

**SUBMITTAL TO THE BOARD OF SUPERVISORS
COUNTY OF RIVERSIDE, STATE OF CALIFORNIA**

125



FROM: Economic Development Agency / Facilities Management

SUBMITTAL DATE:
November 23, 2011

SUBJECT: Approve the Agreement with Endurant Energy Systems, LLC for Equipment Services

RECOMMENDED MOTION: That the Board of Supervisors:

1. Rescind the action taken on November 1, 2011 as item 3.11;
2. Ratify the sole source award to Endurant Energy Systems, LLC of Westmount, Illinois in the annual amount of \$256,944 and authorize the Chairman of the Board to execute the agreement on behalf of the County; and
3. Authorize County Purchasing to sign amendments and exercise the option to renew annually for up to five one-year periods, with increases that do not exceed the annual Consumer Price Index (CPI) rates; in accordance with applicable board policies.

BACKGROUND: (Commences on Page 2)
FISCAL PROCEDURES APPROVED

PAUL ANGULO, CPA, AUDITOR-CONTROLLER
BY Samuel Wong 11/21/11
SAMUEL WONG

[Signature]

Robert Field
Assistant County Executive Officer/EDA

FINANCIAL DATA	Current F.Y. Total Cost:	\$ 256,944	In Current Year Budget:	Yes
	Current F.Y. Net County Cost:	\$ 0	Budget Adjustment:	No
	Annual Net County Cost:	\$ 0	For Fiscal Year:	2011/12

COMPANION ITEM ON BOARD OF DIRECTORS AGENDA: No

SOURCE OF FUNDS: Energy Management Budget	Positions To Be Deleted Per A-30	<input type="checkbox"/>
	Requires 4/5 Vote	<input type="checkbox"/>

C.E.O. RECOMMENDATION: APPROVE

BY Jennifer L. Sargent

County Executive Office Signature Jennifer L. Sargent

- Dep't Recomm.: Consent
- Per Exec. Ofc.: Consent
- Policy
- Policy

Prev. Agn. Ref.: 3.11 of 11/1/11; 3.34 of 6/7/11

District: 3

Agenda Number:

3.14

ATTACHMENTS FILED
WITH THE CLERK OF THE BOARD

FORM APPROVED COUNTY COUNSEL
 BY: [Signature] DATE: 11/23/11
 DEPARTMENTAL CLERK: KIPNIS
 Purchasing: [Signature]
 Mark Seiler, Assistant Director

BACKGROUND:

On November 1, 2011, the Board of Supervisors approved agenda item 3.11; however, the professional services agreement and form 11 inadvertently requested the approval of Director of Purchasing instead of Chairman of the Board.

On November 3, 2009, the Board of Supervisors approved the contract between Endurant Energy Systems, LLC (Endurant) and the county to determine the cause of engine failures and rebuild the engines for the Southwest Justice Center (SWJC) Cogeneration Plant Repairs Project. The rebuild of both engines was completed in September 2010, a test startup was performed and the engines were then shut down to wait for the redesign of the plant piping system to be completed to avoid damage to the newly rebuilt engines.

On February 15, 2011, the Board of Supervisors approved the plans and specifications for the SWJC Cogeneration Plant Redesign and authorized the Clerk of the Board to advertise for bids. On March 9, 2011, 11 contractors attended a mandatory job walk for the SWJC Cogeneration Plant Redesign. On March 29, 2011, a bid opening was conducted and Inland Mechanical Construction, Inc. was determined to be the lowest responsive and responsible bidder. The redesign is in construction and will be completed in October 2011. Once the plant is in full operation the equipment requires a certified company to provide all labor and materials necessary to perform the manufacturer's required maintenance, repairs, monitoring, tests and inspections as required to operate per South Coast Air Quality Management District rules.

The equipment is critical to the energy savings requirements under the terms and conditions of the county's rebate agreements between the county, Southern California Edison and The Gas Company. Failure by the county to comply with requirements under these agreements will result in forfeiture of rebates that had been pre-established for the cogeneration plant. The county will also benefit from the direct energy and cost savings the plant provides. When fully operational, the cogeneration plant is expected to produce 70% of the electricity needs of the SWJC campus. This will result in estimated electricity savings of between \$700,000 and \$800,000 per year. Endurant has so far proven their ability to get the system operating properly under the direction of Risk Management and the county Insurance Carrier Alliance Insurance Services. Therefore, due to their expertise and intricate knowledge of the county's cogeneration plant, and Waukesha engines, it is in the best interest of the county to have Endurant provide these first years of maintenance to ensure that the equipment will operate properly, provide the county with maximum energy cost savings, and meet the terms and conditions of the agreement between the county, Southern California Edison and The Gas Company, as part of the existing Energy Efficiency Partnership Program.

Because the annual electricity savings will more than exceed the annual cost of this maintenance contract, there is no additional net county cost for this contract.

Date: September 19, 2011
From: Nancy Cano Department/Agency: EDA
To: Board of Supervisors/Purchasing Agent
Via: Purchasing Agent
Subject: Sole Source Procurement; Request for Cogeneration Plant Maintenance Contract Agreement.

The below information is provided in support of my Department requesting approval for a sole source. Outside of a duly declared emergency, the time to develop a statement of work or specifications is not in itself justification for sole source.

1. Supply/Service being requested:

Factory certified parts, materials and labor to perform required maintenance and required AQMD code compliance monitoring tests and reporting per rule 1110.2 for the Cogeneration Plant at Southwest Justice Center (SWJC) in Murrieta.

2. Supplier being requested:

Endurant Energy Systems, LLC (EES)

3. Alternative suppliers that can or might be able to provide supply/service:

One other vendor exists, Cornerstone Energy Services Inc., CA is capable of performing services per Waukesha Manufacture representative, David McCallum. Endurant Energy Systems, LLC holds the warranty for the recent rebuilt engines for a period of one year upon startup.

4. Extent of market search conducted:

EDA contacted the Waukesha Manufacture for companies in CA capable of performing manufactures warranty and full maintenance service work. Waukesha Manufacture informed EDA of two companies capable to perform the work and recommended Endurant Energy Systems since they performed the rebuilding of the Cogeneration engines. EDA was informed of another firm, Cornerstone Energy Services could perform the services but they are a third party company and not a manufacture representative. Following Risk Management suggestion and the warranty work provided by Endurant Energy Systems are the preferred service provider who is aware of all redesign and historical data for this plant.

5. Unique features of the supply/service being requested from this supplier, which no alternative supplier can provide:

Endurant Energy Systems, LLC performed the rebuilding of both Waukesha engines at the SWJC which was overseen by Risk Management and the County's Insurance Company. In addition, EES assisted in the redesign and rebuilding of the SWJC cogeneration plant. EES will perform the commissioning of the plant once the work on the redesign is complete. Upon startup, the engines will be covered for one year under warranty by EES.

6. Reasons why my department requires these unique features and what benefit will accrue to the county:

In September 2009 EDA contacted Endurant Energy Systems after being highly recommended to conduct a review and evaluation with recommendations for RCRMC Cogeneration Plant. After the study was completed, with recommendations by the manufacture in October 2009, EDA and Risk Management met with Endurant Energy to discuss the catastrophic failures of the two Waukesha engines at the SWJC. After the onsite review of the system with EES, EDA and County Risk Management were confident that Endurant Energy had the required expertise to assist the County of Riverside with the rebuilding of the two Waukesha engines. A sole source Form 11 was submitted to and approved by the Board of Supervisors (BOS) to have Endurant Energy Systems perform the rebuild. In August 2010, a Sole Sourced contract was approved by the BOS for Endurant Energy Systems to assist the County of Riverside with the redesign, development of the scope of work, bid document preparation, overseeing of the construction phase and commissioning.

The equipment is critical to the energy savings (\$600k to \$800k per year) requirements under the terms and condition of the County's rebate agreement with Southern California Edison and the Gas Company. As part of the agreement the estimated annual savings for the County is approximately \$1.2 million. Failure by the County to comply with requirements under these agreements will result in forfeiture of rebates that had been pre-established for the cogeneration plant. The County benefits from the energy and cost savings the plant provides. EES has so far proven their ability to get the system operating properly under the direction of Risk Management and the County Insurance Carrier Alliance Insurance Services. Therefore, due to their expertise and intricate knowledge of our Cogeneration Plant and Waukesha engines it is in the best interest of the County to have Endurant Energy Systems provide a maintenance contract to ensure the equipment will operate properly, provide the County with energy cost savings, and meet the terms of the contract agreed upon between the County of Riverside, Southern California Edison and Gas Company as part of the existing Energy Efficiency Partnership Program.

7. Price Reasonableness including purchase price and any ongoing maintenance or ancillary costs from the supplier:

The oil used for the engines fluctuates on a daily basis and is based on the daily market value. ESS has made allowances in their proposal to cover oil increases through the five year contract and will not be increased. In Aug. 2011 there was a 25% cost increase from Waukesha for their parts that ESS will not pass on to the County. There are no other projects in the County in operation to compare pricing. When the plant was in operation the average savings per month were \$60k plus which provided an annual cost savings to the County of over \$600k. With the completion of the redesign the plant could save the County up to an additional \$400k to (\$600k) if the required maintenance is provided ongoing from the start up. Cost not to exceed \$256,944.00 annually at \$21,412.00 per month.

8. Does moving forward on this product or service further obligate the county to future similar contractual arrangements or any ongoing costs affiliated with this sole source? (Maintenance, support, or upgrades, if so, please explain).

Yes. The proposal provided by ESS allows for renewal of the maintenance agreement by the County on a year-by-year basis. EDA Facilities Maintenance / Energy Division will be responsible for the contract and annual evaluations to renew the contract based on performance.

9. Period of Performance:

November 1, 2011 thru November 1, 2016. Annual renewal will be based on performance.

(Provide a defined period of performance. Please note multi-year terms require Board approval, unless renewable in one year increments and the Purchasing Agent approves the terms.)

Lois Brandt 10/4/11
 Department Head Signature Date

Purchasing Department Comments:

Approve Approve with Condition/s Disapprove
 Not to exceed: \$ 257,000 One time Annual Amount through 11-1-2016

Mueller 10-11-11 12-248
 Purchasing Agent Date Approval Number
 (Reference on Purchasing Documents)

PROFESSIONAL SERVICE AGREEMENT

for

Agreement for Maintenance

between

COUNTY OF RIVERSIDE

and

Endurant Energy Systems, LLC



TABLE OF CONTENTS

<u>SECTION HEADING NUMBER</u>	<u>PAGE</u>
1. Description of Services	
2. Period of Performance.....	
3. Compensation.....	
4. Alteration or Changes to the Agreement	
5. Termination.....	
6. Ownership/Use of Contract Materials and Products	
7. Conduct of Contractor.....	
8. Inspection of Service: Quality Control/Assurance	
9. Independent Contractor	
10. Subcontract for Work or Services	
11. Disputes	
12. Licensing and Permits	
13. Use by Other Political Entities	
14. Non-Discrimination	
15. Records and Documents	
16. Confidentiality	
17. Administration/Contract Liaison.....	
18. Notices	
19. Force Majeure	
20. EDD Reporting Requirements	
21. Hold Harmless/Indemnification	
22. Insurance	
23. General	
Exhibit A-Scope of Service	
Exhibit B- Payment Provisions	

This Agreement, made and entered into this 1st day of November, 2011, by and between **Endurant Energy Systems, LLC** (herein referred to as "CONTRACTOR"), and the COUNTY OF RIVERSIDE, a political subdivision of the State of California, (herein referred to as "COUNTY"). The parties agree as follows:

1. Description of Services

1.1 CONTRACTOR shall provide all services as outlined and specified in Exhibit A, Scope of Services, consisting of six pages at the prices stated in Exhibit B, Payment Provisions, consisting of two pages, and Attachment I, Endurant Energy Systems, LLC Proposal Attachment to the Agreement, consisting of eight pages.

1.2 CONTRACTOR represents that it has the skills, experience and knowledge necessary to fully and adequately perform under this Agreement and the COUNTY relies upon this representation. CONTRACTOR shall perform to the satisfaction of the COUNTY and in conformance to and consistent with the highest standards of firms/professionals in the same discipline in the State of California.

1.3 CONTRACTOR affirms this it is fully apprised of all of the work to be performed under this Agreement; and the CONTRACTOR agrees it can properly perform this work at the prices stated in Exhibit B. CONTRACTOR is not to perform services or provide products outside of the Agreement.

1.4 Acceptance by the COUNTY of the CONTRACTOR's performance under this Agreement does not operate as a release of CONTRACTOR's responsibility for full compliance with the terms of this Agreement.

2. Period of Performance

2.1 This Agreement shall be effective upon signature of this Agreement by both parties and continue in effect through November 1, 2016, with the option to renew based on performance for 2012, 2013, 2014, 2015 and 2016, renewable in one year increments by written amendment, unless terminated earlier. CONTRACTOR shall commence performance upon signature of this Agreement by both parties and shall diligently and continuously perform thereafter.

3. Compensation

3.1 The COUNTY shall pay the CONTRACTOR for services performed, products provided and expenses incurred in accordance with the terms of Exhibit B, Payment Provisions. Maximum payments by COUNTY to CONTRACTOR shall not exceed \$256,944 annually including all expenses. The COUNTY is not responsible for any fees or costs incurred above or beyond the contracted amount and shall have no obligation to purchase any specified amount of services or products. Unless otherwise specifically stated in Exhibit B, COUNTY shall not be responsible for payment of any of CONTRACTOR's expenses related to this Agreement.

3.2 No price increases will be permitted during the first year of this Agreement. All price decreases (for example, if CONTRACTOR offers lower prices to another governmental entity) will automatically be extended to the COUNTY. The COUNTY requires written proof satisfactory to COUNTY of cost increases prior to any approved price adjustment. After the first year of the award, a minimum of 30-days advance notice in writing is required to be considered and approved by COUNTY. No retroactive price adjustments will be considered. Any price increases must be stated in a written amendment to this Agreement. The net dollar amount of profit will remain firm during the period of the Agreement. Annual increases shall not exceed the Consumer Price Index- All Consumers, All Items - Greater Los Angeles, Riverside and Orange County areas for this Maintenance Agreement and be subject to satisfactory performance review by the COUNTY and approved (if needed) for budget funding by the Board of Supervisors.

3.3 CONTRACTOR shall be paid only in accordance with an invoice submitted to COUNTY by CONTRACTOR within fifteen (15) days from the last day of each calendar month, and COUNTY shall pay the invoice within thirty (30) working days from the date of receipt of the invoice. Payment shall be made to CONTRACTOR only after services have been rendered or delivery of materials or products, and acceptance has been made by COUNTY. Prepare invoices in duplicate. For this Agreement, send the original and duplicate copies of invoices to:

Economic Development Agency – Accounting & Finance 3133 Mission Inn Ave., Riverside,
CA 92507

- a) Each invoice shall contain a minimum of the following information: invoice number and date; remittance address; bill-to and ship-to addresses of ordering department/division; Agreement number; quantities; item descriptions, unit prices, extensions, sales/use tax if applicable, and an invoice total.

b) Invoices shall be rendered monthly in arrears.

3.4 The COUNTY obligation for payment of this Agreement beyond the current fiscal year end is contingent upon and limited by the availability of COUNTY funding from which payment can be made. No legal liability on the part of the COUNTY shall arise for payment beyond June 30 of each calendar year unless funds are made available for such payment. In the event that such funds are not forthcoming for any reason, COUNTY shall immediately notify CONTRACTOR in writing; and this Agreement shall be deemed terminated, have no further force, and effect.

4. Alteration or Changes to the Agreement

4.1 The Board of Supervisors and the COUNTY Purchasing Agent and/or his designee is the only authorized COUNTY representatives who may at any time, by written order, alter this Agreement. If any such alteration causes an increase or decrease in the cost of, or the time required for the performance under this Agreement, an equitable adjustment shall be made in the Agreement price or delivery schedule, or both, and the Agreement shall be modified by written amendment accordingly.

4.2 Any claim by the CONTRACTOR for additional payment related to this Agreement shall be made in writing by the CONTRACTOR within 30 days of when the CONTRACTOR has or should have notice of any actual or claimed change in the work, which results in additional and unanticipated cost to the CONTRACTOR. If the COUNTY Purchasing Agent decides that the facts provide sufficient justification, he may authorize additional payment to the CONTRACTOR pursuant to the claim. Nothing in this section shall excuse the CONTRACTOR from proceeding with performance of the Agreement even if there has been a change.

5. Termination

5.1. COUNTY may terminate this Agreement without cause upon 30 days written notice served upon the CONTRACTOR stating the extent and effective date of termination.

5.2 COUNTY may, upon five (5) days written notice, terminate this Agreement for CONTRACTOR's default, if CONTRACTOR refuses or fails to comply with the terms of this

Agreement or fails to make progress to endanger performance and does not immediately cure such failure. In the event of such termination, the COUNTY may proceed with the work in any manner deemed proper by COUNTY.

5.3 After receipt of the notice of termination, CONTRACTOR shall:

- (a) Stop all work under this Agreement on the date specified in the notice of termination; and
- (b) Transfer to COUNTY and deliver in the manner as directed by COUNTY any materials, reports or other products, which, if the Agreement had been completed or continued, would have been required to be furnished to COUNTY.

5.4 After termination, COUNTY shall make payment only for CONTRACTOR's performance up to the date of termination in accordance with this Agreement and at the rates set forth in Exhibit B.

5.5 CONTRACTOR's rights under this Agreement shall terminate (except for fees accrued prior to the date of termination) upon dishonesty or a willful or material breach of this Agreement by CONTRACTOR; or in the event of CONTRACTOR's unwillingness or inability for any reason whatsoever to perform the terms of this Agreement. In such event, CONTRACTOR shall not be entitled to any further compensation under this Agreement.

5.6 The rights and remedies of COUNTY provided in this section shall not be exclusive and are in addition to any other rights and remedies provided by law or this Agreement.

5.7 Termination for Convenience. This Agreement may also be terminated at any time by either party for convenience upon ninety (90) days written notice to the other party in accordance with the provisions of Section 18, herein. Such a termination for convenience will not be considered a waiver of any other right that either party may have under this Agreement, at equity or at law. Upon termination for convenience Owner will shall pay Contractor , in full satisfaction and discharge of all obligations owed to Contractor for work performed under this Agreement, all labor and expense incurred by Contractor in fulfilling this Agreement to the date of termination. Each party has a duty to mitigate termination charges and shall make commercially reasonable efforts to reduce costs upon termination for convenience.

6. Ownership/Use of Contract Materials and Products

The CONTRACTOR agrees that all materials, reports or products in any form, including electronic, created by CONTRACTOR for which CONTRACTOR has been compensated by COUNTY pursuant to this Agreement shall be the sole property of the COUNTY; and may be used by the COUNTY for any purpose COUNTY deems to be appropriate, including, but not limit to, duplication and/or distribution within the COUNTY or to third parties. CONTRACTOR agrees not to release or circulate in whole or part such materials, reports or products without prior written authorization of the COUNTY.

7. Conduct of Contractor

7.1 The CONTRACTOR covenants that it presently has no interest, including, but not limited to, other projects or contracts, and shall not acquire any such interest, direct or indirect, which would conflict in any manner or degree with CONTRACTOR's performance under this Agreement. The CONTRACTOR further covenants that no person or subcontractor having any such interest shall be employed or retained by CONTRACTOR under this Agreement. The CONTRACTOR agrees to inform the COUNTY of all the CONTRACTOR's interests, if any, which are or may be perceived as incompatible with the COUNTY's interests.

7.2 The CONTRACTOR shall not, under circumstances which could be interpreted as an attempt to influence the recipient in the conduct of his/her duties, accept any gratuity or special favor from individuals or firms with whom the CONTRACTOR is doing business or proposing to do business, in accomplishing the work under this Agreement.

7.3 The CONTRACTOR or its employees shall not offer gifts, gratuity, favors, and entertainment directly or indirectly to COUNTY employees.

8. Inspection of Service; Quality Control/Assurance

8.1 All performance (which includes services, workmanship, materials, supplies and equipment furnished or utilized in the performance of this Agreement) shall be subject to inspection, test and approval by the COUNTY (Building Maintenance Superintendent Southwest County) or other regulatory agencies at all times. The CONTRACTOR shall provide adequate cooperation to any inspector or other COUNTY representative to permit him/her to determine the CONTRACTOR's conformity with the terms of this Agreement. If any services performed or products provided by CONTRACTOR are not in conformance with the terms of this Agreement,

the COUNTY shall have the right to require the CONTRACTOR to perform the services or provide the products in conformance with the terms of the Agreement at no additional cost to the COUNTY. When the services to be performed or the products to be provided are of such nature that the difference cannot be corrected, the COUNTY shall have the right to: (1) require the CONTRACTOR immediately to take all necessary steps to ensure future performance in conformity with the terms of the Agreement; and/or (2) reduce the Agreement price to reflect the reduced value of the services performed or products provided. The COUNTY may also terminate this Agreement for default and charge to CONTRACTOR any costs incurred by the COUNTY because of the CONTRACTOR's failure to perform.

8.2 CONTRACTOR shall establish adequate procedures for self-monitoring and quality control and assurance to ensure proper performance under this Agreement; and shall permit a COUNTY representative or other regulatory official to monitor, assess or evaluate CONTRACTOR's performance under this Agreement at any time upon reasonable notice to CONTRACTOR.

9. Independent Contractor

The CONTRACTOR is, for purposes relating to this Agreement, an independent contractor and shall not be deemed an employee of the COUNTY. It is expressly understood and agreed that the CONTRACTOR (including its employees, agents and subcontractors) shall in no event be entitled to any benefits to which COUNTY employees are entitled, including but not limited to overtime, any retirement benefits, worker's compensation benefits, and injury leave or other leave benefits. There shall be no employer-employee relationship between the parties; and CONTRACTOR shall hold COUNTY harmless from any and all claims that may be made against COUNTY based upon any contention by a third party that an employer-employee relationship exists by reason of this Agreement. It is further understood and agreed by the parties that CONTRACTOR in the performance of this Agreement is subject to the control or direction of COUNTY merely as to the results to be accomplished and not as to the means and methods for accomplishing the results.

10. Subcontract for Work or Services

No contract shall be made by the CONTRACTOR with any other party for furnishing any of the work or services under this Agreement without the prior written approval of the COUNTY; but this provision shall not require the approval of contracts of employment between the CONTRACTOR and personnel assigned under this Agreement, or for parties named in the proposal and agreed to under this Agreement.

11. Disputes

11.1 The parties shall attempt to resolve any disputes amicably at the working level. If that is not successful, the dispute shall be referred to the senior management of the parties. Any dispute relating to this Agreement, which is not resolved by the parties, shall be decided by the COUNTY's Purchasing Department's Compliance Contract Officer who shall furnish the decision in writing. The decision of the COUNTY's Compliance Contract Officer shall be final and conclusive unless determined by a court of competent jurisdiction to have been fraudulent, capricious, arbitrary, or so grossly erroneous as necessarily to imply bad faith. The CONTRACTOR shall proceed diligently with the performance of this Agreement pending the resolution of a dispute.

11.2 Prior to the filing of any legal action related to this Agreement, the parties shall be obligated to attend a mediation session in Riverside County before a neutral third party mediator. A second mediation session shall be required if the first session is not successful. The parties shall share the cost of the mediations.

12. Licensing and Permits

CONTRACTOR shall comply with all State or other licensing requirements, including but not limited to the provisions of Chapter 9 of Division 3 of the Business and Professions Code. All licensing requirements shall be met at the time proposals are submitted to the COUNTY. CONTRACTOR warrants that it has all necessary permits, approvals, certificates, waivers and exemptions necessary for performance of this Agreement as required by the laws and regulations of the United States, the State of California, the County of Riverside and all other governmental agencies with jurisdiction, and shall maintain these throughout the term of this Agreement.

13. Use By Other Political Entities

The CONTRACTOR agrees to extend the same pricing, terms and conditions as stated in this Agreement to each and every political entity, special district, and related non-profit entity in Riverside County. It is understood that other entities shall make purchases in their own name, make direct payment, and be liable directly to the CONTRACTOR; and COUNTY shall in no way be responsible to CONTRACTOR for other entities' purchases.

14. Non-Discrimination

CONTRACTOR shall not be discriminate in the provision of services, allocation of benefits, accommodation in facilities, or employment of personnel on the basis of ethnic group identification, race, religious creed, color, national origin, ancestry, physical handicap, medical condition, marital status or sex in the performance of this Agreement; and, to the extent they shall be found to be applicable hereto, shall comply with the provisions of the California Fair Employment and Housing Act (Gov. Code 12900 et. seq), the Federal Civil Rights Act of 1964 (P.L. 88-352), the Americans with Disabilities Act of 1990 (42 U.S.C. S1210 et seq.) and all other applicable laws or regulations.

15. Records and Documents

CONTRACTOR shall make available, upon written request by any duly authorized Federal, State or COUNTY agency, a copy of this Agreement and such books, documents and records as are necessary to certify the nature and extent of the CONTRACTOR's costs related to this Agreement. All such books, documents and records shall be maintained by CONTRACTOR for at least five years following termination of this Agreement and be available for audit by the COUNTY. CONTRACTOR shall provide to the COUNTY reports and information related to this Agreement as requested by COUNTY.

16. Confidentiality

16.1 The CONTRACTOR shall not use for personal gain or make other improper use of privileged or confidential information which is acquired in connection with this Agreement. The term "privileged or confidential information" includes but is not limited to: unpublished or sensitive technological or scientific information; medical, personnel, or security records; anticipated material requirements or pricing/purchasing actions; COUNTY information or data

which is not subject to public disclosure; COUNTY operational procedures; and knowledge of selection of contractors, subcontractors or suppliers in advance of official announcement.

16.2 The CONTRACTOR shall protect from unauthorized disclosure names and other identifying information concerning persons receiving services pursuant to this Agreement, except for general statistical information not identifying any person. The CONTRACTOR shall not use such information for any purpose other than carrying out the CONTRACTOR's obligations under this Agreement. The CONTRACTOR shall promptly transmit to the COUNTY all third party requests for disclosure of such information. The CONTRACTOR shall not disclose, except as otherwise specifically permitted by this Agreement or authorized in advance in writing by the COUNTY, any such information to anyone other than the COUNTY. For purposes of this paragraph, identity shall include, but not be limited to, name, identifying number, symbol, or other identifying particular assigned to the individual, such as finger or voice print or a photograph.

17. Administration/Contract Liaison

The COUNTY Purchasing Agent, or designee, shall administer this Agreement on behalf of the COUNTY. The Purchasing Department is to serve as the liaison with CONTRACTOR in connection with this Agreement.

18. Notices

All correspondence and notices required or contemplated by this Agreement shall be delivered to the respective parties at the addresses set forth below and are deemed submitted two days after their deposit in the United States mail, postage prepaid:

COUNTY OF RIVERSIDE

Economic Development Agency – Facilities Management
3403 Tenth St. 5th Floor Suite 500 Riverside, CA 92501

CONTRACTOR

Endurant Energy Systems, LLC
One East Oak Hill Dr, Suite 304, Westmont, IL
60559

19. Force Majeure

If either party is unable to comply with any provision of this Agreement due to causes beyond its reasonable control, and which could not have been reasonably anticipated, such as acts of God, acts of war, civil disorders, or other similar acts, such party shall not be held liable for such failure to comply.

20. EDD Reporting Requirements

In order to comply with child support enforcement requirements of the State of California, the COUNTY may be required to submit a Report of Independent Contractor(s) form **DE 542** to the Employment Development Department. The CONTRACTOR agrees to furnish the required data and certifications to the COUNTY within 10 days of notification of award of Agreement when required by the EDD. This data will be transmitted to governmental agencies charged with the establishment and enforcement of child support orders. Failure of the CONTRACTOR to timely submit the data and/or certificates required may result in the contract being awarded to another contractor. In the event a contract has been issued, failure of the CONTRACTOR to comply with all federal and state reporting requirements for child support enforcement or to comply with all lawfully served Wage and Earnings Assignments Orders and Notices of Assignment shall constitute a material breach of Agreement. If CONTRACTOR has any questions concerning this reporting requirement, please call (916) 657-0529. CONTRACTOR should also contact its local Employment Tax Customer Service Office listed in the telephone directory in the State Government section under "Employment Development Department" or access their Internet site at www.edd.ca.gov.

21. Hold Harmless/Indemnification

21.1 CONTRACTOR shall indemnify and hold harmless the County of Riverside, its Agencies, Districts, Special Districts and Departments, their respective directors, officers, Board of Supervisors, elected and appointed officials, employees, agents and representatives (individually and collectively hereinafter referred to as Indemnitees) from any liability whatsoever, based or asserted upon any services of CONTRACTOR, its officers, employees, subcontractors, agents or representatives arising out of or in any way relating to this Agreement, including but not limited to property damage, bodily injury, or death or any other element of any kind or nature whatsoever arising from the performance of CONTRACTOR, its officers,

employees, subcontractors, agents or representatives Indemnitors from this Agreement. CONTRACTOR shall defend, at its sole expense, all costs and fees including, but not limited, to attorney fees, cost of investigation, defense and settlements or awards, the Indemnitees in any claim or action based upon such alleged acts or omissions.

21.2 With respect to any action or claim subject to indemnification herein by CONTRACTOR, CONTRACTOR shall, at their sole cost, have the right to use counsel of their own choice and shall have the right to adjust, settle, or compromise any such action or claim without the prior consent of COUNTY; provided, however, that any such adjustment, settlement or compromise in no manner whatsoever limits or circumscribes CONTRACTOR'S indemnification to Indemnitees as set forth herein. CONTRACTOR'S obligation hereunder shall be satisfied when CONTRACTOR has provided to COUNTY the appropriate form of dismissal relieving COUNTY from any liability for the action or claim involved.

21.3 The specified insurance limits required in this Agreement shall in no way limit or circumscribe CONTRACTOR'S obligations to indemnify and hold harmless the Indemnitees herein from third party claims.

21.4 In the event there is conflict between this clause and California Civil Code Section 2782, this clause shall be interpreted to comply with Civil Code 2782. Such interpretation shall not relieve the CONTRACTOR from indemnifying the Indemnitees to the fullest extent allowed by law.

21.5 CONTRACTOR's indemnification obligations shall also apply to any action or claim regarding actual or alleged intellectual property infringement related to any material or product provided to COUNTY pursuant to this Agreement. In the event of any such action or claim, CONTRACTOR shall provide immediate notice to COUNTY of the action or claim. CONTRACTOR may defend or settle the action or claim as CONTRACTOR deems appropriate; however, CONTRACTOR shall be required to obtain for COUNTY the right to continue to use the material or product (or a similar non-infringing material or product with the same function) on terms identical to those stated in this Agreement.

22. Insurance

22.1 Without limiting or diminishing the CONTRACTOR'S obligation to indemnify or hold the COUNTY harmless, CONTRACTOR shall procure and maintain or cause to be maintained, at its sole cost and expense, the following insurance coverage's during the term of

this Agreement. As respects to the insurance section only, the COUNTY herein refers to the County of Riverside, its Agencies, Districts, Special Districts, and Departments, their respective directors, officers, Board of Supervisors, employees, elected or appointed officials, agents or representatives as Additional Insureds.

22.2 Workers' Compensation: If the CONTRACTOR has employees as defined by the State of California, the CONTRACTOR shall maintain statutory Workers' Compensation Insurance (Coverage A) as prescribed by the laws of the State of California. Policy shall include Employers' Liability (Coverage B) including Occupational Disease with limits not less than \$1,000,000 per person per accident. The policy shall be endorsed to waive subrogation in favor of the County of Riverside.

22.3 Commercial General Liability: Commercial General Liability insurance coverage, including but not limited to, premises liability, unmodified contractual liability, products and completed operations liability, personal and advertising injury, and cross liability coverage, covering claims which may arise from or out of CONTRACTOR'S performance of its obligations hereunder. Policy shall name the COUNTY as Additional Insured. Policy's limit of liability shall not be less than \$1,000,000 per occurrence combined single limit. If such insurance contains a general aggregate limit, it shall apply separately to this agreement or be no less than two (2) times the occurrence limit.

22.4 Vehicle Liability: If vehicles or mobile equipment are used in the performance of the obligations under this Agreement, then CONTRACTOR shall maintain liability insurance for all owned, non-owned or hired vehicles so used in an amount not less than \$1,000,000 per occurrence combined single limit. If such insurance contains a general aggregate limit, it shall apply separately to this agreement or be no less than two (2) times the occurrence limit. Policy shall name the COUNTY as Additional Insureds.

22.5 General Insurance Provisions - All lines:

1) Any insurance carrier providing insurance coverage hereunder shall be admitted to the State of California and have an A M BEST rating of not less than A: VIII (A:8) unless such requirements are waived, in writing, by the County Risk Manager. If the County's Risk Manager waives a requirement for a particular insurer such waiver is only valid for that specific insurer and only for one policy term.

2) The CONTRACTOR must declare its insurance self-insured retention for each coverage required herein. If any such self-insured retention exceeds \$500,000 per occurrence each such retention shall have the prior written consent of the County Risk Manager before the commencement of operations under this Agreement. Upon notification of self-insured retention unacceptable to the COUNTY, and at the election of the County's Risk Manager, CONTRACTOR'S carriers shall either; 1) reduce or eliminate such self-insured retention as respects this Agreement with the COUNTY, or 2) procure a bond which guarantees payment of losses and related investigations, claims administration, and defense costs and expenses.

3) CONTRACTOR shall cause CONTRACTOR'S insurance carrier(s) to furnish the County of Riverside with either 1) a properly executed original Certificate(s) of Insurance and certified original copies of Endorsements effecting coverage as required herein, and 2) if requested to do so orally or in writing by the County Risk Manager, provide original Certified copies of policies including all Endorsements and all attachments thereto, showing such insurance is in full force and effect. Further, said Certificate(s) and policies of insurance shall contain the covenant of the insurance carrier(s) that thirty (30) days written notice shall be given to the County of Riverside prior to any material modification, cancellation, expiration or reduction in coverage of such insurance. In the event of a material modification, cancellation, expiration, or reduction in coverage, this Agreement shall terminate forthwith, unless the County of Riverside receives, prior to such effective date, another properly executed original Certificate of Insurance and original copies of endorsements or certified original policies, including all endorsements and attachments thereto evidencing coverage's set forth herein and the insurance required herein is in full force and effect. *CONTRACTOR shall not commence operations until the COUNTY has been furnished original Certificate (s) of Insurance and certified original copies of endorsements and if requested, certified original policies of insurance including all endorsements and any and all other attachments as required in this Section. An individual authorized by the insurance carrier to do so on its behalf shall sign the original endorsements for each policy and the Certificate of Insurance.*

4) It is understood and agreed to by the parties hereto that the CONTRACTOR'S insurance shall be construed as primary insurance, and the COUNTY'S insurance and/or deductibles and/or self-insured retention's or self-insured programs shall not be construed as contributory.

5) If, during the term of this Agreement or any extension thereof, there is a material change in the scope of services; or, there is a material change in the equipment to be used in the performance of the scope of work; or, the term of this Agreement, including any extensions thereof, exceeds five (5) years; the COUNTY reserves the right to adjust the types of insurance and the monetary limits of liability required under this Agreement, if in the County Risk Manager's reasonable judgment, the amount or type of insurance carried by the CONTRACTOR has become inadequate.

6) CONTRACTOR shall pass down the insurance obligations contained herein to all tiers of subcontractors working under this Agreement.

7) The insurance requirements contained in this Agreement may be met with a program(s) of self-insurance acceptable to the COUNTY.

8) CONTRACTOR agrees to notify COUNTY of any claim by a third party or any incident or event that may give rise to a claim arising from the performance of this Agreement.

23. General

23.1 CONTRACTOR shall not delegate or assign any interest in this Agreement, whether by operation of law or otherwise, without the prior written consent of COUNTY. Any attempt to delegate or assign any interest herein shall be deemed void and of no force or effect.

23.2 Any waiver by COUNTY of any breach of any one or more of the terms of this Agreement shall not be construed to be a waiver of any subsequent or other breach of the same or of any other term of this Agreement. Failure on the part of COUNTY to require exact, full and complete compliance with any terms of this Agreement shall not be construed as in any manner changing the terms or preventing COUNTY from enforcement of the terms of this Agreement.

23.3 In the event the CONTRACTOR receives payment under this Agreement, which is later disallowed by COUNTY for nonconformance with the terms of the Agreement, the CONTRACTOR shall promptly refund the disallowed amount to the COUNTY on request; or at its option the COUNTY may offset the amount disallowed from any payment due to the CONTRACTOR.

23.4 CONTRACTOR shall not provide partial delivery or shipment of services or products unless specifically stated in the Agreement.

23.5 CONTRACTOR shall not provide any services or products subject to any chattel mortgage or under a conditional sales contract or other agreement by which an interest is retained by a third party. The CONTRACTOR warrants that it has good title to all materials or products used by CONTRACTOR or provided to COUNTY pursuant to this Agreement, free from all liens, claims or encumbrances.

23.6 Nothing in this Agreement shall prohibit the COUNTY from acquiring the same type or equivalent equipment, products, materials or services from other sources, when deemed by the COUNTY to be in its best interest. The COUNTY reserves the right to purchase more or less than the quantities specified in this Agreement.

23.7 The COUNTY agrees to cooperate with the CONTRACTOR in the CONTRACTOR's performance under this Agreement, including, if stated in the Agreement, providing the CONTRACTOR with reasonable facilities and timely access to COUNTY data, information, and personnel.

23.8 CONTRACTOR shall comply with all applicable Federal, State and local laws and regulations. CONTRACTOR will comply with all applicable COUNTY policies and procedures. In the event that there is a conflict between the various laws or regulations that may apply, the CONTRACTOR shall comply with the more restrictive law or regulation.

23.9 CONTRACTOR shall comply with all air pollution control, water pollution, safety and health ordinances, statutes, or regulations, which apply to performance under this Agreement.

23.10 CONTRACTOR shall comply with all requirements of the Occupational Safety and Health Administration (OSHA) standards and codes as set forth by the U.S. Department of Labor and the State of California (Cal/OSHA).

23.11 This Agreement shall be governed by the laws of the State of California. Any legal action related to the performance or interpretation of this Agreement shall be filed only in the Superior Court of the State of California located in Riverside, California, and the parties waive any provision of law providing for a change of venue to another location. In the event any provision in this Agreement is held by a court of competent jurisdiction to be invalid, void, or unenforceable, the remaining provisions will nevertheless continue in full force without being impaired or invalidated in any way.

23.12 This Agreement, including any attachments or exhibits, constitutes the entire Agreement of the parties with respect to its subject matter and supersedes all prior and contemporaneous representations, proposals, discussions and communications, whether oral or in writing. This Agreement may be changed or modified only by a written amendment signed by authorized representatives of both parties.

24. NOTICES: All correspondence and notices required or contemplated by this Agreement shall be delivered to the respective parties at the addresses set forth below and are deemed submitted one (1) day after their deposit in the United States Mail, postage prepaid:

IN WITNESS WHEREOF, the party hereto for the County has caused their duly authorized representative to approve the contents of this Agreement as representative of the County's requirements for this project. The execution of this Agreement by the County shall be through the authority given in and the Purchase Order issued pursuant to the same.

IN WITNESS WHEREOF, the Vendor has caused their duly authorized representative to execute this Agreement.

COUNTY:

Economic Development Agency
3403 Tenth St. – 5th Floor
Riverside, California 92501

CONTRACTOR:

Endurant Energy Systems, LLC
One East Oak Hill Dr. Suite 304
Westmont, IL 60559

IN WITNESS WHEREOF, the parties hereto have caused their duly representatives to execute this Agreement.

DATED: 11/9/2011

CONTRACTOR

Endurant Energy Systems, LLC

By: [Signature]

Title: Vice President - Service

Federal Tax I. D. No. 20-4896812

DATED: _____

COUNTY OF RIVERSIDE

ATTEST:

Kecia Harper-Ihem

By: _____

Chairperson, Board of Supervisors

By: _____

Deputy

FORM APPROVED COUNTY COUNSEL

BY: [Signature]
NEAL R. KIPNIS DATE

11/20/11

EXHIBIT A SCOPE OF SERVICE

General

Endurant will perform maintenance on the equipment installed in the Generating Facility of Owner. Equipment maintenance requirements are detailed in the O&M Manuals by the equipment Manufacturer.

Operations and Maintenance Manual.

Operations and Maintenance Manuals for covered equipment, as prepared by the Manufacturers of system components, to be provided by Owner. Contract is based on 8,500 operating hours per year.

Scheduled Maintenance.

Endurant will perform maintenance on all equipment listed in Schedule "A" in accordance with the manufacturer's recommendations at the recommended service intervals contained therein. Endurant shall also visit the Generating Facility on a periodic basis for inspection, consultation with Owner, and performance of minor adjustments. Such maintenance shall be referred to as "Scheduled Maintenance" in this Maintenance Agreement and will include:

- Planned/Scheduled Maintenance of the Equipment listed in Schedule "A"
- Supply and Dispose of all lube oil
- Proper disposal of all replaced components

Scheduled Maintenance that would require shutting off equipment or interfering in any way with generation of electricity will be performed only during off-peak and mid-peak hours unless otherwise agreed to by Owner. Endurant shall provide all parts and fluids for use in Scheduled Maintenance.

Division of Responsibilities:

1. Endurant shall perform "Scheduled Maintenance" at the Milestones set forth in Exhibit D.
2. Endurant is to provide the Parts and Labor required to perform all Scheduled Maintenance including makeup oil.
3. Endurant shall perform all Owner Requested Maintenance on a time and material basis.
4. Endurant shall perform weekly emission Handheld tests (see Exhibit D, item 19) with an SCAQMD approved hand held emission analyzer to assist the Owner in operating within permitted emission limits.

5. The Owner will be responsible for daily and routine on-site operational services, including equipment monitoring, routine inspections and general troubleshooting and cleaning. Owner will maintain the area of the Generating Facility in a clean condition.
6. The Owner will be responsible for maintaining daily oil and coolant levels in accordance with manufacturer recommendations, using oil supplied by Endurant and coolant supplied by Owner.
7. Endurant will be responsible for oil analysis between oil change intervals in accordance with manufacturer recommendations.
8. Endurant will tune and maintain entire cogeneration system in such a manner as to optimize overall system efficiency while maintaining emissions within permitted levels.

Cost Items which are the responsibility of the Owner:

1. Initial scheduled service spare parts unless itemized in Exhibit C of this agreement
2. Utilities to support operation of the System
3. Telephone/DSL services
4. Initial spare parts for Owner Requested or Unscheduled Maintenance, and any spare parts for scheduled services covered under this agreement.
5. Owner Requested Maintenance, including all parts and materials for Owner Requested Maintenance.
6. Water, water treatment, testing and coolant.
7. Parts and services not listed in Exhibits B, C and D, E will be billed extra on a time and material basis.
8. All equipment overhauls and Top and Bottom End engine overhauls
9. Catalyst Elements
10. CEMS System Maintenance
11. PLC System Tuning, Calibration and Maintenance
12. Switchgear Infrared Scan and Electrical System Maintenance
13. Batteries
14. Turbocharger Rebuild
15. Any Emissions Inspection, Monitoring and Reporting Requirements per SCAQMD rule 1110.2 not itemized in this Agreement including daily and quarterly data gathering and reporting, emissions testing, I&M Plan responsibilities and verification. Replacement of Oxygen Sensors and weekly handheld tests are included per Exhibit D, items 8 and 19.
16. AQMD Source tests and support, including providing acceptable testing ports.
17. Any additional Service and Parts required due to deferred or negligent maintenance or service performed prior to the Commencement of the Term of this Agreement.
18. Any additional Service and Parts required due the negligent or inadequate design and construction of this facility.
19. Providing safe and unhindered access to all areas required to be serviced by Endurant under this contract.
20. This contract excludes all bonds including Payment and Performance Bonds, Professional Liability Insurance and any insurance not listed in this document

including Builders Risk insurance.

Owner Requested Maintenance

In addition to the Scheduled Maintenance, Endurant shall use its commercially reasonable best efforts to maintain, repair and/or replace any and all covered equipment included in the Generating Facility that malfunctions, breaks down or otherwise requires service so that the equipment will perform within 5% of its nameplate output allowing for normal wear and tear. All such additional maintenance work, other than Scheduled Maintenance, is referred to as "Owner Requested Maintenance". Endurant shall perform Owner Requested Maintenance in response to calls made by Owner or its designated representative. Endurant shall advise the Owner of any required Owner Requested Maintenance which Endurant observes. Upon receiving a request for Owner Requested Maintenance, Endurant will make best efforts to respond within four (8) hours. Endurant shall perform all Owner Requested Maintenance as diligently as possible to minimize Generating Facility downtime.

Emergency Contacts:

Sal Russo – Service Technician 949-521-4191
Brad Terpstra – Service Technician 630-200-0713
Evert Fink– Service Manager 714-493-8743
North Hefley – Business Development - 714-715-3185
Greg Carey – VP Service 650-361-1370

**EXHIBIT B
PAYMENT PROVISIONS**

Scheduled Maintenance. For Scheduled Maintenance, Owner shall pay Endurant a Fee of \$21,412 per month. The Fee for subsequent years of the Term will be determined in accordance with Section 3. Endurant shall not be entitled to any additional fees or reimbursements on account of the Scheduled Maintenance.

During the sixty days prior to the last day of the Term of the Agreement, Owner and Endurant shall attempt to reach an agreement on the Fee payable for Scheduled Maintenance during the extension of the Term. If the parties are unable to reach an agreement, the Term of this will expire as of the last day of the then current Term.

Owner Requested Maintenance. For Owner Requested Maintenance, Owner shall pay Endurant on a time and materials basis. Endurant's labor and material rates are as follows:

2011 Domestic O&M Service Rate Schedule

O&M Technician \$ 125 / Hour (Portal to Portal)

Mileage \$2.75 mile
Commissioning Engineer \$ 1650 / Day
Commissioning Standby \$ 1100 / Day

Overtime. For work in excess of 8 hours per day and/or 40 hours per week the hourly rates set forth above will be multiplied by 1.5 times. For work on Sundays and national holidays the hourly rates set forth above will be multiplied by 2 times.

Reimbursable Travel Costs: All travel, airfare, lodging, meals and other similar charges will be at Endurant's actual cost plus 15%.

Material & Equipment Costs: All supplies, consumables, material costs and tool and equipment rental fees will be at Endurant's actual cost and expense plus 15%.

Specialized Equipment: Portable Exhaust Gas Analyzer and Bore Scope will be invoiced at \$300.00 per use.

Terms: Net 30 Days from the date of invoice. Services will be invoiced monthly. Endurant shall submit one combined invoice each month for both Scheduled Maintenance and Owner Requested Maintenance. The invoice shall be submitted by the tenth day of the month following performance of the Services. The invoice will itemize the monthly Fee for Scheduled Maintenance, any Scheduled and Owner Requested Maintenance performed the applicable time and material charges for Owner Requested Maintenance, the dates on which the work was performed, and the names of the people performing the work.

Mileage Adjustment: Mileage charges are based on the actual mileage from Endurant's service facility to the Site and return. Endurant reserves the right to adjust the mileage charge not less frequently than once every three months to reflect any changes in the Weekly Retail Price of gasoline reported by the US Energy Information Administration for the region or state in which the Generating Facility is located. Each such adjustment shall increase or decrease the mileage charge ten per cent (10%) of the change in the reported Weekly Retail Price per gallon since the most recent adjustment; provided, however, that the mileage charge shall not be reduced below the rate set forth above as adjusted by the CPI-U.

Operating Adjustment. A substantial increase in the operating hours of the Generating Facility above the level described in Exhibit A shall result in an equitable adjustment to the Fee for Scheduled Maintenance.

EXHIBIT C

Item	Service	Daily or as Required	250 Hours	500 Hours	750 Hours	1,500 Hours	2,500 Hours	4,000 Hours	8,000 Hours	11,000 Hours
Water Pump	Inspect							X		
Ancillary Pump Bearings	Lubricate							X		
Ancillary Fan Bearings	Lubricate							X		
Carburetor Air/Gas Valve	Clean							X		
Carburetor Diaphragm	Inspect/Replace							N/A		
Governor Compensation	Adjust							X		
Catalyst	Inspect/Rotate/Clean								X	
Precleaner Element	Replace							X		
Turbocharger	Inspect/Clean							X		
Main and Rod Bearing Inspection	Inspect							X		
Cooling System (Jacket and Auxiliary)	Clean and Flush							N/A		
Cooling System Thermostats	Remove and Test							N/A		
Cooling System Tube Bundle	Clean							N/A		
Crankcase Oil Pickup Screen	Clean							X		
Engine Mounting and Alignment	Check							X		
Exhaust Back Pressure	Check							X		
Fuel Flow Filter Relief Valve	Inspect							X		
High Tension Wires	Replace							X		
Ignition Primary Terminals, Harness Plug	Inspect							X		
CEC Ignition Module Timing Disc Magnets	Clean/Inspect							X		
Governor-Synchronizer Motor Reduction Gears	Lubricate							N/A		
Jacket Water Hoses	Replace							N/A		
Lube Oil Hoses	Replace							N/A		
Oil Pan	Clean							X		
Vibration Damper Capscrews	Retorque							X		
Cooling Water Analysis	Check							N/A		
Hydraulic Governor Oil (or as Necessary)	Change							N/A		
Intercooler	Clean/Inspect							X		
Carburetor Gasket	Replace							N/A		
Carburetor Air/Gas Valve	Replace							N/A		
Belts (Engine)	Replace							N/A		
Carburetor Diaphragm	Replace							N/A		
Crankcase Pressure Relief Valves	Inspect							N/A		
Ignition Coils	Inspect							X		
Ignition Magneto	Rebuild							N/A		
Ignition Primary Terminals, Connections Harness Plug	Inspect							X		
Wastegate	Rebuild							X		
Custom Engine Control Ignition Module	Inspect Harness Connections and Ground Wires								X	
Absorption Chiller Chemistry	Test						X			
PLC	Inspect/Calibrate								N/A	
Switchgear	Infrared Scan								N/A	
Power Cylinder Head	Rebuild								N/A	
Power Cylinder/Pistons	Replace								N/A	
* Oil changes are between these intervals based on oil sample analysis										

All other

inspection and maintenance activities will be scheduled in accordance with the Manufacturers' O&M manuals.

EXHIBIT D**SCHEDULED MAINTENANCE PARTS & MILESTONES**

Qty	Description
72	Oil Analysis
1792	Spark Plugs
72	Element, Breather, Crankcase
144	Filter, Oil
5	BOP/Ancilliary Consumables
15000	Oil, Gallon, LA-40 (Fill & Make Up)
72	Oil Spinner Kit
72	Sensor, Oxygen
320	Seal, Valve Cover
22	Packing, Catalyst
320	Spark Plug Wires - Secondary
144	Element, Filter, Air
288	Element, Precleaner, Air Filter
1792	Boot, Spark Plug Extension
	Service Labor
	Labor Hour
	Vehicle Mileage
	Lot Consumables
	Waste Oil & Filter Disposal
260	Emissions Analyzer Usage
72	Bore Scope Usage

The quantities listed above represent the maximum amounts covered under this contract. The actual quantities may be less, depending on operational conditions.

All parts provided will be the Owner's Equipment Manufacturers' recommended parts. In the event that the price and/or availability of an OEM part will hinder successful plant operation, an approved after-market part may be used, upon notification to, and approval by, Owner.

EXHIBIT E

Service Schedule		SWJC								
Endurant Energy		As Required	Weekly	500 Hours	750 Hours	1,500 Hours	2,500 Hours	4,000 Hours	8,000 Hours	11,000 Hours
Item	Service									
Air Cleaner Filter Element	Check/Clean or Replace	X								
Air Starter Lubricant	Check/Fill	N/A								
Control Rod Ends and Linkage	Clean/Lubricate	X								
Cooling Systems Fluid Level (Jacket and Auxiliary)	Check/Fill	X								
Crankcase Oil Level	Check/Fill	X								
Governor Oil Level	Check/Fill	N/A								
Governor Synchronizer or Speed Control	Adjust	X								
Oil Filter	Release Traped Air	N/A								
Air Filter Pre-Cleaner Element	Check/Clean or Replace	X								
Pre-lube Motor Reservoir	Check/Fill	N/A								
Power Take Off	Lubricate	N/A								
Engine Oil and Filter * (ISO Standard or Continuous Duty)	Change Oil And Filter	N/A								
Engine Oil and Filter * (ISO Standard or Continuous Duty With Microspin)	Change Oil And Filter	N/A								
Engine Oil and Filter * (Excess of ISO Standard or Continuous Duty with Microspin) *	Change Oil And Filter					X				
Engine Oil and Filter * (Light Load Operation)	Change Oil And Filter					N/A				
Engine Oil and Filter * (Standby Duty) (Annually or 250 hours, whichever comes first)	Change Oil And Filter		N/A						N/A	
Battery Electrolyte	Check/Fill					X				
Engine Oil * (Analysis)	Analysis					X				
Belt Tension	Check				N/A					
Cooling Water Analysis (Ebullient)	Check				N/A					
Air Actuator	Lubricate				N/A					
Alternator Bearings	Lubricate				N/A					
Auxiliary Water Pump	Inspect/Lubricate					X				
Fan Hub and Idler Pulley Bearings	Lubricate				N/A					
Generator Bearings	Lubricate					X				
Tachometer Drive	Clean				N/A					
Control Linkage	Clean and Lubricate					X				
Spark Plugs (or as Necessary)	Clean/Regap or Replace					X				
Engine Protection Devices	Inspect					X				
Water Pump Idler Pulley Bearings	Lubricate				N/A					
Crankcase Breather	Clean or Replace					X				
Governor Rod Ends	Lubricate/Replace					X				
Ignition Timing	Check					X				
Oxygen Sensor	Replace					X				
Exhaust Emissions	Check/Adjust					X				
Magnetic Plugs	Clean					X				
Oil Cooler (Oil Side)	Drain					N/A				
Oil Filter Elements *	Replace					X				
Oil Separators/Spinner *	Service Kit					X				
Ignition Cables: Primary and Secondary Connection	Inspect							X		
Water Temperature Gauge	Test							X		
Carburetor	Adjust							N/A		
Crankcase Pressure	Check							X		
Oil Pressure Safety	Test							X		
99 Regulator(s)	Adjust							N/A		
Prechamber Regulator	Adjust							N/A		
Safety Controls/Engine Protection Devices	Test/Calibrate							X		
Valve Clearance	Adjust					X				
Valve Cover Gaskets	Inspect					X				
Spark Plugs (2,500 - 4,000 hours or as necessary)	Replace							X		
Oil Filter Seal	Replace					X				
Wastegate Vent Plug	Inspect/Clean							X		
Admission Valves	Clean or Replace								N/A	
Admission Valve Washer**	Replace								N/A	
Admission Valve O-Ring**	Replace								N/A	
Cylinder Compression	Check							X		
Electric Starter Bearings	Lubricate								X	
99 Regulator Filter	Clean/Replace								N/A	

SCHEDULE A**DESCRIPTION OF THE GENERATING FACILITY**

The system includes one engine-generator set and balance of plant equipment as follows:

General

Two (2) 1800 RPM, Waukesha VGF Enginotor sets per the following schedule:

2 each Waukesha VGF-P48GSID

Ancilliary equipment as listed below:

Fin Fans	Young Touchstone	HC366V15Q-2P
Fin Fans	Young Touchstone	HC366V15Q-2P
Fin Fans	Young Touchstone	HC226V10Q-4P
Fin Fans	Young Touchstone	HC226V10Q-4P
(3)Heat Exchanger	Armstrong/Others	PFX-16-SS-FS-1-150
Heat Recovery Unit	Beaird	MFT-900-12
Heat Recovery Unit	Beaird	MFT-900-12
Pump	Armstrong	4300-3X3X8
Pump	Armstrong	4300-3X3X8
Pump	Armstrong	4300-3X3X8
Pump	Armstrong	4300-3X3X8
Pump	Armstrong	4300-6X6X10
Expansion Tank	Wessels	NLA-130
Expansion Tank	Wessels	NLA-130
Expansion Tank	Wessels	NLA-130
Expansion Tank	Wessels	NLA-130
*Absorption Chiller	Thermax	L36

- Engine Mounted Pumps and Heat Exchanger
- Excluding all other balance of plant equipment including, cooling tower, water storage, chilled and condensar water pumps and tie in to facility that are outside Cogen enclosure area. Also excluded are all tie ins for the electric utility, phone/DSL and the gas utility.

*Chiller work will involve use of a Subcontractor – United Air Conditioning Service Company, Inc.

ATTACHMENT 1
PROPOSAL FOR MAINTENANCE

This Maintenance Proposal is to be made effective as of November 1st, 2011 ("Effective Date") between County of Riverside (Owner) whose address is 3403 Tenth St, Riverside, CA 92501, and Endurant Energy Systems, LLC (Endurant) whose address is One East Oak Hill Drive., Suite 304, Westmont, IL. 60559.

Owner desires to engage Endurant to provide maintenance services for the Generating Facility located at 30755 Auld Road, Murrieta, CA 92563, and more fully described on Schedule A (the "Generating Facility");

Endurant is in the business of providing maintenance services for electric power generation plants and is willing to provide services for the maintenance of the Generating Facility in accordance with the terms and conditions set forth in this Agreement; and

Endurant and Owner desire to reduce the terms of their agreement to writing.

PROPOSAL SERVICES

Engagement of Endurant. Owner engages Endurant to perform the Services set forth in Exhibit A to maintain the Generating Facility in accordance with the terms and conditions of this Agreement. Endurant shall, when requested to or when otherwise necessary or advisable for the performance of Services, consult with and report to Owner's Representative.

Warranty Support and OEM's. Endurant shall oversee the warranties provided by each of the original equipment manufacturers ("OEM's") of System equipment, and support the Owner in its pursuit of any insurance claims directly related to the System, to the extent such guarantees and warranties are reasonably obtainable and may be obtained without extra cost. All costs, including labor and materials, associated with repairs covered under warranties of OEM's shall be the responsibility of Owner. Warranty support does not include separate testing, inspection, testimony, any legal costs, technical emails, research and written reports.

Endurant shall:

- (i) Advise Owner in of all warranty claims or potential OEM warranty issues which Endurant identifies;
- (ii) Prepare warranty claims on the Owner's behalf;
- (iii) Pursue warranty claims and inspect completed warranty repairs, and advise Owner of the adequate fulfillment of warranty claims.
- (iv) Advise Owner of potential insurance claims and supply Owner with information reasonably necessary for Owner to file insurance claims related to the System.

Standard of Care. With respect to the performance of the Services, Endurant shall exercise the degree of skill, competence and judgment commensurate with that normally exercised by firms proficient in

to all areas to be serviced 24 hours per day, 7 days per week. The storage area shall either be at the actual location of the Generating Facility, or in an area designated by the Owner in an adequate receiving or storage area.

Permits. Owner shall be responsible for applying for, procuring, and renewing all permits necessary for: (i) Owner to do business in the jurisdictions in which the Generating Facility and Site are located and (ii) the ownership and operation of the Generating Facility and the Site.

Fuel. The Owner shall be responsible for supplying natural gas to the Generating Facility in quantities which are appropriate for the efficient operation of the Generating Facility and for the connection of natural gas lines or services to the Generating Facility.

Water. The Owner shall be responsible for supplying clean water to the Generating Facility in quantities which are appropriate for the efficient operation of the Generating Facility and for the connection of water lines or services to the Generating Facility. Water supplied to the Generating Facility shall meet all purity, temperature, pressure, and other operating requirements for the Generating Facility.

INSURANCE

During the Term of this Agreement, Owner and Endurant shall maintain the insurance set forth below:

(a) Endurant's Insurance.

(i) Endurant shall purchase and maintain from a company or companies lawfully authorized and licensed to do business in the jurisdiction in which the Generating Facility is located (and having an A.M. Best rating of not less than A-VIII) the insurance described below covering claims which may arise out of or result from Endurant's operations under this Agreement, whether by Endurant or by its subcontractors or any other person for whose actions Endurant is responsible. This insurance shall be written for not less than limits of liability specified in this Agreement or required by law, whichever coverage is greater. Certificates of insurance shall be filed with Owner prior to the commencement of the Services, and by any subcontractor prior to the start of work on the Services by the subcontractor. The insurance required by this Section shall be written for not less than the following amounts:

(A) Workers' Compensation:

- (1) State:.....Statutory
- (2) Applicable Federal:.....Statutory
- (3) Employer's Liability:.....\$1,000,000

(B) Comprehensive General Liability (including coverage for fire legal liability, explosion and collapse hazard and underground hazard, contractual liability, broad form property damage, independent Endurant's protective, personal injury):

- (1) Combined single limits for bodily injury and property damages:

\$2,000,000 Each Occurrence
\$2,000,000 Annual Aggregate

(2) Property Damage Liability Insurance shall provide X, C and U coverage if the Services involve any exposure to explosion, collapse or underground damage.

(C) Automobile liability comprehensive form for owned, hired and non-owned vehicles), in an amount of not less than \$1,000,000 each occurrence.

(D) Endurant shall provide the Owner with certificates of insurance confirming the coverage obtained by Endurant. The certificates of insurance shall contain the following provisions and, where required by the terms of the applicable policies, shall be accompanied by confirming copies of endorsements to the policies. Each certificate shall name the Owner, the owner of the Facility, and their respective agents, beneficiaries, mortgagees, as additional insureds (excluding workers' compensation). In the event of cancellation or of any change in the limits of liability, decrease in coverage or other material change in coverage, the insurer shall give Owner and the owner of the Facility, written notice at least thirty (30) days prior to the effective date of such change or cancellation.

(E) If Endurant fails to carry any insurance required to be carried by Endurant pursuant to this Section, then for purposes of this Section Endurant shall have and maintain no claim against Owner or Owner's insurer with respect to any loss or damage to Endurant, Endurant's Property or its business which would have been covered by any such insurance.

MAINTENANCE PLAN AND BUDGET

Maintenance Schedule. Within thirty days after the Effective Date and not later than thirty days after the first day of each Facility Year, Endurant will prepare a maintenance schedule for the Facility Year. The maintenance schedule will schedule appropriate Services to address the matters covered by the annual report described in Section 12.2 below, and include a budget for Services for the Facility Year, the schedule of any significant repairs or downtime planned for the Facility Year, any changes to the schedule of maintenance, and such other matters as Endurant determines to be appropriate.

RECORDS AND REPORTING

Service Reports. Upon completion of each Service call, Endurant will provide Owner, and Yorke Engineering, with a written report, via e-mail or facsimile (FAX) describing the work performed, the parts used and any problems encountered.

Annual Report. Endurant, will submit an annual report for the Generating Facility to Owner, and Yorke Engineering, within thirty (30) days after the end of each Facility Year, or partial Facility Year as appropriate, providing:

- (i) A summary of maintenance activities for the preceding Facility Year;

- (ii) A review of significant factors affecting the cost of operation and maintenance of the Generating Facility;
- (iii) Such other information related to the operation of the Generating Facility reasonably requested by Owner from time-to-time;
- (iv) Recommendations to improve the use of fuel, materials and supplies,
- (v) Recommended equipment modifications, shutdowns and any other operating parameters.

Maintenance Records. Endurant will maintain complete records of all transactions relating to the Services, including but not limited to records required for OEM equipment warranty claims and warranty enforcement. Endurant shall make its Service records available for inspection by Owner or the Owner's authorized representatives at reasonable times during normal business hours upon reasonable notice. Such records shall include records of both Scheduled Maintenance and Owner Requested Maintenance.

PROCUREMENT OF SUPPLIES, SPARE PARTS AND TOOLS

Procurement for Generating Facility Endurant will procure all supplies, services, materials, replacement spare parts (if included), chemicals, lubricants, consumables, and other items which Endurant determines to be reasonably necessary to perform Scheduled Maintenance (the "Necessary Consumables"), at Endurant's expense. Owner will provide to Endurant all OEM equipment guarantees and warranties against defects in materials and workmanship (if any) to the extent such guarantees and warranties are reasonably obtainable and may be obtained without extra cost. Endurant may store the Necessary Consumables on the Site in storage space provided by Owner. Any Necessary Consumables used by Endurant in performing Scheduled Maintenance shall be provided without charge to Owner. Owner shall reimburse Endurant for any Necessary Consumables used by Endurant in performing Owner Requested Maintenance at Endurant's cost plus a fifteen (15%) percent markup.

Inspection Endurant shall confirm the receipt of Necessary Consumables and shall inspect deliveries where appropriate using prudent inspection practices at the time of delivery. Endurant will maintain a monthly record of any observed defects or deficiencies in Necessary Consumables and shall take appropriate action to remedy any defect. Rejected Necessary Consumables will be returned to the vendor for credit or replacement for the account of Endurant.

Storage Endurant shall be entitled to store all Necessary Consumables in storage space provided by Owner on Site without charge. Infrequently used items shall be packaged, wrapped and preserved in a commercially reasonable manner.

GENERAL

Notices. All notices, requests or other communications under this Agreement shall be in writing and shall be deemed to have been duly given on the third day following deposit if deposited in first class certified mail, postage prepaid, on the business day following deposit if deposited with a nationally recognized overnight courier, or on the date sent if sent by facsimile with confirmed receipt, in any case addressed to the parties at the addresses set forth in the caption to this Agreement. In addition, the emergency contact numbers for Endurant are set forth on Exhibit A. By notice in the same manner, each party may designate any additional or different addresses to which notice shall be sent.

Uncontrollable Circumstances. Except for the obligations of either party to make payments under this Agreement for amounts due prior to the occurrence of an event of Uncontrollable Circumstances, either party shall be excused from performance and shall not be considered to be in breach or default if its failure to perform is due to Uncontrollable Circumstances. In the case of a labor strike or other labor difficulty, neither party shall be required to prevent or settle such strike or labor difficulty against its will. If either party's ability to perform its obligations under this Agreement is affected by Uncontrollable Circumstances, that party shall, within ten (10) calendar days after learning of the event and ascertaining that it will affect its performance, give written notice to the other party stating the nature of the event, its anticipated duration, and any action being taken to avoid or minimize its effect. The burden of proof shall be on the party claiming Uncontrollable Circumstances. The suspension of performance shall be of no greater scope and no longer duration than is reasonably required. The excused party shall use its reasonable best efforts to remedy its inability to perform. In the event that an Uncontrollable Circumstance results in a suspension of performance for more than 30 days, then this Agreement may be terminated by either party upon 10 days written notice.

Limitations of Liability Neither party shall be liable to the other under any legal theory of liability for any consequential, special, or incidental (including without limitation loss of goodwill, profits, or data) under this Agreement. Endurant's liability for damages, fees, and costs shall not exceed an amount equal to the aggregate price payable by Owner to Endurant for six months of scheduled maintenance service fees under this Agreement.

Attorney Fees If any party commences arbitration or any legal action without first attempting to resolve disputes through mediation, or refuses to mediate after a request has been made, then that party shall not be entitled to recover attorney fees, even if they ultimately become the prevailing party in any subsequent arbitration or legal action.

Entire Agreement This Agreement and any Schedules and Exhibits attached to it constitute the entire agreement between the parties with respect to the subject matter and all prior agreements with respect to the Services are superseded. Each party confirms that it is not relying on any oral representations or warranties of the other party.