

**Areawide Public Utility Contract**

**For**

**Electric, Energy Management Services, and Services Provided  
under the Appropriate Regulatory Authority**

**Contract No. GS-00P-16-BSD-1205**

**between the**

**United States of America**

**and**

**COMMONWEALTH EDISON COMPANY**

**Franchised areas in the Chicago, Illinois metropolitan  
area and Northern Illinois**

Negotiated Areawide Contract  
**No. GS-00P-16-BSD-1205**  
between the  
**United States of America**  
And  
**COMMONWEALTH EDISON COMPANY**

**TABLE OF CONTENTS**

<u>Article</u>	<u>Page</u>
Preamble and Whereas Clauses	3
1. Definitions	3
2. Scope and Duration of Contract	6
3. Existing Contracts	6
4. Authorization Procedure and Service Disconnections	6
5. Rates, Charges, and Public Regulation	7
6. Bills and Billing Data	8
7. Payments for Services	8
8. Contractor-Owned Meters	8
9. Equipment and Facilities	9
10. Liability	9
11. Access to Premises	10
12. Parties of Interest	10
13. Representations and Certifications	10
14. Supplemental Clauses	11
15. Small Business Subcontracting Plan	15
16. Notices	16
17. Reporting	16
18. Utility Energy Services Contracts	16
19. Miscellaneous	18
Signatures	19
Certificate	20
Authorization for Electric Service	Exhibit A
Authorization for Energy Management Service	Exhibit B
Authorization for Services Provided under the Appropriate Regulatory Authority	Exhibit C

NEGOTIATED AREAWIDE CONTRACT

No. GS-00P-16-BSD-1205

BETWEEN THE

UNITED STATES OF AMERICA

AND

COMMONWEALTH EDISON COMPANY

THIS AREAWIDE CONTRACT FOR Electric, Energy Management Services and Services Provided Under The Appropriate Regulatory Authority is executed this 5th day of February, 2016, between the UNITED STATES OF AMERICA, acting through the Administrator of General Services (hereinafter referred to as the "**Government**"), pursuant to the authority contained in Section 201(a) of the Federal Property and Administrative Services Act of 1949, as amended, 40 U.S.C. 501(b)(1), and, COMMONWEALTH EDISON COMPANY, a corporation organized and existing under the laws of the State of Illinois, and having its principal office and place of business at One Financial Place, 440 S. LaSalle Street – 33<sup>rd</sup> Floor, Chicago, Illinois 60605 (hereinafter referred to as the "**Contractor**");

WHEREAS, the Contractor is an electric utility company that is regulated by the Illinois Commerce Commission and the Federal Energy Regulatory Commission (hereinafter referred to collectively as the "Commission");

WHEREAS, the Contractor now has on file with the Commission all of its effective tariffs, rate schedules, riders, rules and regulatory terms and conditions of service, as applicable; and

WHEREAS, with some exceptions, the Government is generally required by Chapter 1 of Title 48 of the Federal Acquisition Regulation (FAR), 48 CFR 41.204, to enter into a bilateral contract for Electric, Energy Management Services and/or Services Provided Under the Appropriate Regulatory Authority at each Federal facility where the value of the Services provided is expected to exceed \$150,000 annually; and

WHEREAS, where the Government has an areawide contract in effect with a particular utility, then such service is normally to be procured thereunder; and

WHEREAS, the Government is now purchasing such electric and energy management services from the Contractor under the Areawide Public Utilities Contract No. GS-OOP-05-BSD-0361 that expires on January 10, 2016, or under some other service arrangement; and

WHEREAS, the Contractor and the Government mutually desire that this Areawide Contract be used by the agencies of the Government in obtaining electric, energy management services and/or services provided under the Appropriate Regulatory Authority from the Contractor and to facilitate partnering arrangements as encouraged and authorized by 10 U.S.C. 2911-2918 and 42 U.S.C. 8256; and

NOW, THEREFORE, in consideration of the premises and mutual covenants herein contained, the parties hereby agree as follows:

**ARTICLE 1. DEFINITIONS.**

1.1. As used in this Areawide Contract, the following terms have the meaning as prescribed below:

(a) "**Areawide Contract**" means this master contract entered into between the Government and Contractor to cover the Service acquisitions of all Federal agencies in the franchised certificated service territory from Contractor for a period not to exceed ten (10) years.

(b) "**Agency**" means any Federal department, agency, or independent establishment in the executive branch of the Government, any establishment in the legislative or judicial branches of the Federal Government, or any wholly/mixed ownership Government corporation, as defined in the Government Corporation Control Act, a list of which Agencies may be found at ADM 4800.2E on the General Services Administration website.

(c) "**Ordering Agency**" means any Agency that enters into a bilaterally executed Authorization for procurement of **Electric and/or Services Provided under the Appropriate Regulatory Authority, or otherwise is authorized to and obtains Services** under this Areawide Contract.

(d) "**Authorization**" means an order form used to acquire Services under this Areawide Contract (see **Exhibit "A" AUTHORIZATION FOR ELECTRIC SERVICE, Exhibit "B" AUTHORIZATION for ENERGY MANAGEMENT SERVICE AND Exhibit "C" AUTHORIZATION FOR THE PROVISION OF SERVICES PROVIDED UNDER THE APPROPRIATE REGULATORY AUTHORITY AND** annexed hereto;

(e) "**Termination Authorization**" means an order form used to discontinue or disconnect Services under this Areawide Contract (see **Exhibit "A" AUTHORIZATION FOR ELECTRIC SERVICE, Exhibit "B" AUTHORIZATION for ENERGY MANAGEMENT SERVICE AND Exhibit "C" AUTHORIZATION FOR THE PROVISION OF SERVICES PROVIDED UNDER THE APPROPRIATE REGULATORY AUTHORITY AND**);

(f) "**Service(s)**" means Electric Service, Energy Management Services, ECM, and/or Services Provided Under the Appropriate Regulatory Authority that are generally available from the Contractor pursuant to Contractor's Tariffs or the Contractor's Terms and Conditions, whichever is applicable.

(g) "**Electric Service**" means regulated electric commodities, transmission, distribution, and/or related services.

(h) "**Energy Conservation Measure (ECM)**" means any specific energy related or water service intended to provide energy savings and/or demand reduction in Federal facilities (Reference Article 18 herein).

(i) "**Energy Management Service (EMS)**" means any project or service (including any ECM) that is intended to reduce and/or manage energy demand or water use in a facility as well as energy audits and any ancillary services necessary to ensure the proper operation of the energy conservation measure. Such measures include, but are not limited to, operating and maintenance and commissioning services (Energy Conservation Measure and Demand Side Management Measure are considered equivalent terms.) To be considered an EMS measure, the measure must satisfy all of the following requirements:

1. The EMS measure must produce measurable energy reductions or measurable amounts of controlled energy and/or water use;
2. The EMS measure must be directly related to the use of energy or directly control the use of energy or water;
3. The preponderance of work covered by the EMS measure (measured in dollars) must be for items 1 and 2 above; and
4. The EMS measure must be an improvement to real property or any action that is necessary to ensure the functionality of the EMS measure.

(j) "**Contractor's Tariffs**" means utility service tariffs, and includes rate schedules, riders, rules, regulations, and regulated terms and conditions of service as may be modified, amended or supplemented by the Contractor from time to time and, approved by the Commission.

(k) "**Contractor's Terms and Conditions**" for this Areawide Contract, means the terms, conditions, policies, procedures, payment terms and prices established by the Contractor for those services that are provided pursuant to this Contract, and as such, may be modified, amended, or supplemented by the Contractor from time to time, but are not required to be approved by the Commission and/or not specifically subject to Commission approval before they take effect.

(l) "**Connection Charge**" means a Contractor's charge for facilities on the Contractor's side of the delivery point which facilities (1) are required to make connections with the nearest point of supply and (2) are in accordance with the Contractor's Tariffs and the Commission's rules and regulations, installed, owned, maintained and operated by the Contractor.

(m) "**Class of Service**" or "**Service Classification**" means those categories of service established in the Contractor's Tariff as filed with the Commission.

(n) "**Extension Fee**" means a Contractor's charge for facilities on the Contractor's side of the delivery point which facilities (1) are required to make connections with the nearest point of supply and (2) are, in accordance with the Terms of Service, installed, owned, maintained and operated by the Contractor.

(o) "**Hazardous Materials**" means

- i. those substances defined as "hazardous substances" pursuant to Section 101(14) of the Comprehensive Environmental Response, Compensation and Liability Act of 1980, as amended by the Superfund Amendments and Reauthorization Act of 1986 (42 U.S.C. Sections 9601 et seq.);
- ii. those substances designated as a "hazardous substance" pursuant to Section 311(b)(2)(A) or as a "toxic pollutant" pursuant to Section 307(a)(1) of the Clean Water Act (33 U.S.C. Sections 1251 et seq.);
- iii. those substances defined as "hazardous materials" pursuant to Section 103 of the Hazardous Materials Transportation Act (49 U.S.C. Sections 1801 et seq.);
- iv. those substances regulated as a "chemical substance or mixture" or as an "imminently hazardous chemical substance or mixture" pursuant to Section 6 or 7 of the Toxic Substances Control Act (15 U.S.C. Sections 2601 et seq.);
- v. those substances defined as "contaminants" pursuant to Section 1401 of the Safe Drinking Water Act (42 U.S.C. Sections 300f et seq.), if present in excess of permissible levels;
- vi. those substances regulated pursuant to the Oil Pollution Act of 1990 (33 U.S.C. Sections 2701 et seq.);
- vii. those substances defined as a "pesticide" pursuant to Section 2(u) of the Federal Insecticide, Fungicide, and Rodenticide Act as amended by the Federal Environmental Pesticide Control Act of 1972 and by the Federal Pesticide Act of 1978 (7 U.S.C. Sections 136 et seq.);
- viii. those substances defined as a "source", "special nuclear" or "by-product" material pursuant to Section 11 of the Atomic Energy Act of 1954 (42 U.S.C. Section 2014 et seq.);
- ix. those substances defined as "residual radioactive material" in Section 101 of the Uranium Mill Tailings Radiation Control Act of 1978 (42 U.S.C. Sections 7901 et seq.);
- x. those substances defined as "toxic materials" or "harmful physical agents" pursuant to Section 6 of the Occupational Safety and Health Act (29 U.S.C. Section 651 et seq.);
- xi. those substances defined as "hazardous air pollutants" pursuant to Section 112(a)(6), or "regulated substance" pursuant to Section 112(a)(2)(B) of the Clean Air Act (42 U.S.C. Sections 7401 et seq.);
- xii. those substances defined as "extremely hazardous substances" pursuant to Section 302(a)(2) of the Emergency Planning & Community Right-to-Know Act of 1986 (42 U.S.C. Sections 11001 et seq.);
- xiii. those other hazardous substances, toxic pollutants, hazardous materials, chemical substances or mixtures, imminently hazardous chemical substances or mixtures, contaminants, pesticides, source materials, special nuclear materials, by-product materials, residual radioactive materials, toxic materials, harmful physical agents, air pollutants, regulated substances, or extremely hazardous substances defined in any regulations promulgated pursuant to any environmental Law, and
- xiv. all other contaminants, toxins, pollutants, hazardous substances, substances, materials and contaminants, polluted, toxic and hazardous materials, the use, disposition, possession or control of which is regulated by one or more Laws.

(p) "**Hazardous Wastes**" means those substances defined as "hazardous waste" pursuant to Section 1004(5) of the Resource, Conservation and Recovery Act (42 U.S.C. Section 6901 et seq.), and those other hazardous wastes defined in any regulations promulgated pursuant to any environmental Law.

(q) UESC means a Utility Energy Service Contract, as authorized by the Energy Policy Act of 1992, P.L. 102-486 (codified as 42 U.S.C. 8256) as an established-source contract between a federal agency and its serving utility for energy- and water-efficiency improvements and demand-reduction services.

1.2. This Article is hereby expanded to include the additional definitions contained in FAR Clause 52.202-1, Definitions (MAY 2001), 48 C.F.R. 52.202-1, which are incorporated herein by reference.

## **ARTICLE 2. SCOPE AND DURATION OF CONTRACT.**

**2.1.** This Areawide Contract shall be in effect on and after the 5th day of February, 2016 ("**Effective Date**"), and shall continue for a period of ten (10) years ("**Term**"), except that the Government, pursuant to the clause contained in FAR 52.249-2 (48 C.F.R. 52.249-2), incorporated into this Areawide Contract under Article 14.1-34, or the Contractor, upon sixty (60) days written notice to the Government, and without liability to the Government or any Ordering Agency, may terminate this Areawide Contract, in whole or in part, when it is in their respective interest to do so, provided, however, that neither the stated duration of this Areawide Contract nor any other termination of it, in whole or in part, pursuant to such incorporated clause, this Article 2.1, or otherwise, shall be construed to affect any obligation for any payment, charge, rate, or other matter that may be imposed pursuant to the Contractor's Tariffs, rates, rules, regulations, riders, practices, or terms and conditions of Service as may be modified, amended, or supplemented by the Contractor and approved from time to time by the Commission.

**2.2.** Authorizations may be executed under this Areawide Public Utility Contract at any time during the term of this Contract. The Areawide Public Utility Contract shall be for a term of ten (10) years. The term of any Authorization executed under this contract may be for a term of up to ten (10) years, which term may extend beyond the term of this Areawide Public Utility Contract. Authorizations executed pursuant to the authority under 42 U.S.C. Section 8256 may be for a term of up to 25 years, as long as the other requirements of this Section are met, and the term may extend beyond the term of the Areawide Public Utility Contract. Termination, modification or expiration of the Areawide Public Utility Contract shall not affect in any way any Authorizations previously entered into under this Contract.

**2.3.** The provisions of this Areawide Contract shall not apply to the Contractor's Service to any Agency until both the Ordering Agency and the Contractor execute a written Authorization for Electric, Energy Management Services and/or Services provided under the Appropriate Regulatory Authority. Upon bilateral execution of an Authorization, the Contractor agrees to furnish to the Ordering Agency, and the Ordering Agency agrees to purchase from the Contractor, the above noted Services for the installation(s) or facilities named in the Authorization pursuant to the terms of this Areawide Contract.

**2.4.** Nothing in this Areawide Contract shall be construed as precluding the Ordering Agency and the Contractor from entering into an Authorization for negotiated rates or Service of a special nature, provided such negotiated rates or Service are in accordance with the rules and regulations of the Commission, if applicable.

**2.5.** This Areawide Contract may be used by an Ordering Agency to obtain electric services that are offered by Contractor, as further described in 40 U.S.C. Section 591, to the extent it is applicable, (quoted here in relevant part): "A department, agency, or instrumentality of the Federal Government may not use amounts appropriated or made available by any law to purchase electricity in a manner inconsistent with State law governing the provision of electric utility service...".

**2.6.** To facilitate an Ordering Agency obtaining services under Contractor's standard agreements for utility service, an **Exhibit "C"** has been included in this Areawide Contract. This **Exhibit "C"** is designed so it also can be used by an Ordering Agency when a change requested by the Ordering Agency to Contractor's standard terms and conditions for utility service has been approved by the Appropriate Regulatory Authority.

## **ARTICLE 3. EXISTING CONTRACTS.**

**3.1.** The parties agree that an Agency currently acquiring Service from the Contractor under a separate written contract may continue to do so until that contract expires or until such time as the Agency and the Contractor mutually agree to terminate that separate written contract and have such Service provided pursuant to this Areawide Contract by executing an appropriate Authorization or Authorizations.

**3.2.** Existing special rates and services of a special nature currently provided under a separate written contract may be continued under the Authorizations described in Article 3.1 if requested by the Ordering Agency and agreed upon by the Contractor.

## **ARTICLE 4. AUTHORIZATION PROCEDURE AND SERVICE DISCONNECTION.**

**4.1.** To obtain or change Service under this Areawide Contract, the Ordering Agency shall complete the appropriate Authorization and forward it to the Contractor. Upon the request of the Ordering Agency, the Contractor shall endeavor to provide reasonable assistance to the Ordering Agency in selecting the service classification which may be

most favorable to the Ordering Agency. Upon execution of an Authorization by both the Contractor and the Ordering Agency, the date of initiation or change in Service shall be effective as of the date specified in the Authorization. An executed copy of the Authorization shall be transmitted by the Ordering Agency to GSA at the address provided in Article 16.1.

4.2. During the Term of this Areawide Contract, effective Authorizations need not be amended, modified, or changed by an Ordering Agency to reflect changes in: accounting and appropriation data, the Contractor's Tariff, the Contractor's cost of purchased fuel, or the estimated annual cost of Service. Such changes are considered internal to the party involved. Where changes are required in effective Authorizations because of a change in the Service requirements of an Ordering Agency, an amended Authorization shall be mutually agreed upon and executed.

4.3. An Ordering Agency or the Contractor may discontinue Service provided pursuant to this Areawide Contract to a particular Federal facility or installation by delivering a written Termination Authorization to the other. Such discontinuance of Service by an Ordering Agency or the Contractor shall be in accordance with the terms of this Areawide Contract and the Contractor's Tariffs.

4.4. In the event the Areawide Contract is not renewed at the expiration of the contract term, any active authorizations for services shall be controlled by the Contract terms and conditions in effect at the time of award.

#### **ARTICLE 5. RATES, CHARGES, AND PUBLIC REGULATION.**

5.1. A complete listing of all Contractor's Tariffs, as amended, supplemented, modified and revised from time to time, is available to the Government and any Ordering Agency electronically at the Contractor's website accessible via <http://www.comed.com>.

5.2. Subject to the provisions of Article 2.3, all Electric, Energy Management Services and/or Services Provided Under The Appropriate Regulatory Authority purchased under this Areawide Contract, as well as any other action under this Areawide Contract shall be in accordance with, and subject to, the Contractor's Tariffs, Contractor's Terms and Conditions, and any other terms and conditions set forth in an Authorization, except to the extent that same are preempted by Federal law. Throughout the Term of the Areawide Contract, the Government shall have full access to the Contractor's currently effective Tariffs. In the event the Contractor's Tariffs become inaccessible via the internet or the Ordering Agency does not have access to the internet, the Contractor agrees to provide newly effective or amended Tariffs in accordance with the Contractor's Tariff distribution practices, policies and procedures applicable to all customers.

5.3. If, during the Term of this Areawide Contract, the Commission approves a change in rates for services specified in Authorizations in effect hereunder, the Contractor agrees to continue to furnish, and the Ordering Agency agrees to continue to pay for, those Services at the newly approved rates from and after the date such rates are made effective. As provided in Article 4.2, modification of any Authorization hereunder is not necessary to implement higher or lower rates.

5.4. The Contractor hereby represents and warrants to the Government that the Service rates available to any Ordering Agency hereunder shall at all times not exceed those available to any other customer served under the same Service Classification for the same or comparable service, under like conditions of use. Nothing herein shall require the Contractor to apply service rates that are inapplicable to the Ordering Agency.

5.5. Reasonable written notice via an Authorization shall be given by the Ordering Agency to the Contractor, at the address provided in Article 16.2, of any material changes proposed in the volume or characteristic of utility services required by the Ordering Agency.

5.6. To the extent required by the Contractor's Tariffs, the Commission's rules and regulations, or the Contractor's policies and practices applicable to all customers, and in accordance therewith, any necessary extension, alteration, relocation, or reinforcement of the Contractor's transmission or distribution lines, related special facilities, Service arrangements, demand side management services (including any rebates to which the Ordering Agency may be entitled), energy audit services, or other Services required or requested by an Ordering Agency shall be provided and, as applicable, billed for, by the Contractor. To the extent available from the Contractor, the Contractor shall provide and, as applicable, bill for such technical assistance on or concerning an Ordering Agency's equipment (such as the inspection or repair of such equipment) as may be requested by such Ordering Agency. The charges for such technical assistance shall be calculated at the time the technical assistance is rendered, as mutually agreed upon by the Contractor and the Agency, and shall comply with Contractor's Tariffs, if applicable. The Authorization or any other agreement used to obtain and provide the matters, Services, or technical assistance described in this Article 5.6 shall contain

information descriptive of the matters, Services, or technical assistance required or requested, including the amount of (or method to determine) any payment to be made by the Ordering Agency to the Contractor for the provision of said matters, Services, or technical assistance.

5.7. Any charges for matters or Services referenced in Article 5.6 hereof which are not established by the Contractor's Tariffs shall be subject to audit by the Ordering Agency prior to payment provided, however, that notwithstanding such right to audit, payment for the matters and Services referenced in Article 5.6 thereof shall not be unreasonably withheld or denied. The Contractor further warrants and represents to the Government that charges for the matters or Services referenced in Article 5.6 hereof will not exceed the charges billed to other customers of the Contractor served under the same Service Classification for like matters or Services provided under similar circumstances.

5.8. The requirements of the Disputes clause at FAR 52.233-1 are supplemented to provide that matters involving the interpretation of Contractor's Tariff(s) are subject to the jurisdiction and regulation of the utility rate commission having jurisdiction.

#### **ARTICLE 6. BILLS AND BILLING DATA.**

6.1 The Electric, Energy Management Services and/or Services provided under the Appropriate Regulatory Authority supplied hereunder shall be billed to the Ordering Agency at the address specified in each Authorization. Bills shall be submitted in original only, unless otherwise specified in the Authorization. All bills shall contain such data as is required by the Commission to substantiate the billing and such other reasonable and available data as may be requested by the Ordering Agency, provided that such other data are contained in bills provided to other customers of the Contractor served under the same Service Classification as the Ordering Agency.

#### **ARTICLE 7. PAYMENTS FOR SERVICES.**

7.1. Payments hereunder shall not be paid in advance of Services rendered. The Ordering Agency shall effect payment of all bills for regulated Services rendered under this Areawide Contract in accordance with the terms of the Contractor's Tariff, Contractor's Standard Terms and Conditions, and any other payment terms and conditions set forth in an Authorization. Changes in the Contractor's Tariff provisions for the payment of bills shall supersede the provisions of this paragraph to the extent of the applicability of such changes.

7.2. The Ordering Agency will make invoice payments for Services not subject to the direct oversight of the Commission in accordance with the provisions of the FAR Subpart 52.232-25 (Article 14.1-16). The interest rate for late payments made pursuant to this clause shall be computed in accordance with the Office of Management and Budget prompt payment regulations at 5 C.F.R. 1315.

7.3. Payments hereunder shall not normally be made in advance of services rendered in accordance with 48 C.F.R. Subpart 32.4, unless required by the Contractor's Tariff or Contractor's Terms and Conditions. The applicability of this provision is limited to connection charge and line extension payments specifically cited in the Contractor's Tariff.

7.4. Each payment made by Treasury check to the Contractor shall include the Contractor's billing stub(s), or a Government or Ordering Agency payment document, that clearly and correctly lists all of the Contractor's account numbers to which the payment applies and the dollar amount applicable to each account. If payment is by Electronic Funds Transfer either through the Automated Clearing House (ACH) or the Federal Reserve Wire Transfer System, the provisions of FAR Subpart 52.232-34 shall apply (See Article 14).

#### **ARTICLE 8. CONTRACTOR-OWNED METERS.**

8.1. Metering equipment of standard manufacture suitable to measure all utility services supplied by the Contractor hereunder shall be furnished, installed, calibrated and maintained by the Contractor in accordance with Contractor's Tariffs and the Commission's regulations. In the event any meter fails to register or registers incorrectly, as determined by the regulations of the Commission, billing adjustments shall be made in accordance with such regulations.

8.2. The Contractor, so far as possible, shall read all meters monthly in accordance with the Contractor's Tariff and the Commission's regulations.

8.3. Meters shall be inspected upon installation in accordance with Contractor's Tariffs and the Commission's regulations. Subsequent inspection, periodic testing, repair, and replacement of meters shall be done in such place and manner as provided by the Commission's regulations. Upon notice that a meter is failing to register correctly, the

Contractor shall take immediate steps to effect replacement or repair in accordance with Commission regulations. Ordering Agencies shall have the right to request a meter test in accordance with the procedures prescribed in the Commission's regulations. The tests and applicable meter accuracy standards are those set forth in the Commission's regulations. The expense of meter tests shall be borne by the party designated as responsible therefore in the Commission's regulations.

**8.4.** For the purposes of this Article 8, references to meters shall apply only to Contractor-owned metering devices installed and maintained by the Contractor in accordance with Commission guidelines for utility service(s). References to meters under this Article shall not apply to meters that are to be installed by the Contractor at the request of an Ordering Agency, to be owned by the Government as a part of an Authorization for Energy Management Service or other Service.

#### **ARTICLE 9. EQUIPMENT AND FACILITIES.**

**9.1.** Subject to the provisions of Article 5.6 hereof, the responsibility for owning, furnishing, installing, and maintaining all equipment and facilities (other than meters) required to supply service at the delivery point(s) specified in an Authorization shall be determined in accordance with the Contractor's regulated Tariffs and the Commission's regulations. The Ordering Agency shall provide, free of charge to the Contractor, mutually agreeable locations on its premises for the installation of meters and such other equipment furnished and owned by the Contractor and necessary to supply Service hereunder. The Contractor shall, at all times during the Term of this Areawide Contract, operate and maintain such equipment or facilities as for which it has responsibility in accordance with this Article 9.1, in accordance with Contractor's Tariffs and the Commission's regulations. Notwithstanding anything to the contrary in FAR 52.241-5 (Contractor's Facilities (FEB 1995)), to the extent required by the Contractor's Tariffs and the Commission's rules and regulations, and in accordance thereof, such equipment and facilities as for which the Contractor has responsibility in accordance with this Article 9.1 shall be removed, or any underground equipment or facilities for which the Contractor has responsibility in accordance with this Article 9.1, such underground equipment or facilities may be abandoned, and in both cases, the Agency's premises restored, by the Contractor within a reasonable time after discontinuance of service to the Ordering Agency.

**9.2.** All necessary rights-of-way, easements and such other rights necessary to permit the Contractor to perform under this Areawide Contract shall be obtained and the expense for same borne in accordance with the Contractor's Tariffs and the Commission's rules and regulations.

**9.3.** Prior to the Contractor commencing construction on the property of the Ordering Agency, the Ordering Agency shall, at its own expense, provide the Contractor with copies of maps and other records of existing Government-owned on-site utilities and other potential obstructions, as deemed necessary by the Contractor. In addition, the Ordering Agency, at its own expense, shall locate and field-mark existing Government-owned on-site underground utilities prior to the Contractor commencing construction. As an option, the Ordering Agency may request the Contractor to provide these services within the scope of the Authorization, at an additional expense, if mutually agreed to by both parties. The Ordering Agency shall, at its own expense, identify and remove or otherwise render safe any and all unexploded ordinance on the property of the Ordering Agency prior to the Contractor commencing construction.

#### **ARTICLE 10. LIABILITY.**

**10.1.** If the Government and/or an Ordering Agency has limited or restricted the Contractor's right of access under Article 11 and thereby interfered with the Contractor's ability to supply service or to correct dangerous situations which are a threat to public safety, Contractor shall be excused from any contractual or service obligations that are impacted by the Government's limitation or restriction on access and the Government shall be responsible for any liability resulting from such restricted or limited access to the extent permitted by law and authorized by appropriations. This Article (10.1) shall not be construed to limit the Government's liability under applicable law.

**10.2.** The Contractor's liability to the Government and to any Ordering Agency for any failure to supply Service, for any interruptions in Service, and for any irregular or defective Service shall be determined in accordance with the Contractor's Tariffs or Contractor's Terms and Conditions.

**10.3.** Except as provided above, and in accordance with the Contractor's Tariff and Terms and Conditions of Service, the Government shall not be liable for damage or injury to any person or property, including death, occasioned solely by the Contractor's, its employees' or agents' negligent installation, use, operation or intentional misuse of the Contractor's equipment or facilities.

**10.4.** In accordance with the Contractor's Tariff and/or Terms and Conditions of Service, neither the Contractor nor its employees or agents, shall be liable for damage or injury to any person or property, including death, occasioned solely by the negligent installation, use, operation or intentional misuse of Contractor's equipment or facilities by the Government, its employees or agents.

**10.5.** The Contractor shall not be liable for incidents arising out of or in any way connected with the violation or compliance with any local, state or federal environmental law or regulation resulting from pre-existing conditions at a Government job site, release or spill of any pre-existing Hazardous Materials or Hazardous Waste, or out of the management and disposal of any pre-existing contaminated soils or ground water, hazardous or non-hazardous, removed from the ground as a result of work performed by the Contractor.

**10.6.** The Government agrees to accept full responsibility for and bear all costs associated with pre-existing environmental liability. Responsibility for testing, abatement, remediation, and/or disposal of Hazardous Material, including, but not limited to, contaminated soil, contaminated groundwater and contaminated surface water and storm water resulting from contact with pre-existing hazardous materials, lead paint, asbestos, polychlorinated biphenyls, fuel oil, or underground fuel oil tanks, shall remain with the Government. Where there is reason to suspect that Hazardous Material is present at the work site, or where Hazardous Material is encountered during the course of work being performed, the Contractor shall stop work, notify the Contracting Officer and Activity personnel, and request that the Government test the work site for such Hazardous Material and appropriately abate and dispose of such Hazardous Material. Once the work site has been cleared of all Hazardous Material, the Contractor shall resume work in that area.

#### **ARTICLE 11. ACCESS TO PREMISES.**

**11.1.** The Contractor and its employees, agents, representatives and independent contractors shall have access to the premises served at all reasonable times during the Term of any Authorization executed under this Areawide Contract and for a reasonable period of time following its expiration or termination, whichever occurs latest, to perform certain work, which shall include but not be limited to the following: for the purpose of reading meters, making installations, repairs, or removals of the Contractor's equipment, or for any other proper purposes hereunder provided, however, that proper military or other governmental authority may limit or restrict such right of access in any manner considered by such authority to be reasonably necessary or advisable. However, any such limitation or restriction shall not be to the extent to prohibit the Contractor's ability to complete all work incident to the termination or expiration of this Areawide Contract.

#### **ARTICLE 12. PARTIES OF INTEREST.**

**12.1.** This Areawide Contract shall be binding upon and inure to the benefit of the successors, legal representatives, and assignees of the respective parties hereto.

**12.2.** When the Contractor becomes aware that a change in ownership ("change in ownership" for purposes of this Areawide Contract being defined as a sale of more than fifty percent of the outstanding voting stock of the Contractor) or company name has occurred, or is certain to occur, the Contractor shall notify the Contracting Officer at the address provided in Article 16.1 not later than thirty (30) days after the effectiveness of any such ownership or name change. In the event the Contractor fails to make the notification required by this Article 12.2, the Government cannot guarantee the timely payment of outstanding invoices in accordance with the provisions of Article 7.1; however, the Government shall be responsible for all payments related to the Services provided by the Contractor hereunder.

#### **ARTICLE 13. REPRESENTATIONS AND CERTIFICATIONS.**

**13.1.** This Areawide Contract incorporates by reference the representations and certifications made by the Contractor which shall be filed annually electronically at [www.sam.gov](http://www.sam.gov).

13.2. Contractor represents that the following persons are currently authorized to negotiate and execute on its behalf with the U.S. Government in connection with this Areawide Contract: (List names, titles, email address and telephone numbers of the authorized negotiators):

**1. Fidel Marquez, Jr.**

**SVP Governmental and External Affairs**

**312-394-4951**

**Fidel.marquez@comed.com**

**2. Miguel Ortega**

**Director External Affairs**

**630-437-2139**

**Miguel.ortega@comed.com**

**3. Thomas O'Neil**

**SVP Regulatory & Energy Policy & general Counsel**

**312-394-7205**

**Thomas.oneill@comed.com**

Contractor reserves the right to amend the above-list of persons at any time by delivering written notice to the Government at the address provided in Article 16.1.

**ARTICLE 14. SUPPLEMENTAL CLAUSES.**

**14.1. 52.252-2 Clauses Incorporated by Reference. (FEB 1998)**

This Areawide Contract incorporates one or more clauses by reference, with the same force and effect as if they were given in full text. Upon request, the Contracting Officer will make their full text available. The offeror is cautioned that the listed provisions and clauses may include blocks that must be completed by the contractor and/or submitted with its documentation. In lieu of submitting the full text of those provisions and clauses, the contractor may identify the provision and/or clause by paragraph identifier and provide the appropriate information with its documentation. Also, the full text of a clause may be accessed electronically at this/these address (es): <http://www.arnet.gov>

<b>FAR REF</b>	<b>Federal Acquisition Regulation</b>
1. 52.203-3	GRATUITIES (APR 1984)
2. 52.203-5	COVENANT AGAINST CONTINGENT FEES (MAY 2014)
3. 52.203-6	RESTRICTIONS ON SUBCONTRACTOR SALES TO THE GOVERNMENT (SEPT 2006)
4. 52.203-7	ANTI-KICKBACK PROCEDURES (MAY 2014)
5. 52.203-8	CANCELLATION, RESCISSION, AND RECOVERY OF FUNDS FOR ILLEGAL OR IMPROPER ACTIVITY (MAY 2014)
6. 52.203-10	PRICE OR FEE ADJUSTMENT FOR ILLEGAL OR IMPROPER ACTIVITY (MAY 2014)
7. 52.203-11	CERTIFICATION AND DISCLOSURE REGARDING PAYMENTS TO INFLUENCE CERTAIN FEDERAL TRANSACTIONS (SEPT 2007)
8. 52.203-12	LIMITATION ON PAYMENTS TO INFLUENCE CERTAIN FEDERAL TRANSACTIONS (OCT 2010)
9. 52.204-4	PRINTED OR COPIED DOUBLE-SIDED ON RECYCLED PAPER (MAY 2011)
10. 52.204-5	WOMEN-OWNED BUSINESS (OTHER THAN SMALL BUSINESS) (MAY 1999)
11. 52.204-9	PERSONAL IDENTITY VERIFICATION OF CONTRACTOR PERSONNEL (JAN 2011)/,2

12.	52.204-7	CENTRAL CONTRACTOR REGISTRATION (JUL 2013)
13.	52.209-6	PROTECTING THE GOVERNMENT'S INTEREST WHEN SUBCONTRACTING WITH CONTRACTORS DEBARRED, SUSPENDED, OR PROPOSED FOR DEBARMENT (OCT 2015)
14.	52.215-2	AUDIT AND RECORDS—NEGOTIATION (OCT 2010) /
15.	52.215-10	PRICE REDUCTION FOR DEFECTIVE COST OR PRICING DATA (AUG 2011) /
16.	52.215-12	SUBCONTRACTOR COST OR PRICING DATA (OCT 2010) /
17.	52.215-14	INTEGRITY OF UNIT PRICES (OCT 2010) /
18.	52.215-20	REQUIREMENTS FOR COST OR PRICING DATA OR INFORMATION OTHER THAN COST OR PRICING DATA (OCT 2010) /
19.	52.219-8	UTILIZATION OF SMALL BUSINESS CONCERNS (OCT 2014)
20.	52.219-9	SMALL BUSINESS SUBCONTRACTING PLAN (OCT 2015)
21.	52.219-16	LIQUIDATED DAMAGES—SUBCONTRACTING PLAN (JAN 1999)
22.	52.222-3	CONVICT LABOR (JUNE 2003)
23.	52.222-21	PROHIBITION OF SEGREGATED FACILITIES (APR 2015)
24.	52.222-26	EQUAL OPPORTUNITY (APR 2015)
25.	52.222-35	EQUAL OPPORTUNITY FOR VETERANS (OCT 2015)
26.	52.222-36	AFFIRMATIVE ACTION FOR WORKERS WITH DISABILITIES (JUL 2014)
27.	52.222-37	EMPLOYMENT REPORTS ON VETERANS (OCT 2015)
28.	52.222-38	COMPLIANCE WITH VETERANS' EMPLOYMENT REPORTING REQUIREMENTS (SEPT 2010)
29.	52.222-50	COMBATING TRAFFICKING IN PERSONS (MAR 2015)
30.	52.222-54	EMPLOYMENT ELIGIBILITY VERIFICATION (OCT 2015)
31.	52.223-4	RECOVERED MATERIAL CERTIFICATION (MAY 2008) /
32.	52.223-5	POLLUTION PREVENTION AND RIGHT-TO-KNOW INFORMATION (MAY 2011)
33.	52.223-6	DRUG-FREE WORKPLACE (MAY 2001)
34.	52.223-9	ESTIMATE OF PERCENTAGE OF RECOVERED MATERIAL CONTENT FOR EPA-DESIGNATED ITEMS (MAY 2008) 1,3
35.	52.223-15	ENERGY EFFICIENCY IN ENERGY-CONSUMING PRODUCTS (DEC 2007) /
36.	52.223-17	AFFIRMATIVE PROCUREMENT OF EPA-DESIGNATED ITEMS IN SERVICE AND CONSTRUCTION CONTRACTS (MAY 2008) /
37.	52.225-13	RESTRICTIONS ON CERTAIN FOREIGN PURCHASES (JUNE 2008)
38.	52.232-11	EXTRAS (APR 1984)
39.	52.232-17	INTEREST (MAY 2014)
40.	52.232-18	AVAILABILITY OF FUNDS (APR 1984)
41.	52.232-19	AVAILABILITY OF FUNDS FOR THE NEXT FISCAL YEAR (APR 1984) 4
42.	52.232-23	ASSIGNMENT OF CLAIMS (MAY 2014)
43.	52.232-25	PROMPT PAYMENT (JUL 2013) /
44.	52.232-33	PAYMENT BY ELECTRONIC FUNDS TRANSFER—CENTRAL CONTRACTOR REGISTRATION (JUL 2013)
45.	52.232-35	DESIGNATION OF OFFICE FOR GOVERNMENT RECEIPT OF ELECTRONIC FUNDS TRANSFER INFORMATION (JUL 2013) 1,2
46.	52.232-36	PAYMENT BY THIRD PARTY (MAY 2014) 2
47.	52.232-37	MULTIPLE PAYMENT ARRANGEMENTS (MAY 1999)
48.	52.233-1	DISPUTES (MAY 2014)
49.	52.233-4	APPLICABLE LAW FOR BREACH OF CONTRACT CLAIM (OCT 2004)
50.	52.236-9	PROTECTION OF EXISTING VEGETATION, STRUCTURES, EQUIPMENT, UTILITIES, AND IMPROVEMENTS (APR 1984)
51.	52.237-2	PROTECTION OF GOVERNMENT BUILDINGS, EQUIPMENT, AND VEGETATION (APR 1984)
52.	52.241-2	ORDER OF PRECEDENCE—UTILITIES (FEB 1995)
53.	52.241-3	SCOPE AND DURATION OF CONTRACT (FEB 1995) 4
54.	52.241-4	CHANGE IN CLASS OF SERVICE (FEB 1995)
55.	52.241-5	CONTRACTOR'S FACILITIES (FEB 1995)
56.	52.241-6	SERVICE PROVISIONS (FEB 1995) 4
57.	52.241-7	CHANGE IN RATES OR TERMS AND CONDITIONS OF SERVICE FOR REGULATED SERVICES (FEB 1995)
58.	52.241-8	CHANGE IN RATES OR TERMS AND CONDITIONS OF SERVICE FOR UNREGULATED SERVICES (FEB 1995) 1,3
59.	52.241-9	CONNECTION CHARGE (FEB 1995) 2,3
60.	52.241-9	CONNECTION CHARGE (ALT 1) (FEB 1995) 2,3
61.	52.241-10	TERMINATION LIABILITY (FEB 1995) 2,3
62.	52.241-12	NONREFUNDABLE, NONRECURRING SERVICE CHARGE (FEB 1995) 2,3
63.	52.242-13	BANKRUPTCY (JULY 1995)
64.	52.243-1	CHANGES—FIXED PRICE (AUG 1987)
65.	52.244-5	COMPETITION IN SUBCONTRACTING (DEC 1996) /

66.	52.244-6	SUBCONTRACTS FOR COMMERCIAL ITEMS (OCT 2015)
67.	52.246-25	LIMITATION OF LIABILITY—SERVICES (FEB 1997)
68.	52.248-1	VALUE ENGINEERING (ALT 1) (OCT 2010) /
69.	52.249-4	TERMINATION FOR CONVENIENCE OF THE GOVERNMENT (SERVICES) (SHORT FORM) (APR 1984)
70.	52.249-8	DEFAULT (FIXED-PRICE SUPPLY AND SERVICE) (APR 1984) /
71.	552.241-70	AVAILABILITY OF FUNDS FOR THE NEXT FISCAL YEAR OR QUARTER (SEPT 2010)
72.	552.241-71	DISPUTES (UTILITY CONTRACTS) (AUG 2010)

1 INDICATES THAT THE CLAUSE APPLIES TO THE ENERGY MANAGEMENT AUTHORIZATION AND ONLY TO THE EXTENT THAT THE CONTRACTING OFFICER OF THE DELIVERY ORDER DETERMINES THAT THE CLAUSE IS NECESSARY FOR EFFICIENT CONTRACT ADMINISTRATION.

2 INDICATES THAT THE CLAUSE APPLIES TO THE ELECTRIC SERVICE AUTHORIZATION AND ONLY TO THE EXTENT THAT THE CONTRACTING OFFICER OF THE DELIVERY ORDER DETERMINES THAT THE CLAUSE IS NECESSARY FOR EFFICIENT CONTRACT ADMINISTRATION.

3 THE REFERENCED CLAUSE SHOULD BE INCLUDED IN FULL TEXT IN THE AUTHORIZATION FOR ELECTRIC SERVICE.

4 INDICATES THAT THE CLAUSE HAS BEEN INCLUDED WITHIN THE TEXT OF THE AREAWIDE CONTRACT ON A "SUBSTANTIALLY THE SAME" BASIS AS REQUIRED BY SUBPART 41.501(A) OF THE FEDERAL ACQUISITION REGULATIONS

Clauses marked with an asterisk (\*) are only applicable if checked on an Authorization, and only to the work ordered on that Authorization.

#### 14.2 Unregulated Services.

Pursuant to this Areawide Contract, the Contractor may provide energy related services that are not subject to rate and tariff regulations by the Commission under a pre-approved alternative (FAR 52.241-8) that demonstrates the Contractor will provide these services under terms and conditions that are competitive and otherwise in the best interests of the Ordering Agency. If, as demonstrated by the Ordering Agency, the conditions for use of this pre-approved alternative cannot be satisfied, then the Ordering Agency should consider the requirement of the Competition in Contracting Act of 1984 and the extent to which a competitive acquisition process is required to select and award a contract for these unregulated services. If an Authorization under this Areawide Contract is utilized, the prices and terms and conditions for unregulated services offered by the Contractor shall be negotiated subject to the requirements of FAR 41.5, subject to the general requirements of FAR 52.241-8.

#### 14.3 Repeal of Clauses During Term of Areawide Contract.

If, during the Term of this Areawide Contract, any of the clauses contained in this Article are repealed, revoked, or dissolved by the Government, then such clauses shall no longer be part of this Areawide Contract as of the date of such repeal, revocation, or dissolution. The elimination of these clauses by reason of such repeal, revocation, or dissolution shall not affect the continuing validity and effectiveness of the remainder of this Areawide Contract or other clauses referenced in this Article. The parties' conduct thereafter shall be modified accordingly and reflect the repeal, revocation, or dissolution as related to their respective rights and obligations hereunder.

#### 14.4 Clauses Incorporated in Full Text.

##### 1. 52.222-40 Notification of Employee Rights Under the National Labor Relations Act.

As prescribed in 22.1605, insert the following clause:

NOTIFICATION OF EMPLOYEE RIGHTS UNDER THE NATIONAL LABOR RELATIONS ACT (DEC 2010)

(a) During the term of this contract, the Contractor shall post an employee notice, of such size and in such form, and containing such content as prescribed by the Secretary of Labor, in conspicuous places in and about its plants and offices where employees covered by the National Labor Relations Act engage in activities relating to the performance of the contract, including all places where notices to employees are customarily posted both physically and electronically, in the languages employees speak, in accordance with 29 CFR 471.2 (d) and (f).

(1) Physical posting of the employee notice shall be in conspicuous places in and about the Contractor's plants and offices so that the notice is prominent and readily seen by employees who are covered by the National Labor Relations Act and engage in activities related to the performance of the contract.

(2) If the Contractor customarily posts notices to employees electronically, then the Contractor shall also post the required notice electronically by displaying prominently, on any website that is maintained by the Contractor and is customarily used for notices to employees about terms and conditions of employment, a link to the Department of Labor's website that contains the full text of the poster. The link to the Department's website, as referenced in (b)(3) of this section, must read, "Important Notice about Employee Rights to Organize and Bargain Collectively with Their Employers."

(b) This required employee notice, printed by the Department of Labor, may be—

(1) Obtained from the Division of Interpretations and Standards, Office of Labor-Management Standards, U.S. Department of Labor, 200 Constitution Avenue, NW, Room N-5609, Washington, DC 20210, (202) 693-0123, or from any field office of the Office of Labor-Management Standards or Office of Federal Contract Compliance Programs;

(2) Provided by the Federal contracting agency if requested;

(3) Downloaded from the Office of Labor-Management Standards Web site at [www.dol.gov/olms/regs/compliance/EO13496.htm](http://www.dol.gov/olms/regs/compliance/EO13496.htm); or

(4) Reproduced and used as exact duplicate copies of the Department of Labor's official poster.

(c) The required text of the employee notice referred to in this clause is located at Appendix A, Subpart A, 29 CFR Part 471.

(d) The Contractor shall comply with all provisions of the employee notice and related rules, regulations, and orders of the Secretary of Labor.

(e) In the event that the Contractor does not comply with the requirements set forth in paragraphs (a) through (d) of this clause, this contract may be terminated or suspended in whole or in part, and the Contractor may be suspended or debarred in accordance with 29 CFR 471.14 and subpart 9.4. Such other sanctions or remedies may be imposed as are provided by 29 CFR part 471, which implements Executive Order 13496 or as otherwise provided by law.

(f) Subcontracts.

(1) The Contractor shall include the substance of this Clause, including this paragraph (f), in every subcontract that exceeds \$10,000 and will be performed wholly or partially in the United States, unless exempted by the rules, regulations, or orders of the Secretary of Labor issued pursuant to section 3 of Executive Order 13496 of January 30, 2009, so that such provisions will be binding upon each subcontractor.

(2) The Contractor shall not procure supplies or services in a way designed to avoid the applicability of Executive Order 13496 or this clause.

(3) The Contractor shall take such action with respect to any such subcontract as may be directed by the Secretary of Labor as a means of enforcing such provisions, including the imposition of sanctions for noncompliance.

(4) However, if the Contractor becomes involved in litigation with a subcontractor, or is threatened with such involvement, as a result of such direction, the Contractor may request the United States, through the Secretary of Labor, to enter into such litigation to protect the interests of the United States.

(End of clause)

**2. 52.241-7 Change in Rates or Terms and Conditions of Service for Regulated Services (FEB 1995)**

The items included in Contractor's Tariff are available to the government and any Ordering Agency electronically at the Contractor's website, <http://www.comed.com>. In addition, the government and any Ordering Agency may register at the website maintained by each of the respective Regulatory Commissions for each docket opened regarding Contractor for automatic electronic notifications pertaining to that docket. Contractor shall comply with the Commission's regulatory requirements applicable to notifications to Contractor customers for changes to Contractors Tariff.

(End of clause)

**3. 52.252-1 Solicitation Provisions Incorporated by Reference (FEB 1998)**

As prescribed in 52.107(a), insert the following provision:

SOLICITATION PROVISIONS INCORPORATED BY REFERENCE (FEB 1998)

(SEE ARTICLE 14.1)

4. The requirements of the Disputes clause at Federal Acquisition Regulation (FAR) 52.233-1 are supplemented to provide that matters involving the interpretation of tariffed retail rates, tariff rate schedules, and tariffed terms provided under this Areawide contract are subject to the jurisdiction and regulation of the utility rate commission having jurisdiction.

**5. 52.216-1 Type of Contract**

As prescribed in 16.105, complete and insert the following provision:

Type of Contract (Apr 1984)

For ECMs, the Government contemplates award of a Fixed Price contract resulting from this solicitation.

**14.4 State Taxes.**

The contract price includes all State and local taxes levied on or measured by the contract or sales price of the services or completed supplies furnished under this contract. The Government agrees either to pay the amount of the state or local taxes to the Contractor or provide evidence necessary to sustain an exemption from such taxes.

**ARTICLE 15. SMALL BUSINESS SUBCONTRACTING PLAN.**

15.1. Attached hereto and made a part hereof by reference is a SUBCONTRACTING PLAN FOR SMALL BUSINESS CONCERNS, SMALL BUSINESS CONCERNS OWNED AND CONTROLLED BY SOCIALLY & ECONOMICALLY DISADVANTAGED INDIVIDUALS, HUB ZONE BUSINESS CONCERNS, WOMAN OWNED SMALL BUSINESS CONCERNS, VETERAN-OWNED SMALL BUSINESSES CONCERNS AND DISABLED VETERAN-OWNED BUSINESSES negotiated between the Contractor and the Government, which is applicable on a company wide basis pursuant to the requirements of Section 211 of P.L. 95-507, as amended (15 U.S.C. 637(d)). The Contractor expressly understands that this subcontracting plan is an annual plan and hereby agrees to submit a new subcontracting plan by November 30<sup>th</sup> of each year during the Term of this Areawide Contract.

15.2. Information and announcements concerning current developments in the GSA Small Business Subcontracting Program are available on the GSA Energy Division web site accessible via <http://www.gsa.gov/energy>.

## **ARTICLE 16. NOTICES.**

**16.1.** Unless specifically provided otherwise, all notices required to be provided to the Government under this Areawide Contract shall be mailed to: U. S. General Services Administration, PBS, Office of Facilities Management and Services Program; Director, Energy Division, 1800 F Street, NW Room 5116, Washington, DC 20405.

**16.2.** All inquiries and notices to the Contractor regarding this Areawide Contract shall be mailed to: Miguel Ortega (Telephone Number: (630)437-2139 ), (E-mail: Miguel.ortega@comed.com) or to such other person as the Contractor may hereafter designate in writing.

**16.3.** The Ordering Agency shall provide GSA with a copy of all fully executed Exhibits including any applicable attachments at the address provided in Article 16.1.

## **ARTICLE 17. REPORTING.**

The Contractor shall provide, as prescribed and directed by the Contracting Officer, an annual report on Subcontracting Plan Achievements, in accordance with the approved subcontracting plan for small business concerns and small business concerns owned and controlled by socially and economically disadvantaged individuals by October 30 of each year during the Term of this Areawide Contract. The report shall be submitted electronically utilizing the Small Business Administration's Electronic Subcontracting Reporting System. The website address of system can be found at <http://www.esrs.gov>.

## **ARTICLE 18. EXHIBIT "B" AUTHORIZATION FOR ENERGY MANAGEMENT SERVICES (UTILITY ENERGY SERVICES CONTRACTS)**

**18.1. Measurement and verification:** Energy Conservation Measures (ECM) will not be normally considered unless a net overall energy or water usage or cost reduction can be demonstrated and verified. Verification standards for energy projects are established in the North-American Energy Measurement and Verification Protocol (NEMVP), published by the Department of Energy's Federal Energy Management Program (FEMP), or as agreed in the Authorization.

**18.2.** Unless otherwise provided by law or the terms and conditions of an Authorization, the following provisions shall apply:

(a) Payment for energy conservation measures, when authorized as Energy Management Service (EMS), shall be equal to the direct cost of capital or financing amortized over a negotiated payment term commencing on the date of acceptance of the completed installation;

(b) The payment term for Authorizations involving energy conservation measures should be calculated to enable the Ordering Agency's payment(s) to be lower than the estimated cost savings to be realized from its implementation. In no event, however, shall this term exceed eighty percent (80%) of the useful life of the equipment/material to be installed.

**18.3. Subcontracting:** Contractor shall have the right to enter into a subcontract with a third-party Energy Service Company ("ESCO"), which shall include unregulated affiliates of Contractor, to perform the project development and project management functions under the Authorization. Contractor or any such ESCO designated by Contractor may perform any or all of the Energy Management Services requested by an Ordering Agency through subcontractors (each an "EMS Subcontractor"). EMS Subcontractors shall be competitively selected in accordance with FAR 52.244-5 (Competition in Subcontracting) (DEC 1996) (See Article 14). EMS Subcontractor selection shall be based on cost, experience, past performance and other such factors as the Contractor and the Ordering Agency may mutually deem appropriate and reasonably related to the Government's minimum requirements. Upon request by the Government, the Contractor shall make available to the contracting officer all documents related to the selection of a subcontractor. In no event shall the Service be provided by an EMS Subcontractor listed as excluded from Federal Procurement Programs maintained by GSA pursuant to 48 C.F.R. 9.404 in accordance with 52.209-6 (Protecting the Government's Interest when Subcontracting with Contractors Debarred, Suspended, or Proposed for Debarment (AUG 2013) (See Article 14)).

**18.4.** For all Authorizations involving Energy Conservation Measures, it is desirable to have a Warranty Clause that addresses the specific needs and requirements of the work being performed and equipment that is to be provided by the Contractor; however, in the absence of a Warranty Clause in the Authorization, the following language will serve as the default Clause:

The Company shall pass through to the Agency all warranties on equipment installed or provided by it or its subcontractors on Government property with the following representation:

COMMONWEALTH EDISON COMPANY ACKNOWLEDGES THAT THE UNITED STATES OF AMERICA WILL OWN OR LEASE THE EQUIPMENT AND/OR MATERIALS BEING INSTALLED OR SUPPLIED HEREUNDER, AND, ACCORDINGLY, AGREES THAT ALL WARRANTIES SET FORTH HEREIN, OR OTHERWISE PROVIDED BY LAW IN FAVOR OF GOVERNMENT SHALL INURE ALSO TO THE BENEFIT OF THE UNITED STATES AND THAT ALL CLAIMS ARISING FROM ANY BREACH OF SUCH WARRANTIES OR AS A RESULT OF DEFECTS IN OR REPAIRS TO SUCH EQUIPMENT OR SUPPLIES MAY BE ASSERTED AGAINST COMMONWEALTH EDISON COMPANY OR MANUFACTURER DIRECTLY BY THE UNITED STATES OF AMERICA.

**18.5.** The Ordering Agency shall submit to GSA a copy of all preliminary energy audit results or energy conservation measure analysis for review and compliance with Federal regulations and policy. Upon written acknowledgement from GSA of receipt of the aforementioned information, a copy of which shall be provided by the Ordering Agency to the Contractor, the Ordering Agency may negotiate Task Orders with the Contractor for the implementation of the energy conservation measures described in the preliminary documents. The Ordering Agency shall provide GSA with copies of fully executed **Exhibit "B"** Authorizations for any Energy Management Services resulting from confirmed/approved energy audits, including any applicable attachments, at the address provided in Article 16.1.

**18.6. Contractor's Responsibilities under this Areawide Contract:**

(a) The Contractor shall not provide Energy Management Service to Federal facilities unless the facility is a current customer or prospective customer of the regulated utility within the franchised service territory of the utility company providing such services.

(b) The work that is to be performed under the Authorization for Energy Management Services shall be limited to work resulting in a direct reduction in energy or water usage (see Article 1.1(j)) and any modification or repair that is necessary as a direct result of the installation of the ECM.

**18.7. Energy Savings and Scoring of UESC's by the Ordering Agency (ies):**

For Ordering Agency facilities, UESC's that meet the definition of "Energy Management Service" ("EMS") prescribed in Article 1.1(k) of this Areawide Contract, and which follow the guidance prescribed in OMB Memoranda M-12-21 and M-98-13, may be scored for budgetary purposes by the Ordering Agency (ies) on an annual basis if the UESC requires:

- (a) Energy savings performance assurances or guarantees of the savings to be generated by improvements, which must cover the full cost of the Federal investment for the improvements;
- (b) Measurement and verification (M&V) of savings through commissioning and retro-commissioning; and
- (c) Competition or an alternatives analysis as part of the selection process prior to entering into a UESC

**18.8.** In order to assure the necessary fiscal responsibility consistent with sound program management, for Ordering Agency facilities, alternatively financed UESCs may include a plan for continued action during the contract to assure continued accomplishment of expected performance (this is referred to as a Performance Assurance or Performance Verification Plan). The level of performance assurance (M&V) and its associated costs should be worth the level of certainty of cost savings that the Ordering Agency reasonably deems to be necessary. Each alternatively financed UESC may have a performance assurance plan to accomplish this. Such plans should provide for the separate evaluation of each energy conservation measure and combination of measures in order to identify the appropriate level of needed performance assurance activity based on the technical complexity, potential savings magnitude, and specific situation. (See Overview of the Measurement and Verification for Federal Energy Projects Guidelines Version 2.2 or FEMP Fact Sheet - Performance Assurance for Multi-Year Contracts under the Utility Incentive Program for further

guidance.) Inclusion of and compliance with the performance assurance plan in the specific project task order satisfies the requirements of Contractor under section 18.1 and 18.7.

#### **ARTICLE 19. MISCELLANEOUS.**

**19.1. Contract administration:** The Ordering Agency shall assist in the day-to-day administration of the Service being provided to it under an Authorization.

**19.2. Anti-Deficiency:** Unless otherwise authorized by Public Law or Federal Regulation, nothing contained herein shall be construed as binding the Government to expend, in any one fiscal year, any sum in excess of the appropriation made by Congress for that fiscal year in furtherance of the matter of any Authorization executed in accordance with this Areawide Contract or to involve the Government in an obligation for the future expenditure of monies before an appropriation is made (Anti-Deficiency Act, 31 U.S.C. 1341.A.1).

**19.3. Obligation to Serve:** Nothing contained in this Areawide Contract shall obligate the Contractor to take any action which it may consider to be detrimental to its obligations as a public utility.

**19.4 Term of Authorizations:** It is recognized that during the Term of this Areawide Contract, situations and/or requirements may arise where it may be desirable that the term of service to an Ordering Agency's facility extend beyond the Term of this Areawide Contract. In such event, the particular Authorization involved may specify a term extending beyond the Term of this Areawide Contract, provided that it is within the contracting authority of the Ordering Agency and appropriate termination liability provisions have been negotiated between the Contractor and Ordering Agency to address unamortized balances for connection charge or energy management service projects.

**19.5. Indemnification:** Any indemnification language contained in standard form agreements executed between the Ordering Agency and the Contractor shall be binding upon the Federal Government only to the extent authorized by opinions of the Government Accountability Office and the Federal Torts Claims Act.

**19.6. Waiver of Sovereign Immunity:** Any language contained in standard form agreements executed between the Ordering Agency and the Contractor shall not be construed to waive the federal government's sovereign immunity, and may not be applicable where the federal government's sovereign immunity has not otherwise been waived by statutory law.

**19.7. Davis Bacon Act:** Since this Areawide Public Utility Contract does not involve the regulated utility company performing on a Federally funded or assisted contract for the construction, alteration, or repair of a public work and/or public facility, the Davis Bacon Act does not apply to the work to be performed by the regulated utility company in connection with the provision of regulated utility services. However, if a determination by the Department of Labor (DOL) differs, the regulated utility company will be solely responsible for any financial liability for any contrary determination by DOL.

IN WITNESS WHEREOF, the parties have executed this Areawide Contract as of the day and the year first above written.

**UNITED STATES OF AMERICA**  
Acting through the Administrator  
of General Services

By: Linda K. Koman  
LINDA K. KOMAN  
GSA, PBS, Energy Division  
Contracting Officer

ATTEST:

By: Jerard Butler  
JERARD BUTLER  
GSA, PBS, Energy Division

**COMMONWEALTH EDISON COMPANY**

By: Abel Marquez  
Title: SVP, Governmental & Community Relations

ATTEST:

By: Heather Howley  
Title: Executive Assistant

CERTIFICATE

I, Scott N. Peters, certify that I am Assistant Secretary of **COMMONWEALTH EDISON COMPANY**, named as Contractor in the negotiated Areawide Public Utility Contract No. GS-OOP-16-BSD-1205; that Fidel Marquez, who signed said Areawide Public Utility Contract on behalf of the Contractor, was then SVP, Governmental & Community Relations of said Corporation; and that said Areawide Public Utility Contract was duly signed for and on behalf of said Corporation and is within the scope of its corporate powers.

1st Scott N. Peters

(Corporate Seal)

EXHIBIT "A"

Contractor's ID NO. \_\_\_\_\_ (Optional)
Ordering Agency's ID \_\_\_\_\_ (Optional)

COMMONWEALTH EDISON COMPANY
AUTHORIZATION FOR ELECTRIC SERVICE, CHANGE IN ELECTRIC SERVICE,
OR DISCONNECTION AND/OR TERMINATION OF ELECTRIC SERVICE UNDER
CONTRACT NO. GS-OOP-16-BSD-1205

Ordering Agency: \_\_\_\_\_
Address: \_\_\_\_\_

Pursuant to Contract No. GS-OOP-16-BSD-1205 between the Contractor and the United States Government and subject to all the provisions thereof, service to the United States Government under such contract shall be rendered or modified as hereinafter stated. Contract Article 2 and 4 shall be followed for the initiation of service under this contract.

PREMISES TO BE SERVED: \_\_\_\_\_
SERVICE ADDRESS: \_\_\_\_\_

NATURE OF SERVICE:  Connect,  Change,  Disconnect,  Continue Service,  DSM Work,
 Line Extension, Alteration, Relocation, or Reinforcement,  Special Facilities

OTHER TERMS AND CONDITIONS: \_\_\_\_\_
Attach any other relevant terms and conditions under which service will be provided.

POINT OF DELIVERY: \_\_\_\_\_

TERM OF SERVICE: From \_\_\_\_\_ through \_\_\_\_\_.

SERVICE HEREUNDER SHALL BE UNDER RATE SCHEDULE NO. \_\_\_\_\_ \*, Hereafter amended or modified by the regulatory body having jurisdiction. (see article 5 of this contract.)
ESTIMATED ANNUAL ENERGY USAGE: \_\_\_\_\_ KWH, ESTIMATED DEMAND: \_\_\_\_\_ KW
ESTIMATED ANNUAL SERVICE COST: \$ \_\_\_\_\_
ESTIMATED CONNECTION/SPECIAL FACILITIES CHARGE: \$ \_\_\_\_\_ (if applicable)\*\*
ACCOUNTING AND APPROPRIATION DATA FOR SERVICE: \_\_\_\_\_
FOR CONNECTION/SPECIAL FACILITIES CHARGE: \_\_\_\_\_

CLAUSES INCORPORATED BY REFERENCE (Check applicable clauses):

- (1) 52.211-10 Commencement, Prosecution and Completion of Work (APR 1984)
(2) 52.236-5 Material and Workmanship (APR 1984)
(3) 52.241-4 Change in Class of Service (FEB 1995)
(4) 52.241-3 Scope and Duration of Contract (FEB 1995)
(5) 52.241-5 Contractor's Facilities (FEB 1995)
(6) 52.241-7 Change in Rates or Terms and Conditions of Service for Regulated Services (FEB 1995)
(Use Full Text of Clause)
(7) 52.241-11 Multiple Service Locations (FEB 1995)
(8) 52.243-1 Changes-Fixed Price (AUG 1987)
(9) 52.249-Default ( ) (Specify appropriate Clause)

BILLS WILL BE RENDERED TO THE ORDERING AGENCY FOR PAYMENT AT THE FOLLOWING ADDRESS: \_\_\_\_\_ in \_\_\_\_\_ copies.

The foregoing shall be effective upon the return of the fully executed original Authorization by the Contractor to the ordering Agency.

ACCEPTED:

\_\_\_\_\_  
(Ordering Agency)

COMMONWEALTH EDISON COMPANY  
(Contractor)

By: \_\_\_\_\_  
Authorized Signature

By: \_\_\_\_\_  
Authorized Signature

Title: \_\_\_\_\_

Title: \_\_\_\_\_

Date: \_\_\_\_\_

Date: \_\_\_\_\_

\* Include a reference to the applicable rate schedule, and attach a copy of such schedule

\*\* If necessary, attach and make part hereof supplemental agreements or sheets that cover required connection or extension charges and special facilities or service arrangements. (See Article 5 of this Contract for instructions.)

NOTE: A fully executed copy of this Authorization shall be transmitted by the ordering Agency to the GSA, PBS, Energy Division (PMAA), 1800 F Street, NW, Room 5116 Washington, DC 20405.

**EXHIBIT "B"**

Contractor's ID NO. \_\_\_\_\_ (Optional)  
Ordering Agency's ID NO. \_\_\_\_\_ (Optional)

**COMMONWEALTH EDISON COMPANY  
AUTHORIZATION FOR, OR TERMINATION OF, ENERGY MANAGEMENT SERVICES  
CONTRACT NO. GS-OOP-16-BSD-1205**

Ordering Agency: \_\_\_\_\_  
Address: \_\_\_\_\_

Pursuant to Contract No. GS-OOP-16-BSD-1205 between the Contractor and the United States Government and subject to all the provisions thereof, service to the United States Government under such contract shall be rendered or modified as hereinafter stated. Contract Articles 2 and 4 shall be followed for the initiation of service under this contract.

PREMISES TO BE SERVED: \_\_\_\_\_

SERVICE ADDRESS: \_\_\_\_\_

- NATURE OF SERVICE:
- |   |  |
|---|--|
| <input type="checkbox"/> Preliminary Energy Audit             | <input type="checkbox"/> EMS Feasibility Study     |
| <input type="checkbox"/> EMS Engineering & Design Study       | <input type="checkbox"/> EMS Installation          |
| <input type="checkbox"/> Demand Side Management (DSM) Project | <input type="checkbox"/> Other (See Remarks Below) |

SERVICE HEREUNDER shall be provided consistent with the Contractor's Tariffs, rates, rules, regulations, riders, practices, and/or terms and conditions of service, as modified, amended or supplemented by the Contractor, to the extent that they are applicable and approved, to the extent required, by the Commission. (See Article 5 of this contract.)

POINT OF DELIVERY: \_\_\_\_\_

ESTIMATED PROJECT COST: \$ \_\_\_\_\_

ACCOUNTING AND APPROPRIATION DATA: \_\_\_\_\_

**LIST OF ATTACHMENTS:**

- |   |  |  |  |
|---|--|--|--|
| <input type="checkbox"/> General Terms and Implementation Guidelines to Exhibit B (attached as Exhibit B-1) | <input type="checkbox"/> Payment Provisions    | <input type="checkbox"/> Special Requirements  | <input type="checkbox"/> Economic Analysis     |
| <input type="checkbox"/> Facility/Site Plans  | <input type="checkbox"/> Historical Data       | <input type="checkbox"/> Utility Usage History | <input type="checkbox"/> ECP Feasibility Study |
| <input type="checkbox"/> Design Drawings  | <input type="checkbox"/> Design Specifications | <input type="checkbox"/> Certifications        | <input type="checkbox"/> Commission Schedules  |

**CLAUSES INCORPORATED BY REFERENCE (Check applicable clauses):**

- (1)  52.211-10 Commencement, Prosecution and Completion of Work (APR 1984)
- (2)  52.232-5 Payments under Fixed-Price Construction Contracts (SEP 2002) –Supersedes provisions of payment clauses in Article 14.
- (3)  52.2332-27 Prompt Payment for Construction Contracts (FEB 2002)
- (4)  52.236-5 Material and Workmanship (APR 1984)
- (5)  52.241-8 Change in Rates or Terms and Conditions of Service for Unregulated Services (FEB 1995) (Use full Text of Clause)
- (6)  52.243-1 Changes-Fixed Price (AUG 1987)
- (7)  52.249-\_\_ Default (\_\_\_\_\_) (Specify appropriate Clause)

In addition, the Contracting Officer negotiating the terms and conditions under this authorization shall supplement the above-referenced clauses with clauses for the appropriate type of contract.

REMARKS:

ACCEPTED:

\_\_\_\_\_  
(Ordering Agency)

**COMMONWEALTH EDISON COMPANY**  
(Contractor)

By: \_\_\_\_\_  
Authorized Signature

By: \_\_\_\_\_  
Authorized Signature

Title: \_\_\_\_\_

Title: \_\_\_\_\_

Date: \_\_\_\_\_

Date: \_\_\_\_\_

NOTE: A fully executed copy of this Authorization shall be transmitted by the ordering Agency to the GSA, PBS, Energy Division (PMAA), 1800 F Street, NW, Room 5116 Washington, DC 20405.

**GENERAL TERMS AND IMPLEMENTATION GUIDELINES TO EXHIBIT "B"**  
**COMMONWEALTH EDISON COMPANY**  
**AUTHORIZATION FOR ENERGY MANAGEMENT SERVICES**  
**ORDERING AGENCY TASK ORDER NO. \_\_\_\_\_**

**Section A – Definitions and Scope of Energy Management Services**

**A.1. Definitions**

Terms not otherwise defined herein shall have the meaning ascribed to them in the Areawide Contract pursuant to which the Authorization for Energy Management Services to which these General Conditions are a part has been entered into.

**"Acceptance"** - Written acceptance of completed work (including all punchlist items) or services performed in connection with an EMS by a Contracting Officer's Representative, or, if no such representative is designated, a warranted Contracting Officer of the Ordering Agency for the Authorization for EMS.

**"As-Builts"** - Final drawings of the actual, completed work.

**"Contracting Officer"** or **"C.O."** - Ordering Agency official authorized to enter into, administer, and/or terminate contracts on behalf of the Ordering Agency and make related determinations and findings within the limits established pursuant to law.

**"Contracting Officer's Representative"** - Local or project site official delegated limited authority as set forth in a formal delegation letter signed by the Contracting Officer for a given Authorization for EMS.

**"EMS Proposal"** - The proposal provided by the Contractor and accepted by the Ordering Agency in the form attached to Exhibit "B".

**"Facility Manager"** - Manager responsible for the operation of an Ordering Agency facility or building.

**"General Terms"** - These General Terms and Implementation Guidelines to Exhibit "B".

**"Hazardous Materials"** - Any substance or material regulated or governed by any applicable governmental authority under laws or regulations pertaining to the protection of the environment, natural resources or human health, or any substance, emission, or material now or hereafter deemed by any governmental authority having jurisdiction to be a "hazardous substance," "toxic substance," "pesticide," "hazardous waste," "regulated substance," "pollutant," "contaminant," or any similar classification, including but not limited to by reason of deleterious properties, ignitability, corrosivity, reactivity, carcinogenicity, or reproductive toxicity.

**"Occupied Period"** - Hours during which a facility or building is occupied and used in the normal course of business.

**"Project Cost"** - The total costs (as defined in Paragraph B.1.) attributable to the implementation of an EMS, as specified by the Contractor and Ordering Agency in the Authorization for EMS.

**"Substantially Complete"** - Point at which the Ordering Agency has taken beneficial use of the equipment being installed under the applicable Authorization for EMS.

**"Termination Schedule"** - A schedule developed for any financed EMS specifying the lump sum payment necessary, at any time during the contract period following the task order award, for the complete repayment of the costs incurred by Contractor with respect to the EMS, including any finance costs accrued at that point.

**A.2. Scope of Services and Energy Conservation Measures** - Contractor shall provide the specific products and services and EMSs set forth in the Authorization for EMS, including any specific ECMs. For purposes of clarification, any reference to EMS herein shall include all ECMs that are part of and specified in the applicable Authorization for EMS. By way of example only, work which may be provided to an Ordering Agency as part of an ECM includes the following:

- A. Addition of Liquid Refrigerant Pumps to Reciprocating Air Conditioning Units
- B. Boiler Control Improvements
- C. Chiller Retrofits
- D. Construction of New Cogeneration Facilities
- E. Cooling Tower Retrofits
- F. Daylighting Controls
- G. Distributed Generation
- H. Economizer Installation
- I. Electric and Gas Service Entrance Design and Construction (new and retrofit)
- J. Energy Consulting Services
- K. Energy Management Control Systems (New/Replacement/Modifications)
- L. Exit Sign Installation
- M. Facility Management System Replacement/Alteration
- N. Fans and Pump Replacement or Impeller Trimming
- O. Fuel Cell Installation
- P. Insulation Installation
- Q. Interior and Exterior Lighting Replacement
- R. Lighting Control Improvements
- S. Load Shaping
- T. Motor Replacement with High Efficiency Motors
- U. Network Protectors
- V. New HVAC design and construction
- W. Occupancy Sensors
- X. Packaged Air Conditioning Unit in Replacement

- Y. Photovoltaic System Installation
- Z. Reflective Solar Window Tinting
- AA. Refrigerator Replacement w/ High Efficiency Units
- BB. Renewable Energy Projects (Passive Solar Lighting, Bio-Mass, etc.)
- CC. Replacement and/or Conversion of Air Conditioning & Heating Units
- DD. Solar Air Preheating System
- EE. Solar Domestic Hot Water System
- FF. Steam Trap Maintenance and Replacement
- GG. Transformer Replacement
- HH. Upgrade of Natural Gas-Fired Boilers with New Controls (low NO<sub>x</sub> Burners)
- II. Variable Speed Drive Utilization
- JJ. Water Conservation Device Installation
- KK. Weatherization
- LL. Window Air Conditioning Replacement with High Efficiency Units
- MM. Window Coverings and Awnings
- NN. Window Replacement
- OO. Any other EMSs which reduce energy consumption, demand and/or other related costs, or result in other benefits to the Ordering Agency

**A.3.A. Preliminary Energy Audit** – This Section A.3.A shall apply to any preliminary energy audit requested by an Ordering Agency and set forth in the Authorization for EMS.

The Ordering Agency may desire the Contractor to perform a preliminary energy audit of specified facilities, systems, or components within a facility, to determine if any potential opportunities exist for energy conservation, water conservation, demand reduction, other related cost savings, and/or other benefits; and whether further detailed energy analyses are warranted. An Authorization for EMS that includes a preliminary energy audit shall also include a written statement of work and specifications for the preliminary energy audit that has been agreed upon by the parties. Upon the request of the Contractor, the Ordering Agency shall provide to the Contractor any available building/facility plans to assist the Contractor in performing the preliminary energy audit. The preliminary energy audit shall generally consist of an overview of a facility, or an energy-consuming system or component within a facility, conducted by a qualified energy expert. The preliminary energy audit will typically consist of a review of Ordering Agency documentation, fuel use records, energy bills, operator interviews, and a field inspection. The Contractor will utilize the information gathered to identify recommended EMSs for the facility, system, or component.

Based upon the preliminary energy audit, the Contractor shall submit to the Ordering Agency's Contracting Officer a preliminary energy audit report. The preliminary energy audit report will typically consist of an executive summary, a table of contents, and a narrative describing the facility, system or component within the facility, its operation, current energy use and cost, and possible modifications to the facility, system, or component which may result in a reduction of energy consumption, water consumption, demand, and/or other related costs, or may result in other benefits to the Ordering Agency.

The preliminary energy audit report shall identify potential ECMs, and for each, an estimated Project Cost and the estimated energy savings, provided in units of energy and energy cost. Potential ECMs shall be identified based on the Ordering Agency's criteria, which shall be agreed to by the parties in the Authorization for EMS.

The Contractor shall generate a prioritized list of recommendations, in sequence of implementation that are life-cycle cost effective and can be implemented in the facility being audited. The preliminary audit, to the extent applicable, shall include the following information:

- a. Preliminary estimated energy and water savings,
- b. Preliminary estimated cost savings, including reduced maintenance costs,
- c. Current utility rates,
- d. Preliminary retrofit cost,
- e. Utility financial incentive/rebate, if any,
- f. Description of existing equipment,
- g. Description of the proposed retrofit equipment,
- h. Overview of the general environmental impact and potential hazardous wastes identified through existing facility records, if any.

The following table is provided as a sample format that the Ordering Agency may utilize per EMS for their convenience:

Upon the completion of a preliminary energy audit, if either party elects not to proceed with further phases of the identified potential projects, the Authorization for EMS shall be terminated without further obligation or liability of either party.

**A.3.B. Comprehensive Energy Audit** - This Section A.3.B shall apply to any comprehensive energy audit requested by an Ordering Agency and set forth in the Authorization for EMS.

After evaluation of the preliminary energy audit report, the Ordering Agency may elect to proceed with a comprehensive energy audit to determine whether particular EMSs proposed by the Contractor are feasible. The comprehensive energy audit shall be conducted by a qualified energy auditor. The qualifications of the energy auditor shall be submitted to and approved by the Ordering Agency's Contracting Officer. An Authorization for EMS that includes a comprehensive energy audit shall also include a written statement of work and specifications (including mutually acceptable payback criteria requirements which may be used by the Ordering Agency as a guide for determining the economic acceptability of a project) for the comprehensive energy audit that has been agreed upon by the parties.

Based on the comprehensive energy audit, the Contractor shall submit to the Ordering Agency's Contracting Officer a comprehensive energy audit report specifying projects recommended for implementation and providing for each project an estimate of the expected implementation cost, the anticipated life-cycle cost savings, the estimated payback period which may be used by the Ordering Agency as a guide for determining the economic acceptability of a project, and the estimated timing for implementation. The comprehensive audit report will provide the following information, unless otherwise specified in the Authorization for EMS or subsequently waived by the Contracting Officer:

- I. Technical Factors:

- a. Audits of energy and water consumption of existing equipment and facilities, including estimated demand reduction and energy and water savings, and proposed retrofit costs and financial incentives (rebates), if any;
- b. Existing equipment or components to be removed or replaced;
- c. New equipment or components to be installed;
- d. Specifications and/or catalog cuts for new equipment, including, as appropriate, power rating, estimated energy consumption, input/output, power ratio, lighting level, estimated equipment life, and/or maintenance requirements;
- e. Ordering Agency support required for EMS implementation, e.g., interruptions or temporary changes to operations and movement of equipment;
- f. Utility interruptions required for EMS implementation, including type (e.g., natural gas electricity, water, steam, sewer, telephone, and cable), location and duration;
- g. Preliminary environmental compliance requirements, which the Ordering Agency acknowledges may change as a project progresses;
- h. Estimated annual energy savings and demand reduction over life of EMS;
- i. If a proposed ECM requires installation of equipment outside existing buildings or structures, a site plan showing recommended sites, and any feasible alternates;
- j. Detailed EMS calculations with description of methodologies and assumptions;
- k. Analysis of how each EMS will affect component being modified and how it interacts with other building systems;
- l. Method to verify energy savings (If such monitoring is required by the Ordering Agency) after installation and periodically during the contract term;
- m. Estimated equipment life;
- n. Estimated construction schedule in calendar days, showing significant milestones;
- o. Determination that proposed EMS has been recommended and selected without regard to fuel source; and
- p. Based on the information provided to the Contractor by the Ordering Agency concerning the facility and related operations and the Contractor's physical inspection of the site, preliminary identification of any Hazardous Materials which might be present and affect the EMS's implementation.

## 2. Cost Factors

- a. Estimated annual operation costs (e.g., increased use of alternate fuel sources, replacement filters, and increased maintenance costs);
- b. Estimated project costs, broken down by EMS to the extent practicable;
- c. Estimated costs of any monitoring & verification of savings required;
- d. Estimated annual cost savings;
- e. Estimated unit costs for major components and systems; and
- f. Estimated life cycle cost analysis.

**A.3.C. EMS Engineering and Design** – This Section A.3.C shall apply to any EMS engineering and design work requested by an Ordering Agency and set forth in the Authorization for EMS.

After evaluation of the comprehensive energy audit report, the Ordering Agency may elect to proceed with the EMS engineering and design work. An Authorization for EMS that includes EMS engineering and design work shall also include a written statement of work and specifications for the EMS engineering and design work that has been agreed upon by the parties.

The Contractor shall coordinate the EMS engineering and design work with the Ordering Agency's Contracting Officer, and a joint technical review of the construction drawings and specifications and design and analyses shall be conducted with the Ordering Agency when the engineering and design documents are approximately 35% and 95% complete, unless an alternate review schedule is specified in the Authorization for EMS.

Upon completion of engineering and design, the Contractor shall submit to the Ordering Agency's Contracting Officer all required engineering and design documents including, to the extent applicable, an EMS implementation proposal. The Ordering Agency may require the Contractor to present a briefing to explain the proposal to the Ordering Agency and Contracting Officer. Unless otherwise specified in the Authorization for EMS or subsequently waived by the Contracting Officer, such a proposal shall include:

- a. specifications and drawings for all EMSs that involve changes to existing systems (drawings will not be required for ECMs involving only component replacement);
- b. Revised technical and costs factors; and
- c. List of proposed subcontractors.

**A.3.D. EMS Installation** – This Section A.3.D shall apply to any EMS installation work requested by an Ordering Agency and set forth in the Authorization for EMS.

After evaluation of the EMS engineering and design work, the Ordering Agency may elect to proceed with the EMS installation. An Authorization for EMS that includes EMS installation shall also include a written statement of work, schedule, and specifications for the EMS installation that has been agreed upon by the parties.

**A.3.D.1. Performance of EMS Construction and Installation** - If and to the extent the Ordering Agency is required to occupy the existing building during parts of or the entire period of construction, the Contractor and the Ordering Agency shall cooperate to minimize disruptions and provide for performance of the work so as not to interfere with the Ordering Agency's operations.

**A.3.D.2. Pre-Work Requirements** - Prior to commencement of on-site work, unless waived by the Contracting Officer, the Contractor shall submit a proposed implementation schedule indicating installation periods, time required for delivery of equipment, and completion date to the Contracting Officer and/or Contracting Officer's Representative for approval, in accordance with FAR 52.236-15.

**A.3.D.3. Pre-Work Conference** - Prior to on-site work, unless waived by the Contracting Officer, the Contractor shall meet with the Contracting Officer or the Contracting Officer's Representative for the purpose of discussing and developing mutual understandings regarding safety, scheduling, performance, and administration of the Authorization for EMS.

**A.3.D.4. Ordering Agency Technical Review** - Joint technical reviews between the Ordering Agency and the Contractor may be made at agreed-upon time intervals.

**A.3.D.5. As-Built Drawings** - Within forty-five (45) calendar days after Acceptance of the installation of an EMS, the Contractor shall submit to the Contracting Officer As-Built drawings of the completed work in a format to be mutually agreed upon. Drawings will not be required for component replacement. Drawings shall include the following:

1. The installation (e.g., form, fit, and attachment details) of the interface between EMS equipment and existing Ordering Agency equipment; and
2. The location and rating of installed equipment on building floor plans or other facility plans.

**A.3.D.6. Utility Interruptions** - All utility interruptions in connection with work under this Authorization for EMS shall be made outside Occupied Periods whenever possible, and in no event shall such interruptions take place without the advance approval of the Contracting Officer's Representative or Facility Manager, as appropriate. The Contractor shall endeavor to keep the duration of utility interruptions to a minimum. To the extent possible, requests for utility outages shall be submitted in writing at least fourteen (14) calendar days prior to the utility interruption. The request shall be coordinated with the Contracting Officer's Representative or Facility Manager, as appropriate, and shall include the duration, date, time, and reason for the interruption. Utility interruptions include, but are not limited to, electrical, natural gas, sewer, steam, water, telephone, computer cable, and CATV.

**A.3.D.7. Documentation of Compliance** - As may be required in an individual Authorization for EMS, the Contractor shall provide drawings and specifications certified by a registered engineer or architect, as applicable, to assure compliance with all applicable federal, state, and local codes and regulations.

**A.3.D.8. Water Conservation Measures** - The Contractor shall coordinate the implementation of any EMS with the implementation of any water conservation measures being undertaken at a facility.

**A.3.D.9. More Efficient Equipment** - The Ordering Agency reserves the right, following Acceptance, to replace equipment installed under an EMS with more efficient equipment or components, if available, at the Ordering Agency's sole expense. Such replacement will have no effect on the payments to the Contractor required by an Authorization for EMS.

**A.3.D.10. Operations and Maintenance Manuals** - Within forty-five (45) calendar days after Acceptance of the installation of an EMS, the Contractor shall furnish to the Ordering Agency's Contracting Officer all operation and maintenance manuals, recommended spare parts lists identifying components for the operation and maintenance of the equipment installed in the EMS, as set forth in the Authorization for EMS. The operation and maintenance manuals shall include maintenance schedules for all equipment installed in the EMS.

**A.3.D.11. Training of Ordering Agency Personnel for EMSs** - Any training of Ordering Agency personnel and/or agents necessary for the successful implementation of an EMS shall be undertaken by the Contractor, as set forth in the Authorization for EMS.

**A.3.D.12. Performance Verification** - An Authorization for EMS may require the Contractor to measure and document EMS performance following Acceptance of the EMS. This report will contain an analysis of the difference, if any, between estimated and actual energy savings.

**A.3.E. Operations, Maintenance, Training and Emergency Response** - Unless otherwise provided in an Authorization for EMS, the Ordering Agency shall be responsible for operation and maintenance of the EMS following Acceptance.

#### **A.4. Title to Equipment and Risk of Loss**

**A.4.A. Title to Equipment** - Title to equipment installed by the Contractor under an Authorization for EMS shall pass from the Contractor to the Ordering Agency at the time the work under award of the Authorization for EMS is Substantially Complete.

**A.4.B. Risk of Loss** - The Contractor shall bear all risk of loss or damage of any kind with respect to all or any part of a project prior to its Substantial Completion or use by the Ordering Agency, unless such loss or damage is caused by the Ordering Agency or its employees, agents, or contractors.

#### **A.5. Warranty**

**A.5.A. Service Warranty** - The Contractor warrants to the Ordering Agency that the services performed by the Contractor under this Authorization for EMS shall be performed in conformance with the engineering and design documents and generally accepted industry standards prevailing at the time the services are performed.

**A.5.B. Pass Through of Equipment and Material Warranties** - The Contractor, in procuring materials and equipment for a project, shall obtain standard vendor warranties from the supplier or subcontractor for the benefit of the Contractor and the Ordering Agency, and where practical, shall attempt to obtain warranty periods of one (1) year from the date a project is Substantially Complete. The Contractor shall pass through such warranties to the Ordering

Agency, but the Contractor shall have no liability for material and equipment warranties, which shall be the sole responsibility of manufacturers and suppliers.

**A.5.C. Contractor Interface** - Upon the request of the Ordering Agency's Contracting Officer, the Contractor shall interface and act as a liaison with the Contractor-purchased equipment and material manufacturers and suppliers to resolve problems and pursue warranty claims on behalf of the Ordering Agency up to (1) year from the time the project is Substantially Complete.

**A.5.D. Warranty Period** - The warranty period for the warranties set forth in Paragraph A.8.A. shall extend, with respect to each installed project, for a period of one (1) year following when a project is Substantially Complete. The warranty period for any services performed by the Contractor hereunder which do not result in the installation or full implementation of a project shall extend for a period of one (1) year following the date of completion of such services.

**A.5.E. Remedies** - The Ordering Agency's Contracting Officer shall promptly notify the Contractor in writing of the discovery during the applicable warranty period of any breach of the Contractor's warranties under this Section A.8. As the Ordering Agency's first remedy for any such breach of the Contractor's warranties, the Contractor shall, at its own cost and expense, as soon as reasonably possible following the Contractor's receipt of notice of any breach of warranty, re-perform or correct any service, which failed to conform to the above warranty.

**A.5.F. Warranty Exclusions** - The liabilities and obligations of the Contractor under this Section A.8 do not extend to any repairs, adjustments, alterations, replacements or maintenance which may be required as a result of abuse, neglect, misuse, failure of the Ordering Agency to provide access, modification not made in accordance with the manufacturer's specifications by anyone other than the Contractor, normal wear and tear in the operation or use of an installed project, or as a result of the Ordering Agency's failure to operate or maintain a project in accordance with the operating manuals or instructions supplied by the Contractor or the manufacturer or supplier, or in accordance with the training provided by the Contractor to the Ordering Agency's personnel.

**A.5.G. No Implied Warranties** - EXCEPT AS EXPRESSLY PROVIDED IN THIS SECTION A.5, THE CONTRACTOR MAKES NO FURTHER WARRANTIES OR GUARANTEES, EXPRESS OR IMPLIED, CONCERNING THE SERVICES OR ANY PROJECT, AND THE CONTRACTOR DISCLAIMS ANY WARRANTY IMPLIED BY LAW, INCLUDING IMPLIED WARRANTIES OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE AND IMPLIED WARRANTIES OF CUSTOM OR USAGE.

**A.6. Facility Ownership** - If the Ordering Agency is not the sole owner of the facility where a project is or will be undertaken under the Authorization for EMS, the Ordering Agency's Contracting Officer shall immediately notify the Contractor and secure the written consent of the owner(s) for the Contractor to perform project services prior to the commencement of such services. The Ordering Agency's Contracting Officer shall furnish the Contractor with a copy of such written consent as soon as such consent is obtained by the Ordering Agency.

#### **Section B - Payment Terms**

**B.1. Price of EMSs** - The price of services rendered by the Contractor pursuant to any Authorization for EMS shall be based on (i) all Contractor direct costs, such as labor, materials, costs of working capital and all subcontractor costs; plus (ii) all indirect costs, such as overheads, project management, and contract administration; plus (iii) profit.

**B.2. Payment of EMSs** - The Ordering Agency shall pay the Contractor the price of each EMS, as set forth in each Authorization for EMS.

**B.3. Financial Incentives and Rebates** - Current incentives and rebates that may be available to the Ordering Agency shall be set forth in the Authorization for EMS.

**B.4. Assignment of Claims** - The Contractor may assign its rights to be paid amounts due or to become due as a result of the performance of work under this Authorization of EMS in accordance with FAR 52.232-23.

**B.5. Novation** - The Parties agree that if, subsequent to the execution of the Authorization for EMS, it should become necessary, or desirable, to execute a "Novation Agreement," said Novation Agreement will comply with the provisions of FAR, Part 42, Subpart 42.12 and will be in the form as provided at FAR, Part 42, Subpart 42.1204.

**B.6. Determination of Energy Savings** - Energy savings will be determined on the basis of engineering estimates and set forth in the Authorization for EMS.

**B.7. No Recourse for Unrealized Savings** - The Ordering Agency acknowledges that consumption fluctuations may occur as a consequence of unanticipated factors such as weather and unexpected energy loads, and that payments to the Contractor will not change even if the estimated energy savings do not materialize, unless performance guarantees are specifically requested and negotiated by the Ordering Agency and the Contractor and set forth in the Authorization for EMS.

#### **B.8. Financing of EMSs**

This Section B.8 shall only apply to Contractor-financed EMSs.

**B.8.A. Energy Savings and Financing** - It is intended that the annual energy savings achieved from the implementation of a Contractor-financed EMS under the Authorization for EMS will produce financial savings to the Ordering Agency which are greater than the cost of implementing the EMS, including the cost of financing provided under the Authorization for EMS. The payment term shall be set forth in the Authorization for EMS.

**B.8.B. Performance Guarantee** - In the event an EMS is financed, in whole or in part, Contractor shall provide a performance guarantee to the Ordering Agency for all GSA facilities, which shall be supported by a measurement and verification (M&V) plan. In the event an EMS is financed, in whole or in part, for other Federal facilities, Contractor shall provide a performance guarantee to the Ordering Agency, which shall be supported by a M&V plan only if specified in the Authorization for EMS. M&V procedures will be in keeping with industry practices, such as the Federal Energy Management Program's (FEMP) M&V guidelines for federal energy projects.

**B.8.C. Calculation of Financed Payment** - The cost of financing, if any, for any completed EMS shall be recovered under terms and conditions set forth in the Authorization for EMS. Payments to the Contractor shall commence after the Ordering Agency takes possession of the ECM based on the mutually agreed upon financing terms and conditions included in the Authorization for EMS.

**B.8.D. Buy-down** – The Ordering Agency may at any time prior to final payment buy-down the outstanding financed EMS payments by giving thirty (30) days written notice to the Contractor. Upon such mutually agreed upon buy-down, the Ordering Agency shall pay Contractor in accordance with the Termination Schedule.

#### **Section C - Environmental Protection**

**C.1. Compliance with Environmental Laws** - In connection with the implementation of EMSs, the Contractor and the Ordering Agency shall comply with all applicable federal, state and local laws and regulations regarding environmental protection. The Contractor shall comply with the instructions of the Ordering Agency with respect to avoidance of conditions which create a nuisance or which may be hazardous to the health of persons at or near a Ordering Agency's facility.

**C.2. Environmental Permits** - The Ordering Agency and the Contractor shall cooperate in obtaining all required environmental permits necessary for compliance with applicable environmental protection laws prior to implementing any EMS under the Authorization for EMS.

**C.3. Emission Credits** - All emission credits attributable to reductions in emissions at the Ordering Agency facility incident to EMSs entered into under this Authorization for EMS shall be the property of the Ordering Agency, unless otherwise specified in the Authorization for EMS.

**C.4. Ordering Agency Responsible for Existing Hazardous Materials** - The Ordering Agency has an affirmative duty to inform the Contractor, prior to the start of and during the course of performing services under this Authorization for EMS, in writing of the existence of any known Hazardous Materials. If, prior to performance of the service or during the course of performing the services, the Contractor becomes aware of any Hazardous Material, the Contractor shall report such matter to the Ordering Agency's Contracting Officer immediately and before disturbing (or further disturbing) the Hazardous Material. If requested by the Ordering Agency's Contracting Officer, the Contractor shall recommend contractors who can remove the Hazardous Material or, at the Contractor's sole option, the Contractor may agree to remove the Hazardous Material for the Ordering Agency. Work in the affected areas shall be resumed only upon the written direction of the Ordering Agency's Contracting Officer when the Hazardous Material has been removed or corrected, and then only if such continuation of work shall not violate any applicable laws or permit requirements. In the event work is so suspended for longer than three months, the Contractor shall be entitled to an adjustment in the price for any increase in the cost of performance of any EMS, as set forth in FAR 52.212-12.

**C.5. Contractor Responsibilities** - The Contractor shall be responsible for the disposal of any Hazardous Material generated by the Contractor during the performance of services under the Authorization for EMS.

**C.6. Incidents Reporting** - The Ordering Agency shall be responsible for reporting all incidents of spills or release of Hazardous Materials at location(s) to the appropriate regulatory authorities; provided, however, that the Contractor shall immediately notify the Ordering Agency's Contracting Officer of and immediately clean up, in accordance with all applicable laws, all spills and/or releases of Hazardous Materials resulting from the Contractor's operations at the location(s). In the event the Contractor becomes aware of a spill and/or release of Hazardous Materials not resulting from the Contractor's operations, the Contractor shall immediately notify the Ordering Agency's Contracting Officer, but it shall not be responsible for such clean up.

#### **Section D – Miscellaneous**

**D.1. Conflict Among Documents** - In the event of any conflict: (i) between the Areawide Contract, Exhibit "B", these General Terms, or any other Attachment to the Areawide Contract, the Areawide Contract shall control, (ii) between these General Terms and Exhibit "B", the terms and provisions of Exhibit "B" shall control, and (iii) between the EMS Proposal, these General Terms, and any other Attachments to Exhibit "B", the EMS Proposal shall control over these General Terms and all other Attachments, and these General Terms shall control over all other Attachments. In all other cases, the document of the latest date mutually agreed upon, and signed or initialed by the Contractor and the Ordering Agency shall control.

**D.2. Proof of Insurance** – Any insurance obligation that may exist under the Authorization for EMS may be satisfied through self-insurance.

**EXHIBIT "C"**

Contractor's ID NO. \_\_\_\_\_ (Optional)  
Ordering Agency's ID \_\_\_\_\_ (Optional)

**COMMONWEALTH EDISON COMPANY**

**AUTHORIZATION FOR THE PROVISION OF SERVICES PROVIDED UNDER**  
**(insert appropriate Regulatory Authority) \_\_\_\_\_**  
**AREAWIDE CONTRACT NO. GS-00P-16-BSD-1205**

Ordering Agency: \_\_\_\_\_

Address: \_\_\_\_\_

Pursuant to Arawide Contract No. GS-00P-16-BSD-1205 between COMMONWEALTH EDISON COMPANY ("Contractor") and the United States Government and subject to all the provisions thereof, service to the United States Government under such contract shall be rendered or modified as hereinafter stated. Contract Articles 2 and 4 shall be followed by the Ordering Agency in initiating service under this contract as described below.

PREMISES TO BE SERVED: \_\_\_\_\_

SERVICE ADDRESS: \_\_\_\_\_

NATURE OF SERVICE: \_\_\_\_\_ [add description of the specific service requested by the Ordering Agency. For example, interconnection of the Ordering Agency's renewable energy project.]

OTHER TERMS AND CONDITIONS:

[Describe or attach description]

[Attached as Exhibit C.1 are, if applicable, Contractor's terms and conditions for the specific electric service identified above, which may include modifications that have been made by Contractor for the Ordering Agency with the approval of the (insert appropriate Regulatory Authority) \_\_\_\_\_]

TERM OF SERVICE: From \_\_\_\_\_ through \_\_\_\_\_

BILLS WILL BE RENDERED TO THE ORDERING AGENCY FOR PAYMENT AT THE FOLLOWING ADDRESS:

\_\_\_\_\_ in \_\_\_\_\_ copies.  
The foregoing shall be effective upon the return of the fully executed original Authorization by the Contractor to the ordering Agency.

ACCEPTED:

\_\_\_\_\_  
(Ordering Agency)

**COMMONWEALTH EDISON COMPANY**  
(Contractor)

By: \_\_\_\_\_  
Authorized Signature

By: \_\_\_\_\_  
Authorized Signature

Title: \_\_\_\_\_

Title: \_\_\_\_\_

Date: \_\_\_\_\_

Date: \_\_\_\_\_

**NOTE: A fully executed copy of this Authorization shall be transmitted by the ordering Agency to the GSA, PBS, Energy Division (PMAA), 1800 F Street, NW, Room 5116 Washington, DC 20405.**