



## Request For Proposals

Release Date: February 7, 2018

Proposals Due: March 7, 2018

### EBEW GHG Inventory Assistance

#### *I. About the Agency and East Bay Energy Watch*

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StopWaste is a public agency responsible for reducing waste and promoting energy efficiency. It is governed by three Boards: the Alameda County Waste Management Authority, the Alameda County Source Reduction and Recycling Board, and the Energy Council. Under its Energy Council activities, StopWaste staff administer the PG&E Local Government Partnership East Bay Energy Watch Strategic Advisory Council (EBEW SAC). East Bay Energy Watch is a collaboration between PG&E and local governments, non-profit and for-profit energy service providers dedicated to providing energy efficiency solutions for residents and businesses throughout Alameda and Contra Costa Counties. The EBEW SAC is comprised of staff from jurisdictions in Alameda and Contra Costa Counties and, in partnership with PG&E, has decision-making authority over the activities and budget of the EBEW programs. The SAC allocates programmatic funding called Strategic Energy Resources (SER) which in 2018 includes funding activities supporting Climate Action Plan inventories of EBEW jurisdictions.

In its role as EBEW SAC administrator, StopWaste is requesting proposals from firms or individuals to assist the cities and counties in Alameda and Contra Costa Counties with their community-scale greenhouse gas emissions (GHG) inventories. The funding for this scope is part of the 2018 EBEW SAC budget and all work must be completed by the end of 2018.

#### *II. Description of Services Requested*

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EBEW seeks professional services to assist its member jurisdictions (up to 35 jurisdictions: 14 Alameda County Cities, 19 Contra Costa County Cities, and the Counties of Alameda and Contra Costa; “Jurisdictions”) with streamlining and conducting **annual community-scale GHG inventories** (“Inventories”).

The objective of this project is to create a process that will ease the burden on the Jurisdictions of conducting their Inventories moving forward, and to create a cross-jurisdictionally consistent set of

Inventory data for a specific year. While the Basic Scope is **not** intended to result in a full Inventory for any Jurisdiction, another objective is for Jurisdictions to be able to supplement with Full Menu tasks to result in a full Inventory for the year of their choice. Respondents should structure their proposals with these objectives in mind.

**The Inventory will be completed for the most recent year for which complete data is available.**

The funding for the anticipated contract is **limited to \$64,000**. While this budget will cover a limited scope, the member jurisdictions are interested in proposals for broader scopes of services that may be funded through other sources as desired. Therefore we request proposals structured in two parts:

1. **“Basic Scope”**: This scope should assume service for all participating Jurisdictions (up to 35), and must not exceed \$64,000.
2. **“Full Menu”**: Additional possible complimentary or additional services priced as optional beyond the \$64,000 budget. Each task or subtask should be priced either as a flat rate (serving all Jurisdictions) or on a per-jurisdiction basis. See Attachment B: Sample Pricing Structure for guidance.

The tasks below are organized in the order of priority identified by the EBEW SAC. **The respondent should propose an alternative combination** if they believe that a different grouping between Basic Scope and Full Menu would be more effective.

## **BASIC SCOPE TASKS**

Many EBEW Jurisdictions have conducted one or more Inventory and have reported that the process is time and resource intensive. This project seeks to achieve economies of scale by pooling the Inventory task across Jurisdictions. The goal of this Basic Scope is to deliver consistently calculated Inventories for all Jurisdictions while streamlining the Inventory process to allow for an easier process in future years.

For the Basic Scope, StopWaste will be the main point of contact for interfacing with the selected vendor. The goal of pooling the Inventory process across many Jurisdictions is to minimize the amount of process redundancy and repetition between Jurisdictions. In all appropriate cases, StopWaste will facilitate data authorizations and other tasks needed to be done by the Jurisdictions.

### **Task 1: Standardized Calculation Spreadsheet**

Create an Excel file (or modify existing examples) that automates data analysis for data inputs that have common sources with consistent formats. **The spreadsheet must be non-proprietary, and include traceable formulas to allow auditing and replication.** It should be formatted to allow raw data from the common data sources identified in Task 2 to be copied and pasted into the spreadsheet with minimal data manipulation. This should include activity data and emissions factors for the following sectors at a minimum:

- Electricity and natural gas consumption data by sector (at least residential and non-residential, with non-residential further divided e.g. commercial and industrial if data are available) from PG&E and/or Community Choice Aggregator as applicable
- Vehicle miles traveled for passenger and commercial freight on-road vehicles (using origin-destination modeling)
- Landfill emissions related waste generated by the community

Respondent should specify in their proposal which sectors they propose to include in Task 1.

This standardization in the form of a non-proprietary Excel tool should be designed to allow Jurisdictions, StopWaste, or other third parties to recreate Inventories for other years. The desired outputs are described under Task 3.

Ideally, the spreadsheet would be able to contain data for all Jurisdictions that participate in this project (up to all 35) at the same time, to be able to generate cross-jurisdictional comparisons. Respondents should explain whether and how they would include this in their development of the tool in Task 1. If infeasible under the budget for Basic Scope, respondents should include this subtask in the Full Menu as a single-priced (not per-Jurisdiction) item.

*Note on methodology: The selected vendor will be supplied with methodology documentation from previous Inventories conducted by the Jurisdictions. These may include six or more documents from staff, CivicSpark fellows, and ICLEI that may contain consistent or differing methodologies. The selected vendor may reference these, or use their own methodology, and should be prepared to demonstrate that the methodology used is compliant with the applicable sections of the Global Protocol for Communities (GPC). A review and comparison between the documents may be proposed as part of Task 7.*

**The spreadsheet for Task 1 should be accompanied by a methodology document** that specifies data sources for each input and what subsectors are included in each sector. For example, nonresidential energy usage may or may not include rail (BART), institutional, or industrial energy usage.

## **Task 2: Data Collection for Major Emissions Sectors**

Gather, on behalf of the Jurisdictions, raw data for the major emissions sources as listed under Task 1. This task may involve obtaining authorization, with StopWaste facilitation, from each Jurisdiction, and would be limited to Jurisdictions providing any required authorizations. The agencies from which data would need to be obtained or requested include, but may not be limited to: PG&E, MCE Clean Energy and any Publicly Owned Utilities, MTC, CARB, waste management authorities. Additional data sources may be included in this Task, dependent on the respondent's knowledge and proposed scope. See Task 4 under the Full Menu options below for additional data sources that could be included in Task 2.

Task 2 **does not** include obtaining data that is inaccessible due to the IOU/CPUC privacy rules. However, respondent should propose a methodology for a "work-around" to generate estimated energy usage figures for Jurisdictions that are missing data due to this obstacle. Respondent should specify in their proposal which data files they propose to collect and from which sources.

### **Task 3: Data Analysis for Major Emissions Sectors**

Enter the data collected in Task 2 into the spreadsheet produced through Task 1 to generate the following outputs **for each Jurisdiction**.

- Simple inventory table that lists the activity data, emissions factors, and final MTCO<sub>2e</sub> by at least the following sectors:
  - Residential electricity
  - Residential natural gas
  - Non-residential electricity
  - Non-residential natural gas
  - Passenger vehicle emissions
  - Freight vehicle emissions
  - Landfill methane from waste generated within the jurisdictional boundaries
- Data list consistent with the reporting requirements for Global Protocol for Communities (GPC).
- Data list consistent with format and organization of SEEC ClearPath data entry. This presentation of the data should allow for intuitive entry by untrained staff into the ClearPath tool.

Additionally, ideally the tool will generate an output table that lists all of the simple data outputs for all 35 Jurisdictions in one table. The spreadsheet's input and output data should be transparent and formatted in such a way that allows Jurisdictions to further customize it for their needs (e.g. back out a specific facility's emissions; modify specific emissions factor inputs).

Respondent should propose a basic structure for data inputs and outputs and demonstrate their understanding of the data entry needs for GPC and ClearPath.

### **Full Menu Tasks**

The tasks in this section are intended to be complimentary and supplemental to the tasks in the Basic Scope. Below are ideas generated and prioritized by the EBEW SAC, and are listed in order of priority. The respondent may propose alternative or additional tasks based on their expertise on GHG inventories. The pricing for Full Menu tasks should indicate whether they are flat rate (one-time fee for serving all Jurisdictions) or on a per-jurisdiction basis. StopWaste will be the point of contact and interface for flat rate tasks. For tasks that are designed for individual Jurisdictions to opt-in (priced on a per-Jurisdiction basis), it is anticipated that the primary contract with StopWaste would be amended to include additional funding provided by specific Jurisdictions. In some cases, the selected vendor may work directly with individual Jurisdictions.

### **Task 4: Data Collection and Analysis for Minor Emissions Sectors**

Perform Tasks 1-3 for remaining emissions sources that would be needed to complete Jurisdictions' Inventories in full compliance with GPC. These include, but may not be limited to: Water treatment, wastewater, transit (bus and BART) and rail, marine vessels, airports/aircraft, and off-road vehicles.

Point source emissions from the Air District should also be included in this task, though they may constitute more than a “minor” emission source.

Respondent should provide a full list of the emissions sources that they would be able to include in this task, and list any others that would be required for GPC compliance that they would *not* be able to include in this task.

Respondents should specify whether some of this task (adding these emissions sources to the spreadsheet developed in Task 1) would be priced as a flat rate (one-time fee), whereas others (collection of data for individual Jurisdictions) would be priced on a per-Jurisdiction basis.

### **Task 5: Forecasting**

Add to the spreadsheet developed in Task 1, or develop as a stand-alone spreadsheet, forecasting calculations including:

- Business as usual (growth projection inputs to be populated by each Jurisdiction)
- Committed State and regional actions with associated GHG reduction assumed for each action. Vendor would populate this data into the spreadsheet in a manner that allows assumptions to be applied to each Jurisdiction’s emissions inventory and business-as-usual projections.
- Other influencers to be proposed by respondent
- Calculation of remaining MTCO<sub>2e</sub> reduction required to meet a Jurisdiction-selected GHG reduction target (to be populated by Jurisdiction)
- The emissions projections should be separated by the sectors listed in Task 3

The objective of Task 5 is to provide Jurisdictions with likely scenarios for their emissions in future years if the Jurisdiction takes no action. This allows the Jurisdiction to quantify and focus on the emissions needed to be mitigated by local action. Some of the Jurisdictions have completed this task manually for their individual uses, and the selected vendor may build upon that data or introduce new data from other sources. The objective would be to have a tool that can be standardized and updated by a central entity such as StopWaste or a third party vendor in the future.

Respondent should list the state and regional actions and any other influencers that they would propose to include in the forecasting assumptions. Respondents should specify the future years that they would provide forecasting for (e.g. 2020, 2030, 2050).

*Interactivity subtask:* Ideally, the tool will be designed to reflect the interplay between State, regional, and local policy impacts. In order to do so, this task may require developing a space for Jurisdictions to enter GHG reduction impacts from local actions, and the tool would need to be able to recognize potential interactive effects. Respondent may offer a proposal for including this functionality if they believe it is feasible.

### **Task 6: ClearPath Data Entry**

Enter emissions factor sets and activity data from Task 3 and/or Task 4 into SEEC ClearPath. Respondent should propose pricing on a per-Jurisdiction basis for data collected under the Basic Scope Task 3 and Full Menu Task 4 separately. If additional years are proposed (see Task 9), indicate whether pricing would be the same for entering each additional years' data into ClearPath.

### **Task 7: Process Improvements**

Provide recommendations in a report to StopWaste that identifies improvements to the Inventory and Climate Action Plan implementation tracking methods. The recommendations may include:

- Alternative metrics framework for tracking measure implementation
- Better data sources and/or methodology for conducting Inventories

Respondent should provide a flat rate for a recommendation report and list any other types of recommendations they would include in the report. The report should be based upon respondent's expertise and experience as well as interviews with StopWaste and a subset of Jurisdictions.

This task could also include review of six or more Inventory methodology documents from the Jurisdictions described in Task 1 and provide a narrative comparison of the documents and recommendation for methodology best practices.

### **Task 8: Narrative Template**

Develop narrative templates in the form of a full Inventory report and abbreviated staff report, into which a Jurisdiction could insert the outputs of Task 3 and/or Task 4.

Respondent should provide flat rate for the template and a per-Jurisdiction price for populating the narrative template with Jurisdiction-specific data.

### **Task 9: Additional Years**

Add other years to Tasks 2, 3, and 4. Jurisdictions use Inventories to track progress toward their goal over time. This means conducting inventories at regular intervals, typically 3-5 years and less typically annually. However, in most cases the methodology or data sources have been updated over time, causing Jurisdictions to need to redo their past inventories in order to be able to generate a trend line of emissions over time. Task 9 is to perform Tasks 2, 3, and/or 4 for any requested years for which there is sufficient data. This may include redoing previously conducted inventories to allow for a comparison between years. Typically this would apply to years 2005 and 2010, and possibly others between 2005 and 2015.

*Trend-line spreadsheet subtask:* Update the spreadsheet from Task 1, or develop a stand-alone spreadsheet, that would host data from multiple years and generate graphs and findings of trends over time (e.g. percentage change in each sector's activity, emissions factors, and MTCO<sub>2e</sub> values).

## **Task 10: Municipal Operations Inventory**

While Tasks 1-9 are explicitly limited to the Community-scale Inventory, some Jurisdictions may request assistance with their Municipal Operations GHG Inventories. For Task 10, respondents should propose an approach and pricing structure for this assistance. Respondents should specify whether this includes data collection (which may entail obtaining data from within municipal departments), data analysis, and development of a Municipal Operations spreadsheet.

### **III. Qualifications**

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#### **GHG Inventory Experience**

Respondents should have demonstrated experience, with work product samples or references, of conducting GHG inventories and assisting local governments with climate action plans. Experience should include development of calculation spreadsheets and templates. Respondents should also have experience working on projects with multiple jurisdictions involved, and should indicate the maximum number of jurisdictions that they have worked with on any given project.

#### **General Qualifications:**

The selected vendor will need to be able to meet the agency's insurance requirements, general provisions, and funding agency requirements. Attachment A contains a copy of the agency's standard contract language.

*Please state your ability to meet these requirements or modifications you would request if selected.*

### **IV. Submittal Requirements**

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Each submittal must include the following information. This information should be confined to no more than **fifteen pages** excluding resumes of staff members and references.

1. Proposed Project Scope: Present a two-part proposed scope as described in Section II: Basic Scope and Full Menu. As indicated in that section, include additional task(s) that you consider may add value to the project. Briefly explain your firm's understanding of the goal and intent of the project.
2. Cost Estimate: Provide a cost proposal for each of the tasks in the Basic Scope and Full Menu, keeping in mind that the Basic Scope is intended to be performed at scale across 35 jurisdictions while Full Menu may be priced on a per-jurisdiction basis. Respondent may use or adapt the structure provided in "Attachment B: Sample Pricing Structure".
3. Schedule: Provide a project schedule (timeline) that illustrates key project milestones for accomplishing the work in your proposal. Note that all work must be completed in 2018.

4. Experience: Briefly identify your relevant experience and include how it fits the needs of this project.
5. Staff and Qualification: Identify the primary point of contact and backup, and key personnel that would be assigned to work on this project. Describe their qualifications and include brief resumes for each listed staff.
6. References: Provide a list of references, including contact information, from at least three (3) organizations.
7. Exceptions of Contract Terms: Please detail any exceptions your firm has to the terms in the Agency's standard contract language contained in "Attachment A."

Unless specified in the submittals, the Agency will assume that cost estimates and fee schedules will include any costs associated with complying with the Agency's insurance requirements as specified in Attachment A of this RFP. The Agency will also assume that any work product developed as a result of contracting with Agency will become the property of Agency.

#### **V. *Evaluation Criteria***

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Evaluation of the proposals will be based on the following criteria:

- Understanding of project objectives and adequacy of proposed scope to meet the project objectives, conforming to or improving upon the tasks listed in Section II.
- Cost estimates and schedule relative to the proposed scope.
- Experience with the type of work described in the proposed scope and qualification of team and project manager and organizational experience, as described in Section III.
- References specific to work on community-scale GHG inventories for local governments.

The EBEW SAC GHG Inventory Task Force, or a sub-group of that Task Force, consisting of StopWaste staff and staff from a self-selected portion of EBEW jurisdictions will serve as the selection panel. The selection panel will rank the proposals and recommend the top firm. The top firm shall be prepared to enter into a contract agreement as shown in example "Attachment A."

StopWaste reserves the right to reject all proposals, and not enter into any contract for the services described in the RFP. StopWaste may also, at its discretion and depending on availability of additional funds, extend an agreement beyond the deadline and scope specified in this contract.



**VI. Application Deadline and Instructions**

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Release of RFP.....	February 7, 2018
Pre-bid conference call (in-person option available).....	February 20, 2018
<b>Proposals Due</b> .....	March 7, 2018
<i>Proposals are due at 5:00 p.m. and will not be accepted after this time.</i>	
Potential Panel Interview (at discretion of selection panel) .....	March 22, 2018 (tentative)
Notification of selected vendor .....	March 28, 2018 (tentative)
Anticipated contract and commencement of work.....	Mid-April
<b>Deadline for completing full scope of work</b> (per funding source) .....	November 30, 2018

The deadline for application submittal is **5:00 p.m., Wednesday, March 7, 2018.**

**Submittal**

One copy of the proposal should be **emailed**, mailed or hand delivered. Email submittals should be sent to [jwest@stopwaste.org](mailto:jwest@stopwaste.org) with the subject line clearly marked **“EBEW GHG Inventory RFP.”** Hard copy submittals should be delivered to:

StopWaste  
1537 Webster Street  
Oakland, CA 94612  
Attention: Jennifer West

**Format**

Email submissions are encouraged. All printed materials and work samples are to be printed double-sided on 8-1/2” x 11” recycled content paper where applicable. Please do not submit plastic covers.

- Please note Faxed responses will **not** be accepted.
- Proposals received after 5:00 p.m. on March 7 will **not** be accepted.
- The most qualified candidates may be invited to interview on March 21, 2018.

**VII. General Conditions**

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All materials submitted become the property of StopWaste, and will not be returned. Funds awarded are public funds and any information submitted or generated is subject to public disclosure requirements. The Agency reserves the right, at its sole discretion, to waive minor irregularities in submittal requirements, to request modifications of the proposal, to accept or reject any or all proposals received, and/or to cancel all or part of this RFP at any time prior to awards.

# ATTACHMENT A – ENERGY COUNCIL Standard Contract

## Exhibits B through D-1: Insurance, General Provisions, and Funding Agency Requirements

### Exhibit B

#### Insurance

1. During the life of this agreement, Contractor and all subcontractors shall maintain the following minimum insurance:
  - A. Comprehensive general liability insurance, including personal injury liability, blanket contractual liability, and broad-form property damage liability coverage. The combined single limit for bodily injury and property damage shall be at least \$2,000,000.
  - B. Automobile bodily injury and property damage liability insurance covering owned, non-owned, rented, and hired cars. The combined single limit for bodily injury and property damage shall at least \$1,000,000.
  - C. Statutory workers' compensation and employer's liability insurance as required by state law with a limit of at least \$1,000,000 per accident for bodily injury or disease. Neither Contractor nor its carrier shall be entitled to recover any costs, settlements, or expenses of workers' compensation claims arising out of this agreement. The Employer's Liability policy shall be endorsed to waive any right of subrogation against the Agency, its employees or agents.
  - D. Professional Errors and Omissions Liability Insurance. The limit of liability shall be at least \$1,000,000. If the policy is written on a "claims made" basis, Contractor must maintain required coverage for a period of three years after the expiration of this agreement. Contractor may satisfy this requirement by renewal of existing coverage or purchase of either prior acts or tail coverage applicable to said three-year period.

Contractor shall submit to Agency certificates of insurance and endorsements for the policies listed above. All endorsements shall be signed by a person authorized by that insurer to bind coverage on its behalf. Agency has the right to require Contractor's insurer to provide complete, certified copies of all required insurance policies. Contractor shall not cancel, assign, or change any policy of insurance required by this agreement or engage in any act or omission that will cause its insurer to cancel any insurance policy required by this agreement except after providing 30 days prior written notice to Agency. If an insurance policy required by this agreement is unilaterally cancelled or changed by the insurer, the Contractor shall immediately provide written notice to the Agency and obtain substitute insurance meeting the requirements of this agreement. Nothing in this subsection relieves Contractor of its obligation to maintain all insurance required by this Contract at all times during the term of the agreement.

2. As to all of the policies of insurance listed above, the following shall apply:

- A. *Deductibles and Self Insured Retentions.* Any deductibles or self insured retentions must be declared to and approved by the Agency. At the option of the Agency, either (1) the insurer shall reduce or eliminate such deductibles or self insured retentions as respects the Agency, its officers, officials and employees; or (2) the Contractor shall procure a bond guaranteeing payment of losses and related investigations, claim administration and defense expenses.
- B. *Agency as Additional Insured.* The Agency, its officers, officials, employees, agents and volunteers are to be covered as insureds with the same coverage and limits available to the named insured regarding: liability arising out of activities performed by or on behalf of the Contractor; premises owned, occupied or used by the Contractor, or automobiles owned, leased, hired or borrowed by the Contractor. The coverage shall contain no special limitations on the scope of the protection afforded to the Agency, its officers, officials, employees, agents or volunteers. Any available insurance proceeds broader than or in excess of the specified minimum Insurance coverage requirements and/or limits shall be available to the Additional Insured. Any available insurance proceeds broader than or in excess of the specified minimum Insurance coverage requirements and/or limits shall be available to the Additional Insured; the additional insured coverage and limits shall be (1) the minimum coverage and limits specified in this Agreement; or (2) the broader coverage and maximum limits of coverage of any Insurance policy or proceeds available to the named Insured; whichever is greater. For any claims related to this project, the Contractor's insurance coverage shall be primary insurance as respects the Agency, its officers, officials, employees, and volunteers. Any insurance or self-insurance maintained by the Agency, its officers, officials, employees, or volunteers shall be excess of the Contractor's insurance and shall not contribute with it. Coverage can be provided in the form of an endorsement to the Contractor's insurance (at least as broad as ISO Form CG 20 38 04), or as a separate owner's policy, or on the Agency's own form. Additional insured coverage does not apply to errors and omissions insurance.
- C. *Other Insurance Provisions.* The policies are to contain, or be endorsed to contain, the following provisions:
- Any failure to comply with reporting provisions of the policies shall not affect coverage provided to the Agency, its officers, officials, employees or volunteers.
  - The Contractor's insurance shall apply separately to each insured against whom claim is made or suit is brought, except with respect to the limits of the insurer's liability.
- D. *Insurer Rating.* Insurance is to be placed with insurers with a Bests' rating of no less than A:VII.
- E. *Umbrella/Excess Insurance.* The limits of insurance required in this agreement may be satisfied by a combination of primary and umbrella or excess insurance. Any umbrella or excess insurance 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 Agency (if agreed to in a written contract or agreement) before the Agency's own Insurance or self insurance shall be called upon to protect it as a named insured.

F. *Subcontractors.* Contractor agrees to include in all subcontracts the same requirements and provisions of this agreement including the indemnity and insurance requirements to the extent they apply to the scope of the subcontractor's work. Subcontractors hired by Contractor shall agree to be bound to Contractor and Agency in the same manner and to the same extent as Contractor is bound to Agency under this agreement and Contractor shall furnish a copy of this agreement's insurance and indemnity provisions to all subcontractors. All subcontractors shall provide Contractor with valid certificates of insurance and the required endorsements included in the agreement prior to commencement of any work and Contractor will provide proof of compliance to the Agency.

3. Contractor hereby grants to Agency a waiver of any right to subrogation which any insurer of Contractor may acquire against Agency by virtue of the payment of any loss under such insurance. Contractor agrees to obtain any endorsement that may be necessary to effect this waiver of subrogation, but this provision applies regardless of whether Agency has received a waiver of subrogation endorsement from the insurer.

4. If a death, serious personal injury or substantial property damage occurs in connection with the performance of this agreement, Contractor shall immediately notify Agency by telephone. Contractor shall promptly submit to Agency a written report, in such form as may be required by Agency of all accidents which occur in connection with this agreement. This report must include the following information: (1) name and address of the injured or deceased person(s); (2) names and address of Contractor's subcontractor, if any; (3) name and address of Contractor's liability insurance carrier; and (4) a detailed description of accident and whether any of Agency's equipment, tools, materials or staff were involved. Failure to comply with this section shall constitute a material breach of this agreement.

***All Insurance modifications must be approved by the Agency's Contract Administrator***

**-End of Exhibit B-**

## Exhibit C

### General Provisions

#### 1. Independent Contractor.

Agency requires the services of a qualified contractor to provide the work product described in Exhibit A because it lacks the qualified personnel to provide the specified work product. Contractor is qualified to provide the required work product and is agreeable to providing such work product on the terms and conditions in this agreement. All work authorized by this agreement shall be completed in accordance with the established project schedule as set forth in Exhibit A.

- 1.1 Contractor shall perform Contractor's duties to the best of Contractor's ability and in accordance with the generally accepted professional and ethical standards of Contractor's profession and community. Contractor agrees to perform Contractor's duties at all times in strict accordance with currently approved methods and practices in Contractor's field and in accordance with the standards required by the Agency. All duties shall be performed and rendered in a competent, efficient, timely and satisfactory manner.
- 1.2 Contractor shall observe and comply with all applicable laws, ordinances, codes and regulations of governmental agencies, including without limitation all provisions of the Occupational Safety and Health Act of 1979, Title VII of the Civil Rights Act of 1964, the Immigration Reform and Control Act of 1986 and all other applicable federal, state, and local laws. Contractor represents and warrants to Agency that it has all licenses, permits, qualifications and approvals of whatsoever nature which are legally required for Contractor to practice its profession and shall, at its sole cost and expense, keep in effect at all times during the term of this agreement any licenses, permits, and approvals which are legally required for Contractor to practice its profession. Failure to comply with this subsection shall constitute a material breach of this agreement.
- 1.3 Agency recognizes that Contractor's ability to complete the scope of work within the budget and timelines established in this agreement is necessarily dependent on receiving reasonable, timely and adequate input and review from the Agency. The agreement also assumes that Agency's policies, goals, objectives, actions or alternatives will not change in a manner which alters the Scope of Work once it has been initially defined and accepted by the Agency. Should the Scope of Work defined by this agreement be expanded or contracted or the schedule be changed, Contractor's compensation shall be adjusted to reflect any additional work or costs. Agency and Contractor shall negotiate in good faith to determine the adjustment in compensation.
- 1.4 Contractor shall take all responsibility for the work, shall bear all losses and damages directly or indirectly resulting to Contractor, to any subcontractor, to the Agency, to Agency officers and employees, or to parties designated by the Agency, on account of the performance or character of the work, unforeseen difficulties, accidents, occurrences or other causes to the extent predicated on active or passive negligence of the Contractor or of any subcontractor.

- 1.5 No relationship of employer and employee is created by this agreement, it being understood that Contractor shall act hereunder as an independent contractor performing the work set forth in Exhibit A at all times in strict accordance with currently approved methods and practices in Contractor's field and that the sole interest of Agency is to ensure that said service shall be performed and rendered in a competent, efficient, timely and satisfactory manner and in accordance with the standards of the Agency and those set forth in this agreement between the Agency and any subcontractor or employee of Contractor.
- 1.6 Contractor shall not have any claim under this agreement or otherwise against Agency for seniority, vacation time, vacation pay, sick leave, personal time off, overtime, health insurance, medical care, hospital care, insurance benefits, social security, disability, unemployment, workers compensation or employee benefits of any kind. Contractor shall be solely liable for and obligated to pay directly all applicable taxes, including, but not limited to, federal and state income taxes, and in connection therewith Contractor shall indemnify and hold Agency harmless from any and all liability that Agency may incur because of Contractor's failure to pay such taxes.
- 1.7 Nothing contained in this agreement shall be construed as limiting the right of Contractor to engage in Contractor's profession separate and apart from this agreement so long as such activities do not interfere or conflict with the performance by Contractor of the obligations set forth herein and in Exhibit A. Interference or conflict will be determined at the sole discretion of the Agency.
- 1.8 Should Agency, in its discretion, or a relevant taxing authority, including, but not limited to the Internal Revenue Service or the State Employment Development Division, determine that the Contractor is an employee for purposes of collection of any employment taxes, the amounts payable under this agreement shall be reduced by amounts equal to both the employee and employer portions of the tax due (and offsetting any credits for amounts already paid by the Contractor which can be applied against this liability). Agency shall then forward those amounts to the relevant taxing authority. Should a relevant taxing authority determine a liability for past services performed by the Contractor for Agency, upon notification of such fact by the Agency, the Contractor shall promptly remit such amount due or arrange with the Agency to have the amount due withheld from future payments to the Contractor under this agreement (again, offsetting any amounts already paid by the Contractor which can be applied as a credit against such liability). Any determination of employment status above shall be solely for the purposes of the particular tax in question, and for all other purposes of this agreement, The Contractor shall not be considered an employee of Agency. Notwithstanding the foregoing, should any court, arbitrator, or administrative authority determine that the Contractor is an employee for any other purpose, then the Contractor agrees to a reduction in the Agency's financial liability so that the Agency's total expenses under this agreement are not greater than they would have been had the court, arbitrator, or administrative authority determined that the Contractor was not an employee.

2. Payment.

- 2.1 Contractor shall submit all billings to Agency and Agency shall pay such billings in the manner specified in this paragraph. Payment shall be made payable to Contractor and delivered to the address specified in section 4 on page 1 of this agreement. The payments specified in this paragraph shall be the only payments to be made to Contractor in connection with Contractor's completion of the Scope of Work pursuant to this agreement. Reimbursable expenses shall be billed only at their actual cost. Contractor shall not be allowed or paid travel expenses except to the extent authorized in Exhibit A. The making of any payment by Agency, or the receipt thereof by the Contractor, shall in no way lessen the liability of the Contractor to correct or revise unsatisfactory work, even though the unsatisfactory character of such work may not have been apparent or detected at the time such payment was made. Agency may withhold payment to Contractor in any instance in which the Contractor has failed or refused to satisfy any material obligation provided for in this agreement. In no event shall Agency be liable for interest or late charges for any late payments.
- 2.2 Contractor shall submit invoices, not more often than once a month during the term of this agreement, based on the cost for work performed in accordance with the rate schedule and other terms in the Scope of Work and authorized reimbursable expenses incurred prior to the invoice date. Invoices shall contain the following information:
- (a) Serial identifications of bills, i.e., Bill No. 1;
  - (b) The beginning and ending dates of the billing period;
  - (c) A summary containing the total contract amount, the amount of prior billings, the total due this period, percentage of work completed, the remaining balance available for all remaining billing periods, and a brief description of work completed during the billing period.
- 2.3 Within 30 days of receiving an invoice Agency shall make payment for satisfactory progress in completion of the Scope of Work, and for authorized reimbursable expenses incurred.

3. Agency Representative.

The Agency's Primary Representative designated in section 4 on page 1 of this agreement is authorized to transmit instructions, receive information, and interpret and define Agency's policies consistent with this agreement. Contractor shall be entitled to rely on representations made by Agency's representative(s) unless otherwise directed in writing by Agency. All correspondence and other communications shall be directed to or through the Administrator or the Administrator's designee.

- 3.1 In General. All notices or communication concerning a party's compliance with the terms of this agreement shall be in writing and may be given either personally, by certified mail, return receipt requested, or by overnight express carrier. The notice shall be deemed to have been given and received on the date delivered in person or the date upon which the postal authority or overnight express carrier indicates that the mailing was delivered to the address of the

receiving party. The parties shall make good faith efforts to provide advance courtesy notice of any notices or communications hereunder via e-mail. However, under no circumstances shall such courtesy notice satisfy the notice requirements set forth above; nor shall lack of such courtesy notice affect the validity of service pursuant to the notice requirement set forth above.

- 3.2 Addresses for Notice. Notices or communications shall be given to the parties at the addresses set forth in section 4 (“Contract Administration”) unless otherwise designated in a written notice to the other party. In addition, notices to Agency shall be copied to:

Pat Cabrera Administrative Services Director 1537 Webster Ave. Oakland, CA 94612
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This copy shall not constitute notice.

- 3.3 Change of Address. Any party hereto, by giving ten (10) days written notice to the other, may designate any other address as substitution of the address to which the notice or communication shall be given.

4. Contractor Not an Agent.

Except as Agency may specify in writing, Contractor shall have no authority, express or implied, to act on behalf of Agency in any capacity whatsoever as an agent. Contractor shall have no authority, express or implied, pursuant to this agreement to bind Agency to any obligation whatsoever.

5. Assignment and Subcontracts.

The services to be performed by the Contractor are personal in character and no party to this agreement may assign any right or obligation under this agreement. Any attempted or purported assignment of any right or obligation under this agreement shall be void and of no effect. However, with the consent of the Agency given in writing, Contractor is entitled to subcontract such portions of the work to be performed under this agreement as may be specified by the Agency and all subcontractors shall be subject to all the provisions of this agreement. Failure to comply with this section shall constitute a material breach of this agreement.

6. Retention of Records.

Until the expiration of five years after the furnishing of any services pursuant to this agreement, Contractor shall make available to the Agency or any party designated by



the Agency, upon written request by Agency, this agreement, and such books, documents and records of Contractor (and any books, documents, and records of any subcontractor(s)) that are necessary to certify the nature and extent of the reasonable cost of services to Agency.

7. Conflict of Interest.

- 7.1 Contractor understands that its professional responsibility is solely to Agency. Contractor warrants that, to the best of the Contractor's knowledge and belief, there are no relevant facts or circumstances which could give rise to a conflict of interest, or that the Contractor has already disclosed all such relevant information. Contractor shall not employ or subcontract with a person having such an interest in the performance of this agreement.
- 7.2 Contractor agrees that if an actual or potential conflict of interest is discovered after award, the Contractor will make a full disclosure in writing to the Agency. This disclosure shall include a description of actions which the Contractor has taken or proposes to take, after consultation with the Agency to avoid, mitigate, or neutralize the actual or potential conflict. Within 45 days, the Contractor shall have taken all necessary steps to avoid, mitigate, or neutralize the conflict of interest to the satisfaction of the Agency.
- 7.3 No officer, member or employee of Agency and no member of the Agency governing body shall have any pecuniary interest, direct or indirect, in this agreement or the proceeds thereof. Neither Contractor nor any member of any Contractor's family shall serve on any Agency board or committee or hold any such position which either by rule, practice or action nominates, recommends, or supervises Contractor's operations or authorizes funding to Contractor.
- 7.4 Failure to comply with this section shall constitute a material breach of this agreement.

8. Rights to Material Produced.

- 8.1 All reports, data, maps, models, charts, studies, surveys, photographs, memoranda or other written documents or materials prepared by Contractor pursuant to this agreement shall become the property of Agency upon completion of the work to be performed hereunder or upon termination of this agreement.
- 8.2 Without limiting the generality of the foregoing, if, in connection with services performed under this agreement, the Contractor or its subcontractors create artwork, copy, posters, billboards, photographs, videotapes, audiotapes, systems designs, software, reports, diagrams, surveys, source codes or any other original works of authorship, such works of authorship shall be works for hire as defined under Title 17 of the United States Code, and all copyrights in such works are the property of Agency. If it is ever determined that any works created by the Contractor or its subcontractors under this agreement are not works for hire under U.S. law, the Contractor hereby assigns all copyrights to such works to Agency, grants Agency a royalty-free, exclusive, and irrevocable license to reproduce, publish, use, and to authorize others to do so, all such works and

agrees to provide any material and execute any documents necessary to effectuate such assignment and license.

- 8.3 Agency acknowledges that Contractor may use its pre-existing intellectual property (including, without limitation, know-how and proprietary methodologies) ("Pre-Existing IP") as it creates the materials hereunder, and this Agreement does not transfer ownership in Contractor's Pre-Existing IP to the Agency except to the extent necessary to allow Agency to use the work product provided or as otherwise specified in Exhibit A.
- 8.4 Contractor shall not use Agency materials including logos, flyers, etc without written permission from Agency.
- 8.5 Contractor may disclose or use documents and materials, or any portion thereof, which: (a) has been previously made available to the public or which is made available by Agency hereafter, or (b) which was already in the Contractor's possession prior to services performed under this agreement. The Agency recognizes Contractor's need to make reference to this project as a part of the experience qualifications for future work of a similar nature. The Agency, therefore, agrees to allow Contractor to describe this project in its statements of qualifications and related materials. Contractor shall not publish any such material without prior written consent of Agency.

9. Intellectual Property.

Contractor represents and warrants that it has the legal right to utilize all intellectual property it will utilize in the performance of this agreement. Contractor further represents that it shall ensure Agency has the legal right to utilize all intellectual property involved in and/or resulting from Contractor's performance of this agreement. Contractor shall indemnify and hold Agency harmless from all loss and liability, including attorneys' fees, court costs and all other litigation expenses for any infringement of the patent rights, copyright, trade secret or any other proprietary right or trademark, and all other intellectual property claims of any person or persons in consequence of the use by Agency, or any of its officers or agents, of articles or services to be supplied in the performance of this agreement.

10. Confidential Information.

Contractor will hold any confidential information received from Agency in the course of performing this agreement in trust and confidence and will not reveal such confidential information to any person or entity, either during the term of the agreement or at any time thereafter. Upon expiration of this agreement, or termination as provided herein, Contractor will return materials which contain any confidential information to Agency. Contractor may keep one copy for its confidential file. For purposes of this paragraph, confidential information is defined as all information disclosed to Contractor which relates to the Agency's past, present, and future activities, as well as activities under this agreement, which information is not otherwise of public record under California law. Failure to comply with this section shall constitute a material breach of this agreement.

11. Indemnification.

To the fullest extent permitted by law, Contractor shall indemnify, defend, and hold harmless Agency, its employees, agents and officials, from any liability, claims, suits, actions, arbitration proceedings, administrative proceedings, regulatory proceedings, losses, expenses or costs (including, without limitation, costs and fees of litigation) of any kind whatsoever without restriction or limitation, incurred in relation to, as a consequence of or arising out of or in any way attributable actually, allegedly or impliedly, in whole or in part, to the performance of this agreement. All obligations under this provision are to be paid by Contractor as they are incurred by the Agency.

12. Drug-Free Workplace.

Contractor shall maintain a drug-free workplace. Neither Contractor nor Contractor's employees shall unlawfully manufacture, distribute, dispense, possess or use controlled substances, as defined in 21 U.S. Code Section 812, including marijuana, heroin, cocaine, and amphetamines, at any facility, premises or work-site used in any manner in connection with performing services pursuant to this agreement. If Contractor or any employee of Contractor is convicted or pleads nolo contendere to a criminal drug statute violation occurring at such a facility, premises, or work-site, the Contractor, within five days thereafter, shall notify the Agency. Failure to comply with this section shall constitute a material breach of this agreement.

13. Environmentally Preferable Purchasing.

Contractor shall comply with the Agency's Environmentally Preferable Purchasing Policy of instituting practices that reduce waste and purchasing products that include recycled content, are durable and long-lasting, conserve energy and water, and otherwise minimize environmental impacts, toxics, pollution and hazards to worker and community safety to the greatest extent practicable. At a minimum, this shall include all of the following for services and products purchased and used on behalf of the Agency:

- a. All products for which the U.S. Environmental Protection Agency (EPA) has established minimum recycled content standard guidelines (such as paper and non-paper office products) shall contain the highest postconsumer content practicable, but no less than the minimum recycled content standards established by the U.S. EPA Guidelines.
- b. Paper products that are unbleached or that are processed without chlorine or chlorine derivatives, shall be purchased whenever possible. To the greatest extent practicable, recycled content shall be included in products that also meet this specification.
- c. All photocopying and printing shall be double-sided.
- d. All pre-printed recycled content materials intended for distribution that are purchased or produced shall include a statement that the material is recycled content.
- e. Elimination of packaging or use of the minimum amount necessary for product protection is requested, to the greatest extent practicable. Packaging that is

reusable, recyclable or compostable is preferred, when suitable uses and programs exist. Take back and reuse of packaging materials by the Contractor is encouraged.

Upon request, Contractor shall submit to the Agency written certification documenting that the requirements above have been satisfied. A copy of the Agency's Environmentally Preferable Purchasing Policy may be obtained from the Agency representative.

14. Notice of Non-Renewal.

Contractor understands and agrees that there is no representation, implication, or understanding that the services provided by Contractor under this agreement will be retained by Agency from Contractor under a new agreement following expiration or termination of this agreement. Contractor waives all rights or claims to notice or hearing respecting any failure by Agency to continue to retain all or any such services from Contractor following the expiration or termination of this agreement.

15. Termination.

Either party may terminate this agreement with or without cause by providing 30 days' notice in writing to the other party. The Agency may terminate this agreement at any time without prior notice in the event that Contractor commits a material breach of the terms of this agreement. Upon termination, this agreement shall become of no further force or effect whatsoever and each of the parties hereto shall be relieved and discharged herefrom, subject to payment for acceptable services rendered prior to the expiration of the notice of termination and delivery to Agency of any work in progress, completed work, supplies, equipment, and other materials produced as a part of, or acquired in connection with the performance of this agreement, and any completed or partially completed work which, if this agreement had been completed, would have been required to be furnished to Agency. Notwithstanding the foregoing and section 2 on page 1, this section and the provisions of this agreement concerning insurance (Exhibit B), Funding Agency Requirements (as set forth in Exhibit D if applicable), Independent Contractor, Retention of Records, Rights to Material Produced, Intellectual Property, Confidential Information, Indemnification, Default and Remedies, and Jurisdiction and Severability shall survive termination of this agreement.

16. Default and Remedies.

16.1 Each of the following shall constitute an event of default hereunder:

- (a) Failure to perform any obligation under this agreement and failure to cure such breach immediately upon receiving notice of such breach, if the breach is such that the Agency determines the health, welfare, or safety of the public is immediately endangered;

- (b) Failure to perform any obligation under this agreement and failure to cure such breach within fifteen (15) days of receiving notice of such breach, provided that if the nature of the breach is such that the party claiming breach determines it will reasonably require more than fifteen (15) days to cure, breaching party shall not be in default if it promptly commences the cure and diligently proceeds to completion of the cure; or
- (c) Without limiting the generality of the foregoing, any Material Breach of any term of this agreement ("Material Breach" as used in this agreement shall include, but not be limited to, any failure to comply with the provisions of any section of this agreement stating that failure to comply with that section shall constitute a material breach of this agreement).

16.2 Upon any default, the non-defaulting party shall have the right to immediately suspend or terminate the agreement, seek specific performance, and/or seek damages including incidental, consequential and/or special damages to the full extent allowed by law.

16.3 The parties shall make a good faith effort to settle any dispute or claim arising under this agreement. If the parties fail to resolve such disputes or claims, they shall submit them to non-binding mediation in California at shared expense of the parties for at least 8 hours of mediation. If mediation does not arrive at a satisfactory result, arbitration, if agreed to by all parties, or litigation may be pursued. In the event any of these dispute resolution processes are involved, each party shall bear its own costs and attorneys' fees.

16.4 If any litigation is commenced between parties to this agreement concerning any alleged default or any provision hereof or the rights and duties of any person in relation thereto, each party shall bear its own attorneys' fees and costs.

17. Jurisdiction and Severability.

This agreement shall be administered and interpreted under the laws of the State of California. Jurisdiction of litigation arising from this agreement shall be in that state and venue shall be in Alameda County, California. If any part of this agreement is found to conflict with applicable laws, such part shall be inoperative, null and void insofar as it conflicts with said laws, but the remainder of this agreement shall be in full force and effect.

18. Waiver.

Neither the acceptance of work or payment for work pursuant to this agreement shall constitute a waiver of any rights or obligations arising under this agreement. The failure by the Agency to enforce any of Contractor's obligations or to exercise Agency's rights shall in no event be deemed a waiver of the right to do so thereafter.

19. Parties in Interest.

This agreement is entered only for the benefit of the parties executing this agreement and not for the benefit of any other individual, entity or person.

20. Entire Agreement.

This agreement supersedes any and all agreements, either oral or written, between the parties hereto with respect to the rendering of services by Contractor for Agency and contains all of the covenants and agreements between the parties with respect to the rendering of such services in any manner whatsoever. Each party to this agreement acknowledges that no representations, inducements, promises or agreements, orally or otherwise, have been made by any party, or anyone acting on behalf of any party which are not embodied herein, and that no other agreement, statement or promise not contained in this agreement shall be valid or binding. No alteration or variation of the terms of this agreement shall be valid unless made in writing and signed by the parties hereto.

**-End of Exhibit C-**

## Exhibit D

### Funding Agency Requirements

This agreement is funded in part pursuant to the contract ("Funding Agreement") between Agency and *Pacific Gas & Electric (PG&E)* ("Funding Agency"). In recognition of the Funding Agreement Agency and Contractor agree that:

1. All contractual provisions required by the Funding Agreement are hereby incorporated by reference. Anything to the contrary herein notwithstanding, all Funding Agreement-mandated terms shall be deemed to control in the event of a conflict with other provisions contained in this agreement. The Contractor shall not perform any act, fail to perform any act, or refuse to comply with any Agency requests which would cause the Agency to be in violation of the Funding Agreement terms and conditions.
2. If Contractor claims or receives payment from Agency for a service, reimbursement for which is later disallowed by the Funding Agency, the Contractor shall promptly refund the disallowed amount to Agency upon Agency's request. At its option, Agency may offset the amount disallowed from any payment due or to become due to Contractor under this agreement or any other agreement.
3. Agency may terminate or suspend performance of this agreement if Funding Agency suspends or terminates funding pursuant to the terms of the Funding Agreement. In the event of suspension or termination Agency shall be obligated to fund only that portion of Contractor's work performed prior to the suspension or termination that is not funded by the Funding Agreement.
4. By executing this agreement, the Contractor certifies that the Contractor is not suspended, debarred or otherwise excluded from participation in the program(s) supported by the Funding Agreement. Contractor acknowledges that this certification of eligibility to receive Funding Agency funds is a material term of the agreement.

**-End of Exhibit D-**

**Exhibit D-1: Master Service Agreement (MSA) and Contract Work Authorization (CWA) between the Energy Council and Pacific Gas & Electric can be provided upon request.**

## ATTACHMENT B: Sample Pricing Structure

Due to the high number of tasks and variability between flat-rate and per-Jurisdiction pricing suggested in the RFP, provided below is a sample structure that respondents may use or adapt. Respondents are not required to use this format.

<b>Basic Scope</b>	Flat or per-Jurisdiction	Cost Estimate
Task 1: Standardized Calculation Spreadsheet	Flat	\$XX,XXX
Task 2: Data Collection for Major Emissions Sectors	Flat	\$XX,XXX
Task 3: Data Analysis for Major Emissions Sectors	Flat	\$XX,XXX
<b>Basic Scope Total</b>	Flat	<b>\$64,000</b>
<b>Full Menu</b>	Flat or per-Jurisdiction	Cost Estimate
Task 4: Data Collection and Analysis for Minor Emissions Sectors		
4a. Addition of minor emissions sectors into Task 1 spreadsheet	Flat	\$X,XXX
4b. Data collection for each Jurisdiction	Per	\$X,XXX
4c. Data analysis for each Jurisdiction	Per	\$X,XXX
Task 5: Forecasting		
5a. Develop forecasting functions: Added to Task 1 spreadsheet or separate spreadsheet	Flat	\$X,XXX
5b. Add interactivity functionality to spreadsheet	Flat	\$X,XXX
5c. Provide technical assistance to Jurisdiction to utilize interactivity function of spreadsheet	Per	\$X,XXX
Task 6: ClearPath Data Entry		
6a. Data entry for Major Emissions Sectors (Basic Scope year)	Per	\$X,XXX
6b. Data entry for Minor Emissions Sectors (Basic Scope year)	Per	\$X,XXX
6c. Data entry for Major Emissions Sectors (each additional year)	Per	\$X,XXX
6d. Data entry for Minor Emissions Sectors (each additional year)	Per	\$X,XXX
Task 7: Process Improvements	Flat	\$X,XXX
Task 8: Narrative Template		
8a. Develop full Inventory report template	Flat	\$X,XXX
8b. Develop staff report template	Flat	\$X,XXX
8c. Populate full Inventory report and staff report	Per	\$X,XXX
Task 9: Additional Years		
9a. Repeat Tasks 2-3 for Major Emissions Sectors (each additional year)	Per	\$X,XXX
9b. Repeat Task 4 for Minor Emissions Sectors (each additional year)	Per	\$X,XXX
9c. Develop trend-line functions: Added to Task 1 spreadsheet or separate spreadsheet	Flat	\$X,XXX
Task 10: Municipal Operations Inventory		
10a. Data collection (if proposed)	Per	\$X,XXX
10a. Data analysis	Per	\$X,XXX