

Department of Water and Power



the City of Los Angeles

ANTONIO R. VILLARAIGOSA
Mayor

Commission
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NICK PATSAOURAS
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FORESCEE HOGAN-ROWLES
BARBARA E. MOSCHOS, Secretary

RONALD F. DEATON, General Manager

November 21, 2007

The Honorable City Council
City of Los Angeles
Room 395, City Hall
Los Angeles, California 90012

Dear Members:

Subject: Agreement No. 47696 with General Electric International, Inc.

Pursuant to Charter Section 373, enclosed for approval by your Honorable Body is Resolution No. 008-107, adopted by the Board of Water and Power Commissioners (Board) on November 20, 2007, approved as to form and legality by the City Attorney, which authorizes execution of Agreement No. 47696 with General Electric International, Inc. (GE), to provide LADWP with GE field engineers and technicians, on an as-needed basis, for proprietary professional and technical consulting services. As directed by the Board, transmitted to you are supporting documents.

If there are any questions regarding this item, please contact Ms. Winifred Yancy, DWP Council Liaison, at (213) 367-0025, or Mr. Jeffrey Klueger at (213) 367-0652.

Sincerely,

Barbara E. Moschos
Board Secretary

BEM:oja

Enclosures: DWP Resolution
Board Letter
Cost Estimate
Contract History
CAO Report
Agreement No. 47696

NOV 29 2007

ENERGY & ENVIRONMENT

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c/enc: Mayor Antonio Villaraigosa

Ms. Jan C. Perry, Chair, Energy and the Environment Committee

Mr. Gerry F. Miller, Chief Legislative Analyst

Ms. Karen L. Sisson, Chief Administrative Officer

Mr. Rafael Prieto, Legislative Analyst, CLA

Mr. William R. Koenig, Supvr. Proprietary Dept. Analysis Grp.

Ms. Winifred Yancy

Mr. Jeffrey Klueger

WHEREAS, the Department of Water and Power of the City of Los Angeles (LADWP) owns, operates and maintains General Electric (GE)-manufactured steam-turbine generators and gas-turbine generators at all of its in-basin electric generating facilities; and

WHEREAS, LADWP must conduct planned outages for scheduled inspection and repairs of its GE-manufactured turbine generators in order to maintain the reliability, availability and efficiency of the turbine generators, the safety of the operating personnel, and a reliable supply of electricity to the City of Los Angeles; and

WHEREAS, LADWP has to conduct unplanned inspections and emergency repairs during forced outages of its GE-manufactured turbine generators; and

WHEREAS, GE's professional and technical support will be required for the scheduled inspections and repairs of GE-manufactured turbine generators during planned outages; and

WHEREAS, GE's professional and technical support may also be necessary for unplanned inspections and emergency repairs of GE-manufactured turbine generators during forced outages; and

WHEREAS, when one of LADWP's GE-manufactured turbine generator units is out of service for repairs, it costs the City of Los Angeles \$50,000 to \$250,000 per day (depending upon the capacity of the unit and the time of year) in lost revenues and purchased make-up power; and

WHEREAS, it is in the best interest of LADWP to have GE's professional and technical expertise available under contract to help maintain the safety, reliability and availability of LADWP's GE-manufactured turbine generators rather than incurring the additional expense and lost revenue associated with forced outages, or extending planned outages, until a contract with GE can be awarded; and

WHEREAS, this proposed Agreement No. 47696 will have a term of four (4) years and an expenditure limit of \$4,000,000 for GE's serviced to cover the planned outages for scheduled inspections and repairs for GE-manufactured turbine generators, any forced outages for unplanned inspections and emergency repairs of GE-manufactured turbine generators and the new Federal Energy Regulatory Commission and North American Electric Reliability Corporation Cyber Security Requirements for turbine generator computer control systems; and

WHEREAS, LADWP has the sole option to extend the term of the Agreement for one additional year, or portion thereof; and

WHEREAS, the total amount of this Agreement shall not exceed \$4,000,000 without further appropriation to this Agreement by the Board of Water and Power Commissioners and the City Council of the City of Los Angeles; and

WHEREAS, current Agreement No. 10298 for these services became effective November 21, 2000, has been amended four times, has \$35,500 funds remaining and will expire when the funds are exhausted.

NOW, THEREFORE, BE IT RESOLVED that pursuant to City Charter Section 1022, the Board finds that such services covered by this Agreement can be performed more feasibly by GE as the work requires knowledge, skills, and information that are proprietary to GE, and are temporary and intermittent in nature.

BE IT FURTHER RESOLVED that pursuant to Charter Section 371(e) (7), this contract is exempt from competitive bidding because it involves the performance of expert services related to proprietary equipment.

BE IT FURTHER RESOLVED that this proposed Agreement No. 47696 with GE, to provide original equipment manufacturer proprietary professional and technical services, approved as to form and legality by the City Attorney, and filed with the Secretary of the Board, between LADWP and GE be and the same, is hereby approved.

BE IT FURTHER RESOLVED that the Chief Accounting Employee, upon proper certification, is authorized and directed to draw demands on the Power Revenue Fund in payment of the obligations arising under said Agreement.

BE IT FURTHER RESOLVED that the President or Vice President, or the General Manager or such person as the General Manager shall designate in writing, and the Secretary, the Assistant Secretary, or Acting Secretary of the Board be and they are hereby authorized and directed to execute said Agreement No. 47696 for and on behalf of LADWP upon approval by the Los Angeles City Council pursuant to City Charter Section 373.



I HEREBY CERTIFY that the foregoing is a full, true, and correct copy of a resolution adopted by the Board of Water and Power Commissioners of the City of Los Angeles at its meeting held **NOV 20 2007**

APPROVED AS TO FORM AND LEGALITY
ROCKARD J. DELGADILLO, CITY ATTORNEY

Barbara E. Mosher
Secretary

NOV 14 2007
BY Marcia H. Kamine
MARCIA H. KAMINE
Assistant City Attorney

LADWP BOARD APPROVAL LETTER

TO: BOARD OF WATER AND POWER COMMISSIONERS		DATE: November 14, 2007
SUBMITTED BY:		SUBJECT:
<div style="text-align: center;"> ENRIQUE MARTINEZ Chief Operating Officer - Power System</div>	<div style="text-align: center;"> ROBERT K. ROZANSKI Acting General Manager</div>	Agreement No. 47696, with General Electric International, Inc, for Proprietary Professional and Technical Services
<div style="text-align: center; border-top: 1px solid black; height: 40px;">BOARD COMMITTEE APPROVAL:</div>		FOR COMMISSION OFFICE USE:
CITY COUNCIL APPROVAL REQUIRED: Yes <input checked="" type="checkbox"/> No <input type="checkbox"/>	IF YES, BY WHICH CITY CHARTER SECTION: 373	

PURPOSE

Recommendation to approve Agreement No. 47696 (Agreement) with General Electric International, Inc., (GE) for professional and technical services, with a not-to-exceed amount of \$4,000,000 and the duration is four (4) years, with the option to extend for an additional year.

BACKGROUND

The Los Angeles Department of Water and Power (LADWP) owns, operates and maintains GE-manufactured turbine-generator units at all of its in-basin electric generating facilities. To provide a reliable supply of electricity to the City of Los Angeles, LADWP must conduct scheduled outages for inspection, maintenance and repair of its GE-manufactured turbine-generator units. In addition to scheduled outages, LADWP also performs emergency repairs when GE-manufactured turbine-generator units fail. When a GE-manufactured turbine-generator units is off line for maintenance or repairs, it costs LADWP \$50,000 to \$250,000 per day (depending upon the capacity of the unit and the time of year) in lost revenues and/or purchased make-up power.

In order to minimize the duration of planned and unplanned outages of GE-manufactured turbine-generators, it is in LADWP's best interest to have access to GE's proprietary professional and technical expertise available on an as-needed basis. Therefore, historically LADWP has maintained an as-needed service contract with GE for this purpose.

Proposed Agreement No. 47696 would replace existing Agreement No. 10298 with GE for proprietary professional and technical services. Agreement No. 10298 became effective on November 21, 2000 and has been amended four times to add additional time and funds to the Agreement. Most recently, Amendment No. 4 to

Agreement No. 10298 was approved by the Board of Water and Power Commissioners and the City Council on December 6, 2005 and December 21, 2005, respectively, adding five years and \$1,000,000, to the Agreement for a new not-to-exceed amount of \$2,300,000, and a new expiration date of November 20, 2010. Due to much higher than expected emergency repairs and unplanned outages of the GE-manufactured turbine generators at Haynes, Valley and Harbor Generating Stations, a total of \$846,067 of unplanned expenditures were incurred under Agreement No. 10298 during 2006 and 2007. Agreement No. 10298 currently has \$35,500 in unused funds remaining. Rather than again amending Agreement No. 10298 to add additional funds, it is recommended that a new agreement, proposed Agreement No. 47696, with updated contract terms be established with GE.

Proposed Agreement No. 47696, consistent with historical agreements, provides GE field engineers and technicians, on an as-needed basis, for proprietary professional and technical consulting services. Services furnished under the Agreement are proprietary to GE and can only be provided through one of GE's field engineers or technicians. Services include providing technical direction during disassembly, inspection, repair and assembly of GE turbine-generators; troubleshooting of GE turbine-generator equipment; providing direct access to the GE Factory for engineering support and technical support; providing on-line access to the GE proprietary data base for drawings, original design data, material specifications and design changes; making changes to GE proprietary turbine-generator control system software; providing proprietary hardware and software for diagnostics and tuning of the Dry Low NOx Combustion Control Systems; conducting inspections using proprietary equipment and procedures; vibration analysis using proprietary equipment and procedures; and on-line inventory of spare parts through the factory or through other major user groups. An additional benefit of this Agreement is transfer of knowledge and information from GE to LADWP personnel for future reference.

Proposed Agreement No. 47696 would also be used for GE's support in complying with the new Federal Energy Regulatory Commission (FERC) and North American Electric Reliability Corporation (NERC) requirements for Critical Infrastructure Protection (CIP) of critical cyber assets. The GE computer control systems for the steam and gas turbine generators at LADWP electric generating facilities are Critical Cyber Assets, and GE's support will be needed to support LADWP in modifying the GE computer hardware and software to comply with the new FERC/NERC CIP requirements.

LADWP has scheduled a hot gas path inspection for the Valley Generating Station Units 6 and 7 beginning in early February 2008. It is necessary to have an Agreement in place to access GE resources to provide assistance and advice to LADWP for this major maintenance activity.

Proposed Agreement No. 47696 would serve to assist in maintaining, supporting, and improving the safety, reliability and availability of LADWP electric generating facilities, and providing a stable supply of electricity for the City of Los Angeles. The average annual historical expenditures for GE professional and technical services have averaged approximately \$500,000 over the past seven years. However, as noted above, in FY 2006-2007 significant issues were encountered requiring additional expenditures. Further, an increase in annual expenditures is anticipated in future years in order to comply with FERC and NERC requirements. Therefore, the \$4,000,000 not-to-exceed amount of the agreement provides for funding in excess of the \$2,500,000 average amount anticipated for the potential five-year term of the Agreement in order to provide LADWP the flexibility to quickly respond to emergencies and other issues as they arise.

CONTRACT TERMS

It should be noted that while proposed Agreement No. 47696 was negotiated prior to implementation of the new professional service contract template, the contract includes many of the terms implemented in the new professional service contract template, including but not limited to:

- Requiring prior written approval for all subcontractors.
- No mark up on subcontractor services or reimbursable expenses.
- Access to copies of subcontractor agreements.
- Right to audit language.
- Task Orders must be approved by the supervisor of the Contract/Project Manager.

In addition, proposed Agreement No. 47696 includes several unique terms as summarized below:

- GE maintains standard published rate sheets for power services, which cannot be modified. In order to address several exceptions taken by LADWP to the standard published rate sheets, including mark-ups and travel per diem rates, the Agreement includes language that precludes mark-ups on subcontractor and reimbursable expenses (Sections 3.3.1 and 4.2.3) and establishes per diem travel rates consistent with City policies (Section 4.2.3), that supersede the attached GE's standard published rate sheets.

- GE updates their standard published rate sheets for power services annually with escalated rates, with no limits on such increases accepted by GE. Therefore, Agreement Section 4.2.1 provides LADWP the ability, at its sole option, to terminate the Agreement if GE's annual rate increase exceeds five percent.
- The Agreement provides LADWP a five-percent discount from GE's standard published rate sheets for power services for the first \$1,250,000 of expenditures, a 7.5-percent discount for expenditures from \$1,250,000 to \$2,000,000 and a 10-percent discount for expenditures from above \$2,000,000.
- The Agreement includes the following limits on liability, which have been reviewed and concurred with LADWP's Risk Management Division:
 - (a) Zero point six two five (0.625) times the Agreement price established in Article 4.2.4 of this Agreement, for expenditures from \$0 to \$1,250,000, not to exceed \$2,500,000 total cumulative liability,
 - (b) One (1) times the Agreement price established in Article 4.2.4 of this Agreement, for expenditures above \$1,250,000 to \$2,000,000, not to exceed \$4,000,000 total cumulative liability,
 - (c) One point two five (1.25) times the Agreement price established in Article 4.2.4 of this Agreement for expenditures above \$2,000,000 to \$2,500,000, not to exceed \$5,000,000 total cumulative liability.
 - (d) Two (2) times the contract value for Services expenditures under this Agreement for expenditures above \$2,500,000.

COST AND DURATION

The term of the Agreement is for four (4) years, with the option to extend the Agreement for an additional year. The Agreement not-to-exceed amount is \$4 million (see attached cost estimate).

FUNDING SOURCE

Fiscal Years: 2007/2008, 2008/2009, 2009/2010, 2010/2011, 2011/2012 and 2102/2103

Functional Item No's.:	Facility	Functional Item No.
	Haynes	301-3117
	Scattergood	301-3118
	Valley	301-3119
	Harbor	301-3116
	Castaic	301-3125
	Aqueduct	301-3126

Location in Budget: Tab 16 of Power Detail, 35 of 62 through 41 of 62.

FISCAL IMPACT STATEMENT

Expenditures for the services are included in the scheduled maintenance budget plan of the Generation Division. If emergency services are required, reprioritization of the remaining budgeted work will take place to provide funding for the emergency work.

TYPE OF INSURANCE COVERAGE(S)

<input checked="" type="checkbox"/>	Workers' Compensation	\$1,000,000	<input type="checkbox"/>	Property Damage	
<input checked="" type="checkbox"/>	Automobile Liability	\$1,000,000	<input type="checkbox"/>	Water Craft	
<input checked="" type="checkbox"/>	General Liability	\$1,000,000	<input type="checkbox"/>	Pollution	
<input checked="" type="checkbox"/>	Professional Liability	\$3,000,000	<input type="checkbox"/>	Crime	
<input type="checkbox"/>	Aircraft Liability		<input type="checkbox"/>	Asbestos	

PRE-AWARD CHECKLIST

Yes ☒ No ☐ N/A ☐ Contract Compliance
Yes ☐ No ☐ N/A ☒ Subcontracting Opportunities
Yes ☒ No ☐ N/A ☐ Service Contractor Worker Retention Ordinance
Yes ☒ No ☐ N/A ☐ Child Support Policy
Yes ☒ No ☐ N/A ☐ Living Wage Ordinance
Yes ☒ No ☐ N/A ☐ Labor Relations Notification
Yes ☒ No ☐ N/A ☐ Charter Section 1022 Findings

CONTRACT ADMINISTRATION

This Agreement will be administered by the Mechanical Engineer in the Generation Maintenance Group of the Generation Division.

Work assignments will be issued to GE by the contract administrator, after approval by the contract administrator's supervisor, through a written task assignment. For tasks with a routine or well defined scope of work and of a known and limited duration, GE will be requested to provide a fixed price proposal for the task. For tasks where the scope of work is not well defined GE will request an estimated cost and schedule for the task. LADWP's contract administrator will compare GE's cost estimate with LADWP's independent cost estimate and negotiate the cost of task assignment accordingly.

During a work assignment, GE's service engineer reports to and works directly with a LADWP person who is either an associate electrical engineer, associate mechanical engineer or the plant engineer as designated by GE. The contract administrator will require LADWP's on-site representative to sign the GE service engineer's timesheets.

When the work authorized under the task assignment is completed, GE will send an invoice to the contract administrator. The contract administrator will check the hours and rates on the invoice against the approved timesheets and Agreement rate sheets and verify completion of services with LADWP's point contact.

The contract administrator will track total expenditures and advise the Power System in the event that contract funds are expended at a rate faster than anticipated, to allow for remedial actions early in the contract period.

The scope of work for GE in support of the FERC/NERC CIP requirements for cyber security will be determined as result of the assessment conducted by the Cyber Security Consultant. The contract administrator for this Agreement will coordinate the scope of work for GE under this Agreement with the contract administrator for the Agreement with the Cyber Security Consultant.

Time and Material: ☒ Yes ☐ No

Mark-Up: None.

FORMAL OBJECTIONS TO AWARD OF CONTRACT

Not applicable.

JOB OPPORTUNITIES AND TRAINING POLICY ☐ Applicable ☒ Not Applicable

INTERNAL AUDIT ☐ Yes (If yes, please indicate the disposition of the findings below)
 ☒ No

Disposition of Findings: Not applicable.

EXTERNAL AUDIT: ☐ Yes (If yes, please indicate the disposition of the findings below)
 ☒ No

Disposition of Findings: Not applicable.

CHARTER SECTION 1022 FINDINGS AND BASIS THEREOF

Pursuant to City Charter Section 1022, LADWP finds that such services covered by this Agreement can be performed more feasibly by GE as the work requires knowledge, skills and information that are proprietary to GE.

MEMORANDUM OF UNDERSTANDING PROPOSED CONTRACT REVIEW PROCESS

This Agreement is for GE proprietary professional and technical services and is, therefore, exempt from MOU Appendix B processing procedures.

METHOD OF SELECTION

☐ Competitive ☐ Cooperative Purchase ☒ Sole Source

It has been determined that pursuant to Charter Section 371(e) (7) this contract is exempt from competitive bidding because it involves the performance of expert services related to proprietary equipment.

OUTREACH EFFORTS TAKEN

Not applicable.

MINORITY/WOMEN BUSINESS ENTERPRISE (MBE/WBE) SUBCONTRACTING PARTICIPATION

Not applicable.

Although subcontracting opportunities are not required for this Agreement, GE is a member of the National Minority Supplier Development Council and many local affiliated Regional Councils. GE has committed to fostering supplier diversity in the Los Angeles area. The GE Sourcing Team has designated a representative to work with the local councils in order to increase their exposure to local MBE/WBE subcontractors.

VENDOR HISTORY

See attached contract history for GE.

VENDOR PERFORMANCE

GE has historically performed satisfactorily.

ENVIRONMENTAL DETERMINATION

In accordance with the California Environmental Quality Act (CEQA), it has been determined that this Agreement is exempt pursuant to the General Exception described in CEQA Guidelines Sections 15061(b)(3). General Exemptions apply in situations where it can be seen with reasonable certainty that there is no possibility that the activity in question may have significant effect of the environment.

RECOMMENDATION

It is recommended that your Honorable Board adopt the resolution, approved as to form and legality by the City Attorney, and that the Agreement be executed as authorized in the resolution.

In accordance with Executive Directive No. 4, the City Administrative Officer (CAO) has prepared a report for Agreement 47696. The CAO's report is attached.

JAK:jk

Attachments

c/att: Robert K. Rozanski, Acting General Manager
Barbara K. Garrett
Richard M. Brown
Enrique Martinez
James B. McDaniel
Robert K. Rozanski, CAO
Ronald O. Vazquez
Lillian Y. Kawasaki
Hal D. Lindsey
Pamela T. Porter
Cecilia K.T. Weldon
Matthew Lampe
Albert A. Stephens
Jeffery L. Peltola
Eric J. Tharp
Hamid V. Nejad
Jeffrey A. Klueger

AGREEMENT 47696

Cost Estimate for GE support for Planned Outages for Scheduled Inspections and Repairs, for
Unplanned Outages For Emergency Repairs and for FERC/NERC Cyber Security Compliance
of LADWP GE-Manufactured Steam Turbine Generators and Gas Turbine Generators

Year	Facility and Unit	Estimated Cost	Maintenance Activity
2008	HGS 1	\$80,000	CI & HGPI
2008	VGS 6 & 7	\$160,000	HGPI + DLNT
2008	HnGS 9 & 10	\$160,000	HGPI + DLNT
2009	HGS 2	\$80,000	CI & HGPI
2009	HnGS 5	\$170,000	Turbine Major OH
2010	VGS 6 & 7	\$120,000	CI + DLNT
2010	HnGS 9 & 10	\$120,000	CI + DLNT
2011	SGS 1	\$130,000	Turbine Major OH
2011	SGS 2	\$130,000	Turbine Major OH
2012	VGS 6 & 7	\$225,000	Turbine Major + DLNT
2012	VGS 8	\$130,000	Turbine Major OH
2012	HnGS 9 & 10	\$225,000	Turbine Major + DLNT
2012	HnGS 8	\$130,000	Turbine Major OH
2008-2012	HGS 10 -14	\$200,000	Borescope Insp & CI & HGPI
2008-2012	VGS 5	\$40,000	Borescope Insp & CI & HGPI
Total for Planned Outages		\$2,100,000	
Contingency for Planned Outages		\$200,000	
Contingency for Unplanned Outages		\$1,200,000	
Total Est for Planned and Unplanned Outages		\$3,500,000	
Est for FERC/NERC Cyber Security Compliance		\$500,000	
TOTAL FOR AGREEMENT		\$4,000,000	

Contract Hist NDICATE DATES COVERED)

Updated: December 12, 2005

Agreement/PO	Description	Competitive Bid/ Respond to Proposal	Audited & Results	Total Contract Value	Total Expenditures to Date	Amount Remaining in Contract	Original Award		Amendment No. 1		Amendment No. 2		Amendment No. 3		LADWP Contract Administrator
							Amount	Awarded	Termination Date	Contract Increase	Termination Date	Contract Increase	Termination Date	Contract Increase	
9524-0	Turbine blades for Scattergood G.S., Unit 1	Bid	No	\$243,442	\$220,373	\$0	\$243,442	Oct. 1999	1 year after delivery						John Abdelmalak
9549-0	Services, turbine repair, for Scattergood G.S., Unit 1.	Bid	No	\$526,900	\$526,894	\$0	\$489,130	1/4/00	18 months after award						Dawson Dong
9636-0	Services, turbine repair, for Haynes G.S., Unit 1.	Bid	No	\$709,497	\$529,469	\$0	\$709,497	12/19/00	18 months after award						Dawson Dong
9760-2	Services, turbine repair, for Scattergood G.S., Unit 3.	Bid	No	\$602,560	\$602,502	\$0	\$602,560	12/14/01	18 months after award						Jeff Klueger
9772-2	Services, replace IP turbine rotating anc stationary blades for SGS Unit 3.	Bid	No	\$734,900	Contract Cancelled	\$0	\$734,900	Feb. 2002	Contract Cancelled						Jeff Klueger
9766-3	Delivering/retrofitting a load tap changer on the 3-phase, 600-MVA Transformer Bank at Sylmar Switching Station, and two load tap changers at Rec. Station H.	Bid	No	\$1,122,090	\$1,084,064		\$972,930	7/26/02							Jeff Lamb
9852-3	Services, turbine repair, for Haynes G.S., Unit 6.	Bid	No	\$1,846,801	\$1,846,710		\$1,846,801	2/4/03	18 months after award						Jeff Klueger
222-1	Circuit breakers, 15-kV, for various distributing stations	Bid	No	\$402,301	\$94,854		\$402,301	7/18/00							
282B	Meters, watthours	Bid	No	\$1,508,750	\$1,508,538		\$1,508,750	Feb. 2001							
471	Luminaires, streetlight	Bid	No	\$309,189	\$123,000		\$309,189	1/3/03							
9796	Torque converter retrofit and ratchet kits	Sole Source	No	\$667,336	\$616,476		\$667,336	5/1/02							
9784	Circuit breakers, 15-kV, for various distributing stations	Bid	No	\$218,214	\$109,950		\$218,214	9/17/02							
9640N	LM6000 gas turbine generators (6) and ancillary equipment for Harbor and Valley Generating Stations	RFP	No	\$158,347,818	\$155,700,000		\$149,362,772	Sept. 2000							Richard Raemacher
10872-1	Combustion gas turbine generators (4) and steam turbine generators (2) for Haynes and Valley Repowering Project	RFP	No	\$249,000,000	\$219,439,291		\$249,000,000	2/6/01							Bob Geniner
N-7049	Combustion Chamber Hardware for Gas Turbine Model MS-7001FA-e	Bid	No	\$6,143,000	\$6,143,000	\$0	\$6,143,000	Awarded	After Material Deliv.						Don Treinen
N-7114	Combustion Turbine Capital Hardware for Haynes and Valley Generating Stations	Bid	No	\$3,780,000	\$2,935,000	\$845,000	\$3,780,000	8/8/06	After Material Deliv.						Charli Dong
10298	Professional and Technical Proprietary and Specialty Consulting Services	Sole Source	No	\$2,300,000	\$2,196,000	\$80,000	\$500,000	11/21/00	11/20/02	SEE ATTACHED AGREEMENT NO. 10298 Amendment History					Jeff Klueger

AGREEMENT No. 10298
Amendment History

	<u>Increased Amt.</u>	<u>Total Amt.</u>	<u>Increased Term</u>	<u>Total Term</u>	<u>Commencement Date of Term</u>	<u>Expiration Date of Term</u>	<u>Board Approved</u>	<u>CENR Approved</u>	<u>Council Approved</u>
Original Agreement	N/A	\$500,000	N/A	2 Years	11/21/2000	11/20/2002	11/7/2000	N/A	N/A
Amendment #1	\$300,000	\$800,000	0	2 Years	11/21/2000	11/20/2002	1/15/2002	N/A	N/A
Amendment #2	\$0	\$800,000	1 Year	3 years	11/21/2002	11/20/2003	11/5/2002	N/A	N/A
Amendment #3	\$500,000	\$1,300,000	2 Years	5 years	11/21/2003	11/20/2005	10/7/2003	10/28/2003	11/4/2003
Amendment #4	\$1,000,000	\$2,300,000	5 Years	10 Years	11/21/2005	11/20/2010	12/6/2005	12/14/2005	12/21/2005

TRANSMITTAL

0150-08404-0000

TO Robert K. Rozanski, Acting General Manager Department of Water and Power	DATE NOV 16 2007	COUNCIL FILE NO.
FROM The Mayor	COUNCIL DISTRICT	

Proposed Agreement Number 47696 between the Department of Water and Power and General Electric International, Inc. for Proprietary Professional and Technical Consulting Services in Support of GE-Manufactured Steam and Gas Turbine Generators

Transmitted for further processing, including Council consideration. See the City Administrative Officer report attached.


MAYOR

KLS:WDC:10080054ht

REPORT FROM

OFFICE OF THE CITY ADMINISTRATIVE OFFICER

Date: November 19, 2007

CAO File No. 0150-08404-0000

Council File No. 03-2286

Council District: Citywide

To: The Mayor

From: Karen L. Sisson, City Administrative Officer *KLS mt*

Reference: Letter from the Department of Water and Power dated November 14, 2007;
referred for report November 15, 2007

Subject: **Proposed Agreement No. 47696 between the Department of Water and Power
and General Electric International, Inc. for Proprietary Professional
and Technical Services in Support of GE-Manufactured Turbine Generators**

SUMMARY

The Department of Water and Power (DWP) requests authority to execute the proposed Agreement No. 47696 with General Electric International, Inc. (GE) for as-needed, proprietary professional and technical consulting services in support of GE-manufactured steam and gas turbine generators located primarily at the Department's four in-basin electric generating stations (Agreement attached).

The Agreement would ensure that DWP receives proprietary technical direction and support from General Electric International, Inc. during inspections of and repairs to turbine generators that result from planned outages, forced outages, and emergency repairs. The cost over the life of the four-year Agreement would be \$4,000,000 allocated as follows: approximately \$2,640,000 for support during planned outages and approximately \$1,360,000 for support during forced outages and emergency repairs. As of November 2007, DWP estimates that 66 percent of expenditures for this work would be for planned outages and 34 percent went for emergency repairs.

Funding will be provided from the Department's Power Revenue Fund. City Council approval of the proposed Agreement is required in accordance with Charter Section 373. The City Attorney has approved the Agreement as to form and legality.

The DWP estimates that the per-generator out-of-service costs are between \$50,000 and \$250,000 per day (depending upon unit capacity and time of year; losses are estimated based upon a combination of lost revenue and purchased make-up power). Consequently, it is important to have priority access to GE field engineers and technicians for troubleshooting; factory engineering support; on-line proprietary data bases and drawings, original design data and subsequent changes, and material specifications; control system and diagnostic software and hardware; proprietary equipment for vibration analysis; on-line spare parts inventory; and knowledge transfer from GE consultants to DWP staff.

While the anticipated total for services provided in this Agreement is \$4,000,000 over four years, there is the possibility that additional consulting services will be needed beyond the four-year agreement, especially in the event of forced outages. Consequently, the Department requests authority to exceed the original contract period and extend the Agreement term by one additional year (for a total not-to-exceed amount of \$4,000,000 during the five-year term of the Agreement) subject to the approval of the Board of Water and Power Commissioners.

Between January and September 2007, the Department experienced, in aggregate, an average of 46 days of forced outages for all GE-manufactured units at the four generating stations. According to DWP, this forced outage rate is average or slightly above average considering the age of the Department's equipment. Projecting the average rate of outages into the future, and considering the age of the equipment and the system's complexities, combined with the per-generator out-of-service costs to the City of between \$50,000 and \$250,000 per day, the Department states that it is essential that DWP has this consulting capability under contract.

Background

The DWP has contracted with General Electric International, Inc. since November 2000 for general consulting and advisory engineering services related to inspections and reconditioning of turbine generators at the Department's power generating stations. Trouble shooting during emergency forced outages was an additional service provided on an as-needed basis.

While the current contract does not expire until November 20, 2010, authority to execute a new Agreement is requested at this time because, with the exception of \$35,500, the \$2,300,000 budgeted to date for the ten-year professional and technical consulting contract has been fully expended. A greater than expected number of emergency repairs and unplanned outages of the turbine generators in 2006 and 2007, which required the services of GE technicians, resulted in the near exhaustion of available funding and contract funding authority. For that reason, and the fact that the following new features are required in the City's proposed agreement with GE, a new Agreement is proposed:

- Language was added as a workaround for GE's standard rate sheets, specifically addressing per diem and air travel rates and the Department's compliance with the new Board of Water and Power Commissioners requirements for subcontractor markups and "Right to Audit" provisions
- Language was added that maintains GE's rates at the same level for one year from the date of contract execution. Thereafter, GE's rates are updated annually; however, DWP can terminate the agreement if the rate increases exceed 5 percent
- Negotiated discounts were applied to GE's standard rates: 5 percent for the first \$1,250,000; 7.5 percent for expenditures between \$1,250,000 and \$2,000,000; 10 percent for expenditures between \$2,000,000 and \$4,000,000
- A limitation on GE's maximum liability of two times the Agreement value was added

These changes are necessary to address issues of cost and liability on the part of both parties to the Agreement.

Including the proposed Agreement No. 47696, the following illustrates the funding and contract periods for the Department's related contracts with General Electric International, Inc.:

<u>Contract/ Amendments</u>	<u>Term & Expiration</u>	<u>Amount</u>
Original Agreement 10298	2 Years – 11/21/2002	\$ 500,000
Amendment 1	No Change – 11/21/2002	300,000
Amendment 2	1 Year – 11/21/2003	-0-
Amendment 3	2 Years – 11/21/2005	500,000
Amendment 4	5 Years – 11/20/2010*	<u>1,000,000</u>
		<u>\$2,300,000</u>
 Proposed Agreement 47696	 4 Years – 12/21/2011**	 <u>\$4,000,000**</u>

* Agreement No. 10298, Section 3.11.23 states, "Unless amended, this Agreement expires on November 20, 2010 or upon the expenditure of \$2,300,000, *whichever occurs first.*" [Italics added]. As of November 2007, \$35,500 remained for this contract; consequently, unless amended, the contract will expire by or before December 21, 2007.

**A one-year renewal option, at the DWP's sole discretion, is requested subject to approval of the Board of Water and Power Commissioners. Exercising the term of the agreement option would result in a five-year agreement, ending on December 21, 2012, with a maximum expenditure of \$4,000,000.

A Charter Section 1022 determination concluded that this work can be more feasibly performed by outside contractors since DWP personnel do not have the proprietary knowledge, skills, and information to perform maintenance diagnostics, inspections, and control system software changes to GE-manufactured turbine generators. Furthermore, competitive bidding for the original agreement was deemed to be impractical (and thus, the agreement is for a sole source provider, per Charter Section 371(e)) because the work requires the performance of professional, expert, and technical services that are proprietary to General Electric International, Inc.

According to the Department of Water and Power, GE has met all of its obligations for previous contracts and agreements and is in compliance with the City's contracting requirements.

Since only \$35,500 of the Department's expenditure authority remains, the DWP is seeking to expedite execution of the Agreement so as to (1) avoid a gap in consulting services and (2) begin scheduled outages for routine maintenance in January 2008.

RECOMMENDATION

That the Mayor authorize the Department of Water and Power to execute the proposed Agreement No. 47696 with General Electric International, Inc. for proprietary professional and technical consulting services for four years in an amount not to exceed \$4,000,000 with an option to extend the term by up to one additional year, with no additional funding, subject to approval by the Board of

Water and Power Commissioners, and return the proposed Agreement to the Department for further processing, including Council consideration.

FISCAL IMPACT STATEMENT

Approval of the Agreement with General Electric International, Inc. will have no impact on the General Fund. All expenditures for this Agreement will be from the Department's Power Revenue Fund over a four-year period. Since the Department of Water and Power is only bound by the City Debt Management Policies, the City Financial Policies are not applicable.

KLS:WDC:10080051

Attachment

Agreement Number 47696

Outline of Contents

- 1.0 Agreement
- 2.0 Statement of Work
- 3.0 General Conditions
- 4.0 Compensation
- 5.0 Business Policies
- 6.0 Insurance Requirements
- 7.0 Invoices
- 8.0 Conflicts
- 9.0 Monitoring of Work
- 10.0 Title to Work
- 11.0 Signature Authorizing Agreement (Formal Agreements)

1.0 Agreement

1.1 Parties

THIS AGREEMENT is made and entered into by and between The City of Los Angeles, (City), acting by and through the LOS ANGELES DEPARTMENT OF WATER AND POWER (Department), and GENERAL ELECTRIC INTERNATIONAL, INC (Contractor), of 3990 E. Concourse Drive, Suite 300, Ontario, California 91764.

2.0 Statement of Work

2.1 Work to be Performed

The Contractor hereby agrees to provide the following services to the Department at the time and places set forth herein, pursuant to the terms and conditions of this Agreement.

Furnish proprietary and specialty technical and professional services to support the Department's planned outages for scheduled inspection and repairs, and forced outages for emergency repairs of GE-manufactured steam and gas turbine-generators at the Department's Electric Generating Facilities.

For non-GE equipment, hardware or components, the Contractor shall furnish specialty technical and professional services consistent with OEM standard installation, inspection, maintenance, and operation practices. Furthermore, the Contractor shall not be obligated to provide any proprietary information for non-GE equipment, hardware or components. Contractor shall provide engineering support to address any unit assembly, performance or operational shortfalls caused by installing non-GE replacement equipment, or components, to the extent the Contractor has knowledge of such. Any Contractor opinions, reports, or recommendations related to non-GE equipment, hardware or components shall be solely based on and rely on information supplied by the Department and/or third parties on behalf of Department.

2.1.1 Work Included In Agreement

Services furnished under this Agreement to support the Works outlined in Article 2.1 include, but are not limited to, providing inspection procedures, conducting inspections and writing reports; DLN combustion system diagnostics and tuning; troubleshooting of turbine-generator equipment and control systems; providing disassembly, repair and assembly procedures; providing technical guidance for disassembly, repair, assembly and start-up of turbine-generators; providing access to the GE Factory for engineering support, technical support, drawings, original design data, material specifications specific to the task, and design changes; locating repair parts; and transfer of knowledge as needed for the performance of the specific Task to Department personnel. The transfer of knowledge does not include technology transfer and/or Contractor proprietary information.

2.1.2 Task Management System

The services will be administered and managed using the Task Management System. Upon acceptance of a task assignment letter, the Contractor agrees to provide the deliverables required by letter within the cost and schedule estimates included in the attached Sample Task Assignment (Exhibit I).

3.0 General Conditions

3.1 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 or understandings, whether written or oral, relating thereto. This Agreement may be amended only as provided for in paragraph 3.1.1 hereof.

3.1.1 Amendment

All amendments hereto shall be in writing and signed by the person(s) authorized to bind the parties thereto.

3.1.2 Prohibition Against Assignment or Delegation

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

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

3.1.3 Non-Waiver of Agreement

The Department's failure to enforce any provision of this Agreement or the waiver thereof in a particular instance shall not be construed as a general waiver of any part of such provision. The provision shall remain in full force and effect.

3.1.4 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 Contractor by the person(s) authorized to bind the Contractor hereto;
- (b) This Agreement has been approved by the City's Council or by the Board, inclusive of City Council review period, officer, or employee authorized to give such approval;
- (c) The Office of the City Attorney has indicated in writing its approval of this Agreement as to form and legality;

(d) This Agreement has been signed on behalf of the Department by the person designated by the Board, officer or employee authorized to enter into this Agreement; and

(e) All insurance and board requirements have been executed by Contractor and approved by Department.

3.1.5 Independent Contractor

The Contractor is acting hereunder as an independent Contractor and not as an agent or employee of the Department. The Contractor shall not represent or otherwise hold out itself or any of its directors, officers, partners, employees, or agents to be an agent or employee of the Department.

3.1.6 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. This Agreement shall be enforced and interpreted under the laws of the State of California and the City of Los Angeles with venue for any litigation in Los Angeles, California.

If any part, term or provision of this Agreement shall be held 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 portions or provisions shall not be affected thereby.

3.1.7 Data Provided by the Department

The Contract Administrator shall provide and/or assist the Contractor in providing such data as may be needed by the Contractor to establish design criteria, space and equipment needs, number of personnel, and such other information that is needed by the Contractor to perform the work.

3.2 Personnel

3.2.1 Staff Size

The size of the staff employed by the Contractor in the performance of the services shall be kept consistent with the service and schedules established in (the task assignment) (fee schedule).

3.2.2 Identification of Key Personnel

The Contractor shall furnish the Department the names, titles, and qualifications of its key project personnel.

3.2.3 Approval of Key Personnel

The Contract Administrator will have the right to review and approve personnel. Resumes of individual personnel will be reviewed by the Department's Contract Administrator before the individual can be assigned work.

3.2.4 Changes in Key Personnel

The Contractor shall minimize changes to its key project personnel. The Department shall have the right to request key project personnel changes and to review and approve key project personnel changes proposed by the Contractor. The Department's approval of key project personnel assignments and changes shall not be unreasonably withheld.

3.3 Subcontractors

3.3.1 Subcontracts/Joint Participation Agreements

With prior written approval of the Department, the Contractor may enter into subcontracts and joint participation agreements with others for the performance of portions of this Agreement. The Contractor shall at all times be responsible for the acts and errors or omissions of its subcontractors or joint participants and persons directly or indirectly employed by them. Nothing in this Agreement shall constitute any contractual relationship between any others and the Department or any obligation on the part of the Department to pay, or to be responsible for the payment of, any sums to any subcontractors.

The Department shall reimburse subcontract expenses at the actual amount paid by the Contractor to the subcontractor, consistent with the subcontractor rates established for subcontractors upon their approval by the Department. The Contractor may invoice for direct services in the management, oversight, and administration of subcontractors, including the Contractor's reviewing and processing of subcontractor invoices. No markup by the Contractor or subcontractor for subcontractor services of any tier shall be allowed.

3.3.2 Copies of Subcontractor Agreements

Upon written request from the Contract Administrator, the Contractor shall supply the Department with all subcontractor agreements.

3.3.3 Provisions Binding On Subcontractors

The provisions of this Agreement shall apply to all subcontractors in the same manner as to the Contractor. In particular, the Department will not pay, even indirectly, the fees and expenses of a subcontractor which do not conform to the limitations and documentation requirements of this Agreement.

3.3.4 Subcontractor Subcontracting

Subcontractor's subcontracting or delegation of services is expressly prohibited unless approved in writing by the Department.

3.4 Facility Visits

3.4.1 Arrangements

Facility visits shall be arranged through the Contract Administrator who will advise the Contractor of appropriate safety and security rules. The Contractor shall adhere to the restrictions and instructions of Department personnel when visiting any facility.

3.4.2 Equipment Operation Prohibited

The Contractor is not authorized to operate the Department's equipment. All operation of the Department's equipment shall be performed by the Department. The Contractor's personnel shall at all times remain under the control of the Contractor.

3.5 Contractor's Quality Assurance Program

The Contractor shall perform the work in accordance with the Contractor's Quality Assurance Program, which shall be subject to review, approval, and audit by the Department. The Contractor's work shall reflect competent professional knowledge, judgment, and accepted industry practice. The Contractor shall promptly correct, or remedy any work, errors, or omissions, at its sole expense, which do not conform to the provisions of this Agreement.

3.6 Contractor's Illness and Injury Prevention Program

The Contractor shall do everything reasonable to protect the life, safety, and health of persons at the construction site. The Contractor 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 Contractor shall be responsible for ensuring that each of the Contractor's subcontractors meets the standards of this Article.

3.7 Drawing Quality

Drawings produced by the Contractor shall conform to the best standards of the profession. Information shall be organized in a logical, systematic manner with as much information on a single drawing as can be done without impairing clarity and quality. Drawings shall be positive and right reading. They shall not be folded and shall be sufficiently legible to make 35 mm microfilm negatives which can be read clearly when

enlarged 14.5 times. Final drawings shall be furnished either on mylar sheets or on vellum sheets.

Drawings shall fully demonstrate the work to be done and the materials required. Dimensions, diagrams, descriptions, cross sections, and details shall demonstrate adequacy of design. Engineering calculations which demonstrate the adequacy of proposed repairs shall be submitted (upon request).

3.8 Automated Drafting System *[This section is intentionally omitted.]*

3.9 Professional Licensure *[This section is intentionally omitted.]*

3.10 Representatives and Notices

The representatives of the respective Parties authorized to administer this Agreement, including, but not limited to, Task Order and Charge Order Notice approval and authorization to exercise the one year extension option provided for in Article 3.11.2.4, and to whom formal notices, demands and communications shall be given are as follows:

DEPARTMENT OF WATER AND POWER
CITY OF LOS ANGELES
Hamid V. Nejad
111 North Hope Street, Room 1141
Los Angeles, California 90012-2694

With copies sent to:

DEPARTMENT OF WATER AND POWER
CITY OF LOS ANGELES
Jeffrey A. Klueger
Contract Administrator
111 North Hope Street, Room 1141
Los Angeles, California 90012-2694

Any notice, demand, or request directed to the Contractor shall be delivered to:

GE INTERNATIONAL, INC
Christopher Henthorn
Service Manager
3990 E. Concourse Drive, Suite 300
Ontario, California 91764

Such correspondence shall be in writing, except as specified elsewhere in this Agreement. Service will be deemed complete upon receipt.

3.10.1 Change of Address or Representatives

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

3.10.2 Excusable Delays

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

If the Contractor is delayed by acts or omissions of the Department, or by the prerequisite work of Department's other contractors or suppliers, or by a change in any laws that affect the performance of a particular Task, the Contractor shall also be entitled to an equitable price adjustment

3.10.3 Breach

Except for excusable delays, if any party fails to perform, in whole or in part, any promise, covenant, or agreement set forth herein, or should any representation made by it be untrue, any aggrieved party may avail itself of all rights and remedies, at law or equity, in the courts of law. Said rights and remedies are cumulative of those provided for herein except that in no event shall any party recover more than once, suffer a penalty or forfeiture, or be unjustly compensated.

The Contractor and Department must undertake the dispute resolution procedures established in Article 3.16 of this Agreement prior to initiating any breach action pursuant to this Article 3.10.3. Refusal by either Party to participate in the specified dispute resolution procedures within the time specified in Article 3.16 constitutes a waiver of the specified dispute resolution procedures as a condition precedent to proceeding under this Article 3.10.3.

3.10.4 Permits

The Contractor and its officers, agents and employees shall obtain and maintain all permits and licenses necessary for the Contractor's performance hereunder and shall pay any fees required therefor.

3.11 Suspension and Termination

3.11.1 Suspension of Work

The Contract Administrator may orally direct the Contractor to suspend, and to subsequently resume performance of all or any part of the work. Such direction shall be confirmed in writing within 10 working days. An equitable adjustment in the work completion schedule and price (if fixed price) shall be negotiated and confirmed by a Change Order or a revision to a task assignment if such suspension impacts the cost of the work and/or work completion schedule. The Department shall complete the payments due for the suspended work up to the effective date of suspension notice and shall resume payments effective as of the work resumption date.

3.11.2 Termination of Agreement

3.11.2.1 Cancellation Without Cause

This Agreement may be canceled by the Department, without cause, on 30 calendar days' written notice or at any time by mutual agreement of the parties. Said notice, on the Department's behalf, will be given by the Assistant General Manager – Power. Upon receipt of such notice, the Contractor shall immediately stop all work under this Agreement. The Contractor shall be entitled to payment for all services performed to date of cancellation and shall be compensated at the established rates for all work required to organize and deliver all material developed in the course of the work to date of termination. Notwithstanding the expenditure limit established in Article 4.2.4 of this Agreement, the Department shall only be obligated to pay for services performed by the Contractor to the date of the termination without cause under Article 3.11.2.1. The Contractor shall then deliver to the Department, in an organized and usable form, all work done prior to the date of cancellation.

In the event of a termination without cause under Article 3.11.2.1, where there are no pending claims against the Contractor pursuant to the terms of this Agreement and notwithstanding the limits of liability established in Article 3.14 of this Agreement, the Contractor's limit of liability shall be limited to one (1) times the actual amount the Contractor was paid by the Department pursuant to this Agreement, except for losses resulting directly or indirectly from Contractor's willful misconduct, or from personal injury or third party property claims which shall remain as specified in Article 3.14.

3.11.2.2 Cancellation for Cause

In the event of default by the Contractor, the Department, upon 15 calendar days' written notice to the Contractor, may terminate the Contract as provided herein. It shall be considered a default by the Contractor whenever it shall:

- (1) Declare bankruptcy, become insolvent, or assign its assets for the benefit of its creditors;

- (2) Fail to provide materials or workmanship meeting the requirements of the technical Specifications;
- (3) Disregard or violate important provisions of the Contract Documents or fail to prosecute the work according to the mutually approved progress schedule; or,
- (4) fail to provide a qualified superintendent, competent workmen, or subcontractors, or materials or equipment meeting the requirements of the Contract Documents.

Contractor is allowed to remedy the failures within thirty days after Contractor receives such notice, or if such breach is not reasonably capable of correction within such period, fails to commence correction within such period and diligently pursues such correction to completion within a reasonable time.

In the event the Contract is terminated in accordance with this subarticle, the Department may take possession of the work which has been provided in connection with the work, and may complete the work by whatever reasonable method or means the Department may select. The cost of completing the work of authorized Task Orders shall be deducted from the balance which would have been due the Contractor had the Contract not been terminated and the work completed in accordance with the Contract Documents. If such cost exceeds the balance which would have been due, the Contractor shall pay the excess amount to the Department. If such cost is less than the balance which would have been due, the Contractor shall not have claim to the difference except to such extent as may be necessary, in the opinion of the Contract Administrator, to reimburse the Contractor or the Contractor's sureties for any expense properly incurred for materials, tools, equipment, property, and labor devoted to the prosecution of the work, of which the Department shall have received the benefit. In computing such expenses, as it relates to equipment and property, the salvage value at completion of the work shall be deducted from the depreciated value at the time the contract was terminated, and the difference shall be considered as an expense.

3.11.2.3 Termination Due to Expenditure Limit

This Agreement will automatically terminate if expenditures reach the limits specified in Article 4.2.4.

3.11.2.4 Term of Agreement

The term of this Agreement shall commence upon completion of Article 3.1.4 Time of Effectiveness and shall terminate four (4) years thereafter, subject to the termination provisions herein.

At the Department's sole option, the term of this Agreement may be extended for up to an additional one year (1), or any portion thereof.

3.11.2.5 Termination of the Services of any Person

If the Department no longer requires the services of a particular person(s) supplied by the Contractor, the Department may terminate the services upon written notice to the Contractor.

3.12 Infringement of Intellectual Property Rights:

3.12.1 Contractor will defend at its expense and hold harmless in any infringement claim, demand, proceeding, suit or action ("Action" hereinafter) against The Los Angeles Department of Water and Power, its officers, directors, agents, employees, or affiliates ("Department") for any infringement or violation, actual or alleged, direct or contributory, intentional or otherwise, of any intellectual property rights, including US or EU patents, copyrights, trade secrets, trade marks, 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 Contractor in the construction of the work under this Contract; or (2) as a result of the Department's actual or intended use under the specifications contained herein by the Department of any Product furnished by Contractor. Product herein includes, without limitation, any hardware, software, firmware, equipment, device, instrumentation, design, medium, matter, plant, article, process, method, and application. Contractor also shall indemnify the Dept against any loss, cost, expense, liability, and damages finally awarded against the Dept or settlement as a consequence of such Action.

3.12.2 Contractor, however, shall have no liability to the Department hereunder with respect to any claim of infringement which is based upon the combination or utilization of the Contractor's Product with machines or devices not reasonably anticipated hereunder; or based upon an unintended modification by the Department of the Product furnished hereunder.

3.12.3 Within twenty working days, the Department shall notify Seller in writing of any such infringement Action under this subarticle. In Contractor's defense of the Department, negotiation, compromise, and settlement of any such infringement Action, the Department shall retain discretion in and control of the litigation, negotiation, compromise, settlement, and appeals therefrom, as required by the Los Angeles City Charter, particularly Article II, Sections 271, 272 and 273 thereof. The Department shall make a good faith effort to provide Contractor with the full disclosure and assistance that may be reasonably required to defend any such infringement Action.

3.12.4 In addition, if any part of the 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; Contractor shall, with the Department's consent, do one of the following immediately. Contractor shall at its expense either: i) procure for the Department the right to continue using said part of the Product; ii) replace the Product with a functionally equivalent, non-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 the Department or diminish the intended benefits and use of the Product by the Department under the specifications herein. If Contractor proves to the Department's satisfaction that none of option (i), (ii), and (iii) is commercially feasible, Contractor shall instead refund the full purchase price of the Product.

3.12.5 Rights and remedies under Article 3.12 available to the Department hereinabove shall survive the expiration or other termination of this agreement. Further, the rights and remedies under Article 3.12 are cumulative of those provided for elsewhere in this Contract and those allowed under the laws of the United States, the State of California, and the City of Los Angeles. This Article shall survive the expiration or other termination of this Contract.

3.13 Express Warranty Provision

3.13.1 Services will be performed in a workmanlike manner and recommendations for corrective action made in connection with technical investigations or inspections or the like, will be based on Contractor's best judgment considering the facts then known. Such warranty shall extend for twenty-four (24) months from the date of completion of Services.

3.13.2 Should any failure to conform with the applicable warranties appear during the specified periods Contractor shall correct such nonconformity, at the Department's option, by, re-performance or replacement of the non-conforming Services. If such correction is impractical or impossible, Contractor shall refund the purchase price of the non conforming Services. Notification of alleged warranty non-conformities shall be made promptly upon discovery, but in no event later than thirty (30) days prior to the expiration of the warranty period., Re-performance or replacements pursuant to warranty shall not renew or extend the applicable warranty period, provided however, that any such re-performance or replacement portions of the Services shall be warranted for the time remaining of the original warranty or for one hundred and eighty (180) days after correction, whichever is longer. In no event shall any warranty period, including extension thereto, extend for more than twenty-four (24) months from completion of Services.

3.13.3 Contractor shall not be responsible for (i) providing working access to the defect, including disassembly and reassembly of equipment; or (ii) for removal and reinstallation, unless such activities were part of Contractor's original scope as set forth in the Order for which a warranty non-conformity is alleged. Except as provided for herein providing access for Warranty correction shall be at the Department's risk and expense.

3.13.4 Except to the extent Services warranties are further addressed in another part of the Contract, the preceding paragraphs set forth the exclusive remedies for all claims based on failure of or defect in the Services provided under the Contract or performance,

whether the failure or defect arises before or during the applicable warranty period. The foregoing warranties are exclusive and are in lieu of all other warranties and guarantees whether written, oral, implied or statutory. NO IMPLIED STATUTORY WARRANTY OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE SHALL APPLY.

3.13.5 Contractor's actions under this Agreement shall in no way result in any design, workmanship, performance, or material defect warranty obligation upon Contractor for non-GE equipment, hardware or components.

3.14 Limitation of Liability

Except for losses resulting directly or indirectly from Contractor's willful misconduct, or from personal injury or third party property claims, the Contractor shall not be liable in contract, tort, or otherwise, for consequential, indirect, or incidental damages of any nature whatsoever. The total cumulative liability of the Contractor to the Department regardless of whether the claim is based in contract, warranty, indemnity, tort liability (including negligence, strict liability or otherwise) shall be:

- (a) Zero point six two five (0.625) times the Agreement price established in Article 4.2.4 of this Agreement, for expenditures from \$0 to \$1,250,000, not to exceed \$2,500,000 total cumulative liability,
- (b) One (1) times the Agreement price established in Article 4.2.4 of this Agreement, for expenditures above \$1,250,000 to \$2,000,000, not to exceed \$4,000,000 total cumulative liability,
- (c) One point two five (1.25) times the Agreement price established in Article 4.2.4 of this Agreement for expenditures above \$2,000,000 to \$2,500,000, not to exceed \$5,000,000 total cumulative liability.
- (d) Two (2) times the contract value for Services expenditures under this Agreement for expenditures above \$2,500,000.

All liability under the Contract shall terminate four (4) years following the expiration or termination of this Agreement.

3.15 Differing Site Conditions; Hazardous Materials

Contractor shall promptly and, if feasible, before such conditions are disturbed, notify the Department in writing of: (i) subsurface or latent physical conditions at the Site differing materially from those indicated in the Contract, or (ii) unknown physical conditions at the Site, of an unusual nature, differing materially from those ordinarily encountered and generally recognized as inhering in the work of the character provided for in the Contract. The Department shall promptly investigate the conditions. If it is determined that such conditions do materially differ and cause an increase in Contractor's cost of, or the time required for, performance of any part of the work under the Contract, an equitable adjustment in price and time of performance shall be made and the Contract modified in writing accordingly.

If, at the Site, Contractor encounters toxic substances, hazardous substances or hazardous wastes (as such terms may be defined in any statute or ordinance or regulations promulgated by any federal, state or local governmental authority of the United States or the country of the Site) (collectively, the "Hazardous Materials") which require special handling and/or disposal, The Department shall immediately take whatever precautions are required to legally eliminate such hazardous conditions so that the work under the Contract may safely proceed. If any such Hazardous Materials cause an increase in Contractor's cost of or the time required for performance of any part of the work, an equitable adjustment shall be made in the price and schedule. The Department agrees to properly dispose of all Hazardous Materials produced or generated in the course of Contractor's work at the Site. The Department shall indemnify Contractor for any and all claims, damages, losses, causes of action, demands, judgments and expenses arising out of or relating to (i) the presence of any Hazardous Materials which are present on the Site prior to the commencement of Contractor's work or (ii) improperly handled or disposed of by the Department or (iii) brought on to the Site or produced thereon by parties other than Contractor.

3.16 Dispute Resolution

Both Parties shall undertake to reach an amicable settlement in cases of dispute arising out of or in connection with this Agreement. If an amicable settlement cannot be reached, or in the event of default that could result in termination of this Agreement, the Department and the Contractor shall schedule a meeting of the Assistant General Manager of the Power System and a General Manager of GE Energy Services in a good faith attempt to resolve the issue(s) in dispute. Such a Dispute resolution meeting shall be scheduled and held within 10 days of written request by either Party. The meeting shall allow for a detailed presentation of each Party's views on the issue(s) and potential solution(s) to the dispute or default. If possible, the meeting should result in an agreed upon course of action to resolve the dispute or default. If the dispute is not resolved within fifteen (15) business days after the date of the meeting of higher management, or any later date to which the Parties may agree, either Party may bring a claim, legal action or proceeding in court to resolve the dispute in accordance with the governing law and jurisdiction set forth in Article 3.1.6.

3.16.1 The Contractor and the Department shall continue to perform work under the Agreement during any dispute.

3.16.2 The Contractor and Department must undertake the dispute resolution procedures established in this Article 3.16 prior to initiating any breach action pursuant to this Article 3.10.3. Refusal by either Party to participate in the specified dispute resolution procedures within the time specified in this Article 3.16 constitutes a waiver of the specified dispute resolution procedures as a condition precedent to proceeding under Article 3.10.3.

4.0 Compensation

4.1 Lump Sum

For Tasks with a routine, or well defined scope of work and of a known and limited duration the Contractor shall provide a fixed price proposal for the Task. Payment for the Task will be made lump sum upon successful completion of the Task, and receipt and approval of the invoice. Examples of lump sum Tasks include, but are not limited to, borescope inspections and reports, standard inspections and reports, standard diagnostics and reports, standard testing and reports, and tuning of turbine-generator controls and combustion systems.

For each Task the Contractor shall furnish the names, titles, and resumes for the Contractors personnel assigned to the Task. The Departments Contract Administrator will review resumes of the Contractors personnel before the individual can be assigned work. The Contract Administrator will have the right to review and approve the Contractors personnel.

4.2 Specific Rates of Compensation or Time-and-Material Basis

For Tasks where the scope of work is not well defined the Contractor shall provide an estimated cost for the Task and payment will be made on a time-and-material basis. Examples of time-and-material Tasks include, but are not limited to, inspecting and troubleshooting failed equipment; inspecting and troubleshooting equipment that is not operating properly, and providing technical direction to the Department during turbine-generator disassembly, repair, assembly, and start-up.

For each Task the Contractor shall furnish the names, titles, and resumes for the Contractors personnel assigned to the Task. The Departments Contract Administrator will review resumes of the Contractors personnel before the individual can be assigned work. The Contract Administrator will have the right to review and approve the Contractors personnel.

The following rate schedules are attached:

GE Energy
Commercial Rates for Power Services
Effective January 1, 2007
(Exhibit III)

and,

**GE
Optimization and Control Services
US Services and Rate Schedule
Rates effective 1 February 2006
(Exhibit IV)**

and,

**GE Energy
Global Field Services
Dated 10/07
(Exhibit V)**

4.2.1 Fees

Based on the Task Assignment, the Department will pay for services either lump sum, or on a time-and-material basis. Payment for services on a time-and-material basis will be at the rates established in the rate schedules, discounted as follows:

- 5% discount off published rates for first \$1,250,000 expenditure
- 7.5% discount off published rates for expenditure from \$1,250,000 to \$2,000,000
- 10% discount off published rate for expenditure from \$2,000,000 up to \$4,000,000
- Any additional discount, if any (e.g., advance commitment rates) as presented in the rate schedule will not apply
- Peak rate multipliers as presented in the rate schedules shall not apply

These rates shall remain in effect for one year from the date of this Agreement and for the duration of any Task Orders authorized during the year period. Published rates may be updated annually thereafter by the Contractor. The Department, at its sole option, may terminate this Agreement in the event that any annual rate increase implemented by the Contractor exceeds 5-percent (5%).

4.2.2 Fees (Alternate)

4.2.2.1 Overtime Premiums

Overtime premiums shall be as established in the rate schedules.

4.2.2.2 Travel Time Within Los Angeles

Travel time of the Contractor's personnel from their home offices located in the greater Los Angeles area to a work site in the Los Angeles area and return shall be counted as time worked, except that, any travel time which precedes or follows a

day's work shall be counted as time worked only if it exceeds an aggregate of one hour per day and shall not in any event exceed four hours for that day. Travel time shall be charged at the Normal, or Straight Time rate, without premium for overtime.

4.2.2.3 Travel Time Outside Los Angeles

When the Contractor's personnel are located outside of the greater Los Angeles area, travel time from their home office to a work site in Los Angeles and return shall be counted as time worked, without premium for overtime, in accordance with the rate schedules. When the Contractor's personnel are located within the greater Los Angeles area, travel time to a work site located outside of the Los Angeles area and return shall be counted as time worked, without premium for overtime, in accordance to the rate schedules

4.2.3 Compensation for Expenses

4.2.3.1 Travel Expenses Outside Los Angeles Area

When the Contractor's personnel are located outside the greater Los Angeles area and are required to work at Department facilities in the greater Los Angeles area, and when the Contractor's personnel are located in the greater Los Angeles area and are required to work at a Department facility located outside of the greater Los Angeles area, the Department will reimburse the Contractor as in accordance to the per diem rates follows:

- 1) For overnight lodging, meals and ground transportation: \$250 per day.
- 2) For the day following an overnight stay when the contractor returns home (breakfast, lunch and ground transportation): \$75 per day.
- 3) For a one day service with no air travel or overnight stay (lunch and ground transportation): \$55 per day.
- 4) Necessary approved coach air travel will be at cost plus \$50 for administrative fees.

The above rates supersede the rates in the attached GE Rate Schedules (Exhibits III, IV and V).

4.2.3.2 Travel Expenses Within Los Angeles Area

When the Contractor's personnel are located within the greater Los Angeles area and are required to work at Department facilities in the greater Los Angeles area,

the Department will reimburse the Contractor in accordance with the per diem rate in Article 4.2.3.1.3 for lunch and ground transportation at: \$55 per day.

4.2.3.3 Other Reimbursable Expenses

Other reimbursable expenses include purchase of special equipment, necessary field supplies and facilities, testing and laboratory services, shipping charges in excess of ten dollars (\$10.00), parts, materials, and supplies used in the work performed for the Department pursuant to an authorized Task Order.

Reimbursable expenses shall be paid by the Department at the actual cost of such expenses, the expense rates established in the Rate Schedules, Contractor Labor Rates and Fees, or the expense rates established in an authorized Task Order, as applicable. In the event of a conflict between the expense rates established in the Rate Schedules and an authorized Task Order, expenses shall be reimbursed at the lowest rate. No markup by the Contractor, subcontractor, or supplier for other reimbursable expenses shall be allowed.

Any items purchased at the request of the Department to accomplish the task assignment in an authorized Task Order shall be charged to the Department, shall become the property of the Department, and shall be delivered to the Department by the Contractor upon request or completion of the Task Order. Any other items purchased by the Contractor for a task assignment shall be the property of the Contractor, shall not be charged to the Department, and shall not be reimbursed by the Department.

4.2.3.4 Expense Approval *[This section is intentionally omitted.]*

4.2.4 Expenditure Limits

The total amount of this Agreement shall not exceed \$4,000,000 without further appropriation to this Agreement by the Board of Water and Power Commissioners and the City Council. The Department agrees not to expend less than \$2,000,000 during the term of this Agreement.

4.2.5 Expenditure Reports

4.2.5.1 Task Assignment Exceeding \$20,000

The Contractor shall notify the Contract Administrator, in writing, upon spending 50 and 75 percent of monies allowed under any particular task assignment exceeding \$20,000.

4.2.5.2 Task Assignment Exceeding \$100,000

The Contractor shall **notify** the Contract Administrator, in writing, upon spending 40 and 75 percent of monies allowed under any particular task assignment exceeding \$100,000.

5.0 Business Policies

5.1 Department of Water and Power's Recycling Policy

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

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

5.2 NonDiscrimination/Equal Employment Practices/Affirmative Action Construction & NonConstruction Contractors

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

Each of the above documents, if approved, shall be effective for twelve (12) months following the date of approval for the Affirmative Action practices. An Affirmative Action plan shall be in effect and on file with the Department for the duration of the contract period.

5.3 Supplier Diversity

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

5.3.1 MBE/WBE Defined

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

1. A business that is at least 51 percent owned by one or more minority person(s) or women or, in the case of any business whose stock is publicly held, at least 51 percent of the stock is owned by one or more minority person(s) or women.
2. A business whose management and daily business operations are controlled by one or more minority person(s) or women.

5.3.2 Efforts to Obtain Participation

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

1. Meetings with MBEs, WBEs, associations representing MBEs, WBEs and other groups.
2. Identification of selected portions of the work to be performed by subcontractors in order to provide participation by MBEs, WBEs, and other business enterprises. The Contractor shall, when economically feasible, divide total contract requirements into small portions or quantities to permit maximum participation of MBEs, WBEs, and other business enterprises.
3. Requests for proposals from interested business enterprises or proposals in newspapers, trade association publications, minority or trade-oriented publications, trade journals, or other appropriate media.
4. Providing written notice to those business enterprises, including MBEs and WBEs, having an interest in participating in this Agreement. The Contractor shall document that invitations were sent to available MBEs, WBEs, and other business enterprises for each portion of the work.
5. Documenting efforts to follow up initial solicitations of interest by contacting the business enterprises to determine whether the enterprises are interested in participating in the work.

6. Providing interested enterprises with information about the plans, specifications, and requirements for the selected subcontracting work.
7. Requesting assistance from organizations that provide assistance in the recruitment and placement of MBEs, WBEs, and other business enterprises.
8. Negotiating in good faith with interested MBEs, WBEs, and other business enterprises and not unjustifiably rejecting proposals prepared by any enterprise. As documentation, the bidder shall submit a list of all documentation, the bidder shall submit a list of all sub-bidders for each portion of potential work for MBEs, WBEs, and other business enterprises.
9. Documenting efforts to advise and assist interested MBEs, WBEs and other business enterprises in obtaining bonds, lines of credit, or required insurance.

5.3.3 Program Documentation

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

1. The name of each participating subcontractor;
2. Description of work each subcontractor has contracted to perform;
3. The percentage of completion for the work under each subcontract;
4. The compensation contracted to be paid to each subcontractor (attach copy of subcontractor's invoice);
5. The cumulative compensation earned by each subcontractor; and
6. The cumulative compensation paid to each subcontractor.

5.4 Service Contract Worker Retention And Living Wage Policy

5.4.1 General Provisions

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

assistance of one million dollars or more in any 12-month period, shall comply with the following provisions of the ordinances:

- (a) Retention for a 90-day transition period, the employees who were employed for the preceding 12 months or more by the terminated Contractor or subcontractor, if any, as provided for in the SCWRO;
- (b) Payment of a minimum initial wage rate to employees as defined in the LWO, of \$9.39 per hour, with health benefits of at least \$1.25 per hour, or otherwise \$10.64 per hour without benefits.

5.4.2 Termination Provisions

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

5.4.3 Invoice Provisions

All invoices related to SCWRO and LWO Contracts shall contain the following statement:

“The Contractor fully complies with Section 10.36 et. seq.
And Section 10.37 et. seq., SCWRO and LWO, respectively,
of the Los Angeles Administrative Code.”

5.5 Child Support Policy

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

Failure of the Contractor and/or any Subcontractor(s) to fully comply with all applicable reporting requirements or to implement lawfully served Wage and Earnings Assignments or Notices of Assignment or failure of the principal owner(s) to comply with any Wage and Earnings Assignments or Notices of Assignment applicable to them personally shall

constitute a default under the Contract. Failure of the Contractor and/or any Subcontractor(s) or principal owner(s) thereof to cure the default within 90 days of notice of such default by the City shall subject the Contract to termination.

5.6 Job Opportunities and Training Policy

Contractor shall comply with the requirements of LADWP Job Opportunities and Training Policy if applicable.

6.0 Insurance Requirements

6.1 General Statement

It is the policy of Los Angeles Department of Water and Power (LADWP) that upon the award of a contract, the selected Bidder/Proposer/Vendor must provide evidence of insurance that conforms to the insurance requirements of the bid/proposal/agreement. Insurance requirements are explained in detail in the following language and "Contract Insurance Requirements" sheet (Exhibit II), which specifically outlines the types and amounts of coverage required for this project. For your information and use, "Special Endorsement Forms", "Guidance for Submitting Evidence of Insurance" and information on our insurance program for small vendors are available on our website.

Upon award of contract/agreement, acceptable evidence of required insurance, from insurers acceptable to the Department, will be required to be submitted within 30-days of the date of award and maintained current throughout the term of the contract. Said evidence of insurance must be on file with the Risk Management Section in order to receive payment under any contract for services rendered, and in order to commence work under your contract.

For further information regarding these requirements, please contact:

Los Angeles Department of Water and Power
Risk Management Section
Phone: (213) 367-4674
Fax: (213) 367-0214
Web: <http://www.ladwp.com/ladwp/cms/ladwp005363jsp>

6.2 Applicable Terms and Conditions

6.2.1 Additional Insured Status Required

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

6.2.2 Severability of Interests and Cross Liability Required

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

6.2.3 Primary and Non-Contributory Insurance Required

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

6.2.4 Deductibles Subject to Department's Discretion

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

6.2.5 Proof of Insurance for Renewal or Extension Required

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

6.2.6 Submission of Acceptable Proof of Insurance and Notice of Cancellation

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

6.2.7 Claims-Made Insurance Conditions

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

6.2.8 Failure to Maintain and Provide as Cause for Termination

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

6.2.9 Sub-Contractor Compliance

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

6.2.10 Periodic Right to Review/Update Insurance Requirements

The Department and Contractor/Vendor agree that the insurance policy limits specified on the attached Contract Insurance Requirements page may be reviewed for adequacy annually throughout the term of this Agreement by the Risk Manager/City Attorney, who may thereafter require Contractor/Vendor to adjust

the amounts and types of insurance coverage however the Risk Manager/City Attorney deems to be adequate and necessary. City reserves the right to have submitted to it, upon request, all pertinent information about the agent and carrier providing such insurance, including applicable license and ratings.

6.2.11 Specific Insurance Requirements

See Attached: Contract Insurance Requirements – Department of Water and Power

6.2.12 Indemnification

Subject to the requirement in Limit of Liability (Article 3.14), the Contractor undertakes and agrees to indemnify and hold harmless the City of Los Angeles, the Department of Water and Power, the Board of Water and Power Commissioners of the City of Los Angeles, and all of their officers and employees, and, at the option of the Department, defend the Department, and any and all of their Boards, officers, agents, representatives, employees, assigns and successors in interest from and against any and all suits and causes of action, claims, charges, damages, demands, judgments, civil fines and penalties, or losses of any kind or nature whatsoever, for death, bodily injury or personal injury to any person, including Contractor's employees and agents, or damage or destruction to any physical property of either party hereto, or third persons in any manner arising by reason of the negligent acts, errors, omissions or willful misconduct incident to the performance of this contract on the part of the Contractor, or the Contractor's officers, agents, employees, or sub-contractors/sub-vendors of any tier., In no event shall Contractor be liable for damage or injury arising by reason of the negligence or willful misconduct of the Department, its Board, officers, agents, representatives, employees, or other contractors or subcontractors not subcontracted by Contractor. .

7.0 Invoices

Time-and-Material Basis or Specified Rates of Compensation Basis

The Contractor shall, at the end of each calendar month in which services are performed or expenses are incurred and prior to the tenth day of the following month, submit to the Contract Administrator, Department of Water and Power, City of Los Angeles, PO Box 51111, Room 1141, Los Angeles, California 90051-0100, in triplicate, verified and itemized invoices stating such services were performed and such expenses were necessarily incurred. Such invoices shall conform to the rates established in the fee schedule (and shall be organized and clearly identified by task number and name). In support of payment for such invoices, the Contractor shall furnish a progress report, time sheets, receipts and other evidence of reimbursement expenses and any other information necessary to verify that Contractor's billing is in accordance with this Agreement. Such invoices, if correct, will be certified, and paid within 30 days after receipt of service and invoice. Invoice payments will not be made if the invoice is received more than six months after the billing period.

Each invoice shall show the contract/purchase order number, the vendor code number, the City of Los Angeles Business Tax Registration Certificate Number, and the identification of material, equipment and/or services covered by the invoices. In all cases the amount of applicable sales tax or use tax shall be separately stated on the invoice.

Cost Per Unit of Work *[This section is intentionally omitted.]*

Lump Sum

Upon satisfactory completion of services, the Contractor shall submit to the Contract Administrator, Department of Water and Power, City of Los Angeles, PO Box 51111, Room 1141, Los Angeles, California 90051-0100 a verified statement in triplicate stating that the services contracted for have been completed. Such invoices shall be organized and clearly identify the service by name. Such invoices, if correct, will be certified, and paid within 30 days after receipt of service and invoice.

Each invoice shall show the contract/purchase order number, the vendor code number, the City of Los Angeles Business Tax Registration Certificate Number, and the identification of material, equipment and/or services covered by the invoices. In all cases the amount of applicable sales tax or use tax shall be separately stated on the invoice.

7.1 Current Los Angeles City Business Tax Registration Certificate Required

The Contractor shall obtain and keep in full force and effect during the term of the contract all Business Tax Registration Certificates required by the City of Los Angeles Business Tax Ordinance, Article 1, Chapter II, Section 21.00 and following, of the Los Angeles Municipal Code.

Firm's current Business Tax Registration Certificate Number or, for those firms that are exempt, a Vendor Registration Number must be shown on all invoices submitted for payment. Failure to do so, may delay payment.

For additional information regarding applicability of the City Business Tax Registration, contact the City Clerk's Office on (213) 978-1521.

7.2 Taxpayer Identification Number (TIN)

Contractor declares that its authorized TIN is 13-1962940. No payment will be made under this Agreement without a valid TIN number.

8.0 Conflicts

8.1 Claims for Labor and Materials

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

8.2 Errors and Omissions

The Contractor will be responsible for correcting or remedying any errors or omissions which occur in performance of the services under this Agreement and which are the result of the Contractor's negligence. The cost of correcting or remedying such error or omission shall be borne by the Contractor. Revising Contractor-prepared documents at the request of the Department to incorporate comments by the public or by agencies having jurisdiction in matters of the particular task assignment is not considered to be a remedy of errors or omissions, but is considered an integral part of document preparation which may be called for by a task assignment.

8.3 Priority of Documents

In the event of any conflicting provisions between the documents referenced or included in this Agreement, the priority shall be as follows:

- a. Latest Amendment
- b. Agreement
- c. Task Assignment
- d. Contractor's Proposal
- e. Contractor's Rate Sheets
- f. Other Referenced Documents

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

9.0 Monitoring of Work

9.1 Right to Audit

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

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

The entire contract and all changes are subject to audit. Changes with an absolute value of one hundred thousand (\$100,000) dollars or more shall require an audit. The Department may waive the right to audit where there was adequate price competition, an

established catalog or market prices for commercial items sold in substantial quantities to the public, and/or prices set by law or regulation.

The Contractor shall maintain and segregate cost and pricing data, books, records, documents, and any other accounting evidence sufficient to properly reflect all direct and indirect costs of whatever nature claimed to have been incurred or anticipated to be incurred by a Contract Amendment, including a change order.

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

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

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

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

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

The Department will have the right to conduct a closeout audit on every contract relating to the entire contract, including but not limited to, any and all change orders.

9.2 Progress Reports

The Contractor shall, as required by the Contract Administrator, submit reports summarizing all the tasks under this Agreement, the work accomplished, work left to be done, work to be done in the coming months, and the estimated completion dates. This report shall be organized by task and shall include the task number, task coordinator, task title, the authorized expenditure, the start date and completion date, and the total of dollars received to date by the Contractor. The report shall also show the total dollars received by the Contractor under this Agreement.

9.3 Right to Review Services, Facilities, and Records

The Department reserves the right to review any portion of the services performed by the Contractor under this Agreement, and the Contractor agrees to cooperate to the fullest extent possible. Contractor shall furnish to the Department such reports, statistical data, and other information pertaining to the Contractor's services as shall be reasonably required by the Department to carry out its rights and responsibilities under its agreements with its bondholders or noteholders and any other agreement relating to the development of the project(s) and in connection with the issuance of its official statements and other prospectuses with respect to the offering, sale, and issuance of its bond and other obligations.

The right of the Department to review or approve drawings, specifications, procedures, instructions, reports, test results, calculations, schedules, or other data that are developed by the Contractor shall not relieve the Contractor of any obligation set forth herein.

9.4 Department's Quality Assurance Program

Work performed under this Agreement will be subject to review by the Department's personnel.

10.0 Title to Work

10.1 Confidentiality of Information

10.1.1 Recitals

The Department and Contractor recognize that the forces of competition require that the confidentiality of information and those matters which Contractor and Department possess as proprietary matters, must be maintained in order for both parties to effectively compete in the market place. It is the intent of the parties to this Agreement to fully maintain the confidentiality of such matters, items and information in connection with the furnishing by Contractor of proprietary and specialty technical and professional services to support the Department's planned outages for scheduled inspections and repairs, and forced outages for emergency repairs of GE manufactured steam and gas turbine-generators at the Department's electric generating facilities ("Support Agreement").

10.1.2 Confidential Information

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

10.1.3 Permitted use of Confidential Information

The receiving party may disclose such Confidential Information to those representatives (as defined above) of the receiving party with a need to know such Confidential Information for purposes of this Agreement. Such Confidential

Information will not be used for any purpose other than evaluating the transaction referred to above. Each party shall take reasonable care to prevent its representatives from prohibited or unauthorized disclosure of the Confidential Information.

10.1.4 No Disclosure

The parties agree not to disclose to any other person, other than its representatives as defined above, that the Confidential Information has been made available.

10.1.4 Notification of Disclosure

Each party shall promptly notify the other party of any intended or unintended unauthorized disclosure or use of any Confidential Information by any of its representatives. If a party has requested or required, pursuant to any applicable law, order, regulation or ruling, discovery request, subpoena, or similar process to disclose any of the Confidential Information, such party shall provide prompt written notice to the other party of such request or requirement so that at such other party's expense, such other party can seek a protective order or other appropriate remedy concerning such disclosure.

10.1.6. Return of Confidential Information

At any time upon the specific request of either party and at such party's expense, Department and/or Contractor shall promptly return the Confidential Information as defined herein (provided, however, each party shall be permitted to redact its own analyses, compilations or other material) and each party's confidentiality obligations hereunder shall continue thereafter for the term of this Agreement.

10.1.6. Disclaimer of Accuracy, Completeness

Each party acknowledges that although it has endeavored to include in the Confidential Information those materials that are believed to be reliable and relevant for the purpose of evaluation, neither party nor its respective representatives make any representation or warranty as to the accuracy or completeness of the Confidential Information, except as set forth in any agreement between the receiving party and the originating party. Each party agrees that neither party, nor its representatives, shall have any liability to the other party or its representatives as a result of or use of the Confidential Information.

10.1.7. No License Rights

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

10.1.8. Remedies

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

10.1.9 Department Property

The Contractor shall not copy any confidential drawing, specification, technical report, or data provided by the Department. The Contractor shall return all confidential materials provided by the Department. All material shall be returned no later than the closing date of the Agreement.

10.2 Right to Documentation Developed by Contractor

Documentation, including all reports, drawings, documents, field notes, specifications, and data developed by the Contractor and its subcontractors, shall be the property of the Department, and may be used, revised, and distributed by the Department in any manner. Nothing in this Article grants the Receiving Party any license under any invention, patent, trademark or copyright now or later owned or controlled by the Disclosing Party.

10.2.1 Indemnify For Reuse Or Revision

The Department agrees to hold harmless and indemnify the Contractor against all damages, claims, and losses, including defense costs, arising out of revision to or reuse of the plans and specifications produced under this Agreement.

10.2.2 Nondisclosure

The Contractor shall not disclose to others any information developed by Contractor under this Agreement specifically for this Contract without prior written approval by the Contract Administrator.

10.2.3 Attorney Fees and Costs

The Parties agree that in any action to enforce the terms of this Agreement that each Party shall be responsible for its own attorney fees and costs.

11.0 Signature Authorizing Agreement (Formal Agreements)

Each party was represented by counsel in the negotiations and execution of this agreement.

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be executed by their authorized representatives on the day and year written below.

Dated: _____

GE INTERNATIONAL, INC.
3633 Inland Empire Boulevard, Suite 800
Ontario, CA 91764

By: _____
Robert French - Director of Power Services

Dated: _____

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

By: _____
General Manager

and: _____
Secretary

APPROVED AS TO FORM AND LEGALITY
ROCKARD J. DELGADILLO, CITY ATTORNEY


NOV 14 2007
BY 
MARCIA H. KAMINE
Assistant City Attorney

EXHIBIT I
SAMPLE TASK ASSIGNMENT

(Not an authorization to do work)

AGREEMENT 47696 - TASK ASSIGNMENT		TASK ASSIGNMENT NUMBER (TASK)									
		47696 - XX									
Station & Unit	Haynes Unit 5	Work Order Number									
<p><u>TASK Description:</u> Provide technical services for the control valve stem and crosshead modifications for Haynes Unit 5 Control Valve No. 2 to prevent cracking of the valve stem at the valve stem to crosshead connection.</p> <p><u>Unit Outage Dates:</u> January 22, 2007 to May 1, 2007</p> <p><u>TASK Start Date:</u> January 29, 2007</p> <p><u>TASK Completion and Deliverables Due Date:</u> February 23, 2007</p> <p><u>DWP Key Personnel:</u> Ian Guthrie (310) 522-7519 Asst Plant Engineer Charli Dong (310) 522-7503 Plant Engineer Jeff Klueger (213) 367-0652 Contract Administrator Rick Gatti (213) 792-7345 cell Field Mechanical Engineer</p> <p><u>Lump Sum or Time and Material:</u> Lump Sum</p> <p><u>Estimated Cost of TASK:</u> \$12,500</p> <p><u>Total Cost of this TASK not to exceed:</u> \$12,500</p> <p><u>Deliverables:</u> 1. Calculations of allowable stresses for the stem and crosshead in bending and shear. 2. Calculation of stresses in operation due to bending and shear. 3. Detail drawings of stem and crosshead modifications (for Department to make modifications). 4. Cost estimate and schedule for GE to make the modifications. 5. Report with recommendations, calculations, drawings, cost estimates and schedule.</p> <tr> <td colspan="2">TASK Authorized by: Jeff Klueger</td> <td colspan="2">Date: 1/11/2007</td> </tr> <tr> <td colspan="2">Estimate prepared by: Jeff Klueger</td> <td colspan="2">Date: 1/11/2007</td> </tr>				TASK Authorized by: Jeff Klueger		Date: 1/11/2007		Estimate prepared by: Jeff Klueger		Date: 1/11/2007	
TASK Authorized by: Jeff Klueger		Date: 1/11/2007									
Estimate prepared by: Jeff Klueger		Date: 1/11/2007									

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

Agreement/Activity/Operation: General Electric Agreement for Proprietary & Specialty Professional and Tech. Svcs.
 Reference/Agreement: 47696
 Term of Agreement: _____
 Contract Administrator and Phone: Jeff Klueger - 70652
 Buyer and Phone Number: Helen Lo - 70947

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

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

Commercial Rates for Power Services

Effective:
January 1, 2007Published Hourly Rates
U.S. Dollar

Service Description	Standard
Field Engineer	\$245
Site Management	\$350
Specialty Field Engineer	\$310
Service Center Technician	
Generator Winder	\$220
Work Leader	\$230
Automated Machining	\$205
Steam Turbine*	\$190
Steam Onsite	\$205
Gas Frame 3/5*	\$160
Gas B/C/E Model*	\$200
Gas F/H Model*	\$240
Gas Onsite	\$260

* Technician work performed at a GE facility

Field Engineering Service

Technical advice and counsel from field personnel based on good engineering, installation and operational practices as applicable to the equipment. Field Engineer Services do not include supervision or management of purchaser's employees, agents or other contractors.

Site Management

This service includes all lead field engineering and management responsibilities including planning, organizing, integrating and monitoring of resources such as labor, supervisors, tools and technical assistants.

Service Center Technician

Generator Winder: Specialists experienced in the inspection, test and repair of rotating electrical equipment including synchronous power generators, exciters & excitation equipment and related auxiliaries.

Work Leader: Specialists experienced in directing the work activities of Generator Winders, Steam Technicians or Machining Technicians, excluding technical advice and counsel.

Automated Machining: Specialists utilizing computer-aided repairs including robotic welding, CNC, machining and other similar services.

Turbine: Specialists utilizing GE or onsite facilities to perform work on GE-designed steam or GE-designed heavy-duty gas turbines.

Rate Terms

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

Normal	1.00 x Standard Rate
Overtime 1	1.50 x Standard Rate
Overtime 2	2.00 x Standard Rate
Peak	1.10 x Standard Rate
- Overtime 1 multiplier applies to billable hours on Saturday and normal workday hours greater than 8 but less than 12 consecutive hours.
- Overtime 2 multiplier applies to billable hours on Sundays, holidays and normal workday hours greater than 12 consecutive hours.
- Peak multiplier applies to billable hours at the applicable rate during the months of March, April and October.
- Travel time will be charged at the applicable hourly rate (i.e., standard rate times applicable multiplier(s) as set forth in 1 above) on a round trip basis with point of departure based on the location of the GE representative's office/service center.
- Travel and Living (T&L) for the continental U.S.A. will be billed for any portion of a day worked based on the distance traveled by the GE representative responsible for providing the service, as follows:

40 miles or less	\$125.00 per day per employee
Greater than 40 miles	\$250.00 per day per employee
Air travel	cost plus 15% administrative fee
- T&L for locations outside of the continental U.S.A., including air travel, will be billed at cost plus 15% administrative fee.
- Purchased Labor & Materials (PL&M) will be billed at cost plus 27%.
- Consult with your local GE Energy representative to determine any applicable charges for special tooling and/or test equipment or any taxes, fees or VAT that may be in addition to the above rates.
- Minimum billing of 8 hours for all services provided, including standby time.
- All rates are based on GE's standard terms and conditions of sale (Form ES 104 Rev 2).

Specialty Field Engineering Service

Generator	Technical advice and counsel for the inspection, test and repair of generator equipment
Excitation	Start-up and troubleshooting of excitation systems interfacing circuits, breakers and power systems
Static Starter (LCI)	Start-up and troubleshooting of static start, load commutating inverter (LCI) equipment
Start-Up/Controls	Start-up and troubleshooting of gas and steam turbine control systems
Gas/Steam Path Audit	Inspecting and determining the thermodynamic losses of the turbine steam/gas path
Gas Turbine DLN	Tuning Dry Low NO _x (DLN) systems to optimize reductions in gas turbine emissions and extend expected life of combustion system components
Vibration	Vibration data acquisition and analysis, perform a diagnostic balance program, make recommendations and install balance weights
Laser Alignment	Use GE proprietary digital laser alignment equipment, technology and fleet data to optimize internal component alignment
Consulting Analyst	Technical assistance of personnel not normally classified as field personnel for the solution of problems that require highly specialized knowledge
Diagnostics	Performance of diagnostics tests and diagnostic data analysis, such as plant evaluations & general consulting
Professional Witness	Technical direction and coordination of performance tests not conducted by GE





Optimization and Control Services US Services Rate Schedule

Rates Effective 1 February 2006

THIS RATE SCHEDULE PERTAINS ONLY TO THE SERVICES OFFERED IN THE FOLLOWING CONTRACT AND/OR QUOTATION, AND IS SUBJECT TO THE TERMS AND CONDITIONS THEREIN

Contract Number	Quotation Number

HOURLY RATES ^{1,4,5,8}	Advanced Commitment ²		Published
	Field Services Verification, configuration, and troubleshooting of 3300 and 3500 monitoring and transducer systems		\$160.00
	Specialty Field Services Machinery Diagnostics; Alignment / Balancing Services; Asset Care™ Services; Project Services; Mechanical Designs; Software Configuration; System Integration; all monitoring systems other than 3300 and 3500; verification, software configuration, troubleshooting, and start-up of Controls/Excitation systems; and equivalent work.		\$182.00
RATE MULTIPLIERS	Normal Monday-Friday (non-holidays) for first 8 hours		1.0 x Base Rate
	Overtime 1 Saturdays, daily other than normal, but less than 12 consecutive hours		1.5 x Base Rate
	Overtime 2 Sundays, holidays, or after 12 consecutive hours		2.0 x Base Rate
SPECIAL PREMIUMS	Emergency Response When response is required within 24 hours and an Asset Care™ agreement is not in force		\$750 per event
	Hazardous Environments Suiting-up for environments involving radiation, acid or other chemicals, bio-hazards, etc.		\$1000 per day per employee
	Work Above the Arctic Circle		\$750 per day per employee
	Offshore Work Work on offshore platforms or vessels		\$1000 per day per employee
EXPENSES	Travel and Living (T&L) for the Continental U.S.A For any portion of the day worked, and based upon distance traveled by company representative responsible for providing the service	40 miles or less	\$100 per day per employee
		More than 40 miles	\$200 per day per employee
	T&L for Alaska, Hawaii, and International locations, including air travel		At Cost plus 15% administrative expense
	Commercial Transportation, Car Rental, Shipping, and Excess Baggage		At Cost plus 15% administrative expense
	Specialized System Verification, and/or On-site AutoCAD Equipment Charge⁵		\$250 per day
	Standard Data Acquisition, Diagnostics Instrumentation⁶ Up to 16 channels (required for all Machinery Diagnostics work)		\$500 per day
	Optical Alignment Equipment Charge⁶		\$500 per day
	Labor for After-Hours Parts Shipment Mon. - Fri. 7:30pm - 7:00am Central Time, all day on weekends/holidays		\$500 per event
	Minimum Charge May not necessarily apply to local service calls		Four (4) hours labor, expenses, and appropriate T&L

Notes:

- Hourly Rates are subject to Rate Multipliers, Expenses, and Special Premiums where applicable.
- Advanced commitment rates will be in effect when the assigned work has been scheduled 60 days or more in advance. Schedule deviations of greater than 2 days will result in use of Published rates.
- Travel time will be charged at the applicable hourly rate from the Field Engineer's point of origin to the job site and return.
- Work week shall consist of five (5), eight (8) hour days, forty (40) hours per week, typically from 8am to 5pm, but may fall between 6 a.m. to 6 p.m. depending on the customer's normal work week (determined by local service office with customer).
- Charges for day(s) not worked, but on standby, shall be charged at the standard rate, times the applicable multiplier, plus expenses and applicable T&L. Charges for day(s) not worked, but carried over, shall be a minimum four-hour charge, with applicable rate multipliers per day, plus expenses and applicable T&L.
- Equipment charges shown are not rental rates and assume equipment will be used by accompanying Service representative.
- Rates provided herein are valid in the U.S.A. only and are subject to change without notice.
- Controls Field Services rates for MkVI, MkVle and EX2100 are only applicable when purchased in conjunction with an equipment purchase as part of a control system retrofit.
- Purchased Labor and Material (PL&M) will be billed at cost plus 25% including contract labor.

Global Field Services

GE Energy's Aeroderivative Global Field Services is a world-class service and support network designed to anticipate and respond to our customers needs throughout the product life of GE LM engines and packages. The worldwide team supplies the highest quality parts, tools and technical support which is closely tied to our Service Engineering teams. This may result in higher availability and lower costs for you, the customer. Please contact your Service Manager for any of your service needs, 24 hours a day, seven days a week.

Region	Location
Asia	Singapore
Northern Europe	Lincoln, UK
Central Europe	Rheden, NL
Southern Europe	Madrid, Spain
Middle East	Istanbul, Turkey
Eastern USA/Canada	Syracuse, NY
Central USA	Houston, TX
Western USA/Canada	Bakersfield, CA

Offerings

GE Energy's Aeroderivative Global Field Services is dedicated to responding to your needs in an expedient manner. Aero Energy Field Service should help minimize your downtime and provide a lower cost operation by providing full technical coverage for your engine and package. Our services include but are not limited to: Periodic Inspections of the engine and package, Hot Sections, Generator Test and Inspection, Trim Balances, Vibration Surveys, Performance Testing, Controls Calibration, and all Level 1 & 2 Maintenance.

In response to our customers' requests for flexibility in commercial offerings, Aero Energy Global Field Services now provides the option for Firm Fixed Pricing on many work scopes.

Technical Assistance

Rate Classification	Labor Rate Per Hour		Incremental Charges		
	Straight Time	Overtime	High Security Areas	Emergency Call-Out	Offshore/Man Camps
Field Representative	\$195.00	\$292.50	15%	10%	15%
Specialty Field Rep	\$250.00	\$375.00	15%	10%	15%
Site Manager	\$270.00	\$405.00	15%	10%	15%
Project Engineer	\$270.00	\$405.00	15%	10%	15%
Mobilization Fee	\$375.00				

All charges are USD/HR

LM is a registered trademarks of The General Electric Company



Global Field Services

Aero Energy Global Field Services provides multiple levels of technical support as follows:

Field Service Representative

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

Specialty Field Representative

May be any of the following:

- **Gas Turbine DLE:** Specialist skilled in methods required for adjusting the Dry Low Nox system to optimize gas turbine emissions and life expectancy of combustion system components.
- **Laser Alignment:** Specialists utilizing GE proprietary digital laser alignment equipment, technology, and fleet data, to optimize internal component alignment and potentially provide significant reductions in outage duration over conventional alignment methods.
- **Trim Balance/Blade Change:** Specialists utilizing GE proprietary software and equipment to lower the possibility of an engine imbalance.
- **Programming and Controls**
- **Boro-blend:** Specialists trained at blending serviceable HPC/LPC damage through the borescope ports on the LPC/HPC.
- **Excitation:** Specialists skilled in the start-up and troubleshooting of excitation systems interfacing circuits, breakers, and power systems.
- **Professional Witness:** Technical coordination and witness of performance tests not conducted by GE.
- **Vibration:** Specialists experienced in vibration data acquisition, vibration machinery diagnostics, rotor balance analysis, and recommendations on installation of balance weights.

- **Emergent Technology:** Specialists skilled in an area involving new technology that is not specifically covered by the specialist categories listed.
- **Consulting Analyst:** Technical assistance of personnel not normally classified as field personnel for the solution of problems that require highly specialized background and experience.
- **Diagnostics:** Specialists skilled in performance diagnostic tests data analysis, such as plant evaluations, equipment, performance services and general consulting for plant performance issues.

Project Manager

Manages all aspects of major upgrades.

Notes:

Applicable Rates:

The normal workweek is five consecutive eight-hour days (typical to specific countries, contact your local Regional Field Service Office). Time in excess of the normal workweek will be billed at the overtime rate.

Minimum Charge

A minimum charge of 8 hours straight time plus per diem and travel expense is charged for any service job. Offshore vessels or rigs and work in isolated areas with man-camps will be charged a minimum 12 hours per day.

Mobilization Fee

Mobilization fee consists of basic job preparation including but not limited to: normal risk assessments or method statements; environmental, health and safety preparation; tooling and resource coordination and restocking. This fee is invoiced on a per dispatch basis in the amount of \$375 USD.

Waiting Time

If the Field Service Technician is requested to wait at the site location, waiting time will be charged at minimum 8 hours per day (standard rates, including weekend days). If the customer does not request the technician to wait, no charges will be due, the technician will not be available to work and, the technician is considered unassigned and free to be assigned to other projects. Waiting time on offshore floating vessels, stationary rigs, and at isolated sites with man-camp living facilities will be charged a minimum 12 hours per day including weekend days.



Global Field Services

Working Hours

Individual maximum working hours are 12 hours per day not to exceed 84 hrs per fiscal week. Exceptions to the maximum 12 hour workday must be agreed to PRIOR to work commencing with the local Regional Field Service Office up to a maximum of 16 hours per day per individual (followed by an appropriate 10 hour rest cycle) but not to exceed 84 hours per week. Unless otherwise contracted, working hours do not include the following: lunch or daily travel less than 30 minutes per leg between lodging and work location. Contact your local Regional Field Service Office for further clarification. In situations where local regulations or customer policies exist regarding on-duty limitations, the more conservative procedure shall take precedence.

Transportation Expenses

All transportation (i.e., mileage, airfare, train, taxi, ferry, rental car, etc.) expenses for each dispatch are invoiced at Cost +15%. Mileage will be invoiced at \$1.05 USD/mile when technicians travel to customer site via automobile.

Living Expenses

Per Diem will be billed for any portion of a day worked including travel days. This daily charge is for normal daily expenses such as lodging, meals, laundry, normal communication expenses, fuel for rental car, and reasonable road tolls for all days. Any other daily expenses will be invoiced at Cost +15%.

- Regular per diem, \$230 per day per employee
- High cost per diem (Applies when hotel cost is more than \$130 per night, including taxes/per person), \$300 per day per employee

Holidays

Holidays are country specific and overtime rates are applicable. A holiday schedule for each country can be provided upon request.

High Security Area

A region deemed to have a substantial level of security risk inherent with the location (GE group 1 & 2 countries) will be assessed a minimum 15% Security fee on all labor hours.

Emergency Call-out:

Dispatch with less than 48 hours notice will be assessed a 10% Emergency Call-out fee on labor hours only.

Offshore & Man Camps

Any labor for work sites located on offshore floating vessels, stationary rigs or in isolated areas with man-camp living facilities, will be assessed a 15% fee for all hours on site.

Purchased Materials & Contracted Services:

Will be billed at cost plus 25%.

Tooling Rental fees

GE rents level 1 and level 2 special tools at competitive rates. These tools are available through your respective Service Manager. Tooling pricing is based on work scope as listed in tooling rental table. Listed price provides special tooling to complete contracted scope of work for the normal maintenance duration. Tooling required on site beyond the normal duration of the contracted scope of work will be assessed a daily fee. A GE Technical Representative must accompany all rentals of GE tooling assets. Tooling is not rented separately for direct customer use.

Shipping Fees

All customs, duties and handling fees incurred by GE in the process of importing or exporting tooling or goods on behalf of the customer, including excess baggage and customs duties for hand carried items, will be invoiced at Cost +15% handling fee.

Terms and Conditions

Customer Service Support is subject to standard terms and conditions - GE Form APS 33D.

Effectivity

These prices supersede all previously published prices for this same service. The prices of additional or newly established service will be available on a quotation basis and may be subject to revision until such time as they are incorporated into the next issue of this price sheet. The prices indicated are list unit prices and are subject to change without notice.



Global Field Services

Tool Rental Pricing

Catalog Workscope	Description	Normal Scope Rate	Daily Rate
APS_FS_HS-LM60-LMS	LM6000/LMS100 Hot Section Workscope Tooling	\$26,080	\$6,520
APS_FS_HS-LM25-50	LM2500/5000 Hot Section Workscope Tooling	\$12,630	\$4,210
APS_FS_HS-LM5-15-16	LM500/1500/1600 Hot Section Workscope Tooling	\$7,830	\$2,610
APS_FS_ENG-PTXCHNG	Engine or PT Exchange Workscope Tooling	\$4,350	\$1,450
APS_FS_INSP-SEMI	Semi Annual Package Inspection Tooling	\$1,480	\$1,480
APS_FS_INSP-ANNUAL	Annual Package Inspection Tooling	\$2,970	\$1,480
APS_FS_GEN-MINOR	Generator Minor Inspection Tooling	\$2,670	\$670
APS_FS_GEN-MAJOR	Generator Major Inspection Tooling	\$12,350	\$2,060
APS_FS_TOOL-SPC	Special Package Tooling Work Packages - PTK, FTK, ADRE, Emission, etc.	\$2,000	\$670
APS_FS_TOOL-STND	Standard Package Tooling Work Packages - Shaker, O-Scope, precision, Impact, etc.	\$670	\$330
APS_FS_TOOL-MINR	Minor Package Tooling Work Packages - Fanuc, Genius, etc.	\$60	\$60
APS_FS_LPC	Low Pressure Compressor Workscope Tooling	\$4,730	\$1,580
APS_FS_TMF	Turbine Mid Frame Workscope Tooling	\$4,730	\$1,580
APS_FS_HPC	High Pressure Compressor Workscope Tooling	\$1,580	\$1,580
APS_FS_BSI-BLEND	Borescope or Boreblend Tooling	n/a	\$670
APS_FS_ENG-LVL1	Level 1 work package tooling / per	n/a	\$130
APS_FS_TOOL-OTHER	Other as quoted	n/a	n/a
APS_FS_SB220	Includes Engine Exchange + LPC + SB220	\$13,800	\$4,730
APS_FS_Flush	Oil System Flush (Turbine or Generator)	\$3,220	\$460

