



Department of Energy

Bonneville Power Administration
P.O. Box 3621
Portland, Oregon 97208-3621

FREEDOM OF INFORMATION ACT/PRIVACY PROGRAM

January 4, 2023

In reply refer to: FOIA # BPA-2023-01529-F

SENT VIA EMAIL ONLY TO:

PII

Jeff Whitman, Production Manager
Solvay Chemicals
3500 Industrial Way
Longview, WA 98632

Dear Mr. Whitman,

The Bonneville Power Administration (BPA) has received your request for agency records made under the Freedom of Information Act, 5 U.S.C. § 552 (FOIA). Your FOIA request was received on August 22, 2023, and formally acknowledged on September 22, 2023. This communication is the agency's final response on your FOIA request, BPA-2023-01529-F.

Request

"...in re Contract No. DE-MS79-94BP94546, for Turboexpander Project, all agency records, dated between Jan 1 1995 and Dec 31 1996, showing Solvay Chemicals' application for an energy savings rebate involved public review ... including all public comments..."

Clarifications

Through the summer and fall of 2023, you communicated with several agency personnel regarding the records you seek. In email conversations with the agency's FOIA Public Liaison a short list of records identified as responsive to your request were enumerated. On December 11, 2023, via email exchanges, you limited the scope of your request to the identified records – and further limited the identified spreadsheet records to those having only Solvay information. The following FOIA request response follows those agreed-upon records parameters.

Response

BPA has searched for and gathered records responding to your request from the agency's Media, Policy and Writing personnel, and via our Cyber office, who have provided 83 pages of responsive agency records. Those records accompany this communication, with three redactions applied under 5 U.S.C. § 552(b)(6) (Exemption 6). You'll find a detailed explanation of the applied exemptions below.

Explanation of Exemptions

The FOIA generally requires the release of all agency records upon request. However, the FOIA permits or requires withholding certain limited information that falls under one or more of nine statutory exemptions (5 U.S.C. §§ 552(b)(1-9)). Further, section (b) of the FOIA, which contains FOIA's nine statutory exemptions, also directs agencies to publicly release any reasonably segregable, non-exempt information that is contained in those records.

Exemption 6

Exemption 6 serves to protect Personally Identifiable Information (PII) contained in agency records when no overriding public interest in the information exists. BPA does not find an overriding public interest in a release of the information redacted under Exemption 6 — specifically, BPA employee's and third parties' handwritten signatures. BPA cannot waive this PII redaction, as the protections afforded by Exemption 6 belong to individuals and not to the agency.

Lastly, as required by 5 U.S.C. § 552(a)(8)(A), information has been withheld only in instances where (1) disclosure is prohibited by statute, or (2) BPA foresees that disclosure would harm an interest protected by the exemption cited for the record. When full disclosure of a record is not possible, the FOIA statute further requires that BPA take reasonable steps to segregate and release nonexempt information. The agency has determined that in certain instances partial disclosure is possible and has accordingly segregated the records into exempt and non-exempt portions.

Certification

Pursuant to 10 C.F.R. § 1004.7(b)(2), I am the individual responsible for the records search, the redactions applied thereto, and the records release described above. Your FOIA request BPA-2023-01529-F is now closed, with all available responsive agency records provided.

Appeal

Note that the certification above is final. This final decision, as well as the adequacy of the search, may be appealed within 90 calendar days from your receipt of this letter pursuant to 10 C.F.R. § 1004.8. Appeals should be addressed to:

Director, Office of Hearings and Appeals,
HG-1, L'Enfant Plaza
U.S. Department of Energy
1000 Independence Avenue, S.W.
Washington, D.C. 20585-1615

The written appeal, including the envelope, must clearly indicate that a FOIA appeal is being made. You may also submit your appeal to OHA.filings@hq.doe.gov, including the phrase "Freedom of Information Appeal" in the subject line. The appeal must contain all the elements required by 10 C.F.R. § 1004.8, including a copy of the determination letter. Thereafter,

judicial review will be available to you in the Federal District Court either: 1) in the district where you reside; 2) where you have your principal place of business; 3) where DOE's records are situated; or 4) in the District of Columbia.

Additionally, you may contact the Office of Government Information Services (OGIS) at the National Archives and Records Administration to inquire about the FOIA mediation services they offer. The contact information for OGIS is as follows:

Office of Government Information Services
National Archives and Records Administration
8601 Adelphi Road-OGIS
College Park, Maryland 20740-6001
E-mail: ogis@nara.gov
Phone: 202-741-5770
Toll-free: 1-877-684-6448
Fax: 202-741-5769

Questions about this communication may be directed to the FOIA Public Liaison James King at jjking@bpa.gov or 503-230-7621.

Sincerely,

Rachel L. Hull
Freedom of Information/Privacy Act Officer

| Measure Type | Fiscal Year | Sector | TAP | Measure/Project Name | BPA funded kWh (EEI) | Self-funded kWh | BPA Incentives | Performance Payment \$ |
|---------------------|-------------|------------|-----|--------------------------------------|----------------------|-----------------|----------------|------------------------|
| Lighting Calculator | 2017 | Industrial | | Solvay Chemicals | 235006.54 | 0 | \$32,700.00 | \$0.00 |
| Lighting Calculator | 2017 | Industrial | | Solvay Chemicals-Area & Flood Lights | 147099.41 | 0 | \$13,480.00 | \$5,883.98 |

U.S. DEPARTMENT OF ENERGY -- BONNEVILLE POWER ADMINISTRATION

BPA F 1325.05
(06-89)
(Previously BPA 303)

INTEROFFICE MESSAGE

Date:
August 5, 1994

| | | |
|-----------|-----------------------------|-----------------------------|
| TO | Name Herb C. Kuhn | Routing Symbol DS |
|-----------|-----------------------------|-----------------------------|

| | | |
|-------------|--|-------------------------------|
| FROM | Name (b) (6) Jan Yocom | Routing Symbol DSAC |
|-------------|--|-------------------------------|

RE: Proposed Energy Savings Plan Industrial Conservation Agreement with Solvay Interlox, Contract No. DE-MS79-94BP94546

We recommend approval of the proposed, multiple-project ESP Agreement.

This two-year Agreement is the Area's standard end-user agreement with the following negotiated acquisition payment options for verified energy savings:

- \$0.15/kWh not to exceed 80% of actual project cost for projects to existing facilities, and
- \$0.18/kWh not to exceed 100% of the actual incremental project cost for projects to new and expanding facilities.

Other payments by Bonneville under this Agreement will be as follows:

- **Energy Review Costs:** For retrofit projects; pays a rate of \$0.0005/kWh for the actual energy usage for the past 12 months, not to exceed actual cost. For new and expanding projects; pays a rate of \$0.0005/kWh for the estimated annual energy usage of the first complete 12 months following a project's installation, not to exceed actual cost. For a facility using less than 10,000,000 kWh annually, payment is lesser of actual cost or \$5,000. Total reimbursements for the Agreement will not to exceed \$50,000.
- **Progress Payments:** Payment of up to 50% of the estimated acquisition payment is available after a project is installed; if the time required to complete the Energy Savings Verification Test is greater than 3 months following Project installation.
- **Motor Rebates:** Limited to the "Maximum Rebate Per Motor" amounts listed in the Agreement's "Table of Determination of Motor Rebates."

If you have any questions, please contact Wayne Lewis at extension 5975.

Wl
WLewis:wl:x5975 08/05/94(-DSAC-H:\ESP\AUG_94\94546\94546_JY.DOC)

Transmittal Number: LR 070

Date: June 27, 1994

**TRANSMITTAL
FOR CONSERVATION AGREEMENT APPROVAL**

Contract: Solvay Interox. Energy Savings Plan Conservation Agreement, Contract No. DE-MS79-94BP94546, Procurement No. 56885

Originator: B. Thime

Routing: LR

| No. | Rtg. | Initials | Date | |
|-----|------|--------------------|------|-----|
| | | | In | Out |
| X | APG | | | |
| X | D | <i>[Signature]</i> | 8/5 | 8/5 |
| X | PMCE | | | |
| X | RMIC | | | |
| X | RAE | | | |
| X | LR | | | |
| | RPEB | INFO ONLY | | |
| 1 | LR | | | |
| 2 | L | | | |

2 SIGNATURES REQUIRED

The Lower Columbia Area Manager will sign before the customer. Delegation of Contracting Officer Authority for this Program effective February 11, 1991.

Action Requested: Approval of the proposed agreement.

Simultaneous Reviewers:

Please return comments by: Close of Business, Wednesday, August 10, 1994.

Questions may be referred to: Barbara Thime, Extension 4045.

Please call: Barbara Thime when signed, Extension 4045, Fax 230-4956.

**CONSERVATION AGREEMENT
BRIEFING MEMO**

Contract: Energy Savings Plan Conservation Agreement, Contract No. DE-MS79-94BP94546, Procurement No. 56885, for Solvay Interlox.

Existing Circumstances:

Bonneville recently revised the Energy Savings Plan (ESP) Program Principles. This Conservation Agreement has been prepared incorporating the Lower Columbia Area's ESP Program operation policy. This is a standard ESP umbrella (multi-project) contract.

Changes Required/Impact on Existing Circumstances:

None have been identified.

Policy Implications:

This Conservation Agreement will incorporate the latest policy on operating the ESP Program in the Lower Columbia Area.

Financial Management Concerns:

None have been identified.

General Counsel Concerns:

None have been identified.

NEPA Determination:

The Environmental Coordinator for the Office of Energy Resources has determined this Agreement is consistent with the Resource Programs Record of Decision (ROD) dated April 22, 1993. The environmental requirements of the ROD apply to all applicable measures installed under this Agreement.

Area Acceptance:

The Area offices have participated in the ESP Principles modification process.

ENERGY SAVINGS PLAN

CONSERVATION AGREEMENT

executed by the

UNITED STATES OF AMERICA

DEPARTMENT OF ENERGY

acting by and through the

BONNEVILLE POWER ADMINISTRATION

and

SOLVAY INTEROX

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| Exhibit D (Rebates)..... | D1 |
| Exhibit E (Invoice Format)..... | E1 |
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| Exhibit A (General Conservation Contract Provisions, dated 09/25/92)..... | A1 |
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This AGREEMENT, executed ~~AUGUST 17~~, 1994, by the UNITED STATES OF AMERICA, Department of Energy, acting by and through the BONNEVILLE POWER ADMINISTRATION (Bonneville), and SOLVAY INTEROX (Contractor).

WITNESSETH:

WHEREAS Bonneville is authorized by the Pacific Northwest Electric Power Planning and Conservation Act to acquire conservation, to develop and implement conservation programs, and to determine the cost-effectiveness of such conservation programs in the Region; and

WHEREAS Bonneville has implemented new guidelines to accelerate its conservation acquisition effort, and accordingly has modified its programs and implementation agreements to reflect such guidelines; and

WHEREAS Bonneville and the Contractor are interested in a long-term contract whereby a number of energy efficiency Projects may be implemented by the Contractor, over time, and the Energy Savings may be purchased by Bonneville pursuant to this long-term Agreement; and

WHEREAS the Contractor has proposed to operate the Energy Savings Plan (ESP) pursuant to the terms and conditions of this Agreement; and

NOW, THEREFORE, the parties hereto agree as follows:

1. Term.

This Agreement shall become effective at 0001 hours on the date the Contractor signs (Effective Date), and shall continue in effect until 2400 hours on September 30, 1997; unless terminated earlier as provided herein. All obligations arising from this Agreement shall be preserved until satisfied.

2. Definitions.

All capitalized terms are as defined below:

- (a) "Acquisition Payment" means the applicable Bonneville payment for Energy Savings, as determined in accordance with Item 3 of Exhibit B.
- (b) "Baseline Energy Use" means a measure of embodied electrical energy in a product or production stream calculated by dividing the measured input electrical energy, in kilowatt-hours (kWh), by the throughput, material flowrate or output rate of the product or production stream (i.e., kWh of electricity purchased divided by tons of product sold).
- (c) "Cogeneration" means a project involving the production of electrical and thermal power from the same heat source.
- (d) "Completion Report" means a final report prepared by the Contractor for each completed Project, in accordance with the terms of Item 3 of Exhibit B.
- (e) "Energy Review" means an analysis conducted by a qualified individual or firm to identify electrical energy conservation opportunities, estimated costs, Baseline Energy Use, and estimated Energy Savings, as defined in Item 2 of Exhibit C.

- (f) "Energy Savings" means the verifiable or verified first-year electrical energy (kilowatt-hour) savings associated with a Project, excluding any Energy Savings resulting from equipment for which a Rebate has been paid.
- (g) "Energy Savings Verification" means a methodology developed by the Contractor in accordance with Item 2 of Exhibit B and conducted by the Contractor in accordance with Item 2 of Exhibit B, in order to measure the Energy Savings for a Project.
- (h) "Fiscal Year" means the period of time which begins on October 1 and ends on the following September 30.
- (i) "Free Rider" means a Project that would have been implemented without ESP.
- (j) "Fuel Switching" means an increase in the use of a nonelectrical fuel in order to achieve Energy Savings for a Project. A Project which reduces electrical energy use by reclaiming waste heat from a nonelectrical source will not be considered Fuel Switching if there is no increase in use of the nonelectrical fuel.
- (k) "Incremental" means the difference in cost or energy use between a baseline and what is installed because of the program.
- (l) "New Facilities" means either: (1) retrofit improvements to existing equipment or facilities that are identified or scheduled for installation prior to approval of a Project Proposal by Bonneville; or (2) any equipment retrofit or improvement, including new or expanded processes that add more than 30 percent to the production capacity of the Contractor.
- (m) "Power Factor Project" means a Project that involves the installation of power factor improvement equipment at or near the points of end use to reduce electrical energy line losses on the electrical system. The Energy Savings shall be the kWh associated with the Project, but shall not include line loss reductions on the Contractor's or Bonneville's electrical systems.
- (n) "Progress Payment" means a one-time payment that may be made after the Contractor certifies to Bonneville that the Project has been installed in accordance with the Project Proposal. (See Item 1, Section 5, Exhibit B.)
- (o) "Project" means the installation of one or more Energy Conservation Measures that improves electrical energy efficiency and that meets the eligibility requirements specified in Item 1 of Exhibit F.
- (p) "Project Cost" means all customary and reasonable costs incurred by the Contractor to implement a Project. This includes, but is not limited to: solely allocated, Project-specific Contractor administration costs; Energy Review costs not previously paid; engineering design and planning costs; proposal preparation costs; equipment installation, removal, and abandonment-in-place cost; instrumentation and data collection equipment to verify Energy Savings; permit and inspection fees; and sales taxes. Operation and maintenance expenses, depreciation, profit (margin), and other typical annual costs are not to be included in Project Cost.
- (q) "Project Proposal" means a detailed description of a proposed Project, which shall be prepared by the Contractor in accordance with Item 2 of Exhibit B.

- (r) "Proprietary Information" means trade secrets or financial or commercial information which if disclosed could cause substantial competitive harm to the Contractor or Project equipment suppliers and which is designated as proprietary by the Contractor in accordance with Item 7 of Exhibit F.
- (s) "Rebate" means a payment for high-efficiency electrical equipment which qualify under Exhibit D of this Agreement.
- (t) "Receipt and Acceptance" means the process in which Bonneville reviews completed work to determine if the Contractor is in compliance with the terms of this Agreement, and by which Bonneville authorizes payment as appropriate.

3. Exhibits.

Exhibit A (General Conservation Contract Provisions, 09/25/92), Exhibit B (Energy Savings Plan Acquisitions), Exhibit C (Energy Reviews), Exhibit D (Rebates), Exhibit E (Invoice Format), and Exhibit F (Referenced Documents) are hereby attached and by this reference made a part of this Agreement.

4. Termination.

In addition to the termination provisions in Section 8(a) of Exhibit A, the following provision applies under this Agreement: The Contractor may, for its convenience, terminate this Agreement by giving Bonneville 90 days written notice of such termination. In the event of such notice, the Contractor shall cease all new activities related to the Program in this Agreement. All obligations incurred prior to such notice shall be satisfied.

5. Interpretation.

- (a) The provisions in Exhibit A are incorporated by reference into this Agreement. In the event of a conflict, Exhibit A is subordinate to all other parts of this Agreement.
- (b) Except as provided in Section 18 of Exhibit A, nothing contained in this Agreement shall, in any manner, be construed to abridge, limit or deprive any party hereto of any remedy, either at law or in equity, for the breach of any of the provisions of this Agreement.
- (c) Headings are for convenient reference only and shall not affect the interpretation of this Agreement.
- (d) This Agreement shall be governed by and construed under Federal law.

6. Cost Sharing Policy.

The Bonneville Cost Share Policy determined in accordance with the provisions of Exhibit A shall apply to this Agreement. The portion which Bonneville pays is related to the percent of each utility's firm load which is served by Bonneville. Bonneville shall have the right to unilaterally amend this percentage to reflect changes in Exhibit A or Bonneville's Cost Share Policy.

7. Amendment of Agreement.

- (a) Except as provided in Section 6, 7(b) below, and Section 27(f) of Exhibit A, the provisions of this Agreement may be amended only by written agreement of the parties.
- (b) Exhibits B, C, D, E, and F may be unilaterally amended by Bonneville after reasonable notice is given to the Contractor.

8. Procedures.

Upon executing this Agreement, the Contractor may operate any or all of the activities identified in Exhibits B, C, and D to this Agreement; and shall comply with the procedures identified by the applicable Exhibit(s).

9. Payment.

- (a) Bonneville will pay the Contractor the amount shown on the invoice no later than 30 calendar days after Bonneville's Receipt and Acceptance of a proper invoice.
- (b) Payment under this Agreement shall be made either by check or electronic funds transfer. The Contractor shall include the name and address of the bank, the Contractor's bank account number, and the American Bankers Association 9-digit routing number on the invoice.
- (c) Bonneville will not pay for anything under this Agreement which has been or will be paid for under any other Bonneville Agreement.

10. Records.

The Contractor shall maintain, and make available to Bonneville upon request, records for all Projects, Energy Reviews, Rebates, and any other records as they apply to the provisions of this Agreement. The records shall be maintained in accordance with Section 10 of Exhibit A.

11. Evaluation.

Activities performed as part of this Agreement will be eligible for both process and impact evaluations. Bonneville's process and impact evaluations consist of several steps. These steps include interviews, site visits, review of program materials, measurement, and analysis.

(a) Process Evaluation.

- (1) The Contractor shall have a representative available, upon reasonable notice, to discuss each Project, each Energy Review, and each Rebate payment (as applicable) with Bonneville or its evaluation contractor.
- (2) The process evaluation will usually include interviews and discussions with the Contractor and may include site visits.
- (3) Interviews and discussions held with the Contractor will be conducted privately, and shall be of a confidential nature. Project reports will avoid identifying the sources of opinions or perceptions.

(b) Impact Evaluation.

- (1) The Contractor will be notified within 90 days of Bonneville's approval of the Completion Report, whether the project in the Completion Report will be used in an impact evaluation, and will be advised of the requirements of the evaluation. These requirements may include Project billing histories for one year before and one year following Project installation, and in some cases, additional measurement or metering for up to one year.
- (2) The impact evaluation will begin with a review of Project records (including the Project Proposal, the Energy Review, the verification data, and the Completion Report) combined with the process evaluation interviews. This may be sufficient to estimate the Project's long-term impacts for Bonneville's evaluation purposes.

(c) Responsibility.

The Contractor's responsibility is limited to no more than 8 hours of staff time per project for the purpose of impact or process evaluation over the life of the Agreement.

(d) Reimbursement.

All direct expenses occurring as a result of a direct request for additional information by Bonneville through its evaluation contractor will be reimbursed by Bonneville through the evaluation contractor. These expenses may include billing history record retrieval for data required beyond one year prior to or following Project installation, additional data collection (measurement and/or metering), staff time, or other costs, as required by the evaluation contractor. Bonneville's Cost Share policy shall not apply to any payment made to the Contractor to reimburse evaluation costs.

12. Dissemination of Information.

Bonneville shall not disclose Proprietary Information except as required otherwise pursuant to applicable laws and regulations. Exclusive of Proprietary Information, Bonneville shall have the right to publicly disseminate information provided by the Contractor pursuant to Item 7 of Exhibit F.

13. Notices and Other Communications.

Written communication between the parties, including invoices, shall be delivered in person or mailed to the address and to the attention of the person specified below:

Bonneville: Bonneville Power Administration
Lower Columbia Area Office
1500 NE. Irving Street, Room 578
Portland, OR 97232
Attn: Barbara Thime - LR
Contracting Officer's Technical Representative
503-230-4045

Contractor: Solvay Interox
3500 Industrial Way
Longview, WA 98632
Attn: Mike Banigan
206-425-1114

Copies of all written communications, pertinent to the servicing Electric Utility, exclusive of Proprietary Information, between the parties shall be provided to the servicing Electric Utility. These copies shall be mailed to the address and to the attention of the person specified below:

Utility: Cowlitz County PUD
P.O. Box 3007
Longview, WA 98632-0307
Attn: Jim Wellcome
206-577-7505

Either party may change or supplement such address or specified person by giving the other party written notice of such change.

14. Entire Agreement.

This Agreement sets forth the entire Agreement of the parties as of the Effective Date of this Agreement. The rights and obligations of the parties hereunder shall be subject to and governed by this Agreement.

15. Dispute Resolution and Arbitration.

Factual disputes regarding this Agreement shall be resolved under Section 18 of Exhibit A.

16. Severability.

If any provision of this Agreement is finally adjudicated by a court of competent jurisdiction to be invalid or unenforceable, it is the parties' intent that the remainder of this Agreement, to the extent practicable, continue in full force and effect as though such provision or any part thereof so adjudicated had not been included therein.

17. Signature Clause.

Each party hereto represents that it has the authority to execute this Agreement and that it has been duly authorized to enter into this Agreement.

IN WITNESS WHEREOF, the parties have executed this Agreement.

UNITED STATES OF AMERICA
Department of Energy
Bonneville Power Administration

By: (b) (6)
Lower Columbia Area Manager

Name: CLIFFORD C. PERIGO
(Print/Type)

Date: 8-17-94

SOLVAY INTEROX

By: (b) (6)

Name: GARY L. HALL
(Print/Type)

Title: VICE PRESIDENT

Date: 8-22-94

GENERAL CONSERVATION CONTRACT PROVISIONS

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IN REFERENCE TO MEANING

1. Definitions.

- (a) "Actual Firm Bonneville Load" means load served by firm energy as defined in the Electric Utility's Power Sales Contract with Bonneville, as amended.
- (b) "Actual Firm Load" means the load served by firm energy plus load served by other generating resources or contractual resources, as defined in the Electric Utility's Power Sales Contract with Bonneville, as amended.
- (c) "Actual or Planned Computed Requirements Customer" means that term as defined in Bonneville's Northwest Power Act utility power sales contracts.
- (d) "Audit" means a complete, interim closeout or final closeout Audit of the records as may be specified in this Agreement.
- (e) "Computed Requirements Customer" means that term as it is defined in Bonneville's Northwest Power Act utility power sales contracts.
- (f) "Conservation" means any reduction in Electric Power consumption as a result of (1) increases in the efficiency of electric energy use, production, or distribution; or (2) load reduction resulting from direct application of a renewable resource.
- (g) "Consumer" means any end user of Electric Power in the region.
- (h) "Contracted Computed Requirements Customer" means that term as it is defined in Bonneville's Northwest Power Act utility power sales contracts.
- (i) "Contractor" means the party or parties to this Agreement other than Bonneville.
- (j) "Contracting Officer" or "CO" means the person designated in writing by Bonneville's Administrator with the authority to enter into, administer, modify, suspend, or terminate this Agreement and make related determinations and findings. The Contracting Officer may bind the Government only to the extent of delegated authority.
- (k) "Contracting Officer's Representative" or "COR" means the person designated in writing by the Contracting Officer to have all the rights, powers, and privileges of the Contracting Officer necessary for the administration of this Agreement. The Contracting Officer's Representative is not empowered to execute modifications to this Agreement, to make final decision of any matter which would be subject to the Dispute Resolution and Arbitration clause of this

Exhibit, or to suspend or terminate for any cause the Contractor's right to proceed under the Suspension or Termination clauses of this Exhibit.

- (l) "Contracting Officer's Technical Representative" or "COTR" means the authorized representative of the Contracting Officer designated in writing by the Contracting Officer for technical actions performed in relation to this Agreement. This includes the functions of (1) inspection and review of work performed; (2) inspection and witness of tests, presentations or other activities; (3) interpretation of technical specifications; (4) approval of Contractor's reports and other materials; and (5) rejection of nonconforming services material or equipment. The COTR is not authorized to act for the Contracting Officer in the following matters relating to this Agreement: (1) modifications to this Agreement that change the dollar amount, technical specifications, or time for performance; (2) suspension or termination of the Contractor's right to proceed, either for default or for convenience of the Government; and (3) final determinations on any matters subject to the Dispute Resolution and Arbitration clause of this Exhibit.
- (m) "Council" means the Pacific Northwest Electric Power and Conservation Planning Council established in accordance with section 4 of the Northwest Power Act.
- (n) "Electric Power" means electric peaking capacity, or electric energy, or both.
- (o) "Electric Utility" means either (1) a utility which has signed a Power Sales Contract with Bonneville and which sells Electric Power to Consumers in the Region, or (2) a regional Federal agency customer of Bonneville.
- (p) "Field Inspector" means the authorized representative of the COTR who performs the inspection and review functions for the COTR.
- (q) "Fiscal Year" means the period commencing on October 1 and ending the following September 30.
- (r) "Measure" means the installation or distribution of materials or devices or the provision of services which are described in this Agreement and are intended to accomplish Conservation.
- (s) "Metered Requirements Customer" means that term as it is defined in Bonneville's Northwest Power Act utility power sales contracts.
- (t) "Northwest Power Act" means the Pacific Northwest Electric Power Planning and Conservation Act, Public Law 96-501.

- (u) "Operating Area" means those portions of an Electric Utility's service area which are located within the Region and within which the Contractor may operate the Program in accordance with this Agreement.
- (v) "Plan" means the Northwest Conservation and Electric Power Plan in effect as of the effective date of this Agreement, including any amendments thereto, adopted in accordance with the Northwest Power Act.
- (w) "Planned Firm Bonneville Load" means the average annual firm energy load that an Electric Utility plans to place on Bonneville as indicated in Bonneville's most recently prepared Pacific Northwest Loads and Resources Information.
- (x) "Power Sales Contract" means the Northwest Power Act firm power sales contract between the Electric Utility and Bonneville for the sale of power and energy to meet the Electric Utility's Actual Firm Bonneville Load, as may be amended or replaced.
- (y) "Program" means the Program identified in this Agreement.
- (z) "Region" means (1) the area consisting of the States of Oregon, Washington, and Idaho, the portion of the State of Montana west of the Continental Divide, and such portions of the States of Nevada, Utah, and Wyoming as are within the Columbia River drainage basin; and (2) any contiguous areas, not in excess of 75 air miles from the area referred to in (1) above, which are a part of the service area of a rural electric cooperative customer served by Bonneville on the effective date of the Northwest Power Act which has a distribution system from which it serves both within and without such Region.
- (aa) "Resource" means actual or planned load reduction resulting from Conservation.
- (bb) "Unavoidable Net Costs" mean all costs associated with the operation of the Program under this Agreement incurred prior to a notice of termination given by Bonneville pursuant to section 8(a) below.
- (cc) "Uncontrollable Forces" means:
 - (1) strikes or work stoppage affecting the performance of the Contractor or of Bonneville; the term "strikes or work stoppage" shall be deemed to include threats of imminent strikes or work stoppage which reasonably require a party to restrict or terminate its operations; or
 - (2) such of the following events as the Contractor or Bonneville by exercise of reasonable diligence and foresight, could not reasonably have been expected to avoid:

- (A) events, reasonably beyond the control of either party, causing failure, damage, or destruction of any works, system or facilities necessary for performance; the word "failure" shall be deemed to include interruption of, or interference with, the actual operation of such works, system, or facilities;
- (B) floods or other conditions caused by nature which limit or prevent the performance of either party; and
- (C) orders and temporary or permanent injunctions which prevent said performance, and which are issued in any bona fide proceeding by:
 - (i) any duly constituted court of general jurisdiction; or
 - (ii) any administrative agency or officer, other than Bonneville or its officers, with proper jurisdiction
 - (a) if said party has no right to a review of the validity of such order by a court of competent jurisdiction; or (b) if such order is operative and effective and such order is not suspended, set aside, or annulled in a judicial proceeding prosecuted by said party in good faith; provided, however, that if such order is suspended, set aside, or annulled in such a judicial proceeding, it shall be deemed to be an "uncontrollable force" for the period during which it is in effect; provided, further, that said party shall not be required to prosecute such a proceeding, in order to have the benefits of this section 1(cc), if the parties agree that there is no valid basis for contesting the order.

The term "performance" as used in this section shall be deemed to include installation of Measures if installation is required to implement the Agreement and is specified therein.

2. Interpretation.

- (a) Only Bonneville's Contracting Officer, or the Contracting Officer's Representative designated in writing, may issue interpretations of the body of this Agreement which are binding upon Bonneville, except as provided in section 2(b) below. Such interpretations shall be in writing and shall be distributed to each contractor which is a party to an agreement containing the provision being interpreted. All such interpretations shall also be available for review at each Bonneville Area/District Office.
- (b) Only the Bonneville official designated in writing by Bonneville's Administrator specifically for the purpose of interpreting Exhibit A

may issue interpretations of Exhibit A which are binding upon Bonneville. Such interpretations shall be in writing and shall be distributed to each contractor which is a party to an agreement containing the provision being interpreted. All such interpretations shall also be available for review at each Bonneville Area/District Office.

- (c) In administering this Agreement, only written statements of Bonneville officials acting with the scope of their authority will be considered to be official Bonneville statements.

IN REFERENCE TO PROGRAM OPERATION

3. Arrangements with Consumers and Contractors.

The Contractor shall not unreasonably discriminate among Consumers in implementing this Agreement. Bonneville shall not unreasonably discriminate among Contractors in implementing this Agreement.

4. Publicity and Advertising.

- (a) Bonneville may inform the general public within the Region of the existence of the Program encompassed by this Agreement by such means as press releases, speeches, public service announcements, advertising, or the like. When applicable, such information shall indicate that Program availability may vary from area to area. Bonneville shall inform and coordinate with affected Contractors prior to advertising the Program.
- (b) The Contractor shall not include in Program advertising or publicity any representations concerning: (1) warranties; or (2) the terms of payments which are offered to Consumers by Bonneville through the Contractor, without Bonneville's prior approval. Any such representations shall be sent to Bonneville for review and shall be deemed disapproved unless approved in writing within 15 days after receipt.

5. Arrangements with Other Entities.

- (a) If the Contractor is an Electric Utility which supplies power for resale to an entity that places a load on the Contractor, the Contractor may, with prior written approval of Bonneville and with the written consent of such entity, offer the Program to Consumers of such entity.
- (b) Bonneville shall have the right to revoke its approval of an arrangement meeting the conditions of section 5(a) of this Exhibit if the power sales contractual relationship between the Contractor and the entity changes in such a way so as to decrease the potential for energy savings to Bonneville from the Program.

- (c) The terms and conditions of such arrangement shall be determined by the Contractor and the entity and shall be consistent with the terms and conditions of this Agreement.

6. Coordination.

- (a) Bonneville shall inform an Electric Utility when this Agreement is offered to an entity within such Electric Utility's service area.
- (b) Upon the reasonable written request of the Electric Utility whose load is affected by implementation of this Agreement, the Contractor shall provide, in a timely manner, the actual or estimated kilowatt or kilowatthour savings resulting from or anticipated to result from this Agreement, unless such information is protected from disclosure by law. Copies of both the request by the Electric Utility and the Contractor's response shall also be sent to Bonneville to the address and to the attention of the person specified in this Agreement.

7. Suspension.

(a) Program Suspension After Consultation.

- (1) If Bonneville has determined that the Contractor's implementation of the Program is not in substantial compliance with the requirements of this Agreement, Bonneville shall provide a written description to the Contractor of the specific nature of the noncompliance.
- (2) Upon receipt of such written description, the Contractor shall not submit claims for payment for Measures or energy savings from any Measures affected by such noncompliance.
- (3) The Contractor shall correct such noncompliance within a reasonable time and shall notify Bonneville in writing when corrective action has been completed. If the Contractor does not correct the noncompliance within a reasonable time after written notice is received, Bonneville may either:
 - (A) suspend all or a portion of the Program in this Agreement, effective upon the Contractor's receipt of written notice, or
 - (B) terminate this Agreement in accordance with section 8(b) of this Exhibit.
- (4) If the Program has been suspended pursuant to section 7(a)(3)(A) of this Exhibit, Bonneville shall notify the Contractor in writing of the date that Program suspension is lifted, upon verifying that the noncompliance has been corrected.

(b) Program Suspension for Environmental, Health, or Safety Threats.

- (1) The Contractor shall implement the Program in accordance with applicable regulations issued by Federal, state, or local agencies related to the environment and the health and safety of the Contractor's employees and the general public.
- (2) If Bonneville determines that implementation of all or a portion of the Program presents an environmental, health, or safety threat, Bonneville shall notify the Contractor of such environmental, health, or safety threat.
 - (A) Bonneville may immediately suspend all or a portion of such Program, effective upon the Contractor's receipt of written notification.
 - (B) Bonneville shall provide, along with such notification, a description of the environmental, health, or safety threat that it perceives and references upon which Bonneville bases its determination.
 - (C) The Contractor shall have 30 calendar days from the date of receipt of the notice within which to comment on the perceived environmental, health, or safety threat and to propose mitigating action to such environmental, health, or safety threat and to provide estimated costs of such actions.
 - (D) Within 30 calendar days after receipt of the Contractor's comments, Bonneville shall consider the comments and, at its option, provide the Contractor with a proposed amendment to this Agreement to mitigate such environmental, health, or safety threat.
 - (E) The Contractor shall comment on the proposed amendment within 30 calendar days of its receipt.
 - (F) If Bonneville then issues such amendment, it shall be attached hereto and made a part of this Agreement. Bonneville shall reimburse the Contractor for reasonable increases in the costs of operating this Agreement to the extent caused by such amendment. Such reasonable increases shall be incorporated in such amendment.
 - (G) Bonneville shall notify the Contractor in writing of the date the Program suspension is lifted.
- (3) For environmental, health, or safety issues related to noncompliance with Federal, state, or local agency regulations, the Contractor shall bear the costs of compliance; for issues

other than noncompliance, claims for payment for Measures or energy savings from Measures affected by such environmental, health, or safety threat shall be limited to those Measures installed or completed prior to the date of receipt of the written notification of Program suspension.

(c) Immediate Suspension of Payment.

If Bonneville has reason to believe that the Contractor is claiming payment for activities which are not in substantial compliance with the requirements of this Agreement, Bonneville may, effective upon oral notification to the Contractor, immediately suspend all or a portion of payment for such activities under this Agreement while the process in either sections 7(a) or 7(b) of this Exhibit are completed. Bonneville shall issue written confirmation of such suspension of payment to the Contractor within 48 hours after oral notification is given. Following the completion of the process described in either sections 7(a) or 7(b) of this Exhibit, and unless this Agreement is terminated as described in section 7(a) of this Exhibit, Bonneville shall notify the Contractor in writing of the date that suspension of payment is lifted.

(d) After a suspension imposed under sections 7(a), 7(b) or 7(c) of this Exhibit is lifted, Bonneville shall pay for all claims that are in substantial compliance with the requirements of this Agreement, including claims for work performed during the previous suspension of payment.

(e) If this Agreement is suspended in accordance with section 7(b) of this Exhibit, or is suspended under sections 7(a) or 7(c) of this Exhibit and no significant corrective actions are required, Bonneville shall reimburse the Contractor for reasonable costs to the extent they are caused by such suspension.

(f) Within 30 calendar days after Bonneville receives a notice of reasonable one-time costs estimated by the Contractor to convert its Program in accordance with section 7(b)(2) or to bring its Program into compliance in accordance with sections 7(e) or 12 of this Exhibit, Bonneville shall review and furnish the Contractor with Bonneville's comments, if any, with respect thereto. When an agreement is reached, Bonneville shall approve any change in compensation due to payment of such costs by written notice to the Contractor. If costs to convert the Program are considered unreasonable by Bonneville, Bonneville may terminate this Agreement and obligations for payment under the provisions in this Agreement.

8. Termination.

(a) Bonneville may terminate or suspend all or any undelivered or unexecuted portion of this Agreement for its convenience upon 30 days written notice to the Contractor, with the understanding

that the Contractor is entitled to its Unavoidable Net Costs resulting therefrom. Upon receipt of the notice or on a date otherwise specified in the notice, the Contractor shall cease all activities related to the terminated or suspended portion of the Agreement unless otherwise approved by Bonneville. Upon notification of termination, the Contractor shall review its open Consumer files and the Measures in progress and assemble an invoice detailing its Unavoidable Net Costs resulting from the termination of the Agreement. Bonneville will have the option of either: (1) reimbursing the Contractor for its Unavoidable Net Costs as invoiced pursuant to the Agreement; or (2) having the Contractor complete work on its open Consumer files and those Measures in progress, such work to be invoiced upon completion pursuant to the Agreement.

- (b) Bonneville may terminate this Agreement by giving the Contractor 30 days' written notice if the Contractor has failed to comply with the requirements of sections 7(a) or 7(b) of this Exhibit.
- (c) Bonneville may terminate this Agreement by giving the Contractor 30 days' written notice if the Contractor is an Electric Utility and the Contractor either: (1) gives notice it will stop placing firm load on Bonneville pursuant to its Power Sales Contract; or (2) gives notice of its intent to terminate, or terminates any existing or new Power Sales Contract it may have now or in the future with Bonneville.
- (d) Bonneville may terminate this Agreement by giving the Contractor 30 days' written notice if the Contractor is not an Electric Utility and the Electric Utility serving the Contractor of this Agreement either: (1) gives notice it will stop placing firm load on Bonneville pursuant to its Power Sales Contract; or (2) gives notice of its intent to terminate, or terminates its Power Sales Contract with Bonneville.
- (e) Termination Charge.
 - (1) A termination charge shall be determined pursuant to this section 8(e) if the Contractor is an Electric Utility and (A) this Agreement is terminated in accordance with section 8(c) of this Exhibit, or (B) the Operating Area in which a Measure is installed in accordance with this Agreement stops being served by an Electric Utility placing load on Bonneville pursuant to its Power Sales Contract, or (C) the Electric Utility does not execute a new Power Sales Contract with Bonneville which succeeds the existing or any preceding Power Sales Contract.
 - (2) The termination charge is based on the ratio of total estimated savings expected for the life of the units/Measures less

estimated annual savings achieved to date of termination to the total estimated savings for the life of the units/Measures expected.

- (3) The Contractor shall return payments received from Bonneville for savings not yet acquired by Bonneville in accordance with the following formula:

$$R = P \times \left\{ \frac{T - A}{T} \right\}$$

where:

R = Reimbursement to Bonneville

P = Bonneville payments made to the Contractor for all units/Measures installed to date under this Agreement

A = Total estimated savings for all units/Measures achieved to date

T = Total estimated savings for the life of all units/Measures installed

The numbers for the estimated savings per unit/Measure and its associated life are based on the Council's Plan. The Contractor can request these numbers in writing from Bonneville.

- (4) Bonneville shall invoice the Contractor for payment calculated on the formula in section 8(e)(3) of this Exhibit.
- (5) The Contractor has the discretion to make reimbursement to Bonneville in one of the following ways:
- (A) The Contractor shall make a lump sum payment to Bonneville within 3 months of termination of the Power Sales Contract; or
 - (B) The Contractor shall make a lump sum payment to Bonneville within 30 days of the date the Electric Utility stops placing firm load on Bonneville pursuant to its Power Sales Contract; or
 - (C) The Contractor shall reimburse Bonneville in 12 consecutive equal monthly installments, commencing on the first business day of the month following the month in which termination of the Power Sales Contract occurs or the first business day of the month following the month in which the Electric Utility stops placing firm load on Bonneville pursuant to its Power Sales Contract.

- (6) If reimbursement is accomplished by installments as provided in section 8(e)(5)(C) of this Exhibit, interest shall be charged on the outstanding balance at Bonneville's average Treasury borrowing interest rate as of the date of termination of the Power Sales Contract or the date the Electric Utility stops placing firm load on Bonneville pursuant to its Power Sales Contract.
- (7) If, after the Contractor reimburses Bonneville in accordance with sections 8(e)(5)(A) or 8(e)(5)(B) of this Exhibit, the utility which previously ceased to be a firm power sales customer of Bonneville executes a Power Sales Contract with Bonneville or the Electric Utility resumes its purchases under its Power Sales Contract, Bonneville shall, within 90 days of the date of execution of such Power Sales Contract, return to the Contractor any such payments received from the Contractor less an amount based on the formula where A corresponds to the period when a Power Sales Contract was not in effect or no purchases were made under the Power Sales Contract.
- (8) If, after the Contractor initiates such installment payments as provided in section 8(e)(5)(C) of this Exhibit, the utility which previously ceased to be a firm power sales customer of Bonneville executes a Power Sales Contract with Bonneville or the Electric Utility resumes its purchases under its Power Sales Contract, the Contractor shall, from the date of such execution, not be obligated to make any further installment payments to Bonneville under this section. Bonneville shall, within 90 days of the date of execution of such Power Sales Contract, return to the Contractor any such payments received from the Contractor less an amount based on the formula where A corresponds to the period when a Power Sales Contract was not in effect.

9. Uncontrollable Forces.

Each party shall notify the other as soon as possible of any Uncontrollable Forces which may in any way affect performance in accordance with this Agreement. In the event the performance of either party is interrupted or curtailed due to such Uncontrollable Forces, such party shall be excused from such performance during such period of interruption or curtailment. However, such party shall exercise due diligence to reinstate such performance with reasonable dispatch.

IN REFERENCE TO PROGRAM REVIEW

10. Program Records.

- (a) Records shall be maintained by the Contractor in accordance with this Agreement. The records shall be maintained in a form determined solely by the Contractor, so long as the requirements of

section 10(b) of this Exhibit are met. The Contractor shall keep all records required by this Agreement until the later of either 3 years after creation of such records, or notification of completion of a financial Audit of such records by Bonneville. Bonneville shall initiate such financial Audit no later than 3 years after creation of the last record maintained in accordance with this section.

- (b) Program records shall be established and maintained in accordance with generally accepted accounting principles consistently applied, and in conformance with applicable laws and Federal regulations, including the provisions of the Privacy Act of 1974. If appropriate, a summary of the system of records developed by Bonneville to comply with the Privacy Act shall be supplied by Bonneville.

11. Audits.

- (a) The funds received under this Agreement should be considered Federal funds for application of OMB Circulars A-128 and A-133. If the Contractor is required to have a single audit solely as a result of the application of these provisions, Bonneville will, with prior approval, reimburse the Contractor for the additional costs involved.
- (b) Further, Bonneville may, upon reasonable notice, conduct financial Audits, monitoring reviews (including environmental reviews), or financial compliance reviews of the Contractor's implementation of the program under the terms of this Agreement. The number, timing, and extent of such reviews shall be at the discretion of Bonneville and may be conducted by Bonneville or its designee. Financial Audits shall be conducted in accordance with audit standards established by the Comptroller General of the United States. Monitoring reviews and financial compliance reviews shall be conducted in accordance with standards and procedures established by Bonneville. Bonneville, at its expense, may:
 - (1) audit, examine, or inspect Program records and accounts maintained by the Contractor or its agents, including Consumers receiving benefit hereunder, in accordance with the Program records section of the Agreement;
 - (2) obtain copies of such Program records and accounts for such purposes;
 - (3) conduct inspections of installations made under this Agreement, provided that all such inspections shall be arranged in advance through the Contractor; and
 - (4) review Contractor procedures employed in accomplishing the provisions of this Agreement.

12. Evaluation.

- (a) Activities performed as a part of the Program identified in this Agreement will be evaluated by Bonneville. The Contractor shall supply Bonneville or Bonneville's evaluation contractor with information to evaluate the Program. If appropriate, individually identifiable information shall be made available to Bonneville in accordance with the system of records identified in section 10(b) above.
- (b) Any reasonable costs incurred by the Contractor in assisting in such evaluation, to the extent not specifically required by this Agreement, shall be reimbursed by Bonneville's evaluation contractor.
- (c) Bonneville shall, upon completing the evaluation, make available the results of such evaluation to the Contractor.
- (d) Bonneville reserves the right to perform site visits and participant and nonparticipant interviews, to be agreed upon with the Contractor.

MISCELLANEOUS PROVISIONS

13. Indemnification.

- (a) The Contractor agrees to hold Bonneville harmless against any judgment for direct or consequential damages awarded to third parties arising from or related to the Contractor's performance of its obligations under this Agreement. However, the Contractor shall not indemnify and hold harmless Bonneville, but Bonneville shall indemnify and hold harmless the Contractor from any claim, demand, damage, loss, liability, and expense, including, but not limited to, reasonable attorney's fees, arising from or related to the Contractor's performance of its obligations under this Agreement, if the Contractor's performance is in the manner required by this Agreement and if the claim, demand, damage, loss, liability, or expense is based on standards or design requirements of the Program identified in this Agreement. Bonneville will not indemnify and hold the Contractor harmless unless the Contractor gives written notice to Bonneville within 30 days of the Contractor's receipt of written notice of any demand or claim, or of any lawsuit, relating to the Contractor's performance under this Agreement. This provision shall survive the termination of this Agreement, terminating only when all periods under any applicable statutes of limitation have lapsed.
- (b) The Contractor agrees that Bonneville has no responsibility for production of energy savings resulting from the Program. The Contractor agrees not to hold Bonneville responsible for any direct or consequential damages which were reasonably foreseeable at the

time of entering into the Agreement by the parties, and which arise out of or in connection with the lack of production of energy savings resulting from the Program.

- (c) Bonneville agrees to indemnify and hold harmless the Contractor from any losses, expenses, costs, or damages, including reasonable attorneys' fees incurred at trial, on appeal, or in arbitration, due to the actions of anyone who obtains access to proprietary information as a result of Bonneville's negligence or failure to protect proprietary information to the extent required by law.

14. Disclaimer of Liability.

The Contractor shall require any independent contractor with which it contracts to implement the provisions of this Agreement to indemnify and hold Bonneville harmless from all claims, damages, losses, liability, and expenses arising from the negligent or other tortious acts or omissions of such independent contractors, their officers, agents, or employees.

15. Assignment of Agreement.

Moneys due or to become due from Bonneville to the Contractor in accordance with the terms of this Agreement may be assigned by the Contractor to a bank, trust company, or other financing institution, including any Federal lending agency, for the purpose of financing any portion of the cost of this Agreement. In the event of any such assignment, the assignee thereof shall provide written notice of the assignment together with a true copy of the instrument of assignment to Bonneville within 10 calendar days of such assignment. Except as provided above, no other interest, right, or obligation in this Agreement may be assigned or transferred by the Contractor to another party without prior written consent of Bonneville.

16. Binding Effect.

This Agreement shall inure to the benefit of and be binding upon the parties, their respective legal representatives, assigns, and successors.

17. No Third Party Beneficiaries.

In promising performance to one another under this Agreement, the parties intend to create binding legal obligations to and rights of enforcement in: (a) one another; and (b) such assignees or successors in interest of the parties as may enjoy a right to enforce this Agreement by virtue of provisions of this Agreement that expressly create such a right in such assignees or successors in interest. By entering into this Agreement, the parties expressly do not intend to create any obligation or promise of any performance to any other third party, nor have the parties created for any third party any right to enforce this Agreement.

18. Dispute Resolution and Arbitration.

The parties agree to submit to binding arbitration all factual issues arising out of this Agreement which the parties have legal authority to arbitrate, and which cannot be otherwise resolved by discussions between

the parties. The following procedures shall apply to dispute resolution and arbitration:

- (a) The party requesting arbitration shall serve notice in writing upon the other party, setting forth in detail the question or questions to be arbitrated and the arbitrator appointed by such party. The nonrequesting party shall have 7 days to review the question or questions and present to the other party its question or questions.
- (b) The nonrequesting party shall, within 45 days after the receipt of such notice, appoint a second arbitrator, and the two so appointed shall choose and appoint a third arbitrator within 10 days, or if they fail to mutually agree on a third arbitrator, a third arbitrator shall be appointed by the United States District Court for the District of Oregon, located in Portland, Oregon.
- (c) If the nonrequesting party fails to name its arbitrator within 45 days after receiving notice under section 18(b) of this Exhibit, the arbitrator appointed shall proceed as a single arbitrator in accordance with section 18(d) and 18(e) of this Exhibit, and issue a decision as provided in section 18(e) of this Exhibit.
- (d) The arbitration hearing shall begin at Portland, Oregon, no later than 30 days after appointment of the third arbitrator, or the date on which a single arbitrator proceeds as detailed in section 18(c) above, and upon written notice to the parties by the arbitrators of the date, time, and location of the hearing. The arbitrators shall determine the procedures to be followed for the arbitration.
- (e) The arbitration hearing shall be concluded within 3 days unless otherwise ordered by the arbitrators and the decision thereon shall be made within 10 days after the close thereof. The decision shall include a brief informal discussion of the basis for the decision, but formal findings shall not be required.
- (f) Each party shall pay for the services and expenses of the arbitrator appointed for it, for its own attorneys' fees, and for compensation for its witnesses or consultants. All other costs incurred in connection with the arbitration, including those of the third arbitrator shall be shared equally by the parties thereto.

PROVISIONS REQUIRED BY STATUTE OR EXECUTIVE ORDER

19. Contract Work Hours and Safety Standards Act (40 U.S.C. 327 et seq.).

- (a) Overtime requirements.
No Contractor or subcontractor contracting for any part of the contract work which may require or involve the employment of laborers or mechanics shall require or permit any such laborers or mechanics in any workweek in which the individual is employed on

such work to work in excess of 40 hours in such workweek unless such laborer or mechanic receives compensation at a rate not less than 1-1/2 times the basic rate or pay for all hours worked in excess of 40 hours in such workweek.

(b) Violation; liability for unpaid wages; liquidated damages.

In the event of any violation of the provisions set forth in section 19(a) of this Exhibit, the Contractor and any subcontractor responsible therefor shall be liable for the unpaid wages. In addition, such Contractor and subcontractor shall be liable to the United States for liquidated damages. Such liquidated damages shall be computed with respect to each individual laborer or mechanic employed in violation of the provisions set forth in section 19(a) of this Exhibit in the sum of \$10 for each calendar day on which such individual was required or permitted to work in excess of the standard workweek of 40 hours without payment of the overtime wages required by provisions set forth in section 19(a) of this Exhibit.

(c) Withholding for unpaid wages and liquidated damages.

The Contracting Officer shall upon his or her own action or upon written request of an authorized representative of the Department of Labor withhold or cause to be withheld, from any moneys payable on account of work performed by the Contractor or subcontractor under any such contract or any other Federal contract subject to the Contract Work Hours and Safety Standards Act which is held by the same Prime Contractor, such sums as may be determined to be necessary to satisfy any liabilities of such Contractor or subcontractor for unpaid wages and liquidated damages as provided in section 19(b) of this Exhibit.

20. Convict Labor (Executive Order No. 11755, Dec. 29, 1973).

In connection with the performance of work under this Agreement, the Contractor or any subcontractor agrees not to employ any person undergoing sentence of imprisonment except as otherwise provided by law.

21. Equal Opportunity (Executive Order No. 11246, Sept. 24, 1965).

(a) If, during any 12-month period (including the 12 months preceding the award of this contract), the Contractor has been or is awarded nonexempt Federal contracts and/or subcontracts that have an aggregate value in excess of \$25,000, the Contractor shall comply with sections 21(b)(1) through 21(b)(11) below. Upon request, the Contractor shall provide information necessary to determine the applicability of this clause.

(b) During performing this Agreement, the Contractor agrees as follows:

(1) The Contractor shall not discriminate against any employee or applicant for employment because of race, color, religion, sex, or national origin.

- (2) The Contractor shall take affirmative action to ensure that applicants are employed, and that employees are treated during employment, without regard to their race, color, religion, sex, or national origin. Such action shall include, but not be limited to: (A) employment; (B) upgrading; (C) demotion; (D) transfer; (E) recruitment or recruitment advertising; (F) layoff or termination; (G) rates of pay or other forms of compensation; and (H) selection for training, including apprenticeship.
- (3) The Contractor shall post in conspicuous places, available to employees and applicants for employment the notices to be provided by the Contracting Officer that explain this clause.
- (4) The Contractor shall, in all solicitations or advertisement for employees placed by or on behalf of the Contractor, state that all qualified applicants will receive consideration for employment without regard to race, color, religion, sex, or national origin.
- (5) The Contractor shall send, to each labor union or representative of workers with which it has a collective bargaining agreement or other contract or understanding, the notice to be provided by the Contracting Officer advising the labor union or workers' representative of the Contractor's commitments under this clause, and post copies of the notice in conspicuous places available to employees and applicants for employment.
- (6) The Contractor shall comply with Executive Order No. 11246, Sept. 24, 1965 (30 FR 12319), as amended, and the rules, regulations and order of the Secretary of Labor.
- (7) The Contractor shall furnish to the contracting agency all information required by Executive Order No. 11246, as amended, and by the rules, regulations, and orders of the Secretary of Labor. Standard Form 100 (EEO-1), or any successor form, is the prescribed form to be filed within 30 days following the award, unless filed within 12 months preceding the date of the award.
- (8) The Contractor shall permit access to its books, records and accounts by the contracting agency or the Office of Federal Contract Compliance Programs (OFCCP) for purposes of investigation to ascertain the Contractor's compliance with such rules, regulations, and orders.
- (9) If the OFCCP determines that the Contractor is not in compliance with this clause or any rule, regulation, or order of the Secretary of Labor, this Agreement may be canceled.

terminated, or suspended in whole or in part and the Contractor may be declared ineligible for further Government contracts, under the procedures authorized in Executive Order No. 11246, as amended. In addition, sanctions may be imposed and remedies invoked against the Contractor as provided in Executive Order No. 11246, as amended, the rules, regulations, and orders of the Secretary of Labor, or as otherwise provided by law.

- (10) The Contractor shall include the terms and conditions of sections 21(b)(1) through 21(b)(11) of this clause in every subcontract or purchase order that is not exempted by the rules, regulations, or orders of the Secretary of Labor issued under Executive Order No. 11246, as amended, so that these terms and conditions will be binding upon each subcontractor or vendor.
 - (11) The Contractor shall take such action with respect to any subcontract or purchase order as the contracting agency may direct as a means of enforcing these terms and conditions, including sanctions for noncompliance: Provided, that if the Contractor becomes involved in, or is threatened with, litigation with a subcontractor or vendor as a result of any direction, the Contractor may request the Government to enter into the litigation to protect the interest of the United States.
- (c) Notwithstanding any other clause in this Agreement, disputes relative to this clause will be governed by the procedures in 41 CFR 60-1.1.

22. Certification of Nonsegregated Facilities (48 CFR 22.810).

- (a) The Contractor certifies that it does not and will not maintain or provide for its employees any segregated facilities at any of its establishments, and that it does not and will not permit its employees to perform their services at any location under its control where segregated facilities are maintained. The Contractor agrees that a breach of this certification is a violation of the Equal Opportunity Clause of this Exhibit.
- (b) The Contractor further agrees that it will (1) obtain identical certifications from proposed subcontractors prior to the award of subcontracts exceeding \$10,000 which are not exempt from the provisions of the Equal Opportunity Clause; (2) retain such certifications in its files; and (3) forward the following notice to such proposed subcontractors, except where the proposed subcontractors have submitted identical certifications for specific time periods:

"Notice to Prospective Subcontractors of Requirement for Certifications of Nonsegregated Facilities.

"A Certification of Nonsegregated Facilities must be submitted prior to the award of a subcontract under which the subcontractor will be subject to the Equal Opportunity clause. This certification may be submitted either for each subcontract or for all subcontracts during a period (i.e., quarterly, semiannually, or annually)."

23. Officials Not to Benefit (41 U.S.C. 22).

No member of or delegate to Congress, or resident commissioner, shall be admitted to any share or part of this Agreement or to any benefit arising from it. However, this clause does not apply to this Agreement to the extent that this Agreement is made with a corporation for the corporation's general benefit.

24. Bonneville's Obligations Not General Obligations of the United States (16 U.S.C. 839(j)).

None of the offerings of obligations, or promotional materials for such obligations, which may be offered by the Contractor to fund its activities pursuant to this Agreement, shall be construed to be, general obligations of the United States, nor are such obligations intended to be or are they secured by the full faith and credit of the United States.

25. Small Business Act (15 U.S.C. 631 and 15 U.S.C. 637).

If this Agreement exceeds \$10,000, then the following provisions apply:

- (a) It is the policy of the Government that small business concerns owned and controlled by socially and economically disadvantaged individuals shall have the maximum practicable opportunity to participate in the performance of contracts let by any Federal agency.
- (b) The Contractor hereby agrees to carry out this policy in the awarding of subcontracts to the fullest extent consistent with the efficient performance of this Agreement. The Contractor further agrees to cooperate on any studies or surveys as may be conducted by the United States Small Business Administration or awarding agency of the Government as may be necessary to determine the extent of the Contractor's compliance with this clause.
- (c) As used in this Agreement the term "small business concern" shall mean a small business as defined in section 3 of the Small Business Act (15 U.S.C. 632) and relevant regulations promulgated pursuant thereto. The term "small business concerns owned and controlled by socially and economically disadvantaged individuals" shall mean a small business concern:
 - (1) which is at least 51 percent owned by one or more socially disadvantaged individuals; or, in the case of any publicly

owned business, at least 51 percent of the stock of which is owned by one or more socially or economically disadvantaged individuals; and

- (2) whose management and daily business operations are controlled by one or more such individuals.

The Contractor shall presume that socially and economically disadvantaged individuals include Black Americans, Hispanic Americans, Native Americans, Asian Pacific Americans, and other minorities, or any other individual found to be disadvantaged by the Administration pursuant to section 8(a) of the Small Business Act.

- (d) Contractors acting in good faith may rely on written representations by their subcontractors regarding their status as either a small business concern or a small business concern owned and controlled by socially and economically disadvantaged individuals.

26. Other Statutes, Executive Orders, and Regulations.

- (a) The Contractor agrees to comply with the following statutes, executive orders, and regulations to the extent applicable:
 - (1) False claims Act, 31 U.S.C. 3729, et seq. Whoever makes or presents to any person or officer in the civil, military, or naval service of the United States, or to any department or agency thereof, any claim upon or against the United States, or any department or agency thereof, knowing such claim to be false, fictitious, or fraudulent, shall be fined not more than \$10,000 or imprisoned not more than 5 years, or both;
 - (2) Rehabilitation Act of 1973, as amended, (29 U.S.C. 793), Executive Order No. 11758, Jan. 15, 1974, and the regulations of the Secretary of Labor (41 CFR Part 60-741, et seq.), which concern affirmative action for handicapped workers;
 - (3) Vietnam Era Veterans Readjustment Assistance Act of 1972, 38 U.S.C. 101, 102, 240, 241, 1502, 1504, 1507, as amended, and the clauses contained in 41 CFR 60-250, et seq., concern affirmative action for disabled veterans and veterans of the Vietnam Era;
 - (4) Executive Order No. 11625, Oct. 13, 1971, and implementing regulations which concern utilization of small disadvantaged business concerns;
 - (5) Anti-Kickback Act, 41 U.S.C. 51 et seq.; and
 - (6) Privacy Act of 1974, 5 U.S.C. 552a.

- (b) The Contractor agrees to comply with requirements deemed necessary by Bonneville in order to implement Bonneville's obligations under the National Historic Preservation Act of 1966, 16 U.S.C. 470 et seq. (1982).

IN REFERENCE TO COST SHARE ARRANGEMENTS

27. Cost Share Arrangements.

Eligibility.

- (a) Metered Requirements Customers are eligible for participation in Bonneville's conservation programs without reduction in conservation payments.
- (b) Actual or Planned Computed Requirements Customers are eligible for participation in Bonneville's conservation programs without reduction in conservation payments when:
- (1) the Customer requests full participation; and
 - (2) the Area Manager determines that energy conservation in the service area of that customer would reduce Bonneville's obligation to serve firm load in the region.
- (c) If the Area Manager cannot ensure with confidence that conservation in an Actual or Planned Computed Requirements Customer service area fully acts to reduce Bonneville's obligation to serve firm load in the region, the customer may request, and the Area Manager may negotiate, a resolution of the issue that results in benefits to Bonneville at least equal to the cost to Bonneville of the conservation savings to be acquired.
- (d) In general, no payment will be made for acquisition of conservation in the service area of Contracted Computed Requirements Customers. Bonneville will consider proposals where Contracted Computed Requirements Customers can demonstrate that conservation in their service area reduces Bonneville's obligation to serve firm load in the region, or brings other benefits to Bonneville, in spite of their contractual status with Bonneville. In these cases, the customer utility may request, and the Area Manager may negotiate, a conservation payment not to exceed Bonneville's benefits from the conservation.
- (e) Area Managers will make their determination under this section annually, by September 1 of each year, prior to Bonneville's Fiscal Year for which the determination is being made, except that the determination for Fiscal Year 1993 shall be made by May 1, 1993. This determination shall be provided in writing, prior to the beginning of the Fiscal Year for which the determination is made, or as soon thereafter as is possible.

- (f) If Bonneville revises its policy on eligibility for participation under its Conservation programs, this Agreement may be unilaterally amended by Bonneville to effect the change in the policy. Such policy changes include, but are not limited to, revising the cost share provisions. Such policy changes may result in the Customer becoming ineligible, in part or in whole for participation in Bonneville's Conservation program.

Effective Date and Transition Procedures

- (g) Unless determined otherwise by the Area Manager, the effective date of Section 27 will be October 1, 1992.
- (h) Non-Residential Agreements.
These cost share provisions will apply retroactively to all agreements between Bonneville and non-residential end-use consumers, and between utilities and their non-residential end-use consumers, which were signed on or after October 1, 1992.
- (i) Residential Agreements.
Computed requirements customers found eligible for Bonneville payments pursuant to section 27(e) above, and metered requirements customers previously subject to a cost share requirement, shall choose one of the two following options of implementing these cost share arrangements for all of their Bonneville-funded residential programs, except the Appliance Efficiency Program.
- (1) Under option one, utilities can choose to do dual tracking. Work begun under utility/residential end-use consumer agreements signed prior to October 1, 1992, will be eligible for payments reduced by the cost share percentage in effect prior to October 1, 1992. (See section 27(1)(4) below.) Work begun under similar agreements signed after October 1, 1992, would be eligible for payments under these cost share provisions. If this option is chosen, the utility shall work with the Area or District program representatives to ensure adequate recordkeeping is maintained.
- (2) Under option two, the Administrative Simplicity Option, duplicate invoicing would be avoided. The utility would pay the cost share in effect prior to October 1, 1992, for work completed and invoiced during the first quarter of Fiscal Year 1993. Work completed and invoiced after January 1, 1993, would be subject to these cost share provisions.
- (j) Appliance Efficiency Program Agreements.
Payments under these cost share provisions will be made by Bonneville for all Appliance Efficiency Program (Residential Conservation Agreement Exhibit G) costs invoiced to Bonneville which were incurred on or after October 1, 1992.

(k) Administrative and Other Nonincentive Payments.

All otherwise reimbursable administrative, marketing, training and other costs incurred on or after October 1, 1992, will be reimbursed for utilities found eligible for Bonneville payments in sections 27(a) through 27(e) above.

(1) Bonneville/end-use consumer or utility/end-use consumer agreements signed prior to October 1, 1992, and not otherwise covered by sections 27(g) through 27(k) above, are subject to the following cost share provisions:

(1) Bonneville shall determine the Bonneville cost share percentage for the electrical service area of each Electric Utility, based on the Bonneville load percentage calculated in accordance with section 27(1)(2) below.

(2) The Bonneville load percentage shall be the percentage produced by dividing the Actual Firm Bonneville Load for each Electric Utility by its Actual Firm Load. The load information used to make such determination shall be for the period of August 1 through the following July 31 prior to the Fiscal Year for which the determination is being made.

(3) The qualifying Bonneville load percentage calculated in accordance with section 27(1)(2) above will be rounded to the nearest whole number for the purpose of identifying the appropriate Bonneville cost share percentage shown in the table in section 27(1)(4) below.

(4) Cost Share Percentage

| <u>Bonneville Load Percentage</u> | <u>Bonneville Cost Share Percentage</u> |
|---|---|
| Equal to or Greater Than 0% <u>and</u> Less Than 1% | 0% |
| Equal to or Greater Than 1% <u>and</u> Less Than 40% | 75% |
| Equal to or Greater Than 40% <u>and</u> Less Than 60% | 85% |
| Equal to or Greater Than 60% <u>and</u> Less Than 80% | 90% |
| Equal to or Greater Than 80% <u>and</u> Less Than 90% | 95% |
| Equal to or Greater Than 90% | 100% |

(VS10-PMCE--1840)

ENERGY SAVINGS PLAN ACQUISITIONS

1. Bonneville shall have the right to unilaterally amend this Exhibit.
2. This Exhibit contains the information that is needed to participate in the Energy Savings Plan Program:
 - Item 1. Energy Savings Plan Acquisition Procedures
 - Item 2. Project Proposal Requirements
 - Item 3. Completion Report Requirements
 - Item 4. Estimated Acquisition Payment Calculations
 - Item 5. Additional Energy Savings Verification Report
 - Item 6. Progress Payment Calculation Sheet

**ITEM 1
ENERGY SAVINGS PLAN ACQUISITION PROCEDURES**

In the event the Contractor chooses to implement the acquisition part of the Energy Savings Plan Program, the Contractor shall follow the procedures identified below:

1. Project Eligibility.

- (a) The Contractor shall ensure that any Project meets the requirements specified in Item 1 of Exhibit F.
- (b) If the Contractor has determined, pursuant to Item 3 of Exhibit F, that the proposed Project is not categorically excluded for environmental purposes, then Bonneville agrees to work with the Contractor to determine the appropriate level of environmental documentation required in accordance with the National Environmental Policy Act. If a determination is made by Bonneville that a proposed Project may have significant environmental impacts, then that Project may be ineligible for funding under this Agreement.
- (c) Bonneville will not acquire Energy Savings in excess of the amount of firm electric energy which was purchased from the Contractor's Electric Utility for use by the Contractor during the 12-month period prior to Bonneville's Receipt and Acceptance of the Project Proposal, unless otherwise approved by Bonneville.
- (d) Approval of a Project is subject to availability of funding.

2. Project Procedures.

- (a) Bonneville accepts no responsibility for costs incurred by the Contractor until Bonneville has approved a Project Proposal in writing.
- (b) The Contractor shall send the proposal(s) containing the information required in Item 2 of this Exhibit to the representative specified in Section 13 of the Agreement.
- (c) Bonneville shall notify the Contractor in writing within 30 days of receipt of the proposal of the outcome of the review of the proposal.
- (d) If Bonneville approves the Project within the Project Proposal for funding, then the Contractor can proceed with installation of the Project in accordance with the Project Proposal.
- (e) If the proposal is not approved, the Contractor may resubmit the proposal after correcting the deficiencies. Within 15 days, Bonneville will notify the Contractor of the outcome of the

resubmitted proposal. If the initial or resubmitted proposal is determined by Bonneville to be unacceptable and cannot be corrected, or if the proposal is not resubmitted within 60 days of being disapproved, Bonneville will not be obligated to fund the Project(s) within the proposal.

3. Project Installation.

- (a) The Contractor shall notify Bonneville within 15 days following the installation of the Project, unless otherwise agreed. Bonneville reserves the right to visit the project site during installation.
- (b) The Contractor shall submit a Completion Report prepared in accordance with Item 3 of this Exhibit within 30 days following the verification of the Energy Savings for the Project unless otherwise agreed.
- (c) Bonneville shall notify the Contractor in writing within 30 days of receipt of the Completion Report of the outcome of the review of the Completion Report.
- (d) If the Completion Report is approved, an inspection will be performed in accordance with Section 4, Item 1 of this Exhibit (Inspection).
- (e) If the Completion Report is not approved, the Contractor may resubmit the Completion Report after correcting the deficiencies. Bonneville will notify the Contractor within 15 days of receipt of the resubmitted Completion Report of the outcome of the review of the resubmitted Completion Report. If the Completion Report is not resubmitted within 60 days, Bonneville will not be obligated to fund the Project.
- (f) If Bonneville determines that the Completion Report is unacceptable and cannot be modified, then Bonneville will:
 - (1) Not be obligated to fund the Project.
 - (2) Bill the Contractor, if applicable, for an amount equal to any Progress Payment made. Payment will be due 30 days from the date of the bill. If payment is not received by the scheduled due date, interest will accrue on the amount due from the scheduled due date to the date paid at the higher of the Department of Treasury's Current Value of Funds Rate or the Bonneville Cost of Borrowing Rate.

4. Inspection.

- (a) Bonneville will schedule an inspection of the Project within 30 days of Receipt and Acceptance of the Completion Report or another date as agreed.

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(b) If Bonneville determines, following the inspection, that the Project is not installed in accordance with the Project Proposal, Bonneville shall notify the Contractor in writing of such inconsistency within 15 calendar days of such inspection.

(1) The Contractor shall make necessary corrections within 60 calendar days, or by another date as agreed.

(2) After Bonneville has been notified that such inconsistencies have been corrected, it shall reinspect the Project.

(3) If the Contractor does not correct all such inconsistencies within the period provided, or the inconsistencies cannot be corrected, Bonneville will:

(A) Not be obligated to fund the Project.

(B) Bill the Contractor, if applicable, for an amount equal to any Progress Payment made. Payment will be due 30 days from the date of the bill. If payment is not received by the scheduled due date, interest will accrue on the amount due from the scheduled due date to the date paid at the higher of the Department of Treasury's Current Value of Funds Rate or the Bonneville Cost of Borrowing Rate.

(4) If all such inconsistencies have been corrected as determined by Bonneville, then the provisions of Section 4(c) of this Exhibit shall apply.

(c) If Bonneville determines, following the inspection, that the Project is installed in accordance with the Project Proposal, Bonneville shall issue written notification to the Contractor within 15 calendar days of the inspection.

(d) Within 30 calendar days of receipt of the notification in Section 4(c) above, or another date as agreed, the Contractor shall submit an invoice to Bonneville in the format provided in Exhibit E.

(e) Following Receipt and Acceptance of a proper invoice, Bonneville shall pay the Contractor pursuant to Section 9 of this Agreement.

(f) Bonneville's review and inspection for the purposes of this Agreement shall not be construed as endorsement of the environmental, health or safety conditions present.

5. Progress Payment.

(a) A Progress Payment of up to 50% (exact percentage to be determined by Bonneville) of the Estimated Acquisition Payment specified in the approved Project Proposal may be allowed after a Project has been installed, if the time required to complete the Energy Savings Verification is greater than 3 months following Project installation.

- (b) If the Contractor desires a Progress Payment, the Contractor shall submit a written request to the Bonneville representative identified in Section 13 of this Agreement.
- (c) Within 15 days of receipt of the Contractor's request for a Progress Payment, Bonneville shall inspect the Project installation. If Bonneville determines that the Project is installed in accordance with the Project Proposal, Bonneville shall issue written notification to the Contractor within 7 days after the inspection as to the outcome of the inspection. This written notification shall indicate approval or disapproval of the request for a Progress Payment and shall state the specific Progress Payment percentage that has been authorized for this Project.
- (d) Within 15 days of receipt of the written notification of approval of the Progress Payment, the Contractor shall submit a Progress Payment Calculation Sheet (Item 6) and an Invoice (Exhibit E) to the Bonneville representative identified in Section 13 of this Agreement.
- (e) Upon Receipt and Acceptance of a proper invoice, Bonneville shall pay the Contractor a Progress Payment pursuant to Section 9 of this Agreement.

6. Additional Energy Savings Verification Report.

If the Actual Project Acquisition Payment equals or exceeds \$300,000, the Contractor shall be required to perform an additional Energy Savings Verification (Persistence Check) one year from the date of the Completion Report approval utilizing the format described in Item 5 of this Exhibit. No additional Acquisition Payment will be made for this Persistence Check verification. This Additional Energy Savings Verification Report shall be sent to the Bonneville representative identified in Section 13 of this Agreement.

ITEM 2
PROJECT PROPOSAL REQUIREMENTS

The Project Proposal shall contain the following information:

1. Contractor's Name and Address.
2. *Bonneville Contract Number and Bonneville Procurement Number.*
3. Date of Submittal.
4. Title of Proposed Project.
5. Standard Industrial Classification (SIC).
6. Detailed description of the proposed Project. Describe in detail for each energy conservation measure the existing equipment, systems, processes, and the product or service of the facility and how the proposed Measure(s) will modify it. Include a block/flow diagram for both before and after the modifications. Single composite diagram(s) showing the installation both before and after are encouraged. Include any land acquisitions or development required and estimates of changes in system output.
7. Energy Savings Estimate for each Project. Calculate the annual Baseline Energy Use and the estimated annual Energy Savings for each Measure proposed. The Energy Savings is the difference between the Baseline Energy Use and the energy use with the Measure installed. Briefly explain how the estimate was derived (e.g., theoretical calculations, field measurements, manufacturer's data) and what assumptions were made in determining the annual Energy Savings estimate. Discuss interactive effects between proposed Measures and if applicable, what effect they will have on the Energy Savings. Calculations should be clear and easy to follow. State the number of years the energy savings are expected to persist for each Measure.

In the case of retrofit Projects involving existing facilities, the Baseline Energy Use and the energy use with the Measure installed shall be measured directly or developed directly from measured electrical energy consumption and production data.

In the case of New Facilities and expansions, the Baseline Energy Use shall be determined by engineering analysis. The Baseline Energy Use shall reflect standard practice in the industry as approved by Bonneville. The energy use with the Measure installed shall be measured directly or developed directly from measured electrical energy consumption and production data. In cases where measuring of electrical energy use is not practical, the energy use may be determined by engineering analysis when approved by Bonneville.

8. Estimated Project Cost. Project Cost includes the costs associated with a project that increase electrical energy efficiency and result in Energy Savings as determined from a baseline. All customary and usual costs incurred to implement the project are included. (Also see "Project Cost" under the "Definitions" Section of this Agreement.) Operation and maintenance costs, depreciation, profit (margin), and other typically annual costs are not to be included in Project Cost. Non-energy related costs such as increased capacity are not to be included in Project Cost.

In the case of retrofit Projects involving existing facilities, the baseline cost is zero. The Project Cost includes all customary and usual costs incurred to implement the Project as defined above.

In the case of New Facilities, planned replacements or expansions, the Project Cost is the Incremental cost between the baseline cost and the cost with the project installed. The baseline cost is the cost of the less efficient equipment the Contractor would install in lieu of the more electrically-efficient equipment installed because of the program. The baseline cost shall be similar to what is standard and customary for the industry. The Project Cost is the difference between the baseline cost and the costs incurred to implement the Project.

9. Estimated Acquisition Payment Calculation, using estimated Project Cost and estimated Energy Savings pursuant to Item 4 of this Exhibit. Note: If the Acquisition Payment equals or exceeds \$300,000, the Contractor shall be required to perform an additional Energy Savings Verification one year from the date of the Completion Report approval. (See Item 5 of this Exhibit.)
10. Detailed description of methodology to be used to verify Energy Savings by Measure. If a second verification is required (see Line 9 above), describe the methodology to be used for this verification.
11. Estimated Project installation schedule and estimated completion date.
12. Environmental Effects Information Sheet and Applicable Environmental Permits pursuant to Item 2 of Exhibit F.
13. The Environmental Review Requirements pursuant to Item 3 of Exhibit F.
14. Utility Billing History. A copy of the utility billing history for the Contractor for 1 year prior to the installation of each Project.

ITEM 3
COMPLETION REPORT REQUIREMENTS

After the Contractor has completed inspection of the Project, a Completion Report shall be submitted by the Contractor to Bonneville. The report shall be written in the following format and sent to the Bonneville representative specified in Section 13 of this Agreement.

1. Name and Full Address of Contractor.

2. Date of Submittal.

3. Title of Project.

4. Description of the Completed Project.

Include a description of each Measure, a list of the equipment which was installed, and the electrical energy efficiency improvement accomplished. Describe any changes made to the Project Proposal and their impact, if any, on Energy Savings and Project Cost.

5. Energy Savings Verification.

The Contractor shall complete and document the results of the Energy Savings Verification as described in the Project Proposal. Describe any changes made from the verification methodology described in the Project Proposal and the reason for such changes.

6. Actual Cost and Acquisition Payment Calculations.

The Contractor shall complete pages B10 through B12 of this Exhibit for each Project and include them in the Completion Report.

7. Comments and Recommendations.

Provide a critique of the Project to identify possible improvements in equipment or procedures for similar projects.

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8. Certification by Contractor.

Acting as a duly authorized representative of the Contractor, I certify that the Project has been installed in accordance with the Project Proposal, that each Measure is operating, and that the Energy Savings amount derived from the Energy Savings Verification completed in accordance with Section 5 of this Item 3 is reasonable, based on generally accepted and customary engineering practice.

SOLVAY INTEROX

By: _____

Name: _____

(Print/Type)

Title: _____

Date: _____

ACTUAL PROJECT COSTS ^{*/}

1. Name and Address of Contractor:
2. Date of Submittal:
3. Title of Project:
4. Energy Review Cost: (If Energy Review costs have already been reimbursed, check "e." below and do not fill in the Energy Review costs in this section.)
 - a. Scoping: \$ _____
 - b. Analysis: \$ _____
 - c. Proposal Preparation: \$ _____
 - d. Other (specify): \$ _____
 - e. Energy Review Costs Have Been Previously Reimbursed
5. Contractor Costs. List sales tax, where appropriate. Include invoices from consultants, suppliers of major pieces of equipment, and installers. (Add additional pages, if needed)
 - a. Solely-allocated, Project-specific Administration Costs: \$ _____
 - b. Contractor Engineering Design Costs (Proposal preparation if not included as part of Energy Review):

| <u>Job Title</u> | <u>Hourly Rate</u> | <u>Hours</u> | <u>Cost</u> |
|------------------|--------------------|--------------|-------------|
| _____ | | | \$ _____ |
| _____ | | | \$ _____ |
 - c. Subcontractor Engineering Design Costs (Proposal preparation if not included as part of Energy Review):

| <u>Job Title</u> | <u>Hourly Rate</u> | <u>Hours</u> | <u>Cost</u> |
|------------------|--------------------|--------------|-------------|
| _____ | | | \$ _____ |
| _____ | | | \$ _____ |

^{*/} If Project Proposal contains multiple Measures, report costs for each Measure separately.

- d. Equipment:
Type _____ \$ _____
 - e. Equipment Installation Costs (contracted and/or in-house):
Type _____ \$ _____
 - f. Equipment Removal or Abandonment-In-Place Costs:
Type _____ \$ _____
 - g. Instrumentation and Data Collection Costs (needed to verify Energy Savings):
Type _____ \$ _____
 - h. Permit or Inspection Fees:
Type _____ \$ _____
6. TOTAL PROJECT COSTS: \$ _____

ACTUAL ACQUISITION PAYMENT CALCULATIONS

Name of Contractor: _____

Project Title: _____

1. Existing Facilities:

a. Actual Project Cost: \$ _____

b. Line 1a × 80%: \$ _____

2. New Facilities:

a. Actual Incremental Cost: \$ _____

b. Line 2a × 100%: \$ _____

3. Total Energy Savings: (from Completion Report)

a. Existing Facilities: _____ kWh

b. New Facilities: _____ kWh

4. Acquisition Rate:

a. Existing Facilities: _____ 15 ¢/kWh

b. New Facilities: _____ 18 ¢/kWh

5. Acquisition Payment Calculation:

a. Existing Facilities: Line 3a × 4a: \$ _____

b. New Facilities: Line 3b × 4b: \$ _____

6. Acquisition Payment Comparison:

a. Existing Facilities: Lesser of Line 1b or 5a: \$ _____

b. New Facilities: Lesser of Line 2b or 5b: \$ _____

c. Combined Total: Line 6a + 6b: \$ _____

7. Cost Share Percentage: _____ %

8. Total Acquisition Payment (Line 6c × Line 7): \$ _____

9. Progress Payment (from Item 6, Line 6, this Exhibit): \$ _____

10. Balance Due (Line 8 - Line 9): \$ _____

ITEM 4
ESTIMATED ACQUISITION PAYMENT CALCULATIONS

This page is to be included in the Project Proposal only (see Item 2, Exhibit B).

| | |
|---|----------------|
| Name of Contractor: | |
| Project Title: | |
| 1. Existing Facilities: | |
| a. Estimated Project Cost: | \$ _____ |
| b. Line 1a × 80%: | \$ _____ |
| 2. New Facilities: | |
| a. Estimated Incremental Cost: | \$ _____ |
| b. Line 2a × 100%: | \$ _____ |
| 3. Estimated Annual Energy Savings: | |
| a. Existing Facilities: | _____ kWh |
| b. New Facilities: | _____ kWh |
| 4. Acquisition Rate: | |
| a. Existing Facilities: | _____ 15 ¢/kWh |
| b. New Facilities: | _____ 18 ¢/kWh |
| 5. Estimated Acquisition Payment Calculation: | |
| a. Existing Facilities: Line 3a × Line 4a: | \$ _____ |
| b. New Facilities: Line 3b × Line 4b: | \$ _____ |
| 6. Base Acquisition Payment Comparison: | |
| a. Existing Facilities: Lesser of Line 1b or 5a: | \$ _____ |
| b. New Facilities: Lesser of Line 2b or 5b: | \$ _____ |
| c. Combined Total: Line 6a + 6b: | \$ _____ |
| 7. Cost Share Percentage: | _____ % |
| 8. Estimated Acquisition Payment (Line 6c × Line 7): | \$ _____ |

ITEM 5
ADDITIONAL ENERGY SAVINGS VERIFICATION REPORT

If the Actual Project Acquisition Payment equals or exceeds \$300,000, the Contractor shall be required to perform an additional Energy Savings Verification (Persistence Check) one year from the date of the Completion Report approval. The additional Energy Savings Verification shall be performed in accordance with the verification methodology approved in the Project Proposal or another method as mutually agreed upon.

1. Contractor's Name and Address:
2. Project Title:
3. Date of Completion Report Approval:
4. Verified Energy Savings from Completion Report:
5. Date of Submittal of this Report:
6. Actual verified Energy Savings Reported during this Persistence Check:
7. Additional Comments/Explanations/Documentation:

CONTRACTOR'S SIGNATURE

Name: _____

Title: _____

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ITEM 6
PROGRESS PAYMENT CALCULATION SHEET*

- 1. Name of Contractor: _____
- 2. Project Title: _____
- 3. Estimated Acquisition Payment (from Item 4, Line 8, this Exhibit): \$ _____
- 4. Line 3 × _____ (percentage determined by Bonneville):
(See Item 1, Section 5(c) of this Exhibit) \$ _____
- 5. Bonneville Cost Share Percentage: _____ %
- 6. Progress Payment due the Contractor (Line 4 × Line 5): \$ _____

*/ Submit a Progress Payment Calculation Sheet for each Project for which a Progress Payment is being requested.

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ENERGY REVIEWS

1. Bonneville shall have the right to unilaterally amend this Exhibit.
2. This Exhibit contains the information that is needed to complete an Energy Review under this Agreement:
 - Item 1. Energy Review Procedures
 - Item 2. Energy Review Components and Proposal
 - Item 3. Energy Review Payment Calculation
 - Item 4. Breakdown of Actual Energy Review Costs

ITEM 1
ENERGY REVIEW PROCEDURES

In the event the Contractor chooses to undergo an Energy Review, the Contractor shall follow the procedures identified below:

1. General.

- (a) The Energy Review may consist of any combination of the three components defined in Section 1 of Item 2 of this Exhibit. The Contractor shall ensure that any Energy Review performed in accordance with this Exhibit provides for the information described in Item 2 of this Exhibit.
- (b) The Contractor understands and agrees that, although an Energy Review may be broad in scope, Bonneville will pay only for Energy Review costs which identify and analyze Projects which are eligible or appear to be eligible for funding under this Agreement.
- (c) The Contractor shall ensure, to the extent multiple Projects are identified in the Energy Review, and to the extent practicable, that the Baseline Energy Use, the estimated Energy Savings and the estimated Project Cost for each such Project are separately identified.
- (d) Approval of an Energy Review is subject to availability of funding.

2. Energy Review Proposal.

- (a) When the Contractor desires an Energy Review, the Contractor shall prepare and submit, to the representative specified in Section 13 of this Agreement, an Energy Review Proposal prepared in accordance with Item 2 of this Exhibit.
- (b) Within 15 days of Bonneville's Receipt and Acceptance of an Energy Review Proposal, Bonneville will review the proposal and provide written notification to the Contractor of its decision.
- (c) Upon Bonneville's notification that it will fund a requested Energy Review, the Contractor may proceed with that Energy Review. Such Energy Review shall be performed in a manner consistent with the terms and conditions of Section 1(b) above.
- (d) If Bonneville determines that an Energy Review Proposal is unacceptable, then the Contractor shall have 60 days, or another date as agreed, to correct deficiencies, and resubmit the Energy Review Proposal. Pursuant to subsections 2(b) and (c) above, Bonneville will review the resubmitted request. Bonneville may reject an Energy Review Proposal for funding if the request is, or remains unacceptable.

3. Completed Energy Review.

- (a) Within 60 days following the completion of the Energy Review, unless otherwise agreed, the Contractor shall submit the following to Bonneville:
 - (1) The Energy Review Payment Calculation and Breakdown of Actual Energy Review Costs as specified in Item 3 and Item 4 of this Exhibit.
 - (2) A copy of the completed Energy Review.
- (b) Bonneville will review the documents submitted pursuant to Section 3(a) above within 30 days, unless otherwise agreed, and shall notify the Contractor in writing of the outcome of the review.
- (c) If Bonneville determines that the documents submitted in accordance with Section 3(a) above are not prepared in accordance with the terms of this Agreement, then the Contractor shall, within 30 days, or another date as agreed, make the necessary changes.
 - (1) After making the necessary changes, the Contractor shall resubmit the documents for Bonneville's review.
 - (2) Bonneville will review the documents submitted pursuant to Section 3(c)(1) above within 30 days and will notify the Contractor in writing of the outcome of the review.
 - (3) If Bonneville accepts the documents submitted in accordance with Section 3(c)(1) above, then the provision of Section 3(e) below will apply.
- (d) If Bonneville determines that the documents submitted in accordance with Sections 3(a) or 3(c)(1) above are unacceptable and cannot be modified, then Bonneville will not be obligated to fund the Energy Review, or the Project/Projects identified in the Energy Review.
- (e) Following Receipt and Acceptance by Bonneville of the documents submitted pursuant to Section 3(a) or 3(c)(1) above, Bonneville shall notify the Contractor. Within 30 calendar days of receipt of this notification, or another date as agreed, the Contractor shall submit an invoice to Bonneville in the format provided in Exhibit E. Following Receipt and Acceptance of a proper invoice, Bonneville shall authorize payment to the Contractor pursuant to Section 9 of this Agreement.

ITEM 2
ENERGY REVIEW COMPONENTS AND PROPOSAL

1. The Energy Review may consist of any combination of the following three components:

a. Scoping.

A preliminary walk-through of the facility to identify potentially eligible electrical energy opportunities. This is not meant to be an in-depth analysis.

b. Analysis.

Determination of the electrical energy savings estimates, interactive and process effects, estimated costs, and eligibility of Project per this Agreement. The Energy Review Analysis should contain at a minimum:

- (1) Qualitative description of each Project.
- (2) Quantitative analysis of electrical Energy Savings (show calculations).
- (3) Quantitative analysis of cost savings (show calculations).
- (4) References for equipment costs.
- (5) Discussion of significant interactive effects between each Measure and other equipment or processes involved with the proposed Measure(s) (minimal analysis of such effects if needed).
- (6) Discussion of interactive effects between each Measure and other equipment and processes not involved with the Measure(s) (minimal analysis of such effects is allowed only if necessary to complete analysis of the Measure(s)).

c. Proposal Preparation:

Preparation of Project Proposal documents pursuant to Item 2 of Exhibit B.

2. The Energy Review Proposal shall contain the following:

- a. Name and Address of Contractor.
- b. Standard Industrial Classification (SIC).
- c. Estimated Energy Review Payment, using the format described in Item 3 of this Exhibit.

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- d. Entity that will be performing the Energy Review.
- e. Description of Energy Review to be performed.
- f. Estimated Energy Review Completion Schedule.
- g. Date of Submittal.

**ITEM 3
 ENERGY REVIEW PAYMENT CALCULATION**

1. Name of Contractor: _____
2. Name and Address of Facility: _____

3. Annual Energy Usage:
 For existing facilities, use the actual electrical energy usage during the past 12 months. For new and expanding facility, use the estimated annual electrical energy usage for the first complete 12 months following the Project completion. _____ kWh
4. Total Energy Review Funding Available for this Facility:
 For facilities using more than 10,000,000 kWh annually enter (Line 3 × \$0.0005) not to exceed \$50,000.
 For facilities using less than 10,000,000 kWh annually, enter \$5,000^{1/}. \$ _____
5. Bonneville Cost Share Percentage: _____ %
6. Amount Previously Claimed for this Facility: \$ _____
7. Maximum Funding Currently Available (Line 4 - Line 6):
 (If less than zero, enter 0) \$ _____
8. Actual Energy Review Cost (Attach Item 4, Exhibit C): \$ _____
9. Energy Review Payment (Lesser of Line 7 or Line 8): \$ _____
10. Energy Review Payment Due the Contractor:
 (Line 9 × Line 5) \$ _____

^{1/}If Bonneville has authorized an amount that exceeds this calculation enter that amount here.

ITEM 4
BREAKDOWN OF ACTUAL ENERGY REVIEW COSTS

Fill in the actual costs incurred for those Energy Review services which were provided. Attach to Item 3 of this Exhibit C when submitting Item 3 for review.

1. Name of Contractor: _____

2. Name and Address of Facility: _____

3. Actual Cost for Scoping all Measures Identified: \$ _____
(If costs are claimed here, attach Scoping report)

4. Actual Cost for the Analysis of Selected Measures: \$ _____
(If costs are claimed here, attach Analysis report)

Measure 1: _____ \$ _____
Measure 2: _____ \$ _____
Measure 3: _____ \$ _____
Measure 4: _____ \$ _____
Measure 5: _____ \$ _____
Measure 6: _____ \$ _____
Measure 7: _____ \$ _____
Measure 8: _____ \$ _____
Measure 9: _____ \$ _____
Measure 10: _____ \$ _____

etc. (use additional pages as needed)

Analysis Total: \$ _____

5. Actual Cost for Project Proposal Preparation: \$ _____
(If costs are claimed here, attach Project Proposal(s))

6. Total of all Actual Energy Review Costs: \$ _____

REBATES

1. Bonneville shall have the right to unilaterally amend this Exhibit.
2. The Contractor may request Rebates at any time during the term of this Agreement. This Exhibit contains the information needed to participate in the Rebate portion of the Energy Savings Plan.

Item 1. Motor Rebate Procedures

Item 2. Motor Rebate Payment Calculation

Item 3. Table for Determination of Motor Rebate

ITEM 1
MOTOR REBATE PROCEDURES

1. Each high-efficiency electric motor for which a Motor Rebate is paid shall meet the efficiency standards of Item 3 of this Exhibit.
2. Motors which qualify for a Rebate may be purchased anywhere, but shall be installed or placed in inventory by the Contractor and be physically present.
3. Rebates will not be available for motors used in irrigation pumping if the Contractor is participating in Bonneville's WaterWise Irrigation Program.
4. The Contractor shall submit the following documents to the Bonneville representative identified in Section 13 of the Agreement:
 - (a) A copy of the Motor Rebate Payment Calculation Sheet (Item 2 of this Exhibit).
 - (b) A copy of the proof of purchase (receipt/invoice).
 - (c) An invoice prepared in accordance with the format in Exhibit E.
5. Following Receipt and Acceptance of the documents submitted pursuant to Section 4 above, Bonneville shall authorize payment to the Contractor and shall pay the Contractor pursuant to Section 9 of this Agreement.
6. Motor Rebates are subject to availability of funding.

ITEM 3
 TABLE FOR DETERMINATION OF MOTOR REBATE

1. To qualify for a Rebate, the motor shall meet the efficiency standards identified in the table below as determined using the IEEE Method B test at full load.

| <u>HP</u> | <u>KW</u> | <u>RPM</u> <u>IEEE 112B Efficiency</u> | | | | <u>Max. Rebate Per Motor</u> |
|-----------|-----------|---|-------------|-------------|-------------|--|
| | | <u>900</u> | <u>1200</u> | <u>1800</u> | <u>3600</u> | |
| 3 | 2.3 | 84.0 | 87.5 | 87.5 | 86.0 | \$30 |
| 5 | 3.8 | 85.5 | 88.0 | 88.0 | 87.5 | 50 |
| 7.5 | 5.6 | 87.5 | 89.5 | 89.5 | 88.5 | 75 |
| 10 | 7.5 | 88.5 | 90.2 | 91.0 | 90.2 | 100 |
| 15 | 11.2 | 89.5 | 91.0 | 92.0 | 91.0 | 113 |
| 20 | 15.9 | 90.2 | 91.7 | 93.0 | 91.7 | 150 |
| 25 | 18.8 | 91.0 | 92.4 | 93.5 | 92.0 | 188 |
| 30 | 22.5 | 91.0 | 93.0 | 93.6 | 92.4 | 225 |
| 40 | 30.0 | 91.7 | 93.6 | 94.1 | 93.0 | 300 |
| 50 | 37.5 | 92.4 | 93.6 | 94.1 | 93.0 | 375 |
| 60 | 45.0 | 93.0 | 93.9 | 94.5 | 93.6 | 450 |
| 75 | 56.3 | 93.0 | 94.5 | 95.0 | 94.1 | 563 |
| 100 | 75.0 | 93.0 | 94.5 | 95.0 | 94.5 | 750 |
| 125 | 93.8 | 94.5 | 94.5 | 95.4 | 94.5 | 938 |
| 150 | 112.5 | 94.5 | 95.0 | 95.4 | 94.5 | 975 |
| 200 | 150.0 | 94.5 | 95.0 | 95.4 | 95.0 | 1,300 |
| 250 | 187.5 | 94.5 | 95.1 | 95.5 | 95.1 | 1,625 |
| 300 | 225.0 | 94.5 | 95.3 | 95.7 | 95.3 | 1,950 |
| 350 | 262.5 | 94.5 | 95.4 | 95.8 | 95.4 | 2,275 |
| 400 | 300.0 | 94.5 | 95.4 | 95.8 | 95.4 | 2,600 |
| 450 | 337.5 | 94.5 | 95.5 | 95.9 | 95.5 | 2,925 |
| 500 | 375.0 | 94.5 | 95.6 | 96.0 | 95.6 | 3,250 |

2. Due to the 1994 Washington State non-residential code which takes effect April 1, 1994, certain motors may not be eligible for a rebate, when installed in Washington State after this date. For additional information, contact the Bonneville representative identified in Section 13 of this Agreement.

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 Solvay Interox
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 the Effective Date

Invoice No. _____

INVOICE FORMAT

Directions: Photocopy and complete the following information.

1. CONTRACTOR NAME _____ CONTRACT/PROCUREMENT NUMBERS _____

TAX IDENTIFICATION NUMBER: _____

2. CONTRACTOR BANK IDENTIFICATION _____

Full name and address of Contractor's bank _____

Bank account number _____

American Bankers Association 9-digit routing number _____

3. PAYMENT _____

Payments requested by type:

| | | |
|---|----------|----------|
| a. ESP Acquisition Payment (Attach Item 3, Exhibit B) | \$ _____ | |
| b. Progress Payment (Attach Item 6, Exhibit B) | \$ _____ | |
| c. Energy Review Payment (Attach Item 3, Exhibit C) | \$ _____ | |
| d. Motor Rebate Payment (Attach Item 2, Exhibit D) | \$ _____ | |
| TOTAL PAYMENT REQUESTED (3a + 3b + 3c + 3d) | | \$ _____ |

4. CERTIFICATION BY CONTRACTOR _____

Acting as a duly authorized representative of the Contractor, I hereby certify that the information contained in the attached documents and the amount requested on this invoice is true, correct, and complete.

Signature _____

Title _____

Date _____

5. CERTIFICATION BY BONNEVILLE _____

I certify that the invoice is correct, the terms of the Agreement have been complied with, and the payment is authorized.

Signature _____ Date _____
 Bonneville Power Administration
 Contracting Officer's Technical Representative

| | | | |
|-----------|------------|-----------------|-----------------|
| ORG _____ | OBJ _____ | | |
| ACT _____ | PL-6 _____ | AMOUNT \$ _____ | PROJECT # _____ |
| | PL-6 _____ | AMOUNT \$ _____ | PROJECT # _____ |

REFERENCED DOCUMENTS

1. Bonneville shall have the right to unilaterally amend this Exhibit.
2. The following Bonneville documents are hereby incorporated by reference into the Agreement:
 - Item 1. Project Eligibility Criteria and Project Requirements
 - Item 2. Environmental Effects Information Sheet and Applicable Environmental Permits
 - Item 3. Environmental Review Requirements
 - Item 4. Historic Preservation Implementation Guidelines
 - Item 5. Environmental, Health, and Safety Requirements
Lighting and Lighting Controls
 - Item 6. Handling and Disposal of PCB-Laden Light Ballasts
 - Item 7. Proprietary Information Designation Procedures

ITEM 1
PROJECT ELIGIBILITY CRITERIA AND PROJECT REQUIREMENTS

1. The following criteria must be met in order for a Project to be eligible for Energy Savings Plan acquisitions.
 - (a) The Contractor is not receiving funding from other Bonneville or Federally funded programs for the same Project or portion of the Project, unless otherwise approved by Bonneville.
 - (b) Equipment to be upgraded as part of a Project must be capable of operating. Equipment off line for routine maintenance or repair is eligible provided an acceptable Baseline Energy Use for determining Energy Savings can be established. Equipment that has been retired in place is ineligible unless it is being renovated for installation in New Facilities and provided that a method acceptable to Bonneville for determining Baseline Energy Use and Energy Savings can be established.
 - (c) The Project complies with the Historic Preservation guidelines identified in Item 4 of this Exhibit for each Project funded under this Agreement.
 - (d) The Project complies with all applicable Federal, State, and local laws, codes, and regulations.
2. The Project must meet the following requirements:
 - (a) Project installation shall not begin prior to the effective date of this Agreement.
 - (b) The Project is not a Free Rider.
 - (c) If the Project involves lighting or lighting controls, the Project complies with the Environmental, Health and Safety Requirements - Lighting and Lighting Controls identified in Item 5 of this Exhibit.
 - (d) If the Project is for installation of power-factor improvement equipment only and is above 1,000 KVAR per site, it must be forwarded to Bonneville and receive Bonneville's approval for funding. Projects involving the installation of power-factor improvement equipment as part of another Project and required to maintain the Contractor's power factor at its pre-Project level do not require prior Bonneville approval.
 - (e) The Project will not use energy produced by solar, wind, water, geothermal, or similar source to directly reduce the electrical power requirements of the Contractor.
 - (f) The Project will not utilize Fuel Switching or Cogeneration.

ITEM 2
ENVIRONMENTAL EFFECTS INFORMATION SHEET

The Contractor shall furnish responses to Questions 1-5. This information is used by Bonneville to help determine the appropriate environmental documentation and review for a proposed Project. This information is requested under the National Environmental Policy Act, the National Historic Preservation Act, and implementing regulations.

Name and Address of Contractor: _____

Title of Project: _____

Date of Submittal: _____

- | | Yes | No | |
|----|--------------------------|--------------------------|--|
| 1. | <input type="checkbox"/> | <input type="checkbox"/> | Is any building affected by this Project 45 or more years old? (If yes, contact Bonneville for further details. A "yes" answer to this question does not mean that this Project will be eliminated from consideration; it means that coordination with the State Historic Preservation Officer may be required.) |
| 2. | <input type="checkbox"/> | <input type="checkbox"/> | Will the Project involve any construction or alterations leading to the expansion of the present building(s) or new development on a previously undeveloped area? |
| 3. | <input type="checkbox"/> | <input type="checkbox"/> | Will the Project result in or alter use/discharge/disposal of air emissions, water, solid or liquid waste? (If yes, indicate alterations and what emission sources in the Project Proposal under a separate heading.) |
| 4. | <input type="checkbox"/> | <input type="checkbox"/> | Will the Project degrade power system quality? (If yes, attach description of mitigation Measures.) |
| 5. | <input type="checkbox"/> | <input type="checkbox"/> | Will your Project involve replacement of any lighting equipment installed prior to 1978? (If yes, provide planned disposal method and location for PCB-laden light ballasts.) |

If the answer to question 2 or 3 above is Yes, the Contractor shall answer the remaining questions and provide the names and addresses of all persons and agencies consulted.

- | | Yes | No | |
|----|--------------------------|--------------------------|--|
| 6. | <input type="checkbox"/> | <input type="checkbox"/> | Will the Project require development or construction activities within the boundaries of the 100-year flood plain or will it affect wetlands (any wetted area, e.g., bogs, mud flats, swamps, potholes, ponds, river overflows?) |
| 7. | <input type="checkbox"/> | <input type="checkbox"/> | Will the Project alter present land use at or near the Project site? |

- | | Yes | No | |
|-----|--------------------------|--------------------------|---|
| 8. | <input type="checkbox"/> | <input type="checkbox"/> | Will the Project affect fish and wildlife resources? |
| 9. | <input type="checkbox"/> | <input type="checkbox"/> | Will the Project require that permits be obtained or Federal, State, or local government agencies or planning offices be notified? |
| 10. | <input type="checkbox"/> | <input type="checkbox"/> | Will the Project affect any other activities or areas besides those previously mentioned, either directly or indirectly, including environmental quality, health and safety (e.g., indoor air quality, noise, drainage, hazardous waste, toxic substances)? |

ITEM 3
ENVIRONMENTAL REVIEW REQUIREMENTS

1. Is the proposed Project categorically excluded? Yes ___ No ___

NOTE: A proposed Project is categorically excluded from further environmental review by the U.S. Department of Energy if each Measure is on the following list of proven technologies.

PROVEN TECHNOLOGIES FOR PROPOSED ENERGY CONSERVATION PROJECTS

High Efficiency Motors

Install high efficiency electric motors, replacing existing or proposed standard efficiency motors. Disposal of any PCB containing materials shall be in accordance with applicable State and Federal regulations.

Adjustable/Variable Speed Drives (ASD/VSD)

Install drives to control motor speed to the appropriate load, thus eliminating the need for regulating devices such as gear reducers, belt and pulley systems, dampers, valves, flow restrictors, etc. for tailoring speed to work output.

Energy Efficient Motor Upgrades

Repair and /or rebuild a motor as to improve its efficiency. Tasks may include replacing bearings, windings, insulation and seals.

Energy Efficient Drive Power

Install energy efficient drive devices in place of lower efficiency equipment. Examples include mechanical systems like high efficiency belts, bearings, conveyors, gearboxes and lubricants.

Heat Recovery Equipment

Install equipment to transfer heat to or from a liquid or gas and to or from an existing or proposed process which will offset electric or other fuel use.

Thermal Storage

Install equipment to store energy in the form of hot or cold fluids or mass to provide heating or cooling capacity for later use in a process.

PROVEN TECHNOLOGIES FOR PROPOSED PROJECTS
(continued)

Insulation

Install insulation to reduce heat transfer in a process. Installation may not remove or disturb asbestos containing materials. Any disposal of asbestos shall be external to this contract.

Process Heat Equipment

Install equipment or make efficiency improvements to process heating or heat distribution systems.

Upgrade of Electrolizer Cathode and Anode Tubes

Reconditioning and redesigning electrolizer cathode and anode tubes in an electro-chemical chlorine production facility to improve their conductivity and increase the efficiency of the process.

Compressed Air Systems

Install efficiency improvements such as humidity controls, compressor changeouts, improved sequencing controls, piping upgrades, reduction of air leaks, and unloaders to existing or proposed compressed air system.

Lighting

Replace or upgrade existing or proposed lighting systems to reduce electrical energy use and maintain or improve light levels and quality. Disposal of PCB containing ballasts shall be in accordance with applicable guidelines. Disposal of mercury containing lamps shall be in accordance with applicable State and Federal regulations. Also refer to Item 5 of this Exhibit.

Energy Management Systems

Reduce the energy consumption of systems by optimizing control of fluid flows, material handling, and controlled variables such as temperatures, pressures, scheduling and sequencing.

Material Handling

Upgrade material handling systems efficiency by replacing pneumatic conveyors with mechanical systems, installing high efficiency motors, installing adjustable speed drives or other Measures.

Power Factor Improvement

Install capacitors to improve power factor and reduce line losses. Disposal of any PCB containing capacitors shall be in accordance with applicable State and Federal regulations.

PROVEN TECHNOLOGIES FOR PROPOSED PROJECTS
(continued)

Cooling Tower Conversion

Install modifications to cooling towers to improve efficiency, such as conversion from counterflow to cross flow, installation of 'Strainer Cycle' operation to provide direct cooling, installation of high efficiency motors, ASD's or other fan or pump control system or larger capacity systems.

Pumps and Fans

Replace, rebuild or modify fans, compressors, blowers, pumps, impellers or fluid conveyance systems with energy saving units.

Transformers

Replace existing or proposed transformers with higher efficiency transformers. Disposal of PCB containing materials shall be in accordance with applicable State and Federal regulations.

Dehumidifiers

Replace an existing or proposed electric dehumidification system with a more energy efficient system.

Furnace Upgrades

Replace existing furnaces with more energy efficient furnaces.

Water Recycle Processes

Upgrade existing water recycle or reclaim processes to conserve electrical energy.

Refrigeration Systems

Replace existing or proposed mechanical refrigeration processes or their components with systems or components of higher energy efficiency. This may include more efficient compressor systems, motors, controls, heat exchangers, oil cooling, auto purgers, larger condensers and refrigerant upgrades. All refrigerants removed must be recovered and recycled in accordance with the Clean Air Act Amendment of 1990.

Customer System Efficiency Improvements

General transmission improvements including transformer replacement, conductor replacement, and insulator additions and replacement. Disposal of any PCB containing materials shall be in accordance with applicable State and Federal regulations.

ITEM 4
HISTORIC PRESERVATION IMPLEMENTATION GUIDELINES

Under the Programmatic Memorandum of Agreement, August 23, 1983, between Bonneville and the Advisory Council on Historic Preservation, all Projects proposed for funding by Bonneville must comply with the National Historic Preservation Act and its implementing regulations, "Protection of Historic and Cultural Properties."

1. All Projects proposed for funding by Bonneville will be reviewed in the manner described below prior to the installation of any Energy Conservation Measures (ECMs).
 - (a) All ECMs shall be available to all properties less than 45 years old (as of the date of the project proposal submittal) without need for consultation with the State Historic Preservation Officer (SHPO).
 - (b) All ECMs on the Exempt List (Attachment 1) shall be available to properties 45 years or older without need for consultation with the SHPO.
 - (c) If the owner of the property 45 years or older desires ECMs other than those on the Exempt List, the Contractor must determine in consultation with the SHPO whether that property is included in or meets the criteria for inclusion in the National Register of Historic Places. Consultation shall be initiated by the Contractor, via letter, with the appropriate SHPO. Detailed information about how this consultation shall proceed, a sample letter that should be used to communicate with the SHPO, and the name and address of the appropriate SHPO can be obtained from your Bonneville Area Office.
2. Bonneville will routinely monitor the records of the Contractor to ensure that this Agreement is implemented in accordance with these guidelines. The Contractor shall keep records of all ECMs for buildings 45 years or older. This should include all correspondence and required information and reports.

ATTACHMENT 1 TO ITEM 4
ECM EXEMPT LIST

The following Measures can be undertaken in all buildings eligible for the Energy Savings Plan (ESP) Program, regardless of their status as historic properties. Undertaking these ECMs should not detract from the historic or architectural significance of a building. All Measures must comply with ESP Program rules governing their use.

Exempt Measures:

1. Insulation around pipes and ducts and in exterior wall cavities where such an installation can be accomplished without permanent visual change to interior and/or exterior finish materials.
2. Repair, replacement, or modification of mechanical, electrical, or plumbing systems, if this action does not require removal of historically or architecturally significant building systems, construction materials, or significant original fixtures.
3. Interior modifications when the significance of the building does not include the interior or when the alterations do not detract from the significance of the building (i.e., in a building with an architecturally significant exterior and an insignificant interior, lowering the ceiling so that they are visible from the exterior would not be exempt).
4. Items such as control boxes, provided they are mounted in an inconspicuous spot where visual intrusions will be minimized.
5. Tank wraps for industrial operations.

ITEM 5
ENVIRONMENTAL, HEALTH, AND SAFETY REQUIREMENTS
LIGHTING AND LIGHTING CONTROLS

1. **High Pressure Sodium (HPS) Lamps.** Indoor HPS lighting applications shall be limited to:
 - (a) Buildings such as warehouses and parking garages.
 - (b) High bay areas (lights 20 feet or more above the floor surface).
2. These installations must ensure that:
 - (a) Warning signs and danger signals be illuminated by light sources with good color rendition such as fluorescent, metal halide, or color enhanced HPS (with color rendition index of greater than 55).
 - (b) The stroboscopic effect is minimized in areas with rotating machinery when the flicker index is 0.1 or less by having luminaries alternately wired on three-phase systems (see 1984 Illuminating Engineering Society (IES) Lighting Handbook, Reference Volume, pages 8-51).
 - (c) Areas involving high visual demand activities include:
 - (1) Supplementary lighting with good rendition at specific task levels.
 - (2) At least one incandescent, fluorescent, or metal halide fixture for each HPS fixture (corresponding fixtures shall have similar lumen output).
3. **Low Pressure Sodium (LPS) Lamps.**

LPS Lamps shall not be installed indoors, except as may be approved in writing on a case-by-case basis by Bonneville.
4. **Disposal of Light Ballasts Containing PCBs.**

Ballasts containing polychlorinated biphenyls (PCBs) shall be disposed of in accordance with the following:

 - (a) Bonneville requires *non-leaking* PCB-laden light ballast removed pursuant to Bonneville sponsored energy conservation programs be disposed of by:
 - (1) Burying the entire ballast in an EPA approved chemical waste landfill.
 - (2) Incinerating the entire ballast in an EPA approved PCB incinerator.

- (3) Using a ballast recycling company to remove the capacitor from the ballast, recycling the uncontaminated portions of the ballast, and either burying the capacitor in an EPA approved chemical waste landfill or incinerating the capacitor in an EPA PCB incinerator.
- (b) Bonneville also requires that PCB-laden light ballast disposal comply with any applicable State regulations. Call your State environmental agency for information on State regulations.
- (c) Leaking PCB-laden light ballasts must be disposed of in accordance with the Toxic Substances Control Act (TSCA) regulations. Consult the Yellow Pages (Waste Disposal - Hazardous) or call the TSCA Hotline at (202) 554-1404 for further information.
- (d) Included in Item 6 of this Exhibit is information developed by Bonneville staff about PCB-laden light ballast disposal. This information packet should be provided to building owners/managers and other responsible officials involved in lighting retrofit programs.
- (e) The PCB Ballasts Disposal Assessment sheet included in Item 6 of this Exhibit is optional and may be used to document disposal method and location.

ITEM 6
HANDLING AND DISPOSAL OF PCB-LADEN LIGHT BALLASTS

Bonneville Power Administration (Bonneville) is concerned about the potential harmful effects caused by the improper handling and disposal of PCB-laden light ballasts and hopes this information will help you manage the risks to yourself and the environment. Although Bonneville believes this information is the best available at the time of this printing, it is recommended that you check with your regional Environmental Protection Agency (EPA) and State environmental offices to determine if any changes have been made to existing policies. Bonneville recommends that you consult with legal counsel regarding risks and liability associated with your handling and disposal of PCB light ballasts.

1. Why should you care about the handling and disposal of PCB-laden light ballasts?

- (a) PCBs are a probable human carcinogen and may cause choracne, nausea, dizziness, bronchitis, and eye irritation.
- (b) PCB-laden light ballasts may leak PCBs and cause significant health risks to exposed individuals and contaminate the environment.
- (c) The risks can be reduced by:
 - (1) Complying with Federal regulations when disposing of leaking ballasts.
 - (2) Following the disposal guidelines set by the EPA for non-leaking ballasts.
 - (3) Taking the precautions described in this document while handling PCB-laden ballasts.

2. How can I tell if my light ballast contains PCBs?

Assume light ballasts manufactured prior to 1978, or not marked with the statements "No PCBs", contain PCBs.

3. How do I identify a leaking ballast?

- (a) If the surface of a ballast is oily, it has leaked.
- (b) Treat any ballast leaking its asphalt potting compound (a black tarry substance) as if it were PCB contaminated.

4. What should I do when I find a leaking PCB light ballast?

- (a) Leaking PCB ballasts should be handled and disposed of only by specially trained personnel or contractors.
- (b) Call the TSCA hotline at (202) 554-1404 or consult the Yellow Pages (Waste Disposal - Hazardous) for proper packing, storage, transportation, and disposal assistance.

5. What should I do with a non-leaking PCB light ballast?

(a) EPA Region 10 guidelines accept disposal of PCB-laden ballasts by:

- (1) Recycling.
- (2) Incineration.
- (3) Burial in a chemical waste landfill.

(b) High temperature incineration is preferred by many companies and utilities.

(c) Bonneville prefers recycling the uncontaminated portions of the ballasts and complete incineration of the remaining PCB's wastes.

(d) Information on EPA approved chemical waste landfills and incinerators, and ballast recyclers is included with this document.

6. Things to remember when handling PCB-laden ballasts. Electrical contractors are generally very experienced with ballast replacement, but the following are some basic safety suggestions for handling PCBs.

(a) Removal and Packing.

- (1) Do not leave PCB-laden ballasts in the ceiling. It merely defers the cost of removal and disposal and in the event of a building fire, the PCBs may burn and contaminate large portions of the building.
- (2) Keep PCB-laden ballasts separate from non-PCB laden ballasts. Do not mix leaking and non-leaking ballasts.
- (3) If the ballast has been burning or smoking, cut the power off at the panel. Immediately vacate and ventilate the room. Allow the ballasts to cool for at least 20-30 minutes before replacing.
- (4) Always wear chemically resistant gloves when removing or handling PCB light ballasts.
- (5) Wrap any *leaking* ballasts in double plastic bags and immediately pack them in approved Department of Transportation (DOT) 17C or 17H drums with a yellow "Caution Contains PCBs" label attached. These standard labels may be obtained from most label companies.
- (6) Careful "packing" allows more ballasts per drum, reducing disposal costs per ballast. Pack *non-leaking* ballasts into approved DOT 17C or 17H drums as soon as possible.

- (7) Do not overpack the drums or crush the ballasts. For safety purposes, drum weight should not exceed 1,000 pounds.
 - (8) Place absorbent material in the bottom of the barrel and in the spaces between ballasts.
 - (A) 6 - 12 inches in the bottom if disposed of in a chemical waste landfill.
 - (B) 1 - 3 inches in the bottom if incinerated or sent to recycler.
 - (9) Do not seal the containers until after the transporter or disposer has inspected the contents.
- (b) Identification and Storage.
- (1) Dispose of *leaking* ballasts within 30 days of removal from service.
 - (2) Dispose of *non-leaking* ballasts within 3 months of removal from service to reduce the chance of accidental damage.
 - (3) All drums of *non-leaking* and *leaking* ballasts should contain a label with the following information:
 - (A) The name and address of the generator.
 - (B) The date the ballasts were first removed.
 - (C) A description of the material (e.g., Discarded Light Ballasts).
 - (D) The DOT shipping description (e.g., RQ, Polychlorinated Biphenyls, 9, UN2315, PGII).
- (c) Transportation and Disposal.
- (1) Use permitted hazardous waste transporters. They are trained and equipped to handle accidental spills, etc. Hazardous waste transporters usually are listed in the Yellow Pages under "*Waste Disposal - Hazardous*". A list of approved hazardous waste transporters also may be available from EPA or your State's environmental agency.
 - (2) Maintain permanent records of PCB-laden ballast disposal.

Commercially permitted CHEMICAL WASTE LANDFILLS operating as of January 1993:

Some of these landfills offer full "turnkey" programs, providing pickup, transportation and disposal of your lighting wastes.

CECOS International
P.O. Box 340 LPO
Niagara Falls, NY 14302
(716) 282-2676

CECOS International
5092 Aber Road
Williamsburg, OH 45176
(513) 720-6114

Chemical Waste Mgt Alabama, Inc.
Box 55
Emelle, AL 35459
(205) 652-9721

Chemical Waste Mgt.
Box 471
Kettleman City, CA 93239
(209) 386-9711

Chem-Security Systems Inc.
17629 Cedar Springs Lane
Arlington, OR 97812
(503) 454-2643

CWM Chemical Services Control, Inc.
Box 200
Knolls, UT 84074
(716) 754-8231

Envirosafe Services of Idaho
P.O. Box 16217
Boise, ID 83715-6217
(800) 274-1516

U.S. Ecology, Inc.
Box 578
Beatty, NV 89003
(702) 553-2203

U.S. Pollution Control, Inc.
Grayback Mountain
8960N Hwy 40
Lake Point, UT 84074
(801) 534-0054

Recycling Resources

Ballast Recycling Services

Environmental Energy Group
Denton, TX
(817) 383-3632

FulCircle Ballast Recyclers
Cambridge, MA Bronx, NY
(617) 876-2229 (212) 328-4667

Lighting Resources, Inc.
Pomona, CA
(714) 622-0881

Salesco
Phoenix, AZ
(800) 368-9095 or (602) 233-2955

Lamp Recycling Services

Lighting Resources, Inc.
Pomona, CA
(714) 622-0881

Mercury Recovery Systems **
Monrovia, CA
(818) 301-1372

** This business does not offer a full "turnkey" program, but does offer discounted rates to customers who have the lamps delivered to the recycling plant.

PCB DISPOSAL INFORMATION RESOURCES

| | |
|---|---|
| <u>EPA Region 10 (WA, OR, ID, AK)</u> Environmental Protection Agency 1200 Sixth Avenue Seattle, WA 98101 (206) 442-1200 | <u>EPA Region 8 (MT, WY, ND, SD, UT, CO)</u> Environmental Protection Agency Suite 500 999 18th Street Denver, CO 80202-2405 (303) 293-1603 |
|---|---|

State Solid and Hazardous Waste Agencies

IDAHO

Dept. of Health and Welfare
Div. of Environment
Bureau of Hazardous Materials
450 W. State Street
(208) 334-5879

OREGON

Dept. of Environmental Quality
Div. of Hazardous and Solid Waste
Executive Building
Portland, OR 97204
(503) 229-5254

MONTANA

Dept. of Health and Environmental Sciences
Environmental Sciences Div.
Solid Waste Mgt. Bureau
Cogswell Building
Helena, MT 59620
(406) 444-2821

UTAH

Dept. of Health
Div. of Environmental Health
Bureau of Solid and Hazardous Waste
P.O. Box 16690
288 North 1460 West
Salt Lake City, UT 84116-0690
(801) 538-6170

NEVADA

Dept. of Conservation and Natural Resources
Div. of Environmental Protection
201 South Fall Street, Capitol Complex
Carson City, NV 89710
(702) 885-4670

WASHINGTON

Dept. of Ecology
Solid and Hazardous Waste Program
Mail Stop IV-11
Olympia, WA 98504-8711
(206) 459-6316

Information Lines

Toxic Substances Control Act (TSCA)
Assistance Information Hotline
(202) 554-1404

Resource Conservation and Recovery Act
(RCRA) Hotline
(800) 424-9346

National Response Center (NRC) Hotline
(800) 424-8802

EPA Approved Disposal Locations

Commercially permitted PCB INCINERATORS operating as of January 1993:

Aptus Inc.
P.O. Box 1328
Coffeyville, KS 67337
(316) 251-6380

Rollins
P.O. Box 609
Deer Park, TX 77536
(713) 930-2300

PCB BALLAST DISPOSAL ASSESSMENT (for optional use)

Bonneville Power Administration (Bonneville) requires *non-leaking* PCB-laden light ballasts removed pursuant to Bonneville sponsored energy conservation programs be disposed of by:

- Burying the entire ballast in an EPA approved chemical waste landfill.
- Incinerating the entire ballast in an EPA approved PCB incinerator.
- Removing the capacitor from the ballast, recycling the uncontaminated portions of the ballast, and either burying the capacitor in an EPA approved chemical waste landfill or incinerating the capacitor in an EPA approved PCB incinerator.

Call your State environmental agency for information on State regulations.

Leaking PCB-laden light ballasts must be disposed of in accordance with Toxic Substances Control Act (TSCA) regulations. Consult the Yellow Pages (*Waste Disposal - Hazardous*) or call the TSCA Hotline at (202) 554-1404 for further information.

Complete the information below to document project compliance with Bonneville's disposal requirements. Return this sheet to the Bonneville Representative identified in Section 13 of this contract.

| | | | |
|--|--|--|--|
| Contractor Name: | | Project Name: | |
| 1. Disposal firm name: | | | |
| 2. Disposal method (choose one): | | | |
| <input type="checkbox"/> EPA approved chemical waste landfill | | <input type="checkbox"/> Recycle/Chemical waste landfill | |
| <input type="checkbox"/> EPA approved PCB incinerator | | <input type="checkbox"/> Recycle/PCB incinerator | |
| <input type="checkbox"/> Other. If Other, please explain below: | | | |
| 3. Number of PCB ballasts disposed of: (a) leaking _____ (b) non-leaking _____ | | | |
| 4. Disposal location: | | 5. Planned completion date: | |
| _____ Signature of Contractor | | _____ Date | |

ITEM 7
PROPRIETARY INFORMATION DESIGNATION PROCEDURES

If the Contractor does not want certain information provided in accordance with this Agreement to be disclosed to the public for any purpose, the following procedures shall apply.

1. Mark the title page of the document containing such information with the following legend:

This document includes information that shall not be disclosed outside Bonneville and shall not be duplicated, used, or disclosed in whole or in part for any purpose other than to administer this Agreement. This restriction does not limit Bonneville's right to use information contained in this document if it is obtained from another source without restriction. The information subject to this restriction is contained in sheets _____. (Insert numbers or other identification of sheets.)

2. The Contractor shall mark each sheet of information you wish to restrict with the following legend:

Use or disclosure of information contained on this sheet is subject to the restriction on the title page of this document.

PLEASE NOTE: Contractor name, estimated and/or actual Energy Savings, Acquisition Payment, and total Project Cost for each Project cannot be designated Proprietary Information.