

**EXECUTIVE DOCUMENT SUMMARY**

Instructions for completing the EDS and the Contract process.

1. Please read the guidelines on the back of this form.
2. Please type all information.
3. Check all boxes that apply.
4. For amendments / renewals, attach original contract.
5. Attach additional pages if necessary.

1. EDS Number: A281-3-IPF-1036	2. Date prepared: 4/10/2023
3. CONTRACTS & LEASES	
<input checked="" type="checkbox"/> Professional/Personal Services <input type="checkbox"/> Grant <input type="checkbox"/> Lease <input type="checkbox"/> Attorney <input type="checkbox"/> MOU <input type="checkbox"/> QPA	<input type="checkbox"/> Contract for procured Services <input type="checkbox"/> Maintenance <input type="checkbox"/> License Agreement <input type="checkbox"/> Amendment # _____ <input type="checkbox"/> Renewal # _____

FISCAL INFORMATION	
4. Account Number: 48340-52299.531069	5. Account Name: IPF
6. Total amount this action: \$5,000,000.00	7. New contract total: \$5,000,000.00
8. Revenue generated this action: \$0.00	9. Revenue generated total contract: \$0.00
10. New total amount for each fiscal year:	
Year <u>2023</u> \$ <u>5,000,000.00</u>	Year _____ \$ _____
Year _____ \$ _____	Year _____ \$ _____
Year _____ \$ _____	Year _____ \$ _____
Year _____ \$ _____	Year _____ \$ _____

TIME PERIOD COVERED IN THIS EDS	
11. From (month, day, year): 3/13/2023	12. To (month, day, year): 12/31/2026
13. Method of source selection:	
<input type="checkbox"/> Bid/Quotation <input type="checkbox"/> RFP # _____	<input checked="" type="checkbox"/> Negotiated <input type="checkbox"/> Emergency <input type="checkbox"/> Special Procurement <input type="checkbox"/> Other (specify) _____

AGENCY INFORMATION	
14. Name of agency: Economic Development Corp	15. Requisition Number: 0000009989
16. Address: IN Economic Development Corp Central Office 1 N. Capital Ave., Ste 700 Indianapolis, IN 46204-2040	

AGENCY CONTACT INFORMATION	
17. Name: Glenda Reitz-May	18. Telephone #: 317.447.2617
19. E-mail address greitz@iedc.in.gov	

COURIER INFORMATION	
20. Name: Glenda Reitz-May	21. Telephone #: 317.447.2617
22. E-mail address: greitz@iedc.in.gov	

VENDOR INFORMATION	
23. Vendor ID Number: 00000050025	
24. Name: Indianapolis Power & Light Company	25. Telephone #:
26. Address: dba AES Indiana One Monument Circle Indianapolis, IN 46204	
27. E-mail address:	

28. Is the vendor registered with the Secretary of State? (<i>Out of State Corporations, must be registered</i>) <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	
29. Primary Vendor: M/WBE/IN-Veteran	30. Primary Vendor Percentages:
Minority: <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No Women: <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No IN-Veteran: <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	100 %

31. Sub Vendor: M/WBE/IN-Veteran	32. If yes, list the %:
Minority: <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No Women: <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No IN-Veteran: <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	Minority: _____% Women: _____% IN-Veteran: _____%
33. Is there Renewal Language in the document? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	34. Is there a "Termination for Convenience" clause in the document? <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No

35. Will the attached document involve data processing or telecommunications systems(s)? <input type="checkbox"/> Yes: IOT or Delegate has signed off on contract

36. Statutory Authority (<i>Cite applicable Indiana or Federal Codes</i>): IC 5-28-5-12 and IC 5-28-6-1
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37. Description of work and justification for spending money (<i>Please give a brief description of the scope of work included in this agreement</i> .) The IEDC is currently contemplating the planning and construction of one or more facilities located within Project Leap, and the IEDC has agreed to pay for the cost of the utility to begin work towards the electric generation, transmission, distribution, engineering and/or procurement of materials and equipment required for the facility to be served with electric power and energy. AES Indiana will begin work, including, but not limited to, the provision of planning, engineering, pre-construction, construction and long lead-time equipment procurement in preparation for the ability of the facility to be provided with the necessary power and energy required to serve the facility.
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38. Justification of vendor selection and determination of price reasonableness: Project # 424523
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39. If this contract is submitted late, please explain why: (<i>Required if more than 30 days late</i> .)
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40. Agency fiscal officer or representative approval <i>Robert J. Paglia</i>	41. Date Approved Apr 11, 2023	42. Budget agency approval <i>Jasmine Williams</i> <small>Jasmine Williams (Apr 25, 2023 11:40 EDT)</small>	43. Date Approved Apr 25, 2023
44. Attorney General's Office approval	45. Date Approved	46. Agency representative receiving from AG	47. Date Approved

ADDENDUM

This Addendum is entered into by and between the **INDIANA ECONOMIC DEVELOPMENT CORPORATION** (the “**IEDC**”) and the entity designated as “Utility” below.

The purpose of this Addendum is to modify, delete, or amend certain terms and conditions set forth in the attached Utility Reimbursement Agreement prepared by the Utility (the “**Form Contract**”). This Addendum and the Form Contract are incorporated into each other and, when read together, shall constitute one integrated document (this “**Agreement**”). Any inconsistency, conflict, or ambiguity between this Addendum and the Form Contract shall be resolved by giving precedence and effect to this Addendum.

Utility Name:

Indianapolis Power & Light D.B.A. AES Indiana

Utility Address:

One Monument Circle
Indianapolis, IN 46204

Title of Form Contract:

Utility Reimbursement Agreement

1. FORM CONTRACT/DUTIES OF CONTRACTOR.

The Utility shall perform work, including but not limited to, the provision of planning, engineering, pre-construction, construction and long lead-time equipment procurement as outlined in the Form Contract.

2. TERM.

- (A) This Agreement shall commence on March 13, 2023 and shall remain in effect through December 31, 2026 or unless earlier terminated in accordance with the provisions of this Agreement (the “**Expiration Date**”). Utility will use commercially reasonable efforts to complete all work before the Expiration Date, subject to force majeure and other delays outside of Utility’s direct control.
- (B) This Agreement may be renewed under the same terms and conditions, subject to the approval of the parties and the State Budget Director. The term of the renewed Agreement may not be longer than the term of the original Agreement. All renewals and extensions must be in writing and signed by all parties.
- (C) Any provisions which, by their nature, are intended to apply after termination of this Agreement shall survive termination of this Agreement, including provisions for payment of amounts owed for work performed under this Agreement, disclaimer of warranty, limitation of liability, and intellectual property clauses.

3. CONSIDERATION.

- (A) All services performed by the Utility under this Agreement must be authorized by the IEDC and consistent with the Form Contract. For the services provided hereunder, the Contractor shall be compensated in accordance with the budget, as more particularly described in the Form Contract. Except as otherwise provided herein, total remuneration under this Agreement shall not exceed **\$5,000,000** (the “**Agreement Amount**”).
- (B) All work and/or services provided by the Utility under this Agreement must be performed in accordance with commercially reasonable standards, and in accordance with all applicable federal, state, local laws, ordinances, rules, and regulations. The IEDC shall not be required to pay for work to the extent found to be, inconsistent with this Agreement, or performed in violation of federal, state, or local laws.

By mutual agreement of the parties, the following terms and conditions are deleted from the Form Contract:

- (1) Any provision requiring the IEDC to provide insurance.
- (2) Any provision providing that this Agreement be construed in accordance with laws other than those of the State of Indiana.
- (3) Any provision providing that suit be brought in any state other than Indiana.
- (4) Any provision providing for resolution of contract disputes.
- (5) Any provision requiring the IEDC to pay any taxes.
- (6) Any provision requiring the IEDC to pay penalties or liquidated damages.
- (7) Any provision modifying the applicable Indiana statute of limitations.
- (8) Any provision relating to the time within which a claim must be made.
- (9) Any provision limiting disclosure of the contract in violation of the Access to Public Records Act, Indiana Code §5-14-3.
- (10) Any provision requiring payment in less than thirty-five (35) days.
- (11) Any provision providing for automatic renewal of this Agreement.
- (12) Any provision giving the Form Contract precedence over this Addendum.

4. PAYMENTS.

- (A) The Utility shall submit invoices for payment in connection with its services provided hereunder. The Contractor shall submit with the invoice, its progress report summarizing the Contractor’s work under this Agreement to date. The Utility shall submit invoices to the IEDC at processing@iedc.in.gov.
- (B) All payment obligations shall be made in arrears in accordance with Indiana law and state fiscal policies and procedures, and as required by Indiana Code § 4-13-2-14.8. Notwithstanding any other law, rule, or custom, a person or company whom has a contract with the State of Indiana or submits invoices to the state for payment shall authorize, in writing, the direct deposit by electronic funds transfer of all payments by the state to the person or company. The written authorization must designate a financial institution and an account number to which all payments are to be credited. Any exception to this requirement

must be approved by the IEDC and the State of Indiana. For forms and additional information, see the Auditor of State's website at www.in.gov/auditor/forms.

- (C) Allowable expenditures made by the Utility for travel will be reimbursed at the current rate paid by the IEDC and in accordance with the State Travel Policies and Guidelines as specified in the current Financial Management Circular, available at <http://www.in.gov/idoa/2459.htm>. All travel expenses must be approved by the IEDC in writing in advance. Out-of-state travel requests must be reviewed by the IEDC for availability of funds and for appropriateness per Financial Management Circular guidelines.

5. CONFIDENTIALITY OF INFORMATION.

- (A) The Utility and the IEDC understand and agree that data, materials, and information disclosed to the other may contain confidential and protected data. Therefore, receiving party promises and assures that data, material, and information disclosed to it by the disclosing party for the purpose of this Agreement, and specifically identified as confidential information will not be disclosed to others or discussed with other parties without the prior written consent of the disclosing party or except as required by law or judicial order.
- (B) Each party agrees to abide by and maintain adequate data security measures, consistent with industry standards and technology best practices, to protect the other's confidential data, materials, and information from unauthorized disclosure or acquisition by an unauthorized person.
- (C) The parties acknowledge that the services to be performed by the Contractor for the IEDC under this Agreement will not require or allow access to data, materials, and information containing Social Security numbers or other personal information maintained by the IEDC in its computer system or other record.
- (D) The Contractor agrees to comply with all applicable laws that require the notification of individuals in the event of unauthorized release of personally identifiable information or other event requiring notification.

6. USE OF THE IEDC NAME; PUBLIC RELATIONS & MARKETING.

The IEDC nor the Utility has granted any rights to use its name, trademark, intellectual property, or logos. Each party agrees that it will not use the other's name or intellectual property, including, but not limited to, trademarks or logos, in commercial advertising or as a business reference without the prior written consent of the other party. In all cases in which either party's participation will be referenced, each party shall have the right of review and approval of the use, disclosure, and the finished product prior to its publication. All such requests shall be made in writing and delivered to the party for approval at its sole discretion.

All external facing communications related to this Agreement, including but not limited to marketing, public relations and social media materials and content, shall be developed in consultation with both parties and receive both parties written approval prior to publication.

Notwithstanding the foregoing, no consent, approvals, or reviews are required from IEDC to include IEDC's information on materials, filings, publications, notices, etc., required for Utility to perform the work pursuant to this Agreement.

7. GOVERNING LAW.

- (A) This Contract shall be governed, construed, and enforced in accordance with the laws of the State of Indiana, without regard to its conflict of laws rules. Suit, if any, must be brought in the State of Indiana. The venue for any suit shall be in the Superior or Circuit courts of Marion County, Indiana.
- (B) If any section, paragraph, term, condition, or provision of this Agreement is found, by a court of competent jurisdiction, to be invalid or unenforceable, or if any paragraph, term, condition, or provision is found to violate or contravene the laws of the State of Indiana, then the section, paragraph, term, condition, or provision so found will be deemed severed from this Agreement, but all other sections, paragraphs, terms, conditions, and provisions will remain in full force and effect.
- (C) The Utility understands that this Agreement is a public record subject to request pursuant to Indiana Code § 5-14-3 and its exemptions. Use by the public of the information contained in this Agreement shall not be considered an act of the IEDC or the State.

8. TERMINATION, FORCE MAJEURE & FUNDING CANCELLATION.

- (A) This Agreement may be terminated by the IEDC whenever, for any reason, with or without cause, if the IEDC determines that such termination is in its best interest. The Utility may terminate this Agreement for cause upon material breach by the IEDC. Termination of services shall be effected by delivery to the other party of a termination notice at least thirty (30) days prior to the termination effective date, specifying the extent to which performance of services under such termination becomes effective. The Utility shall be compensated for services properly rendered prior to the effective date of termination, as well as, if applicable, any costs and expenses incurred by Utility to relocate facilities back to the original location and remove or abandon the relocated facilities, and all work related thereto..
- (B) In the event that either party is unable to perform any of its obligations under this Agreement or to enjoy any of its benefits because of natural disaster or decrees of governmental bodies not the fault of the affected party (hereinafter referred to as a "Force Majeure Event"), the party who has been so affected shall immediately or as soon as is reasonably possible under the circumstances give notice to the other party and shall do everything possible to resume performance. Upon receipt of such notice, all obligations

under this Agreement shall be immediately suspended. If the period of nonperformance exceeds thirty (30) days from the receipt of notice of the Force Majeure Event, the party whose ability to perform has not been so affected may, by giving written notice, terminate this Agreement. The parties agree to work in good faith to resolve any disruptions caused by a Force Majeure Event.

- (C) When the Director of the State Budget Agency makes a written determination that funds are not appropriated or otherwise available to support continuation of performance of this Agreement, this Agreement shall be cancelled. A determination by the Budget Director that funds are not appropriated or otherwise available to support continuation of performance shall be final and conclusive. Notwithstanding any such determination, the Utility shall be compensated for services properly rendered prior to the effective date of termination, as well as, if applicable, any costs and expenses incurred by Utility to relocate facilities back to the original location and remove or abandon the relocated facilities, and all work related thereto.

9. PROGRESS REPORTS.

The Utility shall submit written progress reports to the IEDC upon request. The progress reports shall serve the purpose of assuring the IEDC that work is progressing in a timely manner, and that completion can be reasonably assured on the scheduled date. The Utility shall submit progress reports to the IEDC at reports@iedc.in.gov.

10. ACCESS TO RECORDS & AUDITS.

- (A) The Utility and its subcontractors performing services pursuant to this Agreement, if any, shall maintain all books, documents, papers, accounting records, and other evidence pertaining to all costs incurred under this Agreement. The Utility shall make such materials available at his/her respective office at all reasonable times during this Agreement period, and for three (3) years from the date of final payment under this Agreement, for inspection by the IEDC or by any other authorized representative of state government.
- (B) The Utility acknowledges that it may be required to submit to an audit of funds paid through this Agreement. Any such audit shall be conducted in accordance with Indiana Code § 5-11-1 *et seq.* and any audit guidelines specified by the IEDC.

11. THE UTILITY'S SERVICES.

- (A) The Utility agrees to use commercially reasonable efforts and cooperation to effect an orderly and efficient transition to a successor to provide the services contemplated hereby.
- (B) The Utility shall not commence any additional services or change the scope of services unless and until authorized in writing by the IEDC. This Agreement may only be amended, supplemented or modified by a written document executed in the same manner as this Agreement.

- (C) The Utility shall execute its responsibilities by following and applying at all times applicable guidelines and standards normally practiced by recognized electric companies in performing services of a similar nature in existence at the time of performance for the work performed. The Utility represents that it has or shall obtain at its own expense (to be reimbursed by the IEDC) all personnel, materials, and equipment required to perform the services under this Agreement. All of the work performed hereunder shall be performed by the Utility or under its supervision. The Utility warrants that all personnel assigned to perform the services or other consultants or subcontractors engaged by the Utility to perform the services are fully qualified and authorized to perform such services under the state and local laws. If the IEDC becomes reasonably dissatisfied with the work product of, or the working relationship with, any individuals assigned to work under this Agreement, the IEDC may request in writing the replacement of any or all such individuals, and the Utility shall grant such request, provided that the IEDC shall reimburse Utility for all costs incurred by Utility related thereto.
- (D) The IEDC shall, at all reasonable times, have the right to inspect the work, services or performance of the Utility, upon advance written notice and within normal working or operating hours. The Utility shall furnish all reasonable aid and assistance required by the IEDC for proper examination of the work or services. Such inspection shall not relieve the Utility of any obligation to perform said services in accordance with the law or this Agreement.

12. OWNERSHIP OF DOCUMENTS & MATERIALS.

All documents, records, programs, applications, data, algorithms, film, tape, articles, memoranda, and other materials (the "Materials") developed or licensed by the Utility prior to execution of this Agreement, or developed pursuant to or in connection with this Agreement, shall be and remain the sole property of Utility.

13. COMPLIANCE WITH LAWS.

- (A) The Utility agrees to comply with all applicable federal, state and local laws, rules, regulations and ordinances, and all provisions required thereby to be included herein are hereby incorporated by reference. The enactment or modification of any applicable state or federal statute or the promulgation of regulations thereunder after execution of this Agreement shall be reviewed by the IEDC and the Utility to determine whether the provisions of this Agreement require formal modification.
- (B) The Utility and its agents shall abide by all ethical requirements that apply to persons who have a business relationship with the State as set forth in IC § 4-2-6, et seq., IC § 4-2-7, et seq. and the regulations promulgated thereunder. **If the Utility has knowledge, or would have acquired knowledge with reasonable inquiry, that a state officer, employee, or special state appointee, as those terms are defined in IC § 4-2-6-1, has a financial interest in the Agreement, the Utility shall ensure compliance with the disclosure requirements in IC § 4-2-6-10.5 prior to the execution of this Agreement.** If the Utility

is not familiar with these ethical requirements, the Utility should refer any questions to the Indiana State Ethics Commission, or visit the Inspector General's website at <http://www.in.gov/ig/>. If the Utility or its agents knowingly violate any applicable ethical standards, the State may, in its sole discretion, terminate this Agreement immediately upon notice to the Utility. In addition, the Utility may be subject to penalties under IC §§ 4-2-6, 4-2-7, 35-44.1-1-4, and under any other applicable laws.

- (C) The Utility certifies by entering into this Agreement that to its knowledge it is not presently in arrears in payment of its taxes, permit fees or other statutory, regulatory or judicially required payments to the State of Indiana or the IEDC relating to the work or services performed pursuant to this Agreement. Further, the Utility agrees that any undisputed payments in arrears and currently due to the State of Indiana or to the IEDC relating to the work or services performed pursuant to this Agreement may be withheld from payments due to the Utility. Additionally, further work or payments may be withheld, delayed, or denied and/or this Agreement suspended until the Utility is current in its undisputed payments and has submitted proof of such payment to the IEDC relating to the work or services performed pursuant to this Agreement.
- (D) The Utility warrants that to its knowledge, it has no current or outstanding criminal, civil, or enforcement actions initiated by or pending with the state or local government relating to the work or services performed pursuant to this Agreement, and agrees that it will promptly notify the IEDC of any such actions. During the term of such actions, the parties agree that the IEDC may provide notice and delay, withhold, or deny work under any supplement, amendment, change order, or other contractual device issued pursuant to this Agreement, and Utility may in turn delay performance of the work.
- (E) If a valid dispute exists relating to the work or services performed pursuant to this Agreement as to the Utility's liability or guilt in any action initiated by the IEDC, the State of Indiana or its agencies, or the federal government or its agencies, and the IEDC decides to delay, withhold, or deny work to Utility, Utility may request that it be allowed to continue, or receive work, without delay.
- (F) The Utility warrants to its knowledge that the Utility and its subcontractors performing services pursuant to this Agreement, if any, shall obtain and maintain all required permits, licenses, and approvals, and shall comply with all health, safety, and environmental statutes, rules, or regulations applicable in connection with the services provided under this Agreement. Failure to do so is a material breach of this Agreement and grounds for immediate termination of this Agreement and denial of further work with the IEDC. If licensure, certification or accreditation expires or is revoked, Utility shall notify the IEDC promptly, and the IEDC, at its option, may immediately terminate this Agreement.
- (G) The Utility affirms that, if it is an entity described in Title 23 of the Indiana Code, it is properly registered and owes no outstanding reports to the Indiana Secretary of State.

Utility Reimbursement Agreement

This Cost Reimbursement Agreement (“Agreement”) is entered into this 13th day of March, 2023 (“Effective Date”) by and between **Indianapolis Power & Light Company dba AES Indiana** (“Utility”) whose offices are located at One Monument Circle, Indianapolis, IN 46204, and **the Indiana Economic Development Corporation** (“IEDC”), whose corporate offices are located at 1. North Capitol Ave., Suite 700, Indianapolis, IN 46204, each hereinafter may be referred to individually as “Party” or collectively as “Parties.”

RECITALS

WHEREAS, Utility is an Indiana corporation that owns and operates electric distribution, generation and transmission facilities and provides electric power and energy to its customers within its certificated service territory in the State of Indiana; and

WHEREAS, the IEDC is currently contemplating the planning and/or construction of one or more facilities located within Project Leap, known as Phase I of Project Leap or Project Goldfinch (“Facility”), and the IEDC has agreed to pay for the cost of the Utility to begin work towards the electric generation, transmission, distribution, engineering and/or procurement of materials and equipment required for the Facility to be served with electric power and energy; and

WHEREAS, IEDC has asked Utility to begin work, including, but not limited to, the provision of planning, engineering, pre-construction, construction and long lead-time equipment procurement (“Services”) in preparation for the ability of the Facility to be provided with the necessary power and energy required to serve the Facility; and

WHEREAS, the Utility shall need assurance of payment of any costs incurred in the event the Facility is not constructed and/or the Facility fails to utilize the transmission facilities designed, engineered, constructed or procured by the Utility; and

WHEREAS, IEDC is willing to provide such payment assurances to Utility and agrees to such reimbursement payments to Utility in order to facilitate the commencement of Services.

NOW, THEREFORE, in consideration of the mutual promises and obligations contained herein, the Parties agree as follows:

1. Recitals. The foregoing Recitals are hereby incorporated into and made a part of this Agreement.
2. Term. The term of this Agreement shall commence on the Effective Date and terminate on December 31, 2026 (the “Term”).
3. Financial Responsibility. IEDC hereby agrees to be financially responsible to and reimburse Utility for all costs incurred by Utility for the performance of Services, including necessary and preapproved travel and other expenditures, during the Term, up to a maximum

amount of \$5,000,000, which cap shall not be exceeded without the IEDC's prior written consent. If the Facility is not fully constructed and completed and/or the Facility fails to utilize the transmission facilities designed, engineered, constructed or procured by the Utility during the Term of this Agreement, the Utility shall invoice IEDC after the end of the Term, or such earlier termination, for any Services provided pursuant to this Agreement during the Term and IEDC agrees to pay such amount within thirty (30) days after date of invoice, subject to the above-referenced cap. Any amounts not paid when due shall accrue interest at the rate of twelve percent (12%) per annum or the maximum allowable rate permitted by law until paid in full.

4. Confidentiality. (a) The Parties acknowledge that in the course of providing and/or receiving the Pre-Construction Services and Equipment Procurement under this Agreement, they have each had, and will continue to have, access to the other Party's Confidential Information (defined below), and that each Party has a legitimate protectable interest in their Confidential Information and in the goodwill and business prospects associated therewith. Each Party agrees that it will not, at any time during the Term of this Agreement, and for a period of five (5) years thereafter, use or disclose, or cause to be used or disclosed, directly or indirectly, any of the other Party's Confidential Information, except as may be required by applicable Law. Each Party further agrees that, with respect to trade secrets, as defined by Law, the foregoing restrictions on the use or disclosure of information shall remain in effect for as long as such information qualifies as a trade secret remains subject to such privilege.

(b) Definition of Confidential Information. For purposes of this Agreement, the term "Confidential Information" means any and all non-trade secret information (whether written, oral, electronically transmitted or otherwise) provided by one party (the "Disclosing Party") to the other (the "Receiving Party") related to any aspect of the proprietary and confidential business or affairs of the Disclosing Party or the products or services which have value to the Disclosing Party and which are not known to the public or to the Disclosing Party's competitors, generally. Confidential Information shall include, without limitation: (i) inventions, service formulations and specifications, intellectual property, information about services under development, research, development or business plans, service processes, financial information, acquisition information, supplier lists, information about orders from and transactions with suppliers, sales and marketing strategies and plans, pricing information, personnel information, business records and information about legal matters; (ii) information that is marked or otherwise designated as confidential or proprietary by the party; and (iii) any other information that a reasonable person would conclude is intended to remain confidential, due to its nature or the circumstances under which it is disclosed. Notwithstanding the foregoing, no information shall be considered to be Confidential Information which (i) is or becomes generally available to the public other than as a result of disclosure by the Receiving Party; (ii) was known to the Receiving Party prior to disclosure to the Receiving Party by the Disclosing Party; or (iii) is or becomes available to the Receiving Party from a source other than the Disclosing Party who is not known by the Receiving Party to be under an obligation of confidentiality with the Disclosing Party.

5. General Provisions. This Agreement constitutes the entire agreement between Parties and supersedes and cancels any prior agreements, representations, warranties, or communications, whether oral or written, relating to the subject matter hereof. This Agreement, or any provision hereof, may not be amended, waived, discharged or terminated orally, but only by an agreement in writing signed by all of the Parties. This Agreement shall be governed and

construed under the laws of the State of Indiana to the extent such laws are not preempted by federal law. Any waiver at any time of rights as to any default or other matter arising under this Agreement shall not be deemed a waiver as to subsequent defaults or other matters under this Agreement. Any delay, short of the statutory period of limitation, in asserting or enforcing any right herein shall not be deemed a waiver of such right.

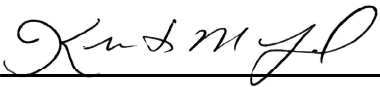
6. Compliance. In performing its obligations under this Agreement, the Parties shall comply fully with all applicable anti-corruption, anti-money laundering, anti-terrorism and economic sanction and anti-boycott laws, including without limitation, the United States Foreign Corrupt Practices Act

7. Counterparts. This Agreement may be executed in two or more counterparts, each of which shall be deemed an original, all of which together shall constitute one and the same Agreement. This Agreement shall become binding when any one or more counterparts hereof, individually or taken together, bear the signatures of all Parties hereto. For the purposes hereof, a facsimile or pdf copy of this Agreement, including the signature pages hereto, shall be deemed an original.

[Signature page follows.]

IN WITNESS WHEREOF, the Parties have executed this Agreement as of the Effective Date.


**INDIANAPOLIS POWER & LIGHT COMPANY
DBA AES Indiana**

By: 

Name: Kristina Lund

Title: President and CEO

INDIANA ECONOMIC DEVELOPMENT CORPORATION

By:  4.10.2023

Name: David Rosenberg

Title: Chief Operating Officer

- (H) In performing its obligations under this Agreement, the parties shall comply fully with all applicable anti-corruption, anti-money laundering, anti-terrorism and economic sanction and anti-boycott laws, including without limitation, the United States Foreign Corrupt Practices Act.

14. Omitted

15. DRUG-FREE WORKPLACE CERTIFICATION.

As it relates to the work or services performed pursuant to this Agreement and as required by Executive Order No. 90-5 dated April 12, 1990, issued by the Governor of Indiana, the Utility hereby covenants and agrees to make a good faith effort to provide and maintain a drug-free workplace. The Utility will endeavor to provide written notice to the IEDC within ten (10) days after receiving actual notice that the Utility, or an employee of the Utility in the State of Indiana relating to the work or services performed pursuant to this Agreement, has been convicted of a criminal drug violation occurring in the workplace.

In addition to the provisions of the above paragraph, if the total amount set forth in this Agreement is in excess of \$25,000.00, the Utility certifies and agrees as it relates to the work or services performed pursuant to this Agreement that it will provide a drug-free workplace by:

- (A) Publishing and providing to all of its employees a statement notifying them that the unlawful manufacture, distribution, dispensing, possession or use of a controlled substance is prohibited in the Utility's workplace, and specifying the actions that will be taken against employees for violations of such prohibition;
- (B) Establishing a drug-free awareness program to inform its employees of (1) the dangers of drug abuse in the workplace; (2) the Utility's policy of maintaining a drug-free workplace; (3) any available drug counseling, rehabilitation and employee assistance programs; and (4) the penalties that may be imposed upon an employee for drug abuse violations occurring in the workplace;
- (C) Notifying all employees in the statement required by subparagraph (A) above that as a condition of continued employment, the employee will (1) abide by the terms of the statement; and (2) notify the Utility of any criminal drug statute conviction for a violation occurring in the workplace no later than five (5) days after such conviction;
- (D) Notifying the State in writing within ten (10) days after receiving notice from an employee under subdivision (C)(2) above, or otherwise receiving actual notice of such conviction;
- (E) Within thirty (30) days after receiving notice under subdivision (C)(2) above of a conviction, imposing the following sanctions or remedial measures on any employee who is convicted of drug abuse violations occurring in the workplace: (1) taking appropriate personnel action against the employee, up to and including termination; or (2) requiring

such employee to satisfactorily participate in a drug abuse assistance or rehabilitation program approved for such purposes by a federal, state or local health, law enforcement, or other appropriate agency; and

- (F) Making a good faith effort to maintain a drug-free workplace through the implementation of subparagraphs (A) through (E) above.

16. NONDISCRIMINATION.

Pursuant to Indiana Code § 22-9-1-10 and the Civil Rights Act of 1964, the Age Discrimination in Employment Act and the Americans with Disabilities Act, the Utility and its subcontractors performing services pursuant to this Agreement, if any, shall not discriminate against any employee or applicant for employment relating to this Agreement with respect to the hire, tenure, terms, conditions, or privileges of employment or any matter directly or indirectly related to employment, because of the employee or applicant's race, color, religion, sex, age disability, national origin or ancestry or status as a veteran, or any other characteristic protected by federal, state, or local law. Breach of this covenant may be regarded as a material breach of this Agreement. Acceptance of this Agreement also signifies compliance with applicable federal and state laws and regulations prohibiting the aforementioned discrimination in the provision of services.

17. NOTICE TO PARTIES.

- (A) Whenever any notice, statement, or other communication (“**Notice**”) is required under this Agreement, it shall be sent to the following address, unless otherwise advised in writing:

- (1) Notices to the IEDC shall be sent to:

INDIANA ECONOMIC DEVELOPMENT CORPORATION
Attn: General Counsel
One North Capitol Avenue, Suite 700
Indianapolis, IN 46204-2288
reports@iedc.in.gov

- (2) Notices to the Utility shall be sent to:

Indianapolis Power & Light Company dba AES Indiana
Attn: Office of the General Counsel
One Monument Circle
Indianapolis, IN 46204

- (B) Any change in the either party's contact information must be provided in writing to the other party in accordance with this Paragraph 17.
- (C) Notice to the IEDC shall be provided via electronic mail to the IEDC's electronic mail address and via certified, registered, or first-class U.S. mail. Notice shall be deemed

delivered upon dispatch. Notice to Utility shall be provided via certified, registered, or first-class U.S. mail. Notice shall be deemed delivered upon dispatch

18. SUBCONTRACTS, ASSIGNMENT, SUCCESSORS, & KEY PERSONS.

- (A) Each party agrees to bind all subcontractors, successors and assignees to all the terms and conditions of this Agreement. Each party shall specifically require each subcontractor performing services pursuant to this Agreement, if any, who has access to the the other party's confidential information in the course of performing any services to be bound by the confidentiality provisions in Paragraph 5 of this Agreement and, at the other party's discretion, to execute a non-disclosure agreement that is satisfactory to such party.
- (B) The Utility shall provide prompt written notice to the IEDC of any change in the Utility's legal name or legal status so that the changes may be documented and payments to the successor entity may be made.

19. INDEMNIFICATION.

Each party agrees to indemnify, defend, and hold harmless the other party and its respective agents, officers, employees and representatives from all third party claims and suits for loss or damage to property, including the loss of use thereof, and injuries to or death of persons, including without limitation any officers, agents, employees, and representatives of the Utility or its subcontractor(s), and from all judgments recovered there from and for expenses in defending any such claims or suits, including court costs, attorneys' fees, and for any other expenses caused by an act or omission of the respective party and/or subcontractor(s), agents, officers, or employees in connection with performance of this Agreement.

20. DEBARMENT & SUSPENSION.

- (A) The Utility certifies to its knowledge, by entering into this Agreement, that neither it nor its principals are presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from entering into this Agreement by any federal agency, branch of government, or by any department, agency, or political subdivision of the State of Indiana. The term "principal" for purposes of this Agreement means an officer, director, owner, partner, key employee, or other person with primary management of supervisory responsibilities, or a person who has a critical influence on or substantive control over the operations of the Utility.
- (B) The Utility certifies to its knowledge that it has verified the state and federal suspension and debarment status for all subcontractors receiving funds under this Agreement and shall be solely responsible for any recoupment, penalties, or costs that might arise from use of a suspended or debarred subcontractor. The Utility shall promptly notify the IEDC if any subcontractor becomes debarred or suspended, and shall, at the IEDC's request, take all steps required by the IEDC to terminate its contractual relationship with the subcontractor for work to be performed under this Agreement.

21. ATTORNEYS' FEES & INTEREST.

Both parties will in good faith perform its required obligations hereunder and do not agree to pay any penalties, liquidated damages, interest, attorneys' fees, court costs, or litigation expenses, except as required by Indiana law, in part, Indiana Code § 5-17-5, Indiana Code § 34-54-8, Indiana Code § 34-13-1, and Indiana Code § 34-52-2-3.

22. MISCELLANEOUS.

- (A) No right conferred on either party under this Agreement shall be deemed waived and no breach of this Agreement excused, unless such waiver or excuse is in writing and signed in advance by the party claimed to have waived such right. Neither the IEDC's review, approval, or acceptance of, nor payment for the services required under this Agreement shall be construed to operate as a waiver of any rights under this Agreement or of any cause of action arising out of the performance of this Agreement, and the Utility shall be and remain liable to the IEDC in accordance with applicable law for all damages to the IEDC caused by the Utility's negligent performance of any of the services furnished under this Agreement.
- (B) This Agreement together with the Form Contract constitutes the entire agreement between the parties. No understandings, agreements, or representations, oral or written, not specified within this Agreement will be valid provisions of this Agreement. This Agreement may not be modified, supplemented, or amended, in any manner, except by written agreement signed by all necessary parties.
- (C) This Agreement may be executed through an original or electronically, and in duplicates or through counterparts, each of which shall be deemed to be an original, and all of which shall constitute but one and the same Agreement.
- (D) Both parties hereto, in the performance of this Agreement, shall act in an individual capacity and not as agents, employees, partners, joint venturers or associates of one another. The employees or agents of one party shall not be deemed or construed to be the employees or agents of the other party for any purposes whatsoever. Neither party will assume liability for any injury (including death) to any persons, or damage to any property arising out of the acts or omissions of the agents, employees or subcontractors of the other party.
- (E) Nothing in this Agreement shall be construed to confer any rights or remedies on any third party not a signatory to this Agreement, including, the employees or sub-contractors of the Utility.
- (F) The IEDC is exempt from state, federal, and local taxes. The IEDC will not be responsible for any taxes levied on the Utility as a result of this Agreement.

(G) This Agreement was reviewed and/or revised by legal counsel for the IEDC and the Utility, and no presumption or rule that any ambiguity shall be construed against the party drafting the document shall apply to the interpretation or enforcement of this Agreement.

23. INSURANCE.

The Utility shall secure and keep in force during the term of this Agreement the insurance coverage required by law and as would be reasonable to cover claims of any nature which may arise out of or result from this Agreement. The Utility shall furnish a certificate of insurance and all endorsements to the IEDC prior to the commencement of work under this Agreement.

24. AUTHORITY TO BIND CONTRACTOR.

Notwithstanding anything in this Agreement to the contrary, the signatory for each party represents that he/she has been duly authorized to execute contracts on behalf of such party and has obtained all necessary or applicable approvals from the home office of such party to make this Agreement fully binding upon such party when his/her signature is affixed.

25. INFORMATION TECHNOLOGY ACCESSIBILITY STANDARDS.

Omitted.

26. DISPUTES.

Should any disputes arise with respect to this Agreement, the Utility and the IEDC agree to act immediately to resolve such disputes. Time is of the essence in the resolution of disputes.

27. ORDER OF PRECEDENCE; INCORPORATION BY REFERENCE.

Any inconsistency or ambiguity in this Agreement shall be resolved by giving precedence in the following order: (1) this Agreement; (2) exhibits/attachments prepared by the IEDC; and (3) exhibits/attachments prepared by the Utility.

28. NON-COLLUSION & ACCEPTANCE.

The undersigned attests, subject to the penalties for perjury, that the undersigned is the properly authorized representative, agent, member, or officer of the Utility. Further, to the undersigned's knowledge, neither the undersigned nor any other member, employee, representative, agent, or officer of the Utility, directly or indirectly, has entered into or been offered any sum of money or other consideration for the execution of this Agreement other than that which appears upon the face hereof.

Signatures on Following Page -- Remainder of Page Intentionally Left Blank

In Witness Whereof, the Utility and the IEDC have, through duly authorized representatives, entered into this Agreement. The parties, having read and understand the foregoing terms of this Agreement, do by their respective signatures dated below hereby agree to the terms thereof.

INDIANAPOLIS POWER & LIGHT D.B.A. AES INDIANA



Signature

Kristina Lund, President and CEO

Printed Name and Position/Title

Date: March 04, 2023

INDIANA ECONOMIC DEVELOPMENT CORPORATION

David Rosenberg, Chief Operating Officer

(Digital Signature Stamp Below)



4.10.2023

STATE BUDGET AGENCY

Jasmine Williams
Jasmine Williams (Apr 25, 2023 17:40 EDT)

on Behalf of

Zachary Q. Jackson
Director

Date: Apr 25, 2023

Indianapolis Power & Light Company (dba AES Indiana) (Addendum) (424523) expire 12.31.26


Final Audit Report


2023-04-25


Created:	2023-04-11
By:	Glenda Reitz 7EE (GReitz@iedc.IN.gov)
Status:	Signed
Transaction ID:	CBJCHBCAABAAqq3dskuKapVy8P-ACb-Lb2o_TujSCjMP


"Indianapolis Power & Light Company (dba AES Indiana) (Addendum) (424523) expire 12.31.26" History


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 Document emailed to rpaglia@iedc.in.gov for signature
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 Signer rpaglia@iedc.in.gov entered name at signing as Robert J. Paglia
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 Document e-signed by Robert J. Paglia (rpaglia@iedc.in.gov)
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 Document signing delegated to jasmwilliams@sba.in.gov by jhenderson3@sba.in.gov
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 Signer jasmwilliams@sba.in.gov entered name at signing as Jasmine Williams
2023-04-25 - 9:40:20 PM GMT

 Document e-signed by Jasmine Williams (jasmwilliams@sba.in.gov)

Signature Date: 2023-04-25 - 9:40:23 PM GMT - Time Source: server

 Agreement completed.

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