

## **Services Agreement**

This Services Agreement is entered into on this 10th day of August 2018, and is by and between Florida Municipal Power Agency, a governmental joint action agency organized and existing pursuant to Florida law, with its office located at 8553 Commodity Circle, Orlando, Florida 32819, ("FMPA") and ENCO Utility Services LLC, with its principle place of business located at 8141 E. Kaiser Blvd., Ste 212, Anaheim, CA.

FMPA is a municipal electric joint action agency formed pursuant to section 163.01, Florida Statutes, and exercises powers pursuant to section 163.01 and chapter 361, part II, Florida Statutes.

Contractor is company offering utility call center and other support services. The parties desire for Contractor to perform the services more fully described in this agreement and in Schedule A.

Now therefore, for and in consideration of the premises and mutual covenants made herein, the parties agree as follows:

### **Section 1. Scope of Services**

Contractor shall provide its services (the "Services") to FMPA and participating FMPA Members as described in Schedule A to this agreement, which is attached hereto and incorporated into this agreement by this reference and which may be amended at the sole discretion of FMPA. In the event that any terms or conditions provided in Schedule A conflict with any terms or conditions of this agreement, the terms of this agreement shall control.

### **Section 2. Term & Termination**

This agreement shall commence upon the date stated in the introductory clause of this agreement, and, unless sooner terminated, shall continue in force for an initial period of five (5) years from its effective date. The initial term may be extended for five (5) additional one-year periods at the option of FMPA under the same terms and conditions as the original Agreement, including any Amendments thereto, unless otherwise modified by mutual agreement of FMPA and Contractor.

At any time, FMPA may terminate this contract, in whole or in part, for failure of Contractor to perform in accordance with the terms of this contract, or for any reason, at FMPA's sole discretion, upon 10 days prior written notice. Contractor may terminate this contract for cause upon 10 days prior written notice.

Upon Contractor's receipt of FMPA's notice of termination, Contractor shall cease all performance related to the Services, unless directed to do otherwise by FMPA in writing. FMPA shall pay Contractor for any Services that were completed by Contractor prior to the termination of this agreement. Upon such termination, Contractor shall submit to FMPA a final invoice in a manner that is sufficient for FMPA to verify the Services performed by Contractor prior to the date of termination. In no



event shall the final reimbursement include any anticipated profits or revenue or other economic loss for unperformed services. No payment shall be made for any work performed by Contractor after the termination date unless Contractor is expressly requested in writing to perform such work by FMPA.

### **Section 3. Compensation and Payment**

FMPA and/or the participating FMPA Member shall pay Contractor for Services furnished under this agreement upon submission of invoice(s) as described in Schedule A. Contractor shall not furnish additional services or incur additional expenses without written authorization and additional funding from FMPA. FMPA shall make payment for completed Services within 30 days after receipt of an invoice.

### **Section 4. Independent Contractor Status**

It is understood and agreed that Contractor is an independent contractor, is not an agent or employee of FMPA, and is not authorized to act on behalf of FMPA. Contractor agrees not to hold him or herself out as, or give any person any reason to believe that he or she is an employee, agent, or partner of FMPA. Contractor will not be eligible for any employee benefits, nor will FMPA make deductions from any amounts payable to Contractor for taxes or insurance. All payroll and employment taxes, insurance, and benefits shall be the sole responsibility of Contractor. Contractor retains the right to provide services for others during the term of this Agreement and is not required to devote his or her services exclusively for FMPA. Contractor agrees that it shall bear the responsibility for verifying the employment status, under all applicable immigration laws, of all persons it employs in the performance of this contract.

### **Section 5. Standard of Care**

The Services and any deliverables provided pursuant to this agreement shall be free from material defect. Contractor represents that the Services shall be performed with reasonable care in a diligent and competent manner and in accordance with generally accepted professional practices.

### **Section 6. Confidentiality**

(a) For purposes of this Section 6, "Confidential Information" means the confidential and proprietary information of a party (including, with respect only to FMPA, the confidential and proprietary information of any one or more of its member municipal electric utility systems, including the FMPA), and includes without limitation all data, specifications, calculations, estimates, plans, drawings, construction or technical documents, photographs, summaries, spreadsheets, reports, memoranda, letters, email, and any other documents, instruments, information and materials of any nature whatsoever, whether oral, written or recorded in another medium, relating to the business of a party (including, with respect only to FMPA, the business of one or more of its member electric utility systems, including the FMPA) which has been or may afterwards be provided or disclosed in relation to the Services. Each party may disclose its Confidential Information (including, with respect only to FMPA, the Confidential



Information of any one or more of its member municipal electric utility systems, including the FMPA) (the "Disclosing Party") to the other Party (the "Receiving Party"). Tangible items of Confidential Information may be marked "CONFIDENTIAL" or "PROPRIETARY" or "CONFIDENTIAL AND PROPRIETARY" by either party, except that no such mark is necessary to cause tangible items to be considered Confidential Information if such tangible items are otherwise included in the definition provided in this section.

(b) The Receiving Party agrees that Confidential Information received must be considered confidential and proprietary property of the Disclosing Party and the Receiving Party, unless prohibited by Florida law, shall hold the same in confidence, and shall not use Confidential Information for purposes other than the purposes contemplated by this agreement, which for Contractor is limited to its rendering of the Services to or for the FMPA. The Receiving Party, to the extent permitted by Florida law, shall not disclose, publish, or otherwise reveal any Confidential Information to any third party whatsoever except after receipt of the specific prior written authorization of the Disclosing Party. Contractor, as the Receiving Party, further agrees, without limiting the other provisions of this agreement, to not utilize the Confidential Information received in association with the agreement, in any way, for any client other than the FMPA and for any matter other than in performance of the Services contemplated hereunder.

(c) Notwithstanding any other provision of this contract, FMPA as the Receiving Party may disclose Confidential Information if necessary, in the opinion of legal counsel for FMPA, to comply with applicable law (including, without limitation, the Florida Public Records Law, Chapter 119, Florida Statutes), order, regulation, ruling, subpoena, or order of a governmental authority or tribunal with competent jurisdiction. In the event that FMPA as the Receiving Party is requested or required to disclose any Confidential Information, FMPA shall promptly notify Contractor of the request or requirement prior to disclosure, if reasonably possible, so that Contractor may, if it elects, seek an appropriate protective order or other designation of such Confidential Information as containing trade secrets or other commercially sensitive information or otherwise seek to contest, limit or protect the confidentiality of any such requested or required disclosure. All costs of seeking any protective order or other designation and for contesting, limiting, or protecting the disclosure of Confidential Information in response to a valid request to or demand upon FMPA as the Receiving Party shall be borne and paid in full by Contractor. With respect to any disclosure made by FMPA as the Receiving Party pursuant to this section 3, FMPA shall furnish only that portion of the Confidential Information that it reasonably determines, in consultation with its legal counsel, is consistent with the scope of the request or demand to disclose and to exercise reasonable efforts to obtain assurance that confidential treatment will be accorded such Confidential Information.

(d) The Receiving Party has no obligation under this agreement with respect to Confidential Information which (1) is, or becomes publicly available without breach of this agreement by the Receiving Party; (2) is rightfully received by the Receiving Party without obligations of confidentiality; (3) is developed by the Receiving Party without breach of this agreement; or (4) is a public record which Receiving Party is obligated by



Florida law to disclose to a third party in the opinion of legal counsel for the Receiving Party; provided however, the Confidential Information described in clauses (1), (2), (3), and (4) of this section shall not be disclosed, in response to a formal request, until 20 days after written notice (as defined in section 10) of the intent to disclose is given to the Disclosing Party along with the asserted grounds for disclosure (unless pursuant to clause (4) only a shorter response is required by Florida law and the Disclosing Party is given advance notice of such response requirement by the Receiving Party not less than one business day prior to disclosure by the Receiving Party).

## **Section 7. Insurance**

Contractor shall maintain, at its own expense, insurance during the performance of the Work under this contract, with the limits of liability of not less than the following:

Worker's Compensation: Statutory

Professional Liability: \$1,000,000

Cyber Liability: \$2,000,000

Contractor shall provide FMPA with Certificates of Insurance evidencing these insurance requirements and naming FMPA as an additional insured, except on the worker's compensation policy, prior to the start of work. Any deductibles or self-insured retentions on referenced insurance coverages must be borne by the Contractor. Any insurance or self-insurance programs maintained by FMPA do not contribute with insurance provided by the Contractor under the Agreement. Contractor shall provide FMPA with at least 10 days' notice of cancellation of any such insurance. At no time shall Contractor be without insurance in the above amounts during any performance related to this contract.

Cyber Liability Insurance, with limits not less than \$2,000,000 per occurrence or claim, \$2,000,000 aggregate. Coverage shall be sufficiently broad to respond to the duties and obligations as is undertaken by Contractor in this agreement and shall include, but not limited to, information theft, damage to or destruction of electronic information, release of private information, liability to third parties for failure to handle, manage, store, and control personal identifiable information, alteration of electronic information, extortion, network security, legal fees, judgments, settlements, forensic experts and public relations efforts. The policy shall provide coverage for regulatory fines and penalties as well as credit monitoring expenses.

## **Section 8. Indemnification**

To the fullest extent permitted by law, the Contractor, its heirs, successors and assigns shall indemnify and hold harmless FMPA, its successors and assigns, and its employees, against any and all claims, suits or actions at law, regardless of cause and/or all damages, costs and judgments (including reasonable attorneys' fees), incurred by FMPA arising from the negligence of Contractor while performing work

under this Agreement. The liability of the Contractor is full and complete in all respects and subcontracting any part of the work shall not relieve it of primary liability.

**Section 9. General Terms and Conditions**

- (a) Any notices given pursuant to this agreement shall be in writing, delivered to the address set forth in the introductory clause of this agreement, and shall be considered given when received.
- (b) No term of this agreement shall be deemed waived, and no breach of this agreement excused, unless the waiver or consent is in writing signed by the other party granting such waiver or consent.
- (c) If any provision of this agreement is determined to be illegal or unenforceable, such term or provision shall be deemed stricken, and all other terms and provisions shall remain in full force and effect.
- (d) This agreement shall be governed by the laws of the State of Florida. All controversies, claims or disputes arising out of this agreement shall be brought exclusively in appropriate court in Leon County, Florida.
- (e) In the event that either party is required to enforce the terms of this agreement by court proceedings or otherwise, the prevailing party of such proceedings shall be entitled to recover from the non-prevailing party all fees and costs incurred, including reasonable attorney's fees and costs and expenses for trial, alternative dispute resolution and appellate proceedings.

IN WITNESS WHEREOF, the parties have duly executed this agreement as of the date first stated in the introductory paragraph.

FLORIDA MUNICIPAL POWER AGENCY

ENCO UTILITY SERVICES LLC

*NMA*  
By: *Jacob G. Williams*

By: *Ruby M. Argoze*

# Schedule A

Response to Request for Proposal  
RFP FMPA #2018-214  
UTILITY CALL CENTER SUPPORT SERVICES

FOR



Due: Wednesday, August 8, 2018  
by 10am EST



TO:  
MS. SHARON SAMUELS  
MEMBER SERVICES & PROCUREMENT SPECIALIST  
FLORIDA MUNICIPAL POWER AGENCY  
8553 COMMODITY CIRCLE  
ORLANDO, FL 32819

FROM:  
ENCO Utility Services  
Ruby M. Irigoyen  
SVP Customer Services

HQ: 8141 E. Kaiser Blvd., Suite 212  
Anaheim, CA 92808

Hemet Customer Service Center  
380 N. San Jacinto St.  
Hemet, CA 92543

email: [irigoyen@encous.com](mailto:irigoyen@encous.com)  
office: (951) 925-8092  
cell: (951) 236-1571  
fax: (951) 257-0316

[www.encous.com](http://www.encous.com)



## PRICING:

ENCO's pricing is generic so that any FMPA Member utility can utilize these services under this proposal and associated agreement.

ENCO's pricing is firm for a period of two years after any agreements are executed with an annual pricing increase of 3% for year 3 and beyond. FMPA may evaluate pricing increases each year to determine if they are appropriate and reasonable.

ENCO's pricing is scaled to accommodate additional participating member utilities. The pricing is scaled such that as members join and take services, the volumes for discounts are based on the total volumes for all participating members combined.

### Call Center Services

Call Center Service	Set up price per Meter, One Time	Monthly Minimum	Price per Call per Month
Price is per customer call handled monthly, 24/7 or overflow Call volumes are based on total calls for all participating FMPA Member Utilities	See Below	None	
	If total calls are 500 or less		\$2.95
	If total calls per month are between 501 and 2000		\$2.85
	If total calls per month are between 2001 and 5000		\$2.75
	If total calls per month are between 5001 and higher		\$2.57
	Autoserv Emergency Orders Online & IVR		\$1.50
	Outbound Text Messaging		No Charge
	Outbound IVR Calls		\$0.50

Set up of customer data in our call center software and training of our staff on member utility's systems are included with the exception that travel expenses and other out of pocket expenses shall be reimbursable at cost with no mark up.

Such reimbursable expenses include, but are not limited to, all travel expenses (with mileage at the IRS approved rate), lodging, long distance telephone and facsimile charges, photo-copying and printing costs, taxis and auto rental, postage, filing fees, word processing costs, transcript costs, secretarial overtime, notary fees and other expenses incurred on behalf of FMPA member utilities.



**Full Service - All Billing Service and Call Center Offer:**

Full Service Solution	Set up	Ongoing
<b>Set up</b>		
Call Center Services 24/7 for all Routine and Emergency Calls		
OMS & Set up	Included	
Training – (excludes travel which is billed at cost)	Included	
<b>Billing</b>		
Billing Software License (one Time)	\$ 28,000	
Rates Set up - Water, Electric & Sewer	\$ 10,000	
Statement Setup	Included	
Customer accounting, meter read review and upload, bill calculation, rate maintenance	Included	
Credit & Collections Processing - Active Accts	Included	
Courtesy Notifications	Included	
User License per Remote User -\$1500 per User - One time (estimated 5; 3 included)	\$ 3,000	
Client staff training	Included	
<i>Excludes Meter Reading &amp; all Field Services</i>		
<b>Bill Printing &amp; Mailing (bill stock and printing)</b>	<b>Included</b>	
Postage included at \$.365	<b>included</b>	
CASS Certification	<b>Included</b>	
Bill Stuffers	<b>at Cost</b>	
Lockbox	\$ 3,500	
Custom Programming - Cost + 9%	TBD	
<b>Ongoing - Per Meter Per Month (electric, water, gas)</b>		<b>\$ 1.57</b>

FMPA member utilities can take the following services as stand-alone services as well. The delivery of these services are managed by ENCO and delivered by ENCO or as in the case of printing and mailing of utility bills, are delivered by our subcontractor / partner Municode from Tallahassee.

The payment processing services for mailed in payments will be delivered via our new offices in Florida.

**Other Stand-Alone Services:**

<b>Stand Along Services - per Utility</b>	
<b>Stand Alone Bill Printing &amp; Mailing</b>	
Set up	\$ 400
Monthly Base Charge	\$ 500
<b>Ongoing per Bill</b>	
25,000 or greater	\$ 0.105
15,000 to 24,999	\$ 0.110
10,000 to 14,999	\$ 0.115
5,000 to 9,999	\$ 0.125
2,000 to 4,999	\$ 0.135
0 to 1,999	\$250 min. Flat Fee
Postage - at cost. Estimated average at \$0.365 if CASS Certified and qualifying quantity.	
Mailing from our partner's facility in Tallahassee	\$ 0.365
<b>Stand Alone Lockbox Services for mailed in payments</b>	
Set up	\$ 3,500
Monthly Base Charge	\$ 350
Ongoing per Payment	\$ 0.35
Includes access to RemitWeb, training of your staff Processing at our facility in Florida	
<b>Courtesy Notifications</b>	
Set up	None
Monthly Base Charge	\$ 150
Type of Alert	Per Alert
Email	\$ 0.22
Text	\$ 0.20
IVR Calls	\$ 0.30

For all services offered, any integration with client utility's software or systems are billed at ENCO billable rates for ENCO labor and any subcontractor costs are bill at cost plus 9%.

**Customer Services Billable Rates:**

<b>Title</b>	<b>Hourly Rate</b>
Customer Services Project Mgr	\$ 110.00
Data Programming	\$ 175.00
Billing Software Programming	\$ 225.00
IT Senior Technician	\$ 85.00
Data Senior Technician	\$ 65.00
Clerical	\$ 25.00



Hourly rates may be adjusted annually. Such annual adjustments shall not reflect a greater increase than the Florida consumer price index for that year.

**Electric Distribution Engineering, Design, Construction, Operations and Maintenance Services**

ENCO also offers complete electric distribution engineering, design, construction, operation and maintenance services at the following billable rates plus equipment cost and travel expenses, if any:

Title	Hourly Rate
Engineer	\$ 84.50
Service Planner	\$ 58.00
Operations Mgr	\$ 110.00
General Foreman	\$ 78.00
Foreman	\$ 72.00
Lineman	\$ 67.00
Groundman	\$ 46.50
Project Coordinator	\$ 60.00
Facility Locator	\$ 54.00
Mapping Coordinator	\$ 40.00

Hourly rates may be adjusted annually. Such annual adjustments shall not reflect a greater increase than the Florida consumer price index for that year.