



SOUTHERN CALIFORNIA PUBLIC POWER AUTHORITY

Request for Proposals (RFP) for

Canyon Power Plant Re-piping Project

RFP Date: July 1, 2013

Mandatory Pre-bid Meeting: July 15, 2013 at 9 AM

Optional Pre-bid Meeting: July 25, 2013 at 9 AM

Response Deadline: August 21, 2013 at 2 PM

The Southern California Public Power Authority (SCPPA) is hereby soliciting competitive proposals for engineering, procurement, and construction for the replacement of carbon steel raw water delivery piping, valves and pumps with stainless steel at the Canyon Power Plant located at 3071 E. Miraloma Avenue, Anaheim, CA 92806.

Introduction

SCPPA, a joint powers authority and a public entity organized under the laws of the State of California, was created pursuant to the Government Code of California and a Joint Powers Agreement for the purpose of planning, financing, developing, acquiring, constructing, operating and maintaining projects for the generation or transmission of electric energy. Membership of SCPPA consists of eleven cities and one irrigation district, which supply electric energy within Southern California, including the municipal utilities of the cities of Anaheim, Azusa, Banning, Burbank, Cerritos, Colton, Glendale, Los Angeles, Pasadena, Riverside, and Vernon, and the Imperial Irrigation District.

Purpose

The Canyon Power Plant utilizes reclaimed water for power production purposes including air emission control, power augmentation, and air inlet cooling. The purpose of this request for proposals is to replace the above ground carbon steel piping used to transfer reclaimed water throughout the facility with all stainless steel piping, pumps, and fittings, including engineering, procurement, and construction.

Scope of Work

General

The General Engineering Contractor's (Contractor) scope of work includes the replacement of pipework, pumps, and fittings in accordance with these construction documents. The work shall include but not be limited to:

- Site survey
- Engineering design
- Drawing review
- Requests for Information
- Material estimation
- Produce Work Packages
- Equipment procurement
- Installation and QA during installation
- Site restoration
- As-built drawings (in the event of deviation from current pipe routes or pipe support methods)

There shall be a single point of responsibility for the work.

The Contractor shall be responsible for the engineering investigation of all aspects of integration and successful operation of existing and new equipment.

The Contractor shall be responsible for safe isolation (lock out), disconnection and reconnection of motors and other electrical equipment.

The Contractor shall be responsible for all aspects of the plant within the boundaries described by the terminal points and which are necessary to complete the work, whether expressly mentioned in these requirements or not.

Terminal Points

The mechanical and electrical terminal points are defined in the drawings supplied with these construction documents provided in Appendix A.

Material Supply

The Contractor shall conform to the specifications and drawings supplied with these construction documents.

Replacement pumps and valves shall be outline interchangeable and sourced from the same manufacturer. In the event that compliant equipment cannot be supplied by the original manufacturer, the Contractor shall seek the SCPPA's agreement to the proposed alternative equipment and any necessary pipework modifications. **All equipment shall be new and warranted for a minimum of one (1) year after completion.**

Site Services

The Contractor shall provide details and costs of his proposed oversight of installation of the revised pipework system.

The Contractor shall hold a California Class "A" license and a National Board "R Stamp" welding certificate and provide experienced personnel to undertake and supervise the work for this project. Contractor shall provide references for a minimum of three projects of similar scope completed within the last five (5) years, including personnel involved.

Not later than thirty (30) days prior to the scheduled start date, the Contractor shall prepare and submit to SCPPA a work plan for SCPPA's review and approval.

Exclusions

The Contractor shall clearly identify items that are specifically excluded from their scope of work; provided, however, certain exclusions may disqualify Contractor's proposal.

The Works shall be complete with all the equipment installed for its safe, efficient and reliable operation.

Where any item of equipment or service is not specifically detailed in the Bid Documents, then provided such items are necessary to fulfill the purpose of the scope of work and these Requirements, they shall be deemed the Contractor's responsibility.

Schedule

All work performed hereunder shall not start before November 1, 2013 and shall be completed prior to December 31, 2013.

Components shall be pre-fabricated to the extent possible, and raw water delivery system outages shall be coordinated and approved by SCPPA and kept to a minimum.

Scope of Supply Summary

The Contractor's scope of work for the modifications shall be in accordance with the drawings [to be revised to reflect changed workscope] and specifications supplied with these construction documents.

The following material shall be replaced as indicated on drawings:

a. Above-ground carbon steel water supply lines, including piping and valves. Specification 232000-Canyon Piping Spec Rev 0 refers.

The approximate quantity of piping is 255 lf. Contractor to refer to construction documents for pipe size and material. Contractor shall field survey piping system for final material quantity.

Butterfly Valves are Flowseal. Gate, Globe and Check valves are Sharpe. Existing valves shall be replaced with valves that match the existing in size, function and pressure class and meet Specification 230523-Manual Valves Rev 0 refers

b. Equipment, valves and piping on vendor-packaged filter skid. Re-use existing controls and instrumentation and reconnect as required. Contractor to coordinate with skid vendor, Rosedale Filter per Drawing CG-M-116 Note 4 , and Pump vendor, Flowserve Inc. Document J03908 – "Raw Water Pump Skid IOM Manual – Abridged" refers to existing pumps and includes the Electric motor O&M instructions which are being re-used.

c. Equipment, valves and piping to be replaced on vendor-packaged Chiller Skid is described by M101 - Chiller Skid Pipe Replacement Workslope. Re-use existing controls and instrumentation and reconnect as required. Contractor to coordinate with skid vendor TAS (Houston, TX).

d. Two (2) raw water pumps Tag Numbers 0-RWS-PP-002A and 0-RWS-PP-002B per SS 316L Raw Pump Data Sheet MK102:

| | |
|------------------------|---|
| Manufacturer | Flowserve |
| Model | 2K4X3-82RV (316SS casing, 316L internals) |
| GPM | 751 |
| TDH | 154 FT H2O |
| Impeller Diameter (in) | 7.25 |
| RPM | 3550 |
| HP | 29.2 |
| Efficiency | 68.40% |

1. d. The two (2) 15 micron bag filter tanks are to be removed, cleaned of rust and epoxy coated and returned to service with Two (2) new 15 micron bag filter assemblies (part number Rosedale PO-15-PZS-SS). The units shall be removed from the skid and the tanks complete with connecting pipe elbows shall be cleaned to bare clean metal and prepared for epoxy coating; 3 coats on the inside, 2 coats on the outside. Specification M100 identifies the required work scope for these vessels. For costing purposes please refer to the data sheet for Carboline Plastite 7159, attached. This data sheet outlines a surface preparation and epoxy application suitable for contractor cost estimating purposes. Specification M100 identifies the surface quality post-cleaning and pre-application of epoxy coating. The vendor shall perform The ultimate specification may include the requirement for pin hole testing of the applied epoxy]. Contractors may specify replacement tanks in 304 grade Stainless Steel, available from Rosedale, if this is deemed a more cost effective solution.
2. The contractor shall inspect the welds for cracking. If cracks are identified, a rectification or tank replacement program will be agreed as an extra cost item.
3. The baskets (304 Stainless Steel) will be re-used.
4. New filter elements shall be provided, Rosedale reference Rosedale PO-15-PZS-SS which are Polypropylene with 304 grade Stainless Steel reinforcing bands, 8 per filter tank.

The following equipment items are excluded from the scope of work:

- Pump motors, starters and electrical equipment will be reused.
- Pump base plates etc. will be reused.
- The existing two (2) 5 micron raw cartridge filters will not be replaced.
- The plant demineralised water system, including the demineralised water storage tank, was designed to handle corrosive water and is not to be replaced.
- The buried portion of the raw water supply line as it enters the CPP is PVC, which is acceptable and is not to be replaced.
- Two (2) raw water pumps, Tag Numbers RWS-PP-001A and RWS-PP-001B and one (1) Emerson Model Daniel 1500 flow meter, Tag Number OFE 1500 at the OCSD will be replaced by client.
- Irrigation pump, Tag Number RWS-PP-004.

The drawings and specifications shall take precedence over the above lists.

Proposal Submission Required Elements

1. Transmittal Letter: A brief statement of the Contractor's understanding of the work to be done and commitment to perform the work as scheduled including a summary of exceptions taken to the request for proposal requirements, statement of work, specifications, and reference to any proposed contractual terms and conditions required by the proposer. An officer authorized to bind must sign the proposal on behalf of the proposer and must include the following declarations on the Transmittal Letter: "This proposal is genuine, and not sham or collusive, nor made in the interest or in behalf of any person not herein named; the proposer has not directly or indirectly induced or solicited any other proposer to put in a sham bid, or any other person, firm or corporation to refrain from submitting a proposal; and the proposer has not in any manner sought by collusion to secure for themselves an advantage over any other proposer."

2. Applicant Information: Provide legal name of Company, Physical Street Address, e-mail address, Telephone, Name and Title of individuals authorized to represent the Contractor.

3. Contractor Compensation: Contractor shall complete the proposal bid sheet provided in Appendix B, which includes a lump-sum price for the scope of work described herein and optional time and materials pricing for any changes to the scope authorized by SCPPA, in a separate sealed envelope. One hardcopy of the pricing proposal bid sheet shall be submitted.

4. Contractual Terms and Conditions: Services provided pursuant to this proposal shall be in accordance with the terms and conditions provided in the sample Professional Services Agreement shown as Appendix C. Any exceptions to these terms and conditions shall be clearly noted in Contractor's proposal; provided, however, such exceptions may cause disqualification.

5. Experience: Contractor shall clearly identify project participants and management team.

a. Describe your firm's experience within the engineering and delivery of the Areas of Interest as referenced above and as may be applicable to this request for proposals, your organizational structure, management qualifications, and other contract related qualifications, including number of years firm has been in business.

b. Specify key employees and describe their qualifications, experience and duties related to this request for proposals, including the office location(s) where work will be performed. Describe all relevant training received by journey level craft workers, including OSHA safety training. Describe the apprenticeship program utilized for craft workers. Provide evidence that your organization has a "R" stamp certification for repair of steam boilers.

c. Provide a commitment statement for the retention and use of key employees as proposed, their availability to initiate and sustain the proposal, as well as planned supplement if not available to assure project delivery.

d. State whether proposer will use subcontractors to perform services pursuant to the contract. Should the use of subcontractors be offered, the proposer shall provide the same assurances of competence for the subcontractor, plus the demonstrated ability to manage and supervise the subcontracted work. Subcontractors shall not be allowed to further subcontract with others for work which is integral to the proposed solution. The provisions of this contract shall apply to all subcontractors in the same manner as to the proposer. Proposer is required to perform no less than 30% of all scope of work.

e. Contractor shall indicate any and all pending litigation that could affect the viability of Contractor's proposal, continuance of existing contracts, operation or financial stability.

f. Describe whether the proposer has, within the last three years, rendered any service to SCPPA or to any of SCPPA's Member Agencies, either as a contractor or subcontractor, either under the current proposer's name or any other name or organization. If so, please provide details (status as

- prime or subcontractor, brief description of the contract, contract start and end dates, the contract administrator name, and total actual contract expenditures).
- g. Contractor shall be a licensed contractor in the State of California, in good standing. Please provide copies of all applicable contractor licenses.
 - h. Provide proof of current public liability insurance and property damage insurance (issued by an insurance company admitted in the State of California to issue such insurance).
 - i. List all OSHA penalties received in the past three (3) years.
 - j. Provide specific examples of up to five (5) similar projects completed within the last three (3) years, including the name of the utility/owner, a reference contact person and their role on the project, a description of work performed, the project award amount, the value of change orders approved, the value of all liquidated damages assessed, and identify any labor violations including failure to pay prevailing wages.

Mandatory Pre-bid Meeting

All Contractors submitting proposals are required to attend a mandatory pre-bid meeting scheduled for July 15, 2013 at 9 AM or the optional pre-bid meeting scheduled for July 25 at 9 AM at the power plant site, located at 3071 E. Miraloma Avenue, Anaheim, CA 92806.

Contractors attending the pre-bid meeting are required to execute the non-disclosure agreement (NDA) provided in Appendix D. Please submit an executed NDA to Larry Davis at larrydavis@anaheim.net prior to the pre-bid meeting, including the name and phone number of the person attending the meeting:

Proposal Terms and Conditions

1. SCPPA reserves the right to cancel this RFP at any time, reject any and all proposals and to waive irregularities.
2. SCPPA shall determine at its sole discretion the value of any and/or all proposals including price and non-price attributes.
3. Proposals may be sub-divided or combined with other proposals, at SCPPA's sole discretion.
4. SCPPA shall perform an initial screening evaluation to identify and eliminate any proposals that are not responsive to the request for proposals, and do not meet the minimum requirements set forth in the request for proposals. For those proposals that do not meet the minimum requirements set forth in the request for proposals, the sealed pricing proposals will not be opened. Proposals submitted by respondents that lack appropriate creditworthiness and sufficient financial resources, have poor safety records, insufficient insurance, licensing in poor standing, insufficient experience on similar types of projects, currently does not have a "R" stamp certification to perform work on steam boilers or qualifications that fail to demonstrate that the appropriate training of journey and apprentice level workers are satisfied to provide dependable and reliable services will not be deemed to meet the minimum requirements.
5. SCPPA reserves the right to submit follow up questions or inquiries to request clarification of information submitted and to request additional information from any one or more of the respondents.
6. SCPPA reserves the right, without qualification and in its sole discretion, to accept or reject any or all proposals for any reason without explanation to the respondent, or to make the award to that respondent, who, in the opinion of SCPPA, will provide the most value to SCPPA and its customers.
7. SCPPA may decline to enter into any potential engagement agreement or contract with any respondent, terminate negotiations with any respondent, or to abandon the request for proposal process in its entirety.
8. SCPPA reserves the right to make an award, at its sole discretion, irrespective of price or technical ability, if SCPPA determines that to do so would result in the greatest value to SCPPA and its Member Agencies.
9. Those respondents who submit proposals agree to do so without legal recourse against SCPPA, its Member Agencies, their directors, officers, employees and agents for rejection of their proposal(s) or for failure to execute or act on their proposal for any reason.
10. SCPPA shall not be liable to any respondent or party in law or equity for any reason whatsoever for

any acts or omissions arising out of or in connection with this request for proposals.

11. SCPPA shall not be liable for any costs incurred by any respondents in preparing any information for submission in connection with this RFP process or any and all costs resulting from responding to this RFP. Any and all such costs whatsoever shall remain the sole responsibility of the respondent.

12. SCPPA may require certain performance assurances from proposers prior to entering into negotiations for a proposed project. Such assurances may potentially include a requirement that proposers provide some form of performance security.

13. Either SCPPA collectively or Member Agencies individually may respond to, or enter into negotiations for a proposal. SCPPA is not responsible or liable for individual Member Agency interactions with the respondent which are not entirely contained within SCPPA's option or election to engage the respondent as defined herein.

14. If selected, the respondent shall conform to prevailing wage rates applicable to the location(s) where any work is being performed.

15. Submission of a proposal constitutes acknowledgement that the respondent has read and agrees to be bound by the terms and specifications of this RFP and any addenda subsequently issued prior to the due date for a proposal.

16. Information in this RFP is accurate to the best of SCPPA's knowledge but is not guaranteed to be correct. Respondents are expected to complete all of their due diligence activities prior to entering into any final contract negotiations with SCPPA.

17. SCPPA reserves the right to reject any proposal for any reason without cause. SCPPA reserves the right to enter into relationships with more than one vendor, can choose not to proceed with any respondent with respect to one or more categories of services, and can choose to suspend this RFP or to issue a new RFP that would supersede and replace this one.

18. If selected, the respondent shall be the sole responsible party for providing a one (1) year warranty for workmanship and materials provided.

Proposal Submission Delivery Requirements

One sealed hard copy of Contractor's proposal, and one separately sealed envelope containing the pricing proposal shall be submitted to the following address prior to 2 PM on August 21, 2013:

Larry Davis

City of Anaheim (SCPPA's Operating Agent for Canyon Power Plant)

201 S. Anaheim Blvd. MS-701

Anaheim, CA 92805

714-765-5112

Electronic copies of the proposal shall also be sent to the following email addresses, excluding the pricing proposal, which shall be provided in one separately sealed envelope:

larrydavis@anaheim.net

cbyrom@anaheim.net

knguyen@scppa.org

If the file size is greater than 10 MB, then please provide a link to download the file from the email or make other arrangements to deliver the proposal electronically, excluding the pricing proposal.

Larry Davis is the point of contact for the RFP. No contact should be made with the Board of Directors, any committee or working group representatives, or SCPPA Participating Member Agencies concerning this request for proposals.

All information received by SCPPA in response to this request for proposals is subject to the California Public Records Act and all submissions may be subject to review in the event of an Audit.

Appendix A

Scope of Work Drawings

[To be provided at the Mandatory Pre-bid Meeting at Canyon Power Plant]

| A. Documents and Drawings Provided with this Bid Document as Electronic Files | |
|--|--|
| Document Number | Description |
| Specification for Replacement of Pipework and Fittings | Parsons Brinckerhoff Document Number 185155B – 001 [To be revised, issued week of 7/22/13] |
| 230523-Manual Valves_Rev0 | Specification - Valves |
| 232000-Canyon Piping Spec_Rev0 | Specification - Piping and Fittings |
| J03908 - Raw Water Pump Skid | Raw Water Pump Skid, Vendor IOM Manual |
| T-001 | Title Sheet [To be revised, issued week of 7/22/13] |
| M-001 | Mechanical - General Notes |
| M-002 | Mechanical - Symbols and Abbreviations |
| CGD-M-101 SHEET 1 | Demolition P&ID - Chilled Water System |
| CGD-M-M114 SHEET 1 | Demolition P&ID - Raw Water System [To be revised, issued week of 7/22/13] |
| CGD-M-116 SHEET 1 | Demolition P&ID - Water Conditioning System [To be revised, issued week of 7/22/13] |
| CG-M-101 SHEET 1 | P&ID - Chilled Water System |
| CG-M-M114 SHEET 1 | P&ID - Raw Water System [To be revised, issued week of 7/22/13] |
| CG-M-116 SHEET 1 | P&ID - Water Conditioning System [To be revised, issued week of 7/22/13] |
| CG-RWS-0001 | Mechanical Piping Isometric |
| CG-RWS-0004 | Mechanical Piping Isometric |
| CG-RWS-0005 | Mechanical Piping Isometric [To be revised, issued week of |

| | |
|-------------|---|
| | 7/22/13] |
| CG-RWS-0025 | Mechanical Piping Isometric |
| CG-RWS-0026 | Mechanical Piping Isometric |
| CG-RWS-0105 | Mechanical Piping Isometric |
| CG-RWS-0106 | Mechanical Piping Isometric |
| CG-RWS-0107 | Mechanical Piping Isometric |
| CG-GRW-0008 | Mechanical Piping Isometric |
| CG-GRW-0009 | Mechanical Piping Isometric |
| CG-GRW-0012 | Mechanical Piping Isometric [To be revised, issued week of 7/22/13] |
| M100 | Filter Tank Repair Workscope |
| M101 | Chiller Skid Pipe Replacement Workscope |
| M102 | New Raw Water Transfer Pump Data Sheet |

Appendix B

Proposal Bid Sheet

FORM OF PROPOSAL FOR Services per **Southern California Public Power Authority RFP Dated July 1, 2013**

PROJECT NAME: **Canyon Power Plant Re-piping Project**

Date: _____

_____, Company

_____, [State]

Gentlemen:

The undersigned having visited the site of the above project and having familiarized himself with the local conditions affecting the cost of the work and with the Contract Documents, including Amendments and Addenda Nos.

_____, (Insert "None" or Addenda Nos.)

hereby proposes to furnish all labor, materials, tools, equipment, insurance, and payment and performance bonds (if applicable) and to pay all taxes and to perform all things as provided in the specifications, all in accordance with the Contract Documents, for the following amount:

\$ _____ Base Bid

\$ _____ Sales Tax @ _____% (if applicable)

\$ _____ Total Contract Amount

Unit prices shall be noted for additional work, work at premium rates or work countermanded and shall become a part of this Proposal. Unit Prices and/or alternate prices, taxable at the rate indicated above, are as follows:

We agree to abide by this Bid until March 1, 2014 and it shall remain binding upon us and may be accepted at any time before that date. We acknowledge that the RFP, specifications, drawings and the RFP Appendices form part of this Contract.

If this offer is accepted, we will provide the specified Performance Security, commence the Works as soon as is reasonably practicable after the Commencement Date, and complete the Works in accordance with the schedule discussed in the Specification.

We guarantee that the works shall then conform to the Schedule of Guarantees.

We are able to accept Owner's Commercial Conditions as the basis of Conditions of Contract.

We understand that you are not bound to accept the lowest or any Bid you may receive.

Very truly yours,

(Bidder)

(Address of Bidder)

(Title-Owner*-Partner*)

(Seal, if corporation) _____

(If Corporation – Name and Office Held)

* If the business owned by the individual or partnership is conducted under a trade or assumed name, a certified copy of doing business under an assumed name should be annexed.

Appendix C

Contractual Terms and Conditions PROFESSIONAL SERVICES AGREEMENT

BETWEEN

SOUTHERN CALIFORNIA PUBLIC POWER AUTHORITY

AND

[... name ...]

This PROFESSIONAL SERVICES AGREEMENT (“Agreement”) is dated as of [... month, day, year...], by and between [... legal entity name ...] (“Consultant”), a [... need legal status of entity such as corporation or other ...], located at [... need street address ...], and Southern California Public Power Authority (“SCPPA”), a joint powers agency created pursuant to the laws of the State of California, with offices at 1160 Nicole Court, Pasadena, California 91740. SCPPA and Consultant are also referred to individually as (“Party”) and together as (“Parties”).

WHEREAS, certain SCPPA member utilities (“Participants”) are engaged in the generation, transmission, and distribution of electrical energy to retail customers, including assisting such customers with the efficient use of said energy; and

WHEREAS, Participants have a need for professional and technical services including resource planning, project management, engineering analysis and various studies and reports relating to the assessment, development, selection, contracting, design, engineering, construction, testing, operations and maintenance of various energy systems; and

WHEREAS, Consultant is qualified and capable of providing consulting Services;

NOW, THEREFORE, in consideration of the promises herein and for other good and valuable consideration, the parties agree as follows:

1. **Services to be Provided:** SCPPA engages the Consultant to deliver [... general definition ...] and other services further described in Exhibit A “Scope of Services” (or “Services”). Detailed procedures and practices to be followed while performing the Scope of Services, including completion acceptance, shall be as set forth in the Scope of Services or a work order issued thereunder. Consultant will perform the services at the direction of and on behalf of SCPPA and Participants.
2. **Independent Contractor:** Consultant is an independent contractor and is not an employee of SCPPA or the Participants and shall not be entitled to any benefits or rights, including, but not limited to, sick leave, vacation leave, holiday pay, worker’s compensation or other insurance benefits. Consultant shall furnish the services in its own manner and method except as required by this Agreement. Consultant shall have no authority,

express or implied, to act on behalf of or bind SCPPA or the Participants in any capacity whatsoever as agents or otherwise.

- 3. Standard of Care:** The Consultant will perform Services under this Agreement with the degree of skill and diligence normally practiced in the same industry by consultants performing the same or similar services. Consultant shall comply with all Federal, State, County, City and other governing laws, rules and regulations as applicable to the performance of services under this Agreement including Participant business practices or other ordinances including, but not limited to, equal opportunity practices, living wage ordinances, applicable business licenses, taxpayer protection acts (limiting gifts or campaign contributions), and assignment of antitrust causes of action. Consultant is not required to perform the services during fixed hourly or daily times, nor at SCPPA or Participant premises unless as provided in the Scope of Work. Consultant's time spent at SCPPA, Participant, or project location premises shall be subject to normal business hours and security requirements.
- 4. Changes/Amendments:** This Agreement may not be changed except by written amendment signed by both Parties. Services not expressly set forth in this Agreement are excluded. Consultant shall promptly notify SCPPA if changes to the Scope of Services affect the schedule, level of effort or payment to Consultant. If Consultant determines that changes should be made to Exhibit A or Exhibit B, the Consultant will notify SCPPA of such proposed changes in writing, including the effects on the schedule, level of effort and payment for such changes. Thereafter, Consultant and SCPPA shall agree in writing on which changes, if any, shall be included in an amendment to either Exhibit A or Exhibit B and both parties shall sign the affected Exhibit(s). If Consultant is delayed in performing the Services by any act of war, force majeure or other circumstance beyond its control, then Consultant shall not be considered to be in default of the performance of its obligations under this Agreement.
- 5. Payment:** SCPPA agrees to pay Consultant for services in accordance with the terms and schedule contained in Exhibit B. Each invoice shall state the basis for the amount invoiced, including services completed, units and costs, and any work performed. SCPPA shall pay properly invoiced amounts not more than sixty (60) days after delivery of an invoice.
- 6. Taxes:** Any and all taxes imposed on Consultant's income, imposed or assessed by reason of this agreement or its performance, including but not limited to sales or use taxes, shall be paid by Consultant. Consultant shall be responsible for any taxes or penalties assessed by reason of any claims that Consultant is an employee of SCPPA, and SCPPA and Consultant specifically agree that Consultant is not an employee or agent of SCPPA.
- 7. Indemnity:** Consultant undertakes and agrees to defend, indemnify and hold harmless the Southern California Public Power Authority and other SCPPA participating member agencies and their 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 Consultant's employees and agents, or damage or destruction to any property of either party hereto, or third person in any manner arising by reason of negligent acts, errors, omissions or willful misconduct incident to the performance of this contract on the part of the Consultant, or the Consultant's officers, agents, employees, or subcontractors of any tier, except for the sole active negligence or willful misconduct of SCPPA, its Board, officers, agents, representatives or employees.

- 8. Limitation of Liability:** To the extent permitted by law, and except as provided in Section 9 of this Agreement, the total liability of the Consultant to SCPPA for any claims arising out of this Agreement, whether caused by negligence, errors, omissions, strict liability, breach of contract or contribution, or indemnity claims based on third party claims, shall be limited to direct damages and not exceed one hundred and fifty thousand dollars (\$150,000), provided however this limitation shall not apply in the event of gross negligence, willful misconduct, bad faith of the Consultant, or where occurrence is covered by insurance as provided in Section 9 below in which case the applicable limit pursuant to the insurance policy shall apply.
- 9. Insurance:** Consultant shall, at his own cost and expense, procure and maintain during the entire term of this Agreement, public liability insurance and property damage insurance (issued by an insurance company admitted in the State of California to issue such insurance) naming SCPPA and the applicable Participant(s) as an additional insured against loss or liability caused by or connected with Consultant's use of an automobile in the performance of this Agreement for not less than: (a) \$100,000 for injury to or death to one person, or of not less than \$300,000 for injury to or death to two or more persons as a result of any one accident or incident; and (b) \$50,000 for damage to or destruction of any property of SCPPA or others.

Additionally, Consultant shall, at his own cost and expense, produce and maintain during the entire term of this Agreement comprehensive general liability insurance (issued by an insurance company admitted in the State of California to issue such insurance) naming SCPPA and the applicable Participant(s) as an additional insureds against loss or liability caused by or connected with Consultant's performance under this Agreement for not less than \$1,000,000.

Additionally, Consultant shall, at his own cost and expense, secure and maintain during the entire term of this Agreement, a policy or workers' compensation insurance with statutory limits or provide a waiver certifying that no employees and/or volunteers subject to the Labor Code provisions will be used in the performance of services under this Agreement.

The insurance policy shall contain the following provisions:

"It is agreed that any insurance maintained by SCPPA shall apply in excess of and not contribute with insurance provided by this policy."

"SCPPA, its officers and employees, and the applicable SCPPA agencies and their officers and employees are added as additional insureds with respect to the activities done pursuant to this agreement on behalf of the named insured."

This insurance shall not be cancelled, limited in scope or coverage or non-renewed until after thirty (30) days written notice has been given to:

Executive Director
Southern California Public Power Authority
1160 Nicole Court
Glendora, CA 91740
FAX: 626.793.9461

- 10. Term and Termination:** The term of this Agreement shall be for three (3) years from the date hereof. Notwithstanding anything to the contrary contained herein, either Party may terminate this Agreement, with or without cause, upon thirty (30) days' written notice to the other Party. SCPPA shall pay Consultant for all services rendered up to the date of termination plus reasonable expenses for winding down the services. Any

payment, indemnity, and work product rights or obligations pursuant to Sections 5, 7, and 11, respectively, shall survive the termination of this Agreement.

11. Use and Ownership of Work Products:

- (a) Work Product. As used in this agreement, the term "Work Product" means any and all materials fixed in a tangible medium of expression, including software code, written procedures, written documents, abstracts and summaries thereof, or any portions or components of the foregoing created, written, developed, conceived, perfected or designed in connections with the Services provided under this Agreement.
- (b) SCPPA shall retain all rights, title and interest in and to the Work Product, including all intellectual property rights therein and any and all enhancements, improvements and derivative works thereof, and Consultant obtains no rights therein.

12. Information Provided by Others: SCPPA and/or Participants shall provide to the Consultant in a timely manner any information indicated is needed to perform the services hereunder. Consultant may rely on the accuracy of information provided by SCPPA and its representatives.

13. Dispute Resolution: Consultant and SCPPA shall attempt to resolve conflicts or disputes under this Agreement in a fair and reasonable manner and agree that if resolution cannot be made to attempt to mediate the conflict by a professional mediator. If mediation does not settle any dispute or action which arises under this Agreement or which relates in any way to this Agreement or the subject matter of this Agreement, it shall be subject to arbitration under the rules governing commercial arbitration as promulgated by the American Arbitration Association, arbitrability shall be subject to the Federal Arbitration Act and the locale of the arbitration shall be Southern California.

14. Miscellaneous:

- (a) This Agreement is binding upon and will inure to the benefit of the SCPPA and Consultant and their respective successors and assigns. Neither Party may assign its rights or obligations hereunder without the prior written consent of the other Party; provided, however, that either Party may assign this Agreement to a successor of the Party's entire business relating to this Agreement.
- (b) If any provision of this Agreement is invalid or unenforceable, the remainder of this Agreement shall continue in full force and effect and the provision declared invalid or unenforceable shall continue in full force shall continue as to other circumstances in accordance with, the laws of the State of California.
- (c) This Agreement is entered into in Los Angeles County in the State of California and shall be governed by, and construed in accordance with, the laws of the State of California.
- (d) Prevailing Wage Rates: Consultant shall conform to prevailing wage rates applicable to the location(s) where any work is being performed.

15. Signature Clause:

IN WITNESS WHEREOF, each signatory hereto represents that he or she has been properly authorized to execute and deliver this Agreement on behalf of the Party for which he or she signs.

SOUTHERN CALIFORNIA PUBLIC POWER AUTHORITY

By: _____

BILL D. CARNAHAN
Executive Director
Southern California Public Power Authority
1160 Nicole Court
Glendora, CA 91740
626.793.9364 FAX: 626.793.9461

and;

[... LEGAL ENTITY NAME ...]

By: _____

[... printed name ...]

[... printed title ...]

[... contact information, mailing address, phone, fax and email ...]

Appendix D

Non-Disclosure of Critical Infrastructure Information Agreement