



**CITY OF LODI
COUNCIL COMMUNICATION**

AGENDA TITLE: Adopt Resolution Authorizing City Manager to Execute Professional Services Agreement with Efficiency Services Group, LLC of Milwaukie, Oregon for Public Benefit Program Administration (\$50,000)

MEETING DATE: June 4, 2014

PREPARED BY: Electric Utility Director

RECOMMENDED ACTION: Adopt a resolution authorizing the City Manager to execute professional services agreement with Efficiency Services Group, LLC (ESG) for Public Benefit Program Administration in an amount not to exceed \$50,000.

BACKGROUND INFORMATION: With the recent departure of the City's Business Development Manager, the day-to-day management of the Electric Utility's (EU) Public Benefits (PB) Program has fallen to existing EU staff with other priorities and work assignments. Until such time as the City is able to recruit and hire a Business Development Manager to assist with these efforts, staff are recommending to contract out the management of its PB Program to ESG for a period of six months in an amount not to exceed \$50,000.

ESG has been providing complete turnkey public benefit program administration services to publicly owned utilities (POUs) for over ten years and currently functions in this capacity for 23 POUs in California and the Northwest, including other Northern California Power Agency (NCPA) members.

As part of the proposed turnkey services, ESG will maintain a hotline available during normal business hours to address customer inquiries regarding the EU's energy efficiency programs as well as maintain a California office in Rocklin. Any efforts requiring ESG's presence in Lodi will be handled during periodic monthly site visits. ESG will manage and track all of EU's energy efficiency and rebate programs and help satisfy all State energy efficiency reporting requirements. ESG will participate, on behalf of Lodi, on the NCPA PB Committee, as well as ensure EU staff is kept apprised of legislative efforts regarding public benefits funding.

As part of these efforts, the EU will be able to eliminate an existing annual contract for assistance with its SB 1037 reporting, thereby saving approximately \$5,000.

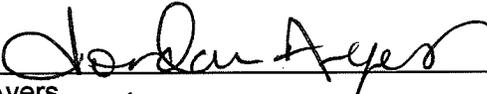
FISCAL IMPACT: Not to exceed \$50,000 with \$5,000 in savings realized as a result of eliminating an existing service contract.

FUNDING AVAILABLE: Included in the FY2014/15 Budget Account No. 164605.7323.

APPROVED:

A handwritten signature in black ink, appearing to read "Stephen Schwabauer".

Stephen Schwabauer, Interim City Manager



Jordan Ayers
Deputy City Manager/Internal Services Director



Elizabeth A. Kirkley
Electric Utility Director

PREPARED BY: Melissa Price, Rates & Resources Manager

EAK/MP/lst

AGREEMENT FOR PROFESSIONAL SERVICES

ARTICLE 1 PARTIES AND PURPOSE

Section 1.1 Parties

THIS AGREEMENT is entered into on _____, 2014, by and between the CITY OF LODI, a municipal corporation (hereinafter "CITY"), and Efficiency Services Group, LLC (hereinafter "CONTRACTOR").

Section 1.2 Purpose

CITY selected the CONTRACTOR to provide the services required in accordance with attached Scope of Services, Exhibit A, attached and incorporated by this reference.

CITY wishes to enter into an agreement with CONTRACTOR for Public Benefit Program Administration (hereinafter "Project") as set forth in the Scope of Services attached here as Exhibit A. CONTRACTOR acknowledges that it is qualified to provide such services to CITY.

ARTICLE 2 SCOPE OF SERVICES

Section 2.1 Scope of Services

CONTRACTOR, for the benefit and at the direction of CITY, shall perform the Scope of Services as set forth in Exhibit A.

Section 2.2 Time For Commencement and Completion of Work

CONTRACTOR shall commence work pursuant to this Agreement, upon receipt of a written notice to proceed from CITY or on the date set forth in Section 2.6, whichever occurs first, and shall perform all services diligently and complete work under this Agreement based on a mutually agreed upon timeline or as otherwise designated in the Scope of Services.

CONTRACTOR shall submit to CITY such reports, diagrams, drawings and other work products as may be designated in the Scope of Services.

CONTRACTOR shall not be responsible for delays caused by the failure of CITY staff to provide required data or review documents within the appropriate time frames. The review time by CITY and any other agencies involved in the project shall not be counted against CONTRACTOR's contract performance period. Also, any delays due to

weather, vandalism, acts of God, etc., shall not be counted. CONTRACTOR shall remain in contact with reviewing agencies and make all efforts to review and return all comments.

Section 2.3 Meetings

CONTRACTOR shall attend meetings as may be set forth in the Scope of Services.

Section 2.4 Staffing

CONTRACTOR acknowledges that CITY has relied on CONTRACTOR's capabilities and on the qualifications of CONTRACTOR's principals and staff as identified in its proposal to CITY. The Scope of Services shall be performed by CONTRACTOR, unless agreed to otherwise by CITY in writing. CITY shall be notified by CONTRACTOR of any change of Project Manager and CITY is granted the right of approval of all original, additional and replacement personnel at CITY's sole discretion and shall be notified by CONTRACTOR of any changes of CONTRACTOR's project staff prior to any change.

CONTRACTOR represents it is prepared to and can perform all services within the Scope of Services (Exhibit A) and is prepared to and can perform all services specified therein. CONTRACTOR represents that it has, or will have at the time this Agreement is executed, all licenses, permits, qualifications, insurance and approvals of whatsoever nature are legally required for CONTRACTOR to practice its profession, and that CONTRACTOR shall, at its own cost and expense, keep in effect during the life of this Agreement all such licenses, permits, qualifications, insurance and approvals, and shall indemnify, defend and hold harmless CITY against any costs associated with such licenses, permits, qualifications, insurance and approvals which may be imposed against CITY under this Agreement.

Section 2.5 Subcontracts

Unless prior written approval of CITY is obtained, CONTRACTOR shall not enter into any subcontract with any other party for purposes of providing any work or services covered by this Agreement.

Section 2.6 Term

The term of this Agreement commences on July 1, 2014 and terminates upon the completion of the Scope of Services or on December 31, 2014, whichever occurs first.

ARTICLE 3
COMPENSATION

Section 3.1 Compensation

CONTRACTOR's compensation for all work under this Agreement shall conform to the provisions of the Fee Proposal, attached hereto as Exhibit B and incorporated by this reference.

CONTRACTOR shall not undertake any work beyond the scope of this Agreement unless such additional work is approved in advance and in writing by CITY.

Section 3.2 Method of Payment

CONTRACTOR shall submit invoices for completed work on a monthly basis, or as otherwise agreed, providing, without limitation, details as to amount of hours, individual performing said work, hourly rate, and indicating to what aspect of the Scope of Services said work is attributable. CONTRACTOR's compensation for all work under this Agreement shall not exceed the amount of the Fee Proposal.

Section 3.3 Costs

The Fee Proposal shall include all reimbursable costs required for the performance of the Scope of Services. Payment of additional reimbursable costs considered to be over and above those inherent in the original Scope of Services shall be approved in advanced and in writing, by CITY.

Section 3.4 Auditing

CITY reserves the right to periodically audit all charges made by CONTRACTOR to CITY for services under this Agreement. Upon request, CONTRACTOR agrees to furnish CITY, or a designated representative, with necessary information and assistance needed to conduct such an audit.

CONTRACTOR agrees that CITY or its delegate will have the right to review, obtain and copy all records pertaining to performance of this Agreement. CONTRACTOR agrees to provide CITY or its delegate with any relevant information requested and shall permit CITY or its delegate access to its premises, upon reasonable notice, during normal business hours for the purpose of interviewing employees and inspecting and copying such books, records, accounts, and other material that may be relevant to a matter under investigation for the purpose of determining compliance with this requirement. CONTRACTOR further agrees to maintain such records for a period of three (3) years after final payment under this Agreement.

ARTICLE 4
MISCELLANEOUS PROVISIONS

Section 4.1 Nondiscrimination

In performing services under this Agreement, CONTRACTOR shall not discriminate in the employment of its employees or in the engagement of any sub CONTRACTOR on the basis of race, color, religion, sex, sexual orientation, marital status, national origin, ancestry, age, or any other criteria prohibited by law.

Section 4.2 ADA Compliance

In performing services under this Agreement, CONTRACTOR shall comply with the Americans with Disabilities Act (ADA) of 1990, and all amendments thereto, as well as all applicable regulations and guidelines issued pursuant to the ADA.

Section 4.3 Indemnification and Responsibility for Damage

CONTRACTOR to the fullest extent permitted by law, shall indemnify and hold harmless CITY, its elected and appointed officials, directors, officers, employees and volunteers from and against any claims, damages, losses, and expenses (including reasonable attorney's fees and costs), arising out of performance of the services to be performed under this Agreement, provided that any such claim, damage, loss, or expense is caused by the negligent acts, errors or omissions of CONTRACTOR, any subcontractor employed directly by CONTRACTOR, anyone directly or indirectly employed by any of them, or anyone for whose acts they may be liable, except those injuries or damages arising out of the active negligence, sole negligence, or sole willful misconduct of the City of Lodi, its elected and appointed officials, directors, officers, employees and volunteers. CITY may, at its election, conduct the defense or participate in the defense of any claim related in any way to this indemnification. If CITY chooses at its own election to conduct its own defense, participate in its own defense, or obtain independent legal counsel in defense of any claim related to this indemnification, CONTRACTOR shall pay all of the costs related thereto, including without limitation reasonable attorney fees and costs. The defense and indemnification obligations required by this Agreement are undertaken in addition to, and shall not in any way be limited by the insurance obligations set forth herein.

Section 4.4 No Personal Liability

Neither the City Council, nor any other officer or authorized assistant or agent or City employee shall be personally responsible for any liability arising under this Agreement.

Section 4.5 Responsibility of CITY

CITY shall not be held responsible for the care or protection of any material or parts of the work described in the Scope of Services prior to final acceptance by CITY, except as expressly provided herein.

Section 4.6 Insurance Requirements for CONTRACTOR

CONTRACTOR shall take out and maintain during the life of this Agreement, insurance coverage as set forth in Exhibit C attached hereto and incorporated by this reference.

Section 4.7 Successors and Assigns

CITY and CONTRACTOR each bind themselves, their partners, successors, assigns, and legal representatives to this Agreement without the written consent of the others. CONTRACTOR shall not assign or transfer any interest in this Agreement without the prior written consent of CITY. Consent to any such transfer shall be at the sole discretion of CITY.

Section 4.8 Notices

Any notice required to be given by the terms of this Agreement shall be in writing signed by an authorized representative of the sender and shall be deemed to have been given when the same is personally served or upon receipt by express or overnight delivery, postage prepaid, or three (3) days from the time of mailing if sent by first class or certified mail, postage prepaid, addressed to the respective parties as follows:

To CITY: City of Lodi
 221 West Pine Street
 P.O. Box 3006
 Lodi, CA 95241-1910
 Attn: Melissa Price, Rates & Resources Manager

To CONTRACTOR: Efficiency Services Group, LLC
 4120 SE International Way, Suite A211
 Milwaukie, OR 97222
 Attn: Mark Gosvener, CEO

Section 4.9 Cooperation of CITY

CITY shall cooperate fully and in a timely manner in providing relevant information it has at its disposal relevant to the Scope of Services.

Section 4.10 CONTRACTOR is Not an Employee of CITY

CONTRACTOR agrees that in undertaking the duties to be performed under this Agreement, it shall act as an independent contractor for and on behalf of CITY and not an employee of CITY. CITY shall not direct the work and means for accomplishment of

the services and work to be performed hereunder. CITY, however, retains the right to require that work performed by CONTRACTOR meet specific standards without regard to the manner and means of accomplishment thereof.

Section 4.11 Termination

CITY may terminate this Agreement, with or without cause, by giving CONTRACTOR at least ten (10) days written notice. Where phases are anticipated within the Scope of Services, at which an intermediate decision is required concerning whether to proceed further, CITY may terminate at the conclusion of any such phase. Upon termination, CONTRACTOR shall be entitled to payment as set forth in the attached Exhibit B to the extent that the work has been performed. Upon termination, CONTRACTOR shall immediately suspend all work on the Project and deliver any documents or work in progress to CITY. However, CITY shall assume no liability for costs, expenses or lost profits resulting from services not completed or for contracts entered into by CONTRACTOR with third parties in reliance upon this Agreement.

Section 4.12 Confidentiality

CONTRACTOR agrees to maintain confidentiality of all work and work products produced under this Agreement, except to the extent otherwise required by law or permitted in writing by CITY. CITY agrees to maintain confidentiality of any documents owned by CONTRACTOR and clearly marked by CONTRACTOR as "Confidential" or "Proprietary", except to the extent otherwise required by law or permitted in writing by CONTRACTOR. CONTRACTOR acknowledges that CITY is subject to the California Public Records Act.

Section 4.13 Applicable Law, Jurisdiction, Severability, and Attorney's Fees

This Agreement shall be governed by the laws of the State of California. Jurisdiction of litigation arising from this Agreement shall be venued with the San Joaquin County Superior Court. If any part of this Agreement is found to conflict with applicable laws, such part shall be inoperative, null, and void insofar as it is in conflict with said laws, but the remainder of this Agreement shall be in force and effect. In the event any dispute between the parties arises under or regarding this Agreement, the prevailing party in any litigation of the dispute shall be entitled to reasonable attorney's fees from the party who does not prevail as determined by the San Joaquin County Superior Court.

Section 4.14 City Business License Requirement

CONTRACTOR acknowledges that Lodi Municipal Code Section 3.01.020 requires CONTRACTOR to have a city business license and CONTRACTOR agrees to secure such license and pay the appropriate fees prior to performing any work hereunder.

Section 4.15 Captions

The captions of the sections and subsections of this Agreement are for convenience only and shall not be deemed to be relevant in resolving any question or interpretation or intent hereunder.

Section 4.16 Integration and Modification

This Agreement represents the entire understanding of CITY and CONTRACTOR as to those matters contained herein. No prior oral or written understanding shall be of any force or effect with respect to those matters covered hereunder. This Agreement may not be modified or altered except in writing, signed by both parties.

Section 4.17 Contract Terms Prevail

All exhibits and this Agreement are intended to be construed as a single document. Should any inconsistency occur between the specific terms of this Agreement and the attached exhibits, the terms of this Agreement shall prevail.

Section 4.18 Severability

The invalidity in whole or in part of any provision of this Agreement shall not void or affect the validity of any other provision of this Agreement.

Section 4.19 Ownership of Documents

All documents, photographs, reports, analyses, audits, computer media, or other material documents or data, and working papers, whether or not in final form, which have been obtained or prepared under this Agreement, shall be deemed the property of CITY. Upon CITY's request, CONTRACTOR shall allow CITY to inspect all such documents during CONTRACTOR's regular business hours. Upon termination or completion of services under this Agreement, all information collected, work product and documents shall be delivered by CONTRACTOR to CITY within ten (10) calendar days.

CITY agrees to indemnify, defend and hold CONTRACTOR harmless from any liability resulting from CITY's use of such documents for any purpose other than the purpose for which they were intended.

Section 4.20 Authority

The undersigned hereby represent and warrant that they are authorized by the parties to execute this Agreement.

Section 4.21 Federal Transit Funding Conditions

If the box at left is checked, the Federal Transit Funding conditions attached as Exhibit D apply to this Agreement. In the event of a conflict between the terms of this Agreement or any of its other exhibits, and the Federal Transit Funding Conditions, the Federal Transit Funding Conditions will control.

IN WITNESS WHEREOF, CITY and CONTRACTOR have executed this Agreement as of the date first above written.

CITY OF LODI, a municipal corporation

ATTEST:

RANDI JOHL-OLSON
City Clerk

STEPHEN SCHWABAUER
Interim City Manager

APPROVED AS TO FORM:
JANICE D. MAGDICH, Interim City Attorney

EFFICIENCY SERVICES GROUP, LLC

By: _____


By: _____
Name: Mark Gosvener
Title: Chief Operating Officer

- Attachments:**
Exhibit A – Scope of Services
Exhibit B – Fee Proposal
Exhibit C – Insurance Requirements
Exhibit D – Federal Transit Funding Conditions (if applicable)

Funding Source: 164604.7323
(Business Unit & Account No.)

Doc ID:

CA:Rev.03.2014

EXHIBIT A

SCOPE OF WORK

Program / Cost-Effectiveness Review (One-Time-Only)

The PB program savings/requirements/protocols for POUs are currently undergoing some major changes. For example, a new Technical Resource Manual (TRM) is being released that updates the reportable energy savings and documentation requirements for measures that are offered and reported to the CEC beginning with FY2015. Impacts of the new Title 24 Codes & Standards are also creating a need for potential modifications to POUs existing programs. Because of this, POUs across the state are reviewing their current programs and making necessary changes to ensure they remain in compliance.

ESG will provide the following services:

- Review of LEU's current residential, commercial and industrial EE programs
 - Become familiar with current program offers, forms, reporting templates, operational procedures, equipment specifications/requirements, customer/contractor communications, databases, etc.
 - Review and update measure savings based on the TRM and evaluate measures for cost-effectiveness
 - Recommend modifications to improve process efficiencies, ensure program compliance, and achieve cost savings
- Review of third party contractor agreements to gain understanding of third party contractor obligations and deliverables to LEU
- Introduction meetings with Lodi staff, key local contractors and third party program providers to establish working relationships and open lines of communication

Program Administration

Office

- Maintain program hotline to address customer/contractor inquiries regarding Lodi's EE and Renewable programs; the hotline will be staffed 8:00 am – 5:00 pm, Monday through Friday
- Manage residential and commercial EE rebate programs, including review of all customer/contractor rebate applications and project documentation to ensure compliance with LEU program specifications and requirements
- Manage residential and commercial Solar PV Program; including review of all customer/contractor rebate applications and project documentation to

- ensure compliance with LEU and SB1 program specifications and requirements
- Enter all customer rebates and project details into database
- Provide Lodi with monthly activity reports which include:
 - Program Summary (current month, YTD, PTD),
 - Measure Summary (current month),
 - Customer/Measure Detail (current month)
 - Customer Rebates (current month)
- Maintain all customer/contractor applications and required project documentation for EM&V and other compliance requirements

Field

- Provide all aspects of field support (audits/inspections) required to assure LEUs EE programs are in compliance with requirements
- Conduct on-site performance inspections of all solar PV systems
- Provide basic technical guidance and assistance to customers and contractors participating in LEU's programs
- Maintain all field records and required project documentation
- Conduct on-site energy evaluation assistance (if needed) for LEU's larger customers to help determine feasibility/eligibility for participation in LEU's rebate programs

Requests for field visits will be scheduled in a way that provides timely response to customer/contractor requests, while maximizing the use of the field technician's time. ESG will plan to make a field technician available to LEU customers every one to two weeks.

Field support will be performed by knowledgeable, experienced field technicians. For the services performed under this Agreement, it is assumed that Energy Engineer credentials are not required for field technicians. Energy engineering services can be provided through ESG; however, those services do not fall under the scope of this Agreement.

Third Party Contractor Oversight

ESG will provide oversight of LEU's third party program contractors, including:

- Review of contractor's deliverables/responsibilities
- Review of contractor's project documentation/reports submitted to LEU to ensure that work is complete, accurate and compliant with program requirements
- Coordinate with contractors and LEU's PB manager to resolve any questions or issues that arise

Coordination with LEU

ESG's Program Manager will meet monthly with LEU's PB Manager to report on program activity and address any questions or issues, as well as discuss future program developments.

Budget and Goal Tracking

ESG will track and report PB expenditures to LEU in order to assure that sector budgets are not exceeded, as well as track and report energy savings acquired and progress towards LEU's AB2021 goals.

NCPA Representation

ESG has been regularly attending NCPA Public Benefit Sub-Committee meetings on behalf of our NCPA client utilities for over ten years. ESG staff, NCPA staff and other NCPA members are well known to each other. ESG will represent Lodi at the monthly NCPA Public Benefit Sub-Committee meetings, as well as respond to inquiries from NCPA regarding Lodi's EE and Renewable programs.

Data Management

ESG maintains a database that is used to process rebates as well as report EE and Renewable program activity for all of our client utilities. LEU can opt to use ESG's database at no additional charge. ESG's database functions very well in capturing, managing and reporting program activity in order to respond to CEC and utility budgeting/reporting needs.

Legislative Requirements

ESG stays current on existing and proposed legislation regarding PB funding, energy efficiency, and renewable programs in order to assure that our utility clients remain in compliance with requirements. ESG also stays current on the CEC's reporting requirements, as well as any changes to reporting tools. ESG will provide LEU with all data and draft narratives required to meet legislative/CEC reporting requirements for EE and Renewable programs.

ESG Office Locations

ESG will establish an office in Rocklin, CA to assure we have the ability to respond to customer/contractor needs in a timely manner. Our Rocklin office will maintain experienced field staff and office support staff. Rocklin is located approximately

one hour from Lodi. In addition, some services under this Agreement will be performed by staff located in ESG's main office which is located in Milwaukie, OR.

ESG Sub-Contractors

ESG plans to partner with Optimized Energy and Facilities Consulting, Inc. (OEFC) to deliver the services in this Agreement. OEFC is located at 5734 Lonetree Blvd, Rocklin, CA 95765. OEFC is an energy engineering firm, and currently assists LEU with their annual E3/SB1037 energy efficiency data input and reporting. This service will now be provided under this existing service contract.

ESG has a strong working relationship with OEFC, and has partnered with them to provide energy efficiency services to several California POUs for over ten years. ESG plans to lease office space from OEFC at their Rocklin, CA headquarters. OEFC will provide administrative support staff and technical field staff to perform services under this Agreement. In addition, ESG's office space at OEFC will provide a local mailing address for Lodi customers/contractors to submit paperwork.

Under this Agreement, OEFC will be a subcontractor to ESG.

Implementation Timeline

ESG anticipates that we have the capability to assume the responsibilities described in this Agreement within 30 days of signing an agreement with LEU.

EXHIBIT B

COMPENSATION

Pricing

Program/Cost-Effectiveness Review (One-Time-Only) - ESG will bill a one-time-only fee of \$3,000 for the services listed under this section of Exhibit A.

Turnkey Program Administration (Ongoing) - ESG will bill an ongoing fee of \$6,500 per month for the services listed in this section of Exhibit A. This includes up to three days per month of field support; additional field support will be billed at \$60 per hour.

Expenses – ESG will bill for reimbursable travel expenses (including mileage at the current Federal rate), not to exceed \$500 per month.

Energy Engineering Services - In the event that ESG or LEU deems it necessary to use technical specialists (other than ESG staff or OEFC non-engineering staff) for large commercial or industrial customers, the fees will be in addition to the standard fees listed above. ESG will obtain LEU's approval prior to work beginning and the associated fees will be billed separately from the standard fees on ESG's monthly invoice.

Billing and Payment Terms

ESG will invoice LEU for the program/cost-effectiveness review upon completion of the (one-time-only) services.

ESG will submit monthly invoices to LEU for the (ongoing) turnkey program administration services and reimbursable travel expenses incurred during the invoice period.

Fees for specialized technical services will be billed separately and submitted upon completion of the services.

ESG's payment terms are Net 30 days. In the event that LEU discovers an invoice discrepancy, we ask to be notified within 5 days of receipt of the invoice. ESG will then correct any discrepancies and submit a revised invoice within 5 days of receiving notification from LEU.



EXHIBIT C

Insurance Requirements for Consultant The Consultant shall take out and maintain during the life of this Agreement, insurance coverage as listed below. These insurance policies shall protect Consultant and any subcontractor performing work covered by this Agreement from claims for damages for personal injury, including accidental death, as well as from claims for property damages, which may arise from Consultant's operations under this Agreement, whether such operations be by Consultant, or by any subcontractor, or by anyone directly or indirectly employed by either of them, and the amount of such insurance shall be as follows:

1. **COMPREHENSIVE GENERAL LIABILITY**
\$1,000,000 Each Occurrence
\$2,000,000 Aggregate
2. **COMPREHENSIVE AUTOMOBILE LIABILITY**
\$1,000,000 Each Occurrence
Such insurance shall cover liability arising out of any vehicle (including, owned, hired and non-hired vehicles) operated in performing any and all services pursuant to this Agreement. Coverage shall be written on ISO form CA 00 01 12 90, or a later version of this form, or an equivalent form providing equivalent liability coverage.
3. **PROFESSIONAL LIABILITY / ERRORS AND OMISSIONS**
\$1,000,000 Each Occurrence

All limits are to be designated strictly for the City of Lodi, its elected and appointed boards, commissions, officers, agents, employees, and volunteers. All deductibles or self-insured retentions (SIR) must be disclosed to City's Risk Manager for approval and shall not reduce the limits of liability set forth hereinabove. Insurance policies containing any deductible or SIR provision shall provide, or be endorsed to provide, that the deductible or SIR may be satisfied by either the Named Insured(s) or the City of Lodi.

It is required that any available insurance proceeds broader than or in excess of the specified minimum insurance coverage requirements and/or limits set forth above, shall be available to City as an additional insured. Furthermore, the requirements for coverage and limits shall be (i) the minimum coverage and limits specified in these insurance requirements; or (ii) the broader coverage and maximum limits of coverage of any insurance policy or proceeds available to the Consultant; whichever is greater.

Consultant agrees and stipulates that any insurance coverage provided to the City of Lodi shall provide for a claims period following termination of coverage which is at least consistent with the claims period or statutes of limitations found in the California Tort Claims Act (California Government Code Section 810 et seq.).

A copy of the certificate(s) of insurance with the following endorsements shall be furnished to the City:

- (a) **Additional Named Insured Endorsement**
Pursuant to a separate endorsement (ISO form CG 2010 (11/85) or equivalent form) such insurance as is afforded by this policy shall also apply to the City of Lodi, its elected and appointed boards, commissions, officers, agents, employees, and volunteers as additional named insureds.
- (b) **Primary and Non-Contributory Insurance Endorsement**
Additional insurance coverage under the Consultant's policy shall be "primary and non-contributory" and will not seek contribution from City's insurance or self-insurance and shall be at least as broad as ISO form CG 20 01 04 13.

NOTE: (1) The street address of the **CITY OF LODI** must be shown along with (a) and (b) above: 221 West Pine Street, Lodi, California, 95240; (2) The insurance certificate must state, on its face or as an endorsement, a description of the project that it is insuring.

Insurance Requirements for Consultant (continued)

- (c) **Limits of Coverage**
The limits of insurance coverage required may be satisfied by a combination of primary and umbrella or excess insurance. Any umbrella or excess insurance of Consultant shall contain, or be endorsed to contain, a provision that such coverage shall also apply on a primary and non-contributory basis for the benefit of the City before the City's own insurance or self-insurance shall be called upon to protect the City as a named insured.
- (d) **Completed Operations Endorsement**
For three years after completion of project, a certificate of insurance with a Completed Operations Endorsement, CG 20 37 07 04, will be provided to the City of Lodi.
- (e) **Severability of Interest Clause**
The term "insured" is used severally and not collectively, but the inclusion herein of more than one insured shall not operate to increase the limit of the company's liability.
- (f) **Notice of Cancellation or Change in Coverage Endorsement**
This policy may not be canceled nor the coverage reduced by the company without 30 days' prior written notice of such cancellation or reduction in coverage to the Risk Manager, City of Lodi, 221 West Pine St., Lodi, CA 95240.
- (g) **Continuity of Coverage**
All policies shall be in effect on or before the first day of the Term of this Agreement. At least thirty (30) days prior to the expiration of each insurance policy, Consultant shall furnish a certificate(s) showing that a new or extended policy has been obtained which meets the minimum requirements of this Agreement. Consultant shall provide proof of continuing insurance on at least an annual basis during the Term. If Consultant's insurance lapses or is discontinued for any reason, Consultant shall immediately notify the City and immediately obtain replacement insurance.
- (h) **Failure to Comply**
If Consultant fails or refuses to obtain and maintain the required insurance, or fails to provide proof of coverage, the City may obtain the insurance. Consultant shall reimburse the City for premiums paid, with interest on the premium paid by the City at the maximum allowable legal rate then in effect in California. The City shall notify Consultant of such payment of premiums within thirty (30) days of payment stating the amount paid, the name(s) of the insurer(s), and rate of interest. Consultant shall pay such reimbursement and interest on the first (1st) day of the month following the City's notice. Notwithstanding and other provision of this Agreement, if Consultant fails or refuses to obtain or maintain insurance as required by this agreement, or fails to provide proof of insurance, the City may terminate this Agreement upon such breach. Upon such termination, Consultant shall immediately cease use of the Site or facilities and commence and diligently pursue the removal of any and all of its personal property from the site or facilities.
- (i) **Qualified Insurer(s)**
All insurance required by the terms of this Agreement must be provided by insurers licensed to do business in the State of California which are rated at least "A-, VI" by the AM Best Ratings Guide, and which are acceptable to the City. Non-admitted surplus lines carriers may be accepted provided they are included on the most recent list of California eligible surplus lines insurers (LESLI list) and otherwise meet City requirements.

Workers Compensation Insurance The Consultant shall take out and maintain during the life of this Agreement, Worker's Compensation Insurance for all of Consultant's employees employed at the site of the project and, if any work is sublet, Consultant shall require the subcontractor similarly to provide Worker's Compensation Insurance for all of the latter's employees unless such employees are covered by the protection afforded by the Consultant. In case any class of employees engaged in hazardous work under this Agreement at the site of the project is not protected under the Worker's Compensation Statute, the Consultant shall provide and shall cause each subcontractor to provide insurance for the protection of said employees. A waiver of subrogation is required for workers compensation insurance. This policy may not be canceled nor the coverage reduced without 30 days' prior written notice of such cancellation or reduction in coverage to the Risk Manager, City of Lodi, 221 West Pine St., Lodi, CA 95240.

NOTE: The City reserves the right to obtain a full certified copy of any insurance policy or endorsements required. Failure to exercise this right shall not constitute a waiver of the City's right to exercise after the effective date.

RESOLUTION NO. 2014-97

A RESOLUTION OF THE LODI CITY COUNCIL AUTHORIZING
THE CITY MANAGER TO EXECUTE PROFESSIONAL SERVICES
AGREEMENT WITH EFFICIENCY SERVICES GROUP, LLC FOR
PUBLIC BENEFIT PROGRAM ADMINISTRATION

=====

WHEREAS, with the recent departure of the City's Business Development Manager, the day-to-day management of the Electric Utility's (EU) Public Benefits (PB) Program has fallen to existing EU staff with other priorities and work assignments; and

WHEREAS, until such time as the City is able to recruit and hire a Business Development Manager to assist with these efforts, staff recommends that the City contract out the management of its PB Program to Efficiency Services Group, LLC (ESG) for a period of six months in an amount not to exceed \$50,000; and

WHEREAS, ESG has been providing complete turnkey public benefit program administration services to publicly owned utilities (POUs) for over ten years and currently functions in this capacity for 23 POUs in California and the Northwest, including other Northern California Power Agency (NCPA) members; and

WHEREAS, as part of these efforts, the EU will be able to eliminate an existing annual contract for assistance with its SB 1037 reporting, thereby saving approximately \$5,000; and

WHEREAS, funding for the proposed services is included in the Fiscal Year 2014/15 PB Program budget.

NOW, THEREFORE, BE IT RESOLVED that the Lodi City Council does hereby authorize the City Manager to execute a Professional Services Agreement with Efficiency Services Group, LLC for Public Benefit Program administration in an amount not to exceed \$50,000.

Dated: June 4, 2014

=====

I hereby certify that Resolution No. 2014-97 was passed and adopted by the City Council of the City of Lodi in a regular meeting held June 4, 2014, by the following vote:

AYES: COUNCIL MEMBERS – Hansen, Mounce, Nakanishi, and
Mayor Katakian

NOES: COUNCIL MEMBERS – Johnson

ABSENT: COUNCIL MEMBERS – None

ABSTAIN: COUNCIL MEMBERS – None


RANDI JOHL-OLSON
City Clerk