



Consent Item 7

To:	Ava Community Energy Authority
From:	Chris Eshleman, Director of Energy Analytics and Electric Supply
Subject:	Adopting a Resolution of the Board of Directors of Ava Community Energy Authority Authorizing the CEO to Negotiate and Execute a Third Amendment to the Master Agreement- Software as a Service with Ascend Analytics
Date:	September 17, 2025

Recommendation

Adopt a Resolution authorizing the Chief Executive Officer to negotiate and execute a Third Amendment to the Master Agreement- Software as a Service with Ascend Analytics ("Ascend") for storage and renewable bid optimization software services dated June 22, 2023, which was first amended March 21, 2024 and subsequently amended March 21, 2025, (collectively, the "Agreement") for a 2-year subscription term, with a cost not-to-exceed \$362,580, together with the option to extend the subscription term for up to one, additional 1-year term. This third amendment adds a new asset, Sunpond, to the existing Storage and Renewable Bid Optimization software platform for the Power Resources objective and adds an additional \$80,160 for the remainder of the 2-year term for a new not-to-exceed cost for the Agreement of \$442,740.

Financial Impact

The addition of this storage resource to our portfolio optimized with Ascend adds additional yearly fees that are in-line or below market with other optimization providers. The additional amount of \$80,160 for the remainder of the 2-year term will result in a new not-to-exceed cost for the Agreement of \$442,740.

Analysis and Context

Adding an additional resource to Ascend's optimization platform results in operational efficiencies, by reducing points of failure and tightening coordination in responding to market conditions.

Attachments

- A. Resolution Authorizing the CEO to Negotiate and Execute a Third Amendment to the Software as a Service Master Agreement with Ascend Analytics
- B. Consulting Services Agreement Amendment Template

RESOLUTION NO. R-2025-XX

A RESOLUTION OF THE BOARD OF DIRECTORS

**OF AVA COMMUNITY ENERGY AUTHORITY AUTHORIZING THE CEO TO
NEGOTIATE AND EXECUTE A THIRD AMENDMENT TO THE MASTER
AGREEMENT- SOFTWARE AS A SERVICE WITH ASCEND ANALYTICS**

WHEREAS Ava Community Energy Authority (“Ava”) was formed as a community choice aggregation agency (“CCA”) on December 1, 2016, under the Joint Exercise of Powers Act, California Government Code sections 6500 *et seq.*, among the County of Alameda, and the Cities of Albany, Berkeley, Dublin, Emeryville, Fremont, Hayward, Livermore, Piedmont, Oakland, San Leandro, and Union City to study, promote, develop, conduct, operate, and manage energy-related climate change programs in all of the member jurisdictions. The Cities of Newark and Pleasanton, located in Alameda County, along with the City of Tracy, located in San Joaquin County, were added as members of Ava and parties to the Joint Powers Agreement (“JPA”) in March of 2020. The City of Stockton was added as a member to Ava in September of 2022. The City of Lathrop was added as a member to Ava in October of 2023. San Joaquin County was added as a member to Ava in July 2024. On October 24, 2023, Ava legally adopted the name Ava Community Energy Authority, where it had previously used the name East Bay Community Energy Authority since its inception.

WHEREAS there is a need for Ava to add an additional solar plus energy storage asset, Sunpond, to the existing Storage and Renewable Bid Optimization software platform for the Power Resources objectives;

WHEREAS, the addition of Sunpond will result in an increase of costs in the amount of \$80,160 for the remainder of the 2-year term, which will result in a new not-to-exceed cost for the Agreement of \$442,740.

WHEREAS Ava and Ascend previously entered into a Master Agreement- Software as a Service for storage and renewable bid optimization software services dated June 22, 2023, which was first amended March 21, 2024 and further amended March 21, 2025 (collectively, the “Agreement”) and such Agreement may be amended to include the additional services.

**NOW, THEREFORE, THE BOARD OF DIRECTORS OF AVA COMMUNITY
ENERGY AUTHORITY DOES HEREBY RESOLVE AS FOLLOWS:**

Section 1. The Board of Directors hereby authorizes the CEO to negotiate and execute, subject to approval of General Counsel, a Third Amendment to the Agreement to add an additional assest, Sunpond, and to increase the not-to-exceed amount to \$\$442,740.

ADOPTED AND APPROVED this 17th day of September 2025

Jack Balch, Chair

ATTEST:

Adrian Bankhead, Clerk of the Board

[Month] [Year] Consulting Services Agreement

Ava Community Energy Authority ("Ava")	Signature:	
	By:	
	Date:	
	Approval as to Form:	
	Address:	1999 Harrison Street, Suite 2300 Oakland, CA 94612
	Ava Notice Emails:	legal@avaenergy.org with a cc to: [Ava representative email]
	Relationship Manager:	[Ava representative]
[Counterparty] ("Consultant")	Signature:	
	By:	
	Date:	
	Notice Attn:	[Counterparty representative]
	Phone:	
	Notice Address:	
	Notice Email(s):	
Effective Date		
Expiration Date		
Not To Exceed ("NTE")		
Summary		

June 2025 template.

This Consulting Services Agreement (the "Agreement") is made by and between Ava Community Energy Authority, a joint powers authority formed under the laws of the State of California ("Ava"), and the counterparty set forth above ("Consultant") as of the Effective Date. Ava and Consultant are herein referred to as "Parties" or individually as a "Party."

1. Recitals

- 1.1. Ava Recitals. Ava is an independent joint powers authority duly organized under the provisions of the Joint Exercise of Powers Act of the State of California (Government Code Section 6500 et seq.) with the power to conduct its business and enter into agreements.
- 1.2. Consultant Recitals. Consultant possesses the skill, experience, ability, background, certification and knowledge to complete the Work described in Section 3 of this Agreement pursuant to the terms and conditions described herein.

NOW THEREFORE, for good and valuable consideration, the amount and sufficiency of which is hereby acknowledged, the Parties to this Agreement, agree as follows:

2. Term. The term of this Agreement begins as of the Effective Date of this Agreement ends as of the Expiration Date, unless terminated earlier pursuant to Section 8 (Termination).
3. Scope of Work/Compliance with Laws and Regulations.
 - 3.1. Work. Consultant agrees to perform the scope of work (the "Work") in Exhibit A in accordance with the schedule in Exhibit B.
 - 3.2. Requirements. Consultant represents and warrants that it has the skill and expertise to perform the Work. Consultant agrees to obtain any and all necessary licenses, approvals or permits necessary to perform the Work.
 - 3.3. Legal Compliance. Consultant and its contractors, consultants, sub-suppliers, affiliates, agents and any other person or entity with whom the Consultant contracts in furtherance of this Agreement (collectively "Subconsultants") must comply with all federal, state and local laws and regulations in performing the Work under this Agreement. Without limiting the foregoing, if work required to be performed by the Consultant is a "public work" as defined in California Labor Code Section 1720, then pursuant to the provisions of Labor Code Sections 1725.5 and 1771, the Consultant shall be registered with the Department of Industrial Relations ("DIR"), and will pay and require subcontractors to pay the general prevailing rate of per diem wages and the general rate for holiday and overtime work in this locality for each craft, classification, or type of worker needed to perform this Agreement, as established by the DIR. As of the execution of this Agreement, these rates may be obtained at: <http://www.dir.ca.gov/OPRL/DPreWageDetermination.htm>. Consultant shall provide a copy of prevailing wage rates to any staff, contractor and/or Subconsultant hired by Consultant for this Agreement and shall pay the adopted prevailing wage rates as a minimum. Consultant shall comply with the provisions of Sections 1773.8, 1775, 1776, 1777.5, 1777.6, and 1813 of the Labor Code. Pursuant to the provisions of 1775 of the Labor Code, Consultant shall forfeit to Ava, as a penalty, the sum of \$200.00 for each calendar day, or portion thereof, for each laborer, worker, or mechanic employed, is paid less than the applicable prevailing wage rates for any work done under this Agreement, by them or by any subcontractor under them, in violation of the provisions of the Agreement.
4. Consultant Staffing. Exhibit C contains a list of Consultant's principal and all team members. Consultant will not change or substitute the principal or any team members or add additional team members without consultation with Ava.
5. Subconsultants.
 - 5.1. Approved Subconsultants. Consultant agrees to use only those Subconsultants listed on Exhibit D. Consultant shall notify Ava within a reasonable period of time of any changes, additions, or removals of a Subconsultant.
 - 5.2. Subconsultant Compliance. Consultant agrees to require all Subconsultants to comply with the terms of this Agreement, including without limitation, the public works requirements in Section 3.3, the insurance obligations under Section 9, the confidentiality requirements under Section 11, and the requirement to indemnify Ava as provided in Section 12.
6. Invoicing and Payment.
 - 6.1. Time and Materials. If the Work under this Agreement is to be performed on a time and materials basis, Consultant must submit invoices to Ava on a monthly basis, complete with the name of the

individual that conducted the Work, the time spent, and a brief description of the tasks performed during that time. If requested by Ava, Consultant must include the contract number provided by Ava and the total compensation remaining on the Agreement on each monthly invoice. Notification to Ava should be provided once the contract budget has been used up by 80% (including invoiced work and work that may not have been invoiced yet) the amount of which is set forth in Exhibit E. Invoices must be submitted to Ava by the 20th of the month following the month in which Consultant performed the Work.

- 6.2. Milestone. If the Work under this Agreement is to be performed on a task or project basis, the Consultant will submit an invoice within thirty (30) days of completing the project to the satisfaction of Ava for full payment, unless other arrangements have been made.
- 6.3. Markups. Ava will not agree to pay any markups on Subconsultant services or supplies unless such markups are included in Exhibit E, Compensation/Budget and such markups were included in Consultant's bid, if applicable.
- 6.4. Payment Processing. The following are conditions on Ava's obligation to process any payments under this Agreement:
 - 6.4.1. If the Consultant is a U.S. based person or entity, the Consultant must provide to Ava a properly completed Internal Revenue Service Form W-9 before Ava will process payment. If the Consultant is a U.S. based person or entity but has neither a permanent place of business in California nor is registered with the California Secretary of State to do business in California, the Consultant must provide Ava with a properly completed California Franchise Tax Board form related to nonresident withholding of California source income before Ava will process payment.
 - 6.4.2. If the Consultant is not a U.S. based person or entity, the Consultant must provide Ava with the applicable Internal Revenue Service form related to its foreign status and a California Franchise Tax Board form related to nonresident withholding before Ava will process payment.
- 6.5. Payment. Ava agrees to pay undisputed invoices within forty-five (45) days of receipt. Invoices may be sent to Ava by U.S. mail or electronic mail to AP@avaenergy.org. Invoices will be deemed received on the next business day following the date of receipt via electronic mail or three days after receipt via U.S. mail. Notwithstanding anything to the contrary in this Agreement or any related document, Ava shall have no obligation to remit payment for fees in excess of the NTE.
- 6.6. Members. Ava, as a joint powers authority, is a separate public entity from its constituent members and will be solely responsible for all debts, obligations and liabilities accruing and arising out of this Agreement. Consultant acknowledges that it will have no rights and agrees not to make any claims, take any actions or assert any remedies against any of Ava's constituent members in connection with this Agreement.
7. Records Retention and Ownership of Work Product.
 - 7.1. Records. The Consultant must retain all ledgers, books of accounts, invoices, vouchers, cancelled checks, background materials, or other records relating to its performance under this Agreement for a period of three (3) years following termination of this Agreement.
 - 7.2. Ownership. Ava owns all rights, including without limitation, all licenses, copyrights, service marks and patents, in and to all Work Product(s), whether written or electronic, without restriction or limitation upon their use and immediately when and as created by the Consultant, any Subconsultants, or any other person engaged directly or indirectly by the Consultant to perform under this Agreement. "Work Product(s)" means all writings, reports, drawings, plans, data, video, media, photographs, renderings, plans, software, models, and other similar documents and materials developed or created by Consultant or its Subconsultants on behalf of or for use by Ava under this Agreement. All Work Product(s) will be considered "works made for hire," and together with any and all intellectual property rights arising from their creation will be and remain the property of Ava without restriction or limitation upon their use, duplication or dissemination by Ava. Consultant agrees not to obtain or attempt to obtain copyright protection in its own name for any Work Product.

8. Termination.

- 8.1. Upon Notice. Ava may terminate this Agreement for any reason by giving Consultant written notice. The termination notice may set the date of termination, but if no such date is given, termination is effective seven (7) days following the date of the written notice.
- 8.2. For Breach. Ava may terminate this Agreement immediately upon written notice for any material breach of this Agreement by Consultant or any of its Subconsultants. If Ava terminates this Agreement for cause and obtains the same services from another consultant at a greater cost, the Consultant is responsible for such excess costs in addition to any other remedies available to Ava.
- 8.3. Completion Option. Upon termination for any reason, Ava has the option of requiring the Consultant to complete work up to the date of termination or to cease work immediately. Ava has the further option to require Consultant to provide Ava any finished or unfinished Work or Work Product prepared by the Consultant up to the date of termination.
- 8.4. Payment. Ava will pay Consultant the reasonable value of services satisfactorily rendered by the Consultant to Ava up to the date of written notice of termination. If Ava authorizes Consultant to continue performing the Work through the date of termination, Ava will pay Consultant the reasonable value of services satisfactorily rendered up through the date of termination, providing such services are in compliance with the Compensation/Budget in Exhibit E.
- 8.5. Return of Work Product. Upon termination of this Agreement, and at no cost to Ava, Consultant, its Subconsultants and anyone working for Ava under control of Consultant must return all Work Product to Ava and cooperate with any subsequent consultant during any transition. Consultant may only retain copies of the Work Product by express written permission of Ava.

9. Insurance

- 9.1. Proof of Insurance. Consultant must procure, maintain and comply with the insurance requirements in Exhibit F throughout the full term of this Agreement. Consultant must provide proof of insurance either in the form of a certificate of insurance or, if requested by Ava, a copy of the insurance policy, prior to performing any work under this Agreement.
- 9.2. Ongoing Coverage. Consultant agrees to stay in compliance with the insurance coverage requirements during the term of this Agreement. Consultant must give Ava ten (10) days written notice and obtain Ava's written approval prior to making any modifications that would reduce its insurance coverage.
- 9.3. Subconsultant Coverage. Consultant must either include Subconsultants under its insurance policies or require each Subconsultant to comply with the insurance obligations in Exhibit F.

10. No Discrimination or Conflict of Interest

- 10.1. Non-Discrimination. Consultant represents and warrants, on behalf of itself and its Subconsultants, that it has not and will not discriminate against anyone based on his/her age, color, religion, sex, sexual orientation, disability, race, national origin, or any other protected category under state or federal law.
- 10.2. Conflict of Interest. Consultant represents and warrants, on behalf of itself and its Subconsultants, that it is familiar with local, state and federal conflict of interest laws, that in entering into this Agreement it is not violating any of the conflict of interest laws, that it will avoid any conflicts of interest during the term of this Agreement, and that it will notify Ava immediately if it identifies any conflicts of interest. Consultant understands that violations of this Section 10 could result in immediate termination of this Agreement and disgorgement of compensation.

11. Confidentiality

- 11.1. Non-Disclosure. Except as authorized by Ava or as otherwise required by law, Consultant shall not disclose to any third party any draft or final Work Product, discussions or written correspondence between Consultant and its Subconsultants or discussions or written correspondence between Consultant and Ava staff. In the event Consultant receives a request from any third party requesting

disclosure of any Work Product, discussions, communications or any other information Consultant is prohibited from disclosing, Consultant will immediately notify Ava and wait for direction from Ava before disclosing the information.

- 11.2. Third Parties. For the purposes of this Section 11, "third party" refers to any person or group other than Ava staff and Board members. For example, "third parties" include community groups, Board advisory groups, other governmental agencies, other consultants or members of the community.
- 11.3. Confidentiality Survival. This Section 11 will survive the expiration or termination of this Agreement.
- 11.4. Public Records Act. **The Parties understand and agree that (1) this Consulting Services Agreement is subject to public disclosure under the California Public Records Act ("CPRA"); (2) a request pursuant to the CPRA may obligate Ava to disclose this Agreement, in whole or in part, to the requestor; and (3) Consultant is solely responsible for the inclusion of any information herein that Consultant may consider sensitive and should not include sensitive information within this Agreement.**

12. Indemnity

- 12.1. General Indemnity. Except with regard to any matter involving professional negligence, Consultant agrees, at its sole cost and expense, to indemnify, defend with counsel reasonably approved by Ava, and protect and hold harmless Ava, its officers, directors, employees, agents, attorneys, designated volunteers, successors and assigns, and those Ava agents serving as independent contractors in the role of Ava staff (collectively "Ava Indemnitees") from and against any and all damages, costs, expenses, liabilities, claims, demands, causes of action, proceedings, penalties, judgements, liens and losses of whatever nature ("Claims") that arise, directly or indirectly, in whole or in part, out of or are in any way related to Consultant's or Subconsultant's performance or failure to perform the Work under this Agreement, regardless of whether the Consultant or its Subconsultants acted or failed to act intentionally, willfully, recklessly or negligently. Consultant agrees that its indemnity and defense obligations include all costs and expenses, including all attorney fees, expert fees, mediation, arbitration, or court costs in connection with the defense. Consultant further agrees to indemnify, defend, protect and hold harmless Indemnitees from and against any breach of this Agreement and any infringement of patent rights, trade secret, trade name, copyright, trademark, service mark or any other proprietary right of any person(s) caused by Ava's use of any services, Work Product or other items provided by Consultant or its Subconsultants under this Agreement.
- 12.2. Professional Negligence. With regard to any matter involving professional negligence, Consultant agrees, at its sole cost and expense, to indemnify, defend with counsel reasonably approved by Ava, and protect and hold harmless the Ava Indemnitees from and against any and all Claims to the extent arising out of or resulting from Consultant's or Subconsultant's negligence, recklessness, or willful misconduct. In no event shall the cost to defend charged to Consultant exceed the Consultant's proportionate percentage of fault.
- 12.3. Exceptions. Consultant's obligations in Subsections 12.1 and 12.2 do not apply to the extent any Claim results from the negligence or willful misconduct of the Ava Indemnitees.
- 12.4. Indemnitees. Except as limited by Subsection 12.2, Consultant's obligation to defend Ava applies to the maximum extent allowed by law and includes defending Indemnitees as set forth in California Civil Code sections 2778 and 2782.8.
- 12.5. Insurance. The Consultant's obligations under Section 12 apply regardless of the existence or amount of insurance the Consultant carries or has made available to Ava.
- 12.6. Indemnification Survival. The Parties agree that this Section 12 survives the expiration or earlier termination of the Agreement.

13. Consultant is an Independent Contractor

- 13.1. Relationship of the Parties. Consultant and its Subconsultant(s) are and at all times will be independent contractors. Consultant has complete control over its operations and employees and is not an agent or employee of Ava and must not represent or act as Ava's agent or employee. Consultant agrees, on behalf of itself and its employees and Subconsultants, that it does not have any rights to retirement benefits or other benefits accruing to Ava employees, and expressly waives any claim it may have to any such rights.
- 13.2. Relationship of Subconsultants. As an independent contractor, Consultant has complete control over its Subconsultants. Subject to the requirements of Section 5 of this Agreement, Consultant is solely responsible for selecting, managing and compensating its Subconsultants, and for ensuring they comply with this Agreement.
14. Miscellaneous Terms and Conditions
- 14.1. Ava Authority. The Chief Executive Officer or his/her designee is authorized to take all actions under this Agreement, including without limitation, amendments that fall within the Chief Executive Officer's signing authority, termination or modification of terms.
- 14.2. Waiver. Waiver by either party of any one or more conditions, Sections, provisions or performance of this Agreement will not be a waiver of any other provision; nor will failure to enforce a provision or Section in one instance waive the right to enforce such provision or Section in the future. In no event will payment by Ava to Consultant constitute or be construed as a waiver by Ava of any breach or default of this Agreement, nor will such payment prejudice any of Ava's other rights or remedies.
- 14.3. Governing Law. Consultant and Ava agree that this Agreement will be interpreted under the laws of the State of California.
- 14.4. Venue. Any litigation resulting from this Agreement will be filed and resolved by a state court in Alameda County, California, or if appropriate, the federal courts in the Northern District of California located in San Francisco.
- 14.5. Audit Rights. All records or documents required to be kept pursuant to this Agreement must be made available for audit at no cost to Ava, at any time during regular business hours, upon written request by Ava. Copies of such records or documents shall be provided to Ava at Ava's offices unless an alternative location is mutually agreed upon.
- 14.6. Recitals and Exhibits. The Recitals in Section 1 above are intentionally made a part of this Agreement. All Exhibits and any other documents incorporated by reference are a part of this Agreement.
- 14.7. Notices. Notices to Ava shall be effective upon delivery to all email addresses in Ava Notice Emails, above. Any notices required to be given to Contractor under this Agreement must be made in writing and may be delivered a) personally, in which case they are effective upon receipt; b) by U.S. Mail, in which case they are effective three (3) days following deposit in the U.S. Mail, unless accompanied by a return receipt in which case, they are effective upon the date on the receipt; or c) by electronic mail, in which case they are effective upon confirmation of receipt, and if no confirmation of receipt, they are effective one day after transmission. All notices to Contractor must be sent to the Notice Address or Notice Email(s).
- 14.8. Assignment. Except to the extent this Agreement authorizes Consultant to use Subconsultants, Consultant will not assign any part of this Agreement without Ava's prior written consent. Ava, at its sole discretion, may void this Agreement if a violation of this provision occurs.
- 14.9. Integrated Agreement. The Recitals, this Agreement and the Exhibits attached to this Agreement contain the complete understanding between Ava and Consultant and supersedes any prior or contemporaneous negotiations, representations, agreements, understandings and statements, written or oral respecting the Work up through the Effective Date of this Agreement.
- 14.10. Amendments. Any and all amendments or modifications to this Agreement must be made in writing and signed by each Party before such amendment will be effective.

- 14.11. Government Claims Act. Nothing in this Agreement waives the requirements to comply with the California Government Claims Act (Government Code Section 810 et seq.), where applicable.
- 14.12. Severability. If a court of competent jurisdiction holds any Section or part of this Agreement to be invalid or unenforceable for any reason and the Work can still be performed, the Parties agree to sever the invalid or unenforceable Section from this Agreement and that all remaining Sections or parts of this Agreement will continue to be enforceable.
- 14.13. Counterparts. This Agreement may be executed in one or more counterparts, all of which taken together will constitute one and the same instrument and each of which will be deemed an original.
- 14.14. No Party Deemed Drafter. This Agreement will be considered for all purposes as prepared through the joint efforts of the Parties and will not be construed against one Party or the other as a result of the preparation, substitution, submission, or other event of negotiation, drafting or execution hereof.
- 14.15. Supplier Diversity. Ava is required to report to the California Public Utilities Commission ("CPUC") on their diverse suppliers, as defined by CPUC General Order 156. Consistent with the California Public Utilities Code and California Public Utilities Commission policy objectives, Consultant agrees to document and provide information to Ava regarding Consultant's status and any engagement of women, minority, disabled veteran, persons with disabilities, and LGBT owned business enterprises in its completion of the Work under this Agreement. Specifically, Consultant agrees to complete Ava's Supplier Diversity questionnaire, which may be updated or revised during the term of the Agreement, and otherwise reasonably cooperate with Ava to provide the information described above. Consultant shall provide such information in the timeframe requested by Ava and in no event later than January 31 of the year following the Effective Date of this Agreement.

LIST OF EXHIBITS

EXHIBIT A: SCOPE OF WORK

EXHIBIT B: SCHEDULE

EXHIBIT C: CONSULTANT STAFFING

EXHIBIT D: SUBCONSULTANTS

EXHIBIT E: COMPENSATION/BUDGET

EXHIBIT F: INSURANCE REQUIREMENTS

Exhibit A

SCOPE OF WORK

[Draft Scope of Work here and remove italicized language below when finalizing]

A Scope of work should aim to be as concise as possible while ensuring all necessary details of the services are captured. A good Scope should include:

- Summary of Services
- Purpose and Objectives of Services (This could be in narrative form and provide the general purpose of the services)

And may include:

- Definitions of any Critical Terms (Any definitions, clarifications could be included here)
- List of any Supplemental Documents (If there is a lengthy document that does not make sense to copy and paste into the Scope of Work it could be referenced here)
- Tasks and Deliverables
 - o List each task (and any related subtasks)
 - o List required updates/reports on progress
 - o List deliverable for each task
 - o List schedule/due date for each task and for each deliverable
 - o List any other milestone dates
- Exclusions/Exceptions and Additional Services (If there is anything that is specifically excluded from the Scope of Work that can be listed here. If there are additional services or costs (such as new services or travel costs), we can list the proposed costs and the process for selecting them here)
- Any Other Conditions (If there is something unique to the project that does not fit into the other categories).

Additional Services:

Consultant will not provide additional services outside of the services identified in Exhibit A, unless it obtains advance written authorization from the project manager or lead Ava representative prior to commencement of any additional services.

Exhibit B

SCHEDULE

[Schedule - can be detailed or as simple as "As directed by Ava."]

Exhibit C

CONSULTANT STAFFING

[Include names of all team members who will be providing Ava services.]

Exhibit D

SUBCONSULTANTS

[If subconsultants are authorized in advance, they should be listed here, otherwise it can state either of these: "Subconsultants are not authorized under this Agreement." or "Subconsultants must be authorized in advance, in writing by Ava."]

Exhibit E

COMPENSATION/BUDGET

[If the compensation is hourly, a table of hourly rates by title should be included. If fixed fee, describe what amounts are to be paid based on what milestones]

For the purposes of Section 6.1 (Time and Materials), 80% of the total compensation under this agreement (see NTE on page 1) is [\$\$\$]

Exhibit F

INSURANCE REQUIREMENTS

A. Minimum Scope and Limits of Insurance. Consultant must procure, and at all times during the term of this Agreement carry, maintain, and keep in full force and effect, insurance as follows:

- 1) Commercial General Liability Insurance with a minimum limit of One Million Dollars (\$1,000,000.00) per occurrence for bodily injury, personal injury and property damage and a general aggregate limit of Two Million Dollars (\$2,000,000.00) per project or location. If Consultant is a limited liability company, the commercial general liability coverage must be amended so that Consultant and its managers, affiliates, employees, agents and other persons necessary or incidental to its operation are insureds.
- 2) Automobile Liability Insurance for any owned, non-owned or hired vehicle used in connection with the performance of this Agreement with a combined single limit of One Million Dollars (\$1,000,000.00) per accident for bodily injury and property damage.
- 3) Workers' Compensation Insurance as required by the State of California and Employer's Liability Insurance with a minimum limit of One Million Dollars (\$1,000,000.00) per accident for bodily injury or disease. If Consultant has no employees while performing the Work under this Agreement, workers' compensation policy is not required, but Consultant must execute a declaration that it has no employees.
- 4) Professional Liability/Errors & Omissions Insurance with minimum limits of Two Million Dollars (\$2,000,000.00) per claim and in aggregate.

B. Acceptability of Insurers. The insurance policies required under this Exhibit F must be issued by an insurer admitted to write insurance in the State of California with a rating of A:VII or better in the latest edition of the A.M. Best Insurance Rating Guide.

C. Additional Insured/Additional Named Insured. The automobile liability policies must contain an endorsement naming Ava, its officers, employees, agents and volunteers as additional insureds. The commercial general liability policy must contain an endorsement naming Ava, its officers, employees, agents and volunteers as additional named insureds.

D. Primary and Non-Contributing. The insurance policies required under this Agreement must apply on a primary non-contributing basis in relation to any other insurance or self-insurance available to Ava. Any insurance or self-insurance maintained by Ava, its officers, employees, agents or volunteers, will be in excess of Consultant's insurance and will not contribute with it.

E. Consultant's Waiver of Subrogation. The insurance policies required under this Agreement will not prohibit Consultant and Consultant's employees, agents or Subconsultants from waiving the right of subrogation prior to a loss. Consultant hereby waives all rights of subrogation against Ava.

F. Deductibles and Self-Insured Retentions. Any deductibles or self-insured retentions must be declared to and approved by Ava. At Ava's option, Consultant must either reduce or eliminate the deductibles or self-insured retentions with respect to Ava, or Consultant must procure a bond guaranteeing payment of losses and expenses.

G. Cancellations or Modifications to Coverage. Consultant agrees not to cancel any insurance coverage during the term of this Agreement. Consultant further agrees not to reduce or otherwise modify the insurance policies required by this Agreement during the term of this Agreement, without the prior written approval of Ava. The commercial general and automobile liability policies required under this Agreement must be endorsed to state that should the issuing insurer cancel the policy before the expiration date, the issuing insurer will endeavor to mail thirty (30) days' prior written notice to Ava. If any insurance policy required under Agreement is canceled or reduced in coverage or limits, Consultant must, within two (2) business days of notice from the insurer, phone and notify Ava via electronic mail and certified mail, return receipt requested, of the cancellation of or reductions to any policy.

H. Ava Remedy for Noncompliance. If Consultant does not maintain the policies of insurance required under this Agreement in full force and effect during the term of this Agreement, or in the event any of Consultant's policies do not comply with the requirements of this Exhibit F, Ava may either immediately terminate this Agreement or, if insurance is available at a reasonable cost, Ava may, but has no duty to, take out the necessary insurance and pay, at Consultant's expense, the premium thereon. Consultant must promptly reimburse Ava for any premium paid by Ava or Ava, in its sole discretion, may withhold amounts sufficient to pay the premiums from payments due to Consultant.

I. Evidence of Insurance. Prior to the performance of the Work under this Agreement, Consultant must furnish Ava with a certificate or certificates of insurance and all original endorsements evidencing and effecting the coverages required under this Agreement. The endorsements are subject to Ava's approval. Ava may request, and Consultant must provide complete, certified copies of all required insurance policies to Ava. Consultant must maintain current endorsements on file with Ava. Consultant must provide proof to Ava that insurance policies expiring during the term of this Agreement have been renewed or replaced with other policies providing at least the same coverage. Consultant must furnish such proof at least two (2) weeks prior to the expiration of the coverages.

J. Indemnity Requirements not Limiting. Procurement of insurance by Consultant will not be construed as a limitation of Consultant's liability or as full performance of Consultant's duty to indemnify Ava under Section 12 of this Agreement.

K. Subconsultant Insurance Requirements. Consultant's insurance coverage must include its Subconsultants or Consultant must require each of its Subconsultants that perform Work under this Agreement to maintain insurance coverage that meets all the requirements of this Exhibit F.