy

Unless otherwise exempt in accordance with the provisions of this Ordinance, this contract is subject to the applicable provisions of the Service Contractor Worker Retention Ordinance (SCWRO), Section 10.36 et seq., and the Living Wage Ordinance

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(LWO), Section 10.37 et seq. of the Los Angeles Administrative Code. The ordinance require that unless a specific exemption applies as determined by the awarding authority and confirmed by the designated administrative agency, all employers (as defined) under contracts primarily for the furnishing of services to or for the City and that involve an expenditure or receipt in excess of \$25,000 and a contract term of at least 3 months; lessees; licensees; or certain recipients of City financial assistance, generally shall provide the following:

- A. Retention by a successor Consultant for a 90-day transition period, the employees who have been employed for the preceding 12 months or more by the terminated Consultant or Subconsultant, earning no more than twice the hourly wage without health benefits available under the LWO Section 10.37 et seq. of the Los Angeles Administrative Code;
- B. Payment of a minimum initial wage rate to employees as defined in the LWO, as may be adjusted each July 1, and provisions of benefits as defined in the LWO.
- C. Consultant further pledges that the Consultant shall comply with federal law proscribing retaliation for union organizing and shall not retaliate for activities related to the LWO. Consultant shall require each of its Subconsultants within the meaning of the LWO to pledge to comply with the terms of federal law proscribing retaliation for union organizing. Consultant shall deliver the executed pledges from each such Subconsultant to the City within 90 days of the execution of the Subconsultant. Consultant's delivery of executed pledges from each such Subconsultant shall fully discharge Consultant's obligation with respect to such pledges and fully discharge the obligation of the Consultant and Subconsultants to comply with the provision in the LWO contained in Section 10.37.6(c) concerning compliance with such federal law.
- D. The Consultant, whether an employer, as defined in the LWO, or any other person employing individuals, shall not discharge, reduce in compensation, or otherwise discriminate against any employee for complaining to the City with regard to the employer's compliance or anticipated compliance with the LWO, for opposing any practice proscribed by the LWO, for participating in proceedings related to the LWO, for seeking to enforce the employee's rights under the LWO by any lawful means, or otherwise asserting rights under the LWO by any lawful means, or otherwise asserting rights under the LWO. The Consultant shall post the LWO Notice to Employees and the Notice of Prohibition Against Retaliation, in a conspicuous place.
- E. Any Subcontract entered into by the Consultant relating to this Agreement, to the extent allowed hereunder, shall be subject to these provisions and shall incorporate the provisions of the LWO and the SCWRO.

EXHIBIT A

General Conditions

- F. Consultant shall comply with all rules, regulations and policies promulgated by the designated administrative agency, which may be amended from time to time.

Under the provisions of Section 10.36.3(c) and Section 10.37.6(c) of the Los Angeles Administrative Code, the City shall have the authority, under appropriate circumstances, to terminate this contract and otherwise pursue legal remedies that may be available if the City determines that the subject Consultant has violated provisions of the LWO and the SCWRO or both.

Where under the LWO Section 10.37.6(e), the designated administrative agency has determined (a) that the Consultant is in violation of the LWO in having failed to pay some or all of the living wage, and (b) that such violation has gone uncured, the awarding authority in such circumstances may impound monies otherwise due the Consultant in accordance with the following procedures. Impoundment shall mean that from monies due the Consultant the awarding authority may deduct the amount determined to be due and owing by the Consultant to its employees. Such monies shall be placed in the holding account referred to in LWO Section 10.37.6(d)(3) and disposed of under procedures there described through final and binding arbitration. Whether the Consultant is to continue work following an impoundment shall remain in the unfettered discretion of the awarding authority. The Consultant may not elect to discontinue work either because there has been an impoundment or because of the ultimate disposition of the impoundment by the arbitrator.

Earned Income Tax Credit

This contract is subject to the provisions of Section 10.37.4(b) of the Los Angeles Administrative Code, requiring employers to inform employees of their possible right to the federal Earned Income Tax Credit (EITC). Employers must further make available to employees the forms required to secure advance EITC payments from employers.

GC-17 Americans with Disabilities Act

The Consultant hereby certifies that it will comply with the Americans with Disabilities Act 42, U.S.C. Section 12101 et seq., and its implementing regulations. The Consultant will provide reasonable accommodations to allow qualified individuals with disabilities to have access to and to participate in its programs, services and activities in accordance with the provisions of the Americans with Disabilities Act. The Consultant will not discriminate against persons with disabilities or against persons due to their relationship or association with a person with a disability. Any subcontract entered into by the Consultant, relating to this Agreement, to the extent allowed hereunder, shall be subject to the provisions of this paragraph.

GC-18 Retention of Records, Audit, and Reports

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Consultant shall maintain, and shall cause Consultant's Subconsultants and suppliers to maintain records pertaining to the performance of services pursuant to this Agreement, in their original form, including but not limited to, reports, documents, deliverables, employee time sheets, accounting procedures and practices, records of financial transactions, and other evidence, regardless of form (e.g., machine readable media such as disk, tape, etc.) or type (e.g., databases, applications software, database management software, utilities, etc.), sufficient to properly reflect all fees claimed to have been incurred and services performed pursuant to this Agreement ("financial records").

All financial records shall be retained, and shall be subject to examination and audit by LADWP personnel or by LADWP's agents (herein after "Authorized Auditors"), for a period of not less than four (4) years following final payment made by LADWP hereunder or the expiration date of this Agreement, whichever is later.

Upon thirty days' written notice to Consultant, LADWP shall have the right to audit the financial records of Consultant and its Subconsultants, upon reasonable written notice to Consultant, no more than one time per year, at LADWP's cost. The Authorized Auditors shall make good faith efforts not to unreasonably interfere with Consultant's normal business operations. LADWP shall have the right to contract a third-party audit firm to conduct such an audit, provided that such third-party audit firm agrees to Consultant's standard nondisclosure terms and to utilize standard audit software and methodologies. Any information provided by Consultant and its Subconsultants on machine readable media (e.g. Access, Excel or ACL) shall be provided in a format accessible and readable by the Authorized Auditors. Consultant and Subconsultant shall not, however, be required to furnish the Authorized Auditors with commonly available software.

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

To the extent that the Authorized Auditor's examination or audit reveals inaccurate, incomplete or non-current records, or records are unavailable, the records shall be considered defective, and consistent with standard auditing procedures the Consultant will be provided thirty (30) calendar days to review the Authorized Auditor's examination results or audit and respond to LADWP prior to the examination's or audit's finalization.

If the Authorized Auditor's examination or audit indicates an error in billing resulting in either an underpayment or overpayment under a previous payment application, the identified discrepancy shall be reviewed. The Parties will discuss the best manner in which to correct the error within fifteen (15) calendar days of Authorized Auditor's notice to the Parties of the billing error. The Party in error will pay the other Party the amount of the discrepancy within fifteen (15) calendar days thereafter.

EXHIBIT A

General Conditions

The Consultant shall contractually require all Subconsultants performing services under this Agreement to comply with the provisions of this section by inserting this provision GC-18 in each Subconsultant contract and by contractually requiring each Subconsultant to insert this provision GC-18 in any of its Subconsultant contracts related to services under this Agreement. In addition, Consultant and Subconsultants shall also include the following language in each Subconsultant contract:

“LADWP is a third-party beneficiary of the foregoing audit provision. The benefits of the audit provision shall inure solely for the benefit of LADWP. The designation of LADWP as a third-party beneficiary of the audit provision shall not confer any rights or privileges on the Consultant, Subconsultant or any other person/entity.”

If an examination or audit undertaken pursuant to the Retention of Records, Audit, and Reports provision of the General Conditions GC-18 for LADWP Professional Service Contracts reveals that LADWP overpayment to the Consultant is more than 5% of the billings reviewed, the Consultant shall pay all expenses and costs incurred by the Authorized Auditors arising out of or related to the examination or audit. Such examination or audit expenses and costs shall be paid by the Consultant to LADWP within fifteen (15) calendar days of notice to the Consultant of the costs and expenses.

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

GC-19 LADWP's Recycling Policy

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

GC-20 Taxpayer Identification Number (TIN)

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

GC-21 Beneficiaries

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

GC-22 Consultant's Successors and Assigns

EXHIBIT A

General Conditions

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

GC-23 Attorney's Fees and Costs

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

GC-24 Equal Benefits Ordinance

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

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

“During the performance of a Contract with the City of Los Angeles, the CONTRACTOR will provide equal benefits to employees with spouses and its employees with domestic partners. Additional information about the City of Los Angeles' Equal Benefits Ordinance may be obtained from the Department of Public Works, Bureau of Contract Administration, Office of Contract Compliance at (213) 847-1922.”
- B. The failure of the Contractor to comply with the EBO may be deemed to be a material breach of the Contract by the Awarding Authority.
- C. If the Contractor fails to comply with the EBO, the Awarding Authority may cancel, terminate or suspend the Contract, in whole or in part and all monies due or to become due under the Contract may be retained by the City. The City may also pursue any and all other remedies at law or in equity for any breach.
- D. Failure to comply with the EBO may be used as evidence against the Contractor in actions taken pursuant to the provisions of Los Angeles Administrative Code Section 10.40 et seq., Contractor Responsibility Ordinance.

EXHIBIT A

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- E. If the Bureau of Contract Administration determines that a Contractor has set up or used its Contracting entity for the purpose of evading the intent of the EBO, the Awarding Authority may terminate the Contract on behalf of the City. Violation of this provision may be used as evidence against the Contractor in actions taken pursuant to the provisions of Los Angeles Administrative Code Section 10.40 et seq., Contractor Responsibility Ordinance.

GC-25 Contractor Responsibility Program

Unless otherwise exempt in accordance with the provisions of the Ordinance, this Contract is subject to the provisions of the Contractor Responsibility Ordinance, Section 10.40 et seq., of the Los Angeles Administrative Code, which requires Contractor to update its responses to the responsibility questionnaire within thirty calendar days after any change to the responses previously provided if such change would affect Contractor's fitness and ability to continue performing the contract. In accordance with the provisions of this Ordinance, by signing this Contract, Contractor pledges, under penalty of perjury, to comply with all applicable federal, state and local laws in the performance of this contract, including but not limited to, laws regarding health and safety, labor and employment, wages and hours, and licensing laws which affect employees. Violations of the Contractor Responsibility Ordinance shall constitute a material breach of this Agreement and entitle the LADWP to terminate this Agreement and otherwise pursue legal remedies that may be available.

The Contractor further agrees to:

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

GC-26 Bidder Campaign Contribution and Fundraising Restrictions

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General Conditions

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

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

GC-27 Municipal Lobbying Ordinance

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

Additional information regarding the Municipal Lobbying Ordinance may be obtained from the City Ethics Commission at (213) 978-1960 or ethics.lacity.org.

GC-28 Iran Contracting Act of 2010

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

GC-29 Contractor Performance Evaluation

Under Division 10, Chapter 1, Article 13, Section 10.39 of the Los Angeles Administrative Code, LADWP has established a post-award contractor evaluation program that requires

EXHIBIT A

General Conditions

performance monitoring and reporting. The LADWP's Contractor Performance Evaluation Program (CPEP) document can be found on the following webpage:

<https://www.ladwp.com/ladwp/faces/ladwp/partners/p-vendorsandbidders>

LADWP will evaluate and record the Contractor's overall performance to determine whether the Contractor is fulfilling its obligations on the current contract and to assess the Contractor's suitability to perform work for LADWP in the future. Contractors are required to meet critical contract provisions including, but not limited to, timely shipment and delivery of goods, completeness of delivered goods, quality of delivered goods, accuracy of billing, and conformance to the terms and conditions of the contract. If such conditions are breached, consistent with the terms of the contract, the Director of Supply Chain Services may terminate the contract for poor performance and may also debar the Contractor from doing business with LADWP for a period up to five years in accordance with the LADWP's Contractor Performance Evaluation Program.

GC-30 Errors and Omissions

Notwithstanding any other provisions of this Agreement, approval by LADWP of any task or deliverable, or any requested design changes by LADWP, or any part thereof, shall not relieve the Consultant of the responsibility to meet all of the requirements as set forth in this Agreement. The Consultant shall have no claim for additional costs due to correction of its errors or omissions in said previously approved deliverables or any other action that may be necessary to comply with this Agreement, including all Exhibits, and authorized Task Orders.

GC-31 Safety

The Consultant shall arrange facility visits with LADWP who shall advise the Consultant of appropriate safety and security rules. The Consultant shall adhere to the restrictions and instructions of LADWP personnel when visiting any facility.

The Consultant shall do everything reasonable to protect the life, safety, and health of persons at the work site. The Consultant shall furnish and use safety devices and safeguards and shall adopt and use practices, means, methods, operations, and processes which are reasonably adequate to render safe and healthful employment. The Consultant shall be responsible for ensuring that each of the Consultant's Subconsultants meets the standards of this Article.

GC-32 Non-Interference

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

END OF GENERAL CONDITIONS

EXHIBIT B
Special Provisions

EXHIBIT B
Special Provisions

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EXHIBIT B Special Provisions

SP-1 Definitions

Post-purchase Rebate Applications – Any rebate application for product that is purchased outside of the online marketplace.

SP-2 RESERVED

SP-3 RESERVED

SP-4 Warranty and Responsibility of Consultant

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

SP-5 Small Business Enterprise (SBE) / Disabled Veteran Business Enterprise (DVBE) Participation Program

It is the policy of LADWP to provide SBEs, DVBEs, Emerging Business Enterprises (EBEs), Women-Owned Business Enterprises (WBEs), Minority-Owned Business Enterprises (MBEs), Disadvantaged Business Enterprises (DBEs), Lesbian, Gay, Bisexual, or Transgender Business Enterprises (LGBTBEs), and Other Business Enterprises (OBEs) an equal opportunity to participate in the performance of all LADWP contracts.

The Contractor shall ensure that all Small Business Enterprise (SBE) and Disabled Veteran Business Enterprise (DVBE) requirements specified in the Contract have been met, and acknowledges an overall SBE/DVBE commitment of 100% to be met over the term of contract.

Achievement of the overall SBE/DVBE participation commitment requirement will be tracked as an aggregate of all task orders awarded to the Bidder. Participation shall be measured by SBE/DVBE work completion and compensation. Bidders are expected to meet the overall SBE/DVBE participation commitment once all task orders have been issued.

During the term of the Agreement, the Consultant shall utilize each listed Subconsultant in Exhibit E and track the amounts paid to each listed Subconsultant. Exhibit E, List of Subconsultants is attached hereto and is made part of the Agreement.

Post-Award Documentation: The Consultant or Contractor shall complete and submit to LADWP, a form titled “Monthly Subcontractor Utilization Report,” **Exhibit L**, with its invoice listing all Subcontractors utilized during the reporting period including SBEs and DVBEs. The form titled “Monthly Subcontractor Utilization Report” will be provided by the Contract Administrator.

EXHIBIT B

Special Provisions

The Contractor shall cooperate with LADWP personnel in providing such information as requested in order to ensure compliance.

LADWP will not process or pay the Contractor's subsequent invoices if Subcontractor Utilization Reports are not submitted in a timely manner or if the Consultant fails to cooperate with LADWP personnel by promptly providing any and all information related to Subcontractor participation as requested by LADWP.

As part of its "final invoice" the Contractor shall submit an overall project Subcontractor utilization report indicating that the overall committed subcontracting commitments were achieved. Final payment will not be processed without the overall project Subcontractor Utilization Report.

Subcontractor Substitution, Reduction, or Addition: *The Consultant shall notify LADWP Contract Administrator in writing of any proposal to add, reduce, or substitute a Subconsultant in place of a Subconsultant listed in the Consultant's Qualification/Proposal. Prior to such change, the Consultant shall secure the acceptance of LADWP. The Consultant shall submit the following information in a form similar to that contained in the Consultant's original Qualification/Proposal.*

- A. *Name of Subconsultant*
- B. *Location and Phone Number of Place of Business*
- C. *Contact Person*
- D. *Subconsultant's License(s) number and expiration date (if applicable)*
- E. *Current Certification Status (if applicable)*
- F. *The portion of the services that will be performed by each Subconsultant*
- G. *Reason for the change*

LADWP will promptly initiate a review of the information submitted on each Subconsultant and transmit written notification to the Consultant concerning its decision.

LADWP shall not be responsible for delays incurred by the Consultant because of a timely disapproval by LADWP of a Subconsultant proposed by the Consultant, or for the late submittal for acceptance of a Subconsultant to LADWP, or because of a Subconsultant's removal from the performance of the Work.

Falsification of Subcontractor Agreement: Falsification or misrepresentation as to company name, contract amount, or actual work to be done by the Subcontractor will result in sanctions as set forth in applicable local, state, and federal laws.

EXHIBIT B Special Provisions

Penalties: A Consultant violating any provision(s) of this program shall, subject to prior notice of the alleged violation(s), and an opportunity to be heard and to present evidence in its own defense, be deemed in violation of the Contract, and LADWP may:

- A. Terminate the contract; **or**
- B. Assess the Consultant a penalty of not more than 10% of the amount of the Subcontract(s) involved.

SP-6 RESERVED

SP-7 RESERVED

SP-8 RESERVED

SP-9 RESERVED

SP-10 RESERVED

SP-11 RESERVED

SP-12 RESERVED

SP-13 Conflicts of Interest

Consultant will not accept any other contract during the term of the Agreement from any other party if such other contract could represent, or could lead to a conflict of interest between LADWP, Consultant, or the other party.

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

SP-14 RESERVED

SP-15 Background Check Certification Requirement

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

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Consultant agrees to submit a statement along with any invoices or billing associated with this Agreement which certifies that all work performed under this Agreement at critical facilities as designated by LADWP to Consultant 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.

Consultant is advised that submission of a false claim for payment to LADWP may subject Consultant 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: "Consultant 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 Consultant and LADWP) has been found."

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

SP-16 Confidentiality

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

Document Access/Control

- A. The Consultant shall make the confidential information provided by LADWP to the Consultant, or accessed or reviewed by the Consultant during performance of this Agreement, available to its employees, agents and /or Subconsultants, only on a need-to-know basis. Further, the Consultant shall provide written instructions to all of its employees, agents and Subconsultants with access to the confidential information about the penalties for its unauthorized use or disclosure.

EXHIBIT B

Special Provisions

- B. The Consultant shall store and process confidential information in an electronic format in such a way that unauthorized persons cannot retrieve the information by computer, remote terminal or other means.
- C. The Consultant shall not remove documents, records, or information used or reviewed in connection with the Consultant's work for LADWP from LADWP facilities without prior approval from LADWP. The Consultant shall not use, other than in direct performance of work required pursuant to the Agreement, or make notes of any home address or home telephone numbers contained in personnel or customer files, confidential information, documents, or records provided by LADWP that are reviewed during work on this Agreement.
- D. With prior written approval from LADWP, the Consultant may make copies of such documents, written materials, notes, documents, confidential information, or other information, as necessary to perform its duties under this Agreement.
- E. The Consultant shall document and immediately report to LADWP any unauthorized use or disclosure of confidential information as defined in Article 8.1.
- F. The Consultant shall require that all its employees, agents, and Subconsultants who shall, or may, review, be provided, or have access to LADWP data, information, personnel or customer files, confidential information, documents, or records during the performance of this Agreement, execute a confidentiality agreement that incorporates the provisions of this Article VIII, Confidentiality and Restrictions on Disclosure prior to performing work under this Agreement.
- G. The provisions of this Article VIII, Confidentiality and Restrictions on Disclosure shall survive termination and expiration of this Agreement.

SP-17 Security Policy and Requirements

The Consultant is required to adhere to all physical and cyber-related security policies, standards, requirements and procedures (collectively, "Security Requirements"), applicable to the project. All Consultant personnel, equipment, products, services, and Subconsultants involved with the work must adhere to all applicable Security Requirements throughout the duration of the Agreement or any extensions or amendments thereof. Security Requirements may be imposed by LADWP policy, or by Federal, State or Local laws, regulations or industry practices, including, without limitation, requirements that may be imposed by the Federal Energy Regulatory Commission (FERC), the North American Electric Reliability Corporation (NERC), the Western Electricity Coordinating Council (WECC) the Department of Energy (DOE), the Environmental Protection Agency (EPA), and the Department of Homeland Security (DHS).

EXHIBIT B

Special Provisions

Inability to meet the Security Requirements may be considered when evaluating the Consultant for consideration and award, including extensions or amendments to existing agreements. As security regulations and practices change over time, amendments and extensions to existing agreements may include additional Security Requirements not present in earlier agreements.

SP-18 RESERVED

SP-19 Safety Compliance Certificate

The Consultant(s) shall comply with the following safety compliance requirements:

- A. Consultant shall execute and comply with the form titled, "Safety Compliance Certificate" in Exhibit K of this Agreement;
- B. Consultant shall have a COVID-19 Transmission Control that is in writing and incorporates all applicable requirements and guidelines provided by:
 - 1. U.S. Centers for Disease Control and Prevention (CDC)
 - 2. California Division of Occupational Safety and Health (Cal-OSHA)
 - 3. California Department of Public Health (CaDPH)
 - 4. Los Angeles County Department of Public Health;
- C. Consultant shall furnish its employees and require all subcontractors to furnish their employees all necessary safety equipment, including, but not limited to, personal protective equipment, safety devices, and safeguards.

LADWP reserves the right to review safety programs and practices and to make recommendations to the Consultant. Any such review or recommendation by LADWP shall not increase LADWP's liability or responsibility and shall not relieve the Consultant from providing a safe work environment and complying with legal requirements.

If LADWP determines that there is a material deviation from any regulatory agency's requirements or the Consultant's own IIPP that could contribute to serious injury, LADWP may order Consultant to stop work. Failure by the Consultant to comply with any regulatory agency's requirements or the Consultant's own IIPP may result in termination of the Agreement.

SP-20 Data Security

The Contractor shall implement appropriate measures designed to ensure the confidentiality and security of Protected Information (private and confidential), protect against any anticipated hazards or threats to the integrity or security of such information, protect against unauthorized access or disclosure of information, and

EXHIBIT B
Special Provisions

prevent any other action that could result in substantial harm to the LADWP or an individual identified with the data or information in the Contractor's custody.

SP-21 RESERVED

SP-22 RESERVED

END OF SPECIAL PROVISIONS

EXHIBIT C

Fee Schedule

Role	Description	Cost per Hour
Business Intelligence Manager	Responsible for all reporting functions and partner dashboard	\$180.00
Customer Support Agent	Tier 2 level personnel responsible for direct customer engagement and problem solving	\$112.50
Customer Support Call Center Agent	Responsible for receiving Tier 1 customer contact	\$45.00
Customer Support Escalation Manager	Responsible for coordination between agents and program leadership	\$60.00
Customer Support Manager	Oversees and directs the team responsible for customer interaction, writes all scripts, maintains knowledge base, conducts surveys and provides Cost and related reports	\$225.00
Customer Support Program Trainer	Responsible for agent training	\$45.00
Data Analyst	Responsible for analytics across all business functions	\$225.00
Email Marketing Manager	Expert responsible for Email communication planning, execution and optimization. Including both ad hoc and automation channels for email.	\$180.00
Executive Leadership	Provides overall direction for the organization, program and deliverables of KPIs and the senior level contact for the Utility	\$375.00
Finance Manager	Responsible for all accounts payable/receivable business functions	\$195.00
Full Stack Engineer	Performs platform web development, API integration and supports bug fixes	\$262.50
Localization Marketing Manager	Oversees and directs the team responsible for consumer marketing and messaging. Responsible for the marketing calendar, campaign and budget mgt and optimization	\$225.00
Marketing Coordinator	The primary day to day contact for any and all marketing communications, collateral/creative approval and plan documentation	\$150.00
Marketing Manager	Oversees and directs the team responsible for consumer marketing and messaging. Responsible for the marketing calendar, campaign and budget mgt and optimization	\$225.00
Marketing Manager, Spanish Language Deployment	Oversees and directs the team responsible for consumer marketing and messaging. Responsible for the marketing calendar, campaign and budget mgt and optimization	\$225.00
Media Buyer	Expert responsible for paid media planning, execution and optimization	\$180.00
Partner Success Executive	The primary day to day contact of the partnership and provides a single point of contact into Enverve. Contributes to and delivers requested reports	\$225.00
Project Manager	Works across all teams to ensure the timely completion of deliverables, conducts meetings and provides and reports on project progress	\$180.00
QA/QC Analyst	Reviews rebates submissions accuracy prior to submitting for approval	\$40.00
QA/QC Lead	Tests all marketplace functions, emails, etc and ensures all products, rebates and content is accurate	\$180.00
Rebate Processor	Reviews rebates submissions to ensure they meet the measure	\$40.00
Solutions Engineer	Sets up and configures the marketplace, sets rebates, updates products and performs other marketplace related technical functions	\$180.00
Solutions Manager	Oversees and directs the team that configures and maintains the marketplace. Provides expertise on new feature requests and design	\$262.50
Supervisor	Provides oversight and coordination within the process and point of contact	\$50.00
Web Developer	Performs platform web development tasks to the front end platform and catalog	\$250.00
Web Development Management	Oversees, directs and coordinates the technical teams and assigns work to complete web development as needed for the marketplace	\$300.00
Web/Creative Designer	Responsible for the user experience UX and the creative assets and implementation on both the marketplace and in marketing collateral	\$225.00
Customer Support Call Center Agent	Responsible for receiving Tier 1 customer contact	\$45.00
Customer Support Escalation Manager	Responsible for coordination between subcontractor and Enverve	\$60.00
Customer Support Program Trainer	Responsible for agent training	\$45.00
Email Marketing Manager	Expert responsible for Email communication planning, execution and optimization. Including both ad hoc and automation channels for email.	\$180.00
Marketing Coordinator	The primary day to day contact for any and all marketing communications, collateral/creative approval and plan documentation	\$150.00
Marketing Manager	Oversees and directs the team responsible for consumer marketing and messaging. Responsible for the marketing calendar, campaign and budget mgt and optimization	\$225.00
Media Buyer	Expert responsible for paid media planning, execution and optimization	\$180.00
QA/QC Analyst	Reviews rebates submissions accuracy prior to submitting for approval	\$40.00
Rebate Processor	Reviews rebates submissions to ensure they meet the measure	\$40.00
Supervisor	Provides oversight and coordination within the process and point of contact	\$50.00
Web Developer	Performs platform web development tasks to the front end platform and catalog	\$250.00
Web/Creative Designer	Responsible for the user experience UX and the creative assets and implementation on both the marketplace and in marketing collateral	\$225.00

EXHIBIT C Fee Schedule

WEBSITE DESIGN TOTAL COST ESTIMATE								
EPM ONE TIME	\$0							
EPM MONTHLY	\$55,050							
CPM ONE TIME	\$147,218							
CPM MONTHLY	\$9,234							
OPTIONAL ONE TIME	\$9,600							
OPTIONAL MONTHLY	\$0							
SUMMARY EPM								
Item	Item Description						Monthly Cost	
Choice Engine SaaS License LADWP EPM	- Enervee Choice Engine Platform Core Components - Enervee Score						\$40,750.00	
Choice Engine SaaS License Cool LA Marketplace	- Enervee Choice Engine Platform Core Components - Enervee Score						\$13,500.00	
Solar & Storage Integration	- Add on integration for solar & storage concierge solution						\$800.00	
Enervee Subcontractor Accounting	- Spend management and reporting						\$0.00	
						Monthly Total	\$55,050.00	
SUMMARY CPM ONE TIME								
Item	Item Description						Cost	
Core Platform Setup	- Platform instance build, base configuration						\$51,712.50	
New Product Category Setup	- Integration of retailer feeds and display configuration						\$23,040.00	
Customer Experience Development	- Redevelopment of customer flow for commercial customers						\$36,840.00	
Setup Services	- Various Setup services						\$35,625.00	
						One Time Total	\$147,217.50	
SUMMARY CPM								
Item	Item Description						Monthly Cost	
Choice Engine SaaS License LADWP CPM	- Enervee Choice Engine Platform Core Components - Product Categories Module for up to 3 Categories (pricing/filtering, etc) - Tier 2 Inhouse Customer Care Services - Data Dashboard - Ongoing software maintenance, management, support, operational management, and ongoing scope/solution delivery support of all services included in the license fees. - LADWP CPM Marketplace Microsite						\$ 13,500	
Discount on SaaS LicenseLADWP CPM	- One-Time discount						\$ (4,266)	
						Monthly Total	\$9,233.61	
MARKETING MANAGEMENT SPEND MONTHLY (ACCOUNTED FOR WITHIN CPM & EPM MONTHLY)								
Role	Monthly Hours	Hourly Rate	Monthly Cost					
Marketing Manager (Enervee)	4	\$225.00	\$900.00					
Marketing Coordinator (Enervee)	4	\$150.00	\$600.00					
Web/Creative Designer (Enervee)	8	\$225.00	\$1,800.00					
Web Developer (Enervee)	6	\$250.00	\$1,500.00					
		Total Monthly	\$4,800.00					
CORE PLATFORM SETUP CPM ONE TIME								
Role	Hours	Hourly Rate	Cost					
Solutions Engineer (Enervee)	40	\$180.00	\$7,200.00					
Solutions Manager (Enervee)	25	\$262.50	\$6,562.50					
QA/QC Lead (Enervee)	20	\$180.00	\$3,600.00					
Full Stack Engineer (Enervee)	40	\$262.50	\$10,500.00					
Executive Leadership (Enervee)	2	\$375.00	\$750.00					
Web Development Management (Enervee)	20	\$300.00	\$6,000.00					
Web/Creative Designer (Enervee)	40	\$225.00	\$9,000.00					
Project Manager (Enervee)	20	\$180.00	\$3,600.00					
Data Analyst (Enervee)	20	\$225.00	\$4,500.00					
		One Time Total	\$51,712.50					

EXHIBIT C

Fee Schedule

COMMERCIAL COOKTOPS PRODUCT CATEGORY SETUP CPM ONE TIME PER COMMERCIAL PRODUCT CATEGORY						
Role	Hours	Hourly Rate	Cost			
Solutions Engineer (Enervee)	25	\$180.00	\$4,500.00			
Solutions Manager (Enervee)	8	\$262.50	\$2,100.00			
QA/QC Lead (Enervee)	20	\$180.00	\$3,600.00			
Full Stack Engineer (Enervee)	20	\$262.50	\$5,250.00			
Executive Leadership (Enervee)	2	\$375.00	\$750.00			
Web Development Management (Enervee)	6	\$300.00	\$1,800.00			
Web/Creative Designer (Enervee)	10	\$225.00	\$2,250.00			
Project Manager (Enervee)	8	\$180.00	\$1,440.00			
Data Analyst (Enervee)	6	\$225.00	\$1,350.00			
		One Time Total	\$23,040.00			
CUSTOMER EXPERIENCE DEVELOPMENT CPM ONE TIME						
Role	Hours	Hourly Rate	Cost			
Solutions Engineer (Enervee)	35	\$180.00	\$6,300.00			
Solutions Manager (Enervee)	20	\$262.50	\$5,250.00			
QA/QC Lead (Enervee)	35	\$180.00	\$6,300.00			
Full Stack Engineer (Enervee)	20	\$262.50	\$5,250.00			
Executive Leadership (Enervee)	2	\$375.00	\$750.00			
Web Development Management (Enervee)	10	\$300.00	\$3,000.00			
Web/Creative Designer (Enervee)	20	\$225.00	\$4,500.00			
Project Manager (Enervee)	18	\$180.00	\$3,240.00			
Data Analyst (Enervee)	10	\$225.00	\$2,250.00			
		One Time Total	\$36,840.00			
SETUP SERVICES CPM ONE TIME						
Role	Hours	Hourly Rate	Monthly Cost			
Marketing Manager (Enervee)	15	\$225.00	\$3,375.00			
Marketing Coordinator (Enervee)	25	\$150.00	\$3,750.00			
Web/Creative Designer (Enervee)	60	\$225.00	\$13,500.00			
Web Developer (Enervee)	60	\$250.00	\$15,000.00			
		Total	\$35,625.00			
LANDING PAGE SETUP CPM ONE TIME OPTIONAL PER OCCURRENCE						
Role	Hours	Hourly Rate	Cost			
Solutions Engineer (Enervee)	1	\$180.00	\$180.00			
Solutions Manager (Enervee)	3	\$262.50	\$787.50			
QA/QC Lead (Enervee)	3	\$180.00	\$540.00			
Full Stack Engineer (Enervee)	1	\$262.50	\$262.50			
Web Development Management (Enervee)	2	\$300.00	\$600.00			
Web/Creative Designer (Enervee)	4	\$225.00	\$900.00			
Project Manager (Enervee)	2	\$180.00	\$360.00			
Data Analyst (Enervee)	1	\$225.00	\$225.00			
		One Time Total	\$3,855.00			
OPTIONAL						
SUMMARY CPM ONE TIME OPTIONAL						
Item	Item Description			Cost		
Fast Track (Post Purchase Rebate Claims Processing)	- Build module into Platform instance with Flat File validation methodology, forms configuration			\$9,600.00		
				One Time Total	\$9,600.00	
FAST TRACK (POST PURCHASE REBATE CLAIMS PROCESSING) CPM ONE TIME OPTIONAL						
Role	Hours	Hourly Rate	Cost			
Solutions Engineer (Enervee)	8	\$180.00	\$1,440.00			
Solutions Manager (Enervee)	4	\$262.50	\$1,050.00			
QA/QC Lead (Enervee)	8	\$180.00	\$1,440.00			
Full Stack Engineer (Enervee)	8	\$262.50	\$2,100.00			
Executive Leadership (Enervee)	1	\$375.00	\$375.00			
Web Development Management (Enervee)	3	\$300.00	\$900.00			
Web/Creative Designer (Enervee)	5	\$225.00	\$1,125.00			
Project Manager (Enervee)	4	\$180.00	\$720.00			
Data Analyst (Enervee)	2	\$225.00	\$450.00			
		One Time Total	\$9,600.00			

EXHIBIT C Fee Schedule

DIGITAL ADVERTISING CAMPAIGN TOTAL COST ESTIMATE	
EPM ONE TIME	\$0.00
EPM MONTHLY	\$8,330.00
CPM ONE TIME	\$0.00
CPM MONTHLY	\$0.00
OPTIONAL ONE TIME	\$0.00
OPTIONAL MONTHLY	\$0.00
DISCOUNTS	\$0.00

SUMMARY		
Item	Item Description	Monthly Cost
Ad Buys <i>Pass Through Cost</i>	- Estimated cost of monthly ad buys (invoice proof will be shared monthly)	\$5,000.00
	Monthly Pass Through	\$5,000.00
Digital Advertising Management	- On site visitor email automation creation and management, paid media ad creation, paid media campaign mgt. and ad buys on site content optimization. - Covers Ad Buys from 1 channel - Covers up to \$20,000 in monthly Ad Buys - Covers 2 rounds of revision	\$3,330.00
	Monthly Total	\$8,330.00

DIGITAL ADVERTISING MANAGEMENT EPM MONTHLY			
Role	Monthly Hours	Hourly Rate	Monthly Cost
Marketing Manager (Enervee)	2	\$225.00	\$450.00
Media Buyer (Enervee)	6	\$180.00	\$1,080.00
Marketing Coordinator (Enervee)	6	\$150.00	\$900.00
Web/Creative Designer (Enervee)	4	\$225.00	\$900.00
	Monthly Total		\$3,330.00

OPTIONAL

ADDITIONAL EMAIL PROMOTION SEND COST PER SEND OPTIONAL			
Description	- Includes 2 revisions - LADWP must provide email list or send itself - See Spanish Language line item to be added as requested		
Role	Hours	Hourly Rate	Monthly Cost
Marketing Manager (Enervee)	3	\$225.00	\$675.00
Marketing Coordinator (Enervee)	4	\$150.00	\$600.00
Email Marketing Manager (Enervee)	6	\$180.00	\$1,080.00
Web/Creative Designer (Enervee)	5	\$225.00	\$1,125.00
Marketing Manager, Spanish Language Deployment (Enervee)	5	\$225.00	\$1,125.00
	Total		\$4,605.00

ADDITIONAL EMAIL PROMOTION CONTENT REVISION COST PER REVISION OPTIONAL			
Role	Hours	Hourly Rate	Monthly Cost
Marketing Manager (Enervee)	1.5	\$225.00	\$337.50
Web/Creative Designer (Enervee)	1	\$225.00	\$225.00
Marketing Manager, Spanish Language Deployment (Enervee)	5	\$225.00	\$1,125.00
	Total		\$1,687.50

EXHIBIT C Fee Schedule

INCENTIVE DESIGN TOTAL COST ESTIMATE	
EPM ONE TIME	\$0.00
EPM MONTHLY	\$3,375.00
CPM ONE TIME	\$0.00
CPM MONTHLY	\$0.00
OPTIONAL ONE TIME	\$0.00
OPTIONAL MONTHLY	\$0.00
DISCOUNTS	\$0.00

SUMMARY		
Item	Item Description	Monthly Cost
Weekly EE Data Reporting	- Incremental work across program mgt, internal customer support, data analyst and finance personnel.	\$3,375.00
Monthly Total		\$3,375.00

SUMMARY		
Item	Item Description	Monthly Cost
Dashboard Access	- Real time access to basic "claims submitted" data and option to download into various file formats	Included in CPM License Fee
Monthly Total		\$0.00

WEEKLY EE DATA REPORTING EPM MONTHLY			
Role	Monthly Hours	Hourly Rate	Monthly Cost
Solutions Engineer (Enervee)	3	\$180.00	\$540.00
Partner Success Executive (Enervee)	5	\$225.00	\$1,125.00
QA/QC Lead (Enervee)	3	\$180.00	\$540.00
Customer Support Manager (Enervee)	2	\$225.00	\$450.00
Business Intelligence Manager (Enervee)	4	\$180.00	\$720.00
Monthly Total			\$3,375.00

OPTIONAL

WEEKLY OR AD HOC CPM REPORT COST PER REPORT OPTIONAL			
Role	Monthly Hours	Hourly Rate	Monthly Cost
Solutions Engineer (Enervee)	2	\$180.00	\$360.00
Partner Success Executive (Enervee)	2	\$225.00	\$450.00
QA/QC Lead (Enervee)	1	\$180.00	\$180.00
Customer Support Manager (Enervee)	1	\$225.00	\$225.00
Business Intelligence Manager (Enervee)	2	\$180.00	\$360.00
Total			\$1,575.00

EXHIBIT C Fee Schedule

INCENTIVE PROCESSING TOTAL COST ESTIMATE		
EPM ONE TIME		\$0.00
EPM MONTHLY	\$3,500.00	Combined EPM & CPM Cost Allocated to EPM Monthly
CPM ONE TIME		
CPM MONTHLY	\$0.00	
OPTIONAL ONE TIME	\$0.00	
OPTIONAL MONTHLY	\$0.00	
DISCOUNTS	\$0.00	

SUMMARY (FAST TRACK INCENTIVE PROCESSING)		
Item	Item Description	Per Claim Processed Cost Estimate
Incentive Processing Labor Estimate	- Labor for Processing	\$3,500.00
Monthly Total		\$3,500.00

INCENTIVE PROCESSING LABOR ESTIMATEEPM MONTHLY			
Role	Monthly Hours	Hourly Rate	Monthly Cost
QA/QC Analyst (Enervee)	15	\$40.00	\$600.00
Rebate Processor (Enervee)	60	\$40.00	\$2,400.00
Supervisor (Enervee)	10	\$50.00	\$500.00
Monthly Total			\$3,500.00

EXHIBIT C Fee Schedule

ONLINE PURCHASING TOTAL COST ESTIMATE	
EPM ONE TIME	\$9,720.00
EPM MONTHLY	\$2,730.00
CPM ONE TIME	\$46,200.00
CPM MONTHLY	\$2,730.00
OPTIONAL ONE TIME	\$9,720.00
OPTIONAL MONTHLY	\$833.00
DISCOUNTS	\$0.00

SUMMARY EPM ONE TIME		
Item	Item Description	Cost
Eco Financing Setup	Setup and configuration of underlying fintech integrations and buying journey for base loan offer	\$9,720.00
One Time Total		\$9,720.00

ECO FINANCING SETUP EPM ONE TIME			
Role	Hours	Hourly Rate	Cost
Solutions Engineer (Enervee)	10	\$180.00	\$1,800.00
Solutions Manager (Enervee)	4	\$262.50	\$1,050.00
QA/QC Lead (Enervee)	10	\$180.00	\$1,800.00
Full Stack Engineer (Enervee)	8	\$262.50	\$2,100.00
Executive Leadership (Enervee)	2	\$375.00	\$750.00
Web Development Management (Enervee)	2	\$300.00	\$600.00
Web/Creative Designer (Enervee)	2	\$225.00	\$450.00
Project Manager (Enervee)	4	\$180.00	\$720.00
Data Analyst (Enervee)	2	\$225.00	\$450.00
One Time Total			\$9,720.00

SUMMARY EPM MONTHLY		
Item	Item Description	Monthly Cost
Instant Rebate Processing SaaS License	<ul style="list-style-type: none"> - Instant Rebate functionality - Online Administrator Dashboard - Retailer fulfillment integrations - Distributor fulfillment integrations - Secure Credit Card Payment Module - Flat file customer incentive/rebate eligibility verification method - Ongoing software maintenance, management, support, operational management, and ongoing scope/solution delivery support of all services included in the license fees. - Personalized Email Drip Campaigns - LADWP EPM Marketplace - Cool LA Program Microsite 	\$2,730.00
Instant Rebate Processing	- Administrative and underlying solutions' costs	\$5.00/rebate Invoiced monthly as incurred
Eco Financing	- Instant financing payment option integrated with CAEATFA for base loan offer	\$0.00
Monthly Total		\$2,730.00

SUMMARY CPM MONTHLY		
Item	Item Description	Monthly Cost
Instant Rebate Processing SaaS License	<ul style="list-style-type: none"> - Assumes Instant Rebate functionality identical to EPS - Online Administrator Dashboard - Retailer fulfillment integrations - Distributor fulfillment integrations - Secure Credit Card Payment Module - Flat file customer incentive/rebate eligibility verification method - Personalized Email Drip Campaigns - Up to 1 single language email blast/month with 2 rounds of content revisions (LADWP must provide email list or send itself) - Ongoing software maintenance, management, support, operational management, and ongoing scope/solution delivery support of all services included in the license fees. - LADWP EPM Marketplace 	\$2,730.00
Instant Rebate Processing	- Administrative and integrated solutions' costs	\$5.00/rebate Invoiced monthly as incurred
Monthly Total		\$2,730.00

EXHIBIT C Fee Schedule

SUMMARY CPM ONE TIME		
Item	Item Description	Cost
CPM Rebates Setup	Setup and configuration of rebates for commercial products	\$46,200.00
One Time Total		\$46,200.00

OPTIONAL

SUMMARY EPM ONE TIME OPTIONAL		
Item	Item Description	Cost
HPWH Module Setup	Setup and configuration of underlying fulfillment partner integrations and buying journey	\$9,720.00
One Time Total		\$9,720.00

HPWH MODULE SETUP EPM ONE TIME OPTIONAL			
Role	Hours	Hourly Rate	Cost
Solutions Engineer (Enervee)	10	\$180.00	\$1,800.00
Solutions Manager (Enervee)	4	\$262.50	\$1,050.00
QA/QC Lead (Enervee)	10	\$180.00	\$1,800.00
Full Stack Engineer (Enervee)	8	\$262.50	\$2,100.00
Executive Leadership (Enervee)	2	\$375.00	\$750.00
Web Development Management (Enervee)	2	\$300.00	\$600.00
Web/Creative Designer (Enervee)	2	\$225.00	\$450.00
Project Manager (Enervee)	4	\$180.00	\$720.00
Data Analyst (Enervee)	2	\$225.00	\$450.00
One Time Total			\$9,720.00

SUMMARY EPM MONTHLY OPTIONAL		
Item	Item Description	Monthly Cost
HPWH Module	- Maintenance of fulfillment partner(s) and HPWH buying journey	\$833.00
HPWH Instant Rebate Processing	- Administrative and underlying solutions' costs	\$10.00/rebate Invoiced monthly as incurred
Monthly Total		\$833.00

EXHIBIT C Fee Schedule

CUSTOMER SUPPORT SERVICES TOTAL COST ESTIMATE	
EPM ONE TIME	\$0.00
EPM MONTHLY	\$11,640.00
CPM ONE TIME	\$0.00
CPM MONTHLY	\$0.00
OPTIONAL ONE TIME	\$0.00
OPTIONAL MONTHLY	\$2,932.50
DISCOUNTS	\$0.00

SUMMARY (TIER 1 CUSTOMER SUPPORT) EPM MONTHLY		
Item	Item Description	Monthly Cost
Standard Tier 1 Customer Support	- Phone support Monday-Friday 9-5 PT - Email support Monday-Friday 9-5 PT - 72 hour voicemail and email response SLA - Major Holidays excluded - Covers LADWP Marketplace - Covers Cool LA Microsite	\$8,955.00
EPM Customer Support Management	- Review, mgmt, optimization, reporting combining Tier 1 and Tier 2	\$1,875.00
Monthly Total		\$10,830.00

STANDARD TIER 1 CUSTOMER SUPPORT EPM MONTHLY				
Role	Monthly Hours	Hourly Rate	Monthly Cost	
Customer Support Escalation Manager (Enervee)	30	\$60.00	\$1,800.00	
Customer Support Program Trainer (Enervee)	4	\$45.00	\$180.00	
Customer Support Call Center Agent (Enervee)	155	\$45.00	\$6,975.00	
Monthly Total			\$8,955.00	

EPM CUSTOMER SUPPORT MANAGEMENT EPM MONTHLY				
Role	Monthly Hours	Hourly Rate	Monthly Cost	
Customer Support Manager (Enervee)	3	\$225.00	\$675.00	
Partner Success Executive (Enervee)	3	\$225.00	\$675.00	
Solutions Manager (Enervee)	2	\$262.50	\$525.00	
Monthly Total			\$1,875.00	

SUMMARY (TIER 1 CUSTOMER SUPPORT) EPM MONTHLY - SPANISH LANGUAGE INCLUDED OPTIONAL		
Item	Item Description	Monthly Cost
Standard Tier 1 Customer Support		\$810.00
Monthly Total		\$810.00

STANDARD TIER 1 CUSTOMER SUPPORT EPM MONTHLY				
Role	Monthly Hours	Hourly Rate	Monthly Cost	
Customer Support Call Center Agent (Enervee)	18	\$45.00	\$810.00	
Monthly Total			\$810.00	

OPTIONAL

SUMMARY (TIER 1 CUSTOMER SUPPORT) CPM MONTHLY - SPANISH LANGUAGE INCLUDED OPTIONAL		
Item	Item Description	Monthly Cost
Standard Tier 1 Customer Support		\$180.00
Monthly Total		\$180.00

STANDARD TIER 1 CUSTOMER SUPPORT CPM MONTHLY				
Role	Monthly Hours	Hourly Rate	Monthly Cost	
Customer Support Call Center Agent (Enervee)	4	\$45.00	\$180.00	
Monthly Total			\$180.00	

EXHIBIT C
Fee Schedule

SUMMARY (TIER 1 CUSTOMER SUPPORT) CPM MONTHLY		
Item	Item Description	Monthly Cost
Standard Tier 1 Customer Support	- Phone support Monday-Friday 9-5 PT - Email support Monday-Friday 9-5 PT - 72 hour voicemail and email response SLA - Major Holidays excluded - Reporting includes Email Conversations, Live Phones & Voicemails, CSAT Surveys - Covers CPM	\$2,040.00
CPM Customer Support Management	- Review, mgmt, optimization, reporting combining Tier 1 and Tier 2	\$712.50
Monthly Total		\$2,752.50

STANDARD TIER 1 CUSTOMER SUPPORT CPM MONTHLY			
Role	Monthly Hours	Hourly Rate	Monthly Cost
Customer Support Escalation Manager (Enervee)	4	\$60.00	\$240.00
Customer Support Program Trainer (Enervee)	4	\$45.00	\$180.00
Customer Support Call Center Agent (Enervee)	36	\$45.00	\$1,620.00
Monthly Total			\$2,040.00

CPM CUSTOMER SUPPORT MANAGEMENT CPM MONTHLY			
Role	Monthly Hours	Hourly Rate	Monthly Cost
Customer Support Manager (Enervee)	1	\$225.00	\$225.00
Partner Success Executive (Enervee)	1	\$225.00	\$225.00
Solutions Manager (Enervee)	1	\$262.50	\$262.50
Monthly Total			\$712.50

EXHIBIT D

Allowable Travel Expenses

Expenses for transportation, lodging, subsistence and related items incurred by consultants employed by the Los Angeles Department of Water and Power will be subject to the "50-mile" rule. Under this rule, travel reimbursements will be made only if the destination is farther than 50 miles from the Consultant personnel's field or office location to the LADWP work site. Any such travel shall be pre-approved by LADWP and shall be in accordance with the guidelines of this Exhibit D.

All expenditures over \$25 require documentation in the form of an original detailed receipt with the exception of per diem meals. However, receipts for expenditures under \$25 may be requested by the City Controller. No additional mark-up on consultant or subconsultant expenses will be allowed.

LADWP will reimburse the Consultant for expenses that include, but not limited to:

1.0 Airfare:

Airfare is limited to coach class only. An itinerary is not acceptable in and of itself. Original receipts for airfare must be submitted. Purchase of a refundable ticket, which is usually more expensive than a non-refundable ticket, must be approved by the LADWP Contract Administrator identified in the Agreement.

2.0 Car Rental:

Car rental is limited to mid-size or smaller car. The expense of navigation and insurance will not be reimbursed. Original receipts for car rental and fuel costs must be submitted. Travelers shall fill the gas tank before returning car to avoid fuel surcharges that are not reimbursable.

3.0 Per Diem Allowances – Meals:

- 3.1 A meal allowance rate is established for domestic travel and will include incidental expenses.
- 3.2 The meal allowance rate for domestic travel is \$74 per day for a full day of travel, which excludes taxes and reasonable and customary gratuities not to exceed 15 per cent. On the first and last day of travel flight itinerary will be required if the full meal rate is requested.
- 3.3 Meal and incidental allowance will be prorated at 75% (\$55.50) of the daily allowance as follows on the first and last day of travel depending on departure/arrival time:
 - 3.3.1 The partial meal rate will be paid on the first day of travel for departure times after 2 p.m.

EXHIBIT D
Allowable Travel Expenses

3.3.2 The partial meal rate will be paid on the last day of travel for arrival times prior to 2 p.m.

3.3.3 When some meals are provided as part of the conference/event.

(NOTE: No meal allowance will be provided when all meals are provided throughout the day by the host or as part of an event/conference.)

3.4 Meal Receipts

Meal receipts are no longer required when claiming the meal allowance. If receipts are provided, the actual amount if less than allowance will be reimbursed.

EXCEPTIONS:

- 1) Receipts are required for grant funded travel where the grantor requires complete documentation of travel expenses; and
- 2) Receipts are required of single meals that cost more than \$25.

4.0 Per Diem Allowance – Hotel/Lodging:

4.1 Since the expense limit varies by county, the expense limit shall be pre-approved by the LADWP Contract Administrator identified in the Agreement for travel by the Consultant to an approved worksite outside of Los Angeles County.

4.2 Zero balance receipt is required. The receipt must include the pre-printed hotel name and address. Lodging expenses up to a maximum limit of \$183.00 per day (Los Angeles County). This should exclude taxes and tips. Tips and gratuities shall not exceed 15%, where reasonable and customary.

4.3 Meals and lodging are reimbursable only on working days as reported on timesheets, and payments are subject to the approval of the LADWP Contract Administrator identified in the Agreement.

5.0 Mileage:

Mileage for non-rental car travel will be paid at the standard mileage rate established by the Internal Revenue Service in effect at the time of travel. A Map Quest or similar routing tool is required to document miles driven. The mileage will be calculated using the shortest route. As of January 1, 2024, the reimbursement rate is sixty-seven cents (\$0.67) per mile.

END OF ALLOWABLE TRAVEL EXPENSES

EXHIBIT E
List of Subconsultants

The following Subconsultants are authorized to work on the Project:

Name	Special Expertise of Firm	Anticipated Service/Task Responsibilities	Location	Firm Type (SBE/DVBE)	Anticipated Compensation*
None					

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

EXHIBIT F **List of Key Consultant Personnel**

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

Name	Project Position	Location	Special Expertise	No. of Years Employed by Consultant/ Experience
Toby Welch	Account Manager and Technical Solutions Manager	Issaquah, WA	Been at Enervue since the inception of the LADWP Marketplace and held a variety of roles in marketing and product development which provides unique insight into how to best utilize the Marketplace to meet LADWP's goals Has worked with the LADWP program team for 9+ years.	9
Sue Engasser	Customer Care Manager	Clarence Center, NY	Over 12 years of Customer Experience leadership experience with seven of those specifically in the tech and E-Commerce space.	1.5 / 12
Matthias Kurwig	Executive Manager	Los Angeles, CA	Founded Enervue and is co-inventor of the Enervue Marketplace platform and the Enervue Score. Has been in founding and leading roles in ecommerce and digital marketing companies since 1994. Has been overseeing the LADWP Marketplace program since inception over 9 years ago	14

[Note: all Labor categories listed should also appear on Exhibit C Fee Schedule. Any Subconsultant personnel who are key to the Project should also be included in this Exhibit]

EXHIBIT G

Contract Insurance Requirements – Department of Water and Power

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

Agreement/Activity/Operation: Commercial and Residential Marketplace
 Reference/Agreement: REQ TBD CERTIFICATE ACCEPTABLE (w/ Required Endorsements)
 Term of Agreement: _____
 Contract Administrator and Phone: Antonio Quirante
 Buyer and Phone Number: _____

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

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

Insurance Req (10.25.22.ZA)

EXHIBIT H

Statement of Work

1.0 BACKGROUND

This RFP will be issued to facilitate the continuation of the residential online marketplace, <https://marketplace.ladwp.com/>, for energy-efficient products, as well as the creation of a commercial product marketplace. The current residential marketplace had approximately 190,000 unique site visits in 2022 and 225,000 unique site visits in 2021. As the use of energy-efficient products offers customers the option to reduce their energy usage as well as save money, this marketplace, also known as the Department's Efficient Product Marketplace (EPM) program, provides customers with the ability to research, locate, purchase, and redeem rebates for energy efficient products from a single website. The working title for the commercial offering will be the Commercial Product Marketplace (CPM) program.

The Department's existing residential EPM allows customers to shop a selection of popular energy efficient brands available at numerous stores and online retailers with pricing and available rebate information. The marketplace also includes a selection of non-rebated categories to assist customers in their search for more energy efficient electronics. Products that are eligible for a rebate are clearly marked, and customers also have the option of purchasing select products directly through the online marketplace in order to receive their rebates as an instant discount off the purchase price. Customers have the ability to filter for specific product categories and features, as well as compare pricing and efficiency ratings. The online marketplace displays current selling prices for other third-party online retailers, as well as product reviews.

Customers who purchase their qualified products from a third-party retailer have the ability to submit their LADWP account and purchase information, and receive a digital rebate directly to their e-mail inbox once their application is reviewed and approved. As the option to mail in paper rebate applications to LADWP is available to those without computer or internet access, rebates for approved paper applications are submitted to the current Contractor by LADWP for manual rebate payment in the form of a physical Visa gift card.

The CPM should be designed to have similar functions to the residential marketplace, with the added inclusion of online inventory availability of Local (**Exhibit O – LADWP Service Area Zip Codes**), Los Angeles area brick and mortar stores, when possible.

2.0 PROJECT OBJECTIVES

Acquire Contractor services to provide LADWP residential and commercial customers with energy-efficient product options through an online marketplace that will reduce energy usage and consumer costs. Contractor will host the online marketplace platform on their server(s), and have a mechanism for processing customer rebate applications and facilitating rebate payments, as identified in the Scope of Work.

EXHIBIT H

Statement of Work

3.0 SCOPE OF WORK

Contractor(s) will create and manage a geo-targeted, LADWP-branded online marketplace platform with <https://marketplace.ladwp.com> as a dedicated URL address(es). The website(s) will be hosted by a service furnished and operated by the Contractor(s) to support the LADWP objectives linked to the overall EPM and CPM program strategies of rebate processing, energy savings generation, and customer engagement. LADWP will retain all rights to the dedicated URL address(es).

The **Residential Product Marketplace Platform (EPM)** will include, but not be limited to, the following categories: televisions, refrigerators, smart thermostats, window-mounted air conditioners, power strips, LED bulbs, heat pump water heaters (Optional), heat pump clothes dryers, and heat pump heating ventilation and air conditioning units.

The **Commercial Marketplace Platform (CPM)** will include, but not be limited to, the following categories: commercial food service equipment, LED bulbs, packaged terminal HVAC equipment, packaged terminal heat pumps, circulating block heaters, smart thermostats, and power strips.

Contractor(s) must be able to update the marketplace platforms to allow for the inclusion of additional product categories, as requested by the Department.

Contractor(s) will process customer rebate applications submitted through the online marketplace, as well as facilitate rebate payments for approved applications. The online marketplace should also allow for direct purchase of selected items, with the rebate amount applied as an instant discount at the time of check out.

Rebate applications should be reviewed within one (1) business day of receipt, and the review process should be completed within ten (10) business days. Rebate payments should be initiated within five (5) business days of approval.

4.0 DETAILED TECHNICAL REQUIREMENTS (CONSULTANT REQUIREMENTS) AND CONTRACT DELIVERABLES

A. Website Design

1. The website branding will include LADWP's logo and brand colors, subject to LADWP's approval before launch.
2. Consumer-facing information and services on the site will include:

EXHIBIT H

Statement of Work

- a. Product listing for products in the selected categories for sale through online and/or brick and mortar stores, <https://marketplace.ladwp.com>, updated daily.

Residential Products (EPM)

- i. Televisions – www.energystar.gov
- ii. Refrigerators – www.energystar.gov
- iii. Smart Thermostats
- iv. Window Mounted Air Conditioners – www.energystar.gov
- v. Power Strips
- vi. LED Bulbs – www.energystar.gov
- vii. Heat Pump Water Heaters (Optional)
- viii. Heat Pump Clothes Dryers
- ix. Heat Pump Heating Ventilation and Air Conditioning Units

Commercial Products (CPM)

- i. Commercial Food Service Equipment (must meet or exceed the California Energy Commission's Title 20 Appliance Efficiency Regulations)
 - a. Combination ovens
 - b. Convection ovens
 - c. Deck ovens
 - d. Induction cooktops
 - e. Griddles
 - f. Steam Cookers
 - g. Hot Food Holding Cabinets
 - h. Refrigerators (Glass and Solid Door)
 - i. Freezers (Glass and Solid Door)
 - j. Ice Makers
 - k. Door-Type Dishwashers
 - l. Hand Wrap Machines
 - ii. LED Bulbs – www.energystar.gov
 - iii. Packaged Terminal HVAC Equipment
 - iv. Packaged Terminal Heat Pumps
 - v. Circulating Block Heaters
 - vi. Smart Thermostats
 - vii. Power Strips
- b. Rebate or incentive information from LADWP's programs, with an email opt-in for customers that will lead to the incentive redemption described below.
- c. Online sales offers, with pricing from major retailers such as Amazon.com, Best Buy, Home Depot, Lowe's, etc. and/or other retailers/distributors; and/or allow LADWP the ability to add or engage

EXHIBIT H Statement of Work

retailers/distributors to the existing retailer network (Commercial Product Marketplace only).

- d. Contractor will ensure all online credit card payment solutions are compliant with current Payment Card Industry Data Security Standards (PCI DSS). The PCI DSS is located at <https://www.pcisecuritystandards.org/>.
- e. Contractor will display the prices and inventory of Local commercial food service equipment dealers' products. The default delivery option of purchased items will be for the dealer to schedule delivery. A customer pick-up option should also be made available.
- f. Rate-based pricing, which adds estimated energy consumption costs to the lowest online listed purchase price for each product. Rate-based pricing is based on average customer residential/commercial rates as provided by LADWP.
- g. An energy savings system that estimates the lifetime energy cost savings of a product compared to the baseline model of that product's size and class. The baseline brand(s) and model(s) will be determined by the Contractor.
- h. Search of all currently available products based on product name, brand, product features, affordability and other categories deemed necessary by LADWP. Each search category will be listed on product information pages. The Contractor will locate currently available products by researching the real-time inventory of online stores.
- i. Sorting of products based on product price, user reviews, rate-based pricing and other factors as determined by LADWP.
- j. Filtering of products based on category-specific product specifications as determined by LADWP including rebate availability, size/capacity, color, technology type, among other factors.
- k. Allow customers to create a user profile linked to an email account. Contractor to ensure this process is compliant with LADWP's IT Cybersecurity Requirements (**Exhibit M**) to ensure customer information is protected.
- l. A geo-targeted listing of Local stores, determined by a customer's service address zip code, which carries products in the categories above. When available, Contractor will add an option for checking the in-store availability of products.

EXHIBIT H

Statement of Work

- m. Mobile and tablet compatible versions of website (responsive design), accessed through the customer's mobile web browser.
- n. Additional products may be listed on an informational basis only.
- o. Quality testing before platform implementation and performance checks will be performed on a pre-described basis.
- p. Allow space for advertising other LADWP programs.

B. Digital Advertising Campaign. Contractor will create and implement a digital marketing/advertising program to acquire LADWP customers for the incentivized products. LADWP will have the right to review and approve all advertising templates and/or materials developed by Contractor prior to implementation. Contractor will:

- 1. Place keyword advertisements in search results and on websites using behavioral as well as context targeting.
- 2. Create and maintain keyword list and ads.
- 3. Create banner ads for online use utilizing LADWP's logo and brand colors.
- 4. Create promotional e-mail campaigns (Optional) as requested by LADWP (e.g. Cool LA, Black Friday, Summer Special, etc.).

C. Incentive Design. Contractor will participate in the design and marketing of new types of incentives, as approved by LADWP. Contractor will:

- 1. Determine target market for new incentives using product analytics. Contractor will share its methodology with LADWP upon request.
- 2. Calculate potential energy savings to determine cost-effectiveness of program updates.
- 3. Implement new, temporary or seasonal program updates or categories using criteria provided by LADWP.
- 4. Ensure purchase limits of new, temporary or seasonal products will remain consistent with the EPM program terms and conditions (**Exhibit N**).
- 5. Provide LADWP with metrics relating to program participation. Reporting criteria, content, cadence, and format will be determined by LADWP.

D. Incentive Processing. Contractor will implement a redemption and payment program including:

EXHIBIT H

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1. Collecting the customer's email address from the customer. The address will be stored securely by the Contractor and will not be shared for any purpose other than use in this program. Contractor will comply with LADWP's IT Cybersecurity Requirements (**Exhibit M**) to protect customer data on Contractor's system. Contractor will ensure LADWP Customer data is not used for financial gain (e.g. selling customer data to third parties).
2. Collecting proof of purchase, name, and service address from the customer. All data will be stored securely by the Contractor and will not be shared for any purpose other than use in this program. Contractor will comply with LADWP's IT Cybersecurity Requirements (**Exhibit M**) to protect customer data on Contractor's system.
3. Validation of customer-submitted information against pre-defined criteria as provided by LADWP to determine whether the customer or product qualifies for an incentive. Qualifiers required for incentives will be provided by LADWP.
4. Review of previously submitted incentives against all past claims associated with customer's service address to prevent duplication.
5. The ability to accept Post-purchase Rebate Applications for Residential Product Marketplace (Optional for *Commercial Product Marketplace*).
6. Validation of the rebate application will begin within 24 hours of inquiry and will complete the initial validation no later than ten (10) business days after receipt of inquiry. Contractor will communicate with customers to resolve issues related to incentive redemption.
7. Communicate with the customer regarding next steps in the redemption process, or if the inquiry does not meet incentive criteria.
8. Issue rebate payments to customers within time frames established by LADWP. The historical total monthly rebate payments for the Residential Marketplace may be in excess of \$60,000, with approximately 3,700 rebates processed per month. There is no history for the Commercial Marketplace as this will be a new platform. Contractor will invoice LADWP on a monthly basis for rebates paid during the previous month. Payments to customers will include virtual incentive and physical incentive options, including digital rewards via email, rebate gift cards, and checks issued to a customer's service address or to a customer's authorized agent or payee.

EXHIBIT H

Statement of Work

9. Reporting of metrics related to the issuing of incentives. Reporting criteria, content, cadence, and format will be determined by LADWP.
- E. **Online Purchasing.** Contractor will establish an integrated direct-sales application on the program website that will allow validated customers with an active LADWP service account to purchase LADWP-approved products with an instant rebate applied at the time of purchase. Contractor will ensure all online credit card payments solutions are compliant with current Payment Card Industry Data Security Standards (PCI DSS). The PCI DSS is located at <https://www.pcisecuritystandards.org/>. This direct-sales application will include:
1. Purchased products through this direct-sales application will follow the previously described validation process for incentives.
 2. Purchase limits of approved products will remain consistent with program terms and conditions.
 3. A dedicated toll-free telephone number and email address to provide customer support (See No. 7 below) relating to product returns or other inquiries regarding their purchases.
 4. Contractor must be an approved lender/finance company that is certified by the California Alternative Energy and Advanced Transportation Financing Authority (CAEATFA), or the Contractor must provide a link to the CAEATFA financing website, www.gogreenfinancing.com, within the marketplace.
 5. Heat Pump Water Heater (HPWH) module setup and maintenance (Optional) may be requested by LADWP.
- F. **Customer Support Services.** Contractor will establish customer support services, including an email address and a toll-free telephone number, to assist customers with the incentive process. Contractor will provide:
1. Customer support on all business days in the year, excluding the following major holidays: New Year's Day, Martin Luther King Jr. Day, Presidents Day, Memorial Day, Juneteenth, Independence Day, Labor Day, Veterans Day, Thanksgiving Day, Christmas Day.
 2. A minimum of four (4) agents must be available for live phone support during regular business hours (8:00 AM PT to 5:00 PM PT) for inbound calls from customers regarding questions on products, to request assistance with incentive applications, or inquiries on the status of submitted applications. At least one (1) Spanish speaking agent must be available during regular business hours.

EXHIBIT H

Statement of Work

3. A dedicated voicemail line for customers to leave messages on during non-business hours and major holidays. All voice messages from customers will be returned within 48 hours, excluding major holidays and weekends.
4. A dedicated email address for customers with questions on products, to request assistance with incentive applications, the status of submitted applications, or other general inquiries regarding their incentives or accounts. All customer emails must be responded to within 48 hours, excluding major holidays and weekends.
5. Contractor will send a customer survey to each customer who is provided email or telephone assistance within two (2) business days of inquiry. Contractor will report the results of the survey on a monthly basis.
6. Follow up communication with the customer to confirm the energy savings and encourage future energy efficient purchases, as well as requests for customers to participate in voluntary surveys, may be requested. Follow up communications will be sent within 2 weeks of the product purchase or rebate redemption date.
7. Monthly metrics of telephone calls or emails received, topics of calls or emails, and customer satisfaction ratings. Additional metrics may be requested by LADWP.

5.0 REPORTING

Contractor will provide LADWP with an online dashboard that will allow LADWP to monitor the progress of the program and will periodically meet with LADWP to assess progress and make program adjustments if necessary.

1. At LADWP's request, Contractor will provide any data it collects in addition to data provided through the online dashboard.
2. Information collected through the online dashboard will include total number of impressions, sessions, users, products viewed, average pages per session, incentives redeemed, energy savings from products redeemed, among other metrics. Additional metrics regarding customer acquisition, incentive processing times, among others may be established by LADWP.
3. Contractor will provide quarterly business reviews to discuss progress and results of the online platform, program performance metrics and customer surveys.

EXHIBIT H

Statement of Work

4. Additional metrics in different formats such as Excel, Access, etc. may be requested by LADWP.
5. Weekly or Ad Hoc CPM Report (Optional) for Incentive Design may be requested by LADWP.
6. EPM Monthly Customer Support Call Log. Data to be submitted to the Contract Administrator (CA) on a monthly basis. Report will include number of calls, length of calls, and other items TBD by CA.

Contractor to provide weekly reporting in Excel format with customer rebate application and payment activity, including but not limited to, customer account information, application status, product and retailer information, rebate category, rebate amount, rebate payment or rejection date, and energy savings.

Contractor to provide an executive summary of program achievements at the end of the Agreement term, in Excel or PDF format.

EXHIBIT I Background Check Certification

On behalf of Enervue Corporation (name of vendor), Checkr _____ (name of company performing screening services) has performed background checks on the individuals named below. The background checks consisted of the following components:

1. Social Security Number (SSN) Trace:
 - a. Validates the SSN based on issuance data published by the Social Security Administration (not a work eligibility verification).
 - b. Provides independent address history going back at least 7 years; sources include multiple commercial databases, including header information from three credit bureaus.
2. Expanded Criminal History Search (search for felony and misdemeanor records in all jurisdictions of known employment and residence in the past seven years (includes State, County, and Federal levels):
 - a. Includes direct source searches (State, County, and Federal Courts) in all known jurisdictions where the subject has lived or worked in the past seven years. The entire Federal District Court level is automatically covered with the exception of four appeals courts.
3. Auxiliary National Criminal Index (ANCI)
 - a. Includes over 180 million felonies, misdemeanors, infractions, and sex offender records. Data sources from over 50 states, plus the District of Columbia, Puerto Rico, and Guam, consist of one or more of the following: County Court indexes, State Administrative and police repositories, State Department of Corrections, and sex offender registries.
4. Office of Foreign Asset Control (OFAC) Watch List:
 - a. A list of over 5,000 known terrorists, national drug traffickers, specially designated and block persons as identified by the OFAC, a Department of the United States (U.S.) Department of Treasury.
 - b. Based on U.S. foreign trade policy and national security goals, persons on the list should not be engaged in economic or commercial activities in the U.S.

NO DEROGATORY INFORMATION WAS FOUND ON THE FOLLOWING INDIVIDUALS:

Matthias Kurwig

Roopali Mehta

Toby Welch, Sue Engasser

Checkr

10/2/24

Person Performing Screening Services

Date

Roopali Mehta, Chief Finance & People Officer

10/2/24

Executive Management of Company

Date

Enervue Corporation

Name of the Company

EXHIBIT J
Confidentiality Agreement for LADWP Proprietary Information

A. Confidentiality

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

B. Document Access/Control

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

EXHIBIT J
Confidentiality Agreement for LADWP Proprietary Information

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

C. Return of All Documents to LADWP

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

D. Work Product and Deliverable Confidentiality

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

E. Subcontractors Subject to the Confidentiality Agreement

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

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

Date: July 11, 2023

Signature: Roopali Mehta

Firm: Enervee Corporation

Title: Chief Talent & Administrative Officer

EXHIBIT K
Safety Compliance Certificate

I, Roopali Mehta the undersigned,
(Print Company Representative Name)
Chief Talent & Administrative Officer of
(Print Company Representative Title)
Enervee Corporation hereby certify the
(Print Company Name)

Information contained herein and that undersigned is duly authorized to certify that:

- A. Contractor has an Injury and Illness Prevention Program which meets the requirements of all applicable laws and regulations, including, but not limited to, industry standards and the California Occupational Safety and Health Administration, Title 8 of the California Code of Regulations, General Industry and Construction Safety Orders. (This section does not apply if Contractor does not perform any work under this agreement within the State of California.)

California Code of Regulations General Industry Safety Orders
<http://www.dir.ca.gov/Title8/3203.html>

California Code of Regulations Construction Safety Orders
<http://dir.ca.gov/Title8/1509.html>

If Contractor performs any work under this agreement outside the State of California, Contractor shall comply with applicable local, State, and Federal laws and regulations, including, but not limited to, industry standards and the Occupational Safety and Health Administration, General Duty Clause.

<https://www.osha.gov/laws-regs/oshact/section5-duties>

- B. Contractor agrees that it is fully responsible for the acts and omissions of its subcontractors and all persons either directly or indirectly employed by Contractor.
- C. The above-named person has the authority and responsibility for implementing and administering Contractor's Injury and Illness Prevention Program.

IN WITNESS WHEREOF, the undersigned has executed this Safety Compliance Certificate under the penalty of perjury of the laws of the State of California on:

Signature: Roopali Mehta
Print Name: Roopali Mehta
Date: July 11, 2023

(For Non-Safety Tier 1 Work)

Revised: 1/2/18



MONTHLY SUBCONTRACTOR UTILIZATION REPORT

(Complete and submit to LADWP Contract Administrator with Monthly Invoice)

EXHIBIT L Monthly Subcontractor Utilization Report

Contract Number & Title:		Reporting Period:		to	(End Date)
Prime Contractor Name:		Contract Expiration Date:			
Contact Name & Email:		Overall SBE/DVBE Commitment for Contract:			
		%			
Subcontractor Name/Phone No.	Subcontractor Certification Status (SBE/DVBE/MBE/WBE/LGBTBE/None)	Description of Work	Total Percentage Committed to Subcontractor	\$ Amount Paid to Subcontractor for this Reporting Period	Total \$ Amount Paid to Subcontractor To-Date
			%	\$	\$
			%	\$	\$
			%	\$	\$
			%	\$	\$
			%	\$	\$
			%	\$	\$
			%	\$	\$

(Duplicate this form to list additional subcontractors, if necessary).

All changes in subcontractors or subcontract amounts including substitutions, additions, or reductions must be requested in writing and approved by LADWP. The undersigned certifies that the information reported above is correct and true in accordance with the terms and conditions of the contract.

Contractor's Authorized Representative:

(Signature)

(Title)

(Date)

Rev. 09/01/2022

1. NONDISCLOSURE AND DATA OWNERSHIP.

1.1. Confidential Information.

Nothing in this **Section 1.1** is intended to limit the obligations of Vendor under **Sections 1.2** and **1.3** of this Agreement with respect to the LADWP Data addressed in such Sections and, to the extent the provisions of **Sections 1.2** or **1.3** conflict with the provisions of this **Section 1.1** as they pertain to LADWP Data, the provisions of **Sections 1.2** or **1.3** shall control over the provisions of **Section 1.1**, as applicable.

- (a) **Confidential Information.** As used herein, “**Confidential Information**” means (i) this Agreement and the terms hereof, (ii) all information marked confidential, proprietary or with a similar legend by either Party, and (iii) any other information that is treated as confidential by the disclosing Party and would reasonably be understood to be confidential, whether or not so marked (which, in the case of the Eligible Recipients, shall include information treated or defined as confidential under the LADWP Information Handling, Classification Policy, Privacy Policy, Software, Developed Materials, LADWP Data, Personal Data, Authorized User information, attorney-client privileged materials, attorney work product, LADWP lists, LADWP contracts, LADWP information, rates and pricing, information with respect to competitors, strategic plans, account information, research information, information that contains trade secrets, financial/accounting information, human resources/personnel information, benefits-related information, payroll information, marketing/sales information, contact information, information regarding businesses, plans, operations, mergers, acquisitions, divestitures, third party contracts, licenses, internal or external audits, law suits, arbitrations, mediations, regulatory compliance or other information or data obtained, received, transmitted, processed, stored, archived, or maintained by Vendor under this Agreement). Without limiting the generality of the foregoing, Confidential Information includes, without limitation, personal data information as defined by the EU General Data Protection Regulation (Regulation (EU) 2016/679) effective May 25, 2018, “nonpublic personal information,” as defined under the Gramm-Leach-Bliley Act (15 United States Code (U.S.C.) §§ 6801 et seq.), personal health information under HIPAA or HiTECH Act, and personal information or personally identifiable information as defined in California Civil Code §§ 1798.3(a), 1798.82(h), 1798.83(e)(7) and 1798.100, et seq (California Consumer Privacy Act of 2018) effective January 1, 2020.

(b) Disclosure of Confidential Information.

- (i) During the Term and at all times thereafter as specified in **Section 1.4**, each receiving Party (A) shall hold Confidential Information received from a disclosing Party in confidence and shall use or disclose such Confidential Information only for the purposes of fulfilling its obligations or exercising or enforcing its rights under this Agreement and for no other purposes, and (B) shall not disclose, provide, disseminate or otherwise make available any Confidential Information of the disclosing Party to any third party (except (1) the receiving Party's auditors, accountants, consultants or similar professionals and (2) the receiving Party's attorneys) without the express written permission of the disclosing Party (which permission is hereby granted in certain circumstances in **Sections 1.1(b)(ii)** and **Section 1.1(b)(iii)**). Each receiving Party shall use at least the same degree of care to safeguard and to prevent unauthorized access, disclosure, publication, destruction, loss, alteration or use of the disclosing Party's Confidential Information as the receiving Party employs to protect its own information (or information of its customers) of a similar nature, but not less than reasonable care.
- (ii) A receiving Party may disclose Confidential Information of the disclosing Party to its employees, officers, directors, auditors, attorneys, tax advisors, consultants, financial advisors and similar professionals, and contractors and agents provided that (A) such person or Entity has a need to know the Confidential Information (1) for purposes of performing his, her or its obligations under or with respect to this Agreement, (2) to enforce the receiving Party's rights under or with respect to this Agreement, or (3) as otherwise naturally required by such person's or such Entity's scope of responsibility; (B) such person or Entity is held to obligations of confidentiality that are no less stringent than those set forth in this **Section 1.1**; and (C) such disclosure is not in violation of Law. The receiving Party assumes full responsibility for the acts or omissions of any person or Entity to whom it discloses Confidential Information of the disclosing Party regarding their use of such Confidential Information.
- (iii) A receiving Party may disclose Confidential Information of a disclosing Party as required to satisfy any Law, provided that, promptly upon receiving any such request, the receiving Party, to the extent it may legally do so, gives notice to the disclosing Party of the Confidential Information to be disclosed and the identity of the third party requiring such disclosure so that the disclosing Party may interpose an objection to such disclosure, take action

to assure confidential handling of the Confidential Information, or take such other action as it deems appropriate to protect the Confidential Information. At the cost of the disclosing Party, the receiving Party shall reasonably cooperate with the disclosing Party in its efforts to seek a protective order or other appropriate remedy or, in the event such protective order or other remedy is not obtained, to obtain assurance that confidential treatment shall be accorded such Confidential Information. In addition, receiving Party shall reject, and shall not comply with, any requests for disclosure of LADWP Confidential Information to law enforcement agencies if such request is not legally binding on receiving Party.

- (iv) Unless expressly permitted by this Agreement, neither Party shall (A) make any use or copies of the Confidential Information of the other Party except as expressly contemplated by this Agreement, (B) possess or acquire any right in or assert any lien against the Confidential Information of the other Party, (C) sell, assign, transfer, lease, encumber, or otherwise dispose of or disclose the Confidential Information of the other Party to third parties, (D) commercially exploit, or permit a third party to commercially exploit, such Confidential Information, or (E) refuse for any reason (including a default or material breach of this Agreement by the other Party) to promptly provide the other Party's Confidential Information (including any copies thereof) to the other Party if requested to do so.
- (c) **Loss of Confidential Information.** Each Party shall (i) immediately notify the other Party of any possession, use, knowledge, disclosure, or loss of such other Party's Confidential Information in contravention of this Agreement, (ii) within forty-eight (48) hours furnish to the other Party all known details and assist such other Party in investigating and/or preventing the reoccurrence of such possession, use, knowledge, disclosure, or loss, (iii) cooperate with the other Party in any investigation or litigation deemed necessary by such other Party to protect its rights, and (iv) promptly use all commercially reasonable efforts to prevent further possession, use, knowledge, disclosure, or loss of Confidential Information in contravention of this Agreement. Each Party shall bear any costs it incurs in complying with this **Section 1.1(c)**.
- (d) **Protection of LADWP Confidential Information in the Event of Vendor Bankruptcy.** If Vendor becomes insolvent, makes a general assignment for the benefit of creditors, files a voluntary petition of bankruptcy, suffers or permits the appointment of a receiver for its business or assets, or becomes subject to any proceeding under any bankruptcy or insolvency law, whether domestic or foreign, or has

wound up or liquidated, voluntarily or otherwise, LADWP shall have the immediate right to take possession of and retain for safekeeping all LADWP Confidential Information then in Vendor's possession or under Vendor's control. LADWP may retain the LADWP Confidential Information until the trustee or receiver in bankruptcy or other appropriate court officer provides LADWP with adequate assurances and evidence that the LADWP Confidential Information shall be protected from sale, release, inspection, publication or inclusion in any publicly accessible record, document, material or filing.

- (e) **No Implied Rights.** Nothing contained in this **Section 1.1** shall be construed as obligating a Party to disclose its Confidential Information to the other Party, or as granting to or conferring on a Party, expressly or impliedly, any rights, title, or interest (including license) in or to any Confidential Information of the other Party.
- (f) **Return or Destruction of Confidential Information.** Within ten (10) days following (1) LADWP's request, (2) the expiration or earlier termination of this Agreement, by either Party and for any reason, or (3) with respect to particular LADWP Data, at the time Vendor no longer requires that LADWP Data to perform its obligations to LADWP under this Agreement, Vendor must, at LADWP's discretion, either return to LADWP all Confidential Information (including all copies/derivatives thereof); or certify in writing to LADWP that such Confidential Information (including all copies/derivatives thereof) has been destroyed in such a manner that it cannot be retrieved. In no event shall Vendor withhold any Confidential Information of LADWP as a means of resolving any dispute.

1.2. LADWP Data.

Nothing in this **Section 1.2** is intended to limit the obligations of Vendor under **Section 1.1** or **1.3** of this Agreement with respect to the Confidential Information addressed in such Sections. To the extent that the provisions pertaining to LADWP Data in **Section 1.1**, this **Section 1.2**, and **Section 1.3** conflict, the provisions of **Section 1.3** shall control over the provisions of this **Section 1.2**, which shall control over the provisions of **Section 1.1**.

- (a) **Ownership of LADWP Data.** LADWP Data shall be and remain, as between the Parties, the property of LADWP regardless of whether Vendor or LADWP is in possession of LADWP Data. LADWP Data shall be made available to LADWP, upon its request, in real time by the means and in the form and format as reasonably requested by LADWP. At no time shall LADWP Data be stored or held by Vendor in a form or manner not readily accessible to LADWP in this manner. At no time shall LADWP Data be used by the Vendor or any

Subcontractors for any purpose other than the intended by the LADWP as part this Agreement.

(b) Safeguarding of LADWP Data.

- (i) Vendor and Subcontractors to whom LADWP Data is provided shall maintain and comply with a comprehensive written data security program, which shall include the methodology, tools, and procedures for monitoring security related incidents, reasonable and appropriate technical, organizational and security measures against the destruction, loss, or unauthorized access, disclosure, or alteration of LADWP Data in the possession of Vendor or such Subcontractors. (Note: attach the supplier's current Information Security program document if available).
- (ii) The Vendor shall verify that the addition of security features does not adversely affect connectivity, latency, bandwidth, response time, and throughput specified.
- (iii) The Vendor shall use an implementation that complies with the current applicable interoperability and security standards, as specified by the LADWP (e.g., NIST 800 series, NIST Cybersecurity Framework and ISO/IEC 27000 series).
- (iv) The content and implementation of the data security program, incident response plan, and associated technical, organizational and security measures shall be fully documented in writing by Vendor. Vendor shall permit LADWP to review such documentation and/or to inspect Vendor's compliance with such program in accordance with Section 4.1.
- (v) Vendor shall immediately notify the LADWP Chief Information Security Officer when Vendor detects or is notified of any actual, potential or attempted security breach that results or may have resulted in unauthorized destruction, loss, alteration or theft of, or unauthorized access to, LADWP Data (each such incident, a "Security Incident"). Vendor shall investigate (with LADWP's participation if so desired by LADWP) each such actual, potential or attempted security breach and mitigate the adverse effects of each Security Incident. Vendor shall correct, at LADWP's request and sole discretion and at no additional charge to LADWP, any destruction, loss or alteration of any LADWP Data arising from or in connection with each Security Incident. With respect to each Security Incident, Vendor shall promptly (and in any event as soon as reasonably practical) (A) perform a Root Cause Analysis (with LADWP's participation if so desired by LADWP) and prepare a corrective action plan, (B) provide LADWP with written

reports and detailed information (e.g. Operating System logs, DBMS logs, and application logs), including how and when such Security Incident occurred and what actions Vendor is taking to remedy such Security Incident, (C) cooperate in the investigation of such Security Incident at LADWP's request, (D) reimburse LADWP for its costs of notifying any individuals and/or authorities of such Security Incident if LADWP, in its good faith judgment, considers notification necessary, (E) remediate such actual, potential or attempted security breach and take commercially reasonable actions to prevent its recurrence, to the extent the actual, potential or attempted security breach underlying such Security Incident is within Vendor's or its Subcontractor's or Affiliate's areas of control, and (F) indemnify LADWP against any claims, suits, damages, actions, fines, penalties or losses (including reasonable attorney's fees) arising from such Security Incident. Vendor shall also furnish historical records of security breaches upon request by LADWP.

- (vi) To the extent Vendor removes LADWP Data from any media under its control that is taken out of service, Vendor shall destroy or securely erase such media in accordance with the NIST 800-88 Guidelines for Media Sanitization. Under no circumstances shall Vendor use or re-use media on which LADWP Data has been stored for any purpose unless such LADWP Data has been securely erased in accordance with the Policy and Procedures Manual.
- (c) **Correction of LADWP Data.** The correction of any errors or inaccuracies in or with respect to LADWP Data shall be performed by Vendor at its sole cost and expense if (i) Vendor is operationally responsible for inputting such data, or (ii) such errors or inaccuracies are attributable to the failure of Vendor or Vendor Personnel to comply with Vendor's obligations under this Agreement.
- (d) **Restoration of LADWP Data.** Without limiting Vendor's obligations under Section 1.2.(b)(iii), the restoration of any destroyed, lost or altered LADWP Data shall be performed by the Party that has operational responsibility for maintaining the System on which such LADWP Data resides and for creating and maintaining backup copies of such LADWP Data. To the extent (i) Vendor is operationally responsible for performing such restoration or (ii) such destruction, loss or alteration is attributable to the failure of Vendor or Vendor Personnel to comply with Vendor's obligations under this Agreement, Vendor shall bear the cost of restoring such data.
- (e) **Data Commingling.** LADWP Data with different security level or requirement should not be stored in such a way that they become

commonly accessible when they are supposed to remain separated. Data stored in the shared cloud, DR, or backup environment should NOT be available to other shared infrastructure customer just because it was being stored on the same server or media as data belonging to someone else that was subject to some legal action.

1.3. **Personal Data.**

- (a) **Privacy Laws.** Vendor acknowledges that the LADWP Data is subject to Privacy Laws. In addition to its other obligations under this Agreement, Vendor shall comply with all other applicable Laws (including Privacy Laws) with respect to the LADWP Data and the Services based on the countries to which this agreement applies. Additionally, and without limiting the foregoing, Vendor shall provide LADWP with all assistance as LADWP may reasonably require to fulfill the responsibilities of LADWP and the other Eligible Recipients under Privacy Laws. Vendor shall indemnify the Eligible Recipients for any Losses suffered by the Eligible Recipients as a result of Vendor's failure to comply with Privacy Laws. Vendor shall not use terms of use or privacy statements that vary from this Agreement or enter into separate agreements between Vendor and Authorized Users or other individuals of Eligible Recipients that offer less protection with respect to the Personal Data of Authorized Users or other individuals' Personal Data than the protections provided in this Agreement.
- (b) **Limitation on Use.** Vendor agrees that Vendor and Vendor Personnel shall not use Personal Data for any purpose or to any extent other than as necessary to fulfill Vendor's obligations under this Agreement. Vendor shall not (and shall cause Vendor Personnel to not) process, transfer or disseminate Personal Data without the approval of LADWP unless expressly provided for in this Agreement. Vendor shall take appropriate action to ensure that Vendor Personnel having access to Personal Data are advised of the terms of this Section and trained regarding their handling of Personal Data. All such Vendor Personnel's access to Personal Data must be governed by a written non-disclosure agreement that prohibits such personnel from using, disclosing or copying Personal Data for any purpose except as required for the performance of this Agreement. Vendor is and Vendor shall be responsible for any failure of Vendor Personnel to comply with the terms and conditions of this Agreement regarding Personal Data.
- (c) **Unauthorized Disclosure or Access.** If Vendor or Vendor Personnel have knowledge of or suspect any unauthorized possession, use, knowledge, loss, disclosure of or access to Personal Data in contravention of this Agreement, Vendor shall, in addition to its obligations with regard to Security Incidents set forth in **Section 1.2.(b)(iv)**, (i) within forty-eight (48) hours report to LADWP such

possession, use, knowledge, loss, disclosure or access to Personal Data and promptly furnish to LADWP all known details; (ii) immediately take steps to mitigate any harmful effects of such possession, use, knowledge, loss, disclosure or access; (iii) cooperate with LADWP in any investigation, litigation, or provision of notices that LADWP deems appropriate and (iv) promptly use all commercially reasonable efforts to prevent further possession, use, knowledge, disclosure or loss of Personal Data in contravention of this Agreement. To the extent any unauthorized disclosure of or access to Personal Data arises out of or is connected to a breach by Vendor or Vendor Personnel of Vendor's obligations under this Agreement, Vendor shall bear (A) the costs incurred by Vendor in complying with its legal obligations relating to such breach, and (B) in addition to any other damages for which Vendor may be liable for under this Agreement, the following costs incurred by the Eligible Recipient in responding to such breach, to the extent applicable: (1) the cost of providing notice to affected individuals; (2) the cost of providing notice to government agencies, credit bureaus, and/or other required entities; (3) the cost of providing affected individuals with credit monitoring services for a specific period not to exceed twelve (12) months or the minimum time period provided by applicable Law, whichever is longer; (4) call center support for such affected individuals for a specific period not to exceed thirty (30) days; (5) the cost of any other measures required under applicable Law; and (6) any other Losses for which Vendor would be liable under this Agreement.

1.4. Survival.

Vendor's obligations under this **Article 1** shall survive the expiration or termination of this Agreement and shall be perpetual.

1.5. Third Party Requests.

Upon receipt of any request, demand, notice, subpoena, order or other legal information request relating to legal proceedings or investigations by third parties relating to any Developed Materials, LADWP Data, LADWP Confidential Information or related Systems in Vendor's possession, Vendor shall immediately notify the LADWP's Chief Information Security Officer (or his or her designee) and provide LADWP with a copy of all documentation of such legal information request, to the extent Vendor legally may do so. Prior to responding to such legal information request, Vendor shall meet and confer with LADWP and shall cooperate with LADWP in preserving LADWP's legal rights, including objections, reservations, limitations and privileges, relating to such legal information request. If legally permissible, LADWP at its sole discretion may demand tender of such legal information

request by Vendor and assume primary responsibility for responding, in which case (i) Vendor shall cooperate fully with LADWP in preparing the response and (ii) LADWP shall inform Vendor of all proceedings related to the response and protect Vendor's interests and legal rights. If Vendor is barred legally from notifying LADWP of the legal information request, Vendor shall take all commercially reasonable steps to preserve LADWP's legal rights in connection with any response.

2. CROSS-BORDER DATA SHARING RESTRICTIONS.

- 2.1. Vendor and its Subcontractors shall supply or provide the Services only at or from (i) the locations within the continental USA, or (ii) any location approved in writing in advance by LADWP. Vendor shall obtain LADWP's prior written approval, in LADWP's sole discretion, for any proposed relocation by Vendor or its Subcontractors of the provision of Services. Vendor shall be financially responsible for all costs associated with such relocation. Vendor shall store and process, and shall permit remote access by Vendor and its Subcontractors to, LADWP Confidential Information, including Personal Data, and LADWP Data only in or from (i) the locations within the continental USA, or (ii) any other service locations approved in writing in advance by LADWP. Vendor shall not transfer LADWP Confidential Information and LADWP Data to any other locations, or permit access from any other locations, without the direct authorization in writing by LADWP.

3. CUSTOMER ACCESS TO CUSTOMER CONFIDENTIAL INFORMATION AND DATA.

- 3.1. As part of the Services, LADWP shall have the ability to extract and download all LADWP Confidential Information and LADWP Data stored on Vendor's system as may be required by LADWP from time to time.

4. DATA REQUESTS AND LEGAL HOLDS.

- 4.1. Vendor shall cooperate with any document and record discovery requests (whether in connection with pending litigation or other investigations) made by LADWP related to LADWP Data, including LADWP Confidential Information, on systems supported by Vendor as part of the Services, including without limitation, by promptly carrying out, at LADWP direction: the dissemination of preservation requests; making data available for search; imaging of systems; back up of electronic information; maintenance, retention and production of any such data; providing the chain

of custody of data; and maintenance of detailed records of its efforts to preserve data, all as reasonably requested by LADWP.

5. DATA ENCRYPTION.

5.1. Encryption.

Vendor shall: (i) encrypt all LADWP Data in transit; (ii) encrypt all LADWP Data on portable devices; and (iii) encrypt LADWP Data at rest for all LADWP Sensitive Information as instructed by LADWP. The software used by Vendor to implement such encryption shall meet the latest FIPS standards. The use of proprietary encryption algorithms is not allowed for any purpose, unless reviewed by qualified experts outside of the Vendor in question and approved by the LADWP Chief Information Security Officer.

5.2. Cryptographic Keys.

Vendor shall develop, maintain and adhere to controls to ensure the secure management of cryptographic keys. These controls shall include:

- (a) Generation of cryptographic keys, using LADWP-approved key lengths;
- (b) Secure distribution, activation, updates, storage, recovery and replacement of cryptographic keys;
- (c) Immediate revocation or deactivation of cryptographic keys, to be implemented in the case such keys are compromised or a key owner is no longer affiliated with LADWP or LADWP's account;
- (d) Recovery of cryptographic keys that are lost, corrupted or expired;
- (e) Backup or archival of cryptographic keys to the extent necessary to allow access to backup or archived LADWP Data; and
- (f) Restriction of access to cryptographic keys to only authorized individuals.

6. BACKUP OF DATA.

6.1. Backup Copies.

As part of Vendor's implementation of the disaster recovery/business continuity plan described in **Section 8.1**, Vendor shall generate and maintain backup copies of all LADWP Data residing on its systems. Such backup copies shall be considered to be "LADWP Data" as used in this

Agreement, and all Vendor's obligations set forth herein, including those related to data security and privacy, shall apply to such backup copies to the same extent such obligations apply to other LADWP Data. Vendor shall perform LADWP Data backup at a frequency so as to meet or exceed the backup standards designated as "Service Levels" in the Service Level Agreement (the "**Service Levels**"). Vendor shall perform backup restoration testing at least annually to ensure the integrity and accuracy of backup copies of LADWP Data.

6.2. Data Retention.

Vendor shall keep and maintain LADWP Data in accordance with the applicable LADWP record retention policy, as directed by LADWP from time to time, as well as all applicable Laws related to record retention. Vendor shall provide evidence as requested by LADWP to ensure data retention requirements are met. Vendor may not remove or delete data at any time outside the LADWP record retention policy without the express written permission from LADWP.

7. CONTINGENCY PLANNING.

7.1. Disaster Recovery Services.

Upon the occurrence of a Force Majeure Event that constitutes a disaster under the applicable disaster recovery/business continuity plan, Vendor shall promptly implement, as appropriate, such disaster recovery/business continuity plan and provide disaster recovery and business continuity services as described in such plan. The occurrence of a Force Majeure Event shall not relieve Vendor of its obligation to implement the applicable disaster recovery/business continuity plan and provide disaster recovery and business continuity services. Vendor shall also establish, document and demonstrate a LADWP-specific Vendor disaster recovery/business continuity plan that includes provisions for backup facilities, utilities, staffing and telecommunications. Such plan shall be operative from the Commencement Date and shall at all times be aligned with LADWP's then-current disaster recovery/business continuity plan. Vendor shall address and resolve any issues or changes flagged for attention by LADWP in such plan as soon as practicable but no longer than five (5) days after notification by LADWP. Vendor shall test such plan at least annually, including as may be required in the applicable Supplement and, upon request by LADWP, share the results of such tests with LADWP. Vendor shall perform re-tests if any such test reveals any issues or problems.

8. SERVICE LEVEL AGREEMENTS.

8.1. Service Levels and Other Performance Standards.

Vendor shall perform the Services so as to meet or exceed the performance standards designated as “Service Levels” in the Service Level Agreement (the “**Service Levels**”).

For the avoidance of doubt, if Vendor breaches its performance obligations under this Agreement, the fact that such breach did not cause Vendor to miss the applicable Service Level shall not relieve Vendor of responsibility for such breach or any resulting damages.

8.2. Service Level Credits.

Vendor recognizes that LADWP is paying Vendor to deliver certain Services at specified Service Levels. If Vendor fails to meet any Service Level, then, in addition to other remedies available to LADWP, Vendor shall pay or credit to LADWP the amounts described in the Service Level Agreement as payable upon such a failure (“**Service Level Credits**”) in recognition of the diminished value of the Services resulting from Vendor’s failure to meet the agreed upon level of performance, and not as a penalty. Under no circumstances shall the imposition of Service Level Credits be construed as LADWP’s sole or exclusive remedy for any failure to meet the Service Levels.

9. USE OF SUBCONTRACTORS.

9.1. Compliance.

Prior to engaging a Subcontractor to provide services under this Agreement, Vendor shall ensure and certify that all subcontracting agreements with its Subcontractors shall conform to and comply with the terms and conditions of this Agreement, including but not limited to compliance with the IT security, confidentiality, data protection and certification requirements. LADWP may review any subcontracting agreement between Vendor and any of its Subcontractors performing Services under this Agreement.

9.2. Subcontractor Performance.

Vendor shall retain full responsibility for the performance of its obligations under this Agreement, including any obligations it performs through

Subcontractors, and shall be fully responsible and primarily liable for all acts or omissions of its Subcontractors. The use of any Subcontractors by Vendor shall not relieve or release Vendor from any of its obligations under this Agreement.

9.3. **Notification of Subcontractor.**

The parties agree that, as of the Effective Date, Vendor shall only use the Subcontractors identified, vetted and approved by both Vendor and LADWP to perform Services under this Agreement. Any additions must be approved by LADWP in writing. During the Term of this Agreement Vendor shall keep this list of Subcontractors current, including a description of each Subcontractor's role in delivering the Services, and upon making changes to this list of Subcontractors, Vendor shall provide an updated list to LADWP and any applicable data protection supervisory authorities of the services rendered by any such Subcontractors or additional Subcontractors.

9.4. **Subcontractor is not a Third-Party Beneficiary.**

No agreement entered into by Vendor with a Subcontractor or other third party to provide the Services hereunder shall provide for any indemnity, guarantee or assumption of liability by LADWP. No Subcontractor shall be deemed a third-party beneficiary for any purposes under this Agreement, notwithstanding any agreements contained herein that may operate to the benefit of such Subcontractor.

10. TRANSITION SERVICES.

- 10.1. The parties acknowledge that, on or about the date of termination of this Agreement, LADWP may commence to perform services similar to those performed by Vendor hereunder or LADWP may engage a successor vendor (which may be a Subcontractor, vendor or business partner Vendor used) to perform such services. From the time that LADWP notifies Vendor to whom LADWP plans to migrate the services, Vendor agrees to cooperate with LADWP (and, if applicable, the successor vendor) to affect an orderly and efficient transition. Within sixty (60) days after termination of this Agreement by either party, LADWP shall pay Vendor all undisputed amounts due and owing as of the termination of the Agreement. At such time as LADWP reasonably determines necessary to affect the transition, Vendor shall provide in electronic format a copy of the LADWP Confidential Information and any other LADWP data residing on Vendor's systems or within Vendor's control that is necessary for such transition. Vendor shall continue to cooperate with LADWP both before and after the termination of this Agreement in transitioning, converting and migrating the services

provided by Vendor to a new provider or to LADWP itself, which cooperation may include, without limitation, making qualified Vendor Personnel available for questions and consultations, transferring contact numbers or URL addresses, providing any required technical assistance and cooperation to LADWP as LADWP may from time to time reasonably request. Such transition period shall not exceed six (6) months after the termination of this Agreement. For purposes of clarification, upon LADWP's request, Vendor shall continue to provide any and all of the Services for all or part of such transition period. LADWP and Vendor agree to act in good faith in complying with the obligations set forth in this Section. During such transition period, LADWP shall continue to pay Vendor applicable Fees in a manner consistent with the payment of Fees prior to the termination of the Agreement. Other transition services shall be provided pursuant to a statement of work between the parties. Such transition services shall be provided on a time and materials basis at a blended hourly rate of no more than the hourly rate charged by Vendor under this Agreement for comparable services.

11.COMPLIANCE.

- 11.1. In the performance of this Agreement, Vendor shall comply with all applicable foreign and domestic laws, statutes, ordinances, rules, directives, regulations and orders applicable to the provision of Services to LADWP, including all applicable data privacy and protections laws, laws and regulations pertaining to non-discrimination, affirmative action, labor, wages, hours and other conditions of employment (the "**Laws**"). At Vendor's expense, Vendor shall secure all domestic and foreign permits, licenses, certifications, regulatory approvals and authorizations (collectively, "**Authorizations**") required by law in order to provide the Services to LADWP or for LADWP to use the Services, and shall take all lawful steps necessary to maintain such Authorizations during the Term (including any renewal term and transition periods) of this Agreement, and shall provide proof of compliance upon request. If Vendor is unable, after exercising reasonable diligence, to secure or maintain the Authorizations, LADWP may terminate this Agreement without liability. In addition, Vendor shall provide the Services in a manner that enables LADWP to comply with Laws, and does not cause LADWP to fail to comply with Laws. Vendor shall provide reasonable assistance in connection with such compliance. In addition, Vendor understands and acknowledges that LADWP has many obligations arising from the Laws pertaining to LADWP's business and Personal Data. Vendor therefore agrees to reasonably cooperate with and assist LADWP in meeting all such obligations as they relate to our data and the services provided.

12.RIGHT TO AUDIT.

12.1. **Controls Audit.**

- (a) Vendor shall cause an AICPA Service Organization Control (SOC 1 or SOC 2) Report or an equivalent audit under such successor standard as may then be in effect (a “**Controls Audit**”) to be conducted by an independent public accounting firm on an annual basis for Vendor service delivery facilities at or from which the Services and/or services similar to the Services are provided. Vendor shall (A) confer with LADWP as to the scope and timing of each such audit, and (B) accommodate LADWP’s requirements and concerns to the extent practicable. Unless otherwise agreed by the Parties, such audit shall be conducted with a date range of at least twelve (12) months. Vendor shall provide LADWP and its independent auditors with a copy of such opinion and the resulting Controls Audit report as soon as reasonably possible after the conclusion of such audit, and in all events by December 31st of the same calendar year that such opinion is dated. At LADWP’s request at any time, Vendor shall confirm in writing that there have been no material changes in the relevant policies, procedures and internal controls since the completion of such audit. The Controls Audit shall be conducted, and the resulting opinion and report shall be provided, at no additional charge to LADWP.
- (b) If Vendor is unable to timely deliver to LADWP, in accordance with **Section 4.1(a)** above, an unqualified opinion, or the Controls Audit reveals any deficiencies or material weakness, Vendor shall (A) provide LADWP, on or before the date such opinion is delivered or due to be delivered, a written statement describing the circumstances giving rise to any delay or any qualification, (B) take such actions as shall be necessary to resolve such circumstances as soon as practicable, and (C) permit LADWP and its Permitted Auditors to perform such procedures and testing as are reasonably necessary for their assessment of the operating effectiveness of Vendor’s policies, procedures and internal controls. Vendor acknowledges and agrees that LADWP and Permitted Auditors, upon receiving a copy of the Controls Audit report, shall have the right to review the auditor work papers at the auditor premises, as well as interview the auditor personnel who did the actual audit work, in the event LADWP or Permitted Auditors require clarification on the Controls Audit report and work papers, to the extent such audit rights are available under the agreements signed by Vendor with existing third-party audit firms.
- (c) To the extent LADWP requests that, in addition to the Controls Audit described above, Vendor conduct a LADWP-specific Controls Audit, Vendor shall do so at LADWP’s expense (provided that Vendor notifies LADWP of such expense, obtains LADWP’s prior approval of, and uses commercially reasonable efforts to minimize, such expense). If, however, Vendor undertakes additional or different Controls Audit (or

equivalent audits) of Vendor Facilities in question (other than customer-specific audits requested and paid for by other Vendor customers), Vendor shall accord LADWP the rights described in the last two sentences of **Section 4.1(a)** with respect to such audits.

- (d) In the event that the reviews specified in this **Article 4** disclose material Security Failures as determined by LADWP and such failures are not remediated within thirty (30) days then LADWP shall notify Vendor of this determination in writing and shall have the right to immediately terminate this Agreement without further payment obligations and Vendor shall refund to LADWP a pro rata portion of any and all prepaid fees paid by LADWP for the portion of such fees applicable to the remaining period of time as of the termination date for which such prepaid amounts were paid.
- (e) If Vendor fails to comply with LADWP's audit request or to provide a security certificate that satisfies LADWP's needs, LADWP may terminate this Agreement with no penalty and no further payment obligations, and Vendor shall refund to LADWP a pro rata portion of any and all prepaid fees paid by LADWP for the portion of the such fees applicable to the remaining period of time as of the termination date for which such prepaid amounts were paid.

- 12.2. **Controls Audit Obligations for Subcontractors.** Unless otherwise approved by LADWP, all Vendor subcontracts shall require the applicable Subcontractor to provide an annual Controls Audit to LADWP under terms and conditions identical to those applicable to Vendor under **Section 4.1** above.
- 12.3. **Audit Costs.** Except as provided in this **Article 4**, Vendor and its Subcontractors and suppliers shall provide the Services described in this **Article 4** at no additional charge to LADWP.
- 12.4. **Penetration Test.** LADWP may, at its sole discretion, conduct an annual penetration test of Vendor's system and the Services (unless (i) LADWP has reason to believe there is a security concern, (ii) a Security Incident has occurred, or (iii) an annual security review reveals a Security Failure, in which case LADWP may conduct additional reviews at Vendor's cost; and in the case of any such event, LADWP may conduct such a penetration test more frequently). Vendor shall annually conduct a penetration test on its systems used to store or process LADWP Data. Vendor will provide the results of each penetration test to LADWP, which summary shall include the number of issues identified during the test, how Vendor will resolve the identified issues and a proposed timeline for, and commitment to, issue resolution.

13.LOGGING.

- 13.1. Vendor shall, and shall cause its Subcontractors to, generate and maintain complete and accurate logs of all events on systems and networks used to perform the Services or otherwise process LADWP Data ("**Event Logs**"), including information such as date, time, user ID, device accessed and port used. Vendor shall maintain such Event Logs in accordance with LADWP's record retention policy (as such policy may be modified from time to time and provided to Vendor in writing) and Vendor shall periodically analyze the Event Logs for security related events, unusual activities and other issues, such as unsuccessful attempts to create backup copies of LADWP Data.
- 13.2. The Vendor shall implement an approach for collecting and storing (e.g. transfer or log forwarding) security log files.
- 13.3. The Vendor shall recommend log management and Security Information and Event Management (SIEM) integration methods.

14.INFRASTRUCTURE AND PHYSICAL CONTROLS.

14.1. Physical Security.

Vendor shall maintain physical and environmental security for each location where information will be processed or stored for LADWP with limited and restricted access to authorized individuals only. Access to Vendor facilities must be monitored and recorded for audit purposes.

14.2. Access to Data / Access Controls.

Vendor ensures that controls are in place to govern access to development, test, and production systems, including their supporting infrastructure such as backup and DR sites.

Vendor must have a documented process for granting access to resources. Vendor must prevent the disclosure of customer passwords and other access control information to unauthorized recipients. User and administrator access rights for all applications and environments shall be granted on a need-to-know, right-to-know and time-to-know basis utilizing a least privilege model, separation of duties, and role-based security.

Vendor's system must enforce password expiration, length of password, and password complexity in accordance with LADWP IT Security Standards.

The identity of the user, administrator and any other person or machine that

accesses Vendor's information assets must be validated by identification (unique, non-shared login id) at a minimum and due to information asset protection may require a full authentication (password or other 2 factor (token) authentication mechanism).

Vendor shall make all attempts to federate with LADWP's identity access management system as the primary means for entry to Vendor's system.

Vendor's system must lock the user account after a specified number of failed login attempts in accordance with LADWP IT Security Standards.

Vendor ensures through documented security controls that systems, applications, network components, and other computing devices are protected from malicious activity by implementing the appropriate controls such as anti-virus, firewalls, and intrusion prevention systems.

14.3. Vulnerability Management.

Vendor ensures that information regarding technical vulnerabilities is obtained in a timely manner using industry standard information channels, that information is attested to by objective third parties, evaluated for its relevance and potential impact to the organization's assets, and appropriate measures taken to address the associated risk.

Vendor shall provide evidence and reports of vulnerability assessments performed at least 4 times a year in quarterly increments. LADWP reserves the right to conduct their own vulnerability scan against services provided by Vendor.

Vendor will apply security patches using consistent processes in a timely manner. Unless otherwise expressly agreed in writing, "timely" shall mean that Third-Party shall introduce patches as soon as commercially reasonable after the release of the patch or a fix to remediate the vulnerability.

Vendor must monitor and record events of systems, processes and procedures for detecting vulnerabilities, security breaches, violations and suspicious activity. This includes suspicious external activity (e.g. unauthorized probes/scans or break-in attempts) and internal activity (e.g. unauthorized administrator access, changes or misuse of systems or network, or data/information mishandling).

14.4. Networking and Connectivity.

Vendor shall disclose ability to establish varying methods of connectivity, and the terms associated with establishing such connectivity.

Vendor shall disclose telecommunications providers used.

14.5. **Enhancements/Upgrade.**

Vendor shall notify LADWP of any changes to the system or infrastructure such as changes made as enhancements, patches or upgrades, which can impact the security of the system.

Vendor shall provide LADWP release notes prior to upgrades which indicate changes made to system such as features added or removed, resolved issues, and existing known issues.

15.APPLICATION SECURITY AND OWNERSHIP.

15.1. **Application Security.** Vendor shall follow industry's best practices in software development life cycle with emphasis on secure coding, such as Safecode.org's *Fundamental Practices for Secure Software Development*, and application security such as the OWASP's *Top Ten Checklist*. In particular, application security measures shall include, at the minimum, the following:

- (a) Access to application and data shall use role-based access for user authentication and least-privileged principle for authorization.
- (b) Latest accepted technologies shall be used to protect against malicious code injections.
- (c) Deployment management procedures shall require separation of duties, and controls shall be in place to separate Development and Test environments from the Production environment.

15.2. **Ownership of Code and Domain.** LADWP shall own the software code if the application is developed for LADWP's proprietary use. When the application is web-based and required of a registered domain, the following shall be observed:

- (a) LADWP shall be the owner of the domain. It shall be a subdomain of LADWP's official domain "ladwp.com" and in the format of "example.ladwp.com".
- (b) The website is to be used only authorized by LADWP and in conjunction with the scope defined in the Contract or Agreement.
- (c) The website shall utilize LADWP's Single Sign On (SSO) solution as authentication method whenever possible.

EXHIBIT N
EPM Program Terms and Conditions

The EPM application must be completed by the LADWP customer of record hereinafter referred to as "Applicant."

3. Products and equipment installed at the LADWP residence must replace inefficient products. The item(s) must be new and installed in the LADWP customer residence prior to submittal of this application. Resale units, units leased, rebuilt, rented, received from warranty insurance claims, gifted, won as a prize, redeemed from points, or new parts installed in existing units do not qualify. Products must meet or exceed energy efficiency required by laws and standards (depending on the product). Room air conditioners must be window-mounted.

4. Documentation: If the product was purchased online, the Applicant may need to request additional information from the retailer or contractor, as required, to participate in the EPM. Copies of receipt(s), invoice(s), home improvement contract(s), and other required documentation must be submitted along with this completed application. Altered and illegible documents will not be accepted. LADWP is not responsible for items and documents lost, late, incomplete, or misdirected via electronic transit. Applicant should keep copies of all material sent/submitted.

5. Invoice/Receipt: An itemized "paid" invoice or receipt is required for all products, showing the type of payment. The invoice or receipt must include retailer name, business address, phone number, an itemized description of each product including manufacturer, product make and model number, product cost, and purchase date. The rebate amount cannot exceed the purchase/paid price. Rewards/points used will not be considered as part of the paid price.

6. Online purchases must include a copy of the order confirmation notification that lists the order number, purchase date, product make and model number, and payment type (paid). Delivery and installation address must be the customer's electric service address on record.

7. Eligibility Requirements: Refrigerators, LEDs, televisions, and room air conditioners must be ENERGY STAR® or ENERGY STAR® Most Efficient qualified and listed on the ENERGY STAR® approved product list at energystar.gov.

8. Rebate limits are as follows:

- Lighting – Limit 20 per household, per program year
- Television – Limit 4 per household, every 2 years
- Refrigerator – Limit 2 per household, every 10 years
- Room Air Conditioners – Limit 2 per household, every 5 years
- Programmable Thermostats - Limit 2 per household, every 2 years
- Advanced Power Strips - Limit 4 per household, every 5 years

9. Once the complete application has been reviewed and approved, an e-mail containing a Reward Link will be sent to the e-mail address used to submit the application. Follow the instructions in the e-mail to personalize distribution of e-gift card(s) or other reward options for immediate use.

10. LADWP makes no warranty whether expressed or implied, including warranty of merchantability or fitness for any particular purpose, use, or application of the item(s) or measure(s). LADWP has no liability whatsoever concerning (a) the quality, safety and/or installation of the item(s) or measure(s), including their fitness for any purpose; (b) the estimated savings of the item(s) or measure(s); (c) the workmanship of any third parties; (d) and the installation or use of the item(s) or measure(s) including, but not limited to, effects on indoor pollutants, or any other matter with respect to the EPM.

In no event shall LADWP's liability for property loss or damage resulting from its activities under this application exceed the total rebate amount paid to me under this application. The selection, purchase, installation and

EXHIBIT N
EPM Program Terms and Conditions

ownership/maintenance of the item(s) and measure(s) listed in this application are my sole responsibility. The supplier or installer of these item(s) and measure(s) is not an agent or representative of LADWP.

11. Implementation and interpretation of the Terms and Conditions of the EPM are at the sole discretion of LADWP.

12. LADWP may, at their discretion, during normal business hours and with reasonable notice, inspect the installation of any device for which a rebate is provided.

City of Los Angeles

Council Districts and ZIP Codes

Council District 01

ZIP Codes: 90005, 90006, 90007, 90012, 90015, 90017, 90018, 90020, 90026, 90031, 90032, 90033, 90039, 90041, 90042, 90057, 90065

Council District 02

ZIP Codes: 90046, 90068, 90070, 91352, 91401, 91402, 91405, 91423, 91504, 91505, 91601, 91602, 91604, 91605, 91606, 91607

Council District 03

ZIP Codes: 90072, 91302, 91303, 91304, 91306, 91307, 91311, 91316, 91324, 91335, 91355, 91364, 91367, 91406

Council District 04

ZIP Codes: 90004, 90005, 90010, 90019, 90020, 90026, 90027, 90028, 90029, 90035, 90036, 90038, 90039, 90046, 90048, 90049, 90068, 90069, 90077, 90210, 91201, 91202, 91401, 91403, 91411, 91423, 91505, 91506, 91521, 91522, 91601, 91602, 91604, 91607, 91608

Council District 05

ZIP Codes: 90024, 90025, 90034, 90035, 90036, 90038, 90046, 90048, 90049, 90064, 90066, 90067, 90069, 90073, 90077, 90095, 90210, 90211, 90212, 90230, 90232, 90272, 91316, 91335, 91356, 91403, 91423, 91436

Council District 06

ZIP Codes: 91040, 91316, 91325, 91331, 91335, 91343, 91345, 91352, 91401, 91402, 91403, 91405, 91406, 91411, 91436, 91605

Council District 07

ZIP Codes: 91043, 91042, 91208, 91214, 91331, 91340, 91342, 91343, 91344, 91345, 91352, 91402, 91501, 91504

Council District 08

ZIP Codes: 90002, 90003, 90007, 90009, 90018, 90037, 90043, 90044, 90047, 90056, 90059, 90061, 90062, 90089, 90301, 90302, 90305

Council District 09

ZIP Codes: 90001, 90002, 90003, 90007, 90009, 90011, 90013, 90021, 90037, 90044, 90047, 90059, 90062, 90089

Council District 10

ZIP Codes: 90004, 90005, 90006, 90007, 90008, 90010, 90016, 90018, 90019, 90020, 90034, 90035, 90036, 90043, 90057, 90232

Council District 11

ZIP Codes: 90025, 90034, 90043, 90045, 90049, 90056, 90064, 90066, 90073, 90084, 90230, 90245, 90250, 90265, 90272, 90290, 90291, 90292, 90293, 90301, 90302, 90304, 90402, 90403, 90404, 90405, 91316, 91356

Council District 12

ZIP Codes: 91304, 91306, 90307, 91311, 91324, 91325, 91326, 91330, 91335, 91342, 91343, 91344, 91345, 91367, 91406

Council District 13

ZIP Codes: 90004, 90005, 90012, 90017, 90020, 90026, 90027, 90028, 90029, 90031, 90036, 90039, 90046, 90057, 90065, 90068, 91202, 91204

Council District 14

ZIP Codes: 90007, 90011, 90012, 90013, 90014, 90015, 90017, 90021, 90023, 90031, 90032, 90033, 90041, 90042, 90058, 90063, 90065, 90071, 91030, 91105, 91205, 91206, 91754, 91801, 91803

Council District 15

ZIP Codes: 90002, 90044, 90059, 90061, 90247, 90248, 90275, 90501, 90502, 90504, 90710, 90717, 90731, 90732, 90744, 90745, 90802, 90810, 90813



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