

(R-90-273)

RESOLUTION NUMBER R- 274264

ADOPTED ON AUG 8 1989

WHEREAS, on December 13, 1988 this City Council adopted Resolution No. R-272453 which, among other things, authorized the City Attorney to participate fully in proceedings before the California Public Utilities Commission and the Federal Energy Regulatory Commission regarding the proposed merger of Southern California Edison Company ("SCE") and San Diego Gas & Electric Company ("SDG&E"); and

WHEREAS, Resolution Nos. 272909 and 273024 and Ordinance Nos. 17274 and 17326 have generally authorized retention of experts and consultants and the expenditure of funds therefor in connection with said merger; and

WHEREAS, it is necessary to employ said consultants to provide expert services in support of the City's intervention at the California Public Utilities Commission and the Federal Energy Regulatory Commission concerning the proposed merger; NOW, THEREFORE,

BE IT RESOLVED, by the Council of The City of San Diego, that the City Attorney be and he is hereby authorized and empowered to continue the retention of outside experts and consultants for the purpose of assisting the Merger Task Force in supporting the City's intervention at the California Public Utility Commission

("CPUC") and the Federal Energy Regulatory Commission ("FERC") concerning the proposed merger of SCE and SDG&E, as follows:

1. Arent, Fox, Kintner, Plotkin & Kahn, under the terms and conditions set forth in a letter agreement with said firm, a copy of which is attached as Enclosure (1).

2. Economists Incorporated, a firm conducting economic analysis and studies which will assist and support the City's intervention at FERC and CPUC, under the terms and conditions set forth in a letter agreement with said firm, a copy of which is attached as Enclosure (2).

3. ICF Technology Incorporated, a consultant on environmental issues, upon the terms and conditions set forth in an agreement, a copy of which is attached as Enclosure (3).

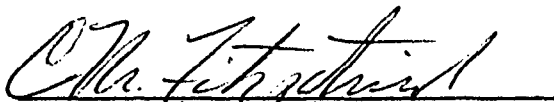
4. Litigation Support Services, a San Diego consultant on document control, under the terms and conditions set forth in a letter agreement, a copy of which is attached as Enclosure (4).

5. Orrick, Herrington & Sutcliffe for consultation regarding the Industrial Development Bonds issued by The City of San Diego on behalf of SDG&E, under the terms and conditions set forth in a letter agreement, a copy of which is attached hereto as Enclosure (5).

6. Morse, Richard, Weisenmiller & Associates, Inc., supplementing resolution No. 272909.

Provided expenditures for said contract do not exceed
\$2,025,000.00.

APPROVED: JOHN W. WITT, City Attorney

By 
C. M. Fitzpatrick
Assistant City Attorney

CMF:NBD:wk:Lit
08/07/89
Or.Dept:Atty
Aud.Cert:9000193
R-90-273
Form=r.none

Arent, Fox, Kintner, Plotkin & Kahn

JEROME P AKMAN
RAYMOND BANOUN
DAVID J BARDIN
DONALD M BARNES
MICHAEL D BARNES
JOEL E BASSETT
EVAN R BERLACK
STEPHAN J BOADOMAN
STANLEY J BROWN
WILLIAM R CHARYK
J MARSHALL COLEMAN
EARL M COLSON
JOHN C CULVER
HAROLD S DAMELIM
ALAN S DUBIN
MICHAEL M EATON
SAMUEL EFRON
MARCL FLEISCHAKER
STEPHEN B FORMAN
THEODORE D FRANK
JOSEPH M FRIES
STEPHEN L GIBSON
E CALVIN GOLUMBIC
WILLIAM W GOODRICH JR
GERALD B GREENWALD
JAMES B HALPERN
JOHN HARLLEE JR
LAWRENCE P HENNEBERGER
ROBERT B HIRSCH
ROBERT H HUEY
JAMES H HULME
JOHN D HUSHON
MICHAEL E JAFFE
EARL W KINTNER
GEORGE R KUCIK
MICHAEL J KURMAN

MICHAEL H LEAHY
LEWIS E LEIBOWITZ
GERARD LEVAL
GEORGE P LEVENDIS
LAWRENCE A LEVIT
ALAN R MALASKY
STEWART S MANELA
EUGENE A MASSEY
WAYNE H MATLICKI
STUART R MATTHEWS
YONHA B MCCANN
JOHN C MCCOY JR
EUGENE J MEIGHER
JAMES P MERCURIO
LAWRENCE G MEYER
ROBERT H NEUMAN
DAVID M OSNOS
RODNEY F PAGE
JAMES P PARKER
WILLIAM R PENDERGAST
MATTHEW S PERLMAN
HOWARD B POSSICK
PETER S REICHERTZ
ALAN E REIDER
JOHN R RISNER JR
SALVATORE A ROMANO
CHARLES B RUTTENBERG
THOMAS SCHATENFIELD
GEORGE H SHAPIRO
MALVERN J SHEFFIELD JR
JAMES E SHOWN
ALLEN G SIEDEL
JOEL N SIMON
H VAN SINCLAIR
CHRISTOPHER SMITH
DANIEL C SMITH

MARLYND SCNN
G COPE STEWART III
CARTER STRONG
WILLIAM B SULLIVAN
PHENG THENG TAN
PETER TANNENWALD
DAVID TILLOTSON
DANIEL F VAN HORN
BARBARA S WAHL
RICHARD J WEBBER
ARNOLD H WEISS
STEPHEN J WEISS
ARNOLD R WESTERMAN
BURTON V WIDES
JOHN J YUROW
—
CAROLYN B ANDERSON
DAVID J ARONOFSKY
MANIA K BAGHDADI
JOYCE L BARTOO
ROBERT L BAUM
CAROL A BEIER
JAY L BIRNBAUM
RICHARD L BRAND
JENNIFER BROOKE DAVIDSON
CLAUDETTE M CHRISTIAN
DANIELA CUNNINGHAM
DARRAGH J DAVIS
MORRIS F DAFED JR
DAVID T DEKKER
DEIRDRE E OONAHUE
MARY JOANNE DOWD
JEREMY B FOX

RICHARD N GALE
ARTHUR S GERSON
GREG E GESTERLING
LORIE S GILDA
LEONARD S GOODMAN
NANCY S HEERMANS
JAMES E HOGAN
R STEVEN HOLT
ANNE TOLSON HOSKINSON
JACKIE MUCHENSKI
JEFFREY E JORDAN
MARK M KATZ
DAVID L KELLEHER
JOAN D KLEINMAN
ROBERT S KOPPEL
BEITH L KRAMER
DORIS E LONG
CORALYN G MANN
SALLY ROGERS MANN
SUSANA A MARSHALL
GERALD P MCCARTIN
DOUGLAS B MCDONALD
DONALD C MCLEAN
STEVEN R MILES
AILEEN H MILLER
DONALD B MITCHELL JR
GERALD L MITCHELL
BRUCE J MOLDOW
FERENC E MOLNAR
HENRY MORRIS JR
GENA COHEN MOSES
ELIZABETH R MULLER
GERALD E OBERST JR
JOHN M PACKMAN
V DANIEL PALUMBO
JONATHAN R PANLOW

DEBORAH A RANDALL
MARTHA PURCELL ROGERS
MARGARET ROGGENSACK
JOEL D RUBIN
GERALD S SAVITSKY
CHESTER R SHIELDS
MARGARET R SILVERBERG
SHERYL L SKLORMAN
FRED S SOMMER
KAREN MALOY SPRECHER
MICHAEL L STEVENS
JAMES C TRIOLA
CARL A VALENSTEIN
STEVEN P WARD
ROBERT J WATERS
HOPE E WERNICK
STEVEN W WIDERMAN
GINA M ZAWITOSKI
GERALD ZINGONE
—
COUNSEL
MARK E ALBERTA
ALBERT E ARENT
HENRY J FOX
EDWIN L KAHN
HARRY M PLOTKIN
ROBERT L WILLMORE
LYNDA S ZENGERLE
—
SAAD B EL-FISHAWY*
*Special Legal Consultant-Egypt

Washington Square
1050 Connecticut Avenue, N.W.

Washington, D.C. 20036-5339

In Maryland
4550 Montgomery Avenue
Bethesda, Maryland 20814-3304
(301) 657-4800

In Virginia
8000 Towers Crescent Drive
Vienna, Virginia 22180-2796
(703) 847-5800

Writer's Direct Dial Number

(703) 847-5880

January 19, 1989

BY TELECOPY AND FEDERAL EXPRESS

Curtis M. Fitzpatrick, Esquire
Assistant City Attorney
City of San Diego
202 C Street
San Diego, California 92101

Dear Mr. Fitzpatrick:

It was a pleasure meeting with you, in our offices in Washington, D.C., on January 18th. I hope you found the meeting beneficial and instructive.

We would be privileged to represent the City of San Diego, and the interests of its residents, with regard to the proposed acquisition of San Diego Gas and Electric by Southern California Edison. I believe that our firm has the requisite professional staff and experience to handle this representation.

We have determined that we have no conflicts of interest relating to this matter, and I can advise you that we have not represented in the past, and do not currently represent, San Diego Gas & Electric, Southern California Edison or any of their officers or directors. We are also not aware of any current representation which would potentially be adverse to the interests of the City of San Diego in its proposed involvement in the merger of the two utilities.

ENCLOSURE NO. 1

Telephone: (202) 857-6000 Cable: ARFOX Telex: WU 892672 ITT 440266 Telecopier: (202) 857-6396

R-274264

Arent, Fox, Kintner, Plotkin & Kahn

Curtis M. Fitzpatrick, Esquire
January 19, 1989
Page 2

During our meeting you indicated that the City of San Diego was interested in retaining securities counsel, anti-trust counsel and energy counsel to analyze various aspects of the proposed merger, and to thereafter implement various legal actions relating to the merger which actions would be beneficial to the objectives of the City of San Diego. We discussed the fact that all aspects of this representation could be undertaken by our firm and that such representation might also require the involvement of our litigation group. Of course, we would be delighted to represent the City of San Diego in all aspects of this project. We believe such unified representation would be cost effective to the City of San Diego, but we recognize that other factors may not favor that approach.

We understand that the scope of our services has not been delineated, and therefore it is not possible to predict with any degree of accuracy the size of our fees or the time period over which such representation would last. At this juncture, we understand that if the City of San Diego chooses to retain our firm, we need to review all filings with the Securities and Exchange Commission and other regulatory authorities which have jurisdiction over the merger candidates, and thereafter be available to render advice and counsel to the City of San Diego in connection with the merger.

We have caused a search to be made of the records of the Securities and Exchange Commission and have been advised that the S-4 relating to the merger has not been filed. As you are aware, the S-4 could be filed at any time. As a result, there will be more time available to plan a legal strategy concerning the securities and corporate aspects of the merger; however, we must act expeditiously and be ready to implement the adopted strategy as soon as the appropriate moment arrives.

If we are retained on energy related matters, we would review all filings and applications made with the Federal Energy Regulatory Commission, and thereafter be available to render advice and counsel in connection with the merger. Since the preliminary application has only been recently filed with FERC, and we understand the City of San Diego has already petitioned FERC for leave to intervene, the timetable to make decisions in the energy area is not as critical as that with the SEC.

Arent, Fox, Kintner, Plotkin & Kahn

Curtis M. Fitzpatrick, Esquire
January 19, 1989
Page 3

If retained, we believe it would be useful to analyze the antitrust aspects of the proposed merger and, in this regard, review the state and federal antitrust laws and the filing obligations under Hart-Scott-Rodino. We believe that there may possibly be valid antitrust concerns relating to the proposed merger.

We normally perform the legal work being requested on an hourly rate basis. Our hourly rates range from \$95 to \$290. Lower hourly rates are in effect for paralegals, legal assistants and law clerks. On a blended rate basis, I would estimate the hourly rate for the attorneys to approximate \$180. In addition to our hourly rates, we charge for our expenses such as Lexis, Westlaw, long-distance telephone, courier services, travel expenses, hotel accommodations, and business meals. We would only travel out of Washington, D.C. after obtaining your prior consent. Detailed bills are rendered on a monthly basis, and such bills are expected to be paid within thirty days after they have been received. After we have a clear understanding of the scope of requested legal services, we can provide you with an estimate for legal fees and expenses.

I have taken the liberty of speaking with partners in our securities group, energy group, anti-trust group and litigation group to determine our ability to immediately staff this project if we are retained. I can commit to you that people with the proper qualifications are available to immediately begin work. If the City of San Diego decides to retain our firm, I will be your principal contact and billing partner.

On a related note, our firm has a legislative group which is very active in the Federal and state legislative process. There may be some merit to bringing the facts surrounding this proposed merger to Capitol Hill, particularly in light of the current trend against corporate takeovers and their affects on taxpayers and the national and local economies. Hearings are underway, at this time, to consider revisions to the Internal Revenue Code to reduce the tax benefits of "junk bonds" and to put other penalties in place relating to mergers and subsequent sales of assets belonging to the target company. Obviously, we would only recommend this type of activity in conjunction with John Montgomery and after a great deal of study and consultation with John.

R 274264

Arent, Fox, Kintner, Plotkin & Kahn

Curtis M. Fitzpatrick, Esquire
January 19, 1989
Page 4

I am providing you with two additional copies of our firm brochure which will arrive with the original of this letter.

If you have any questions with regard to the contents of this letter or other matters relating to our potential representation of the City of San Diego, please call me at (703) 847-5880. This is my telephone number in our Northern Virginia office where I will be located for the next few days.

Thank you for allowing us the opportunity to be considered for this matter.

Sincerely,

ARENT, FOX, KINTNER
PLOTKIN & KAHN

By, 
G. Cope Stewart III

GCS/cej

cc: John H. Montgomery, Esq. (by telecopy)
Carter Strong, Esq.
David J. Bardin, Esq.
Howard B. Possick, Esq.

Arent, Fox, Kintner, Plotkin & Kahn

Washington Square 1050 Connecticut Avenue, N.W.
Washington, D.C. 20036-5339

David J. Bardin
(202) 857-6089

May 25, 1989

Economists Incorporated
Attention: Bruce M. Owen
1233 20th Street, N. W.
Suite 600
Washington, D.C. 20036

Dear Dr. Owen:

In accordance with our conversation, Arent, Fox, Kintner, Plotkin & Kahn ("Arent Fox") proposes to retain Economists Incorporated to assist Arent Fox in its representation, on behalf of the City Attorney, of the City of San Diego, California, concerning certain litigation. This litigation involves the proposed merger of San Diego Gas & Electric Company into Southern California Edison Company.

The assistance required will be in connection with the preparation of a request for rehearing of the Order issued May 5, 1989 by the Federal Energy Regulatory Commission ("FERC"), analysis of the joint applicants' case-in-chief for the FERC (now due May 26, 1989) and preparation of discovery requests related thereto as well as general discovery requests concerning this litigation through the July 17, 1989 discovery cut off. We understand that you estimate the cost of such services to be less than \$50,000.

At a later date, we may need your assistance in connection with the preparation of testimony, the preparation of cross-examination questions, and the preparation of briefs to the Administrative Law Judge, the FERC, the Courts and, possibly, other tribunals.

All work done in connection with this litigation will be strictly confidential and not disclosed to any other party without prior approval of counsel for the City of San Diego. The same duty of confidentiality applies to all data you acquire, in the course of the work, other than data from public sources. You will report to Arent Fox any attempts by other parties to secure information directly from you.

As we have discussed, the City Attorney may agree with the Attorney General of the State of California to supply your assistance in connection with certain aspects of the litigation. Any such assistance will be rendered with the knowledge and consent of Arent Fox and under terms prescribed in advance by Arent Fox. All requests for such assistance must be conveyed to you through Arent Fox.

ENCLOSURE NO. 2

REC-274264

Arent, Fox, Kintner, Plotkin & Kahn

Economists Incorporated
May 25, 1989
Page 2

For the services you are asked to render, you will charge your usual rates for time and reimbursement of expenses. We understand that your hourly rate is \$275, that Barry Harris' hourly rate is \$200, that the hourly rates for other Ph.D. economists range from \$130 to \$210 and that for research assistants is \$60. No travel will be undertaken by you without the prior approval of Arent Fox. Bills should be rendered monthly with a copy to the undersigned at the above address and a copy to:

Curtis M. Fitzpatrick, Esq.
Assistant City Attorney
Litigation Division
525 B Street
Suite 2100
San Diego, California 92101

Under no circumstances will Arent Fox be liable to you for payment, rather you will look exclusively to the City on whose behalf we propose to enter into this contract. Curtis Fitzpatrick has authorized me to advise you that, if you accept this assignment, you may look to his office for payment of your fees.

If the foregoing is agreeable to you please so signify by signing and dating one copy of this letter and retaining the other copy for your files. Please let me know if you have any questions.

We look forward to working with you on this important and interesting case.

Faithfully,

David J. Bardin

WE ACCEPT THE FOREGOING PROPOSAL.

ECONOMISTS INCORPORATED

By: _____
Bruce M. Owen

Dated: _____

cc: Curtis M. Fitzpatrick, Esq.

BASIC ORDERING AGREEMENT

AGREEMENT made this _____ day of _____, 1989

BY AND BETWEEN

ICF Technology Incorporated
10 Universal City Plaza, Suite 2400
Universal City, California 91608-10977

AND

(hereinafter "Client")

TYPE OF AGREEMENT: Time and Materials

WHEREAS, Client has a need for Environmental Consulting Services; and

WHEREAS, ICF Technology Incorporated has experience and is in the business of environmental consulting and desires to provide such services to Client; and

WHEREAS, Client and ICF Technology Incorporated, having carefully assessed the interests of the other, have concluded that a basic ordering agreement between them for said services would be mutually beneficial.

NOW, THEREFORE, in consideration of the mutual covenants and promises set forth herein, the parties agree as follows:

1.0 PURPOSE

1.1 The purpose of this Agreement is to provide a mechanism whereby the parties hereto can, from time to time, develop Task-Orders for specific services contemplated by the General Statement of Work set forth in Appendix A, which is attached hereto and herein incorporated by reference.

2.0 TERM OF AGREEMENT

2.1 The terms and conditions of this Agreement shall be in effect for a period of (1) year from the date of execution of this Agreement.

2.2 The terms and conditions of this Agreement will continue beyond any expiration of the Agreement to the extent that any Task Order is in force at the time of such expiration.

ENCLOSURE NO. 3

3.0 SCOPE OF WORK

- 3.1 ICF Technology Incorporated shall provide the necessary personnel, materials, services, and facilities to perform the services stated in the specific Statement of Work found in each Task Order (hereinafter "Services").
- 3.2 ICF Technology Incorporated agrees to perform the Services for which it is responsible, that it will accomplish the Services in the manner and in the time stated in each Task Order, and that it will provide the deliverable items as required. This performance is predicated, however, on Client meeting its responsibilities in the time and manner described in each Task Order.
- 3.3 It is expressly understood that the Services under this Basic Ordering Agreement and resultant Task Orders, specifically exclude any activities which would cause ICF Technology Incorporated to fall within the definition of a "generator" or "transporter" as defined by the Resource Conservation and Recovery Act (RCRA), as amended, or the Comprehensive Environmental Response, Compensation and Liability Act (CERCLA), as amended.

4.0 ORDERING PROCEDURES

- 4.1 Task Orders shall be developed by ICF Technology Incorporated and Client for each specific task, site, or project.
- 4.2 The format set forth in Appendix B, attached hereto and incorporated herein by reference, shall be used to establish the site or project specific terms and conditions. Any changes to this format shall be by mutual agreement between the parties.
- 4.3 Each Task Order shall contain, as a minimum, a description of the task, a statement of each party's responsibilities, completion criteria, a list of deliverable items (if any), the estimated start date, the scheduled completion date, the costs of each task, and other terms and conditions applicable to such task.
- 4.4 In the event of conflict between the terms and conditions of any Task Order and this Agreement, the terms and conditions set forth in each Task Order shall supercede this Agreement.

5.0 FEES AND PAYMENT

- 5.1 In consideration of Services performed, Client shall pay ICF Technology Incorporated the fees set forth in each Task Order. ICF Technology Incorporated shall submit monthly invoices to Client for Services rendered in the preceding month. Unless otherwise specified in each Task Order, payment terms shall be Net 30 days after date of invoice. In the event that any invoice is not paid when due, Client shall pay to ICF Technology Incorporated, as liquidated damages and not as a penalty, interest on such overdue amount from the due date

to the date of payment thereof, at a rate equal to the lesser of (i) 1% per month, or (ii) the maximum rate permitted by applicable law.

6.0 RESPONSIBILITIES OF CLIENT

6.1 Client is responsible for providing required information, data, documentation, and test data to facilitate ICF Technology Incorporated's performance of the work, and will provide such additional assistance and services as is specifically set forth in the various Task Orders issued hereunder.

6.2 When necessary for ICF Technology Incorporated to perform the Services hereunder, Client shall provide site access for ICF Technology Incorporated's personnel.

7.0 CONTACTS

7.1 Contacts with Client which affect the Agreement's cost, fee, schedule, Scope of Work, or other terms and conditions shall be made with Client's Project Director. No changes to this Agreement will be binding upon either party unless incorporated in a written modification to this Agreement and duly signed by each party. The effort set forth in this Agreement or any Task Order, as amended, shall be performed under the technical direction of Client's Project Director. When, in ICF Technology Incorporated's opinion, such technical direction constitutes a change to this Agreement, Client's Project Director shall be notified immediately for authorization of such change. Until such authorization is granted by Client's Project Director, ICF Technology Incorporated shall perform in accordance with this Agreement or Task Order as written.

7.2 Project Directors

7.2.1 _____ is the designated Project Director for Client. The Project Director is responsible for guiding the technical aspects of this Agreement. Communications should be addressed as follows:

7.2.2 ICF Technology Incorporated hereby designates _____ as ICF Technology Incorporated's Project Director. Client shall be entitled to rely on the authority of ICF Technology Incorporated's Project Director to accept or decline Task Orders hereunder and the authority of any other person who is identified to Client in writing, signed by ICF Technology Incorporated's Project Director, as a person to whom such authority has been delegated. Client shall address written communications to ICF Technology Incorporated under this Agreement as follows:

_____, Vice President
ICF Technology Incorporated
10 Universal City Plaza, Suite 2400
Universal City, California 91608-1097

7.3 Contract Specialist

7.3.1 Client designates the following individual to perform all administrative management of the Agreement:

7.3.2 ICF Technology Incorporated designates the following individual(s) to perform all administrative management of the agreement:

_____, Contract Specialist
ICF Technology Incorporated
10 Universal City Plaza, Suite 2400
Universal City, California 91608-1097

8.0 MEETINGS

8.1 The parties shall designate the following senior managers as project sponsors to meet to review the progress of the Services:

ICF Technology Incorporated: _____
Client: _____

8.1.1 The site and dates for these meeting shall be determined by mutual agreement.

8.2 ICF Technology Incorporated shall provide other appropriate level representatives to attend meetings as may be set forth in each Task Order.

9.0 DELIVERABLES

9.1 Deliverables shall comply with the technical requirements and time schedules set forth in each Task Order. Failure of Client to object to any Deliverable, within 20 calendar days, constitutes acceptance of such Deliverable.

- 9.2 The parties agree that ICF Technology Incorporated makes no warranty and shall not be held liable for any data or other Deliverable that has been changed or modified in any way without the express written approval of ICF Technology Incorporated.
- 10.0 PROPRIETARY INFORMATION
- 10.1 The parties anticipate that it may be necessary to provide access to information of a proprietary nature to each other pursuant to this Agreement. Information that is proprietary shall be clearly identified or labeled as such by the disclosing party at the time of disclosure. When concurrent identification of proprietary information is not feasible, the disclosing party shall provide such identification as promptly thereafter as possible.
- 10.2 Each of the parties agrees that it will hold such proprietary information confidential in the same manner as it holds its own proprietary information of like kind. Disclosures of such information shall be restricted to those individuals who are directly participating in performing the Services.
- 10.3 Neither party shall be liable for disclosure or use of such information marked as proprietary which:
- a. was at the time of receipt otherwise known to the party receiving it;
 - b. has been published or is otherwise within the public knowledge or is generally known to the public at the time of its disclosure to the receiving party;
 - c. subsequently is developed independently by the receiving party or by persons having nothing to do with the subject Proposal;
 - d. becomes known or available to the receiving party from a source other than the disclosing party without breach of this Agreement by the recipient;
 - e. becomes part of the public domain without breach of this Agreement by the recipient;
 - f. becomes available to the receiving party by inspection or analysis of products available in the market;
 - g. is disclosed with the prior written approval of the other party; or
 - h. was exchanged and five years have subsequently elapsed.
- 10.4 Neither the execution of this Agreement, nor the furnishing of any proprietary information by either party shall be construed as granting to the other party expressly, by implication, by estoppel or otherwise, any license under any invention, patent, trademark, copyright or other proprietary right now or hereafter owned or controlled by the party furnishing same.

10.5 The parties shall return all such proprietary information of the other upon termination of this Agreement.

11.0 OWNERSHIP RIGHTS

11.1 Inventions conceived pursuant to this Agreement shall remain the property of the originating party. In the event of joint inventions, the parties shall engage in good faith negotiations to establish their respective rights. Failing agreement, each party shall have equal ownership and rights in such joint inventions, without further obligation to the other party.

11.2 All reports delivered hereunder in the performance of this Agreement shall be the sole property of Client or Client's customer. ICF Technology Incorporated agrees not to assert any rights at common law or equity and not to establish any claim to statutory copyright in such reports.

12.0 WARRANTIES AND REPRESENTATIONS

12.1 Each party hereto represents and warrants that it has the authority to enter into this Agreement.

12.2 Services shall be performed in accordance with the requirements set forth in the Task Orders.

12.3 *EXCEPT FOR THE EXPRESS WARRANTIES CONTAINED HEREIN, ICF TECHNOLOGY INCORPORATED MAKES NO OTHER WARRANTIES, EXPRESS OR IMPLIED, INCLUDING BUT NOT LIMITED TO ANY IMPLIED WARRANTIES OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE.*

13.0 INDEMNIFICATION

13.1 Client shall defend, indemnify, and hold harmless ICF Technology Incorporated and its affiliates against all loss, damage, liability, suit, or claim, including reasonable attorneys fees, which is brought against ICF Technology Incorporated or its affiliates based upon the Services rendered hereunder, except to the extent such loss, damage, liability, suit, or claim results from the sole negligence or willful misconduct of ICF Technology Incorporated or its affiliates.

13.2 *IN NO EVENT SHALL ICF TECHNOLOGY INCORPORATED OR ITS AFFILIATES BE LIABLE TO CLIENT FOR ANY INCIDENTAL, INDIRECT, SPECIAL OR CONSEQUENTIAL DAMAGES WHATSOEVER (INCLUDING BUT NOT LIMITED TO, LOST PROFITS OR INTERRUPTION OF BUSINESS) ARISING OUT OF OR RELATED TO THE PRODUCTS OR SERVICES SUPPLIED UNDER THIS AGREEMENT, EVEN IF ADVISED OF THE POSSIBILITY OF SUCH DAMAGES.*

14.0 LIMITATION OF LIABILITIES

- 14.1 Client agrees that ICF Technology Incorporated and its affiliates' liability for damages arising out of ICF Technology Incorporated's performance under this Agreement shall be limited to the amount paid to ICF Technology Incorporated for Services provided under this Agreement.
- 14.2 ICF Technology Incorporated agrees to correct any deficiencies in its Service at its own cost where such deficiency was caused solely by an act or omission of ICF Technology Incorporated.

15.0 TERMINATION

- 15.1 This Agreement may be terminated in whole or in part by Client at any time during the period of its performance whenever ICF Technology Incorporated shall default in performance of this Agreement and shall fail to cure such default within thirty (30) days after receipt from Client of a notice specifying the default. Client shall provide ICF Technology Incorporated with written notice of the effective date of any such termination. ICF Technology Incorporated shall cease work on the termination date and shall not incur further expenses in connection with the Services. Client shall pay for all Services rendered up to the termination date.

16.0 GOVERNING LAW

- 16.1 This Agreement shall be governed by and construed in accordance with the Laws of the Commonwealth of Virginia. ICF Technology Incorporated agrees to comply with the applicable provisions of any federal, state or local law or ordinance and all orders, rules and regulations issued thereunder.

17.0 INDEPENDENT CONTRACTOR

- 17.1 ICF Technology Incorporated is an independent contractor and shall not be deemed to be the employee or agent of Client. ICF Technology Incorporated shall indemnify Client against all liability and loss in connection with, and shall assume responsibility for payment of all federal, state, ~~and local~~ taxes or contributions imposed as required under employment insurance, social security, and income tax laws with respect to ICF Technology Incorporated's employees engaged in the performance of this Agreement.

18.0 NONWAIVER OF BREACH

- 18.1 Any waiver by either party of a breach of a provision of this Agreement shall not operate or be construed as a waiver or any other breach of such provision or waiver of any breach of any provision of this Agreement.

19.0 SEVERABILITY

19.1 If any provision of this Agreement is determined to be invalid or illegal for any reason, then that provision shall be deemed to be deleted and such deletion shall in no way effect, impair or invalidate any other provision of this Agreement and the remaining provisions shall remain in full force.

20.0 ASSIGNMENT

20.1 Neither party may assign or transfer this Agreement or any rights or duties hereunder, except to a successor-in-interest, without consent of the other.

21.0 SURVIVAL

21.1 The promises and covenants set forth in paragraphs 13, 14, and 15 shall outlive this Agreement and remain in effect in perpetuity.

22.0 FORCE MAJEURE

22.1 ICF Technology Incorporated shall not be liable for any delay or failure in performance of any part of this Agreement to the extent that such delay or failure was a result of Acts of God, war, government, labor unrest, denial to access to any site or data, or acts of Client. Performance under this Agreement will resume once the cause of delay ceases, with an extension on the period of performance up to the length of time that such delay precluded performance.

23.0 DISPUTES

23.1 Any dispute relating to this Agreement shall be submitted to a panel consisting of at least one representative from each party who shall have the authority to enter into an agreement to resolve the dispute. The panel shall meet for a maximum of two days. Should this dispute resolution be unsuccessful, the matter may be submitted to a court of competent jurisdiction within the Commonwealth of Virginia.

23.2 The parties hereto agree that no oral or written representation made during the course of any settlement shall constitute a party admission.

24.0 ENTIRE AGREEMENT

24.1 Both parties acknowledge that they have read this Agreement, understand it and agree be bound by its terms and further agree that it is the entire agreement between the parties hereto which supersedes all prior agreements, written or oral, relating to the subject matter hereof. No modification or waiver of any provision shall be binding unless in a writing signed by the party against whom such modification or waiver is sought to be enforced.

IN WITNESS WHEREOF, ICF Technology Incorporated and Client have caused this Agreement to be executed by their duly authorized representatives as of the date first written above.

FOR: CLIENT

FOR: ICF TECHNOLOGY INCORPORATED

Signature

Signature

Name (Typed)

Name (Typed)

Title

Title

Date

Date

ATTEST:

APPENDIX A
STATEMENT OF WORK

This Appendix A is attached to and incorporated into the Basic Ordering Agreement between ICF Technology Incorporated and Client dated _____. To the extent any of the terms and conditions set forth in this Appendix A are inconsistent with those found in the Basic Ordering Agreement, the terms and conditions of this Appendix A shall control.

AGREED:

ICF Technology Incorporated

Client

APPENDIX B

TASK ORDER FORMAT

Task Order No. _____

This Task Order No. _____ is made this _____ day of _____, 19____, by and between ICF Technology Incorporated and _____ (hereinafter "Client") and is hereby incorporated into that Basic Ordering Agreement (hereinafter "Agreement") between the parties dated _____. This Task Order amends and supplements the Agreement to the extent the terms and conditions herein differ from those found in the Agreement. All terms and conditions in the Agreement not modified by this Task Order shall be applicable to this Task Order.

1.0 STATEMENT OF WORK

1.1 ICF Technology Incorporated shall provide the following services:

2.0 SCHEDULE

3.0 ESTIMATED COST

3.1 The rates provided below shall be in effect from _____ to _____

4.0 SPECIAL PROVISIONS

IN WITNESS WHEREOF, ICF Technology Incorporated and Client have caused this Task Order _____ to be executed by their duly authorized representatives as of the date first written above.

FOR:

FOR: ICF TECHNOLOGY INCORPORATED

Signature

Signature

Name (Typed)

Name (Typed)

Title

Title

Date

Date

ALTERNATIVE/ADDITIONAL PROVISIONS

1.0 LIABILITY

- 1.1 Client hereby agrees that to the fullest extent permitted by law, ICF Technology Incorporated's total liability to Client for any and all injuries, claims, losses, expenses, or damages whatsoever arising out of or in any way related to the performance of the Services including, but not limited to, ICF Technology Incorporated's negligence, errors, omissions, strict liability, breach of contract or breach of warranty (hereinafter "Client's Claims") shall be limited to (a) if coverage is provided under ICF Technology Incorporated's insurance with respect to Client's Claims, the total proceeds paid by ICF Technology Incorporated's insurers, or (b) if no insurance coverage is provided, the total compensation received by ICF Technology Incorporated under this Agreement. ICF Technology Incorporated shall have no liability whatsoever after one (1) year following performance of the Services.

2.0 INSURANCE

- 2.1 During the term of this Agreement, ICF Technology Incorporated shall maintain the following insurance coverages and limits of liability:
- a. Workers Compensation Insurance with coverage applicable to the laws of the state in which the Services are to be performed.
 - b. Employers Liability Insurance with a limit of not less than: \$100,000 per occurrence for bodily injury liability; \$100,000 occupational disease each employee; and \$500,000 aggregate occupational disease.
 - c. Comprehensive General Liability Insurance for bodily injury and property damage in an amount of at least \$500,000 for each occurrence and \$1,000,000 in the aggregate. This insurance shall provide the following coverages and endorsements:
 - i. Premises and operations hazards;
 - ii. Explosion, collapses, and underground hazards;
 - iii. Products and operations hazards;
 - iv. Contractual insurance; and
 - v. Broad form property damage.
 - d. Comprehensive Automobile Liability Insurance covering the use of all vehicles used by the Contractor, whether owned, hired, or non-owned. This insurance shall be in at least the following amounts:
 - i. Bodily injury: \$500,000 per person; \$1,000,000 per occurrence; and
 - ii. Property damage: \$500,000 per occurrence
 - e. Excess Liability Insurance covering bodily injury and property damage in excess of the coverage provided by its Comprehensive General and Automobile Liability Insurance in an amount of at least \$1,000,000 in the aggregate.

3.0 KEY PERSONNEL

3.1 Contractor shall provide the personnel listed below to perform the Services. The personnel are considered to be essential to the work performed and Contractor shall not replace any such personnel without the prior written approval of Client, which approval shall not be unreasonably withheld.

1. _____
2. _____
3. _____

SUPPORT SERVICES

(619) 542-0722

May 4, 1989

Deborah L. Berger, Deputy City Attorney
SAN DIEGO CITY ATTORNEY'S OFFICE
Litigation Division
525 "B" Street, Suite 2100
San Diego, California 92101

HAND DELIVERED

Re: SCE/SDG&E Merger

Dear Ms. Berger:

Thank you for your decision to utilize our services with regard to database design consultation, document control, case management, and taxonomy preparation.

As you are aware, we are still in the process of finalizing many aspects of the services to be provided while the work has actually begun. This letter will, therefore, serve as our fee agreement until such time as the proposal has been finalized and accepted.

FEES AND COSTS

Our fees for the work you have asked us to perform have been outlined in the Rate Schedule sent to you on April 3, 1989 and attached hereto for your reference. You will also be responsible for all costs incurred in connection with this matter which include, but are not limited to, photocopying, printer time and outside services as also described in our Rate Schedule.

STATEMENTS

Our billing period ends on the last day of the month. A monthly invoice/statement will be prepared and mailed out not later than the 10th of each month for services rendered and costs incurred through the last day of the previous month. The statement will generally provide a description of the services performed, including the date they were performed, the initials of the individual performing the service, and the hours worked by that individual. Statements are payable upon presentation. If the balance owing becomes 30-days past due, a 5% finance charge will be assessed per month on the outstanding balance.

TERMINATION

Notification of termination by either party shall be in writing. We agree that we will inform you in advance if this company wishes

ENCLOSURE NO. 4

1335 HOTEL CIRCLE SO., STE. 110 • SAN DIEGO, CA 92108

R 274264

Deborah L. Berger, Deputy City Attorney
SAN DIEGO CITY ATTORNEY'S OFFICE
May 4, 1989
Page Two

to terminate its services for you in order to afford you the opportunity to make other arrangements for the completion of the project.

FEE DISPUTE

If there is a fee dispute concerning our compensation under this agreement, the losing party may be responsible for reasonable attorneys' fees and costs incurred by the prevailing party in the dispute. If LITIGATION SUPPORT SERVICES prevails, we may be entitled to such attorneys' fees and costs whether we hire independent counsel to represent us in the dispute or do so ourselves.

APPROVAL

If the above accurately sets forth your understanding of our services to be performed, please sign and return the enclosed copy of this letter by return mail to indicate your approval of the terms set forth herein. Upon final acceptance of the cost proposal, a written confirmation will be prepared to include the terms set forth above.

Thank you, again, for having asked us to provide you with our services. Please do not hesitate to contact us with any questions you might have concerning our procedures, fees and costs arrangements, or the scope of work to be performed.

Very truly yours,



Deborah M. Carnegie,
President

DMC:jtg
Enclosure

I HEREBY APPROVE OF AND AUTHORIZE THE FEE AGREEMENT AS SET FORTH IN THE FOREGOING 2-PAGE LETTER.

DATE: _____

SAN DIEGO CITY ATTORNEY'S OFFICE

By: _____
Deborah L. Berger,
Deputy City Attorney

LITIGATION SUPPORT SERVICES

Rate Schedule

The following Rate Schedule is based upon utilizing services provided by LITIGATION SUPPORT SERVICES for case management and document control, including but not limited to: Timelines and Chronology of Events; Document Indexing; Deposition Summarization/Digest; Keyword Indexing of Depositions; Preparation of Documents for Deposition or Trial; Charts and Graphs for Exhibits; and, Case Management and Document Control Consultation. Rates reflected in this schedule are based on the task performed, not the title of the person performing the task.

Consultation	\$48.00 per hour
Paralegal Task	\$25.00-48.00 per hour
Including But Not Limited To:	* \$100.00 per hour
1. Database design;	
2. Review/analysis of various case documents to format coding procedures;	
3. Coding/indexing of documents;	
4. Database management, updates to database;	
5. Quality control and document verification;	
6. Summarizing deposition/trial testimony;	
7. Preparation of documents for deposition/trial;	
8. Appearance at deposition;	
9. Search, retrieval and formatting of reports;	
10. Exhibit Chart, Graph or transparency preparation;	
11.* In Court/Trial Time which includes court preparation/trial preparation and appearance in court.	
Document Clerk/Coder Task	\$12.00-25.00 per hour
Including But Not Limited To:	
1. Log documents received;	
2. Document preparation and collation;	
3. Initial manual/on-line coding/indexing of documents;	
4. Quality control and document verification.	

R 274264

Data Entry Clerk/Word Processor Task Including But Not Limited To:	\$10.00-18.00 per hour
1. Initial keying of documents;	
2. Perform administrative tasks on database documents;	
3. Transcription of deposition summaries, pleadings, etc.	

Costs

Computer Usage Time for Offsite Access by Client After Normal Working Hours (modem access available only upon request)	\$10.00 per hour
---	------------------

Printer Time - Printouts (Quality Control/Document Verification Reports, Depo Prep Reports, Deposition Summaries, etc.)	\$10.00 per hour
--	------------------

Computer Storage Time	\$50.00/meg per month
-----------------------	-----------------------

Photocopying by LSS	\$.12 per page
---------------------	-----------------

Coding Forms	\$.10 per form
--------------	-----------------

Outside Services and Expenses	Billed at Cost
-------------------------------	----------------

Miscellaneous and "rush" projects	Determined prior to beginning of project.
-----------------------------------	---

(Rev. 89/02/25)

ORRICK, HERRINGTON
& SUTCLIFFE

Direct Dial

415/773-5783 /

August 7, 1989

The City Attorney
City of San Diego
525 "B" Street, Suite 2100
San Diego, CA 92101

Attention: Ms. Deborah Berger
Deputy City Attorney

Re: Bond Counsel Services

Ladies and Gentlemen:

Orrick, Herrington & Sutcliffe has served as bond counsel or co-bond counsel in connection with the City of San Diego's Industrial Development Revenue Bonds Series 1983A, 1983B, 1985A, 1986A, 1986B and 1987B, all issued to provide tax-exempt financing for San Diego Gas & Electric Company ("SDG&E"). SDG&E agreed to pay all fees incurred by the City for bond counsel services in connection with these six bond issues to the extent the services were requested or approved by SDG&E.

Early in 1989 Curtis Fitzpatrick requested that Orrick, Herrington & Sutcliffe provide certain additional legal services as bond counsel in connection with these six bond issues. We advised SDG&E's legal department of this request. On March 3, 1989 a representative of SDG&E's legal department advised us that SDG&E believes the City should pay any fees associated with future bond counsel services requested by the City. Since that date, we periodically have provided legal services as bond counsel at the request of Curtis Fitzpatrick and other representatives of the City Attorney's office. We expect to provide additional services as bond counsel as requested from time to time. We will submit monthly bills to the City Attorney's office with respect to any such services, reflecting our standard hourly rates plus disbursements.

ENCLOSURE NO. 5

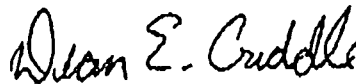
**ORRICK, HERRINGTON
& SUTCLIFFE**

The City Attorney
August 7, 1989
Page 2

Orrick, Herrington & Sutcliffe also serves as bond counsel to the San Diego County Water Authority (the "Authority"). The Authority presently is studying the possibility of acquiring some or all of the assets of SDG&E. In connection with that study, the Authority has requested our assistance as bond counsel with respect to the six bond issues described above. By a letter dated July 27, 1989 (a copy of which is attached) Mr. Fitzpatrick advised the Authority that the City Attorney has no objection to Orrick, Herrington & Sutcliffe providing such advice to the Authority, provided the Authority pays all costs associated with such efforts. Accordingly, we will not bill the City for any bond counsel services rendered at the Authority's request.

If the above arrangements for providing legal services as bond counsel and billing for such services and disbursements are satisfactory, please indicate in the space provided below.

Very truly yours,



Dean E. Criddle

Approval of John W. Witt
City Attorney

By _____

Enclosure

cc: Curtis M. Fitzpatrick, Esq.

OFFICE OF
THE CITY ATTORNEY
CITY OF SAN DIEGO

LITIGATION DIVISION
525 'B' STREET, SUITE 2100
SAN DIEGO, CALIFORNIA 92101
(619) 533-4700
FAX (619) 533-4747

CURTIS M. FITZPATRICK
ASSISTANT CITY ATTORNEY
RONALD L. JOHNSON
SENIOR CHIEF DEPUTY CITY ATTORNEY
C. ALAN SUMPTION
CHIEF DEPUTY CITY ATTORNEY
EUGENE P. CORDON
CHIEF DEPUTY CITY ATTORNEY

JOHN W. WITT
CITY ATTORNEY

July 27, 1989

Lester A. Snow, General Manager
San Diego County Water Authority
3211 Fifth Avenue
San Diego, CA 92103-5718

Dear Les,

Re: San Diego County Water Authority - SDG&E Study

I am replying to your letter of July 7, 1989, regarding the above-captioned matter. In your letter you indicate the desire of the CWA to review background details concerning issuance by the City of some \$550 million of industrial development bonds for the benefit of SDG&E. You indicated this review is relevant to a study of options for public ownership of certain utility properties owned by SDG&E.

The law firm of Orrick, Herrington & Sutcliffe ("Orrick") acted as bond counsel to the City with respect to these bond issues. It was also acting in that capacity for SDG&E. On behalf of the City of San Diego, the City Attorney has no objection to any inquiry the CWA might choose to make to Orrick regarding these bond issues, provided, of course, that any cost incurred be fully paid by the CWA.

Very truly yours,

JOHN W. WITT, City Attorney

By



C. M. Fitzpatrick
Assistant City Attorney

CMF:wk:Lit

cc Coleman Conrad, Deputy City Manager
Pat Frazier, Financial Mgmt. Director
Deborah Berger, Deputy City Attorney
Nina Deane, Deputy City Attorney
Carlo Fowler, Orrick, Herrington
✓ Dean Criddle, Orrick, Herrington
Wallace Peck, Jennings, Engstrand

R 274264

5417

Passed and adopted by the Council of The City of San Diego on AUG 8 1989,
by the following vote:

Council Members	Yeas	Nays	Not Present	Ineligible
Abbe Wolfsheimer	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Ron Roberts	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Gloria McColl	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
H. Wes Pratt	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Ed Struikma	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
J. Bruce Henderson	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Judy McCarty	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Bob Filner	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Mayor Maureen O'Connor	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

AUTHENTICATED BY:

MAUREEN O'CONNOR
Mayor of The City of San Diego, California.

(Seal)

CHARLES G. ABDELNOUR
City Clerk of The City of San Diego, California.

By Ellen Board, Deputy.

Office of the City Clerk, San Diego, California

Resolution Number R 274264 Adopted AUG 8 1989