

**WORK ORDER
STREETLIGHT REPLACEMENT**

This WORK ORDER (“Work Order”), effective as of _____ 2018 (“Work Order Effective Date”) is made and entered into by and between City of Fresno with offices at 2600 Fresno Street, Fresno, CA 93721 (“Customer”) and Pacific Gas and Electric Company (“PG&E”). This Work Order is subject to the terms and conditions of the Master Service Agreement between Customer and PG&E entered into on or about July 1, 2018 (“MSA”).

In accordance with the provision of the MSA, the Customer wishes to engage PG&E and its Subcontractor to provide PG&E’s street light replacement services, subject to the terms of the MSA and hereby notifies PG&E to commence work on the following Project:

PROJECT NAME: City of Fresno – LED Turnkey Streetlight Replacement

CONTRACT No. SST-FRESNO-0001

AMOUNT OF WORK ORDER: \$10,500,000

ESTIMATED START DATE: September 1, 2018

1. SCOPE OF WORK

1.1 The streetlight replacement services (“Services”) to be performed by PG&E and its Subcontractors are described in the Scope of Work (Exhibit A), which is attached hereto and incorporated by reference herein.

1.2 PG&E EXPRESSLY RESERVES ALL ITS RIGHTS, INCLUDING BUT NOT LIMITED TO THE FOLLOWING: THE RIGHT TO UTILIZE OTHERS TO PERFORM THE SERVICES OF THE TYPE CONTEMPLATED BY THIS WORK ORDER; THE RIGHT TO REQUEST WORK ORDERS FROM OTHERS FOR THE SERVICES OF THE TYPE CONTEMPLATED BY THIS WORK ORDER AND THE UNRESTRICTED RIGHT BY PG&E TO BID OR PERFORM ANY SUCH SERVICES OR WORK.

2. ORDER OF PRECEDENCE

In the event of a conflict between the provisions of the Work Order, the Scope of Work, and the MSA, the following order of precedence shall apply (in descending order): (a) this Work Order, (b) the Scope of Work, and (c) the MSA.

3. DELIVERABLES

For purposes of this Work Order, the deliverables will consist of the following items (collectively, the “Deliverable”):

- Summary report listing street light fixtures that were replaced, energy savings and project cost
- Revised GIS-based inventory of the affected streetlights
- Copies of third party warranties for the new streetlights and photo controls



- Certified payrolls for subcontractors performing the streetlight fixture replacements
- Accounting for disposed material in a format suitable to the Customer's needs to be defined by Customer prior to the commencement of the work.

4. PERFORMANCE OF SERVICES

PG&E shall have no obligations to perform any Services under this Work Order unless and until both Parties have signed this Work Order. The issuance of this Work Order does not commit PG&E to perform any future work for Customer.

5. AUTHORIZATION

Upon receipt of the Work Order, Customer shall review the Work Order and verify that the terms of the Work Order are acceptable to Customer. Customer's execution of this Work Order shall indicate its acceptance of the terms and conditions set forth herein.

6. ACCEPTANCE

6.1 During the period of time that PG&E is providing the Services, if Customer discovers that a streetlight has not been installed in compliance with the terms of the Specifications in the Scope of Work (Exhibit A) (hereinafter "Specifications"), then Customer shall promptly notify PG&E of said deficiency/ies. PG&E shall correct the deficiency/ies within a period of time mutually agreed upon by the Parties. Upon PG&E's correction of the deficiency/ies, Customer shall have ten (10) calendar days from the date of PG&E's notice to confirm that the streetlight has been installed per the Specifications. This process will continue until Customer confirms that the deficiency/ies has/have been resolved.

6.2 PG&E will provide notice to Customer when the Services are complete. Customer shall have fifteen (15) days from the notice date to inspect the streetlights that have been replaced, and to confirm that PG&E has completed the Services in accordance with the terms of the Specifications. If Customer determines that PG&E did not complete the Services in accordance with the terms of the Specifications, then Customer shall deliver a list of any deficiencies to PG&E, to be explained in reasonable detail, within the same fifteen (15) day inspection time. PG&E shall correct the deficiencies within a period of time mutually agreed upon by the Parties. Upon PG&E's correction of the deficiency/ies, Customer shall have ten (10) calendar days from the date of PG&E's notice to confirm that the streetlight has been installed per the Specifications. This process will continue until Customer confirms that the deficiency/ies has/have been resolved. If Customer does not provide PG&E with Customer's written notice of its acceptance or rejection of the Project within thirty (30) days from the date of PG&E's completion notice, Customer will be deemed to have accepted the Project.

7. PAYMENT SCHEDULE

7.1 The total cost of the Project is set forth above. Notwithstanding anything to the contrary in the MSA, Customer hereby agrees to pay PG&E for the Services as follows:

- (a) First Payment: Upon ordering of materials, Customer will be invoiced 50% of the total amount of this Work Order.



- (b) Final Payment: Customer will be invoiced for final 50% payment upon the earlier of: (i) completion of the Project, or (ii) when punch list items (if any) have been completed.
- (c) In the event on bill financing (OBF) is being used to fund the project, Customer will be invoiced for 100% of the project cost at the end of the project.

7.2 The PG&E invoice will reference this Work Order and be submitted to Customer's billing address. All payments shall be made within thirty (30) days from the invoice date. Each payment made by Customer must reference this Work Order and invoice number and be mailed to:

PACIFIC GAS AND ELECTRIC COMPANY
Attn: Sales and Service Manager, Business Development
P.O. Box 770000, Mail code: N10D
San Francisco, CA 94177

7.3 This Section 7 shall survive the expiration or termination of the Work Order.

8. NOTIFICATIONS AND INTERFACE

Both Parties shall contact and/or deliver written notices (email is allowed) to the business contacts below in the normal course of business, and in the event of any problems which may significantly affect the performance of the Services under this Work Order

BUSINESS CONTACTS

CITY OF FRESNO

Name Robert Andersen
 Title Assistant Director of Public Works
 Address 2101 G Street, Bldg. C
 Fresno, CA 93706
 Telephone (559) 621-8663
 Email robert.andersen@fresno.gov

**PACIFIC GAS AND ELECTRIC
COMPANY**

Name Brent Patera
 Title Sr. Business Development Mgr.
 Address 245 Market St., MC N10D,
 San Francisco, CA 94105
 Telephone (415) 973-5335
 Email Brent.Patera@pge.com

CUSTOMER BILLING CONTACT:

Name Yvonne Diaz
 Email yvonne.diaz@fresno.gov
 Telephone (559) 621-8708

9. INDEMNIFICATION

9.1 To the fullest extent permitted by law and subject to Customer's compliance with Section 9.2 below, PG&E shall indemnify, and defend any proceeding or action brought by a third party against the Customer, its officials and employees (collectively, the "Indemnified Parties") to the extent based on a claim for bodily injury or damage to tangible property suffered by such third party which was caused by



PG&E's negligence or willful misconduct during the course of PG&E's performance of the Services under this Work Order. Notwithstanding anything to the contrary, PG&E is not liable to defend or indemnify Customer for any claims or damages arising out of or related to the negligence or willful misconduct of Customer, its officials or employees. THE FOREGOING IS CUSTOMER'S SOLE AND EXCLUSIVE REMEDY AND PG&E'S ENTIRE LIABILITY FOR ANY AND ALL THIRD PARTY CLAIMS.

9.2 Notice and Defense Conditions. Customer shall promptly notify PG&E, in writing, of any claim, demand, proceeding or suit of which Customer becomes aware which may give rise to a right of defense under Section 9.1 ("Claim"). Notice of any Claim that is a legal proceeding, by suit or otherwise, must be provided to PG&E within thirty (30) days of Customer's first learning of such proceeding. Notice must be in writing and include an offer to tender the defense of the Claim to PG&E. Upon PG&E's acceptance of tender, Customer will cooperate with PG&E with respect to such defense and settlement. If Customer fails to cooperate in defense or settlement of the a Claim by unreasonably withholding approval of an action requested by PG&E, PG&E may terminate defense of a Claim after thirty (30) day written notice to the City providing an opportunity to cure any alleged failure to cooperate in the defense of a Claim. If a Claim is settled and to the extent permitted by law, neither party will publicize the settlement and will make every effort to ensure the settlement agreement contains a non-disclosure provision.

10. OWNERSHIP OF DELIVERABLES

10.1 Ownership and title to any Deliverable produced by or on behalf of PG&E pursuant to this Work Order will be transferred to the Customer upon Customer's payment for the particular Deliverable and no further agreement will be necessary to transfer ownership to the Customer. PG&E shall furnish the Customer all necessary copies of data used to prepare the Deliverable which are needed by Customer to complete its review and approval process.

10.2 PG&E shall not be liable for any claims, liabilities, or losses arising out of, resulting from or in any way connected with Customer's use by the Customer of the Deliverables, project documentation on other projects, except such use as may be authorized in writing by PG&E.

11. THIRD PARTY LIMITED WARRANTIES

11.1 PG&E will, within thirty (30) days from its receipt of the final payment for the Services, assign to Customer the warranties for the lighting controls and lighting fixtures (collectively, the "Equipment") purchased by or on behalf of PG&E and installed as part of the Services under this Work Order. A copy of these third party warranties is set forth in Exhibit B.

11.2 Solely as an accommodation to Customer, but not as a contractual commitment, Customer may, during the first twelve (12) months following the installation of the Equipment, contact PG&E and request that PG&E replace Defective Lighting Fixtures. After this twelve-month period, but within the warranty period offered by the manufacturer of the Equipment, Customer shall contact the manufacturer of the Equipment to make a warranty claim for defective Equipment. In addition, Customer shall be solely responsible for the removal of the Equipment as well as arranging and paying for shipping of the defective Equipment to and from the manufacturer's designated facility (and for all insurance and risk of loss to the Equipment while in transit), and installation of the Equipment upon return, unless otherwise instructed in the manufacturer's designated warranty. This warranty extends to Customer only and cannot be assigned by Customer.



11.3 NOTWITHSTANDING ANYTHING TO THE CONTRARY HEREIN, PG&E MAKES NO WARRANTY OF ANY KIND, WHETHER EXPRESS, IMPLIED, STATUTORY, OR OTHERWISE. IN ADDITION, PG&E HEREBY SPECIFICALLY DISCLAIMS ALL EXPRESS AND IMPLIED WARRANTIES REGARDING THE SERVICES, INCLUDING BUT NOT LIMITED TO ANY AND ALL WARRANTIES OF MERCHANTABILITY, NON-INFRINGEMENT, TITLE, AND FITNESS FOR A PARTICULAR PURPOSE, TO THE MAXIMUM EXTENT PERMITTED BY APPLICABLE LAW.

12. COMMUNITY OUTREACH

No provision of PG&E cost, time or resources for communication and/or outreach are provided for in this Work Oder. All community outreach and communication to/with the community regarding this project is the responsibility of the Customer. PG&E will provide guidance based on our previous experience and assistance as appropriate, but will not be involved directly in the outreach or communication efforts unless specifically agreed to in writing by Customer and PG&E.

13. AUTHORITY

Each Party represents and warrants that the individual signing below, as well as any Change Orders and approvals hereunder, has and shall have all requisite power and legal authority to bind the Party on whose behalf he/she is signing to that Party's obligations hereunder.

IN WITNESS THEREOF, the parties agree to be bound by this Work Order as of the date first set forth above.

CITY OF FRESNO

PACIFIC GAS AND ELECTRIC COMPANY

Signature: _____

Signature: _____

Print Name: _____

Print Name: Deborah Affonsa

Title: _____

Title: Vice President, Customer Care

Date: _____

Date: _____

**EXHIBIT A
SCOPE OF WORK**

1. Services. The Scope of the Services to be performed by PG&E and its Subcontractors is set forth below:
- (a) Scope of Work: LED Turnkey Replacement of city-owned cobrahead streetlights
 - (b) Estimated completion date: September 30, 2019
 - (c) Date Services are estimated to begin: September 1, 2018
 - (d) Customer sites where work is to be performed: Existing locations, citywide
 - (e) Type and number of street light fixtures to be replaced: Approximately 35,412 cobraheads
 - (f) Specifications for installation¹: Cree RSW Series LED Luminaire with integrated fuses where required as specified and approved by Customer. Final project cost will be adjusted as necessary to reflect any additional cost associated with integrated fuses.

PG&E will replace the existing lighting fixtures and connect the existing wiring to the new LED fixture on a 120-277 volt service. This replacement will include the installation of a new photo cell or shorting cap and testing said lighting fixtures so as to ensure it/they is/are operational. Please be advised that the replacement of existing fuses and/or troubleshooting “no power” situations are outside of the scope of the Services performed by PG&E and shall not be part of this Work Order. However, PG&E will promptly inform Customer if a fuse needs to be replaced or if there is a “no power” situation.

Customer acknowledges and agrees that PG&E will not be responsible for installing any lighting fixtures on voltage outside the 120-277 service unless Customer specifically identifies, in writing, those locations by badge number and address, before the Equipment is ordered. It is the Customer’s responsibility to tell PG&E if they have service needs outside of these voltage parameters so the proper Equipment can be ordered, otherwise, it shall be the Customer’s responsibility to pay for any lighting fixtures that were ordered or damaged during installation.

Accommodation for shielding of installed fixtures is outside the scope of this Work Order. Customer acknowledges that any shielding that may be required following installation provided for in this Work Order is the responsibility of the Customer unless otherwise specifically agreed to in writing by Customer and PG&E.

2. Additional Work

2.1 If in the process of performing the Service, a condition is discovered that prevents PG&E from performing the Service as specified such as but not limited to (a) access to the street light such as overgrown trees or blocked roadway, (b) broken street light bracket, or (c) wiring defect that prevents delivery of energy to the street light fixture, PG&E will notify Customer in writing of such condition and the work necessary to remedy the condition. If the work required is estimated by PG&E at less than Five

¹ Note: The locations of the replaced streetlights may change if street lights are added to or deleted from the Project during installation. A final spreadsheet will be given to Customer upon completion of the Services.



Thousand Dollars (\$5,000) and Customer approves, PG&E may perform such work and invoice Customer periodically for actual time and materials to perform such work.

2.2 If the City remedies the condition preventing PG&E from completing work while the contractor is still within the "active quadrant" of installation, then PG&E will return and perform work at no extra cost.

2.3 If, for any reason, Customer chooses not to correct such condition, PG&E shall be relieved of any and all responsibility for performing the Service for that street light or group of street lights.

2.4 If in the process of performing the Service, active bird nests, and/or bee hives, wasps are discovered, PG&E will notify Customer of such condition and discontinue work on affected equipment. (see 2.2 above).

3. Material Receipt, Off Load and Secure Storage

PG&E will receive and store all materials necessary for the completion of the scope of work.

4. Disposal of old streetlights and related materials

4.1 PG&E's Contractor will keep the lights that have been replaced secure until taking them to PG&E's yard. Contractor will separate the lamp from the fixture and put them in the appropriate bins. PG&E will label the bins and ship them to a registered disposal facility.

4.2 PG&E shall dispose of all removed material (e.g., fixtures, lamps, photo cells, shorting caps and/or fuses) in accordance with PG&E's material management protocol.

5. Customer's Responsibilities

To the extent that performance of the Service by PG&E depends upon approvals or other decisions by Customer, or on Customer furnishing particular documents or information, including but not limited to work permits, and that Customer does not timely perform or provide the same, the minimum time estimate for PG&E's completion of the Service shall be extended to take into account Customer's delay with respect thereto. Customer shall reimburse PG&E for the costs of any required work permits. If Customer or a competent governmental authority requires any other compliance efforts, including but not limited to flagging, traffic control, or neighborhood notifications, as a condition for work to proceed, then Customer shall reimburse PG&E for the costs related to these efforts.



**EXHIBIT B
THIRD PARTY WARRANTIES**

1. Street light manufacturer's contact information:

- (a) Cree LED Lighting Fixtures
1200 92nd Street
Sturtevant, WI 53177-1854
Phone: (800)236-6800

The warranty period for the Cree LED Lighting Fixtures is 10 years. A copy of that warranty is set forth in Schedule 1 to this Exhibit B.

2. Photo control warrantor's contact information:

- (a) Sunrise Technologies, Inc. Photocontrols
54 Commercial St.
Raynham, MA 02767
Phone: 508-821-1597
Fax: 805-822-0593

The warranty period for the Sun-Tech/FP Outdoor Lighting Controls is 12 years. A copy of that warranty is set forth in Schedule 2 to this Exhibit B.



**SCHEDULE 1 TO EXHIBIT B
LIMITED WARRANTY FOR CREE® LED LIGHTING FIXTURES
(INCLUDING BETALED® TECHNOLOGY; TRUEWHITE® TECHNOLOGY; AND
ESSENTIA® FIXTURES)**

This limited warranty is provided by the Cree company described below ("Seller") to you as the original purchaser of the LED lighting product that is identified on Seller's invoice reflecting its original purchase (the "Product"). The Seller is the Cree Company identified as such on the invoice. This limited warranty may be transferred to subsequent purchasers of the Product, provided that such Product is resold in new condition and in its original packaging. Seller warrants that the Product, when delivered in new condition and in its original packaging, will be free of defects in material and workmanship for a period of **TEN (10) YEARS** from the date of original purchase. The determination of whether the Product is defective shall be made by Seller in its sole discretion with consideration given to the overall performance of the Product. A Product shall not be considered defective solely as a result of the failure of individual LED components to emit light if the number of inoperable components is less than 10% of the total number of LED components in the Product.

If Seller determines the Product is defective, Seller will elect, in its sole discretion, to refund you the purchase price of the Product, repair the Product or replace the Product. This limited warranty will not apply to loss or damage to the Product caused by: negligence; abuse; misuse; mishandling; improper installation, storage or maintenance; damage due to fire or acts of God; vandalism; civil disturbances; power surges; improper power supply; electrical current fluctuations; corrosive environment installations; induced vibration; harmonic oscillation or resonance associated with movement of air currents around the Product; alteration; accident; failure to follow installation, operating, maintenance or environmental instructions prescribed by Seller or applicable electrical codes; or improper service of the Product performed by someone other than Seller or its authorized service provider. This limited warranty excludes field labor and service charges related to the repair or replacement of the Product. **THIS LIMITED WARRANTY IS VOID IF THE PRODUCT IS NOT USED FOR THE PURPOSE FOR WHICH IT IS DESIGNED.**

Seller reserves the right to utilize new, reconditioned, refurbished, repaired or remanufactured products or parts in the warranty repair or replacement process. Such products and parts will be comparable in function and performance to an original product or part, as determined by Seller in its sole discretion, and warranted for the remainder of the original warranty period.

In order to make a warranty claim, you must notify Seller in writing within sixty (60) days after your discovery of the defect, provide proof of purchase such as the invoice and comply with Seller's other warranty requirements. Upon receiving that notice, Seller may require you to promptly return the Product to Seller, or its authorized service provider, freight prepaid. Your warranty claim should be addressed to Cree c/o Ruud Lighting, Inc., 9201 Washington Avenue, Racine, WI 53406.

This limited warranty only applies to specified LED fixtures. Any warranties applicable to finish, poles, lamps, CR Series downlights, LR24™ troffers, certain BetaLED® Technology outdoor fixtures (specifically Class II as defined per IEC/EN60598), backup batteries, controls, occupancy sensors, photocells and other fixture accessories can be found at www.cree.com/lighting/products/warranty.

THE FOREGOING WARRANTY PROVISIONS ARE EXCLUSIVE AND ARE GIVEN AND ACCEPTED IN LIEU OF ANY AND ALL OTHER WARRANTIES, WHETHER EXPRESS OR IMPLIED, INCLUDING WITHOUT LIMITATION ANY WARRANTY AGAINST INFRINGEMENT



AND ANY IMPLIED WARRANTIES OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE.

IN NO EVENT SHALL SELLER BE LIABLE FOR INCIDENTAL, COMPENSATORY, CONSEQUENTIAL, INDIRECT, SPECIAL OR OTHER DAMAGES. SELLER'S AGGREGATE LIABILITY WITH RESPECT TO A DEFECTIVE PRODUCT SHALL IN ANY EVENT BE LIMITED TO THE MONIES PAID TO SELLER FOR THAT DEFECTIVE PRODUCT.

This warranty is effective for purchases of Product on or after the effective date set forth below. Seller reserves the right to modify this warranty from time to time. Any modification of this warranty shall be effective for all orders placed with Seller on or after the effective date of such revised warranty.



**SCHEDULE 2 TO EXHIBIT B
WARRANTY FOR SUN-TECH LIGHTING CONTROLS**



Warranty Long Life Photocontrol

Standard warranty of Sun-Tech / FP Outdoor Lighting Controls electronic photocontrol products is 12 years. The warranty is 1 for 1 replacement for units with factory defects. Units ordered improperly will be accepted, possibly with a negotiated restocking charge. This warranty covers factory defects and does not apply to units abused, vandalized, installed on the incorrect voltage, damaged by faulty luminaries, or direct hits by lightning. Sun-Tech assumes no further liability in the use of the products. This warranty is in lieu of any other warranties expressed or implied.

It can be expected that Sun-Tech / FP Outdoor Lighting Controls and its management will stand behind the performance of its product and treat its users as partners in its success.

54 Commercial St. * Raynham, MA 02767 USA
Ph: (508) 821-1597 * Fax: (508) 822-0593 * email: info@sun-tech.biz * www.sun-tech.biz * www.fpolc.com