

OFFICE OF THE CITY ATTORNEY  
CHARLES PARKIN, City Attorney  
333 West Ocean Boulevard, 11th Floor  
Lona Beach, CA 90802-4664

1 AGREEMENT

2 33849

3 THIS AGREEMENT is made and entered, in duplicate, as of April 7, 2015,  
4 for reference purposes only, pursuant to a minute order adopted by the City Council of the  
5 City of Long Beach at its meeting on June 10, 2014, by and between UTILITY PARTNERS  
6 OF AMERICA, LLC, a Delaware limited liability company ("Contractor"), with a place of  
7 business at 7600 Pelham Road, Suite B, Greenville, SC 29615, and the CITY OF LONG  
8 BEACH, a municipal corporation ("City").

9 WHEREAS, City requires specialized services requiring unique skills to be  
10 performed in connection with the work described on Exhibit "A" ("Project"); and

11 WHEREAS, City has selected Contractor in accordance with City's  
12 administrative procedures and City has determined that Contractor and its employees are  
13 qualified, licensed, if so required, and experienced in performing these specialized  
14 services; and

15 WHEREAS, City desires to have Contractor perform these specialized  
16 services, and Contractor is willing and able to do so on the terms and conditions in this  
17 Agreement;

18 NOW, THEREFORE, in consideration of the mutual terms, covenants, and  
19 conditions in this Agreement, the parties agree as follows:

20 1. SCOPE OF WORK OR SERVICES.

21 A. Contractor shall furnish specialized services more particularly  
22 described in Exhibit "A", attached to this Agreement and incorporated by this  
23 reference, in accordance with the standards of the profession, and City shall pay for  
24 these services in the manner described below, not to exceed Six Million Five  
25 Hundred Forty-Eight Thousand Seven Hundred Forty-Six Dollars (\$6,548,746), at  
26 the rates or charges shown in Exhibit "B".

27 B. The City's obligation to pay the sum stated above for any one  
28 fiscal year shall be contingent upon the City Council of the City appropriating the

1 necessary funds for such payment by the City in each fiscal year during the term of  
2 this Agreement. For the purposes of this Section, a fiscal year commences on  
3 October 1 of the year and continues through September 30 of the following year. In  
4 the event that the City Council of the City fails to appropriate the necessary funds  
5 for any fiscal year, then, and in that event, the Agreement will terminate for the  
6 convenience of City and City shall make payment to Contractor in accordance with  
7 Section 10. Contractor's obligation to provide services hereunder shall be  
8 contingent upon the City Council of the City appropriating the necessary funds for  
9 payment for such services by the City in each fiscal year during the term of this  
10 Agreement. Contractor may select the time and place of performance for these  
11 services; provided, however, that access to City documents, records and the like, if  
12 needed by Contractor, shall be available only during City's normal business hours  
13 and provided that milestones for performance, if any, are met.

14 C. Contractor has requested to receive regular payments. City  
15 shall pay Contractor in due course of payments following receipt from Contractor  
16 and approval by City of invoices showing the services or task performed, the time  
17 expended (if billing is hourly), and the name of the Project. By issuance of such  
18 invoices, Contractor certifies that Contractor has performed the services in full  
19 conformance with this Agreement and is entitled to receive payment. Each invoice  
20 shall be accompanied by a progress report indicating the progress to date of  
21 services performed and covered by the invoice, including a brief statement of any  
22 material Project problems and reasonably likely causes of delay in performance,  
23 and listing those services that are projected for performance by Contractor during  
24 the next invoice cycle. Where billing is done and payment is made on an hourly  
25 basis, the parties acknowledge that this arrangement is either customary practice  
26 for Contractor's profession, industry or business, or is necessary to satisfy audit and  
27 legal requirements which may arise due to the fact that City is a municipality.

28 D. CAUTION: Contractor shall not begin work until this

1 Agreement has been signed by both parties and until Contractor's evidence of  
2 insurance has been delivered to and approved by City.

3 2. TERM. The term of this Agreement shall commence at midnight on  
4 February 1, 2015, and shall terminate at 11:59 p.m. on December 31, 2017, unless sooner  
5 terminated as provided in this Agreement, or unless the services or the Project is  
6 completed sooner.

7 3. COORDINATION AND ORGANIZATION.

8 A. Contractor shall coordinate its performance with City's  
9 representative, if any, named in Exhibit "C", attached to this Agreement and  
10 incorporated by this reference. Contractor shall advise and inform City's  
11 representative of the work in progress on the Project in sufficient detail so as to  
12 assist City's representative in making presentations and in holding meetings on the  
13 Project. City shall furnish to Contractor information or materials, if any, described in  
14 Exhibit "D", attached to this Agreement and incorporated by this reference, and shall  
15 perform any other tasks described in the Exhibit.

16 B. The parties acknowledge that a substantial inducement to City  
17 for entering this Agreement was and is the reputation and skill of Contractor's key  
18 employee(s). Subject to applicable law, City shall have the right to approve any  
19 person proposed by Contractor to replace that key employee(s) identified in the  
20 Statement of Work attached as Exhibit "A", provided, however, that such approval  
21 shall not be required, if in the reasonable opinion of Contractor, the City's  
22 disapproval of any such person would likely subject Contractor to a claim by such  
23 person.

24 4. INDEPENDENT CONTRACTOR. In performing its services,  
25 Contractor is and shall act as an independent contractor and not an employee,  
26 representative or agent of City. Contractor shall have control of Contractor's work and the  
27 manner in which it is performed. Contractor shall be free to contract for similar services to  
28 be performed for others during this Agreement; provided, however, that Contractor acts in

1 accordance with Section 9 and Section 11 of this Agreement. Contractor acknowledges  
2 and agrees that (a) City will not withhold taxes of any kind from Contractor's compensation;  
3 (b) City will not secure workers' compensation or pay unemployment insurance to, for or  
4 on Contractor's behalf; and (c) City will not provide and Contractor is not entitled to any of  
5 the usual and customary rights, benefits or privileges of City employees. Contractor  
6 expressly warrants that neither Contractor nor any of Contractor's employees or agents  
7 shall represent themselves to be employees or agents of City.

8                   5.     INSURANCE.

9                   A.     As a condition precedent to the effectiveness of this  
10 Agreement, Contractor shall procure and maintain, at Contractor's expense for the  
11 duration of this Agreement, from insurance companies that are admitted to write  
12 insurance in California and have ratings of or equivalent to A:V by A.M. Best  
13 Company or from authorized non-admitted insurance companies subject to Section  
14 1763 of the California Insurance Code and that have ratings of or equivalent to A:VIII  
15 by A.M. Best Company, the following insurance:

16                   (a) Commercial general liability insurance (equivalent in scope to  
17 ISO form CG 00 01 11 85 or CG 00 01 10 93) in an amount not less than  
18 \$5,000,000 per each occurrence and \$5,000,000 general aggregate. This  
19 coverage shall include but not be limited to broad form contractual liability,  
20 cross liability, independent contractors liability, and products and completed  
21 operations liability. City, its boards and commissions, and their officials,  
22 employees and agents shall be named as additional insureds by  
23 endorsement (on City's endorsement form or on an endorsement equivalent  
24 in scope to ISO form CG 20 10 11 85), and this insurance shall contain no  
25 special limitations on the scope of protection given to City, its boards and  
26 commissions, and their officials, employees and agents. This policy shall  
27 be endorsed to state that the insurer waives its right of subrogation against  
28 City, its boards and commissions, and their officials, employees and agents.

1 (b) Workers' Compensation insurance as required by the California  
2 Labor Code and employer's liability insurance in an amount not less than  
3 \$1,000,000. This policy shall be endorsed to state that the insurer waives  
4 its right of subrogation against City, its boards and commissions, and their  
5 officials, employees and agents.

6 (c) Commercial automobile liability insurance (equivalent in scope  
7 to ISO form CA 00 01 06 92), covering Auto Symbol 1 (Any Auto) in an  
8 amount not less than \$500,000 combined single limit per accident.

9 (d) Commercial crime insurance in amount not less than \$1,000,000  
10 that includes employee dishonesty. City, its boards and commissions, and  
11 their officials, employees and agents shall be named as additional insureds  
12 by endorsement (on City's endorsement form or on an endorsement  
13 equivalent in scope to form CR 04 01).

14 B. Any self-insurance program, self-insured retention, or  
15 deductible must be separately approved in writing by City's Risk Manager or  
16 designee and shall protect City, its officials, employees and agents in the same  
17 manner and to the same extent as they would have been protected had the policy  
18 or policies not contained retention or deductible provisions.

19 C. Each insurance policy shall be endorsed to state that coverage  
20 shall not be reduced, non-renewed or canceled except after thirty (30) days prior  
21 written notice to City, except 10 days for non-payment, shall be primary and not  
22 contributing to any other insurance or self-insurance maintained by City, and shall  
23 be endorsed to state that coverage maintained by City shall be excess to and shall  
24 not contribute to insurance or self-insurance maintained by Contractor. Contractor  
25 shall notify City in writing within five (5) days after any insurance has been voided  
26 by the insurer or cancelled by the insured.

27 D. If this coverage is written on a "claims made" basis, it must  
28 provide for an extended reporting period of not less than one hundred eighty (180)

1 days, commencing on the date this Agreement expires or is terminated, unless  
2 Contractor guarantees that Contractor will provide to City evidence of uninterrupted,  
3 continuing coverage for a period of not less than three (3) years, commencing on  
4 the date this Agreement expires or is terminated.

5 E. Contractor shall require that all subcontractors or contractors  
6 that Contractor uses in the performance of these services maintain insurance in  
7 compliance with this Section unless otherwise agreed in writing by City's Risk  
8 Manager or designee.

9 F. Prior to the start of performance, Contractor shall deliver to City  
10 certificates of insurance and the endorsements for approval as to sufficiency and  
11 form. In addition, Contractor shall, within thirty (30) days prior to expiration of the  
12 insurance, furnish to City certificates of insurance and endorsements evidencing  
13 renewal of the insurance. City reserves the right to require complete certified copies  
14 of all policies of Contractor and Contractor's subcontractors and contractors, at any  
15 time. Contractor shall make available to City's Risk Manager or designee all books,  
16 records and other information relating to this insurance, during normal business  
17 hours.

18 G. Any modification or waiver of these insurance requirements  
19 shall only be made with the approval of City's Risk Manager or designee. Not more  
20 frequently than once a year, City's Risk Manager or designee may require that  
21 Contractor, Contractor's subcontractors and contractors change the amount, scope  
22 or types of coverages required in this Section if, in his or her sole opinion, the  
23 amount, scope or types of coverages are not adequate.

24 H. The procuring or existence of insurance shall not be construed  
25 or deemed as a limitation on liability relating to Contractor's performance or as full  
26 performance of or compliance with the indemnification provisions of this Agreement.

27 6. ASSIGNMENT AND SUBCONTRACTING. This Agreement  
28 contemplates the personal services of Contractor and Contractor's employees, and the

1 parties acknowledge that a substantial inducement to City for entering this Agreement was  
2 and is the professional reputation and competence of Contractor and Contractor's  
3 employees. Contractor may, without City's consent, assign or transfer this Agreement to  
4 an entity which acquires the entirety of Contractor's business and assets. Contractor shall  
5 not otherwise assign its rights or delegate its duties under this Agreement, or any interest  
6 in this Agreement, or any portion of it, without the prior approval of City, except that  
7 Contractor may with the prior approval of the City Manager of City, assign any moneys due  
8 or to become due Contractor under this Agreement. Any attempted assignment or  
9 delegation in violation of the foregoing shall be void, and any assignee or delegate shall  
10 acquire no right or interest by reason of an attempted assignment or delegation.  
11 Furthermore, Contractor shall not subcontract any portion of its performance without the  
12 prior approval of the City Manager or designee, or substitute an approved subcontractor  
13 without approval prior to the substitution, which approval shall not be unreasonably  
14 withheld, conditioned or delayed. Nothing stated in this Section shall prevent Contractor  
15 from employing as many employees as Contractor deems necessary for performance of  
16 this Agreement.

17 7. CONFLICT OF INTEREST. Contractor, by executing this Agreement,  
18 certifies that, at the time Contractor executes this Agreement and for its duration,  
19 Contractor does not and will not perform services for any other client which would create a  
20 direct conflict, whether monetary or otherwise, as between the interests of City and the  
21 interests of that other client. This Section 7 shall not prohibit Contractor from providing  
22 utility consulting services to other utilities which do not have any contractual relationship  
23 with City.

24 8. MATERIALS. Contractor shall furnish all labor and supervision,  
25 supplies, materials, tools, machinery, equipment, appliances, transportation and services  
26 necessary to or used in the performance of Contractor's obligations under this Agreement,  
27 except as stated in Exhibit "A". Except as provided in the warranty attached as Exhibit "D"  
28 to this Agreement and as otherwise stated herein, Contractor makes no representations or

1 warranties with respect to the services or materials provided, and expressly disclaims all  
2 other warranties, including without limitation any warranty of merchantability, warranty of  
3 fitness for a particular purpose, warranty of title, or warranty against infringement of  
4 intellectual property rights of a third party, whether express or implied by law, course of  
5 dealing, course of performance, usage of trade, or otherwise.

6           9. OWNERSHIP OF DATA. All materials, information and data  
7 prepared, developed or assembled by Contractor or furnished to Contractor in connection  
8 with this Agreement, including but not limited to documents, estimates, calculations,  
9 studies, maps, graphs, charts, computer disks, computer source documentation, samples,  
10 models, reports, summaries, drawings, designs, notes, plans, information, material and  
11 memorandum ("Data") shall be the exclusive property of City. Data shall be given to City,  
12 and City shall have the unrestricted right to use and disclose the Data in any manner and  
13 for any purpose without payment of further compensation to Contractor. Copies of Data  
14 may be retained by Contractor but Contractor warrants that Data shall not be made  
15 available to any person or entity for use without the prior approval of City. This warranty  
16 shall survive termination of this Agreement for five (5) years.

17           10. TERMINATION. Either party shall have the right to terminate this  
18 Agreement for any reason or no reason at any time by giving fifteen (15) calendar days  
19 prior written notice to the other party. In the event of termination under this Section, City  
20 shall pay Contractor for services satisfactorily performed and costs incurred up to the  
21 effective date of termination for which Contractor has not been previously paid and, if the  
22 termination is for convenience (as opposed to default by Contractor), Contractor shall also  
23 be paid for (i) all services in progress at the time of termination, and (ii) all mobilization  
24 costs, demobilization costs and all non-cancellable charges incurred by Contractor in  
25 connection with this Agreement. The procedures for payment in Section 1.B. with regard  
26 to invoices shall apply. On the effective date of termination, Contractor shall deliver to City  
27 all Data developed or accumulated in the performance of this Agreement, whether in draft  
28 or final form, or in process. And, Contractor acknowledges and agrees that City's obligation



1 to make final payment is conditioned on Contractor's delivery of the Data to City.

2 11. CONFIDENTIALITY. Contractor shall keep all Data confidential and  
3 shall not disclose the Data or use the Data directly or indirectly, other than in the course of  
4 performing its services, during the term of this Agreement and for five (5) years following  
5 expiration or termination of this Agreement. In addition, Contractor shall keep confidential  
6 all information, whether written, oral or visual, obtained by any means whatsoever in the  
7 course of performing its services for the same period of time. Contractor shall not disclose  
8 any or all of the Data to any third party, or use it for Contractor's own benefit or the benefit  
9 of others except for the purpose of this Agreement.

10 12. BREACH OF CONFIDENTIALITY. Contractor shall not be liable for a  
11 breach of confidentiality with respect to Data that: (a) Contractor demonstrates Contractor  
12 knew prior to the time City disclosed it; or (b) is or becomes publicly available without  
13 breach of this Agreement by Contractor; or (c) a third party who has a right to disclose does  
14 so to Contractor without restrictions on further disclosure; or (d) must be disclosed pursuant  
15 to subpoena or court order.

16 13. BREACH OF WARRANTY. In the event of a breach of warranty,  
17 Contractor shall, at its option, and as the City's sole remedy, either (a) re-perform or replace  
18 the defective services or materials, at Contractor's expense, so that they are no longer  
19 defective or non-conforming, or (b) reimburse the City the cost of remedying such services  
20 or materials. Notwithstanding anything to the contrary herein, Contractor reserves the right  
21 to dispute any claims for breach of warranty. This Section shall govern the City's remedies  
22 with respect to a breach of warranty. No single breach of warranty shall give rise to a  
23 termination of this Agreement by City, but City shall have the right to terminate for cause if  
24 in the reasonable opinion of City there is an unacceptable pattern of warranty breaches by  
25 Contractor.

26 14. AMENDMENT. This Agreement, including all Exhibits, shall not be  
27 amended, nor any provision or breach waived, except in writing signed by the parties which  
28 expressly refers to this Agreement.

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1           15.    LAW. This Agreement shall be construed in accordance with the laws  
2 of the State of California, and the venue for any legal actions brought by any party with  
3 respect to this Agreement shall be the County of Los Angeles, State of California for state  
4 actions and the Central District of California for any federal actions. Contractor shall cause  
5 all work performed in connection with construction of the Project to be performed in  
6 compliance with (1) all applicable laws, ordinances, rules and regulations of federal, state,  
7 county or municipal governments or agencies (including, without limitation, all applicable  
8 federal and state labor standards, including the prevailing wage provisions of sections 1770  
9 *et seq.* of the California Labor Code); and (2) all directions, rules and regulations of any  
10 fire marshal, health officer, building inspector, or other officer of every governmental  
11 agency now having or hereafter acquiring jurisdiction.

12           16.    PREVAILING WAGES. Contractor agrees that all public work (as  
13 defined in California Labor Code section 1720) performed pursuant to this Agreement (the  
14 "Public Work"), if any, shall comply with the requirements of California Labor Code sections  
15 1770 *et seq.* City makes no representation or statement that the Project, or any portion  
16 thereof, is or is not a "public work" as defined in California Labor Code section 1720. Prior  
17 to beginning work under this Agreement, Contractor shall enter into an MOU with Laborers'  
18 International Union of North America, Local No. 1309, on terms and conditions reasonably  
19 acceptable to Contractor and City.

20           17.    ENTIRE AGREEMENT. This Agreement, including all Exhibits,  
21 constitutes the entire understanding between the parties and supersedes all other  
22 agreements, oral or written, with respect to the subject matter in this Agreement.

23           18.    INDEMNITY.

24           A.    Contractor shall indemnify, protect and hold harmless City, its  
25 Boards, Commissions, and their officials, employees and agents ("Indemnified  
26 Parties"), from and against any and all liability, claims, demands, damage, loss,  
27 obligations, causes of action, proceedings, awards, fines, judgments, penalties,  
28 costs and expenses, including attorneys' fees, court costs, expert and witness fees,

1 and other costs and fees of litigation, arising, in whole or in part, out of (1)  
2 Contractor's breach or failure to comply with any of its obligations contained in this  
3 Agreement, including any obligations arising from the Project's compliance with or  
4 failure to comply with applicable laws, including all applicable federal and state labor  
5 requirements including, without limitation, the requirements of California Labor Code  
6 section 1770 *et seq.* or (2) negligent acts, errors, omissions or misrepresentations,  
7 or willful misconduct, committed by Contractor, its officers, employees, agents,  
8 subcontractors, or anyone under Contractor's control, in the performance of work or  
9 services under this Agreement (collectively "Claims" or individually "Claim").

10 B. In addition to Contractor's duty to indemnify, Contractor shall  
11 have a separate and wholly independent duty to defend Indemnified Parties at  
12 Contractor's expense by legal counsel approved by City, from and against all  
13 Claims, and shall continue this defense until the Claims are resolved, whether by  
14 settlement, judgment or otherwise. No finding or judgment of negligence, fault,  
15 breach, or the like on the part of Contractor shall be required for the duty to defend  
16 to arise. City shall notify Contractor of any Claim, shall tender the defense of the  
17 Claim to Contractor, and shall assist Contractor, as may be reasonably requested,  
18 in the defense.

19 C. Contractor shall have no obligation under subsections A or B of  
20 this Section with respect to claims arising out of the sole negligence or willful  
21 misconduct of Indemnified Parties, Further, Contractor's costs of defense and  
22 indemnity shall be (1) reimbursed in full if the court determines sole negligence by  
23 the Indemnified Parties, or (2) reduced by the percentage of negligence or willful  
24 misconduct attributed by the court to the Indemnified Parties.

25 D. The provisions of this Section shall survive the expiration or  
26 termination of this Agreement.

27 E. Notwithstanding anything to the contrary contained herein, in  
28 no event shall Contractor be liable for (i) indirect, special, consequential, punitive or

1 similar damages in connection with this Agreement, or (ii) damages, in connection  
2 with this Agreement, in excess of an amount equal to (x) the amount actually paid  
3 by City to Contractor hereunder, plus (y) twenty percent (20%) of such amount  
4 actually paid by City to Contractor hereunder, (provided that such percentage shall  
5 not exceed One Million Dollars (\$1,000,000)), provided that this subsection E (ii)  
6 shall not apply to recoveries made by the City under the applicable insurance  
7 policies required to be maintained by Contractor hereunder.

8 19. AMBIGUITY. In the event of any conflict or ambiguity between this  
9 Agreement and any Exhibit, the provisions of this Agreement shall govern.

10 20. NONDISCRIMINATION.

11 A. In connection with performance of this Agreement and subject  
12 to applicable rules and regulations, Contractor shall not discriminate against any  
13 employee or applicant for employment because of race, religion, national origin,  
14 color, age, sex, sexual orientation, gender identity, AIDS, HIV status, handicap or  
15 disability. Contractor shall ensure that applicants are employed, and that employees  
16 are treated during their employment, without regard to these bases. These actions  
17 shall include, but not be limited to, the following: employment, upgrading, demotion  
18 or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay  
19 or other forms of compensation; and selection for training, including apprenticeship.

20 B. It is the policy of City to encourage the participation of  
21 Disadvantaged, Minority and Women-Owned Business Enterprises in City's  
22 procurement process, and Contractor agrees to use commercially reasonable  
23 efforts to carry out this policy in its use of subcontractors and contractors to the  
24 fullest extent consistent with the efficient performance of this Agreement. Contractor  
25 may rely on written representations by subcontractors and contractors regarding  
26 their status. Contractor shall report to City in May and in December or, in the case  
27 of short-term agreements, prior to invoicing for final payment, the names of all  
28 subcontractors and contractors hired by Contractor for this Project and information

1 on whether or not they are a Disadvantaged, Minority or Women-Owned Business  
2 Enterprise, as defined in Section 8 of the Small Business Act (15 U.S.C. Sec. 637).

3 21. EQUAL BENEFITS ORDINANCE. Unless otherwise exempted in  
4 accordance with the provisions of the Ordinance, this Agreement is subject to the  
5 applicable provisions of the Equal Benefits Ordinance (EBO), section 2.73 et seq. of the  
6 Long Beach Municipal Code, as amended from time to time.

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

11 "During the performance of a contract with the City of Long Beach, the  
12 Contractor will provide equal benefits to employees with spouses and its  
13 employees with domestic partners. Additional information about the City of  
14 Long Beach's Equal Benefits Ordinance may be obtained from the City of  
15 Long Beach Business Services Division at 562-570-6200."

16 B. The failure of the Contractor to comply with the EBO will be  
17 deemed to be a material breach of the Agreement by the City.

18 C. If the Contractor fails to comply with the EBO, the City may  
19 cancel, terminate or suspend the Agreement, in whole or in part, and monies due or  
20 to become due under the Agreement may be retained by the City. The City may  
21 also pursue any and all other remedies at law or in equity for any breach.

22 D. Failure to comply with the EBO may be used as evidence  
23 against the Contractor in actions taken pursuant to the provisions of Long Beach  
24 Municipal Code 2.93 et seq., Contractor Responsibility.

25 E. If the City determines that the Contractor has set up or used its  
26 contracting entity for the purpose of evading the intent of the EBO, the City may  
27 terminate the Agreement on behalf of the City. Violation of this provision may be  
28 used as evidence against the Contractor in actions taken pursuant to the provisions

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1 of Long Beach Municipal Code Section 2.93 et seq., Contractor Responsibility.

2 22. NOTICES. Any notice or approval required by this Agreement shall  
3 be in writing and personally delivered or deposited in the U.S. Postal Service, first class,  
4 postage prepaid, addressed to Contractor at the address first stated above, and to City at  
5 333 West Ocean Boulevard, Long Beach, California 90802, Attn: City Manager, with a copy  
6 to the City Engineer at the same address. Notice of change of address shall be given in  
7 the same manner as stated for other notices. Notice shall be deemed given on the date  
8 deposited in the mail or on the date personal delivery is made, whichever occurs first.

9 23. COPYRIGHTS AND PATENT RIGHTS. Contractor warrants that the  
10 services do not violate or infringe any patent, copyright, trade secret or other proprietary  
11 right of any other party. Contractor agrees to and shall protect, defend, indemnify and hold  
12 City, its officials and employees harmless from any and all claims, demands, damages,  
13 loss, liability, causes of action, costs or expenses (including reasonable attorney's fees)  
14 whether or not reduced to judgment, arising from any breach or alleged breach of this  
15 warranty.

16 24. COVENANT AGAINST CONTINGENT FEES. Contractor warrants  
17 that Contractor has not employed or retained any entity or person to solicit or obtain this  
18 Agreement and that Contractor has not paid or agreed to pay any entity or person any fee,  
19 commission or other monies based on or from the award of this Agreement. If Contractor  
20 breaches this warranty, City shall have the right to terminate this Agreement immediately  
21 notwithstanding the provisions of Section 10 or, in its discretion, to deduct from payments  
22 due under this Agreement or otherwise recover the full amount of the fee, commission or  
23 other monies.

24 25. WAIVER. The acceptance of any services or the payment of any  
25 money by City shall not operate as a waiver of any provision of this Agreement or of any  
26 right to damages or indemnity stated in this Agreement. The waiver of any breach of this  
27 Agreement shall not constitute a waiver of any other or subsequent breach of this  
28 Agreement.

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1           26.    CONTINUATION. Termination or expiration of this Agreement shall  
2 not affect rights or liabilities of the parties which accrued pursuant to Sections 7, 10, 11,  
3 17, 19, 22 and 28 prior to termination or expiration of this Agreement.

4           27.    TAX REPORTING. As required by federal and state law, City is  
5 obligated to and will report the payment of compensation to Contractor on Form 1099-Misc.  
6 Contractor shall be solely responsible for payment of all federal and state taxes resulting  
7 from payments under this Agreement. Contractor shall submit Contractor's Employer  
8 Identification Number (EIN), or Contractor's Social Security Number if Contractor does not  
9 have an EIN, in writing to City's Accounts Payable, Department of Financial Management.  
10 Contractor acknowledges and agrees that City has no obligation to pay Contractor until  
11 Contractor provides one of these numbers.

12           28.    ADVERTISING. Contractor shall not use the name of City, its officials  
13 or employees in any advertising or solicitation for business or as a reference, without the  
14 prior approval of the City Manager or designee, not to be unreasonably withheld.

15           29.    AUDIT. City shall have the right at all reasonable times during the  
16 term of this Agreement and for a period of five (5) years after termination or expiration of  
17 this Agreement to examine, audit, inspect, review, extract information from and copy all  
18 books, records, accounts and other documents of Contractor relating to this Agreement.

19           30.    THIRD PARTY BENEFICIARY. This Agreement is not intended or  
20 designed to or entered for the purpose of creating any benefit or right for any person or  
21 entity of any kind that is not a party to this Agreement.

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IN WITNESS WHEREOF, the parties have caused this document to be duly executed with all formalities required by law as of the date first stated above.

UTILITY PARTNERS OF AMERICA, LLC, a Delaware limited liability company

4-22, 2015

By [Signature]  
Name LEE SCHWARTZ  
Title CEO

\_\_\_\_\_, 2015

By \_\_\_\_\_  
Name \_\_\_\_\_  
Title \_\_\_\_\_

"Contractor"

CITY OF LONG BEACH, a municipal corporation

May 11, 2015

By [Signature]  
City Manager  
Assistant City Manager

EXECUTED PURSUANT TO SECTION 301 OF THE CITY CHARTER.

"City"

This Agreement is approved as to form on April 23, 2015.

CHARLES PARKIN, City Attorney

By [Signature]  
Deputy

OFFICE OF THE CITY ATTORNEY  
CHARLES PARKIN, City Attorney  
333 West Ocean Boulevard, 11th Floor  
Long Beach, CA 90802-4664



# EXHIBIT "A"

Scope of Work/Statement of Work

# Exhibit A

## Statement of Work

**Version:**

Version	Date	Name	Changes
1.0	April 7, 2014	Aaron Bailey	Original
1.1	Sept 26, 2014	T. Barlow	Merged to CLB Template / redlined
1.2	October 15, 2014	Aaron Bailey	Revisions
1.3	January 23, 2015	Aaron Bailey/Nicole Naassan	Revisions

**Key Employees:**

Utility Partners of America		City of Long Beach, CA – Gas & Oil Department	
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**1. Project Introduction**

City of Long Beach, CA – Gas & Oil Department (CLB) requires installation services related to the gas meters, gas regulators, replacement, water meters, and AMI devices---all in support of the Advanced Meter Infrastructure (AMI) project. The project will consist of three phases: a planning/advisory Phase, a Proof of Concept Phase and a Full Deployment Phase. The Proof of Concept installations will take place over a planned 30-day period. The Full Deployment will take place over a planned 18-month period. Utility Partners of America (UPA) will provide installation services, contract management, field-project management, inventory management, data management, call center services and a quality assurance program. UPA also offers services for warehousing, uniform vehicle fleet, tools, uniforms, personal protective equipment, performance reports and UPA's Work Order Management System (WOMS), titled Deployment Automation System. UPA will install Advanced Metering Infrastructure (AMI) equipped water and gas meters and AMI SmartPoints manufactured by Sensus.

## 2. Common Terms

Term	Definition
<b>AMI</b>	Shall mean Advanced Metering Infrastructure, specifically Sensus FlexNet RF Advanced Metering Infrastructure, a system in which Sensus network elements communicate commodity measurements such as water and gas consumption throughout the day
<b>Blackout Period</b>	Shall refer to a temporary period in which access to a particular route is limited or denied. Usually coincides with a reading of current meters so as to not interrupt the Utility's billing cycle
<b>C&amp;I Accounts</b>	Shall mean Commercial and Industrial Accounts
<b>CC</b>	Shall mean Can't Complete or Unable to Complete the work order to install a meter or module due to a temporary obstruction.
<b>CIS</b>	Shall mean CLB's Customer Information Systems (Oracle CC&B).
<b>CLB</b>	Shall mean the City of Long Beach, CA – Gas & Oil Department
<b>Custodial Care</b>	Custodial Care is exclusive physical control supported by documentation. Documentation will take the form of a signed bill of lading or a documented inventory transfer.
<b>Phase</b>	Shall mean the Period of Performance in which network elements are being installed within the CLB service territory
<b>GPS</b>	Shall mean Global Positioning System, a method to identify the longitude and latitude of a location
<b>Meter(s)</b>	Shall mean meter(s) provided under this Agreement (i.e., water and gas meters)
<b>Network Elements</b>	Shall mean endpoint devices that comprise the Sensus FlexNet RF AMI, including but not limited to water and gas meters and SmartPoints
<b>Project</b>	Shall mean the delivery of both the Proof of Concept Phase and the Full Deployment Phase.
<b>Project Stakeholders</b>	Shall mean CLB, UPA and Sensus personnel assigned to the Project and responsible for deliverables as defined herein.
<b>Quarantine</b>	Shall mean a hold area for meters that need to be inspected by CLB before they are released for use.
<b>Return to Utility (RTU)</b>	Shall mean a Work Order in which all meter access commitments were met or a work order in which the service or other site conditions prohibits the installation of a meter using previously agreed upon contact methods.
<b>Routes</b>	Shall mean a set of meters grouped together for manual meter reading and/ or replacement operations
<b>SOW</b>	Shall mean the Statement of Work or Scope of Work portion of the Agreement.
<b>Utility</b>	Shall mean City of Long Beach, CA – Gas & Oil Department.
<b>Work Order Management System (WOMS)</b>	Shall mean the work order system utilized by UPA to facilitate the completion of work orders.

## 3. Place of Performance

The work will be performed in the City of Long Beach, CA and the City of Signal Hill, CA.

**4. Period of Performance**

The requested services will be required beginning in sixty (60) days after the Agreement is actually executed by both CLB and UPA.

## 5. Scope of Work

The scope of work must be performed in accordance with the provisions, requirements and assumptions listed in Section 6. Services by Phase include:

**Phase 1:** Professional Services for advice and planning to support CLB and the vendor teams prior to Phase 2 and Phase 3 field deployment. Task 1.1. Activities include:

- Support of kickoff meeting
- Support of planning workshops (participation, presentations, etc.)
- Support of CLB status meetings (weekly, monthly, etc.)
- Other strategic planning (routes, standard operating procedures, customer communication plans, branding, safety, training, etc.)
- Developing / Drafting preliminary / conceptual work plans
- Site visits and assessments (worksites, storage facility, office, parking, etc.)
- Sending and receiving documentation
- IT Integration discussions / meetings
- WOMS demonstrations
- WOMS development
- Test case development / discussions
- Union negotiations
- Other project support as requested

**Phase 2:** Professional and field labor services to support an approximate 1121 unit gas meter proof of concept installation over 30 calendar days. Included in the scope of work are: installation labor, contract management, field project management, inventory management, data management, call center services, travel expenses, a uniform vehicle fleet, tools, uniforms and use of UPA's Work Order Management System (WOMS).

Phase 2 assumptions include: The 30-day engagement does not include costs associated with procuring or leasing a short-term warehouse. UPA assumed it will utilize a CLB facility during the proof of concept due to the short duration.

If the scope of the Proof of Concept (POC) expands and requires more than 30-calendar days to complete with 4 technicians, and a Field Project Manager; UPA will provide a proposal for additional installation labor at a weekly rate until the work is completed. However, UPA believes that the installations associated with the POC as described in the RFP can be completed within 30-calendar days if all materials are on site and the work can be completed without interruption.

**Phase 3:** Professional and field labor services to support an approximate full deployment services for gas and water meters and AMI devices per the estimated quantities provided in the Schedule of Values over an eighteen (18) month period beginning on or around October 1, 2015. Included in the scope of work are: installation labor, contract management, field project management, inventory management, data management, call center services, travel expenses, a uniform vehicle fleet, tools, uniforms and use of UPA's Work Order Management System (WOMS).

The scope of work must be performed in accordance with the provisions, requirements and assumptions listed in Section 6.

**6. Provisions, Requirements and Assumptions Related to the Scope of Work**

The scope of work includes installation services, contract management, field-project management, inventory management, data management, call center services and a quality assurance program. UPA will utilize a CLB warehouse facility during the Proof of Concept Phase and Full Deployment Phase. UPA will also provide uniform vehicle fleet, tools, uniforms, personal protective equipment, performance reports and UPA's Work Order Management System (WOMS), titled Deployment Automation System which will interface with CLB's CIS.

**6.1 UPA Provisions & Requirements**

UPA will provide the following:

ID	UPA Provision	Requirement
6.1.1	Installation Services	<p>UPA will staff the project with trained and qualified installation technicians. Installation technicians will be pre-qualified by UPA and interviewed by UPA's Field Project Manager. Those applicants that are deemed pre-qualified will be subjected to a Motor vehicle record "MVR" Check, a nationwide background check (last seven (7) years), a sexual offender registry check and a 10-panel Department of Transportation (DOT) drug test.</p> <p>Applicants who pass UPA's screening process will be extended an offer letter. If UPA's offer is accepted, the applicants will be hired and asked to report for training on a specific date and time. Once hired, new associates will be trained and qualified to ensure they are qualified to work in a safe and effective manner. UPA will deploy a trainer who will administer a classroom training course in conjunction with Ken Means, UPA's OQ trainer. Classroom training will encompass but is not limited to the following topics: work safety, avoiding hazards, defensive driving, SOW review, tools and hardware review, work order management training, installation techniques, tamper and theft, unsafe conditions and meter reading. Field training will follow classroom training. Installation Technicians deemed qualified once they have demonstrated all the necessary installation and safety techniques and they have passed a final exam.</p>

		<p>Installation technicians will perform the installation services associated with the SOW and in accordance with the manufacturer's recommended installation specification. UPA will employ one (1) field supervisor for every ten (10) to twelve (12) installation technicians. Installation technicians will be subjected to UPA's Quality Assurance Program.</p>
6.1.2	Contract Management	<p>UPA's Contract Manager (CM) will represent UPA during planning and project status meetings and will maintain project budgets, project tracking and change management tools. The CM will have the authority to develop and administer all aspects of UPA's Statement of Work with CLB, to negotiate on UPA's behalf, and solution unforeseen challenges that arise during the Period of Performance in cooperation with the Project Stakeholders.</p>
6.1.3	Field Project Management	<p>UPA's Field Project Manager (FPM) responsibilities include managing the day-to-day aspects of UPA's field operation including, but not limited to: safety management, quality control, personnel management, inventory management, schedule management and SOW adherence.</p> <p>The FPM will live and work in the CLB service territory during the Proof of Concept Phase and the Full Deployment Phase. The FPM will be permitted to work remotely one week after the FPM works in the CLB service territory for six consecutive weeks. The FPM will be supported by a Field Supervisor or a Senior Field Project Manager (SFPM) during the weeks the FPM is working remotely.</p> <p>The FPM will be tasked with ensuring that installation services are carried out in a safe and professional manner that complies with the SOW, the manufacturers' recommended installation specifications, and all other applicable local, state and federal regulations.</p>
6.1.4	Inventory Management	<p>UPA will establish its inventory control system in anticipation of receiving, managing and reconciling allotments of meters and installation material. CLB shall accept delivery of the inventory and promptly deliver all inventory to the UPA-controlled site within the CLB site. After physical delivery to the UPA-controlled site UPA shall be responsible for storing the inventory it receives from CLB. UPA will staff the project with an appropriate number of dedicated inventory technicians during the Full Deployment Phase. UPA will pick, stage and distribute meters and installation material that have been released from quarantine by CLB to installation technicians who will sign for the meters and installation material they receive. Meters and installation material will be managed by UPA on behalf of CLB until the meters and installation material are returned to CLB by way of completed work orders or by way of documented inventory transfers.</p> <p>UPA will provide CLB with an Inventory Report weekly. The Inventory Report will provide statistics regarding inventory on hand, inventory used, inventory returned to the manufacturer (RMA). UPA and CLB will establish and document reordering thresholds and lead times and UPA will utilize the Inventory Report to determine and alert CLB that reordering is necessary.</p>

		UPA will place removed meters and installation material in disposal bins provided by CLB.
6.1.5	Data Management	<p>UPA's Data Manager (DM) will work closely with the Project Stakeholders to initiate and develop project work plans such as the Production Schedule and the Route Release Schedule. Work plans will be submitted to CLB for review and approval. The Production Schedule will be used to compare actual performance to planned performance. The Route Release Schedule will be used to facilitate the release of work orders and customer communication and will be used to facilitate meter and installation material ordering.</p> <p>The DM will assign work orders based on the Route Release Schedule, the geographic layout of the available routes, the number of Installation Technicians, CLB's meter reading schedules and the number of previously scheduled installation appointments. Work orders will be organized the night before and dispatched to the field prior to the start of the work day.</p> <p>The DM will accept completed work orders, electronically, from the field daily. Data collected the previous day will be reviewed and scrubbed to ensure accuracy. The DM will submit completed work orders to CLB two business days after the data is collected in the field. The completed work orders will be sent to CLB electronically at the appropriate time daily via an FTP site that UPA hosts on CLB's behalf.</p> <p>The DM will also be responsible for the preparation of performance reports that are reviewed weekly by the project stakeholders.</p>
6.1.6	Call Center Services	<p>UPA will support the Proof of Concept Phase and the Full Deployment Phase with its call center which consists of its primary call center located in Greenville, SC and its overflow call center, MAP Communications located in Chesapeake, VA.</p> <p>UPA's call center will be responsible for providing customer service, answering Frequently Asked Questions (FAQ) (if provided by CLB and approved to do so), scheduling installation appointments and facilitating the customer claims process.</p> <p>UPA will provide a toll free number that will be dedicated to CLB for customer inbound calling and will be printed on all customer communication material.</p> <p>UPA's call centers are staffed with trained and qualified Customer Service Representatives (CSR) 24/7/365.</p> <p>UPA Call Center supports English, Spanish and French speaking customers. UPA utilizes a 3<sup>rd</sup> party translating service to communicate with customers speaking languages other than English, Spanish and French.</p> <p>Outbound and inbound scripts will be drafted by UPA's call center manager and submitted to CLB for approval.</p>



		UPA will provide CLB with a Call Center Report weekly.
6.1.7	Quality Assurance Program	<p>UPA will provide a Quality Assurance Program which includes auditing 100% of the installation work performed by new associates during their first two weeks of employment and auditing of 5% of the installation work performed by all installation technicians thereafter.</p> <p>UPA will also audit 100% of the pre-installation photographs taken in the field to verify the meter read that was collected before the completed work order is returned to CLB.</p> <p>UPA's Field Project Manager and its Field Supervisors will perform random Quality Audits throughout the Period of Performance to maintain quality and adherence to UPA's Standard Operating Procedures (SOP).</p>
6.1.8	Uniform Vehicle Fleet	UPA will provide and maintain an appropriate number of work vehicles suited to facilitate the SOW. UPA's work vehicles will be labeled with an approved semi-permanent decal that identifies UPA as an approved CLB contractor.
6.1.9	Tools	UPA will provide its personnel with applicable tools necessary to complete the SOW.
6.1.10	Uniforms	UPA will provide its Installation Technicians with uniforms and ID badges
6.1.11	Personal Protective Equipment	UPA will provide its personnel with applicable Personal Protective Equipment to ensure they can complete the requirements associated with the SOW safely.
6.1.12	Performance Reports	<p>UPA will provide performance reports generated from its WOMS and review them with CLB weekly. Performance Reports will include, but are not limited to:</p> <ul style="list-style-type: none"> <li>• Dashboard Report</li> <li>• Production Schedule</li> <li>• Route Status Report</li> <li>• Quality Audit Report</li> <li>• Can't Complete Report</li> <li>• Returned To Utility Report</li> <li>• Claims Resolution Report</li> <li>• Call Center Report</li> <li>• Inventory Report</li> </ul>
6.1.13	Work Order Management System	<p>UPA will provide its Work Order Management System (WOMS), titled Deployment Automation System (DAS) for use by its personnel and during the Period of Performance.</p> <p>UPA will provide its Work Order Management System (WOMS) hardware (handheld computers) for use by five (5) CLB associates during the Full Deployment Phase. Associated Sensus Command Link units to be supplied to CLB by Sensus.</p> <p>DAS is a file interfaced work order management system comprised of both hardware and software used to facilitate the completion of work orders.</p> <p>In collaboration with CLB, UPA will gather requirements and design a</p>

		<p>custom workflow to record and validate information associated with each work order. The workflow will offer various collection method options including drop down menus, checkboxes, scannable text fields and free form comment fields. The workflow will also accommodate photo documentation and GPS collection.</p> <p>UPA will design the workflow to enforce data integrity and to accommodate real-time data validation.</p> <p>UPA and CLB will jointly define and test the workflow requirements, the associated field lengths and the file formats in an effort to facilitate the transference of data between DAS and CLB's CIS.</p> <p>UPA will build the workflow and the associated file that it will use to transfer data to CLB's CIS to meet the specification agreed to by both UPA and CLB.</p> <p>UPA will provide a sufficient number of Motorola MC70 MC75 or Intermecc CN70 series handheld computers and a sufficient number of Sensus Command Link Bluetooth FlexNet programming units for use by UPA technicians.</p> <p>Each handheld computer will be pre-loaded with UPA's DAS software and will be compatible with Sensus FlexNet Command Link programming hardware.</p> <p>UPA will provide regular maintenance of DAS software and hardware and continuous IT support during the Period of Performance. Maintenance and support will be provided remotely. On-site visits will occur on an as-needed basis.</p>
6.1.14	Insurance Coverage	UPA will maintain adequate insurance coverage (outlined in the Agreement) to cover CLB, UPA employees, UPA vehicles, and the meters and installation material in UPA custodial care. Custodial care is defined in Section 2 – Common Terms.
6.1.15	Warranty	UPA will provide a 24-Month Equipment Installation Warranty.

## 6.2 CLB Provisions & Requirements

CLB will provide the following personnel, services and materials:

ID	CLB Provision	Requirement
6.2.1	Work Orders & Customer Data	CLB will provide work orders in route read sequence and in a format agreed to by CLB and UPA. The work order data will define the work to be completed at the premise (i.e. meter retrofit, meter exchange, regulator exchange) and will include the most current customer data needed to perform the SOW.
6.2.2	Blackout Schedule	CLB will provide a meter reading schedule defining the dates when UPA cannot install meters in a given billing cycle.
6.2.3	Customer Communications	CLB will design and UPA will print and deliver a letter by route/cycle to customers two-to-four weeks prior to installation activity. CLB will design and UPA will print door

		hangers for customer notification which will be distributed by UPA after attempting to complete a work order. The quantities will be in accordance with Exhibit B – Schedule of Values.
6.2.4	Warehouse	CLB will provide a warehouse facility of appropriate size in the CLB service territory. The facility will include storage space, office space, vehicle parking, AC power, running water, restroom facilities, and high speed internet availability.
6.2.5	Meters and Installation Materials	<p>CLB will supply UPA with all meters and installation materials needed to perform the SOW. Materials to be supplied by CLB include but are not limited to:</p> <ul style="list-style-type: none"> <li>• Gas meters</li> <li>• Water meters</li> <li>• Pre-drilled water meter pit lids</li> <li>• Water meter registers</li> <li>• SmartPoints</li> <li>• Wire</li> <li>• Wire connectors</li> <li>• Regulators</li> <li>• Gaskets</li> <li>• Screws</li> <li>• Maps of service territory and any established meter reading routes</li> </ul> <p>CLB will order and provide meters and installation materials to meet the established Production Schedule.</p>
6.2.6	Keys and Gate Codes	CLB will provide keys to utility lock boxes and other utility locks and access to gate codes needed to perform the Scope of Work.
6.2.7	CLB Support	CLB will provide expeditious support in the event that UPA requires assistance with access, locating a meter, resolving an exception stemming from errant CIS data, addressing a customer concern or dealing with an abnormal operating condition.
6.2.8	Meter & Waste Disposal	CLB will be responsible for the disposal of all removed meters, modules, registers, wiring, regulators, water meter pit lids, debris removed from water meter pits and any material UPA removes from the CLB or the Signal Hill service territory on CLB's behalf.
6.2.9	Compressed Natural Gas (CNG)	CLB will provide UPA with the CNG needed to perform the Scope of Work. CLB will provide access to a CNG filling station on site or within close proximity to the warehouse facility.

### 6.3 Scope of Work Assumptions

ID	Assumption
6.3.1	UPA assumes the Proof of Concept phase will be managed by a crew of four (4) experienced and qualified installation technicians, along with an on-site Field Project Manager. UPA assumes that it will only take 30-calendar days to install/retrofit the 1121 natural gas meters and the undetermined number of water meters included in the Proof of Concept phase. UPA understands the actual timing of this approximate 30-calendar day window within the anticipated 10-month proof-of-concept period will depend on several factors including but not limited to the installation of the AMI network

	and the delivery of the Proof of Concept meters and installation material. UPA assumes it will deploy its team at a mutually agreeable time when all Proof of Concept Meters and Installation Material are on site and installations can be completed without interruption.
6.3.2	UPA assumes it will be paid the respective installation rate for any work order that is Returned to Utility (RTU) due to an unsafe condition, customer refusal, permanent obstruction, theft or due to an inability to gain access to the meter after the following meter-access strategy is employed. Proposed Meter Access Strategy: UPA will make as many as three physical attempts, three written attempts and three phone call attempts (if phone numbers are provided) in an effort to perform an installation. UPA will then issue an RTU notification to CLB and wait ten calendar days following the last attempt (the grace period) in an effort to secure an installation appointment before returning a work order to the utility. If the customer calls UPA during the grace period to schedule an installation appointment, UPA will schedule the installation appointment and perform the installation at the contracted rate.
6.3.3	UPA assumes it will not be paid the respective installation rate for cancelled work orders accounts that do not require a physical visit. As an example, if a customer calls UPA and refuses service before the work order is dispatched, UPA will cancel the work order for Customer Refusal and will not charge CLB the respective installation rate.
6.3.4	UPA assumes a seamless flow of work during the Period of Performance other than designated holidays and weather days.
6.3.5	UPA assumes Work Orders and Customer Data associated with each Phase will be provided at least 30 days prior to the commencement of the respective Phase and that UPA will be allowed to contact customers to schedule installation appointments if necessary. UPA assumes that CLB will provide refreshed Work Orders and Customer Data on a periodic basis and in accordance with a schedule to be agreed upon by CLB and UPA.
6.3.6	UPA assumes that if an abnormal operating condition is found requiring the technician to wait for a CLB employee to arrive, the response time will be expeditious. Should a UPA installation technician be required to stay beyond 30 minutes, UPA assumes CLB will reimburse UPA for its lost time at the Time and Materials (T&M) rate.
6.3.7	UPA assumes it will not be responsible for the repair of pre-existing conditions such as excessive corrosion, plumbing irregularities, and code violations.
6.3.8	UPA assumes that it will only be responsible for the repair of damages caused directly by its negligence.
6.3.9	UPA assumes that water meters are on setters or equipped with standard meter connections that can be reused during installation activities.
6.3.10	UPA assumes water meter exchange does not include provision of or replacement of expansion connectors, meter couplings, meter connections, setters, or flanges.
6.3.11	UPA assumes that water meter exchanges are like for like, the same lay and length, and that no major plumbing is required. Accounts requiring additional plumbing will be handled on a T&M basis with prior written approval from CLB.
6.3.12	UPA assumes water meter exchange does not require groundwork needed to access meters (including but not limited to the cutting, removal and replacement of asphalt, concrete or tree roots).
6.3.13	UPA assumes water meter exchange does not require replacement of meter boxes or meter vaults.
6.3.14	UPA assumes curb stops and valves are operable and in good working condition
6.3.15	UPA assumes water and gas meters are not located in confined space defined by OSHA
6.3.16	UPA assumes natural gas meter retrofit endpoint installation does not require broken-screw tapping.
6.3.17	UPA assumes that it will exchange the gas meter if it breaks more than the allowed number of broken screws during natural gas meter retrofit endpoint installation process. UPA and CLB to define the allowable number of broken screws.
6.3.18	UPA assumes that gas meter retrofit will not require disruption of gas service.
6.3.19	UPA assumes that gas meter retrofits will not be limited by meter reading schedule as gas meter

	indexes will be reused during the retrofit process.
6.3.20	UPA assumes its installation technicians will not be retrofitting pressure or temperature compensated indexes in the CLB service territory.
6.3.21	UPA assumes that meter exchange and retrofit SOW does not include painting of meters or meter sets.
6.3.22	UPA assumes gas meter exchanges will be performed using compressed natural gas (CNG) containers whenever a Grunsky Tee bypass is present. When a bypass is not present or not functional, UPA will schedule an appointment with the respective customer to perform the exchange and gain access to relight pilot lights.
6.3.23	UPA assumes that SOW does not include installation and/or replacement of valves, couplings, or any other plumbing of service lines.
6.3.24	UPA assumes CLB will exchange gas meters located in-series that require disassembly of multiple meters to access the meter to be replaced.
6.3.25	Gas meter exchange pricing assumes new meters are shipped with gas SmartPoints attached.
6.3.26	UPA assumes it will not be responsible for relighting of appliances or accounts that have been designated as red tag or yellow tag.
6.3.27	UPA assumes regulators will be replaced during the same visit and in conjunction with the gas meter exchange. Stand-alone regulator replacements will be performed at the T&M rates provided.
6.3.28	UPA assumes a like for like exchange of regulators, and the SOW does not include additional plumbing, repiping, pipe modification or rebuilding of meter sets in order to replace the regulator.
6.3.29	UPA's installation rates are based on performing work in an efficient and sequenced (house-to-house or business-to-business) manner, scheduled appointments and revisits excluded. If for any reason, UPA is unable to perform work in an efficient and sequenced manner, all effected field technicians will immediately perform work at an hourly rate of \$76.66 rather than the installation rates listed in Exhibit B, until work can recommence in an efficient and sequenced manner or until a change order is implemented that fairly and equitably addresses inefficient and out-of-sequenced work.

## 7. Installation Procedures

A general description of services to be provided by UPA's installation technicians at each field installation site during the Period of Performance:

### 7.1 General Installation Procedure – Gas Meter Retrofit

ID	Work Requirement For Gas Meter Retrofit	Requirement
7.1.1	Park	Safely Park Work Vehicle.
7.1.2	Location and Verification	The installation technician will locate the gas meter and verify the premise and meter number
7.1.3	Notify Customer	The installation technician will attempt to notify customer prior to performing installation work.
7.1.4	Pre-installation Inspection	The installation technician will inspect the meter loop for any abnormal operating conditions, such as leaks, tamper or unsafe conditions. If abnormal operating conditions exist, the installation technician will escalate the issue to the respective Field Supervisor. The respective Field Supervisor will notify CLB.
7.1.5	Atmospheric Corrosion Survey	The installation technician will perform an atmospheric

		corrosion survey and record the results.
7.1.6	Pre-installation Photograph	The installation technician will take a pre-installation photograph.
7.1.7	Installation	The installation technician will perform the installation of the SmartPoint in accordance with the SOW and the manufacturer's suggested installation specification.
7.1.8	Programming	The installation technician will program the new SmartPoint.
7.1.9	Post installation Photograph	The installation technician will take a post installation photograph and, where necessary, exception photos at each installation.
7.1.10	Work Order Data Capture	The installation technician will capture and validate work order data using the UPA's DAS WOMS
7.1.11	Clean Work Area	The installation technician will clean the work area and remove any debris associated with the SOW so that the work area is left in the as found condition or better.
7.1.12	Post Installation Notification	The installation technician will leave a door hanger on the front door notifying the customer that the installation was complete or prompts the customer to call a toll-free number to schedule an installation appointment at a later point in time if the installation could not be completed.

## 7.2 General Installation Procedure – Gas Meter Exchange

ID	Work Requirement For Gas Meter Exchange	Requirement
7.2.1	Park	Safely Park Work Vehicle.
7.2.2	Location and Verification	The installation technician will locate the gas meter and verify the premise and meter number
7.2.3	Notify Customer	The installation technician will attempt to notify customer prior to performing installation work.
7.2.4	Pre-installation Inspection	The installation technician will inspect the meter loop for any abnormal operating conditions, such as leaks, tamper or unsafe conditions. If abnormal operating conditions exist, the installation technician will escalate the issue to the respective Field Supervisor. The respective Field Supervisor will notify CLB.
7.2.5	Atmospheric Corrosion Survey	The installation technician will perform an atmospheric corrosion survey and record the results.
7.2.6	Pre-installation Photograph	The installation technician will take a pre-installation photograph.
7.2.7	Bypass the Meter	The installation technician will bypass the gas meter if possible.
7.2.8	Turn Gas Off	If the installation technician cannot bypass the gas meter, the installation technician will turn the utility-side gas valve to the off position.
7.2.9	Installation	The installation technician will perform the exchange of the gas meter and the regulator (if applicable) and the installation of the SmartPoint (if it was not pre-installed on the gas meter) in accordance with the SOW and the manufacturer's suggested installation specification.
7.2.10	Turn Gas On	If the installation technician could not bypass the gas meter, the installation technician will turn the utility-side gas valve back to the on position.

7.2.11	Soap Test	The installation technician will perform a soap test to ensure the gas meter is sealed.
7.2.12	Programming	The installation technician will program the new SmartPoint.
7.2.13	Post installation Photograph	The installation technician will take a post installation photograph and, where necessary, exception photos at each installation.
7.2.14	Work Order Data Capture	The installation technician will capture and validate work order data using the UPA's DAS WOMS
7.2.15	Relight Pilot Lights	The installation technician will relight the customer's pilot lights if the meter could not be bypassed and service was disrupted.
7.2.16	Clean Work Area	The installation technician will clean the work area and remove any debris associated with the SOW so that the work area is left in the as found condition or better.
7.2.17	Post Installation Notification	The installation technician will leave a door hanger on the front door notifying the customer that the installation was complete or prompts the customer to call a toll-free number to schedule an installation appointment at a later point in time if the installation could not be completed.

### 7.3 General Installation Procedure – Water Meter Retrofit

ID	Work Requirement For Water Meter Retrofit	Requirement
7.3.1	Park	Safely Park Work Vehicle.
7.3.2	Location and Verification	The installation technician will locate the water meter and verify the premise and meter number
7.3.3	Notify Customer	The installation technician will attempt to notify customer prior to performing installation work.
7.3.4	Pre-installation Inspection	The installation technician will inspect the water meter pit for any abnormal operating conditions, such as leaks, tamper or unsafe conditions. If abnormal operating conditions exist, the installation technician will escalate the issue to the respective Field Supervisor. The respective Field Supervisor will notify CLB.
7.3.5	Pre-installation Photograph	The installation technician will take a pre-installation photograph.
7.3.6	Installation	The installation technician will perform the exchange of the water meter register and the meter pit lid and the installation of the SmartPoint in accordance with the SOW and the manufacturer's suggested installation specification.
7.3.7	Programming	The installation technician will program the new SmartPoint.
7.3.8	Post installation Photograph	The installation technician will take a post installation photograph and, where necessary, exception photos at each installation.
7.3.9	Work Order Data Capture	The installation technician will capture and validate work order data using the UPA's DAS WOMS
7.3.10	Clean Work Area	The installation technician will clean the work area and remove any debris associated with the SOW so that the work area is left in the as found condition or better.
7.3.11	Post Installation Notification	The installation technician will leave a door hanger on the

		front door notifying the customer that the installation was complete or prompts the customer to call a toll-free number to schedule an installation appointment at a later point in time if the installation could not be completed.
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#### 7.4 General Installation Procedure – Water Meter Exchange

ID	Work Requirement For Water Meter Exchange	Requirement
7.4.1	Park	Safely Park Work Vehicle.
7.4.2	Location and Verification	The installation technician will locate the water meter and verify the premise and meter number
7.4.3	Notify Customer	The installation technician will attempt to notify customer prior to performing installation work.
7.4.4	Pre-installation Inspection	The installation technician will inspect the meter pit for any abnormal operating conditions, such as leaks, tamper or unsafe conditions. If abnormal operating conditions exist, the installation technician will escalate the issue to the respective Field Supervisor. The respective Field Supervisor will notify CLB.
7.4.5	Turn Water Off	The installation technician will turn the street-side water valve to the off position.
7.4.6	Pre-installation Photograph	The installation technician will take a pre-installation photograph.
7.4.7	Installation	The installation technician will perform the exchange of the water meter and the meter pit lid and the installation of the SmartPoint in accordance with the SOW and the manufacturer's suggested installation specification.
7.4.8	Turn Water On	The installation technician will turn the street-side water valve back to the on position.
7.4.9	Programming	The installation technician will program the new SmartPoint.
7.4.10	Post installation Photograph	The installation technician will take a post installation photograph and, where necessary, exception photos at each installation.
7.4.11	Work Order Data Capture	The installation technician will capture and validate work order data using the UPA's DAS WOMS
7.4.12	Flow Water	The installation technician will flow a limited amount of water from the nearest spigot to clear the applicable water line of air or debris that may have entered the line inadvertently during the exchange or installation process.
7.4.13	Clean Work Area	The installation technician will clean the work area and remove any debris associated with the SOW so that the work area is left in the as found condition or better.
7.4.14	Post Installation Notification	The installation technician will leave a door hanger on the front door notifying the customer that the installation was complete or prompts the customer to call a toll-free number to schedule an installation appointment at a later point in time if the installation could not be completed.



## 8. Exception Handling

### 8.1. Exceptions Due to Errant CIS Data or Data that Can Not be Verified

Exception events that result from errant CIS data will be handled in the following manner:

ID	Exception Description	Resolution
8.1.1	Cannot locate or gain access meter	CLB to dispatch crew to help UPA locate or gain access to meter, UPA to install a new meter
8.1.2	Incorrect meter on-site	UPA to record as-found meter information and proceed with a like for like installation
8.1.3	Can't read meter or serial number	UPA to record exception and proceed with installation
8.1.4	Reading out-of-range (high/low failure)	UPA to record as-found meter information and proceed with installation

### 8.2. Exceptions Due to Abnormal Operating Conditions

Exception events that result from abnormal operating conditions will be handled in the following manner:

ID	Exception Description	Resolution
8.2.1	Unsafe condition	UPA to record exception, escalate to CLB and remain on site if it is safe to do so until UPA is relieved by a CLB employee. UPA will wait up to 30 minutes for relief by CLB. After 30 minutes the Hourly Labor Rate of \$76.66 will apply.
8.2.2	Obstructed meter	UPA to record exception. If obstruction is temporary, UPA to leave door hanger prompting customer to schedule and installation appointment after the obstruction is cleared. If permanent, UPA to RTU work order.
8.2.3	Diversion/tampering	UPA will record exception, leave site and escalate to CLB.
8.2.4	Opt out Program	UPA to record exception, refer customer to CLB for further information and RTU work order.
8.2.5	Customer Refusal	UPA to record exception and RTU work order.

## 9. Performance Objectives

UPA will be guided by the following Performance Objectives during this period of performance:

ID	UPA Performance Objective	Requirement
9.1	Qualified and Safe Workers	<p>Safety of the worker, customer, and public is of the utmost importance and will be monitored through UPA's Safety and Quality Assurance Program which is OSHA compliant.</p> <p>All workers will receive classroom training on installation methods, customer contact, and field safety and vehicle safety before the commencement of fieldwork.</p> <p>All UPA installers shall be screened for criminal history, drug abuse and</p>

		alcohol abuse prior to commencement of their initial involvement in field work and will be subjected to random drug and alcohol screenings throughout their employment with UPA.
9.2	Customer Interaction and Professionalism	<p>UPA representatives will always have a professional appearance and behavior when interacting with CLB and its customers.</p> <p>All customer incidents having potential negative impact on CLB customer relations will be reported to the UPA FPM and the CLB Project Manager promptly.</p>
9.3	Schedule Adherence	UPA will utilize Best practice project management methods to provide schedule adherence and mitigate the risk of schedule slippage.
9.4	Quality Performance	UPA will strive for 100% procedural adherence and guarantees that 99% or more of the completed work order data that it returns to CLB will be error free.

# EXHIBIT "B"

Rates or Charges/Schedule of Values

# UPA Exhibit B

## Schedule of Values

### Pricing Assumptions

ID	Assumption
1.1	Pricing does not include the provision of performance and/or payment bonds. Bonds can be provided at a cost of 2.75% of the total contract value.
1.2	Pricing is based on the Wage Determination contained in MOU section X. D., as the same may be amended by the California Department of Industrial Relations.
1.3	Prices are firm through 12/31/15 (excluding wage rate increases). Beginning 1/1/16, and each subsequent year, UPA reserves the right to adjust pricing relative to the change in Consumer Price Index (CPI), not to exceed 3% (excluding wage rate increases)
1.4	Overhead and Administration to be remitted to UPA in 18 monthly payments beginning in October 2015 (\$535,429 / 18 = \$29,746/month). Overhead and administration includes but is not limited to local outreach and hiring, job training and certification.

### Phase I – Advisory and Planning Services

Phase 1 labor is estimated with 160 project hours by UPA. CLB elects a firm, fixed fee pricing option of \$24,000 for this Phase based on a blended rate of \$150 per hour for the estimated labor—targeted for Feb-15, Mar-15 and Apr-15. The actual hours may be more or less than estimated, but the fee for this task is fixed. Travel Costs estimate for this phase: 2 man-trips.

	Phase 1 – Advisory and Planning Services	Est SME hours	Est PM/AM hours
Task 1.1	Support Services defined in SOW for Task 1.1	100	
	PM and Executive Account Mgmt. for Phase 1		60

### Phase 1 billing schedule

Task	Billing Milestone	Value	Base Monthly Billing (PM/SME)
Task 1.1	N/A	\$24,000	\$6,000 / month

### Travel Charges:

Travel is estimated at \$1500 per man-trip for resources using air travel; however, travel will be billed at 'actual cost'.



## Phase II – Meter / Smart Point Installation Services For Beta

The Phase 2 scope of work is priced as a firm fixed fee of \$71,990.18. Travel expenses are included in this scope of work.

Phase 2 billing schedule

<b>Billing Milestone</b>	<b>Calculation</b>	<b>Billing Amount.</b>
30 day advance Notice to Proceed (25%)	.25 x \$71,990.18	\$17,997.55
15 Days into POC (25%)	.25 x \$71,990.18	\$17,997.55
Completion of POC – 30 Days (50%)	.50 x \$71,990.18	\$35,995.09

## Phase III – Meter / Smart Point Installation Instructions

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Phase III – Meter / Smart Point Installation Unit Pricing

**ADDENDUM 9 - REVISED  
ATTACHMENT 8  
Attachment 8C - AMI Cost  
Proposal  
*Installation Services***

Item/Service	Qty	Unit \$	Extended \$
<b>AMI System Installation</b>			
Install AMI Infrastructure			
Install 2			
Install 3			
Install 4			
Install 5			
<b><i>Subtotal</i></b>			-

<b>Advisory &amp; Planning Services</b>			
Advisory & Planning Services	4	\$6,000	\$24,000
			\$24,000

<b><i>Natural Gas Meters &amp; Meter Equipment</i></b>			
<b><i>Natural Gas Meter &amp; Endpoint Installation</i></b>			
<i>Meter category</i>			
Residential - up to 250 cfh	50,000	\$61.33	\$3,066,500.00
Residential - 250 cfh - 415 cfh	3,853	\$61.33	\$236,304.49
Commercial		\$245.32	
<b><i>Subtotal</i></b>	<b>53,853</b>		<b>\$3,302,804.49</b>

### **Replace Gas Meter Regulators**

#### *Meter category*

3/4" NPT 400 cfh capacity - 5 psig - 30 psig inlet/ 7 " wc outlet - 2 psig max relief	18,000	\$11.68	\$210,240.00
3/4" NPT 800 cfh capacity - 5 psig inlet/ 7 " wc outlet - 2 psig max relief	889	\$11.68	\$10,383.52
3/4" NPT 800 cfh capacity - 30 psig inlet/ 7 " wc outlet - 2 psig max relief	890	\$11.68	\$10,395.20
Commercial	-	\$23.36	
<b>Subtotal</b>	<b>19,779</b>		<b>\$231,018.72</b>

### **Natural Gas Meter Retrofit with Endpoint Installation**

#### *Existing Manufacturer / Class / Prefix:*

American AC250, 0510	62,432	\$16.85	\$1,051,979.20
American AL/AC 250, 0250	32	\$16.85	\$539.20
American AL1000, 0515	21	\$26.86	\$564.06
American AL1400, L517	35	\$26.86	\$940.10
American AR250, 0511	9,016	\$16.85	\$151,919.60
Equitable 10000, 0550	26	\$26.86	\$698.36
Equitable 1600, 0800	136	\$26.86	\$3,652.96
Equitable 200, 0200	93	\$16.85	\$1,567.05
Equitable 3000, 0546	14	\$26.86	\$376.04
Equitable 3000, L546	139	\$26.86	\$3,733.54
Equitable 315, 0315	138	\$16.85	\$2,325.30
Equitable 415, 0415	555	\$16.85	\$9,351.75
Equitable 5000, 0547	76	\$26.86	\$2,041.36
Equitable/Sensus 275, 0275	16,582	\$16.85	\$279,406.70
National 250, 0507	631	\$16.85	\$10,632.35
Roots 15C, 0602	412	\$53.72	\$22,132.64
Roots 11C, 0603	1	\$53.72	\$53.72
Roots 11M, 0636	60	\$53.72	\$3,223.20
Roots 16M, 0646	21	\$53.72	\$1,128.12
Roots 23M, 0651	12	\$53.72	\$644.64
Roots 2M, 0604	51	\$53.72	\$2,739.72
Roots 3M, 0605	179	\$53.72	\$9,615.88
Roots 5C, 0600	162	\$53.72	\$8,702.64
Roots 5M, 0615	147	\$53.72	\$7,896.84
Roots 7M, 0625	36	\$53.72	\$1,933.92
Roots 8C, 0601	1,261	\$53.72	\$67,740.92



Schlumberger 250, 0509	8	\$16.85	\$134.80
Sprague #3/400, 0504	1,925	\$16.85	\$32,436.25
Sprague #4/675, 0505	545	\$16.85	\$9,183.25
Sprague 250, 0506	313	\$16.85	\$5,274.05
Sprague 5A/1000, 0508	262	\$26.86	\$7,037.32
Westinghouse 200, W200	5	\$16.85	\$84.25
Unknown	6	\$53.72	\$322.32
<b>Subtotal</b>	<b>95,332</b>		<b>\$1,700,012.05</b>

### Professional Services

Project Management  
Training and Documentation  
Service 3  
Service 4  
Service 5  
Service 6

#### Subtotal

### Other Installation Services

Warehousing, office space, staging area, per mo	-	\$7,825.47	
30 Day Pilot Fee	1	\$71,990.18	\$71,990.18
Weekly Pilot Fee per FTE after 30 day period		\$4,185.48	
Pictures of meter out read (water register and gas index)			
Pictures of sites found with damage or safety issues			
All meters returned the CLB warehouse on a daily basis			
Provide and mail introductory letter	150,000	\$0.95	\$142,500.00
Provide and deliver door hanger after each visit	150,000	\$0.19	\$28,500.00
Hourly T&M Rate, out of scope services including repiping and plumbing		\$76.66	
Adder per Grunsky Tee installed or replaced (labor only); Material at cost plus 10% margin		\$22.36	
Adder to attach module to new gas meter at time of exchange		\$6.39	

Adder per Gas Meter Exchange requiring Relight	10,770	\$47.59	\$512,492.20
<b>Subtotal</b>			<b>\$755,482.37</b>

<b>TOTAL MATERIAL &amp; INSTALLATION</b>			<b>\$6,013,317</b>
<b>Overhead and Administration</b>			<b>\$535,429</b>
<b>GRAND TOTAL</b>			<b>\$6,548,746</b>

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# EXHIBIT “C”

City’s Representative:

Tony Foster, Gas Supply Officer

(562) 570-2015

# EXHIBIT “D”

Materials/Information Furnished: None