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1.0 DEFINITIONS

- 1.1 "Change Order": A revision or modification to the Contract reflected on a PG&E Field Order form or a PG&E Change Order form.
- 1.2 "Local Government Partner" or "LGP": Party or parties entering into this Contract with PG&E for the Work.
- 1.3 "Contract": This agreement between PG&E and LGP, including the Specification and appendices, together with any other material specifically incorporated therein.
- 1.4 "Party" or "Parties": PG&E or LGP or both.
- 1.5 "PG&E": Pacific Gas and Electric Company acting through its authorized representative(s).
- 1.6 Not Used.
- 1.7 "Subcontract": An agreement between LGP and Subcontractor or between Subcontractors at any level for a portion of the Work under this Contract.
- 1.8 "Subcontractor": Party or parties entering into a Subcontract with LGP or another Subcontractor to perform a portion of the Work covered by the Contract.
- 1.9 "Work": All services (including but not limited to professional, engineering, analytical and other consulting services), labor, supervision, materials, equipment, actions and other requirements to be performed and furnished by LGP under this Contract, and any other attachments.

2.0 INDEPENDENT CONTRACTOR

In assuming and performing the obligations of this Contract, LGP is an independent contractor and shall not be eligible for any benefits which PG&E may provide its employees, except as expressly provided for in this Contract. All persons, if any, hired by LGP shall be employees or Subcontractors of LGP and shall not be construed as employees or agents of PG&E in any respect.

3.0 SUBCONTRACTS

LGP shall not enter into Subcontracts without the prior written approval of PG&E, which approval will not be unreasonably delayed or withheld. PG&E's approval of any Subcontract shall not relieve LGP of its obligations to PG&E under this Contract. Nothing in this Contract shall create any contractual relations between a Subcontractor and PG&E.

4.0 CONFLICT OF INTEREST/BUSINESS ETHICS

- 4.1 REASONABLE CARE: LGP shall exercise reasonable care and diligence to prevent any actions or conditions which could result in a conflict with PG&E's interest.
- 4.2 OTHER EMPLOYMENT: NOT USED.
- 4.3 GIFTS: LGP or its employees shall not offer or cause to be offered gifts, entertainment, payments, loans and/or other services, benefits or considerations of more than a nominal value to PG&E's employees, their families, vendors, Subcontractors and other third parties.

- 4.4 ACCURATE DOCUMENTATION: All financial statements, reports, billings, and other documents rendered shall properly reflect the facts about all activities and transactions handled for the account of PG&E.
- 4.5 NOTIFICATION: The LGP shall immediately notify PG&E of any and all violations of this clause upon becoming aware of such violation.

5.0 AVAILABILITY OF INFORMATION

- 5.1 ACCESS: PG&E's duly authorized representatives shall have, during the term of the Contract and for seven (7) years thereafter, access at all reasonable times to all of the LGP's and its Subcontractors' personnel, accounts and records of all description, including but not limited to computer files, pertaining to the Contract to verify or review the quantity, quality, work program and progress of the Work, reimbursable costs, amounts claimed by the LGP, estimates of cost for fixed rates including those applicable to proposed changes, and for any other reasonable purposes including any and all records of the LGP for the purpose of verifying compliance with the Conflict of Interest/Business Ethics provision (Section 4) included in this Contract.
- 5.2 APPLICABILITY: This Section 5 shall apply to all PG&E contracts but shall not apply to pricing for contracts performed solely on a lump-sum basis. However, where lump-sum and time and materials work (unit price, reimbursable cost, fixed rates, etc.) are performed together, either as a part of this Contract or as separate contracts, then the above audit right shall also extend to PG&E access to all LGP's records pertaining to all PG&E contracts including the lump-sum for assurance that the portions of the Work performed on a time and materials basis are not being charged with time, material or other units or cost which are intended to be covered by lump-sum or fixed rates, etc., provided herein, supplement hereto or in such other agreements.
- 5.3 ACCOUNTING: The LGP's and its Subcontractors' accounts shall be kept in accordance with generally accepted accounting principles in the particular industry and shall be kept in such a manner and in sufficient detail to clearly disclose the nature and amounts of the different items of service and cost pertaining to the Contract and the basis for charges or allocations to the Contract.
- 5.4 TIME PERIOD: The LGP and its Subcontractors shall preserve all such accounts and records for a period of seven (7) years after the term of the Contract. PG&E's duly authorized representatives shall have the right to reproduce any such accounts and records.
- 5.5 ADJUSTMENTS: LGP shall promptly adjust any inaccuracy in the billings. Adjustments shall accrue interest, compounded monthly, at a rate equal to the prime rate charged by the Bank of America, NT&SA, San Francisco, California, at the beginning of each month, from the date of payment of the invoice being adjusted to the date that the adjustment is paid.
- 5.6 SUBCONTRACTORS: LGP shall include the necessary provisions in its Subcontracts to ensure that its Subcontractors comply with this Section 5.

6.0 BILLING AND PAYMENT

- 6.1 BILLING AND PAYMENT FOR LUMP SUM WORK: The terms of this Paragraph 6.1 shall apply to all Work performed on a lump sum basis.

- 6.1.1 INVOICE SUBMITTAL INSTRUCTIONS: LGP shall submit a monthly invoice to PG&E for compensation earned in the preceding calendar month. LGP shall submit invoices to PG&E in accordance with the requirements of this Paragraph 6.1 and with the instructions printed in the Contract or Contract Change Order. The LGP shall include the Contract number, and if applicable the Contract Work Authorization number, on the invoice.
- 6.1.2 INVOICE DEFICIENCIES: Should PG&E determine that LGP's invoice does not meet the invoicing requirements of this Contract, PG&E will notify LGP of the deficiencies or return the invoice to LGP with noted deficiencies. LGP shall provide to PG&E such documents or information correcting such deficiencies, or for invoices returned to LGP, LGP shall resubmit a corrected invoice.
- 6.1.3 PG&E PAYMENT: Payment by PG&E to LGP for Work performed on a lump sum basis will be monthly, in the full amount of the cost of the Work performed less any negotiated percentage withholding, computed in accordance with the terms of the Contract, and satisfactorily completed during each month. All payments will be made, subject to PG&E approval, within thirty (30) days after receipt of a correct invoice. Payment of the balance of the amount will occur at the end of the Contract after all Work is satisfactorily completed.
- 6.1.4 FINAL INVOICE: The final invoice shall be marked "FINAL" and must be received by PG&E within sixty (60) calendar days after completion of the Work. Payment of any late invoices that are received by PG&E beyond the 60 days must be mutually agreed to between LGP and PG&E.
- 6.1.5 BILLING RATES AND CONFLICTS: LGP's lump sum price(s) stated in the Contract fee schedule shall not change during the term of this Contract without prior written approval by PG&E. The lump sum price(s) shall be inclusive of all LGP's overhead costs, administrative and general fees, and profit. To the extent such lump sum price(s), or any invoice or other billing instrument as provided for in this Section 6 contains terms and conditions which are in addition to or in conflict with the terms and conditions in this Contract, whether Specific or General, those terms and conditions in the fee schedule, invoice, or other billing instrument shall be null and void.
- 6.2 BILLING AND PAYMENT FOR TIME AND MATERIALS AND UNIT PRICE WORK: The terms of this Paragraph 6.2 shall apply to all Work performed on a time and materials or unit price basis.
 - 6.2.1 INVOICE SUBMITTAL INSTRUCTIONS: LGP shall submit invoices to PG&E in accordance with the requirements of this Paragraph 6.2 and with the instructions printed in the Contract or Contract Change Order. The LGP shall include the Contract number, and if applicable the Contract Work Authorization number, on the invoice.
 - 6.2.2 MONTHLY INVOICE: LGP shall submit a monthly invoice to PG&E for compensation earned and reimbursable expenses incurred in the preceding calendar month. Each invoice shall be broken down by Contract tasks; for each task the invoice shall include the following information:
 - 6.2.2.1 Status
 - Task description.
 - Estimated cost to complete.
 - Total cost incurred to date.

Percentage of Work completed and date completed.

6.2.2.2 Labor

Employee name.
Employee labor classification.
Employee salary rate.
Number of hours spent.
Billing rate.

6.2.2.3 Reimbursable Expenses

Unit cost and quantity of each item of expense.

6.2.3 BILLING RATES AND CONFLICTS: LGP's billing rates or fees stated in the Contract fee schedule shall not change during the term of this Contract without prior written approval by PG&E. These billing rates and fees shall be inclusive of all LGP's overhead costs, administrative and general fees, and profit. To the extent such fee schedule, or any invoice or other billing instrument as provided for in this Section 6 contains terms and conditions which are in addition to or in conflict with the terms and conditions in this Contract, whether Specific or General, those terms and conditions in the fee schedule, invoice, or other billing instrument shall be null and void.

6.2.3.1 Overtime hours shall be billed at straight-time rates, unless otherwise approved by PG&E prior to the use of overtime, and limited to those hours for which LGP's employee is actually compensated. If applicable, LGP's overhead cost shall not be applied to the premium portion of the overtime cost.

6.2.3.2 Individuals other than employees of LGP (nonemployees) retained by LGP, such as Subcontractors, outside LGPs, or agency personnel, shall not be billed as LGP's employees and shall be shown separately on the invoice. Such nonemployees working in LGP's established office under LGP's direct supervision shall be billed to PG&E at the cost charged to LGP times 1.05. All other nonemployees shall be billed at LGP's direct costs.

6.2.4 EXPENSES: All reimbursable expenses shall be reasonable, ordinary, and necessary and shall be billed at cost. All reimbursable expenses other than those listed in this paragraph 6.2.4 shall be authorized in writing by PG&E's authorized representative prior to expenditure by the LGP; any expenses not so approved by PG&E shall not be reimbursed.

6.2.4.1 Overhead costs will not be reimbursed as expenses. Miscellaneous costs, such as routine telephone communications, routine copying, electronic mail, facsimile transmissions, computer time and use of in-house technical software are considered to be part of LGP's overhead costs.

6.2.4.2 LGP shall provide Subcontractor invoices for any LGP invoice that includes Subcontractor costs.

6.2.5 TRAVEL TIME AND COSTS: All air travel costs within or outside of the United States will be reimbursed only on a coach fare basis and all rental car costs will

be reimbursed only on a subcompact rate basis. Travel time to and from the Work site shall be at LGP's expense.

- 6.2.6 MILEAGE AND USE OF PERSONAL CAR: In the event LGP uses its personal car in the performance of Work under the Contract and such use is included as a reimbursable expense, normal commuting such as trips from home to first business stop and from the last business stop to home represents personal use of car and shall not be reimbursed. All other reimbursable mileage shall be at the current IRS rate.
- 6.2.7 SUPPORTING DOCUMENTATION: For each expense item over \$100, supporting data and documentation shall be furnished with the invoice. Copies of detailed expense reports to support travel costs shall be attached to the invoice. Although travel receipts need not be attached, LGP shall retain them for the term of the audit period.
 - 6.2.7.1 Each invoice shall be assembled such that attached supporting documentation shall be placed in the order listed in the invoice, and each item of expense chargeable to PG&E shall be highlighted or clearly delineated.
- 6.2.8 INVOICE DEFICIENCIES: Should PG&E determine that LGP's invoice does not meet the invoicing requirements of this Contract, PG&E will notify LGP of the deficiencies or return the invoice to LGP with noted deficiencies. LGP shall provide to PG&E such documents or information correcting such deficiencies, or for invoices returned to LGP, LGP shall resubmit a corrected invoice.
- 6.2.9 FINAL INVOICE: The final invoice shall be marked "FINAL" and must be received by PG&E within sixty (60) calendar days after completion of the Work. Payment of any late invoices that are received by PG&E beyond the 60 days must be mutually agreed to between LGP and PG&E.
- 6.2.10 UNIT PRICE BASIS: When invoices include Work performed on a unit price basis, LGP shall attach to the invoice a list stating the unit price item numbers, unit prices, quantities, dollar amounts and other information as required to identify the Work.
- 6.2.11 PG&E PAYMENT: Payment by PG&E to LGP for Work performed on a time and materials or unit price basis will be monthly, in the full amount due for Work performed less any negotiated percentage withholding, computed in accordance with the terms of the Contract, and satisfactorily completed during each month including reimbursable expenses, if any. All payments will be made, subject to PG&E approval, within thirty (30) days after receipt of a correct, itemized invoice. Payment of any remaining balance of the amount due will occur at the end of the Contract after all Work is satisfactorily completed.

7.0 PRIOR WORK

Services performed by LGP pursuant to PG&E's authorization, but before the execution of this Contract, shall be considered as having been performed subject to the provisions of this Contract.

8.0 NO GUARANTEE OF WORK

NOT USED.

9.0 ADDITIONAL WORK OR CHANGES IN WORK

9.1 PROCEDURE FOR ADDITIONAL WORK: BEFORE PROCEEDING WITH ANY WORK INVOLVING POSSIBLE CLAIMS FOR EXTRA COMPENSATION NOT SPECIFIED IN THE CONTRACT, LGP SHALL SUBMIT IN WRITING TO PG&E A DETAILED ESTIMATE OF THE COST FOR SUCH WORK. LGP shall provide PG&E with a detailed breakdown and estimated cost of such anticipated contract work, including extensions and Change Orders, as follows:

9.1.1 Description of work to be performed including detailed breakdown by identifiable tasks.

9.1.2 Estimated cost of each task.

9.1.3 Expected date of completion of each task.

9.2 APPROVAL NEEDED FOR ADDITIONAL WORK: LGP shall not proceed with any such additional work prior to receiving written authorization or a Change Order issued to LGP by PG&E. LGP AGREES THAT ALL COSTS FOR ANY SUCH MODIFICATION OR CHANGE THAT IS PERFORMED BY LGP WITHOUT PG&E'S PRIOR WRITTEN APPROVAL SHALL BE AT LGP'S SOLE RISK AND EXPENSE.

9.3 PG&E CHANGES TO WORK: PG&E reserves the right to make such changes in Work, specifications, or level of effort, as may be necessary or desirable and any difference in Contract price resulting from such changes shall be approved in writing by PG&E before the Work is begun.

10.0 AMENDMENTS

This effort is a partnership between the City / County Association of Governments (C/CAG) as the Local Government Partner and PG&E. It is recognized that a good faith effort has been made to address the terms, conditions and scope of work. Since this is a partnership it is likely there will be further changes on the terms, conditions and scope of work. C/CAG, as the LGP and PG&E agree to work in good faith to address these issues as they develop.

NO MODIFICATION OR CHANGE TO THIS CONTRACT SHALL BE BINDING OR EFFECTIVE UNLESS EXPRESSLY SET FORTH IN WRITING BY CHANGE ORDER AND SIGNED BY PG&E'S REPRESENTATIVE AUTHORIZED TO EXECUTE THE CONTRACT.

11.0 ASSIGNMENT

Neither party may assign any of its rights, voluntarily or involuntarily, whether by operation of law or any other manner, or delegate any performance under this Contract, without the prior written consent of the other party. Any purported assignment or delegation of performance in violation of this provision is void. Subject to the foregoing, this Contract is binding upon and shall inure to the benefit of the successors and assigns of the parties.

12.0 REPLACEMENT OF PERSONNEL

NOT USED.

13.0 SAFETY PRECAUTIONS AND PROTECTION OF PROPERTY

LGP shall plan and conduct its Work to safeguard persons and property from injury.

14.0 DRUG AND ALCOHOL ABUSE POLICY FOR SERVICES PERFORMED AT PG&E SITES

14.1 PREFACE: Pacific Gas and Electric Company is committed to maintain and promote job safety and health for all workers at its facilities. In addition, PG&E is determined to protect its employees, customers, and the general public while they are on PG&E property from any harm caused by illegal drug and alcohol use by non-PG&E personnel. To accomplish these objectives, PG&E has established the following drug and alcohol abuse policy for access to PG&E facilities by its LGP and Subcontractor personnel.

14.2 COVERAGE: This policy applies to the personnel of all LGP and Subcontractors performing any Work or services at PG&E offices and/or any other PG&E facilities.

14.3 POLICY:

14.3.1 PG&E may deny access to, or remove from, its facilities the personnel of any LGP or Subcontractor, who PG&E has reasonable grounds to believe has:

14.3.1.1 Engaged in alcohol abuse or illegal drug activity which in any way impairs PG&E's ability to maintain safe work facilities, to protect the health and well-being of PG&E employees, customers, and the general public, and to promote the public's confidence in PG&E's service and operations; or

14.3.1.2 Been found guilty, pled guilty, or pled nolo contendere to a charge of sale or distribution of any illegal drug or controlled substance as defined under Federal or California law within the past five years, unless the criminal record was later expunged or sealed by a court order.

14.3.2 The following activities are prohibited at all facilities owned or leased by PG&E:

14.3.2.1 Possessing, furnishing, selling, offering, purchasing, using or being under the influence of illegal drugs or other controlled substances as defined under Federal or California law;

14.3.2.2 Possessing, furnishing, selling, offering, or using alcoholic beverages, or being under the influence of alcohol.

14.3.3 Where reasonable cause exists that paragraph 14.3.2 of this policy has been violated, the LGP or Subcontractor must inform PG&E. The LGP or Subcontractor is also expected to take any or all of the following actions to the fullest extent they are permitted under governing collective bargaining agreements and /or its applicable security and human resources policies.

14.3.3.1 Search the individual, his or her vehicle, locker, storage area, and personal effects;

14.3.3.2 Require the individual to undergo a medical examination to determine their fitness for duty. Such examination shall include obtaining a urine and/or blood specimen for drug or alcohol analysis unless the examining physician deems such tests to be inappropriate;

14.3.3.3 Take any other appropriate action to determine if there has been a violation of paragraph 14.3.2.

14.3.3.4 Refusal to comply with a request made under paragraph 14.3.3 shall be grounds for denying access to, or immediate removal from, any PG&E facility.

14.3.4 Any individual who has been denied access to, or removed from, PG&E facilities for violating this policy may obtain permission to enter or reenter provided the individual establishes, to the satisfaction of their employer and PG&E, that the previous activity which formed the basis for denying access or removal has been corrected and his or her future conduct will conform with this policy. PG&E retains the right of final approval for the entry or reentry of any individual previously denied access to or removed from PG&E facilities.

15.0 NOT USED

16.0 OWNERSHIP OF DELIVERABLES

PG&E shall own all data, reports, information, manuals, computer programs or other written, recorded, photographic or visual materials, or other deliverables produced in the performance of this Contract. LGP shall retain no ownership, interest, or title in them except as may otherwise be provided in the Contract.

17.0 PROPRIETARY RIGHTS

To the extent this paragraph applies, PG&E shall own all proprietary rights, including, but not limited to, exclusive patent and copyright rights, in and to any and all inventions, software, works of authorship, designs or improvements of equipment, tools or processes, including the items referenced in Section 16, "Ownership of Deliverables" (collectively, the "Developments"), conceived, developed, implemented, or produced by LGP in the performance of this Contract, and LGP shall retain no ownership, interest or title in or to them except as otherwise provided in this Contract. LGP agrees to assign and hereby assigns all its right, title and interest in and to the patents, copyrights and other intellectual property rights in the Developments and hereby agrees to fully cooperate and to do all things reasonably necessary to allow PG&E to claim sole ownership, including the execution of documents deemed necessary by PG&E.

The above proprietary rights do not apply to the RecycleWorks website except for specific links or pages developed for the sole use of this Local Government Partnership program.

18.0 USE AND REPRODUCTION RIGHTS

To the extent this paragraph applies, if and to the extent that LGP retains any preexisting rights in any materials furnished hereunder, including Developments, LGP hereby grants to PG&E the irrevocable, perpetual, non-exclusive, worldwide, royalty free right and license to (i) make, use, execute, reproduce, display, perform, distribute copies of, and prepare derivative works based upon such preexisting rights and derivative works thereof in connection with PG&E's business and (ii) authorize others to do any or all of the foregoing in connection with PG&E's business. Any claims of LGP to proprietary rights in materials furnished hereunder must be expressly set forth in this Contract or shall have been previously disclosed to PG&E in writing.

The above use and reproduction rights do not apply to the RecycleWorks website except for specific links or pages developed for the sole use of this Local Government Partnership program.

19.0 INFRINGEMENT PROTECTION

To the extent this paragraph applies, LGP represents to PG&E that the material to be prepared under this Contract will not infringe upon the copyright, patent or license, or otherwise violate the proprietary rights, including trade secret rights, of any person or entity. LGP agrees to indemnify

and hold PG&E, its parent company, subsidiaries and/or affiliates, harmless from and against any and all liabilities, costs and damages arising out of any such infringement, and from any suit, demand or claim made against PG&E, its parent company, subsidiaries and/or affiliates, alleging any such infringement or violation. In addition to the foregoing, if there is such a suit, demand or claim, LGP agrees, as soon as possible, to either procure for PG&E the right to continue using the material, replace the material with non-infringing material or modify it so it becomes non-infringing; provided, however that the replaced or modified material shall be equal to that contracted for hereunder and satisfactory to PG&E. LGP further agrees to pay any judgment or reasonable settlement offer resulting from a suit, demand or claim, and pay any reasonable attorney's fees incurred by PG&E in defense against such suit.

20.0 COPYRIGHT REGISTRATION

Notice of PG&E copyright ownership shall be placed by LGP on all reports, information or instructional manuals, computer programs or other written, recorded, photographic or visual materials or other deliverables to which PG&E has the right of such ownership as provided in this Contract. Such notice shall be placed on the materials in a manner and location as to give reasonable notice of the claim of copyright, and shall consist of the copyright symbol or the word "Copyright" followed by the year in which the material is produced and the words "Pacific Gas and Electric Company". Application for copyright registration shall be the responsibility of PG&E.

21.0 ROYALTIES AND LICENSE FEES

Royalties, license fees or other charges for patents, copyrights and other intellectual property for designs, processes, technology, published or unpublished data, information or technical materials including, but not limited to, manuals, computer programs, or other deliverables furnished by LGP, or for processes or methods employed by LGP in performing the services, shall be included in the Contract price.

22.0 DELIVERY AND RETENTION OF RECORDS

To the extent PG&E does not otherwise specifically request delivery of records or results, LGP agrees to retain all records and results of Work performed under this Contract for a period of not less than two years from the date the Work is accepted by PG&E. At PG&E's request LGP will deliver a copy of any or all original field notes, investigative notes, tests, photographs, records, calculations, summaries, reports, and records produced and collected in the course of the Work performed under this Contract.

23.0 PUBLIC RELEASE OF RESULTS

Subject to public record act requests or any other applicable laws, ordinances, or other legal requirements, LGP agrees not to release any results of the Work without first providing PG&E with the material sought to be released and a description of the publication for PG&E's prior approval. Any public release shall acknowledge PG&E's sponsorship of the Work.

24.0 LGP'S USE OF PG&E PROPERTY

All records, reports, computer programs, written procedures and similar materials, documents or data, in whatever form, provided by PG&E for LGP's use in the performance of services under this Contract shall remain the confidential property of PG&E.

25.0 CONFIDENTIALITY

In the course of performing the services under this Contract, LGP may have access to confidential customer, commercial or personal information, matters and practices concerning, but not limited to, technology, ratemaking, personnel, business, marketing or manufacturing processes or

products, and customer energy usage and billing data, which are owned by PG&E, its parent company, subsidiaries, affiliates, third parties, or members of the public, and in the custody of PG&E or those third parties. Subject to public record act requests or any other applicable laws, statutes, ordinances, or other legal requirements, LGP agrees not to disclose any such confidential information or otherwise make it available to any other person, including any affiliate of PG&E that produces energy or energy-related products or services, without the prior written approval of PG&E.

26.0 PUBLIC TESTIMONY

It is further agreed between the Parties that, if requested by PG&E, LGP shall provide testimony before any federal, state or local court, regulatory body or any other public agency to substantiate any Work performed or data, reports, or materials supplied to PG&E. Reasonable fees for such testimony will be negotiated at that time.

27.0 WARRANTY

LGP warrants to PG&E that the Work under this Contract shall be performed with the degree of skill and care that is required by current, good and sound professional procedures and practices, and in conformance with generally accepted professional standards prevailing at the time the Work is performed so as to ensure that the services performed are correct and appropriate for the purposes contemplated in this Contract and related specifications.

28.0 INDEMNIFICATION

28.1 LGP shall indemnify, hold harmless and defend PG&E, its affiliates, subsidiaries, parent company, officers, managers, directors, agents, and employees, from and against all claims, demands, losses, damages, costs, expenses, and liability (legal, contractual, or otherwise), which arise from or are in any way connected with any:

- (i) injury to or death of persons, including but not limited to employees of PG&E or LGP;
- (ii) injury to property or other interests of PG&E, LGP, or any third party;
- (iii) violation of local, state, or federal common law, statute or regulation, including but not limited to environmental laws or regulations; or
- (iv) strict liability imposed by any law or regulation;

so long as such injury, violation, or strict liability (as set forth in (i) - (iv) above) arises from or is in any way connected with LGP's performance of, or failure to perform, this Contract, however caused, , excepting only such loss, damage, cost, expense, liability, strict liability, or violation of law or regulation that is caused to any extent by the negligence or willful misconduct of PG&E, its officers, managers, or employees.

28.2 NOT USED.

28.3 LGP shall, on PG&E's request, defend any action, claim, or suit asserting a claim which is covered by this indemnity.

28.4 To the extent necessary, each Party was represented by counsel in the negotiation and execution of this Contract.

29.0 INCIDENTAL AND CONSEQUENTIAL DAMAGES

PG&E AND LGP SHALL NOT BE LIABLE TO EACH OTHER FOR ANY INCIDENTAL, SPECIAL OR CONSEQUENTIAL DAMAGES INCLUDING, BUT NOT LIMITED TO, LOSS OF REVENUES OR PROFITS, COMMITMENTS TO LGPS, RENTAL OR LEASE AGREEMENT(S), AND PERSONAL SERVICES CONTRACTS, UNLESS EXPRESSLY AUTHORIZED IN WRITING BY THE OTHER PARTY.

30.0 INSURANCE REQUIREMENTS

LGP shall maintain the following insurance coverage, except if LGP is able to satisfactorily certify to PG&E that it is a self-insured entity. LGP is also responsible for its Subcontractors maintaining sufficient limits of the appropriate insurance coverage.

30.1 Workers' Compensation and Employers' Liability

30.1.1 Workers' Compensation insurance or self-insurance indicating compliance with any applicable labor codes, acts, laws or statutes, state or federal, where LGP performs Work.

30.1.2 Employers' Liability insurance shall not be less than \$1,000,000 for injury or death each accident.

30.2 Commercial General Liability

30.2.1 Coverage shall be at least as broad as the Insurance Services Office (ISO) Commercial General Liability Coverage "occurrence" form, with no coverage deletions.

30.2.2 The limit shall not be less than \$1,000,000 each occurrence/\$2,000,000 aggregate for bodily injury, property damage and personal injury.

30.2.3 Coverage shall: a) By "Additional Insured" endorsement add as insureds PG&E, its affiliates, subsidiaries, and parent company, and PG&E's directors, officers, agents and employees with respect to liability arising out of or connected with the Work performed by or for the LGP. (ISO Form CG2010 or equivalent is preferred). In the event the Commercial General Liability policy includes a "blanket endorsement by contract," the following language added to the certificate of insurance will satisfy PG&E's additional insured requirement: "PG&E, its affiliates, subsidiaries, and parent company, and PG&E's directors, officers, agents and employees with respect to liability arising out of the work performed by or for the LGP are additional insureds under a blanket endorsement."; b) Be endorsed to specify that the LGP's insurance is primary and that any insurance or self-insurance maintained by PG&E shall not contribute with it.

30.3 Business Auto

30.3.1 Coverage shall be at least as broad as the Insurance Services Office (ISO) Business Auto Coverage form covering Automobile Liability, code 1 "any auto."

30.3.2 The limit shall not be less than \$1,000,000 each accident for bodily injury and property damage.

30.4 Professional Liability Insurance

30.4.1 Errors and Omissions Liability insurance appropriate to the LGP's profession. Coverage shall be for a professional error, act or omission arising out of the scope of services shown in the Contract.

30.4.2 The limit shall not be less than \$1,000,000 each claim/\$2,000,000 aggregate.

30.5 Additional Insurance Provisions

30.5.1 Before commencing performance of Work, LGP shall furnish PG&E with certificates of insurance and endorsements or letter or documentation of self-insurance by an authorized individual designated by LGP of all required insurance for LGP.

30.5.2 The documentation shall state that coverage shall not be canceled except after thirty (30) days prior written notice has been given to PG&E.

30.5.3 The documentation must be signed by a person authorized by that insurer to bind coverage on its behalf and shall be submitted to:

Pacific Gas and Electric Company
Insurance Department
One Market, Spear Tower, Suite 2400
San Francisco, CA 94105

A copy of all such insurance documents shall be sent to PG&E's Contract negotiator and/or Contract administrator.

30.5.4 NOT USED

30.5.5 NOT USED

31.0 FORCE MAJEURE

Neither PG&E nor LGP shall be considered in default in the performance of its obligations under this Contract, except obligations to make payments hereunder for Work previously performed, to the extent that the performance of any such obligation is prevented or delayed by any cause, existing or future, which is beyond the reasonable control of the affected Party. In the event either Party claims that performance of its obligations was prevented or delayed by any such cause, that Party shall promptly notify the other Party of that fact, and of the circumstances preventing or delaying performance. Such Party so claiming a cause-delayed performance shall endeavor, to the extent reasonable, to remove the obstacles which preclude performance.

32.0 EQUAL OPPORTUNITY LAWS

32.1 FEDERAL REGULATIONS: During the performance of this Contract and to the extent they may be applicable to this Contract, the LGP agrees to comply with all laws, orders, and regulations including, but not limited to Equal Employment Opportunity, Certification of Nonsegregated Facilities, Construction Contractors – Affirmative Action Requirements, Listing of Employment Openings, Employment of the Handicapped, Filing Program Summaries and Preparing Affirmative Action Plans, Vietnam Era Veterans Readjustment Assistance, Americans with Disabilities Act.

32.2 NOT USED

32.2.1 NOT USED

32.2.2 NOT USED

32.2.2.1 NOT USED

32.2.3 NOT USED

33.0 NOT USED

34.0 NOT USED

35.0 INJURY AND ILLNESS PREVENTION PROGRAM

In the performance of the Work under this Contract, LGP acknowledges that it has an effective Injury and Illness Prevention Program which meets the requirements of all applicable laws and regulations, including but not limited to Section 6401.7 of the California Labor Code.

36.0 COMPLIANCE WITH LAWS

36.1 LGP shall comply with all applicable federal, state and local laws, rules and regulations, and shall obtain all applicable licenses and permits for the conduct of its business and the performance of the Work called for in this Contract.

36.2 In accordance with Section 7912 of the California Public Utilities Code, LGP agrees to report annually to PG&E the number of California residents employed by LGP, calculated on a full-time or full-time equivalent basis, who are personally providing services to PG&E.

37.0 CHOICE OF LAWS

This Contract shall be construed and interpreted in accordance with the laws of the State of California, excluding any choice of law rules which may direct the application of the laws of another jurisdiction. Any controversy or claim arising out of or in any way relating to this Contract which cannot be amicably settled without court action shall be litigated in a California State Court of competent jurisdiction; or if jurisdiction over the action cannot be obtained in a California State Court, in a Federal Court of competent jurisdiction situated in the State of California.

38.0 DISPUTE RESOLUTION

38.1 **PROCEDURE:** The Parties shall attempt in good faith to resolve any dispute arising out of or relating to this Contract promptly by negotiations between a vice president of PG&E or his or her designated representative and an executive of similar authority of LGP. Either Party may give the other Party written notice of any dispute. Within twenty (20) days after delivery of said notice, the executives shall meet at a mutually acceptable time and place, and thereafter as often as they reasonably deem necessary to exchange information and to attempt to resolve the dispute. If the matter has not been resolved within thirty (30) days of the first meeting, either Party may initiate a mediation of the controversy.

38.2 **CONFIDENTIALITY:** All negotiations and any mediation conducted pursuant to this clause are confidential and shall be treated as compromise and settlement negotiations, to which Section 1119 of the California Evidence Code shall apply, and Section 1119 is incorporated herein by reference.

38.3 **PRELIMINARY INJUNCTION:** Notwithstanding the foregoing provisions, a Party may seek a preliminary injunction or other provisional judicial remedy if in its judgment such action is necessary to avoid irreparable damage or to preserve the status quo.

38.4 CONTINUANCE OF WORK: Each Party is required to continue to perform its obligations under this Contract pending final resolution of any dispute arising out of or relating to this Contract.

39.0 NON-WAIVER

The waiver by either Party of any breach of any term, covenant or condition contained in this Contract, or any default in the performance of any obligations herein, shall not be deemed a waiver of any other breach or default of the same or any other term, covenant, condition or obligation. Nor shall any waiver of any incident of breach or default constitute a continuing waiver of the same.

40.0 ENFORCEABILITY

In the event that any of the provisions, or application of any of the provisions, of this Contract are held to be illegal or invalid by a court of competent jurisdiction or arbitrator/mediator, PG&E and LGP shall negotiate an equitable adjustment in the provisions of this Contract with a view toward effectuating the purpose of this Contract. The illegality or invalidity of any of the provisions, or application of any of the provisions, of this Contract will not affect the legality or enforceability of the remaining provisions or application of any of the provisions of the Contract.

41.0 CANCELLATION AND TERMINATION OF CONTRACT

41.1 CANCELLATION FOR CAUSE:

41.1.1 PG&E may, at its option, cancel or suspend this Contract for cause including, but not limited to, the following situations:

- (1) the failure, refusal or inability of the LGP to perform the Work in accordance with this Contract for any reason (except as specified in Section 31, "Force Majeure"); or
- (2) LGP has become insolvent, has failed to pay its bills, or has had checks for payment of its bills returned from suppliers and Subcontractors due to insufficient funds; or
- (3) a legal action is placed against LGP which, in PG&E's opinion, may interfere with the performance of the Work; or
- (4) in PG&E's opinion, the Work will not be completed in the specified time and PG&E has requested LGP to take steps necessary to accomplish the required progress and completion, and LGP has failed to do so.

In addition PG&E may at its option and without prejudice to its other rights, take over and complete all or part of the Work using LGP's equipment and facilities at the worksite to perform all or part of the Contract.

41.1.2 PG&E will be the sole judge whether LGP is substantially performing Work and services in accordance with this Specification.

41.1.3 If the Contract is canceled, LGP shall vacate the worksite but not remove material, plant, or equipment without the approval of PG&E. In the event of such cancellation, PG&E shall pay LGP for services satisfactorily performed prior to the date of cancellation. In no event shall PG&E be liable for lost or anticipated profits or overhead on uncompleted portions of the Work. Any reports, drawings or other

documents prepared for PG&E prior to the effective date of such cancellation shall be delivered to PG&E by LGP prior to PG&E's release of its final payment to LGP. LGP shall not enter into any agreements, commitments or Subcontracts which would incur significant cancellation costs without prior written approval of PG&E. Such written approval is a condition precedent to the payment of any cancellation charges by PG&E.

41.1.4 LABOR DISPUTE: In the event of a labor dispute or strike by LGP's or its Subcontractors' employees which threatens the progress or cost of Work, or PG&E's labor relations, or which disrupts PG&E's operations, or results in a secondary boycott at PG&E's facilities, PG&E reserves the right to restrict and/or require the additional hiring of LGP's employees, to suspend or discontinue the Work of the LGP or any Subcontractor, or cancel the Contract for cause. This paragraph shall be applicable whether or not any LGP or Subcontractor is directly involved in a labor dispute.

41.2 TERMINATION FOR PG&E'S REASONS: PG&E may suspend or terminate the Contract, without cause and upon written notice to LGP. LGP thereupon shall take whatever action with respect to performance of the Work as will tend to minimize its claim against PG&E. In the event of termination, PG&E shall be liable to LGP only for the compensation earned on the Work performed to the date of termination, plus costs reasonably incurred by LGP in terminating its operation. LGP shall not be entitled to any payment for lost or anticipated profits or overhead on uncompleted portions of the Work. Any reports, drawings or other documents prepared for PG&E prior to the effective date of such termination shall be delivered to PG&E by LGP prior to PG&E's release of its final payment to LGP.

41.3 TERMINATION BY PARTNER

Partner may terminate the contract upon written notice to PG&E. PG&E shall be liable to Partner for compensation of work performed through the date of termination-

42.0 INTEGRATION

This Contract constitutes the entire agreement and understanding between the Parties as to the subject matter of the Contract. It supersedes all prior or contemporaneous agreements, commitments, representations, writings, and discussions between LGP and PG&E, whether oral or written, and has been induced by no representations, statements or agreements other than those expressed herein. Neither LGP nor PG&E shall be bound by any prior or contemporaneous obligations, conditions, warranties or representations with respect to the subject matter of this Contract.

43.0 SURVIVAL

The provisions of this Contract which by their nature should survive expiration, cancellation or other termination of this Contract, including but not limited to provisions regarding warranty, indemnity, confidentiality and availability of information, shall survive such expiration, cancellation or other termination.

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EXHIBIT 1

POLICY REGARDING UTILIZATION OF SMALL BUSINESS CONCERNS AND SMALL
DISADVANTAGED BUSINESS CONCERNS

The following policy of the United States shall be adhered to in the performance of this Contract :

- a) It is the policy of the United States that small business concerns and small business concerns owned and controlled by socially and economically disadvantaged individuals shall have the maximum practicable opportunity to participate in performing contracts let by any Federal Agency, including contracts and subcontracts for subsystems, assemblies, components, and related services for major systems. It is further the policy of the United States that prime LGPs establish procedures to ensure the timely payment of amounts due pursuant to the terms of their subcontracts with small business concerns and small business concerns owned and controlled by socially and economically disadvantaged individuals.
- b) LGP hereby agrees to carry out this policy in the awarding of subcontracts to the fullest extent consistent with efficient contract performance. LGP further agrees to cooperate in any studies or surveys as may be conducted by the United States Small Business Administration or the awarding agency of the United States as may be necessary to determine the extent of LGP's compliance with this clause.
- c) As used in this Contract , the term "small business concern" shall mean a small business as defined in Section 3 of the Small Business Act and relevant regulations promulgated pursuant thereto. The term "small business concern owned and controlled by socially and economically disadvantaged individuals" shall mean a small business concern (1) which is at least 51 percent unconditionally owned by one or more socially and economically disadvantaged individuals; or, in the case of any publicly owned business, at least 51 percent of the stock of which is unconditionally owned by one or more socially and economically disadvantaged individuals; and (2) whose management and daily business operations are controlled by one or more of such individuals. This term also means a small business concern that is at least 51 percent unconditionally owned by an economically disadvantaged Indian tribe or Native Hawaiian Organization, or a publicly owned business having at least 51 percent of its stock unconditionally owned by one of these entities which has its management and daily business controlled by members of an economically disadvantaged Indian tribe or Native Hawaiian Organization, and which meets the requirement of 13 CFR Part 124. LGP shall presume that socially and economically disadvantaged individuals include Black Americans, Hispanic Americans, Native Americans, Asian-Pacific Americans, Subcontinent Asian Americans, and other minorities, or any other individual found to be disadvantaged by the Administration pursuant to Section 8(a) of the Small Business Act. LGP shall presume that socially and economically disadvantaged entities also include Indian Tribes and Native Hawaiian Organizations.
- d) LGP acting in good faith may rely on written representations by its subcontractors regarding their status as either a small business concern or a small business concern owned and controlled by socially and economically disadvantaged individuals.¹

¹ Notwithstanding this provision of the federal statute, all WMDVBE subLGPs must be verified pursuant to the procedures prescribed in Section 2 of CPUC General Order 156, as such procedures may be amended periodically.

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Exhibit 3