LEC PPC Agenda

Date: September 6, 2018
Subject: September 10, 2018 Lodi Energy Center Project Participant Committee Meeting
Location: 12745 N. Thornton Road, Lodi, CA and/or Posted Teleconference Locations
Time: 10:00 a.m.

*** In compliance with the Brown Act, you may participate in person at the meeting location or via teleconference at one of the locations listed below. In either case, please: (1) post this notice at a publicly accessible location at the participation location at least 72-hours before the meeting begins, and (2) have a speaker phone available for any member of the public who may wish to attend at your location.

<table>
<thead>
<tr>
<th>NCPA</th>
<th>NCPA</th>
<th>CITY OF HEALDSBURG</th>
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<tbody>
<tr>
<td>651 Commerce Drive</td>
<td>12745 N. Thornton Road</td>
<td>401 Grove Street</td>
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<tr>
<td>Roseville, CA 95678</td>
<td>Lodi, CA 95241</td>
<td>Healdsburg, CA 95448</td>
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<tr>
<th>BAY AREA RAPID TRANSIT</th>
<th>CITY OF GRIDLEY</th>
<th>CITY OF LOMPOC</th>
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<tr>
<td>300 Lakeside Drive, 16th Floor</td>
<td>685 Kentucky Street</td>
<td>100 Civic Center Plaza</td>
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<tr>
<td>Oakland, CA 94612</td>
<td>Gridley, CA 95948</td>
<td>Lompoc, CA 93438</td>
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<tr>
<th>CITY OF BIGGS</th>
<th>PLUMAS-SIERRA RURAL ELECTRIC COOP</th>
<th>POWER &amp; WATER RESOURCES POOLING AUTHORITY</th>
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<tr>
<td>465 “C” Street</td>
<td>73233 Highway 70</td>
<td>106 Polo Rd</td>
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<tr>
<td>Biggs, CA 95917</td>
<td>Portola, CA 96122</td>
<td>Glenwood Springs, CO 81601</td>
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<tr>
<th>CALIFORNIA DEPARTMENT OF WATER RESOURCES</th>
<th>SILICON VALLEY POWER/CITY OF SANTA CLARA</th>
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<tr>
<td>2135 Butano Drive, Suite 100</td>
<td>1500 Warburton Avenue,</td>
<td>300 Seminary Avenue</td>
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<td>Sacramento, CA 95825</td>
<td>Santa Clara, CA 95050</td>
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<td>Azusa, CA 91702</td>
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Persons requiring accommodations in accordance with the Americans with Disabilities Act in order to attend or participate in this meeting are requested to contact the NCPA Secretary at 916.781.3636 in advance of the meeting to arrange for such accommodations.
The Lodi Energy Center Project Participant Committee may take action on any of the items listed on this Agenda regardless of whether the matter appears on the Consent Calendar or is described as an action item, a report, or an information item. If this Agenda is supplemented by staff reports, they are available to the public upon written request. Pursuant to California Government Code Section 54957.5, the following is the location at which the public can view Agendas and other public writings: NCPA, 651 Commerce Drive, Roseville, CA or www.ncpa.com

1. Call Meeting to Order and Roll Call

PUBLIC FORUM

Any member of the public who desires to address the Lodi Energy Center Project Participant Committee on any item considered by the Lodi Energy Center Project Participant Committee at this meeting, before or during the Committee’s consideration of that item, shall so advise the Chair and shall thereupon be given an opportunity to do so. Any member of the public who desires to address the Lodi Energy Center Project Participant Committee on any item within the jurisdiction of the Lodi Energy Center Project Participant Committee and not listed on the Agenda may do so at this time.

2. Meeting Minutes – Approval of {Meeting Date} Regular Meeting Minutes

MONTHLY REPORTS

3. Operational Report for August 2018 – (Jeremy Lawson)


CONSENT CALENDAR

All items on the Consent Calendar are considered routine and will be approved without discussion by a single roll call vote. Any Project Participant or member of the public may remove any item from the Consent Calendar. If an item is removed, it will be discussed separately following approval of the remainder of the Consent Calendar. Prior to the roll call vote to approve the Consent Calendar, the Participants will be polled to determine if any Participant wishes to abstain from one or more items on the Consent Calendar.

7. Treasurer’s Report for August 2018 – Accept by all Participants

8. Financial Report for August 2018 – Approve by all Participants

9. GHG Reports (excerpted from Monthly ARB) – Accept by all Participants

10. Advanced Turbine Support, LLC MTCSA – Staff is seeking approval of a five-year Multi-Task Consulting Services Agreement with Advanced Turbine Support, LLC for borescope

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inspections and non-destructive testing services, with a not to exceed amount of $250,000, for use at all facilities owned and/or operated by NCPA, its Members, SCPPA, and SCPPA Members.

11. Ernie and Sons Scaffolding dba Unique Scaffold MTGSA – Staff is seeking approval of a five-year Multi-Task General Services Agreement with Ernie and Sons Scaffolding dba Unique Scaffold for scaffolding services, with a not to exceed amount of $2,000,000, for use at all facilities owned and/or operated by NCPA, its Members, SCPPA, and SCPPA Members.

12. Fairchild and Wells dba Fairchild and Associates MTCSA – Staff is seeking approval of a Multi-Task Consulting Services Agreement with Fairchild and Wells dba Fairchild and Associates for well related consulting services, with a not to exceed amount of $500,000, for use at all facilities owned and/or operated by NCPA, its Members, SCPPA, and SCPPA Members.

13. Burns and McDonnell First Amendment to MTPSA – Staff is seeking approval of a First Amendment to the five year Multi-Task Professional Services Agreement with Burns and McDonnell, updating the not to exceed amount from $1,000,000 to $4,000,000, for use at all facilities owned and/or operated by NCPA, its Members, SCPPA, and SCPPA Members.

14. ABB, Inc. MTGSA – Staff is seeking approval of a five-year Multi-Task General Services Agreement with ABB, Inc. for generator inspection, testing, troubleshooting, winding and repair, with a not to exceed amount of $10,000,000, for use at all facilities owned and/or operated by NCPA, its Members, SCPPA, and SCPPA Members.

15. Nozomi Networks, Inc. MTCSA – Staff is seeking approval of a five-year Multi-Task Consulting Services Agreement with Nozomi Networks, Inc., for cyber security consulting, vulnerability testing and solutions, with a not to exceed amount of $500,000, for use at all facilities owned and/or operated by NCPA, its Members, SCPPA, and SCPPA Members.

16. Western Hydrologic Consulting, LLP MTCSA – Staff is seeking approval of a five-year Multi-Task Consulting Services Agreement with Western Hydrologic Consulting, LLP for enviornmental regulatory compliance report, forecasting/modeling, and design services, with a not to exceed amount of $1,000,000, for use at all facilities owned and/or operated by NCPA, its Members, SCPPA, and SCPPA Members.

17. Petrochem Insulation, Inc. MTGSA – Staff is seeking approval of a five-year Multi-Task General Services Agreement with Petrochem Insulation, Inc., for pipe maintenance, including sound abatement and scaffolding, with a not to exceed amount of $500,000, for use at all facilities owned and/or operated by NCPA, its Members, SCPPA, and SCPPA Members.

18. Rodney Bray MTCSA – Staff is seeking approval of a five-year Multi-Task Consulting Services Agreement with Rodney Bray for consulting services and supervision, with a not to exceed amount of $500,000, for use at all facilities owned and/or operated by NCPA, its Members, SCPPA, SCPPA Members.

19. MFP Connect, LLC MTCSA – Staff is seeking approval of a five-year Multi-Task Consulting Services Agreement with MFP Connect, LLC for energy workforce services on an interim basis.

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and to mentor staff for success in public power, with a not to exceed amount of $1,000,000, for use at all facilities owned and/or operated by NCPA, its Members, SCPPA, SCPPA Members.

20. Update to PMOA Schedule 6.00 – Staff is seeking approval of an update to PMOA Schedule 6.00, adding Manny Robledo as City of Azusa's Primary Representative to the LEC PPC.

Consent Items pulled for discussion: ________________________________

BUSINESS ACTION ITEMS

None

CLOSED SESSION

21. Conference with Legal Counsel – Existing litigation pursuant to California Government Code Section 54956.9(d)(1): One case:


INFORMATIONAL/ DISCUSSION ITEMS

22. Additional Operational Updates – Staff will provide an update on issues related to Operations.

ADJOURNMENT

Next Regular Meeting: October 8, 2018 at 10:00 a.m.

Persons requiring accommodations in accordance with the Americans with Disabilities Act in order to attend or participate in this meeting are requested to contact the NCPA Secretary at 916.781.3636 in advance of the meeting to arrange for such accommodations.
LEC PPC Meeting Minutes

Date: August 13, 2018
Time: 10:00 AM
Location: Lodi Energy Center – 12745 N. Thornton Rd, Lodi, CA 95242 and by teleconference
Subject: Lodi Energy Center Project Participant Committee Meeting

1. Call Meeting to Order and Roll Call

The PPC meeting was called to order at 10:00 AM by Chairman Martin Caballero. He asked that roll be called for the Project Participants as listed below.

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<tr>
<th>Participant</th>
<th>Attendance</th>
<th>Particulars / GES</th>
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<tbody>
<tr>
<td>Azusa - Lehr</td>
<td>Absent</td>
<td>2.7857%</td>
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<tr>
<td>BART - Lloyd</td>
<td>Absent</td>
<td>6.6000%</td>
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<tr>
<td>Biggs - Sorenson</td>
<td>Present</td>
<td>0.2679%</td>
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<tr>
<td>CDWR - Alqaser</td>
<td>Present</td>
<td>33.5000%</td>
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<tr>
<td>Gridley - Borges</td>
<td>Absent</td>
<td>1.9643%</td>
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<tr>
<td>Healdsburg - Crowley</td>
<td>Absent</td>
<td>1.6428%</td>
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<tr>
<td>Lodi - Price</td>
<td>Present</td>
<td>9.5000%</td>
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<tr>
<td>Lompoc - Singh</td>
<td>Absent</td>
<td>2.0357%</td>
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<tr>
<td>MID - Braden</td>
<td>Present</td>
<td>10.7143%</td>
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<tr>
<td>Plumas-Sierra - Brozo</td>
<td>Absent</td>
<td>0.7857%</td>
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<tr>
<td>PWRPA - Bradley</td>
<td>Present</td>
<td>2.6679%</td>
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<td>SVP - Hance</td>
<td>Present</td>
<td>25.7500%</td>
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<tr>
<td>Ukiah - Grandi</td>
<td>Absent</td>
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Summary

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<td>82.4001%</td>
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Quorum by #: No
Quorum by GES: Yes
Meeting Date: August 13, 2018
Public Forum

Chairman Caballero asked if any members of the public were present in Lodi or at any of the other noticed meeting locations who would like to address the PPC on any agenda items or on any item within the jurisdiction of the LEC PPC and not listed on the agenda. No members of the public were present.

2. Meeting Minutes

The draft minutes from the July 9, 2018 Regular Meeting were considered. The LEC PPC considered the following motion:

Date: 8/13/2018

Motion: The PPC approves the minutes from the July 9, 2018 Regular Meeting as presented or including any edits discussed at today’s meeting.

Moved by: CDWR
Seconded by: Biggs

Discussion: There was no further discussion.

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<td>Lompoc</td>
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<td>Modesto</td>
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<td>Plumas-Sierra</td>
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<td>PWRPA</td>
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<tr>
<td>Total Ayes</td>
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<td>Total Noes</td>
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<td>Total Absent</td>
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<td>17.5999%</td>
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Result: Motion Passed
MONTHLY REPORTS

3. Operational Reports for July 2018

Jeremy Lawson presented the Operational Report for July 2018. There were no OSHA recordable accidents, no NERC/WECC or permit violations, and no forced outages. There was a brief outage on July 19th when Siemens was conducting flex fire testing. There are no changes to the 2018 outage schedule.

The operational report reflected monthly production of 172,943 MWH, 663 service hours, and equivalent operating availability of 100%. The report set for the Capacity Factor @ 280MW Pmax of 83% and 302MW Pmax of 77%. There were 0 hot starts, 6 warm starts, and 0 cold starts during the month.

4. Market Data Report for July 2018

Mike Whitney presented the operating and financial settlement results for the month. LEC was committed to CAISO 31 out of 31 available days. Most startups were for long-term runs in the month of July. The Plant earned RA incentive payments of $16.7k for Generic RA and $6.5k for Flexible RA. The LEC had a record month for revenues, with a total of $4.8mm (the previous record for the month of July was $2.1mm).

5. Monthly Asset Report

Mike DeBortoli presented the monthly asset report for June 2018. Mike reported that June saw strong revenues, although variable costs were not in line with budget amount. Mike reviewed the factors which contributed to the increased costs. Mike reviewed the monthly historical comparisons as well as the 12-month history.


Consent Calendar (Items 7 – 19)

The consent calendar was considered. Chairman Caballero asked if any Participant wished to have any item removed for separate discussion. Hearing no requests, he then asked if any Participant wished to abstain from one or more items on the Consent Calendar. There were no abstentions. The LEC PPC considered the following motion:

Date: 8/13/2018
MTGSA not to exceed $500,000 for trucking and crane services, for use at all facilities owned and/or operated by NCPA, its Members, SCPPA, and SCPPA Members; 11. Eaton Corporation MTGSA not to exceed $2,000,000 for electrical services, for use at all facilities owned and/or operated by NCPA, its Members, SCPPA, and SCPPA Members; 12. Montrose Air Quality Services, LLC MTCSA not to exceed $250,000 for rata, source and emissions testing, for use at all facilities owned and/or operated by NCPA, its Members, SCPPA, or SCPPA Members; 13. KW Emerson, Inc. MTGSA not to exceed $1,000,000 for maintenance services, including earthwork, asphalt patching, utility easement work, and minor road and tunnel maintenance, for use at all facilities owned and/or operated by NCPA, its Members, SCPPA, and SCPPA Members; 14. Danick Mechanical MTGSA not to exceed $1,000,000 for T&M maintenance services, for use at all facilities owned and/or operated by NCPA, its Members, SCPPA, and SCPPA Members; 15. Tetra Engineering Group, Inc. MTPSA not to exceed $1,000,000 for inspections related to HRSG, power piping, and engineering consulting services, for use at all facilities owned and/or operated by NCPA, its Members, SCPPA, and SCPPA Members; 16. Electrical Maintenance Consultants MTGSA not to exceed $2,000,000 for electrical related services, for use at all facilities owned and/or operated by NCPA, its Members, SCPPA, and SCPPA Members; 17. Pengo Wirelines of California MTPSA not to exceed $750,000 for downhole wirelines services, for use at all NCPA Generation Services facilities; 18. PMOA Schedule 1.00, Exhibit 5 update to reflect the current CAISO GMC rates; 19. 2019 LEC Outage Schedule for LEC

Moved by: Lodi
Seconded by: CDWR

Moved by: Lodi
Seconded by: CDWR

Discussion: There was no further discussion

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Silicon Valley Power | Yes | 25.7500%
Ukiah | Absent | 1.7857%

| Vote Summary | Total Ayes | 6 | 82.4010% |
| Total Noes | 0 | 0.0000% |
| Total Abstain | 0 | 0.0000% |
| Total Absent | 7 | 17.5999% |

Result: Motion passed.

BUSINESS ACTION ITEMS

20. NCPA Wildfire Mitigation

Ron Yuen gave background on the NCPA Wildfire Mitigation Plan. On January 1, 2017, Public Utilities Code 8387 was passed, requiring publicly owned electric utilities and electric cooperatives to adopt a board-approved plan that describes mitigation measures to minimize wildfire risk of their electric lines and equipment.

Ron summarized the method used by NCPA to identify high risk areas. NCPA used Tree Mortality Zone maps in conjunction with CPUC Fire Threat maps. Currently, no LEC facilities are in high risk wildfire areas.

Ron reviewed the mitigation measure put into place. NCPA’s Wildfire Mitigation Plan will consist of polices which NCPA had previously put into place, including its Vegetation Management Policy (NCPA-GS-305), and a number of Operations and Maintenance Safe Practice procedures, including NCPA’s Hot Work Procedure (NCPA-GS-111), Welding Safety Procedure (NCPA-GS-115), and Electric Safety Procedure (NCPA-GS-103).

Ron explained that there was no immediate fiscal impact, and no environmental review would be required. The Commission would be responsible for reviewing and approving the plan, including any necessary revision. Ron outlined some of the potential causes for future revisions, including changes to the wildfire risk area or regularly requirements.

The LEC PPC considered the following motion:

Date: 8/13/2018
Motion: The PPC approves the Wildfire Mitigation Plan as required by the Public Utilities Code 8387, as it applies to the NCPA LEC facility.

Moved by: Lodi
Seconded by: CDWR
Discussion: There was no further discussion
Vote Summary on Motion

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<td>Ukiah</td>
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Vote Summary

| Total Ayes | 6 | 82.4001% |
| Total Noes | 0 | 0.0000%  |
| Total Abstain | 0 | 0.0000%  |
| Total Absent | 7 | 17.5999% |

Result: The Motion Passed

CLOSED SESSION

21. Adjourned to Closed Session

The PPC adjourned to Closed Session at 11:10 AM. A Closed Session discussion was had pursuant to California Government Code Section 54956.9(d)(1) regarding Pacific Gas and Electric Company’s 2019 Gas Transmission and Storage Rate Case, Application of Pacific Gas and Electric Company Proposing Cost of Service and Rates for Gas Transmission and Storage Services for the Period 2019 – 2021, California Public Utilities Commission Application 17-11-009 (filed November 17, 2017).

At 11:22 AM the Committee returned to Open Session. General Counsel Jane Luckhardt advised that no reportable action was taken during the Closed Session.

INFORMATIONAL ITEMS

22. LEC CT Main Transformer Update

Aaron Werner presented an update to the Committee on the status of the CT Main Transformer. The history of the chain of ownership of the current transformer was reviewed, as well as the service history. There was a comprehensive inspection in 2013, similar in scope to the latest inspection, and while elevated gas levels were recorded in 2013, no findings or damage was
found. In the latest inspection, there was clear damage to the unit, indicating a core shift/rotation, as well as insulation damage. There were also increasing levels of gases recorded. Photos of damage found in the latest inspection were shared with the Committee.

NCPA staff has been working with GE, and have reviewed potential causes. GE was unable to confirm any causes, although they made a number of suggestions.

Aaron reviewed the options for repair with the Committee. While the idea of refurbishing the current unit is appealing from a cost-standpoint, he cautioned that there is the potential that opening the unit up for repairs could cause the current issues to become worse, or even cause irreparable damage to the unit. Renting a unit would also not be a viable solution.

Staff is recommending that the unit be replaced. While staff is not currently seeking a formal motion, they would like the general consensus of the Committee to explore the option of replacement of the unit. The estimated cost for a replacement unit would be around $2mm, not including additional funds for installation. The lead-time for a replacement would likely be one year, possibly longer.

The Committee agreed that staff could move forward with obtaining estimates for replacement of the unit, on the condition that this would not commit us to move forward with this plan, and that staff would bring this back to the Committee for formal approval prior to moving forward.

23. **Additional Operational Updates**

There were no additional operational updates at this time.

**Adjournment**

The next regular meeting of the PPC is scheduled for Monday, September 10, 2018.

The meeting was adjourned at 11:23 AM.

Submitted by: Michelle Schellentrager
Lodi Energy Center Project Participant Committee

Operational Report

Date: 9/10/2018
To: Lodi Energy Center Project Participant Committee

Safety

- OSHA Recordable: 0 Accidents.

Notice of Violations

- Permits: 0 Violations Issued.
- NERC/WECC: 0 Violations Issued.

Outage Summaries:

- No outages.

Planned Outage Summaries:

- 2019 April – Generator Inspections, Main Transformer Inspections, and DCS Upgrade
- 2021/2022 CT - Major Inspection (6 weeks outage)
Generating Unit Statistics:

Date: 8/1/2018

1. Monthly Production 177,842 MWH

2. Productivity Factor
   a. Service Hours 679 Hours
   b. Service Factor 91.2%
   c. Capacity Factor @ 302MW Pmax 79.1%

3. Equivalent Operating Availability (EOA) 100.0%

4. Forced Outage Rate (FOR)
   a. Total LEC Plant FOR 0.0%

5. Heat Rate Deviation
   a. Fuel Cost (Not Current Market Price) 4.00 $/mmBTU

<table>
<thead>
<tr>
<th>MW Range</th>
<th>PMOA HR BTU/kW-Hr</th>
<th>Average HR BTU/kW-Hr</th>
<th>Deviation %</th>
<th>Production MWH</th>
<th>Cost $</th>
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<tbody>
<tr>
<td>Seg. 1</td>
<td>296 +</td>
<td>6850</td>
<td>0</td>
<td>0</td>
<td>0</td>
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<tr>
<td>Seg. 2</td>
<td>284 - 296</td>
<td>6870</td>
<td>7,013</td>
<td>0.08%</td>
<td>142</td>
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<tr>
<td>Seg. 3</td>
<td>275 - 284</td>
<td>6971</td>
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<tr>
<td>Seg. 4</td>
<td>250 - 275</td>
<td>7081</td>
<td>6,975</td>
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<td>16,315</td>
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<tr>
<td>Seg. 5</td>
<td>225 - 250</td>
<td>7130</td>
<td>7,042</td>
<td>-1.23%</td>
<td>4,693</td>
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<tr>
<td>Seg. 6</td>
<td>200 - 225</td>
<td>7200</td>
<td>7,140</td>
<td>-0.84%</td>
<td>2,953</td>
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<tr>
<td>Seg. 7</td>
<td>175 - 225</td>
<td>7450</td>
<td>7,377</td>
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<td>3,800</td>
</tr>
<tr>
<td>Seg. 8</td>
<td>165 - 175</td>
<td>7760</td>
<td>7,726</td>
<td>-0.43%</td>
<td>1,948</td>
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</table>

Total Dev MWH 7,164
Total Dev $ -10,717

6. AGC Control Deviation

<table>
<thead>
<tr>
<th>MW Range</th>
<th>High Dev MWH</th>
<th>Low Dev MWH</th>
<th>Total Dev MWH</th>
<th>Cost $</th>
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<tbody>
<tr>
<td>Seg. 1</td>
<td>296 +</td>
<td>0</td>
<td>0</td>
<td>0</td>
</tr>
<tr>
<td>Seg. 2</td>
<td>284 - 296</td>
<td>1</td>
<td>0</td>
<td>1</td>
</tr>
<tr>
<td>Seg. 3</td>
<td>275 - 284</td>
<td>188</td>
<td>-173</td>
<td>361</td>
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<tr>
<td>Seg. 4</td>
<td>250 - 275</td>
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<td>892</td>
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<tr>
<td>Seg. 5</td>
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<td>-33</td>
<td>91</td>
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<tr>
<td>Seg. 6</td>
<td>200 - 225</td>
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<td>-38</td>
<td>75</td>
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<td>Seg. 7</td>
<td>175 - 225</td>
<td>17</td>
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<td>61</td>
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<td>Seg. 8</td>
<td>165 - 175</td>
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<td>-3</td>
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Total Dev MWH 508
Total Dev $ 1,486

7. Starting Reliability

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<tr>
<th>Start Type</th>
<th>Hot Starts</th>
<th>Warm Starts</th>
<th>Cold Starts</th>
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</thead>
<tbody>
<tr>
<td>Number of Starts</td>
<td>1</td>
<td>5</td>
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<tr>
<td>Start Time Benchmark (Minutes)</td>
<td>75</td>
<td>110</td>
<td>200</td>
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<tr>
<td>Start Time Actual (Average Minute)</td>
<td>63</td>
<td>91</td>
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<tr>
<td>Start Time Deviation (%)</td>
<td>-16%</td>
<td>-18%</td>
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<tr>
<td>Start Fuel Benchmark PMOA (mmBTU)</td>
<td>1,300</td>
<td>1,800</td>
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<td>Start Fuel Actual (Average mmBTU)</td>
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<td>1,698</td>
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<tr>
<td>Fuel Deviation (%)</td>
<td>-14%</td>
<td>-6%</td>
<td>0%</td>
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<tr>
<td>Costs of Fuel Deviations ($)</td>
<td>$-730</td>
<td>$-2,049</td>
<td>$0</td>
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</tbody>
</table>
Definitions:

1. Monthly Production = Plant Net MWH's

2. Capacity Factor
   a. Service Hours = In Production or in Service State
   b. Service Factor = SH / PH x 100%
   c. Capacity Factor = Production / 302MW x PH
   d. Capacity Factor = Production / 280MW x PH

3. Monthly Equivalent Availability Factor (EAF) = (AH - EPDH - EFDH) / PH x 100%

4. Forced Outage Rate = (FOH/(FOH+SH)) * 100%

5. Heat Rate Deviation (HRD)
   a. Fuel Cost = Cost of Fuel in $/mmBTU
   b. Average Heat Rate = The Average Heat Rate for the given Range
   c. Heat Rate Deviation = (Heat Rate Average - Heat Rate Expected) / Heat Rate Expected x 100%
   d. Production = The Sum of Production for the given Range
   e. Costs of Heat Rate Deviations = (Average Heat Rate - Expected Heat Rate) x Production x Cost of Fuel

6. AGC Deviation
   a. MWH’s = AGC Set Point Generation - LEC Actual Generation
   b. Cost of Deviations = Fuel Cost x Heat Rate x Generation

7. Starting Reliability
   a. Number of Starts = Start Count for Hot, Warm, and Cold
   b. Start Time = Average Time from 0 Fuel Flow to Pmin
   c. Start Fuel = Average Fuel Consumption to Pmin
   d. Cost of Fuel Deviation = (Actual Fuel Consumed - Expected Fuel) x Cost of Fuel
LEC Operational Results for August 2018

- Resource Adequacy Availability Metrics:
  - 100% - Monthly Assessment Generic Performance
  - 100% - Monthly Assessment Flexible Performance
  - Vs
  - 96.5% Availability Standard

- Estimated RA incentive payments of
  - $23.5K for Generic RA
  - $0.5K for Flexible RA

- LEC was committed by CAISO for Market energy 31 of 31 available days
  - 0 days not committed due to forced outage
  - 0 days not committed due to economics
Frequency Tabulation of Daily CAISO commitment hour runs for August 2018
Daily CAISO Commitment Runs for August 2018
August 2018 LEC Daily Margin Profile by Product

- Regulation Down Capacity Pmt
- Regulation Up Capacity Pmt
- IFM/Real Time
- Spinning Reserve
- Regulation Down Energy Purchase
- Regulation Up Energy Sale
- Rescinded Regulation Down Capacity
- Rescinded Regulation Up Capacity
- Net Margin

1968-2018 | Celebrating 50 years
## August 2018 LEC Project Cumulative Monthly Margin

<table>
<thead>
<tr>
<th>Description</th>
<th>Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>IFM/RTM Gross Revenues</td>
<td>$9,711,500</td>
</tr>
<tr>
<td>Regulation Up Capacity</td>
<td>$20,900</td>
</tr>
<tr>
<td>Regulation Down Capacity</td>
<td>$233,100</td>
</tr>
<tr>
<td>Spinning Reserve</td>
<td>$600</td>
</tr>
<tr>
<td><strong>Total Gross LEC Revenue</strong></td>
<td><strong>$9,966,100</strong></td>
</tr>
<tr>
<td>LEC CAISO GMC Costs</td>
<td>$(76,300)</td>
</tr>
<tr>
<td>CAISO Energy &amp; Capacity Buyback Costs</td>
<td>$(235,700)</td>
</tr>
<tr>
<td><strong>Total Monthly LEC Fuel Cost</strong></td>
<td><strong>$(4,719,400)</strong></td>
</tr>
<tr>
<td><strong>Total Monthly GHG Obligation</strong></td>
<td><strong>$(1,023,800)</strong></td>
</tr>
<tr>
<td>Variable Operations &amp; Maintenance Cost</td>
<td>$(593,900)</td>
</tr>
<tr>
<td><strong>Total Costs</strong></td>
<td><strong>$(6,649,100)</strong></td>
</tr>
<tr>
<td><strong>Net Cumulative Monthly Margin</strong></td>
<td><strong>$3,317,000</strong></td>
</tr>
<tr>
<td><strong>Average Margin $/MWh</strong></td>
<td><strong>$18.7</strong></td>
</tr>
</tbody>
</table>
Comparison of Day Ahead Congestion
LEC vs NP15 Trade Hub

Net_Amount by Day

Increase ● Decrease ● Total

$12.1K $0.07
Net_Amount $ / MWh

NP15_Cost and LEC_Cost by Day

1968-2018 Celebrating 50 years
# July Asset Report

<table>
<thead>
<tr>
<th></th>
<th>Most Recent</th>
<th>Above / (below)</th>
<th>Percent Difference</th>
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</thead>
<tbody>
<tr>
<td></td>
<td>Actual</td>
<td>Forecast</td>
<td>Budget</td>
</tr>
<tr>
<td>Revenue</td>
<td>10,560,770</td>
<td>7,178,416</td>
<td>5,323,136</td>
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<tr>
<td>VOM</td>
<td>5,762,637</td>
<td>4,959,071</td>
<td>4,167,896</td>
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<tr>
<td>Fixed</td>
<td>869,905</td>
<td>798,347</td>
<td>798,347</td>
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<tr>
<td>Projects</td>
<td>121,759</td>
<td>121,759</td>
<td>121,759</td>
</tr>
<tr>
<td>A&amp;G</td>
<td>179,446</td>
<td>212,587</td>
<td>212,587</td>
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<td>Debt</td>
<td>2,173,321</td>
<td>2,173,321</td>
<td>2,173,321</td>
</tr>
<tr>
<td>Net Cost</td>
<td>1,453,702</td>
<td>(1,086,669)</td>
<td>(2,150,774)</td>
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<td></td>
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<td></td>
</tr>
<tr>
<td></td>
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</tr>
<tr>
<td>Net Annual Cost</td>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

Below budget by 38.49%
Historical Margins

July

-100,000 - 900,000 - 1,900,000 - 2,900,000 - 3,900,000 - 4,900,000

2012 2013 2014 2015 2016 2017 2018

1968-2018 | Celebrating 50 years
<table>
<thead>
<tr>
<th>Month</th>
<th>July</th>
<th>August</th>
<th>September</th>
<th>October</th>
<th>November</th>
<th>December</th>
<th>January</th>
<th>February</th>
<th>March</th>
<th>April</th>
<th>May</th>
<th>June</th>
<th>Year</th>
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<th>Comments</th>
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<tr>
<td>VOM</td>
<td>5,762,637</td>
<td>6,320,612</td>
<td>6,044,360</td>
<td>5,947,041</td>
<td>2,215,016</td>
<td>6,694,856</td>
<td>7,707,562</td>
<td>4,298,643</td>
<td>1,846,407</td>
<td>743,403</td>
<td>2,452,552</td>
<td>50,745,611</td>
<td>45,870,926</td>
<td>110.6%</td>
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<tr>
<td>Capacity Factor</td>
<td>83%</td>
<td>97%</td>
<td>95%</td>
<td>74%</td>
<td>102%</td>
<td>101%</td>
<td>68%</td>
<td>24%</td>
<td>3%</td>
<td>9%</td>
<td>33%</td>
<td>60%</td>
<td>53%</td>
<td>112.6%</td>
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<tr>
<td>Avg Fuel Cost ($/mmBTU)</td>
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<td>0.00</td>
<td>0.00</td>
<td>0.00</td>
<td>0.00</td>
<td>0.00</td>
<td>0.00</td>
<td>0.00</td>
<td>0.00</td>
<td>0.00</td>
<td>7.17</td>
<td>3.61</td>
<td>11.6%</td>
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<tr>
<td>Power Produced (MWHr, estimated)</td>
<td>172,951</td>
<td>201,957</td>
<td>192,513</td>
<td>154,708</td>
<td>62,454</td>
<td>212,508</td>
<td>209,851</td>
<td>132,979</td>
<td>49,301</td>
<td>0</td>
<td>18,674</td>
<td>65,906</td>
<td>1,473,802</td>
<td>113.0%</td>
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</tr>
<tr>
<td>Operations / Variable / LTSA</td>
<td>451,014</td>
<td>277,403</td>
<td>265,702</td>
<td>1,256,572</td>
<td>91,601</td>
<td>290,801</td>
<td>1,330,359</td>
<td>189,419</td>
<td>93,210</td>
<td>0</td>
<td>18,674</td>
<td>65,906</td>
<td>1,473,802</td>
<td>113.0%</td>
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</tr>
<tr>
<td>Operations / Variable / LTSA</td>
<td>451,014</td>
<td>277,403</td>
<td>265,702</td>
<td>1,256,572</td>
<td>91,601</td>
<td>290,801</td>
<td>1,330,359</td>
<td>189,419</td>
<td>93,210</td>
<td>0</td>
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<td>65,906</td>
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<tr>
<td>Administration</td>
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<td>121,759</td>
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<td>1,461,107</td>
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<td>173,759</td>
<td>121,759</td>
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<td>121,759</td>
<td>1,613,107</td>
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<td>0</td>
<td>0</td>
<td>0</td>
<td>0</td>
<td>100.0%</td>
<td></td>
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</tr>
<tr>
<td>Revenues</td>
<td>10,560,770</td>
<td>12,157,174</td>
<td>9,500,828</td>
<td>6,486,196</td>
<td>2,919,736</td>
<td>9,656,586</td>
<td>9,115,752</td>
<td>5,300,762</td>
<td>2,233,449</td>
<td>4,331</td>
<td>1,024,284</td>
<td>2,750,775</td>
<td>71,718,606</td>
<td>33,290,116</td>
<td>133.2%</td>
</tr>
</tbody>
</table>
LEC Treasurer’s Report

Date: September 10, 2018
To: LEC Project Participant Committee
Subject: Treasurer's Report for the Month Ended August 31, 2018

In compliance with NCPA policy and State of California Government Code Sections 53601 and 53646(b), the following monthly report is submitted for your information and acceptance.

Cash - At month end cash totaled $43,194.

Investments - The carrying value of the LEC’s investment portfolio totaled $30,450,663 at month end. The current market value of the portfolio totaled $29,963,610.

The overall portfolio had a combined weighted average interest rate of 2.002% with a bond equivalent yield (yield to maturity) of 1.667%. Investments with a maturity greater than one year totaled $17,370,000. During the month $2,378,585 was invested.

Funds not required to meet annual cash flow are reinvested and separately reported as they occur.

Interest Rates - During the month, rates on 90 day T-Bills increased by 12 basis point (from 2.00% to 2.12%) and rates on one year T-Bills increased by 5 basis points (from 2.42% to 2.47%).

To the best of my knowledge and belief, all securities held by LEC as of August 31, 2018 are in compliance with the Agency’s investment policy. There are adequate cash flow and investment maturities to meet next month’s cash requirements.

Environmental Analysis
The Treasurer’s report will not result in a direct or reasonably foreseeable indirect change in the physical environment and is therefore not a "project" for purposes of Section 21065 of the California Environmental Quality Act. No environmental review is necessary.

Respectfully submitted,

MONTY HANKS
Assistant General Manager/CFO
Administrative Services/Finance

Prepared by:

SONDRA AINSWORTH
Treasurer-Controller

Attachments
## LODI ENERGY CENTER

### TREASURER'S REPORT

**AUGUST 31, 2018**

### TABLE OF CONTENTS

<table>
<thead>
<tr>
<th>Table Title</th>
<th>Page</th>
</tr>
</thead>
<tbody>
<tr>
<td>CASH &amp; INVESTMENT BALANCE</td>
<td>1</td>
</tr>
<tr>
<td>CASH ACTIVITY SUMMARY</td>
<td>2</td>
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<tr>
<td>INVESTMENT ACTIVITY SUMMARY</td>
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<tr>
<td>INTEREST RATE/YIELD ANALYSIS</td>
<td>4</td>
</tr>
<tr>
<td>INVESTMENT MATURITIES ANALYSIS</td>
<td>5</td>
</tr>
<tr>
<td>DETAIL REPORT OF INVESTMENTS</td>
<td></td>
</tr>
<tr>
<td><strong>APPENDIX</strong></td>
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</table>
Northern California Power Agency/Lodi Energy Center  
Treasurer's Report  
Cash & Investment Balance  
August 31, 2018

<table>
<thead>
<tr>
<th>MANDATORY FUNDS</th>
<th>CASH</th>
<th>INVESTMENTS</th>
<th>TOTAL</th>
<th>PERCENT</th>
<th>INVESTMENTS at MARKET</th>
</tr>
</thead>
<tbody>
<tr>
<td>Debt Service Account</td>
<td>898</td>
<td>6,846,926</td>
<td>6,847,824</td>
<td>22.46%</td>
<td>6,846,778</td>
</tr>
<tr>
<td>Debt Service Reserve</td>
<td>-</td>
<td>12,213,302</td>
<td>12,213,302</td>
<td>40.05%</td>
<td>11,878,406</td>
</tr>
<tr>
<td>O &amp; M Reserve</td>
<td>-</td>
<td>11,317,567</td>
<td>11,317,567</td>
<td>37.11%</td>
<td>11,166,558</td>
</tr>
<tr>
<td><strong>Total</strong></td>
<td><strong>898</strong></td>
<td><strong>30,377,795</strong></td>
<td><strong>30,378,693</strong></td>
<td><strong>99.62%</strong></td>
<td><strong>29,890,742</strong></td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>ADDITIONAL PROJECT FUNDS</th>
<th>CASH</th>
<th>INVESTMENTS</th>
<th>TOTAL</th>
<th>PERCENT</th>
<th>INVESTMENTS at MARKET</th>
</tr>
</thead>
<tbody>
<tr>
<td>GHG Cash Account</td>
<td>-</td>
<td>72,868</td>
<td>72,868</td>
<td>0.24%</td>
<td>72,868</td>
</tr>
<tr>
<td>Transmission Upgrade Escrow(^1)</td>
<td>42,296</td>
<td>-</td>
<td>42,296</td>
<td>0.14%</td>
<td>-</td>
</tr>
<tr>
<td>Participant Deposit Account</td>
<td>-</td>
<td>-</td>
<td>-</td>
<td>0.00%</td>
<td>-</td>
</tr>
<tr>
<td><strong>Total</strong></td>
<td><strong>43,194</strong></td>
<td><strong>30,490,693</strong></td>
<td><strong>30,493,887</strong></td>
<td><strong>100.00%</strong></td>
<td><strong>29,963,610</strong></td>
</tr>
</tbody>
</table>

**NOTE A** - Investment amounts shown at book carrying value.

\(^1\) Amount held in escrow
# Northern California Power Agency/Lodi Energy Center
## Treasurer's Report
### Cash Activity Summary
#### August 31, 2018

<table>
<thead>
<tr>
<th></th>
<th>RECEIPTS</th>
<th>EXPENDITURES</th>
<th>CASH</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>OPS/CONSTR</td>
<td>INTEREST (NOTE B)</td>
<td>INVESTMENTS (NOTE A)</td>
</tr>
<tr>
<td><strong>MANDATORY FUNDS</strong></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Debt Service Account</td>
<td>$1,613</td>
<td>$1,816</td>
<td>$297</td>
</tr>
<tr>
<td>Debt Service Reserve</td>
<td>-</td>
<td>950</td>
<td>-</td>
</tr>
<tr>
<td>O &amp; M Reserve</td>
<td>-</td>
<td>27,522</td>
<td>-</td>
</tr>
<tr>
<td></td>
<td>1,613</td>
<td>30,288</td>
<td>297</td>
</tr>
<tr>
<td><strong>ADDITIONAL PROJECT FUNDS</strong></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>GHG Cash Account</td>
<td>-</td>
<td>-</td>
<td>-</td>
</tr>
<tr>
<td>Transmission Upgrade Escrow</td>
<td>-</td>
<td>9</td>
<td>-</td>
</tr>
<tr>
<td>Participant Deposit Account</td>
<td>-</td>
<td>-</td>
<td>-</td>
</tr>
<tr>
<td><strong>TOTAL</strong></td>
<td>$1,613</td>
<td>$30,297</td>
<td>$297</td>
</tr>
</tbody>
</table>

**NOTE A** - Investment amounts shown at book carrying value.

**NOTE B** - Net of accrued interest purchased on investments.

1 Amount held in escrow
Northern California Power Agency/Lodi Energy Center
Treasurer's Report
Investment Activity Summary
August 31, 2018

<table>
<thead>
<tr>
<th>MANDATORY FUNDS</th>
<th>PURCHASED</th>
<th>SOLD OR MATURED</th>
<th>(NON-CASH) DISC/(PREM) AMORT</th>
<th>(NON-CASH) GAIN/(LOSS) ON SALE</th>
<th>INVESTMENTS TRANSFERS</th>
<th>INCREASE / (DECREASE)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Debt Service Account</td>
<td>2,350,113</td>
<td>(297)</td>
<td>8,034</td>
<td>-</td>
<td>-</td>
<td>2,357,850</td>
</tr>
<tr>
<td>Debt Service Reserve</td>
<td>950</td>
<td>-</td>
<td>(6,693)</td>
<td>-</td>
<td>-</td>
<td>(5,743)</td>
</tr>
<tr>
<td>O &amp; M Reserve</td>
<td>27,522</td>
<td>-</td>
<td>(1,532)</td>
<td>-</td>
<td>-</td>
<td>25,990</td>
</tr>
<tr>
<td><strong>TOTAL</strong></td>
<td><strong>2,378,585</strong></td>
<td><strong>(297)</strong></td>
<td><strong>(191)</strong></td>
<td>-</td>
<td>-</td>
<td><strong>2,378,097</strong></td>
</tr>
</tbody>
</table>

| ADDITIONAL PROJECT FUNDS                  |           |                 |                               |                               |                        |                       |
| GHG Cash Account                         | -         | -               | -                             | -                             | -                      | -                      |
| Participant Deposit Acct.                | -         | -               | -                             | -                             | -                      | -                      |
| **TOTAL**                                | **2,378,585** | **(297)**     | **(191)**                     | -                             | -                      | **2,378,097**          |

Less Non-Cash Activity
Disc/(Prem) Amortization & Gain/(Loss) on Sale 191
Net Change in Investment --Before Non-Cash Activity $2,378,288

NOTE A- Investment amounts shown at book carrying value.
Northern California Power Agency  
Lodi Energy Center  
Interest Rate/Yield Analysis  
August 31, 2018

<table>
<thead>
<tr>
<th>WEIGHTED AVERAGE</th>
<th>BOND EQUIVALENT</th>
</tr>
</thead>
<tbody>
<tr>
<td>INTEREST RATE</td>
<td>YIELD</td>
</tr>
<tr>
<td>OVERALL COMBINED</td>
<td>2.002%</td>
</tr>
</tbody>
</table>

Debt Service Account  
2.038%  
2.080%

Debt Service Reserve  
2.344%  
1.641%

O & M Reserve  
1.611%  
1.445%

GHG Cash Account  
1.899%  
1.899%

<table>
<thead>
<tr>
<th>KEY INTEREST RATES</th>
<th>CURRENT</th>
<th>PRIOR YEAR</th>
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</thead>
<tbody>
<tr>
<td>Fed Fds (Ovnight)</td>
<td>1.92%</td>
<td>1.16%</td>
</tr>
<tr>
<td>T-Bills (90da.)</td>
<td>2.12%</td>
<td>1.01%</td>
</tr>
<tr>
<td>Agency Disc (90da.)</td>
<td>2.05%</td>
<td>1.01%</td>
</tr>
<tr>
<td>T-Bills (1yr.)</td>
<td>2.47%</td>
<td>1.23%</td>
</tr>
<tr>
<td>Agency Disc (1yr.)</td>
<td>2.27%</td>
<td>1.18%</td>
</tr>
<tr>
<td>T-Notes (3yr.)</td>
<td>2.72%</td>
<td>1.47%</td>
</tr>
</tbody>
</table>
**Northern California Power Agency**  
**Total Portfolio**  
**Investment Maturities Analysis**  
**August 31, 2018**

<table>
<thead>
<tr>
<th>Type</th>
<th>0-7 Days</th>
<th>8-90 Days</th>
<th>91-180 Days</th>
<th>181-270 Days</th>
<th>271-365 Days</th>
<th>1-5 Years</th>
<th>6-10 Years</th>
<th>Total</th>
<th>Percent</th>
</tr>
</thead>
<tbody>
<tr>
<td>US Government Agencies</td>
<td>$ -</td>
<td>$ -</td>
<td>$7,452</td>
<td>$ -</td>
<td>$1,025</td>
<td>$17,370</td>
<td>$ -</td>
<td>$25,847</td>
<td>85.21%</td>
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<tr>
<td>Corporate Bonds (MTN)</td>
<td>-</td>
<td>-</td>
<td>-</td>
<td>-</td>
<td>-</td>
<td>-</td>
<td>-</td>
<td>-</td>
<td>0.00%</td>
</tr>
<tr>
<td>US Bank Trust Money Market</td>
<td>144</td>
<td>-</td>
<td>-</td>
<td>-</td>
<td>-</td>
<td>-</td>
<td>-</td>
<td>144</td>
<td>0.47%</td>
</tr>
<tr>
<td>Commercial Paper</td>
<td>-</td>
<td>-</td>
<td>-</td>
<td>-</td>
<td>-</td>
<td>-</td>
<td>-</td>
<td>-</td>
<td>0.00%</td>
</tr>
<tr>
<td>Investment Trusts (LAIF)</td>
<td>1,787</td>
<td>-</td>
<td>-</td>
<td>-</td>
<td>-</td>
<td>-</td>
<td>-</td>
<td>1,787</td>
<td>5.89%</td>
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<tr>
<td>U.S. Treasury Market Acct.</td>
<td>47</td>
<td>-</td>
<td>-</td>
<td>-</td>
<td>-</td>
<td>-</td>
<td>-</td>
<td>47</td>
<td>0.16%</td>
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<tr>
<td>U.S. Treasury Bill/Note</td>
<td>-</td>
<td>2,361</td>
<td>63</td>
<td>-</td>
<td>85</td>
<td>-</td>
<td>-</td>
<td>2,509</td>
<td>8.27%</td>
</tr>
<tr>
<td>Certificates of Deposit</td>
<td>-</td>
<td>-</td>
<td>-</td>
<td>-</td>
<td>-</td>
<td>-</td>
<td>-</td>
<td>-</td>
<td>0.00%</td>
</tr>
<tr>
<td><strong>Total Dollars</strong></td>
<td><strong>$1,978</strong></td>
<td><strong>$2,361</strong></td>
<td><strong>$7,515</strong></td>
<td><strong>$0</strong></td>
<td><strong>$1,110</strong></td>
<td><strong>$17,370</strong></td>
<td><strong>$0</strong></td>
<td><strong>$30,334</strong></td>
<td><strong>100.00%</strong></td>
</tr>
<tr>
<td><strong>Total Percents</strong></td>
<td><strong>6.52%</strong></td>
<td><strong>7.78%</strong></td>
<td><strong>24.77%</strong></td>
<td><strong>0.00%</strong></td>
<td><strong>3.66%</strong></td>
<td><strong>57.26%</strong></td>
<td><strong>0.00%</strong></td>
<td><strong>100.00%</strong></td>
<td></td>
</tr>
</tbody>
</table>

*Investments are shown at Face Value, in thousands.*
NORTHERN CALIFORNIA POWER AGENCY

Detail Report Of Investments

APPENDIX

Note: This appendix has been prepared to comply with Government Code section 53646.
## Northern California Power Agency
### Treasurer's Report
#### 08/31/2018

### LEC Issue#1 2010A DS Fund

| Issuer                        | Trustee / Custodian | Stated Value | Interest Rate | Purchase Date | Purchased Price | Maturity Date | Days to Maturity | Bond* Equiv Yield | Market Value | CUSIP         | Investment # | Carrying Value |
|-------------------------------|---------------------|--------------|---------------|---------------|----------------|---------------|-----------------|-------------------|--------------|---------------|--------------|---------------|---------------|
| US Bank Trust                 | USB                 | 800          | 0.600         | 07/01/2013    | 800            | 1             | 0.600           | 800               | 800          | SYS78603      | 79003        | 800           |
| U.S. Treasury                 | USBT                | 722,000      | 2.055         | 08/31/2016    | 719,291        | 11/29/2018     | 89              | 2.094             | 718,433      | 9127990Q6    | 26662        | 718,332       |
| Federal Home Loan Ba          | USBT                | 1,271,000    | 2.030         | 07/31/2016    | 1,262,041      | 12/03/2018     | 93              | 2.072             | 1,264,200    | 3133859R73   | 26639        | 1,264,335     |

**Fund Total and Average:**
- **$1,993,800**
- **2.038**
- **$1,981,132**
- **92**
- **2.080**
- **$1,983,433**
- **$1,983,467**

### LEC Issue #1 2010B DS Fund

| Issuer                        | Trustee / Custodian | Stated Value | Interest Rate | Purchase Date | Purchased Price | Maturity Date | Days to Maturity | Bond* Equiv Yield | Market Value | CUSIP         | Investment # | Carrying Value |
|-------------------------------|---------------------|--------------|---------------|---------------|----------------|---------------|-----------------|-------------------|--------------|---------------|--------------|---------------|---------------|
| US Bank Trust                 | USB                 | 733          | 0.600         | 07/01/2013    | 733            | 1             | 0.600           | 733               | 733          | SYS78604      | 79004        | 733           |
| U.S. Treasury                 | USBT                | 729,000      | 2.055         | 08/31/2016    | 725,255        | 11/29/2018     | 89              | 2.094             | 725,399      | 9127990Q6    | 26663        | 725,296       |
| Federal Home Loan Ba          | USBT                | 1,460,000    | 2.030         | 07/31/2016    | 1,449,709      | 12/03/2018     | 93              | 2.072             | 1,452,199    | 3133859R73   | 26640        | 1,452,344     |

**Fund Total and Average:**
- **$2,189,733**
- **2.038**
- **$2,176,697**
- **92**
- **2.079**
- **$2,178,321**
- **$2,178,373**

### LEC Issue #2 2010A DS Fund

| Issuer                        | Trustee / Custodian | Stated Value | Interest Rate | Purchase Date | Purchased Price | Maturity Date | Days to Maturity | Bond* Equiv Yield | Market Value | CUSIP         | Investment # | Carrying Value |
|-------------------------------|---------------------|--------------|---------------|---------------|----------------|---------------|-----------------|-------------------|--------------|---------------|--------------|---------------|---------------|
| US Bank Trust                 | USB                 | 867          | 0.600         | 07/01/2013    | 867            | 1             | 0.600           | 867               | 867          | SYS754011     | 79011        | 867           |
| U.S. Treasury                 | USBT                | 436,000      | 2.055         | 08/31/2016    | 433,760        | 11/29/2018     | 89              | 2.094             | 433,846      | 9127990Q6    | 26664        | 433,785       |
| Federal Home Loan Ba          | USBT                | 838,000      | 2.030         | 07/31/2016    | 832,093        | 12/03/2018     | 93              | 2.072             | 833,517      | 3133859R73   | 26641        | 833,605       |

**Fund Total and Average:**
- **$1,274,867**
- **2.038**
- **$1,266,720**
- **92**
- **2.079**
- **$1,268,230**
- **$1,268,257**

### LEC Issue #2 2010B DS Fund

| Issuer                        | Trustee / Custodian | Stated Value | Interest Rate | Purchase Date | Purchased Price | Maturity Date | Days to Maturity | Bond* Equiv Yield | Market Value | CUSIP         | Investment # | Carrying Value |
|-------------------------------|---------------------|--------------|---------------|---------------|----------------|---------------|-----------------|-------------------|--------------|---------------|--------------|---------------|---------------|
| US Bank Trust                 | USB                 | 219          | 0.600         | 07/01/2013    | 219            | 1             | 0.600           | 219               | 219          | SYS754012     | 79012        | 219           |
| U.S. Treasury                 | USBT                | 350,000      | 2.055         | 08/31/2016    | 348,202        | 11/29/2018     | 89              | 2.094             | 348,271      | 9127990Q6    | 26665        | 348,222       |
| Federal Home Loan Ba          | USBT                | 702,000      | 2.030         | 07/31/2016    | 697,052        | 12/03/2018     | 93              | 2.072             | 698,244      | 3133859R73   | 26642        | 698,319       |

**Fund Total and Average:**
- **$1,052,219**
- **2.038**
- **$1,045,473**
- **92**
- **2.080**
- **$1,048,734**
- **$1,046,760**

### LEC Issue#1 2017A DS Fund

| Issuer                        | Trustee / Custodian | Stated Value | Interest Rate | Purchase Date | Purchased Price | Maturity Date | Days to Maturity | Bond* Equiv Yield | Market Value | CUSIP         | Investment # | Carrying Value |
|-------------------------------|---------------------|--------------|---------------|---------------|----------------|---------------|-----------------|-------------------|--------------|---------------|--------------|---------------|---------------|
| U.S. Treasury                 | USBT                | 124,000      | 2.055         | 08/31/2018    | 123,363        | 11/29/2018     | 89              | 2.094             | 123,387      | 9127990Q6    | 26666        | 123,370       |
| Federal Home Loan Ba          | USBT                | 248,000      | 2.030         | 07/31/2018    | 248,262        | 12/03/2018     | 93              | 2.072             | 248,573      | 3133859R73   | 26643        | 248,659       |

**Fund Total and Average:**
- **$372,000**
- **2.038**
- **$369,616**
- **92**
- **2.080**
- **$370,060**
- **$370,069**

### Grand Totals:

|                       |                  |              |               |              |                |              |     |          |                  |              |               |              |               |              |
|-----------------------|------------------|--------------|---------------|--------------|----------------|--------------|     |          |                  |              |               |              |               |              |
| **Total Value**       | **$6,882,619**   | **2.038**    | **$6,836,637**| **92**       | **2.080**      | **$6,846,778.**| **$6,846,926**|

*Bond Equivalent Yield to Maturity is shown based on a 365 day year to provide a basis for comparison between all types. Investments with less than 6 months to maturity use an approximate method, all others use an exact method.

Current Market Value is based on prices from Trustee/Custodian Statements or bid prices from the Wall Street Journal as of 08/31/2018.
## Northern California Power Agency
### Treasurer's Report
#### 08/31/2018

**LEC Issue #1 2010 DSR Fund**

<table>
<thead>
<tr>
<th>Issuer</th>
<th>Trustee / Custodian</th>
<th>Stated Value</th>
<th>Interest Rate</th>
<th>Purchase Date</th>
<th>Purchase Price</th>
<th>Maturity Date</th>
<th>Days to Maturity</th>
<th>Bond* Equiv Yield</th>
<th>Market Value</th>
<th>CUSIP</th>
<th>Investment #</th>
<th>Carrying Value</th>
</tr>
</thead>
<tbody>
<tr>
<td>US Bank Trust</td>
<td>USB</td>
<td>81,585</td>
<td>0.600</td>
<td>07/01/2013</td>
<td>81,585</td>
<td>1</td>
<td>0.600</td>
<td>81,585</td>
<td>SYST9005</td>
<td>79005</td>
<td>81,585</td>
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</tr>
<tr>
<td>U.S. Treasury</td>
<td>USB</td>
<td>85,000</td>
<td>1.625</td>
<td>02/27/2018</td>
<td>84,641</td>
<td>06/30/2019</td>
<td>302</td>
<td>1.945</td>
<td>84,442</td>
<td>91292WS55</td>
<td>26538</td>
<td>84,778</td>
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<tr>
<td>Federal Farm Credit</td>
<td>USB</td>
<td>4,360,000</td>
<td>1.880</td>
<td>06/08/2016</td>
<td>4,360,000</td>
<td>05/25/2021</td>
<td>997</td>
<td>1.659</td>
<td>4,233,734</td>
<td>3135E6B27</td>
<td>26337</td>
<td>4,360,000</td>
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<tr>
<td>Federal Home Loan Mt</td>
<td>USB</td>
<td>150,000</td>
<td>1.125</td>
<td>07/02/2017</td>
<td>146,648</td>
<td>06/12/2021</td>
<td>1,076</td>
<td>1.699</td>
<td>143,321</td>
<td>3137EAE9C0</td>
<td>26454</td>
<td>147,554</td>
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<tr>
<td>Federal Home Loan Ba</td>
<td>USB</td>
<td>4,100,000</td>
<td>2.125</td>
<td>08/26/2017</td>
<td>4,168,306</td>
<td>06/10/2022</td>
<td>1,378</td>
<td>1.760</td>
<td>4,011,477</td>
<td>313379Q69</td>
<td>26463</td>
<td>4,150,907</td>
</tr>
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</table>

**Fund Total and Average**

| $ 8,775,585 | 1.860 |
| $ 8,841,160 | 1162  |
| $ 8,544,559 | 1,791 |
| $ 8,827,824 |

**LEC Iss#1 2010B BABS Subs Resv**

<table>
<thead>
<tr>
<th>Issuer</th>
<th>Trustee / Custodian</th>
<th>Stated Value</th>
<th>Interest Rate</th>
<th>Purchase Date</th>
<th>Purchase Price</th>
<th>Maturity Date</th>
<th>Days to Maturity</th>
<th>Bond* Equiv Yield</th>
<th>Market Value</th>
<th>CUSIP</th>
<th>Investment #</th>
<th>Carrying Value</th>
</tr>
</thead>
<tbody>
<tr>
<td>US Bank Trust</td>
<td>USB</td>
<td>36,637</td>
<td>0.500</td>
<td>07/01/2013</td>
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<td>1</td>
<td>0.600</td>
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<td>SYST9006</td>
<td>79006</td>
<td>36,637</td>
<td></td>
</tr>
<tr>
<td>U.S. Treasury</td>
<td>USB</td>
<td>38,000</td>
<td>1.823</td>
<td>02/27/2018</td>
<td>37,349</td>
<td>01/31/2019</td>
<td>152</td>
<td>1.872</td>
<td>37,656</td>
<td>912790PP78</td>
<td>26534</td>
<td>37,707</td>
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<tr>
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<td>USB</td>
<td>2,145,000</td>
<td>3.376</td>
<td>07/02/2017</td>
<td>2,256,146</td>
<td>09/12/2020</td>
<td>650</td>
<td>1.540</td>
<td>2,170,418</td>
<td>313370E38</td>
<td>26455</td>
<td>2,213,282</td>
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</table>

**Fund Total and Average**

| $ 2,219,637 | 3.305 |
| $ 2,320,132 | 631   |
| $ 2,244,711 |
| $ 2,287,626 |

**LEC Issue #2 2010B DSR BABS**

<table>
<thead>
<tr>
<th>Issuer</th>
<th>Trustee / Custodian</th>
<th>Stated Value</th>
<th>Interest Rate</th>
<th>Purchase Date</th>
<th>Purchase Price</th>
<th>Maturity Date</th>
<th>Days to Maturity</th>
<th>Bond* Equiv Yield</th>
<th>Market Value</th>
<th>CUSIP</th>
<th>Investment #</th>
<th>Carrying Value</th>
</tr>
</thead>
<tbody>
<tr>
<td>US Bank Trust</td>
<td>USB</td>
<td>23,064</td>
<td>0.600</td>
<td>07/01/2013</td>
<td>23,064</td>
<td>1</td>
<td>0.600</td>
<td>23,064</td>
<td>SYST9013</td>
<td>79013</td>
<td>23,064</td>
<td></td>
</tr>
<tr>
<td>U.S. Treasury</td>
<td>USB</td>
<td>25,000</td>
<td>1.823</td>
<td>02/27/2018</td>
<td>24,572</td>
<td>01/31/2019</td>
<td>152</td>
<td>1.872</td>
<td>24,774</td>
<td>912790PP78</td>
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<td>24,808</td>
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<tr>
<td>Federal Home Loan Ba</td>
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<td>1,082,708</td>
<td>07/01/2019</td>
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<td>26456</td>
<td>1,049,982</td>
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</table>

**Fund Total and Average**

| $ 1,073,064 | 4.238  |
| $ 1,130,344 | 293    |
| $ 1,089,136 |
| $ 1,097,854 |

**Grand Totals:**

| $ 12,069,286 | 2.344  |
| $ 12,300,556 | 984    |
| $ 11,878,406 |
| $ 12,213,304 |

*Bond Equivalent Yield to Maturity is shown based on a 365 day year to provide a basis for comparison between all types. Investments with less than 6 months to maturity use an approximate method, all others use an exact method.

Current Market Value is based on prices from Trustee/Custodian Statements or bid prices from the Wall Street Journal as of 08/31/2018

Investment #26337    FFCB    Callable anytime
### Northern California Power Agency
**Treasurer's Report**

**08/31/2018**

**LEC O & M Reserve**

<table>
<thead>
<tr>
<th>Issuer</th>
<th>Trustee / Custodian</th>
<th>Stated Value</th>
<th>Interest Rate</th>
<th>Purchase Date</th>
<th>Purchased Price</th>
<th>Maturity Date</th>
<th>Days to Maturity</th>
<th>Bond* Equivalent Yield</th>
<th>Market Value</th>
<th>CUSIP</th>
<th>Investment #</th>
<th>Carrying Value</th>
</tr>
</thead>
<tbody>
<tr>
<td>Local Agency Investm</td>
<td>UBCC</td>
<td>1,714,390</td>
<td>1.899</td>
<td>07/01/2013</td>
<td>1,714,390</td>
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<td>1.899</td>
<td>1,714,390</td>
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<tr>
<td>Union Bank of Califo</td>
<td>UBCC</td>
<td>47,059</td>
<td>0.002</td>
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<td>0.002</td>
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<tr>
<td>Federal National Mtg</td>
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<td>2,933,000</td>
<td>1.875</td>
<td>08/28/2015</td>
<td>2,998,142</td>
<td>02/19/2019</td>
<td>171</td>
<td>2,927,486</td>
<td>3135GQ2A4</td>
<td>26248</td>
<td>2,941,748</td>
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<tr>
<td>Federal Home Loan Ba</td>
<td>USB</td>
<td>3,615,000</td>
<td>1.540</td>
<td>06/30/2017</td>
<td>3,613,952</td>
<td>06/05/2020</td>
<td>643</td>
<td>3,547,363</td>
<td>3130AJQ20</td>
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<td>UBCC</td>
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<td>06/03/2020</td>
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<td>3135GQ2U2</td>
<td>26341</td>
<td>3,000,000</td>
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</table>

**Fund Total and Average**  

**GRAND TOTALS:**  

*Bond Equivalent Yield to Maturity is shown based on a 365 day year to provide a basis for comparison between all types. Investments with less than 6 months to maturity use an approximate method, all others use an exact method.

Current Market Value is based on prices from Trustee/Custodian Statements or bid prices from the Wall Street Journal as of 08/31/2018.
<table>
<thead>
<tr>
<th>Issuer</th>
<th>Trustee / Custodian</th>
<th>Stated Value</th>
<th>Interest Rate</th>
<th>Purchase Date</th>
<th>Purchased Price</th>
<th>Maturity Date</th>
<th>Days to Maturity</th>
<th>Bond* Equiv Yield</th>
<th>Market Value</th>
<th>CUSIP</th>
<th>Investment #</th>
<th>Carrying Value</th>
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</thead>
<tbody>
<tr>
<td>Local Agency Investm</td>
<td></td>
<td>72,868</td>
<td>1.899</td>
<td>07/01/2013</td>
<td>72,868</td>
<td>1</td>
<td>1.899</td>
<td>72,868</td>
<td>SYST0046</td>
<td>70046</td>
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<tr>
<td>Fund Total and Average</td>
<td>$ 72,868</td>
<td>$ 72,868</td>
<td>1.899</td>
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<td></td>
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<td>1.899</td>
<td>$ 72,868</td>
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<td></td>
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<td>$ 72,868</td>
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<tr>
<td>GRAND TOTALS:</td>
<td>$ 72,868</td>
<td>$ 72,868</td>
<td>1.899</td>
<td></td>
<td></td>
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<td>1.899</td>
<td>$ 72,868</td>
<td></td>
<td></td>
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<td>$ 72,868</td>
</tr>
</tbody>
</table>

*Bond Equivalent Yield to Maturity is shown based on a 365 day year to provide a basis for comparison between all types. Investments with less than 6 months to maturity use an approximate method, all others use an exact method. Current Market Value is based on prices from Trustee/Custodian Statements or bid prices from the Wall Street Journal as of 08/31/2018.
Lodi Energy Center Project Participant Committee

LEC Financial Reports

AGENDA ITEM NO.: 8

Date: September 10, 2018
To: Lodi Energy Center Project Participant Committee
Subject: August 31, 2018 Financial Reports (Unaudited)
### NORTHERN CALIFORNIA POWER AGENCY
#### LODI ENERGY CENTER
#### STATEMENTS OF NET POSITION
#### UNAUDITED

<table>
<thead>
<tr>
<th></th>
<th>2018</th>
<th>2017</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>ASSETS</strong></td>
<td></td>
<td></td>
</tr>
<tr>
<td><strong>CURRENT ASSETS</strong></td>
<td></td>
<td></td>
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<tr>
<td>Cash and cash equivalents</td>
<td>$ 72,868</td>
<td>$ 71,843</td>
</tr>
<tr>
<td>Interest receivable</td>
<td>117</td>
<td>113</td>
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<tr>
<td>Inventory and supplies - at average cost</td>
<td>2,110,855</td>
<td>2,110,854</td>
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<tr>
<td>Prepaid insurance</td>
<td>157,092</td>
<td>156,232</td>
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<tr>
<td>Due from (to) Agency, net</td>
<td>29,195,029</td>
<td>14,627,455</td>
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<tr>
<td><strong>TOTAL CURRENT ASSETS</strong></td>
<td>31,535,961</td>
<td>16,966,497</td>
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<tr>
<td><strong>RESTRICTED ASSETS</strong></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Cash and cash equivalents</td>
<td>3,993,010</td>
<td>1,642,450</td>
</tr>
<tr>
<td>Investments</td>
<td>26,444,331</td>
<td>28,214,416</td>
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<tr>
<td>Interest receivable</td>
<td>80,701</td>
<td>82,159</td>
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<tr>
<td><strong>TOTAL RESTRICTED ASSETS</strong></td>
<td>30,518,042</td>
<td>29,939,025</td>
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<tr>
<td><strong>ELECTRIC PLANT</strong></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Electric plant in service</td>
<td>423,810,113</td>
<td>423,640,289</td>
</tr>
<tr>
<td>Less: accumulated depreciation</td>
<td>(83,989,256)</td>
<td>(69,376,092)</td>
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<tr>
<td>Construction work-in-progress</td>
<td>182,398</td>
<td>107,024</td>
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<tr>
<td><strong>TOTAL ELECTRIC PLANT</strong></td>
<td>340,003,255</td>
<td>354,371,221</td>
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<tr>
<td><strong>OTHER ASSETS</strong></td>
<td></td>
<td></td>
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<tr>
<td>Unamortized excess cost on advance refunding of debt, net</td>
<td>2,079,045</td>
<td>-</td>
</tr>
<tr>
<td>Regulatory assets</td>
<td>23,923,562</td>
<td>22,012,959</td>
</tr>
<tr>
<td><strong>TOTAL OTHER ASSETS</strong></td>
<td>26,002,607</td>
<td>22,012,959</td>
</tr>
<tr>
<td><strong>TOTAL ASSETS</strong></td>
<td>$ 428,059,865</td>
<td>$ 423,289,702</td>
</tr>
</tbody>
</table>
NORTHERN CALIFORNIA POWER AGENCY  
LODI ENERGY CENTER  
STATEMENTS OF NET POSITION  
UNAUDITED

<table>
<thead>
<tr>
<th></th>
<th>August 2018</th>
<th>August 2017</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>LIABILITIES &amp; NET POSITION</strong></td>
<td></td>
<td></td>
</tr>
<tr>
<td><strong>CURRENT LIABILITIES</strong></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Accounts and retentions payable</td>
<td>$4,816,906</td>
<td>$2,116,484</td>
</tr>
<tr>
<td>Operating reserves</td>
<td>13,892,987</td>
<td>12,740,146</td>
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<tr>
<td>Current portion of long-term debt</td>
<td>11,480,000</td>
<td>10,355,000</td>
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<tr>
<td>Accrued interest payable</td>
<td>3,642,169</td>
<td>4,008,173</td>
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<td><strong>TOTAL CURRENT LIABILITIES</strong></td>
<td>33,832,062</td>
<td>29,219,803</td>
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<tr>
<td><strong>NON-CURRENT LIABILITIES</strong></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Operating reserves and other deposits</td>
<td>1,717,088</td>
<td>1,715,973</td>
</tr>
<tr>
<td>Long-term debt, net</td>
<td>331,175,963</td>
<td>340,866,410</td>
</tr>
<tr>
<td><strong>TOTAL NON-CURRENT LIABILITIES</strong></td>
<td>332,893,051</td>
<td>342,582,383</td>
</tr>
<tr>
<td><strong>TOTAL LIABILITIES</strong></td>
<td>366,725,113</td>
<td>371,802,186</td>
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<tr>
<td><strong>DEFERRED INFLOWS OF RESOURCES</strong></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Regulatory credits</td>
<td>40,787,645</td>
<td>42,049,664</td>
</tr>
<tr>
<td><strong>NET POSITION</strong></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Invested in capital assets, net of related debt</td>
<td>(15,280,423)</td>
<td>(14,515,578)</td>
</tr>
<tr>
<td>Restricted</td>
<td>14,769,176</td>
<td>14,773,372</td>
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<tr>
<td>Unrestricted</td>
<td>21,058,354</td>
<td>9,180,058</td>
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<tr>
<td><strong>TOTAL NET POSITION</strong></td>
<td>20,547,107</td>
<td>9,437,852</td>
</tr>
<tr>
<td><strong>TOTAL LIABILITIES AND NET POSITION</strong></td>
<td>$428,059,865</td>
<td>$423,289,702</td>
</tr>
</tbody>
</table>
## NORTHERN CALIFORNIA POWER AGENCY
### LODI ENERGY CENTER
#### STATEMENT OF REVENUES, EXPENSES & CHANGES IN NET POSITION
##### UNAUDITED

**Two Months Ended August**

<table>
<thead>
<tr>
<th></th>
<th>2018</th>
<th>2017</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>SALES FOR RESALE</strong></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Participants</td>
<td>$13,159,178</td>
<td>$8,356,697</td>
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<tr>
<td>Other</td>
<td>20,658,887</td>
<td>5,648,228</td>
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<tr>
<td><strong>TOTAL SALES FOR RESALE</strong></td>
<td>33,818,065</td>
<td>14,004,925</td>
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<tr>
<td><strong>OPERATING EXPENSES</strong></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Operations</td>
<td>10,483,094</td>
<td>4,582,735</td>
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<tr>
<td>Depreciation</td>
<td>2,435,739</td>
<td>2,434,714</td>
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<td>Purchased power</td>
<td>574,324</td>
<td>454,267</td>
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<td>Maintenance</td>
<td>632,553</td>
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<td>Administrative and general</td>
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<td>836,753</td>
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<td>Transmission</td>
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<td>Intercompany (sales) purchases</td>
<td>20,659</td>
<td>40,317</td>
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<td><strong>TOTAL OPERATING EXPENSES</strong></td>
<td>15,126,383</td>
<td>9,169,148</td>
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<td><strong>NET OPERATING REVENUES</strong></td>
<td>18,691,682</td>
<td>4,835,777</td>
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<td><strong>OTHER REVENUES (EXPENSES)</strong></td>
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<tr>
<td>Interest expense</td>
<td>(2,459,668)</td>
<td>(2,600,302)</td>
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<tr>
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<td>194,837</td>
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<td>Other</td>
<td>359,780</td>
<td>439,418</td>
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<td><strong>TOTAL OTHER REVENUES (EXPENSES)</strong></td>
<td>(1,523,139)</td>
<td>(1,966,047)</td>
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<td><strong>FUTURE RECOVERABLE AMOUNTS</strong></td>
<td>-</td>
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<td><strong>REFUNDS TO PARTICIPANTS</strong></td>
<td>135,031</td>
<td>(14)</td>
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<td><strong>INCREASE IN NET POSITION</strong></td>
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<td>3,230,221</td>
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<td><strong>NET POSITION</strong></td>
<td></td>
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</tr>
<tr>
<td>Beginning of year</td>
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<td>6,207,631</td>
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<td>End of period</td>
<td>$20,547,107</td>
<td>$9,437,852</td>
</tr>
<tr>
<td>Category</td>
<td>Annual Budget</td>
<td>Actual</td>
</tr>
<tr>
<td>----------------------------------------------</td>
<td>---------------</td>
<td>---------</td>
</tr>
<tr>
<td><strong>Routine O&amp;M Costs</strong></td>
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<td></td>
</tr>
<tr>
<td>Variable</td>
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<tr>
<td>Fixed</td>
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<td>Administration</td>
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<td>Mandatory Costs</td>
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<td>101,740</td>
</tr>
<tr>
<td>Routine O&amp;M Costs without Labor</td>
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<td>1,230,824</td>
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<tr>
<td>Labor</td>
<td>5,284,165</td>
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<td>Total Routine O&amp;M Cost</td>
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<td><strong>Other Costs</strong></td>
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<tr>
<td>Fuel</td>
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<td>CA ISO Charges</td>
<td>550,660</td>
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<tr>
<td>CA ISO Purchased Energy</td>
<td>5,113,468</td>
<td>574,324</td>
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<tr>
<td>Debt Service</td>
<td>26,079,852</td>
<td>4,346,424</td>
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<tr>
<td>Insurance</td>
<td>625,976</td>
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<tr>
<td>Other Costs</td>
<td>124,926</td>
<td>23,014</td>
</tr>
<tr>
<td>Administrative &amp; General (Allocated)</td>
<td>2,182,080</td>
<td>308,787</td>
</tr>
<tr>
<td>Power Management Allocated Costs</td>
<td>1,446,134</td>
<td>241,022</td>
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<tr>
<td><strong>Total O&amp;M Cost</strong></td>
<td>83,549,627</td>
<td>16,688,379</td>
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<tr>
<td><strong>Projects</strong></td>
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<tr>
<td>Operations &amp; Maintenance</td>
<td>52,000</td>
<td>5,046</td>
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<tr>
<td>Capital</td>
<td>100,000</td>
<td>-</td>
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<td>Maintenance Reserve</td>
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<td>243,518</td>
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<td>Total Projects</td>
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<td>248,564</td>
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<td>Annual Cost</td>
<td>85,162,734</td>
<td>16,936,343</td>
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<td><strong>Less: Third Party Revenue</strong></td>
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<tr>
<td>Interest Income</td>
<td>385,845</td>
<td>32,803</td>
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<td>ISO Energy Sales</td>
<td>52,414,938</td>
<td>20,254,574</td>
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<tr>
<td>Ancillary Services Sales</td>
<td>1,028,631</td>
<td>404,313</td>
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<td>Total</td>
<td>53,829,414</td>
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<tr>
<td><strong>Net Annual Cost to Participants</strong></td>
<td>$31,333,320</td>
<td>($3,754,747)</td>
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<tr>
<td><strong>Total Variable Costs</strong></td>
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<td><strong>Total Fixed Costs</strong></td>
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<td>6,656,582</td>
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<tr>
<td><strong>Net Cumulative Generation (MWh)</strong></td>
<td>1,304,122</td>
<td>350,780</td>
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</tbody>
</table>

**Net O&M Cost Per MWh**

<table>
<thead>
<tr>
<th>FY 19 Budget (in mil)</th>
<th>$31.33</th>
<th>$29.49</th>
<th>$27.73</th>
<th>$26.20</th>
<th>$24.73</th>
<th>$23.34</th>
<th>$22.04</th>
<th>$20.84</th>
<th>$19.77</th>
<th>$18.84</th>
<th>$18.06</th>
<th>$17.37</th>
<th>$16.77</th>
<th>$16.27</th>
<th>$15.87</th>
<th>$15.58</th>
</tr>
</thead>
</table>

Net O&M Cost Per MWh

<table>
<thead>
<tr>
<th>FY 19 Budget (in mil)</th>
<th>$31.33</th>
<th>$29.49</th>
<th>$27.73</th>
<th>$26.20</th>
<th>$24.73</th>
<th>$23.34</th>
<th>$22.04</th>
<th>$20.84</th>
<th>$19.77</th>
<th>$18.84</th>
<th>$18.06</th>
<th>$17.37</th>
<th>$16.77</th>
<th>$16.27</th>
<th>$15.87</th>
<th>$15.58</th>
</tr>
</thead>
</table>

**Footnotes:**

- **General** - The plant ran every day during the month.
- **August payroll, A&G allocation and generation services allocation are estimated.**
- **A** - Payments for annual CEC fee.
- **B** - Higher fuel costs due to higher generation.
- **C** - Higher than budgeted CA ISO costs due to higher generation.
LEC Generation Analysis
Planned vs. Actual
FY 2019

Lodi Energy Center

In MWh

<table>
<thead>
<tr>
<th></th>
<th>Jul</th>
<th>Aug</th>
<th>Sep</th>
<th>Oct</th>
<th>Nov</th>
<th>Dec</th>
<th>Jan</th>
<th>Feb</th>
<th>Mar</th>
<th>Apr</th>
<th>May</th>
<th>Jun</th>
</tr>
</thead>
<tbody>
<tr>
<td>FY 19 Planned</td>
<td>122,461</td>
<td>294,667</td>
<td>449,867</td>
<td>626,169</td>
<td>756,367</td>
<td>932,952</td>
<td>1,117,376</td>
<td>1,226,507</td>
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AGENDA ITEM NO.:   9

Date: September 10, 2018
To: Lodi Energy Center Project Participant Committee
Subject: GHG Reports (excerpted from monthly ARB)
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2014 NCPA All Resources Bill LEC GHG Compliance Instrument Detail Report for the Lodi Energy Center
## Compliance Year 2015

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2015 NCPA All Resources Bill LEC GHG Compliance Instrument Detail Report for the Lodi Energy Center
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<td>Total Compliance Instrument Participant Transfers (MT)</td>
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<td>0</td>
<td>0</td>
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<td>92,321</td>
<td>184,879</td>
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<td>Cumulative MT Account Balance [MTA] (MT)</td>
<td>879,801</td>
<td>879,801</td>
<td>884,801</td>
<td>884,801</td>
<td>884,801</td>
<td>884,801</td>
<td>884,801</td>
<td>884,801</td>
<td>901,899</td>
<td>951,899</td>
<td>908,979</td>
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## 2018 NCPA All Resources Bill LEC GHG Compliance Instrument Detail Report for the Lodi Energy Center

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<th>IDENTIFIER</th>
<th>JANUARY</th>
<th>FEBRUARY</th>
<th>MARCH</th>
<th>APRIL</th>
<th>MAY</th>
<th>JUNE</th>
<th>JULY</th>
<th>AUGUST</th>
<th>SEPTEMBER</th>
<th>OCTOBER</th>
<th>NOVEMBER</th>
<th>DECEMBER</th>
<th>Total</th>
<th>Source</th>
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<td>Energy (MWh)</td>
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<td>110,674</td>
<td>138,464</td>
<td>14,747</td>
<td>8,838</td>
<td>35,406</td>
<td>172,949</td>
<td>165,981</td>
<td>173,262</td>
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<td>Emissions Factor (MT/MMBtu)</td>
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<td>0.054</td>
<td>0.054</td>
<td>0.054</td>
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<td>0</td>
<td>0</td>
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<td>0</td>
<td>0</td>
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<td>Monthly MT Emissions (MT)</td>
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<td>43,230</td>
<td>53,816</td>
<td>6,251</td>
<td>3,949</td>
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<td>67,320</td>
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<td>Cumulative MT Obligation (MT)</td>
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<td>976,184</td>
<td>982,435</td>
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<td>1,066,877</td>
<td>1,131,369</td>
<td>1,198,689</td>
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<td>1,274,589</td>
<td>1,348,942</td>
<td>1,348,942</td>
<td>CITSS</td>
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</table>

| Compliance Instrument Participant Transfers (to LEC) | auction allowances | 159,100 | 0 | 34,940 | 16,885 | 53,452 | 35,500 | 33,232 | 140,431 | 0 | 0 | 0 | 473,540 | 2,648,706 |
| | secondary market allowances | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 47,000 | CITSS |
| | reserve sale allowances | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | CITSS |
| | offsets | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | CITSS |
| | total compliance instrument participant transfers (MT) | 159,100 | 0 | 34,940 | 16,885 | 53,452 | 35,500 | 33,232 | 140,431 | 0 | 0 | 0 | 473,540 | 2,648,706 |

| NCPA Compliance Instrument Purchases (for LEC) | auction purchases | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 |
| | secondary market purchases | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 |
| | reserve sale purchases | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 |
| | offset purchases | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 |
| | total NCPA compliance instrument purchases (MT) | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 |

| Compliance Instruments Surrendered to CARB (MT) | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 |

<p>| Total Monthly Activity (MT) | 159,100 | 0 | 34,940 | 16,885 | 53,452 | 35,500 | 33,232 | 140,431 | 0 | 0 | 0 | 0 | 473,540 | 2,656,706 |
| Cumulative MT Account Balance (MTA) | 1,088,087 | 1,998,087 | 1,110,027 | 1,119,912 | 1,173,364 | 1,208,884 | 1,324,056 | 1,382,527 | 1,382,527 | 1,382,527 | 1,382,527 | 1,382,527 | 1,382,527 | 1,382,527 |</p>
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<td>Generation Entitlement Share %</td>
<td>2.7857%</td>
<td>6.6000%</td>
<td>0.2679%</td>
<td>33.5000%</td>
<td>1.9643%</td>
<td>1.6428%</td>
<td>9.5000%</td>
<td>2.0357%</td>
<td>10.7143%</td>
<td>0.7857%</td>
<td>2.6679%</td>
<td>25.7500%</td>
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<td>100%</td>
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<td>Current MT Compliance Obligation (MTO) Balance (MT)</td>
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<td>82,983</td>
<td>3,369</td>
<td>443,023</td>
<td>24,698</td>
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<td>134,714</td>
<td>9,877</td>
<td>33,544</td>
<td>323,762</td>
<td>22,452</td>
<td>1,278,678</td>
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<td>(0)</td>
<td>(565)</td>
<td>(138,452)</td>
<td>(1,731)</td>
<td>(1,435)</td>
<td>(21,664)</td>
<td>(876)</td>
<td>(7,641)</td>
<td>(436)</td>
<td>(3,925)</td>
<td>0</td>
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<td>(176,202)</td>
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<td>Monthly GHG Price $/MT</td>
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<td>15.15</td>
<td>15.15</td>
<td>15.15</td>
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<td>15.15</td>
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<td>7,925</td>
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<td>1,103</td>
<td>4,780</td>
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<td>2,652</td>
<td>70,424 CCA BALANCE Accounting</td>
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<td>5</td>
<td>NET GHG OBLIG Derived</td>
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* The Current Month CCA Balance ($) consists of the current cash balance plus any outstanding balance of Net GHG Obligation ($) billed but not yet received.
Lodi Energy Center Project Participant Committee

Staff Report

Date: August 1, 2018
Meeting Date: September 10, 2018
To: Lodi Energy Center Project Participant Committee
Subject: Advanced Turbine Support, LLC – Five Year Multi-Task Consulting Services Agreement; Applicable to the following projects: All NCPA locations and Members, SCPPA, and SCPPA Members

Proposal
Approve the Multi-Task Consulting Services Agreement with Advanced Turbine Support, LLC for borescope inspections and non-destructive testing services, with any non-substantial changes recommended and approved by the NCPA General Counsel, which shall not exceed $250,000 over 5 years for use at all facilities owned and/or operated by NCPA, its Members, by the Southern California Public Power Authority (“SCPPA”), or by SCPPA Members.

Background
Borescope inspections and non-destructive testing services are required from time to time related to project support at facilities owned and/or operated by NCPA, its Members, by the Southern California Public Power Authority (“SCPPA”), or by SCPPA Members.

Selection Process
This enabling agreement does not commit NCPA to any expenditure of funds. At the time services are required, NCPA will bid the specific scope of work consistent with NCPA procurement policies and procedures. NCPA currently has a similar agreement in place with Air New Zealand Engineering Services and seeks bids from multiple qualified providers whenever services are needed. Bids are awarded to the lowest cost provider. NCPA will issue purchase orders based on cost and availability of the services needed at the time the service is required.

Fiscal Impact
Upon execution, the total cost of the agreement is not-to-exceed $250,000 over five years to be used out of NCPA approved budgets as services are rendered. Purchase orders referencing the terms and conditions of the Agreement will be issued following NCPA procurement policies and procedures.

Environmental Analysis
This activity would not result in a direct or reasonably foreseeable indirect change in the physical environment and is therefore not a “project” for purposes of Section 21065 the California Environmental Quality Act. No environmental review is necessary.
Submitted by:

KEN SPEER
Assistant General Manager
Generation Services

Attachments: (1)
  • Multi-Task Consulting Services Agreement with Advanced Turbine Support, LLC
MULTI-TASK CONSULTING SERVICES AGREEMENT BETWEEN
THE NORTHERN CALIFORNIA POWER AGENCY AND
ADVANCED TURBINE SUPPORT, LLC

This Consulting Services Agreement (“Agreement”) is made by and between the Northern California Power Agency, a joint powers agency with its main office located at 651 Commerce Drive, Roseville, CA 95678-6420 (“Agency”) and Advanced Turbine Support, LLC, a Florida limited liability company, with its office located at 6280 SW 103rd Street, Gainesville, FL 32608 (“Consultant”) (together sometimes referred to as the “Parties”) as of ______________, 2018 (“Effective Date”) in Roseville, California.

Section 1. SERVICES. Subject to the terms and conditions set forth in this Agreement, Consultant shall provide to Agency the services described in the Scope of Services attached hereto as Exhibit A and incorporated herein (“Services”), at the time and place and in the manner specified therein.

1.1 Term of Agreement. The term of this Agreement shall begin on the Effective Date and shall end when Consultant completes the Services, or no later than five (5) year from the date this Agreement was signed by Agency, whichever is shorter.

1.2 Standard of Performance. Consultant shall perform the Services in the manner and according to the standards observed by a competent practitioner of the profession in which Consultant is engaged and for which Consultant is providing the Services. Consultant represents that it is licensed, qualified and experienced to provide the Services set forth herein.

1.3 Assignment of Personnel. Consultant shall assign only competent personnel to perform the Services. In the event that Agency, in its sole discretion, at any time during the term of this Agreement, requests the reassignment of any such personnel, Consultant shall, immediately upon receiving written notice from Agency of such request, reassign such personnel.

1.4 Services Provided. Services provided under this Agreement by Consultant may include Services directly to the Agency or, as requested by the Agency and consistent with the terms of this Agreement, to Agency members, Southern California Public Power Authority (“SCPPA”) or SCPPA members.

1.5 Request for Services. At such time that Agency determines to use Consultant’s Services under this Agreement, Agency shall issue a Purchase Order. The Purchase Order shall identify the specific services to be performed (“Requested Services”), may include a not-to-exceed monetary cap on Requested Services and expenditures authorized by that Purchase Order, and a time by which the Requested Services shall be completed. Consultant shall have seven calendar days from the date of the Agency’s issuance of the Purchase Order in which to respond in writing that Consultant chooses not to perform the Requested Services. If Consultant agrees to perform the Requested Services, begins to perform the Requested Services, or does not respond within the seven day
period specified, then Consultant will have agreed to perform the Requested Services on the terms set forth in the Purchase Order, this Agreement and its Exhibits.

Section 2. COMPENSATION. Agency hereby agrees to pay Consultant an amount \textbf{NOT TO EXCEED} TWO HUNDRED FIFTY THOUSAND dollars ($250,000.00) for the Services, which shall include all fees, costs, expenses and other reimbursables, as set forth in Consultant’s fee schedule, attached hereto and incorporated herein as Exhibit B. This dollar amount is not a guarantee that Agency will pay that full amount to the Consultant, but is merely a limit of potential Agency expenditures under this Agreement.

2.1 Invoices. Consultant shall submit invoices, not more often than once a month during the term of this Agreement, based on the cost for services performed and reimbursable costs incurred prior to the invoice date. Invoices shall contain the following information:

- The beginning and ending dates of the billing period;
- Services performed;
- The Purchase Order number authorizing the Services;
- At Agency’s option, the total number of hours of work performed under the Agreement by Consultant and each employee, agent, and subcontractor of Consultant performing services hereunder; and
- At Agency’s option, when the Consultant’s Scope of Work identifies tasks, for each work item in each task, a copy of the applicable time entries showing the name of the person doing the work, the hours spent by each person, a brief description of the work, and each reimbursable expense, with supporting documentation, to Agency’s reasonable satisfaction.

Invoices shall be sent to:

Northern California Power Agency  
651 Commerce Drive  
Roseville, California 95678  
Attn: Accounts Payable  
AcctsPayable@ncpa.com

2.2 Monthly Payment. Agency shall make monthly payments, based on invoices received, for services satisfactorily performed, and for authorized reimbursable costs incurred. Agency shall have thirty (30) days from the receipt of an invoice that complies with all of the requirements above to pay Consultant.

2.3 Payment of Taxes. Consultant is solely responsible for the payment of all federal, state and local taxes, including employment taxes, incurred under this Agreement.
2.4 Authorization to Perform Services. The Consultant is not authorized to perform any Services or incur any costs whatsoever under the terms of this Agreement until receipt of written authorization from the Contract Administrator.

2.5 Timing for Submittal of Final Invoice. Consultant shall have ninety (90) days after completion of its Services to submit its final invoice for the Requested Services. In the event Consultant fails to submit an invoice to Agency for any amounts due within the ninety (90) day period, Consultant is deemed to have waived its right to collect its final payment from Agency.

Section 3. FACILITIES AND EQUIPMENT. Except as set forth herein, Consultant shall, at its sole cost and expense, provide all facilities and equipment that may be necessary to perform the Services.

Section 4. INSURANCE REQUIREMENTS. Before beginning any work under this Agreement, Consultant, at its own cost and expense, shall procure the types and amounts of insurance listed below and shall maintain the types and amounts of insurance listed below for the period covered by this Agreement.

4.1 Workers’ Compensation. If Consultant employs any person, Consultant shall maintain Statutory Workers’ Compensation Insurance and Employer’s Liability Insurance for any and all persons employed directly or indirectly by Consultant with limits of not less than one million dollars ($1,000,000.00) per accident.

4.2 Commercial General and Automobile Liability Insurance.

4.2.1 Commercial General Insurance. Consultant shall maintain commercial general liability insurance for the term of this Agreement, including products liability, covering any loss or liability, including the cost of defense of any action, for bodily injury, death, personal injury and broad form property damage which may arise out of the operations of Consultant. The policy shall provide a minimum limit of $1,000,000 per occurrence/$2,000,000 aggregate. Commercial general coverage shall be at least as broad as ISO Commercial General Liability form CG 0001 (current edition) on "an occurrence" basis covering comprehensive General Liability, with a self-insured retention or deductible of no more than $100,000. No endorsement shall be attached limiting the coverage.

4.2.2 Automobile Liability. Consultant shall maintain automobile liability insurance form CA 0001 (current edition) for the term of this Agreement covering any loss or liability, including the cost of defense of any action, arising from the operation, maintenance or use of any vehicle (symbol 1), whether or not owned by the Consultant, on or off Agency premises. The policy shall provide a minimum limit of $1,000,000 per each accident, with a self-insured retention or deductible of no more than $100,000. This insurance shall provide contractual liability covering all motor vehicles and
mobile equipment to the extent coverage may be excluded from general liability insurance.

4.2.3 **General Liability/Umbrella Insurance.** The coverage amounts set forth above may be met by a combination of underlying and umbrella policies as long as in combination the limits equal or exceed those stated.

4.3 **Professional Liability Insurance.** Not Applicable.

4.4 **All Policies Requirements.**

4.4.1 **Verification of coverage.** Prior to beginning any work under this Agreement, Consultant shall provide Agency with (1) a Certificate of Insurance that demonstrates compliance with all applicable insurance provisions contained herein and (2) policy endorsements to the policies referenced in Section 4.2, adding the Agency as an additional insured and declaring such insurance primary in regard to work performed pursuant to this Agreement.

4.4.2 **Notice of Reduction in or Cancellation of Coverage.** Consultant shall provide at least thirty (30) days prior written notice to Agency of any reduction in scope or amount, cancellation, or modification adverse to Agency of the policies referenced in Section 4.

4.4.3 **Higher Limits.** If Consultant maintains higher limits than the minimums specified herein, the Agency shall be entitled to coverage for the higher limits maintained by the Consultant.

4.4.4 **Additional Certificates and Endorsements.** If Consultant provides services to Agency members, SCPPA, and/or SCPPA members pursuant to this Agreement, Consultant shall provide certificates of insurance and policy endorsements, as referenced in Section 4.4.1, naming the specific Agency member, SCPPA or SCPPA member.

4.5.5 **Waiver of Subrogation.** Consultant agrees to waive subrogation which any insurer of Consultant may acquire from Consultant by virtue of the payment of any loss. Consultant agrees to obtain any endorsement that may be necessary to effect this waiver of subrogation. In addition, the Workers’ Compensation policy shall be endorsed with a waiver of subrogation in favor of Agency for all work performed by Consultant, its employees, agents and subcontractors.

4.6 **Consultant’s Obligation.** Consultant shall be solely responsible for ensuring that all equipment, vehicles and other items utilized in the performance of Services are operated, provided or otherwise utilized in a manner that ensues they are and remain covered by the policies referenced in Section 4 during this
Agreement. Consultant shall also ensure that all workers involved in the provision of Services are properly classified as employees, agents or independent contractors and are and remain covered by any and all workers' compensation insurance required by applicable law during this Agreement.

Section 5. INDEMNIFICATION AND CONSULTANT’S RESPONSIBILITIES.

5.1 Effect of Insurance. Agency’s acceptance of insurance certificates and endorsements required under this Agreement does not relieve Consultant from liability under this indemnification and hold harmless clause. This indemnification and hold harmless clause shall apply to any damages or claims for damages whether or not such insurance policies shall have been determined to apply. By execution of this Agreement, Consultant acknowledges and agrees to the provisions of this Section and that it is a material element of consideration.

5.2 Scope. Consultant shall indemnify, defend with counsel reasonably acceptable to the Agency, and hold harmless the Agency, and its officials, commissioners, officers, employees, agents and volunteers from and against all losses, liabilities, claims, demands, suits, actions, damages, expenses, penalties, fines, costs (including without limitation costs and fees of litigation), judgments and causes of action of every nature arising out of or in connection with any acts or omissions by Consultant, its officers, officials, agents, and employees, except as caused by the sole or gross negligence of Agency. Notwithstanding, should this Agreement be construed as a construction agreement under Civil Code section 2783, then the exception referenced above shall also be for the active negligence of Agency.

Section 6. STATUS OF CONSULTANT.

6.1 Independent Contractor. Consultant is an independent contractor and not an employee of Agency. Agency shall have the right to control Consultant only insofar as the results of Consultant's Services and assignment of personnel pursuant to Section 1; otherwise, Agency shall not have the right to control the means by which Consultant accomplishes Services rendered pursuant to this Agreement. Notwithstanding any other Agency, state, or federal policy, rule, regulation, law, or ordinance to the contrary, Consultant and any of its employees, agents, and subcontractors providing services under this Agreement shall not qualify for or become entitled to, and hereby agree to waive any and all claims to, any compensation, benefit, or any incident of employment by Agency, including but not limited to eligibility to enroll in the California Public Employees Retirement System (PERS) as an employee of Agency and entitlement to any contribution to be paid by Agency for employer contributions and/or employee contributions for PERS benefits.

Consultant shall indemnify, defend, and hold harmless Agency for the payment of any employee and/or employer contributions for PERS benefits on behalf of Consultant or its employees, agents, or subcontractors, as well as for the
payment of any penalties and interest on such contributions, which would otherwise be the responsibility of Agency. Consultant and Agency acknowledge and agree that compensation paid by Agency to Consultant under this Agreement is based upon Consultant’s estimated costs of providing the Services, including salaries and benefits of employees, agents and subcontractors of Consultant.

Consultant shall indemnify, defend, and hold harmless Agency from any lawsuit, administrative action, or other claim for penalties, losses, costs, damages, expense and liability of every kind, nature and description that arise out of, pertain to, or relate to such claims, whether directly or indirectly, due to Consultant’s failure to secure workers’ compensation insurance for its employees, agents, or subcontractors.

Consultant agrees that it is responsible for the provision of group healthcare benefits to its fulltime employees under 26 U.S.C. § 4980H of the Affordable Care Act. To the extent permitted by law, Consultant shall indemnify, defend and hold harmless Agency from any penalty issued to Agency under the Affordable Care Act resulting from the performance of the Services by any employee, agent, or subcontractor of Consultant.

6.2 **Consultant Not Agent.** Except as Agency may specify in writing, Consultant shall have no authority, express or implied, to act on behalf of Agency in any capacity whatsoever as an agent. Consultant shall have no authority, express or implied, pursuant to this Agreement to bind Agency to any obligation whatsoever.

6.3 **Assignment and Subcontracting.** This Agreement contemplates personal performance by Consultant and is based upon a determination of Consultant’s unique professional competence, experience, and specialized professional knowledge. A substantial inducement to Agency for entering into this Agreement was and is the personal reputation and competence of Consultant. Consultant may not assign this Agreement or any interest therein without the prior written approval of the Agency. Consultant shall not subcontract any portion of the performance contemplated and provided for herein, other than to the subcontractors identified in Exhibit A, without prior written approval of the Agency. Where written approval is granted by the Agency, Consultant shall supervise all work subcontracted by Consultant in performing the services and shall be responsible for all work performed by a subcontractor as if Consultant itself had performed such work. The subcontracting of any work to subcontractors shall not relieve Consultant from any of its obligations under this Agreement with respect to the services and Consultant is obligated to ensure that any and all subcontractors performing any services shall be fully insured in all respects and to the same extent as set forth under Section 4, to Agency’s satisfaction.
6.4 **Certification as to California Energy Commission.** If requested by the Agency, Consultant shall, at the same time it executes this Agreement, execute Exhibit C.

**Section 7. LEGAL REQUIREMENTS.**

7.1 **Governing Law.** The laws of the State of California shall govern this Agreement.

7.2 **Compliance with Applicable Laws.** Consultant and its subcontractors and agents, if any, shall comply with all laws applicable to the performance of the work hereunder.

7.3 **Licenses and Permits.** Consultant represents and warrants to Agency that Consultant and its employees, agents, and subcontractors (if any) have and will maintain at their sole expense during the term of this Agreement all licenses, permits, qualifications, and approvals of whatever nature that are legally required to practice their respective professions.

**Section 8. TERMINATION AND MODIFICATION.**

8.1 **Termination.** Agency may cancel this Agreement at any time and without cause upon ten (10) days prior written notice to Consultant.

In the event of termination, Consultant shall be entitled to compensation for Services satisfactorily completed as of the effective date of termination; Agency, however, may condition payment of such compensation upon Consultant delivering to Agency any or all records or documents, as referenced in Section 9.1 hereof.

8.2 **Amendments.** The Parties may amend this Agreement only by a writing signed by all the Parties.

8.3 **Survival.** All obligations arising prior to the termination of this Agreement and all provisions of this Agreement allocating liability between Agency and Consultant shall survive the termination of this Agreement.

8.4 **Options upon Breach by Consultant.** If Consultant materially breaches any of the terms of this Agreement, including but not limited to those set forth in Section 4, Agency’s remedies shall include, but not be limited to, the following:

8.4.1 Immediately terminate the Agreement;

8.4.2 Retain the plans, specifications, drawings, reports, design documents, and any other work product prepared by Consultant pursuant to this Agreement;
8.4.3 Retain a different consultant to complete the Services not finished by Consultant; and/or

8.4.4 Charge Consultant the difference between the costs to complete the Services that is unfinished at the time of breach and the amount that Agency would have paid Consultant pursuant hereto if Consultant had completed the Services.

Section 9. KEEPING AND STATUS OF RECORDS.

9.1 Records Created as Part of Consultant's Performance. All reports, data, maps, models, charts, studies, surveys, photographs, memoranda, plans, studies, specifications, records, files, or any other documents or materials, in electronic or any other form, that Consultant prepares or obtains pursuant to this Agreement and that relate to the matters covered hereunder shall be the property of the Agency. Consultant hereby agrees to deliver those documents to the Agency upon termination of the Agreement. Agency and Consultant agree that, unless approved by Agency in writing, Consultant shall not release to any non-parties to this Agreement any data, plans, specifications, reports and other documents.

9.2 Consultant's Books and Records. Consultant shall maintain any and all records or other documents evidencing or relating to charges for Services or expenditures and disbursements charged to the Agency under this Agreement for a minimum of three (3) years, or for any longer period required by law, from the date of final payment to the Consultant to this Agreement.

9.3 Inspection and Audit of Records. Any records or documents that this Agreement requires Consultant to maintain shall be made available for inspection, audit, and/or copying at any time during regular business hours, upon oral or written request of the Agency. Under California Government Code Section 8546.7, if the amount of public funds expended under this Agreement exceeds ten thousand dollars ($10,000.00), the Agreement shall be subject to the examination and audit of the State Auditor, at the request of Agency or as part of any audit of the Agency, for a period of three (3) years after final payment under the Agreement.

9.4 Confidential Information and Disclosure.

9.4.1 Confidential Information. The term "Confidential Information", as used herein, shall mean any and all confidential, proprietary, or trade secret information, whether written, recorded, electronic, oral or otherwise, where the Confidential Information is made available in a tangible medium of expression and marked in a prominent location as confidential, proprietary and/or trade secret information. Confidential Information shall
not include information that: (a) was already known to the Receiving Party or is otherwise a matter of public knowledge, (b) was disclosed to Receiving Party by a third party without violating any confidentiality agreement, (c) was independently developed by Receiving Party without reverse engineering, as evidenced by written records thereof, or (d) was not marked as confidential Information in accordance with this section.

9.4.2 **Non-Disclosure of Confidential Information.** During the term of this Agreement, either party may disclose ("The Disclosing Party") confidential Information to the other party ("the Receiving Party"). The Receiving Party: (a) shall hold the Disclosing Party's Confidential Information in confident; and (b) shall take all reasonable steps to prevent any unauthorized possession, use, copying, transfer or disclosure of such Confidential Information.

9.4.3 **Permitted Disclosure.** Notwithstanding the foregoing, the following disclosures of Confidential Information are allowed. Receiving Party shall endeavor to provide prior written notice to Disclosing Party of any permitted disclosure made pursuant to Section 9.4.3.2 or 9.4.3.3. Disclosing Party may seek a protective order, including without limitation, a temporary restraining order to prevent or contest such permitted disclosure; provided, however, that Disclosing Party shall seek such remedies at its sole expense. Neither party shall have any liability for such permitted disclosures:

9.4.3.1 Disclosure to employees, agents, consultants, contractors, subcontractors or other representatives of Receiving Party that have a need to know in connection with this Agreement.

9.4.3.2 Disclosure in response to a valid order of a court, government or regulatory agency or as may otherwise be required by law; and

9.4.3.3 Disclosure by Agency in response to a request pursuant to the California Public Records Act.

9.4.4 **Handling of Confidential Information.** Upon conclusion or termination of the Agreement, Receiving Party shall return to Disclosing Party or destroy Confidential Information (including all copies thereof), if requested by Disclosing Party in writing. Notwithstanding the foregoing, the Receiving Party may retain copies of such Confidential Information, subject to the confidentiality provisions of this Agreement: (a) for archival purposes in its computer system; (b) in its legal department files; and (c) in files of Receiving Party's representatives where such copies are necessary to comply with applicable law. Party shall not disclose the Disclosing Party's Information to any person other than those of the Receiving Party’s employees, agents, consultants, contractors and
subcontractors who have a need to know in connection with this Agreement.

Section 10. MISCELLANEOUS PROVISIONS.

10.1 **Attorneys' Fees.** If a party to this Agreement brings any action, including an action for declaratory relief, to enforce or interpret the provision of this Agreement, the prevailing party shall be entitled to reasonable attorneys’ fees in addition to any other relief to which that party may be entitled. The court may set such fees in the same action or in a separate action brought for that purpose.

10.2 **Venue.** In the event that either party brings any action against the other under this Agreement, the Parties agree that trial of such action shall be vested exclusively in the state courts of California in the County of Placer or in the United States District Court for the Eastern District of California.

10.3 **Severability.** If a court of competent jurisdiction finds or rules that any provision of this Agreement is invalid, void, or unenforceable, the provisions of this Agreement not so adjudged shall remain in full force and effect. The invalidity in whole or in part of any provision of this Agreement shall not void or affect the validity of any other provision of this Agreement.

10.4 **No Implied Waiver of Breach.** The waiver of any breach of a specific provision of this Agreement does not constitute a waiver of any other breach of that term or any other term of this Agreement.

10.5 **Successors and Assigns.** The provisions of this Agreement shall inure to the benefit of and shall apply to and bind the successors and assigns of the Parties.

10.6 **Conflict of Interest.** Consultant may serve other clients, but none whose activities within the corporate limits of Agency or whose business, regardless of location, would place Consultant in a "conflict of interest," as that term is defined in the Political Reform Act, codified at California Government Code Section 81000 et seq.

   Consultant shall not employ any Agency official in the work performed pursuant to this Agreement. No officer or employee of Agency shall have any financial interest in this Agreement that would violate California Government Code Sections 1090 et seq.

10.7 **Contract Administrator.** This Agreement shall be administered by Ken Speer, Assistant General Manager, or his/her designee, who shall act as the Agency’s representative. All correspondence shall be directed to or through the representative.
10.8 **Notices.** Any written notice to Consultant shall be sent to:

Advanced Turbine Support, LLC  
Attention: Rick Ginder  
6280 SW 103rd Street  
Gainesville, FL  32608

Any written notice to Agency shall be sent to:

Randy S. Howard  
General Manager  
Northern California Power Agency  
651 Commerce Drive  
Roseville, CA  95678

With a copy to:

Jane E. Luckhardt  
General Counsel  
Northern California Power Agency  
651 Commerce Drive  
Roseville, CA  95678

10.9 **Professional Seal.** Where applicable in the determination of the Agency, the first page of a technical report, first page of design specifications, and each page of construction drawings shall be stamped/sealed and signed by the licensed professional responsible for the report/design preparation.

10.10 **Integration; Incorporation.** This Agreement, including all the exhibits attached hereto, represents the entire and integrated agreement between Agency and Consultant and supersedes all prior negotiations, representations, or agreements, either written or oral. All exhibits attached hereto are incorporated by reference herein.

10.11 **Alternative Dispute Resolution.** If any dispute arises between the Parties that cannot be settled after engaging in good faith negotiations, Agency and Consultant agree to resolve the dispute in accordance with the following:

10.11.1 Each party shall designate a senior management or executive level representative to negotiate any dispute;

10.11.2 The representatives shall attempt, through good faith negotiations, to resolve the dispute by any means within their authority.

10.11.3 If the issue remains unresolved after fifteen (15) days of good faith negotiations, the Parties shall attempt to resolve the disagreement
by negotiation between legal counsel. If the above process fails, the Parties shall resolve any remaining disputes through mediation to expedite the resolution of the dispute.

10.11.4 The mediation process shall provide for the selection within fifteen (15) days by both Parties of a disinterested third person as mediator, shall be commenced within thirty (30) days and shall be concluded within fifteen (15) days from the commencement of the mediation.

10.11.5 The Parties shall equally bear the costs of any third party in any alternative dispute resolution process.

10.11.6 The alternative dispute resolution process is a material condition to this Agreement and must be exhausted as an administrative prior to either Party initiating legal action. This alternative dispute resolution process is not intended to nor shall be construed to change the time periods for filing a claim or action specified by Government Code §§ 900 et seq.

10.12 **Controlling Provisions.** In the case of any conflict between the terms of this Agreement and the Exhibits hereto, a Purchase Order, or Consultant’s Proposal (if any), the Agreement shall control. In the case of any conflict between the Exhibits hereto and a Purchase Order or the Consultant’s Proposal, the Exhibits shall control. In the case of any conflict between the terms of a Purchase Order and the Consultant’s Proposal, the Purchase Order shall control.

10.13 **Counterparts.** This Agreement may be executed in multiple counterparts, each of which shall be an original and all of which together shall constitute one agreement.

10.14 **Construction of Agreement.** Each party hereto has had an equivalent opportunity to participate in the drafting of the Agreement and/or to consult with legal counsel. Therefore, the usual construction of an agreement against the drafting party shall not apply hereto.

10.15 **No Third Party Beneficiaries.** This Agreement is made solely for the benefit of the parties hereto, with no intent to benefit any non-signator third parties. However, should Consultant provide Services to an Agency member, SCCPA and/or a SCPPA member (collectively for the purposes of this section only "Member") pursuant to section 1.4, the parties recognize that such Member may be a third party beneficiary solely as to the Purchase Order and Requested Services relating to such Member.
The Parties have executed this Agreement as of the date signed by the Agency.

NORTHERN CALIFORNIA POWER AGENCY
Date________________________

RANDY S. HOWARD
General Manager

Attest:

____________________________
Assistant Secretary of the Commission

Approved as to Form:

____________________________
Jane E. Luckhardt, General Counsel
EXHIBIT A

SCOPE OF SERVICES

Advanced Turbine Support, LLC ("Consultant") shall provide borescope inspection and non-destructive testing services as requested by the Northern California Power Agency ("Agency") at any facilities owned or operated by Agency, its Members, Southern California Public Power Authority (SCPPA) or SCPPA members.

Services to include, but not be limited to the following:

- Borescope Inspections
- Non-Destructive Testing
EXHIBIT B

COMPENSATION SCHEDULE AND HOURLY FEES

Compensation for all tasks, including hourly fees and expenses, shall not exceed amount as set forth in Section 2 of this Agreement.

Pricing for services to be performed varies at NCPA, NCPA Member or SCPPA locations and will be quoted at the time services are requested.

NOTE: As a public agency, NCPA shall not reimburse Consultant for travel, food and related costs in excess of those permitted by the Internal Revenue Service.
EXHIBIT C
CERTIFICATION
Affidavit of Compliance for Contractors

I, __________________________
(Name of person signing affidavit)(Title)

do hereby certify that background investigations to ascertain the accuracy of the identity and employment history of all employees of

________________________________________________________
(Company name)

for contract work at:

LODI ENERGY CENTER, 12745 N. THORNTON ROAD, LODI, CA 95242
(Project name and location)

have been conducted as required by the California Energy Commission Decision for the above-named project.

__________________________________________
(Signature of officer or agent)

Dated this ___________________ day of _________________, 20 _______.

THIS AFFIDAVIT OF COMPLIANCE SHALL BE APPENDED TO THE PROJECT SECURITY PLAN AND SHALL BE RETAINED AT ALL TIMES AT THE PROJECT SITE FOR REVIEW BY THE CALIFORNIA ENERGY COMMISSION COMPLIANCE PROJECT MANAGER.
Lodi Energy Center Project Participant Committee

Staff Report

Date: August 2, 2018
Meeting Date: September 10, 2018
To: Lodi Energy Center Project Participant Committee
Subject: Ernie & Sons Scaffolding dba Unique Scaffold – Five Year Multi-Task General Services Agreement; Applicable to the following projects: All NCPA locations and Members, SCPPA, and SCPPA Members

Proposal
Approve the Multi-Task General Services Agreement with Ernie & Sons Scaffolding dba Unique Scaffold for scaffolding services, with any non-substantial changes recommended and approved by the NCPA General Counsel, which shall not exceed $2,000,000 over 5 years for use at all facilities owned and/or operated by NCPA, its Members, by the Southern California Public Power Authority (“SCPPA”), or by SCPPA Members.

Background
Scaffolding services are required from time to time related to project support at facilities owned and/or operated by NCPA, its Members, by the Southern California Public Power Authority (“SCPPA”), or by SCPPA Members.

Selection Process
This enabling agreement does not commit NCPA to any expenditure of funds. At the time services are required, NCPA will bid the specific scope of work consistent with NCPA procurement policies and procedures. NCPA currently has similar agreements in place with Brand Energy (pending) and Performance Contracting and seeks bids from multiple qualified providers whenever services are needed. Bids are awarded to the lowest cost provider. NCPA will issue purchase orders based on cost and availability of the services needed at the time the service is required.

Fiscal Impact
Upon execution, the total cost of the agreement is not-to-exceed $2,000,000 over five years to be used out of NCPA approved budgets as services are rendered. Purchase orders referencing the terms and conditions of the Agreement will be issued following NCPA procurement policies and procedures.
Environmental Analysis
This activity would not result in a direct or reasonably foreseeable indirect change in the physical environment and is therefore not a “project” for purposes of Section 21065 the California Environmental Quality Act. No environmental review is necessary.

Submitted by:

KEN SPEER
Assistant General Manager
Generation Services

Attachments: (1)
- Multi-Task General Services Agreement with Ernie & Sons Scaffolding dba Unique Scaffold
MULTI-TASK
GENERAL SERVICES AGREEMENT BETWEEN
THE NORTHERN CALIFORNIA POWER AGENCY AND
ERNIE & SONS SCAFFOLDING DBA UNIQUE SCAFFOLD

This Multi-Task General Services Agreement ("Agreement") is made by and between the Northern California Power Agency, a joint powers agency with its main office located at 651 Commerce Drive, Roseville, CA 95678-6420 ("Agency") and Ernie & Sons Scaffolding dba Unique Scaffold, with its office located at 1960 Olivera Road, Concord, CA 94520 ("Contractor") (together sometimes referred to as the "Parties") as of ____________, 2018 ("Effective Date") in Roseville, California.

Section 1. SCOPE OF WORK. Subject to the terms and conditions set forth in this Agreement, Contractor is willing to provide to Agency the range of services and/or goods described in the Scope of Work attached hereto as Exhibit A and incorporated herein ("Work").

1.1 Term of Agreement. The term of this Agreement shall begin on the Effective Date and shall end when Contractor completes the Work, or no later than five (5) years from the date this Agreement was signed by Agency, whichever is shorter.

1.2 Standard of Performance. Contractor shall perform the Work in the manner and according to the standards observed by a competent practitioner of the profession in which Contractor is engaged and for which Contractor is providing the Work. Contractor represents that it is licensed, qualified and experienced to provide the Work set forth herein.

1.3 Assignment of Personnel. Contractor shall assign only competent personnel to perform the Work. In the event that Agency, in its sole discretion, at any time during the term of this Agreement, requests the reassignment of any such personnel, Contractor shall, immediately upon receiving written notice from Agency of such request, reassign such personnel.

1.4 Work Provided. Work provided under this Agreement by Contractor may include Work directly to the Agency or, as requested by the Agency and consistent with the terms of this Agreement, to Agency members, Southern California Public Power Authority ("SCPPA") or SCPPA members.

1.5 Request for Work to be Performed. At such time that Agency determines to have Contractor perform Work under this Agreement, Agency shall issue a Purchase Order. The Purchase Order shall identify the specific Work to be performed ("Requested Work"), may include a not-to-exceed cap on monetary cap on Requested Work and all related expenditures authorized by that Purchase Order, and shall include a time by which the Requested Work shall be completed. Contractor shall have seven calendar days from the date of the Agency’s issuance of the Purchase Order in which to respond in writing that Contractor chooses not to perform the Requested Work. If Contractor agrees to perform the Requested Work, begins to perform the Requested Work, or does not respond within the seven day period specified, then Contractor will have
agreed to perform the Requested Work on the terms set forth in the Purchase Order, this Agreement and its Exhibits.

Section 2. COMPENSATION. Agency hereby agrees to pay Contractor an amount NOT TO EXCEED TWO MILLION dollars ($2,000,000.00) for the Work, which shall include all fees, costs, expenses and other reimbursables, as set forth in Contractor's fee schedule, attached hereto and incorporated herein as Exhibit B. This dollar amount is not a guarantee that Agency will pay that full amount to the Contractor, but is merely a limit of potential Agency expenditures under this Agreement.

2.1 Invoices. Contractor shall submit invoices, not more often than once a month during the term of this Agreement, based on the cost for services performed and reimbursable costs incurred prior to the invoice date. Invoices shall contain the following information:

- The beginning and ending dates of the billing period;
- Work performed;
- The Purchase Order number authorizing the Requested Work;
- At Agency's option, for each work item in each task, a copy of the applicable time entries or time sheets shall be submitted showing the name of the person doing the work, the hours spent by each person, a brief description of the work, and each reimbursable expense, with supporting documentation, to Agency's reasonable satisfaction;
- At Agency's option, the total number of hours of work performed under the Agreement by Contractor and each employee, agent, and subcontractor of Contractor performing work hereunder.

Invoices shall be sent to:

Northern California Power Agency
651 Commerce Drive
Roseville, California 95678
Attn: Accounts Payable
AcctsPayable@ncpa.com

2.2 Monthly Payment. Agency shall make monthly payments, based on invoices received, for Work satisfactorily performed, and for authorized reimbursable costs incurred. Agency shall have thirty (30) days from the receipt of an invoice that complies with all of the requirements above to pay Contractor.

2.3 Payment of Taxes. Contractor is solely responsible for the payment of all federal, state and local taxes, including employment taxes, incurred under this Agreement.

2.4 Authorization to Perform Work. The Contractor is not authorized to perform any Work or incur any costs whatsoever under the terms of this Agreement until receipt of a Purchase Order from the Contract Administrator.
2.5 **Timing for Submittal of Final Invoice.** Contractor shall have ninety (90) days after completion of the Requested Work to submit its final invoice for the Requested Work. In the event Contractor fails to submit an invoice to Agency for any amounts due within the ninety (90) day period, Contractor is deemed to have waived its right to collect its final payment for the Requested Work from Agency.

**Section 3. FACILITIES AND EQUIPMENT.** Except as set forth herein, Contractor shall, at its sole cost and expense, provide all facilities and equipment that may be necessary to perform the Work.

**Section 4. INSURANCE REQUIREMENTS.** Before beginning any Work under this Agreement, Contractor, at its own cost and expense, shall procure the types and amounts of insurance listed below and shall maintain the types and amounts of insurance listed below for the period covered by this Agreement.

4.1 **Workers’ Compensation.** If Contractor employs any person, Contractor shall maintain Statutory Workers’ Compensation Insurance and Employer’s Liability Insurance for any and all persons employed directly or indirectly by Contractor with limits of not less than one million dollars ($1,000,000.00) per accident.

4.2 **Commercial General and Automobile Liability Insurance.**

4.2.1 **Commercial General Insurance.** Contractor shall maintain commercial general liability insurance for the term of this Agreement, including products liability, covering any loss or liability, including the cost of defense of any action, for bodily injury, death, personal injury and broad form property damage which may arise out of the operations of Contractor. The policy shall provide a minimum limit of $1,000,000 per occurrence/$2,000,000 aggregate. Commercial general coverage shall be at least as broad as ISO Commercial General Liability form CG 0001 (current edition) on "an occurrence" basis covering comprehensive General Liability, with a self-insured retention or deductible of no more than $100,000. No endorsement shall be attached limiting the coverage.

4.2.2 **Automobile Liability.** Contractor shall maintain automobile liability insurance form CA 0001 (current edition) for the term of this Agreement covering any loss or liability, including the cost of defense of any action, arising from the operation, maintenance or use of any vehicle (symbol 1), whether or not owned by the Contractor, on or off Agency premises. The policy shall provide a minimum limit of $1,000,000 per each accident, with a self-insured retention or deductible of no more than $100,000. This insurance shall provide contractual liability covering all motor vehicles and mobile equipment to the extent coverage may be excluded from general liability insurance.

4.2.3 **General Liability/Umbrella Insurance.** The coverage amounts set forth above may be met by a combination of underlying and umbrella policies as long as in combination the limits equal or exceed those stated.
4.3 **Professional Liability Insurance.** Not Applicable.

4.4 **Pollution Insurance.** Not Applicable.

4.5 **All Policies Requirements.**

4.5.1 **Verification of coverage.** Prior to beginning any work under this Agreement, Contractor shall provide Agency with (1) a Certificate of Insurance that demonstrates compliance with all applicable insurance provisions contained herein and (2) policy endorsements to the policies referenced in Section 4.2 and in Section 4.4, if applicable, adding the Agency as an additional insured and declaring such insurance primary in regard to work performed pursuant to this Agreement.

4.5.2 **Notice of Reduction in or Cancellation of Coverage.** Contractor shall provide at least thirty (30) days prior written notice to Agency of any reduction in scope or amount, cancellation, or modification adverse to Agency of the policies referenced in Section 4.

4.5.3 **Higher Limits.** If Contractor maintains higher limits than the minimums specified herein, the Agency shall be entitled to coverage for the higher limits maintained by the Contractor.

4.5.4 **Additional Certificates and Endorsements.** If Contractor performs Work for Agency members, SCPPA and/or SCPPA members pursuant to this Agreement, Contractor shall provide the certificates of insurance and policy endorsements, as referenced in Section 4.5.1, naming the specific Agency member, SCPPA and/or SCPPA member for which the Work is to be performed.

4.5.5 **Waiver of Subrogation.** Contractor agrees to waive subrogation which any insurer of Contractor may acquire from Contractor by virtue of the payment of any loss. Contractor agrees to obtain any endorsement that may be necessary to effect this waiver of subrogation. In addition, the Workers’ Compensation policy shall be endorsed with a waiver of subrogation in favor of Agency for all work performed by Contractor, its employees, agents and subcontractors.

4.6 **Contractor’s Obligation.** Contractor shall be solely responsible for ensuring that all equipment, vehicles and other items utilized in the performance of Work are operated, provided or otherwise utilized in a manner that ensures they are and remain covered by the policies referenced in Section 4 during this Agreement. Contractor shall also ensure that all workers involved in the provision of Work are properly classified as employees, agents or independent contractors and are and remain covered by any and all workers’ compensation insurance required by applicable law during this Agreement.
Section 5. INDEMNIFICATION AND CONTRACTOR’S RESPONSIBILITIES.

5.1 **Effect of Insurance.** Agency’s acceptance of insurance certificates and endorsements required under this Agreement does not relieve Contractor from liability under this indemnification and hold harmless clause. This indemnification and hold harmless clause shall apply to any damages or claims for damages whether or not such insurance policies shall have been determined to apply. By execution of this Agreement, Contractor acknowledges and agrees to the provisions of this section and that it is a material element of consideration.

5.2 **Scope.** Contractor shall indemnify, defend with counsel reasonably acceptable to the Agency, and hold harmless the Agency, and its officials, commissioners, officers, employees, agents and volunteers from and against all losses, liabilities, claims, demands, suits, actions, damages, expenses, penalties, fines, costs (including without limitation costs and fees of litigation), judgments and causes of action of every nature arising out of or in connection with any acts or omissions by Contractor, its officers, officials, agents, and employees, except as caused by the sole or gross negligence of Agency. Notwithstanding, should this Agreement be construed as a construction agreement under Civil Code section 2783, then the exception referenced above shall also be for the active negligence of Agency.

5.3 **Transfer of Title.** Not Applicable.

Section 6. STATUS OF CONTRACTOR.

6.1 **Independent Contractor.** Contractor is an independent contractor and not an employee of Agency. Agency shall have the right to control Contractor only insofar as the results of Contractor’s Work and assignment of personnel pursuant to Section 1; otherwise, Agency shall not have the right to control the means by which Contractor accomplishes Work rendered pursuant to this Agreement. Notwithstanding any other Agency, state, or federal policy, rule, regulation, law, or ordinance to the contrary, Contractor and any of its employees, agents, and subcontractors providing services under this Agreement shall not qualify for or become entitled to, and hereby agree to waive any and all claims to, any compensation, benefit, or any incident of employment by Agency, including but not limited to eligibility to enroll in the California Public Employees Retirement System (PERS) as an employee of Agency and entitlement to any contribution to be paid by Agency for employer contributions and/or employee contributions for PERS benefits.

Contractor shall indemnify, defend, and hold harmless Agency for the payment of any employee and/or employer contributions for PERS benefits on behalf of Contractor or its employees, agents, or subcontractors, as well as for the payment of any penalties and interest on such contributions, which would otherwise be the responsibility of Agency. Contractor and Agency acknowledge and agree that compensation paid by Agency to Contractor under this Agreement is based upon Contractor’s estimated costs of providing the Work, including salaries and benefits of employees, agents and subcontractors of Contractor.
Contractor shall indemnify, defend, and hold harmless Agency from any lawsuit, administrative action, or other claim for penalties, losses, costs, damages, expense and liability of every kind, nature and description that arise out of, pertain to, or relate to such claims, whether directly or indirectly, due to Contractor’s failure to secure workers’ compensation insurance for its employees, agents, or subcontractors.

Contractor agrees that it is responsible for the provision of group healthcare benefits to its fulltime employees under 26 U.S.C. § 4980H of the Affordable Care Act. To the extent permitted by law, Contractor shall indemnify, defend and hold harmless Agency from any penalty issued to Agency under the Affordable Care Act resulting from the performance of the Services by any employee, agent, or subcontractor of Contractor.

6.2 Contractor Not Agent. Except as Agency may specify in writing, Contractor shall have no authority, express or implied, to act on behalf of Agency in any capacity whatsoever as an agent. Contractor shall have no authority, express or implied, pursuant to this Agreement to bind Agency to any obligation whatsoever.

6.3 Assignment and Subcontracting. This Agreement contemplates personal performance by Contractor and is based upon a determination of Contractor’s unique professional competence, experience, and specialized professional knowledge. A substantial inducement to Agency for entering into this Agreement was and is the personal reputation and competence of Contractor. Contractor may not assign this Agreement or any interest therein without the prior written approval of the Agency. Contractor shall not subcontract any portion of the performance contemplated and provided for herein, other than to the subcontractors identified in Exhibit A, without prior written approval of the Agency. Where written approval is granted by the Agency, Contractor shall supervise all work subcontracted by Contractor in performing the Work and shall be responsible for all work performed by a subcontractor as if Contractor itself had performed such work. The subcontracting of any work to subcontractors shall not relieve Contractor from any of its obligations under this Agreement with respect to the Work and Contractor is obligated to ensure that any and all subcontractors performing any Work shall be fully insured in all respects and to the same extent as set forth under Section 4, to Agency’s satisfaction.

6.4 Certification as to California Energy Commission. If requested by the Agency, Contractor shall, at the same time it executes this Agreement, execute Exhibit C.

6.5 Certification as to California Energy Commission Regarding Hazardous Materials Transport Vendors. If requested by the Agency, Contractor shall, at the same time it executes this Agreement, execute Exhibit D.

6.6 Maintenance Labor Agreement. If the Work is subject to the terms of one or more Maintenance Labor Agreements, which are applicable only to certain types
of construction, repair and/or maintenance projects, then Contractor shall execute Exhibit E and/or similar documentation as to compliance.

Section 7. LEGAL REQUIREMENTS.

7.1 Governing Law. The laws of the State of California shall govern this Agreement.

7.2 Compliance with Applicable Laws. Contractor and its subcontractors and agents, if any, shall comply with all laws applicable to the performance of the work hereunder.

7.3 Licenses and Permits. Contractor represents and warrants to Agency that Contractor and its employees, agents, and subcontractors (if any) have and will maintain at their sole expense during the term of this Agreement all licenses, permits, qualifications, and approvals of whatever nature that are legally required to practice their respective professions.

7.4 Monitoring by DIR. The Work is subject to compliance monitoring and enforcement by the Department of Industrial Relations.

7.5 Registration with DIR. During the term of this Agreement, Contractor warrants that it is registered with the Department of Industrial Relations and qualified to perform Work consistent with Labor Code section 1725.5.

7.6 Prevailing Wage Rates. In accordance with California Labor Code Section 1771, not less than the general prevailing rate of per diem wages for work of a similar character in the locality in which the Work is to be performed, and not less than the general prevailing rate of per diem wages for holiday and overtime work as provided in the California Labor Code must be paid to all workers engaged in performing the Work. In accordance with California Labor Code Section 1770 and following, the Director of Industrial Relations has determined the general prevailing wage per diem rates for the locality in which the Work is to be performed; the Agency has obtained the general prevailing rate of per diem wages and the general rate for holiday and overtime work in the locality in which the Work is to be performed for each craft, classification or type of worker needed to perform the project; and copies of the prevailing rate of per diem wages are on file at the Agency and will be made available on request. Throughout the performance of the Work, Contractor must comply with all applicable laws and regulations that apply to wages earned in performance of the Work. Contractor assumes all responsibility for such payments and shall defend, indemnify and hold the Agency harmless from any and all claims made by the State of California, the Department of Industrial Relations, any subcontractor, any worker or any other third party with regard thereto.

Additionally, in accordance with the California Administrative Code, Title 8, Group 3, Article 2, Section 16000, Publication of Prevailing Wage Rates by Awarding
Bodies, copies of the applicable determination of the Director can be found on the web at: [http://www.dir.ca.gov/DLSR/PWD/](http://www.dir.ca.gov/DLSR/PWD/) and may be reviewed at any time.

Contractor shall be required to submit to the Agency during the contract period, copies of Public Works payroll reporting information per California Department of Industrial Relations, Form A-1-131 (New 2-80) concerning work performed under this Agreement.

Contractor shall comply with applicable law, including Labor Code Sections 1774 and 1775. In accordance with Section 1775, Contractor shall forfeit as a penalty to Agency $50.00 for each calendar day or portion thereof, for each worker paid less than the prevailing rates as determined by the Director of Industrial Relations for such work or craft in which such worker is employed for any Work done under the Agreement by Contractor or by any subcontractor under Contractor in violation of the provisions of the Labor Code and in particular, Labor Code Sections 1770 et seq. In addition to the penalty and pursuant to Section 1775, the difference between such prevailing wage rates and the amount paid to each worker for each calendar day or portion thereof for which each worker was paid less than the prevailing wage rate shall be paid to each worker by the Contractor.

**Section 8. TERMINATION AND MODIFICATION.**

8.1 **Termination.** Agency may cancel this Agreement at any time and without cause upon ten (10) days prior written notice to Contractor.

In the event of termination, Contractor shall be entitled to compensation for Work satisfactorily completed as of the effective date of termination; Agency, however, may condition payment of such compensation upon Contractor delivering to Agency any or all records or documents (as referenced in Section 9.1 hereof).

8.2 **Amendments.** The Parties may amend this Agreement only by a writing signed by both of the Parties.

8.3 **Survival.** All obligations arising prior to the termination of this Agreement and all provisions of this Agreement allocating liability between Agency and Contractor shall survive the termination of this Agreement.

8.4 **Options upon Breach by Contractor.** If Contractor materially breaches any of the terms of this Agreement, including but not limited to those set forth in Section 4, Agency’s remedies shall include, but not be limited to, the following:

8.4.1 Immediately terminate the Agreement;

8.4.2 Retain the plans, specifications, drawings, reports, design documents, and any other work product prepared by Contractor pursuant to this Agreement;
8.4.3 Retain a different Contractor to complete the Work not finished by Contractor; and/or

8.4.4 Charge Contractor the difference between the costs to complete the Work that is unfinished at the time of breach and the amount that Agency would have paid Contractor pursuant hereto if Contractor had completed the Work.

Section 9. KEEPING AND STATUS OF RECORDS.

9.1 Records Created as Part of Contractor’s Performance. All reports, data, maps, models, charts, studies, surveys, photographs, memoranda, plans, studies, specifications, records, files, or any other documents or materials, in electronic or any other form, that Contractor prepares or obtains pursuant to this Agreement and that relate to the matters covered hereunder shall be the property of the Agency. Contractor hereby agrees to deliver those documents to the Agency upon termination of the Agreement. Agency and Contractor agree that, unless approved by Agency in writing, Contractor shall not release to any non-parties to this Agreement any data, plans, specifications, reports and other documents.

9.2 Contractor’s Books and Records. Contractor shall maintain any and all records or other documents evidencing or relating to charges for Work or expenditures and disbursements charged to the Agency under this Agreement for a minimum of three (3) years, or for any longer period required by law, from the date of final payment to the Contractor under this Agreement.

9.3 Inspection and Audit of Records. Any records or documents that this Agreement requires Contractor to maintain shall be made available for inspection, audit, and/or copying at any time during regular business hours, upon oral or written request of the Agency. Under California Government Code Section 8546.7, if the amount of public funds expended under this Agreement exceeds ten thousand dollars ($10,000.00), the Agreement shall be subject to the examination and audit of the State Auditor, at the request of Agency or as part of any audit of the Agency, for a period of three (3) years after final payment under this Agreement.

9.4 Confidential Information and Disclosure.

9.4.1 Confidential Information. The term "Confidential Information", as used herein, shall mean any and all confidential, proprietary, or trade secret information, whether written, recorded, electronic, oral or otherwise, where the Confidential Information is made available in a tangible medium of expression and marked in a prominent location as confidential, proprietary and/or trade secret information. Confidential Information shall not include information that: (a) was already known to the Receiving Party or is otherwise a matter of public knowledge, (b) was disclosed to Receiving Party by a third party without violating any confidentiality
agreement, (c) was independently developed by Receiving Party without reverse engineering, as evidenced by written records thereof, or (d) was not marked as Confidential Information in accordance with this section.

9.4.2 Non-Disclosure of Confidential Information. During the term of this Agreement, either party may disclose (the “Disclosing Party”) Confidential Information to the other party (the “Receiving Party”). The Receiving Party: (a) shall hold the Disclosing Party’s Confidential Information in confidence; and (b) shall take all reasonable steps to prevent any unauthorized possession, use, copying, transfer or disclosure of such Confidential Information.

9.4.3 Permitted Disclosure. Notwithstanding the foregoing, the following disclosures of Confidential Information are allowed. Receiving Party shall endeavor to provide prior written notice to Disclosing Party of any permitted disclosure made pursuant to Section 9.4.3.2 or 9.4.3.3. Disclosing Party may seek a protective order, including without limitation, a temporary restraining order to prevent or contest such permitted disclosure; provided, however, that Disclosing Party shall seek such remedies at its sole expense. Neither party shall have any liability for such permitted disclosures:

9.4.3.1 Disclosure to employees, agents, contractors, subcontractors or other representatives of Receiving Party that have a need to know in connection with this Agreement.

9.4.3.2 Disclosure in response to a valid order of a court, government or regulatory agency or as may otherwise be required by law; and

9.4.3.3 Disclosure by Agency in response to a request pursuant to the California Public Records Act.

9.4.4 Handling of Confidential Information. Upon conclusion or termination of the Agreement, Receiving Party shall return to Disclosing Party or destroy Confidential Information (including all copies thereof), if requested by Disclosing Party in writing. Notwithstanding the foregoing, the Receiving Party may retain copies of such Confidential Information, subject to the confidentiality provisions of this Agreement: (a) for archival purposes in its computer system; (b) in its legal department files; and (c) in files of Receiving Party’s representatives where such copies are necessary to comply with applicable law. Party shall not disclose the Disclosing Party’s Information to any person other than those of the Receiving Party’s employees, agents, consultants, contractors and subcontractors who have a need to know in connection with this Agreement.
Section 10. PROJECT SITE.

10.1 Operations at the Project Site. Each Project site may include the power plant areas, all buildings, offices, and other locations where Work is to be performed, including any access roads. Contractor shall perform the Work in such a manner as to cause a minimum of interference with the operations of the Agency; if applicable, the entity for which Contractor is performing the Work, as referenced in Section 1.4; and other contractors at the Project site and to protect all persons and property thereon from damage or injury. Upon completion of the Work at a Project site, Contractor shall leave such Project site clean and free of all tools, equipment, waste materials and rubbish, stemming from or relating to Contractor's Work.

10.2 Contractor's Equipment, Tools, Supplies and Materials. Contractor shall be solely responsible for the transportation, loading and unloading, and storage of any equipment, tools, supplies or materials required for performing the Work, whether owned, leased or rented. Neither Agency nor, if applicable, the entity for which Contractor is performing the Work, as referenced in Section 1.4, will be responsible for any such equipment, supplies or materials which may be lost, stolen or damaged or for any additional rental charges for such. Equipment, tools, supplies and materials left or stored at a Project site, with or without permission, is at Contractor’s sole risk. Anything left on the Project site an unreasonable length of time after the Work is completed shall be presumed to have been abandoned by the Contractor. Any transportation furnished by Agency or, if applicable, the entity for which Contractor is performing the Work, as referenced in Section 1.4, shall be solely as an accommodation and neither Agency nor, if applicable, the entity for which Contractor is performing the Work, as referenced in Section 1.4, shall have liability therefor. Contractor shall assume the risk and is solely responsible for its owned, non-owned and hired automobiles, trucks or other motorized vehicles as well as any equipment, tools, supplies, materials or other property which is utilized by Contractor on the Project site. All materials and supplies used by Contractor in the Work shall be new and in good condition.

10.3 Use of Agency Equipment. Contractor shall assume the risk and is solely responsible for its use of any equipment owned and property provided by Agency and, if applicable, the entity for which Contractor is performing the Work, as referenced in Section 1.4, for the performance of Work.

Section 11. WARRANTY.

11.1 Nature of Work. In addition to any and all warranties provided or implied by law or public policy, Contractor warrants that all Work shall be free from defects in design and workmanship, and that Contractor shall perform all Work in accordance with applicable federal, state, and local laws, rules and regulations including engineering, construction and other codes and standards and prudent electrical utility standards, and in accordance with the terms of this Agreement.
11.2 **Deficiencies in Work.** In addition to all other rights and remedies which Agency may have, Agency shall have the right to require, and Contractor shall be obligated at its own expense to perform, all further Work which may be required to correct any deficiencies which result from Contractor’s failure to perform any Work in accordance with the standards required by this Agreement. If during the term of this Agreement or the one (1) year period following completion of the Work, any equipment, supplies or other materials or Work used or provided by Contractor under this Agreement fails due to defects in material and/or workmanship or other breach of this Agreement, Contractor shall, upon any reasonable written notice from Agency, replace or repair the same to Agency’s satisfaction.

11.3 **Assignment of Warranties.** Contractor hereby assigns to Agency all additional warranties, extended warranties, or benefits like warranties, such as insurance, provided by or reasonably obtainable from suppliers of equipment and material used in the Work.

**Section 12. HEALTH AND SAFETY PROGRAMS.** The Contractor shall establish, maintain, and enforce safe work practices, and implement an accident/incident prevention program intended to ensure safe and healthful operations under their direction. The program shall include all requisite components of such a program under Federal, State and local regulations and shall comply with all site programs established by Agency and, if applicable, the entity for which Contractor is performing the Work, as referenced in Section 1.4.

12.1 Contractor is responsible for acquiring job hazard assessments as necessary to safely perform the Work and provide a copy to Agency upon request.

12.2 Contractor is responsible for providing all employee health and safety training and personal protective equipment in accordance with potential hazards that may be encountered in performance of the Work and provide copies of the certified training records upon request by Agency. Contractor shall be responsible for proper maintenance and/or disposal of their personal protective equipment and material handling equipment.

12.3 Contractor is responsible for ensuring that its lower-tier subcontractors are aware of and will comply with the requirements set forth herein.

12.4 Agency, or its representatives, may periodically monitor the safety performance of the Contractor performing the Work. Contractors and its subcontractors shall be required to comply with the safety and health obligations as established in the Agreement. Non-compliance with safety, health, or fire requirements may result in cessation of work activities, until items in non-compliance are corrected. It is also expressly acknowledged, understood and agreed that no payment shall be due from Agency to Contractor under this Agreement at any time when, or for any Work performed when, Contractor is not in full compliance with this Section 12.
12.5 Contractor shall immediately report any injuries to the Agency site safety representative. Additionally, the Contractor shall investigate and submit to the Agency site safety representative copies of all written accident reports, and coordinate with Agency if further investigation is requested.

12.6 Contractor shall take all reasonable steps and precautions to protect the health of its employees and other site personnel with regard to the Work. Contractor shall conduct occupational health monitoring and/or sampling to determine levels of exposure of its employees to hazardous or toxic substances or environmental conditions. Copies of any sampling results will be forwarded to the Agency site safety representative upon request.

12.7 Contractor shall develop a plan to properly handle and dispose of any hazardous wastes, if any, Contractor generates in performing the Work.

12.8 Contractor shall advise its employees and subcontractors that any employee who jeopardizes his/her safety and health, or the safety and health of others, may be subject to actions including removal from Work.

12.9 Contractor shall, at the sole option of the Agency, develop and provide to the Agency a Hazardous Material Spill Response Plan that includes provisions for spill containment and clean-up, emergency contact information including regulatory agencies and spill sampling and analysis procedures. Hazardous Materials shall include diesel fuel used for trucks owned or leased by the Contractor.

12.10 If Contractor is providing Work to an Agency Member, SCPPA or SCPPA member (collectively “Member” solely for the purpose of this section) pursuant to Section 1.4 hereof, then that Member shall have the same rights as the Agency under Sections 12.1, 12.2, 12.4, 12.5, and 12.6 hereof.

Section 13. MISCELLANEOUS PROVISIONS.

13.1 Attorneys’ Fees. If a party to this Agreement brings any action, including an action for declaratory relief, to enforce or interpret the provision of this Agreement, the prevailing party shall be entitled to reasonable attorneys’ fees in addition to any other relief to which that party may be entitled. The court may set such fees in the same action or in a separate action brought for that purpose.

13.2 Venue. In the event that either party brings any action against the other under this Agreement, the Parties agree that trial of such action shall be vested exclusively in the state courts of California in the County of Placer or in the United States District Court for the Eastern District of California.

13.3 Severability. If a court of competent jurisdiction finds or rules that any provision of this Agreement is invalid, void, or unenforceable, the provisions of this Agreement not so adjudged shall remain in full force and effect. The invalidity in
whole or in part of any provision of this Agreement shall not void or affect the validity of any other provision of this Agreement.

13.4 **No Implied Waiver of Breach.** The waiver of any breach of a specific provision of this Agreement does not constitute a waiver of any other breach of that term or any other term of this Agreement.

13.5 **Successors and Assigns.** The provisions of this Agreement shall inure to the benefit of and shall apply to and bind the successors and assigns of the Parties.

13.6 **Conflict of Interest.** Contractor may serve other clients, but none whose activities within the corporate limits of Agency or whose business, regardless of location, would place Contractor in a “conflict of interest,” as that term is defined in the Political Reform Act, codified at California Government Code Section 81000 et seq.

Contractor shall not employ any Agency official in the work performed pursuant to this Agreement. No officer or employee of Agency shall have any financial interest in this Agreement that would violate California Government Code Sections 1090 et seq.

13.7 **Contract Administrator.** This Agreement shall be administered by Ken Speer, Assistant General Manager, or his/her designee, who shall act as the Agency’s representative. All correspondence shall be directed to or through the representative.

13.8 **Notices.** Any written notice to Contractor shall be sent to:

Ernie & Sons Scaffolding dba Unique Scaffold  
Attention: John Soto  
1960 Olivera Road  
Concord, CA  94520

Any written notice to Agency shall be sent to:

Randy S. Howard  
General Manager  
Northern California Power Agency  
651 Commerce Drive  
Roseville, CA  95678

With a copy to:

Jane E. Luckhardt  
General Counsel  
Northern California Power Agency  
651 Commerce Drive  
Roseville, CA  95678
13.9 **Professional Seal.** Where applicable in the determination of the Agency, the first page of a technical report, first page of design specifications, and each page of construction drawings shall be stamped/sealed and signed by the licensed professional responsible for the report/design preparation.

13.10 **Integration; Incorporation.** This Agreement, including all the exhibits attached hereto, represents the entire and integrated agreement between Agency and Contractor and supersedes all prior negotiations, representations, or agreements, either written or oral. All exhibits attached hereto are incorporated by reference herein.

13.11 **Alternative Dispute Resolution.** If any dispute arises between the Parties that cannot be settled after engaging in good faith negotiations, Agency and Contractor agree to resolve the dispute in accordance with the following:

13.11.1 Each party shall designate a senior management or executive level representative to negotiate any dispute;

13.11.2 The representatives shall attempt, through good faith negotiations, to resolve the dispute by any means within their authority.

13.11.3 If the issue remains unresolved after fifteen (15) days of good faith negotiations, the Parties shall attempt to resolve the disagreement by negotiation between legal counsel. If the above process fails, the Parties shall resolve any remaining disputes through mediation to expedite the resolution of the dispute.

13.11.4 The mediation process shall provide for the selection within fifteen (15) days by both Parties of a disinterested third person as mediator, shall be commenced within thirty (30) days and shall be concluded within fifteen (15) days from the commencement of the mediation.

13.11.5 The Parties shall equally bear the costs of any third party in any alternative dispute resolution process.

13.11.6 The alternative dispute resolution process is a material condition to this Agreement and must be exhausted as an administrative remedy prior to either Party initiating legal action. This alternative dispute resolution process is not intended to nor shall be construed to change the time periods for filing a claim or action specified by Government Code §§ 900 et seq.

13.12 **Controlling Provisions.** In the case of any conflict between the terms of this Agreement and the Exhibits hereto, a Purchase Order, or Contractor's Proposal (if any), the Agreement shall control. In the case of any conflict between the Exhibits hereto and a Purchase Order or the Contractor's Proposal, the Exhibits shall control. In the case of any conflict between the terms of a Purchase Order and the Contractor's Proposal, the Purchase Order shall control.
13.13 **Counterparts.** This Agreement may be executed in multiple counterparts, each of which shall be an original and all of which together shall constitute one agreement.

13.14 **Construction of Agreement.** Each party hereto has had an equivalent opportunity to participate in the drafting of the Agreement and/or to consult with legal counsel. Therefore, the usual construction of an agreement against the drafting party shall not apply hereto.

13.15 **No Third Party Beneficiaries.** This Agreement is made solely for the benefit of the parties hereto, with no intent to benefit any non-signator third parties. However, should Contractor provide Work to an Agency member, SCPPA or SCPPA member (collectively for the purpose of this section only “Member”) pursuant to Section 1.4, the parties recognize that such Member may be a third party beneficiary solely as to the Purchase Order and Requested Work relating to such Member.

The Parties have executed this Agreement as of the date signed by the Agency.

NORTHERN CALIFORNIA POWER AGENCY

Date_______________________________

RANDY S. HOWARD, General Manager

ERNIE & SONS SCAFFOLDING DBA UNIQUE SCAFFOLD

Date_______________________________

JOHN SOTO, Vice President / Co-Owner

Attest:

________________________________

Assistant Secretary of the Commission

Approved as to Form:

________________________________

Jane E. Luckhardt, General Counsel
EXHIBIT A

SCOPE OF WORK

Ernie & Sons Scaffolding dba Unique Scaffold ("Contractor") shall provide scaffolding services as requested by the Northern California Power Agency ("Agency") at any facilities owned or operated by Agency, its Members, Southern California Public Power Authority (SCPPA) or SCPPA Members.

Services to include, but not be limited to the following:

- Assemble, safety tag scaffold, inspect scaffold, modify scaffold structures, disassemble scaffold
- Contractor is responsible for inspecting and tracking scaffold materials being stored and erected to ensure scaffold quality is within the Cal-OSHA requirements and Industry Standard Guidelines.
EXHIBIT B

COMPENSATION SCHEDULE AND HOURLY FEES

Compensation for all work, including hourly fees and expenses, shall not exceed the amount set forth in Section 2 hereof. The hourly rates and or compensation break down and an estimated amount of expenses is as follows:

Lodi Rates:

Effective July 1st 2018 per our Carpenters Union Negotiation (46 Northern California Counties Master Agreement) thru June 30th 2023, Time & Material Labor Rates/Scaffolding material supply service on the current above-mentioned project(s) are:

* Labor rates are valid from July 1, 2018 through June 30, 2019 and will be negotiated on an annual basis to factor the union rate increase.

<table>
<thead>
<tr>
<th>Area 3 Labor Rates</th>
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* Labor rates are valid from July 1, 2019 through June 30, 2020 and will be negotiated on an annual basis to factor the union rate increase.

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<th>Area 3 Labor Rates</th>
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* Labor rates are valid from July 1, 2020 through June 30, 2021 and will be negotiated on an annual basis to factor the union rate increase.

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* Labor rates are valid from July 1, 2021 through June 30, 2022 and will be negotiated on an annual basis to factor the union rate increase.

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* Labor rates are valid from July 1, 2022 through June 30, 2023 and will be negotiated on an annual basis to factor the union rate increase.

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- Scaffold material rental for 90 days are included in the rates. Rental after 90 days will be charged as follows:
  - July 1, 2018 – June 30, 2019 $0.09 per-piece, per-day, plus tax.
  - July 1, 2019 – June 30, 2020 $0.10 per-piece, per-day, plus tax.
  - July 1, 2020 – June 30, 2021 $0.11 per-piece, per-day, plus tax.
  - July 1, 2021 – June 30, 2022 $0.12 per-piece, per-day, plus tax.
  - July 1, 2022 – June 30, 2023 $0.13 per-piece, per-day, plus tax.
  - Rental will stop once Unique Scaffold is notified that the scaffold is no longer needed.
Alameda Rates:

Effective July 1st 2018 per our Carpenters Union Negotiation (46 Northern California Counties Master Agreement) thru June 30th 2023, Time & Material Labor Rates/Scaffolding material supply service on the current above-mentioned project(s) are:

* Labor rates are valid from July 1, 2018 through June 30, 2019 and will be negotiated on an annual basis to factor the union rate increase.

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</tbody>
</table>

* Labor rates are valid from July 1, 2019 through June 30, 2020 and will be negotiated on an annual basis to factor the union rate increase.

<table>
<thead>
<tr>
<th>Area 1 Labor Rates</th>
<th>Straight Time</th>
<th>Overtime</th>
<th>Double Time</th>
<th>Travel Time</th>
</tr>
</thead>
<tbody>
<tr>
<td>Per Hour</td>
<td>$101.93</td>
<td>$131.48</td>
<td>$161.92</td>
<td>$101.93</td>
</tr>
</tbody>
</table>

* Labor rates are valid from July 1, 2020 through June 30, 2021 and will be negotiated on an annual basis to factor the union rate increase.

<table>
<thead>
<tr>
<th>Area 1 Labor Rates</th>
<th>Straight Time</th>
<th>Overtime</th>
<th>Double Time</th>
<th>Travel Time</th>
</tr>
</thead>
<tbody>
<tr>
<td>Per Hour</td>
<td>$105.73</td>
<td>$136.09</td>
<td>$167.81</td>
<td>$105.73</td>
</tr>
</tbody>
</table>

* Labor rates are valid from July 1, 2021 through June 30, 2022 and will be negotiated on an annual basis to factor the union rate increase.

<table>
<thead>
<tr>
<th>Area 1 Labor Rates</th>
<th>Straight Time</th>
<th>Overtime</th>
<th>Double Time</th>
<th>Travel Time</th>
</tr>
</thead>
<tbody>
<tr>
<td>Per Hour</td>
<td>$109.66</td>
<td>$140.84</td>
<td>$173.87</td>
<td>$109.66</td>
</tr>
</tbody>
</table>

* Labor rates are valid from July 1, 2022 through June 30, 2023 and will be negotiated on an annual basis to factor the union rate increase.

<table>
<thead>
<tr>
<th>Area 1 Labor Rates</th>
<th>Straight Time</th>
<th>Overtime</th>
<th>Double Time</th>
<th>Travel Time</th>
</tr>
</thead>
<tbody>
<tr>
<td>Per Hour</td>
<td>$113.74</td>
<td>$145.73</td>
<td>$180.10</td>
<td>$113.74</td>
</tr>
</tbody>
</table>

- Scaffold material rental for 90 days are included in the rates. Rental after 90 days will be charged as follows.
  - July 1, 2018 – June 30, 2019 $0.09 per-piece, per-day, plus tax.
  - July 1, 2019 – June 30, 2020 $0.10 per-piece, per-day, plus tax.
  - July 1, 2020 – June 30, 2021 $0.11 per-piece, per-day, plus tax.
  - July 1, 2021 – June 30, 2022 $0.12 per-piece, per-day, plus tax.
  - July 1, 2022 – June 30, 2023 $0.13 per-piece, per-day, plus tax.

- Rental will stop once Unique Scaffold is notified that the scaffold is no longer needed.
Pricing for services to be performed at NCPA Member or SCPPA locations will be quoted at the time services are requested.

NOTE: As a public agency, NCPA shall not reimburse Contractor for travel, food and related costs in excess of those permitted by the Internal Revenue Service.
EXHIBIT C

CERTIFICATION

Affidavit of Compliance for Contractors

I,

________________________________________________________

(Name of person signing affidavit)(Title)

do hereby certify that background investigations to ascertain the accuracy of the identity
and employment history of all employees of

________________________________________________________

(Company name)

for contract work at:

LODI ENERGY CENTER, 12745 N. THORNTON ROAD, LODI, CA  95242

(Project name and location)

have been conducted as required by the California Energy Commission Decision for the
above-named project.

________________________________________________________

(Signature of officer or agent)

Dated this ___________________ day of ___________________, 20 _______.

THIS AFFIDAVIT OF COMPLIANCE SHALL BE APPENDED TO THE PROJECT SECURITY
PLAN AND SHALL BE RETAINED AT ALL TIMES AT THE PROJECT SITE FOR REVIEW BY
THE CALIFORNIA ENERGY COMMISSION COMPLIANCE PROJECT MANAGER.
NOT APPLICABLE

EXHIBIT D

CERTIFICATION

Affidavit of Compliance for Hazardous Materials Transport Vendors

I, ____________________________,

(Name of person signing affidavit)(Title)

do hereby certify that the below-named company has prepared and implemented security plans in conformity with 49 CFR 172, subpart I and has conducted employee background investigations in conformity with 49 CFR 172.802(a), as the same may be amended from time to time,

___________________________________________________

(Company name)

for hazardous materials delivery to:

LODI ENERGY CENTER, 12745 N. THORNTON ROAD, LODI, CA 95242

(Project name and location)

as required by the California Energy Commission Decision for the above-named project.

___________________________________________________

(Signature of officer or agent)

Dated this ___________________ day of ___________________, 20 __.

THIS AFFIDAVIT OF COMPLIANCE SHALL BE APPENDED TO THE PROJECT SECURITY PLAN AND SHALL BE RETAINED AT ALL TIMES AT THE PROJECT SITE FOR REVIEW BY THE CALIFORNIA ENERGY COMMISSION COMPLIANCE PROJECT MANAGER.
EXHIBIT E

ATTACHMENT A [from MLA]
AGREEMENT TO BE BOUND

MAINTENANCE LABOR AGREEMENT ATTACHMENT
LODI ENERGY CENTER PROJECT

The undersigned hereby certifies and agrees that:

1) It is an Employer as that term is defined in Section 1.4 of the Lodi Energy Center Project Maintenance Labor Agreement ("Agreement" solely for the purposes of this Exhibit E) because it has been, or will be, awarded a contract or subcontract to assign, award or subcontract Covered Work on the Project (as defined in Section 1.2 and 2.1 of the Agreement), or to authorize another party to assign, award or subcontract Covered Work, or to perform Covered Work.

2) In consideration of the award of such contract or subcontract, and in further consideration of the promises made in the Agreement and all attachments thereto (a copy of which was received and is hereby acknowledged), it accepts and agrees to be bound by the terms and condition of the Agreement, together with any and all amendments and supplements now existing or which are later made thereto.

3) If it performs Covered Work, it will be bound by the legally established trust agreements designated in local master collective bargaining agreements, and hereby authorizes the parties to such local trust agreements to appoint trustees and successor trustee to administer the trust funds, and hereby ratifies and accepts the trustees so appointed as if made by the undersigned.

4) It has no commitments or agreements that would preclude its full and complete compliance with the terms and conditions of the Agreement.

5) It will secure a duly executed Agreement to be Bound, in form identical to this documents, from any Employer(s) at any tier or tiers with which it contracts to assign, award, or subcontract Covered Work, or to authorize another party to assign, award or subcontract Covered Work, or to perform Covered Work.

DATED: ____________________

Name of Employer  ________________________________

(Authorized Officer & Title)

______________________________

(Address)
Lodi Energy Center Project Participant Committee

Staff Report

Date: September 5, 2018
Meeting Date: September 10, 2018
To: Lodi Energy Center Project Participant Committee
Subject: Fairchild & Wells, Inc. dba Fairchild & Associates – Five Year Multi-Task Consulting Services Agreement; Applicable to the following projects: All NCPA locations and Members, SCPPA, and SCPPA Members

Proposal
Approve the Multi-Task Consulting Services Agreement with Fairchild & Wells, Inc. dba Fairchild & Associates for well inspections and testing services, with any non-substantial changes recommended and approved by the NCPA General Counsel, which shall not exceed $500,000 over 5 years for use at all facilities owned and/or operated by NCPA, its Members, by the Southern California Public Power Authority (“SCPPA”), or by SCPPA Members.

Background
Well inspections and testing services are required from time to time related to project support at facilities owned and/or operated by NCPA, its Members, by the Southern California Public Power Authority (“SCPPA”), or by SCPPA Members.

Selection Process
This enabling agreement does not commit NCPA to any expenditure of funds. At the time services are required, NCPA will bid the specific scope of work consistent with NCPA procurement policies and procedures. NCPA currently has a similar agreement in place with CH2M Hill and AECOM Technical Services and seeks bids from multiple qualified providers whenever services are needed. Bids are awarded to the lowest cost provider. NCPA will issue purchase orders based on cost and availability of the services needed at the time the service is required.

Fiscal Impact
Upon execution, the total cost of the agreement is not-to-exceed $500,000 over five years to be used out of NCPA approved budgets as services are rendered. Purchase orders referencing the terms and conditions of the Agreement will be issued following NCPA procurement policies and procedures.

Environmental Analysis
This activity would not result in a direct or reasonably foreseeable indirect change in the physical environment and is therefore not a “project” for purposes of Section 21065 the California Environmental Quality Act. No environmental review is necessary.
Submitted by:

KEN SPEER  
Assistant General Manager  
Generation Services

Attachments: (1)  
• Multi-Task Consulting Services Agreement with Fairchild & Wells, Inc. dba Fairchild & Associates
MULTI-TASK CONSULTING SERVICES AGREEMENT BETWEEN
THE NORTHERN CALIFORNIA POWER AGENCY AND
FAIRCHILD & WELLS, INC., dba FAIRCHILD & ASSOCIATES

This Consulting Services Agreement ("Agreement") is made by and between the Northern California Power Agency, a joint powers agency with its main office located at 651 Commerce Drive, Roseville, CA 95678-6420 ("Agency") and Fairchild & Wells, Inc., dba Fairchild & Associates, a corporation with its office located at 14711 Barryknoll Lane, #37, Houston, TX 77079 ("Consultant") (together sometimes referred to as the "Parties") as of __________, 2018 ("Effective Date") in Roseville, California.

Section 1. SERVICES. Subject to the terms and conditions set forth in this Agreement, Consultant shall provide to Agency the services described in the Scope of Services attached hereto as Exhibit A and incorporated herein ("Services"), at the time and place and in the manner specified therein.

1.1 Term of Agreement. The term of this Agreement shall begin on the Effective Date and shall end when Consultant completes the Services, or no later than five (5) year from the date this Agreement was signed by Agency, whichever is shorter.

1.2 Standard of Performance. Consultant shall perform the Services in the manner and according to the standards observed by a competent practitioner of the profession in which Consultant is engaged and for which Consultant is providing the Services. Consultant represents that it is licensed, qualified and experienced to provide the Services set forth herein.

1.3 Assignment of Personnel. Consultant shall assign only competent personnel to perform the Services. In the event that Agency, in its sole discretion, at any time during the term of this Agreement, requests the reassignment of any such personnel, Consultant shall, immediately upon receiving written notice from Agency of such request, reassign such personnel.

1.4 Services Provided. Services provided under this Agreement by Consultant may include Services directly to the Agency or, as requested by the Agency and consistent with the terms of this Agreement, to Agency members, Southern California Public Power Authority ("SCPPA") or SCPPA members.

1.5 Request for Services. At such time that Agency determines to use Consultant's Services under this Agreement, Agency shall issue a Purchase Order. The Purchase Order shall identify the specific services to be performed ("Requested Services"), may include a not-to-exceed monetary cap on Requested Services and expenditures authorized by that Purchase Order, and a time by which the Requested Services shall be completed. Consultant shall have seven calendar days from the date of the Agency’s issuance of the Purchase Order in which to respond in writing that Consultant chooses not to perform the Requested Services. If Consultant agrees to perform the Requested Services, begins to perform the Requested Services, or does not respond within the seven day
period specified, then Consultant will have agreed to perform the Requested Services on the terms set forth in the Purchase Order, this Agreement and its Exhibits.

Section 2. COMPENSATION. Agency hereby agrees to pay Consultant an amount NOT TO EXCEED FIVE HUNDRED THOUSAND dollars ($500,000.00) for the Services, which shall include all fees, costs, expenses and other reimbursables, as set forth in Consultant’s fee schedule, attached hereto and incorporated herein as Exhibit B. This dollar amount is not a guarantee that Agency will pay that full amount to the Consultant, but is merely a limit of potential Agency expenditures under this Agreement.

2.1 Invoices. Consultant shall submit invoices, not more often than once a month during the term of this Agreement, based on the cost for services performed and reimbursable costs incurred prior to the invoice date. Invoices shall contain the following information:

- The beginning and ending dates of the billing period;
- Services performed;
- The Purchase Order number authorizing the Services;
- At Agency’s option, the total number of hours of work performed under the Agreement by Consultant and each employee, agent, and subcontractor of Consultant performing services hereunder; and
- At Agency’s option, when the Consultant’s Scope of Work identifies tasks, for each work item in each task, a copy of the applicable time entries showing the name of the person doing the work, the hours spent by each person, a brief description of the work, and each reimbursable expense, with supporting documentation, to Agency’s reasonable satisfaction.

Invoices shall be sent to:

Northern California Power Agency
651 Commerce Drive
Roseville, California 95678
Attn: Accounts Payable
AcctsPayable@ncpa.com

2.2 Monthly Payment. Agency shall make monthly payments, based on invoices received, for services satisfactorily performed, and for authorized reimbursable costs incurred. Agency shall have thirty (30) days from the receipt of an invoice that complies with all of the requirements above to pay Consultant.

2.3 Payment of Taxes. Consultant is solely responsible for the payment of all federal, state and local taxes, including employment taxes, incurred under this Agreement.
2.4 **Authorization to Perform Services.** The Consultant is not authorized to perform any Services or incur any costs whatsoever under the terms of this Agreement until receipt of written authorization from the Contract Administrator.

2.5 **Timing for Submittal of Final Invoice.** Consultant shall have ninety (90) days after completion of its Services to submit its final invoice for the Requested Services. In the event Consultant fails to submit an invoice to Agency for any amounts due within the ninety (90) day period, Consultant is deemed to have waived its right to collect its final payment from Agency.

**Section 3. FACILITIES AND EQUIPMENT.** Except as set forth herein, Consultant shall, at its sole cost and expense, provide all facilities and equipment that may be necessary to perform the Services.

**Section 4. INSURANCE REQUIREMENTS.** Before beginning any work under this Agreement, Consultant, at its own cost and expense, shall procure the types and amounts of insurance listed below and shall maintain the types and amounts of insurance listed below for the period covered by this Agreement.

4.1 **Workers’ Compensation.** If Consultant employs any person, Consultant shall maintain Statutory Workers’ Compensation Insurance and Employer’s Liability Insurance for any and all persons employed directly or indirectly by Consultant with limits of not less than one million dollars ($1,000,000.00) per accident.

4.2 **Commercial General and Automobile Liability Insurance.**

4.2.1 **Commercial General Insurance.** Consultant shall maintain commercial general liability insurance for the term of this Agreement, including products liability, covering any loss or liability, including the cost of defense of any action, for bodily injury, death, personal injury and broad form property damage which may arise out of the operations of Consultant. The policy shall provide a minimum limit of $1,000,000 per occurrence/$2,000,000 aggregate. Commercial general coverage shall be at least as broad as ISO Commercial General Liability form CG 0001 (current edition) on "an occurrence" basis covering comprehensive General Liability, with a self-insured retention or deductible of no more than $100,000. No endorsement shall be attached limiting the coverage.

4.2.2 **Automobile Liability.** Consultant shall maintain automobile liability insurance form CA 0001 (current edition) for the term of this Agreement covering any loss or liability, including the cost of defense of any action, arising from the operation, maintenance or use of any vehicle (symbol 1), whether or not owned by the Consultant, on or off Agency premises. The policy shall provide a minimum limit of $1,000,000 per each accident, with a self-insured retention or deductible of no more than $100,000. This insurance shall provide contractual liability covering all motor vehicles and...
mobile equipment to the extent coverage may be excluded from general liability insurance.

4.2.3 **General Liability/Umbrella Insurance.** The coverage amounts set forth above may be met by a combination of underlying and umbrella policies as long as in combination the limits equal or exceed those stated.

4.3 **Professional Liability Insurance.** Not Applicable.

4.4 **All Policies Requirements.**

4.4.1 **Verification of coverage.** Prior to beginning any work under this Agreement, Consultant shall provide Agency with (1) a Certificate of Insurance that demonstrates compliance with all applicable insurance provisions contained herein and (2) policy endorsements to the policies referenced in Section 4.2, adding the Agency as an additional insured and declaring such insurance primary in regard to work performed pursuant to this Agreement.

4.4.2 **Notice of Reduction in or Cancellation of Coverage.** Consultant shall provide at least thirty (30) days prior written notice to Agency of any reduction in scope or amount, cancellation, or modification adverse to Agency of the policies referenced in Section 4.

4.4.3 **Higher Limits.** If Consultant maintains higher limits than the minimums specified herein, the Agency shall be entitled to coverage for the higher limits maintained by the Consultant.

4.4.4 **Additional Certificates and Endorsements.** If Consultant provides services to Agency members, SCPPA, and/or SCPPA members pursuant to this Agreement, Consultant shall provide certificates of insurance and policy endorsements, as referenced in Section 4.4.1, naming the specific Agency member, SCPPA or SCPPA member.

4.5.5 **Waiver of Subrogation.** Consultant agrees to waive subrogation which any insurer of Consultant may acquire from Consultant by virtue of the payment of any loss. Consultant agrees to obtain any endorsement that may be necessary to effect this waiver of subrogation. In addition, the Workers’ Compensation policy shall be endorsed with a waiver of subrogation in favor of Agency for all work performed by Consultant, its employees, agents and subcontractors.

4.6 **Consultant’s Obligation.** Consultant shall be solely responsible for ensuring that all equipment, vehicles and other items utilized in the performance of Services are operated, provided or otherwise utilized in a manner that ensues they are and remain covered by the policies referenced in Section 4 during this
Agreement. Consultant shall also ensure that all workers involved in the provision of Services are properly classified as employees, agents or independent contractors and are and remain covered by any and all workers' compensation insurance required by applicable law during this Agreement.

Section 5. INDEMNIFICATION AND CONSULTANT’S RESPONSIBILITIES.

5.1 Effect of Insurance. Agency's acceptance of insurance certificates and endorsements required under this Agreement does not relieve Consultant from liability under this indemnification and hold harmless clause. This indemnification and hold harmless clause shall apply to any damages or claims for damages whether or not such insurance policies shall have been determined to apply. By execution of this Agreement, Consultant acknowledges and agrees to the provisions of this Section and that it is a material element of consideration.

5.2 Scope. Consultant shall indemnify, defend with counsel reasonably acceptable to the Agency, and hold harmless the Agency, and its officials, commissioners, officers, employees, agents and volunteers from and against all losses, liabilities, claims, demands, suits, actions, damages, expenses, penalties, fines, costs (including without limitation costs and fees of litigation), judgments and causes of action of every nature arising out of or in connection with any acts or omissions by Consultant, its officers, officials, agents, and employees, except as caused by the sole or gross negligence of Agency. Notwithstanding, should this Agreement be construed as a construction agreement under Civil Code section 2783, then the exception referenced above shall also be for the active negligence of Agency.

Section 6. STATUS OF CONSULTANT.

6.1 Independent Contractor. Consultant is an independent contractor and not an employee of Agency. Agency shall have the right to control Consultant only insofar as the results of Consultant's Services and assignment of personnel pursuant to Section 1; otherwise, Agency shall not have the right to control the means by which Consultant accomplishes Services rendered pursuant to this Agreement. Notwithstanding any other Agency, state, or federal policy, rule, regulation, law, or ordinance to the contrary, Consultant and any of its employees, agents, and subcontractors providing services under this Agreement shall not qualify for or become entitled to, and hereby agree to waive any and all claims to, any compensation, benefit, or any incident of employment by Agency, including but not limited to eligibility to enroll in the California Public Employees Retirement System (PERS) as an employee of Agency and entitlement to any contribution to be paid by Agency for employer contributions and/or employee contributions for PERS benefits.

Consultant shall indemnify, defend, and hold harmless Agency for the payment of any employee and/or employer contributions for PERS benefits on behalf of Consultant or its employees, agents, or subcontractors, as well as for the payment of any penalties and interest on such contributions, which would
otherwise be the responsibility of Agency. Consultant and Agency acknowledge and agree that compensation paid by Agency to Consultant under this Agreement is based upon Consultant’s estimated costs of providing the Services, including salaries and benefits of employees, agents and subcontractors of Consultant.

Consultant shall indemnify, defend, and hold harmless Agency from any lawsuit, administrative action, or other claim for penalties, losses, costs, damages, expense and liability of every kind, nature and description that arise out of, pertain to, or relate to such claims, whether directly or indirectly, due to Consultant’s failure to secure workers’ compensation insurance for its employees, agents, or subcontractors.

Consultant agrees that it is responsible for the provision of group healthcare benefits to its fulltime employees under 26 U.S.C. § 4980H of the Affordable Care Act. To the extent permitted by law, Consultant shall indemnify, defend and hold harmless Agency from any penalty issued to Agency under the Affordable Care Act resulting from the performance of the Services by any employee, agent, or subcontractor of Consultant.

6.2 Consultant Not Agent. Except as Agency may specify in writing, Consultant shall have no authority, express or implied, to act on behalf of Agency in any capacity whatsoever as an agent. Consultant shall have no authority, express or implied, pursuant to this Agreement to bind Agency to any obligation whatsoever.

6.3 Assignment and Subcontracting. This Agreement contemplates personal performance by Consultant and is based upon a determination of Consultant’s unique professional competence, experience, and specialized professional knowledge. A substantial inducement to Agency for entering into this Agreement was and is the personal reputation and competence of Consultant. Consultant may not assign this Agreement or any interest therein without the prior written approval of the Agency. Consultant shall not subcontract any portion of the performance contemplated and provided for herein, other than to the subcontractors identified in Exhibit A, without prior written approval of the Agency. Where written approval is granted by the Agency, Consultant shall supervise all work subcontracted by Consultant in performing the services and shall be responsible for all work performed by a subcontractor as if Consultant itself had performed such work. The subcontracting of any work to subcontractors shall not relieve Consultant from any of its obligations under this Agreement with respect to the services and Consultant is obligated to ensure that any and all subcontractors performing any services shall be fully insured in all respects and to the same extent as set forth under Section 4, to Agency’s satisfaction.
Section 7. **LEGAL REQUIREMENTS.**

7.1 **Governing Law.** The laws of the State of California shall govern this Agreement.

7.2 **Compliance with Applicable Laws.** Consultant and its subcontractors and agents, if any, shall comply with all laws applicable to the performance of the work hereunder.

7.3 **Licenses and Permits.** Consultant represents and warrants to Agency that Consultant and its employees, agents, and subcontractors (if any) have and will maintain at their sole expense during the term of this Agreement all licenses, permits, qualifications, and approvals of whatever nature that are legally required to practice their respective professions.

Section 8. **TERMINATION AND MODIFICATION.**

8.1 **Termination.** Agency may cancel this Agreement at any time and without cause upon ten (10) days prior written notice to Consultant.

In the event of termination, Consultant shall be entitled to compensation for Services satisfactorily completed as of the effective date of termination; Agency, however, may condition payment of such compensation upon Consultant delivering to Agency any or all records or documents, as referenced in Section 9.1 hereof.

8.2 **Amendments.** The Parties may amend this Agreement only by a writing signed by all the Parties.

8.3 **Survival.** All obligations arising prior to the termination of this Agreement and all provisions of this Agreement allocating liability between Agency and Consultant shall survive the termination of this Agreement.

8.4 **Options upon Breach by Consultant.** If Consultant materially breaches any of the terms of this Agreement, including but not limited to those set forth in Section 4, Agency’s remedies shall include, but not be limited to, the following:

8.4.1 Immediately terminate the Agreement;

8.4.2 Retain the plans, specifications, drawings, reports, design documents, and any other work product prepared by Consultant pursuant to this Agreement;
8.4.3 Retain a different consultant to complete the Services not finished by Consultant; and/or

8.4.4 Charge Consultant the difference between the costs to complete the Services that is unfinished at the time of breach and the amount that Agency would have paid Consultant pursuant hereto if Consultant had completed the Services.

Section 9. KEEPING AND STATUS OF RECORDS.

9.1 Records Created as Part of Consultant’s Performance. All reports, data, maps, models, charts, studies, surveys, photographs, memoranda, plans, studies, specifications, records, files, or any other documents or materials, in electronic or any other form, that Consultant prepares or obtains pursuant to this Agreement and that relate to the matters covered hereunder shall be the property of the Agency. Consultant hereby agrees to deliver those documents to the Agency upon termination of the Agreement. Agency and Consultant agree that, unless approved by Agency in writing, Consultant shall not release to any non-parties to this Agreement any data, plans, specifications, reports and other documents.

9.2 Consultant’s Books and Records. Consultant shall maintain any and all records or other documents evidencing or relating to charges for Services or expenditures and disbursements charged to the Agency under this Agreement for a minimum of three (3) years, or for any longer period required by law, from the date of final payment to the Consultant to this Agreement.

9.3 Inspection and Audit of Records. Any records or documents that this Agreement requires Consultant to maintain shall be made available for inspection, audit, and/or copying at any time during regular business hours, upon oral or written request of the Agency. Under California Government Code Section 8546.7, if the amount of public funds expended under this Agreement exceeds ten thousand dollars ($10,000.00), the Agreement shall be subject to the examination and audit of the State Auditor, at the request of Agency or as part of any audit of the Agency, for a period of three (3) years after final payment under the Agreement.

9.4 Confidential Information and Disclosure.

9.4.1 Confidential Information. The term “Confidential Information”, as used herein, shall mean any and all confidential, proprietary, or trade secret information, whether written, recorded, electronic, oral or otherwise, where the Confidential Information is made available in a tangible medium of expression and marked in a prominent location as confidential, proprietary and/or trade secret information. Confidential Information shall
not include information that: (a) was already known to the Receiving Party or is otherwise a matter of public knowledge, (b) was disclosed to Receiving Party by a third party without violating any confidentiality agreement, (c) was independently developed by Receiving Party without reverse engineering, as evidenced by written records thereof, or (d) was not marked as confidential Information in accordance with this section.

9.4.2 Non-Disclosure of Confidential Information. During the term of this Agreement, either party may disclose ("The Disclosing Party") confidential Information to the other party ("the Receiving Party"). The Receiving Party: (a) shall hold the Disclosing Party's Confidential Information in confident; and (b) shall take all reasonable steps to prevent any unauthorized possession, use, copying, transfer or disclosure of such Confidential Information.

9.4.3 Permitted Disclosure. Notwithstanding the foregoing, the following disclosures of Confidential Information are allowed. Receiving Party shall endeavor to provide prior written notice to Disclosing Party of any permitted disclosure made pursuant to Section 9.4.3.2 or 9.4.3.3. Disclosing Party may seek a protective order, including without limitation, a temporary restraining order to prevent or contest such permitted disclosure; provided, however, that Disclosing Party shall seek such remedies at its sole expense. Neither party shall have any liability for such permitted disclosures:

9.4.3.1 Disclosure to employees, agents, consultants, contractors, subcontractors or other representatives of Receiving Party that have a need to know in connection with this Agreement.

9.4.3.2 Disclosure in response to a valid order of a court, government or regulatory agency or as may otherwise be required by law; and

9.4.3.3 Disclosure by Agency in response to a request pursuant to the California Public Records Act.

9.4.4 Handling of Confidential Information. Upon conclusion or termination of the Agreement, Receiving Party shall return to Disclosing Party or destroy Confidential Information (including all copies thereof), if requested by Disclosing Party in writing. Notwithstanding the foregoing, the Receiving Party may retain copies of such Confidential Information, subject to the confidentiality provisions of this Agreement: (a) for archival purposes in its computer system; (b) in its legal department files; and (c) in files of Receiving Party's representatives where such copies are necessary to comply with applicable law. Party shall not disclose the Disclosing Party's Information to any person other than those of the Receiving Party's employees, agents, consultants, contractors and
subcontractors who have a need to know in connection with this Agreement.

Section 10. MISCELLANEOUS PROVISIONS.

10.1 **Attorneys' Fees.** If a party to this Agreement brings any action, including an action for declaratory relief, to enforce or interpret the provision of this Agreement, the prevailing party shall be entitled to reasonable attorneys’ fees in addition to any other relief to which that party may be entitled. The court may set such fees in the same action or in a separate action brought for that purpose.

10.2 **Venue.** In the event that either party brings any action against the other under this Agreement, the Parties agree that trial of such action shall be vested exclusively in the state courts of California in the County of Placer or in the United States District Court for the Eastern District of California.

10.3 **Severability.** If a court of competent jurisdiction finds or rules that any provision of this Agreement is invalid, void, or unenforceable, the provisions of this Agreement not so adjudged shall remain in full force and effect. The invalidity in whole or in part of any provision of this Agreement shall not void or affect the validity of any other provision of this Agreement.

10.4 **No Implied Waiver of Breach.** The waiver of any breach of a specific provision of this Agreement does not constitute a waiver of any other breach of that term or any other term of this Agreement.

10.5 **Successors and Assigns.** The provisions of this Agreement shall inure to the benefit of and shall apply to and bind the successors and assigns of the Parties.

10.6 **Conflict of Interest.** Consultant may serve other clients, but none whose activities within the corporate limits of Agency or whose business, regardless of location, would place Consultant in a “conflict of interest,” as that term is defined in the Political Reform Act, codified at California Government Code Section 81000 et seq.

Consultant shall not employ any Agency official in the work performed pursuant to this Agreement. No officer or employee of Agency shall have any financial interest in this Agreement that would violate California Government Code Sections 1090 et seq.

10.7 **Contract Administrator.** This Agreement shall be administered by Ken Speer, Assistant General Manager, or his/her designee, who shall act as the Agency’s representative. All correspondence shall be directed to or through the representative.
10.8 **Notices.** Any written notice to Consultant shall be sent to:

Fairchild & Wells, Inc., dba Fairchild & Associates  
Attention: James W. Fairchild  
14711 Barryknoll Lane, #37  
Houston, TX  77079

Any written notice to Agency shall be sent to:

Randy S. Howard  
General Manager  
Northern California Power Agency  
651 Commerce Drive  
Roseville, CA  95678

With a copy to:

Jane E. Luckhardt  
General Counsel  
Northern California Power Agency  
651 Commerce Drive  
Roseville, CA  95678

10.9 **Professional Seal.** Where applicable in the determination of the Agency, the first page of a technical report, first page of design specifications, and each page of construction drawings shall be stamped/sealed and signed by the licensed professional responsible for the report/design preparation.

10.10 **Integration; Incorporation.** This Agreement, including all the exhibits attached hereto, represents the entire and integrated agreement between Agency and Consultant and supersedes all prior negotiations, representations, or agreements, either written or oral. All exhibits attached hereto are incorporated by reference herein.

10.11 **Alternative Dispute Resolution.** If any dispute arises between the Parties that cannot be settled after engaging in good faith negotiations, Agency and Consultant agree to resolve the dispute in accordance with the following:

10.11.1 Each party shall designate a senior management or executive level representative to negotiate any dispute;

10.11.2 The representatives shall attempt, through good faith negotiations, to resolve the dispute by any means within their authority.

10.11.3 If the issue remains unresolved after fifteen (15) days of good faith negotiations, the Parties shall attempt to resolve the disagreement by negotiation between legal counsel. If the above process fails,
the Parties shall resolve any remaining disputes through mediation to expedite the resolution of the dispute.

10.11.4 The mediation process shall provide for the selection within fifteen (15) days by both Parties of a disinterested third person as mediator, shall be commenced within thirty (30) days and shall be concluded within fifteen (15) days from the commencement of the mediation.

10.11.5 The Parties shall equally bear the costs of any third party in any alternative dispute resolution process.

10.11.6 The alternative dispute resolution process is a material condition to this Agreement and must be exhausted as an administrative prior to either Party initiating legal action. This alternative dispute resolution process is not intended to nor shall be construed to change the time periods for filing a claim or action specified by Government Code §§ 900 et seq.

10.12 Controlling Provisions. In the case of any conflict between the terms of this Agreement and the Exhibits hereto, a Purchase Order, or Consultant's Proposal (if any), the Agreement shall control. In the case of any conflict between the Exhibits hereto and a Purchase Order or the Consultant's Proposal, the Exhibits shall control. In the case of any conflict between the terms of a Purchase Order and the Consultant’s Proposal, the Purchase Order shall control.

10.13 Counterparts. This Agreement may be executed in multiple counterparts, each of which shall be an original and all of which together shall constitute one agreement.

10.14 Construction of Agreement. Each party hereto has had an equivalent opportunity to participate in the drafting of the Agreement and/or to consult with legal counsel. Therefore, the usual construction of an agreement against the drafting party shall not apply hereto.

10.15 No Third Party Beneficiaries. This Agreement is made solely for the benefit of the parties hereto, with no intent to benefit any non-signator third parties. However, should Consultant provide Services to an Agency member, SCCPA and/or a SCPPA member (collectively for the purposes of this section only "Member") pursuant to section 1.4, the parties recognize that such Member may be a third party beneficiary solely as to the Purchase Order and Requested Services relating to such Member.
The Parties have executed this Agreement as of the date signed by the Agency.

NORTHERN CALIFORNIA POWER AGENCY

Date________________________

RANDY S. HOWARD,
General Manager

Attest:

Assistant Secretary of the Commission

Approved as to Form:

Jane E. Luckhardt, General Counsel

FAIRCHILD & WELLS, INC., dba FAIRCHILD & ASSOCIATES

Date________________________

JAMES W. FAIRCHILD,
President
EXHIBIT A

SCOPE OF SERVICES

Fairchild & Wells, Inc. dba Fairchild & Associates ("Consultant") shall provide well related consulting services as requested by the Northern California Power Agency ("Agency") at any facilities owned or operated by Agency, its Members, Southern California Public Power Authority (SCPPA) or SCPPA members.

Services to include, but not be limited to the following:

- Well Inspections
- Well Testing
EXHIBIT B

COMPENSATION SCHEDULE AND HOURLY FEES

Compensation for all tasks, including hourly fees and expenses, shall not exceed amount as set forth in Section 2 of the Agreement. The hourly rates and or compensation break down and an estimated amount of expenses is as follows:

James W. Fairchild, President $310.00/Hour

Expenses at cost plus 10.0%

Pricing for services to be performed at NCPA Member or SCPPA locations will be quoted at the time services are requested.

NOTE: As a public agency, NCPA shall not reimburse Consultant for travel, food and related costs in excess of those permitted by the Internal Revenue Service.
EXHIBIT C

CERTIFICATION

Affidavit of Compliance for Contractors

I, __________________________________________________________

(Name of person signing affidavit)(Title)

do hereby certify that background investigations to ascertain the accuracy of the identity
and employment history of all employees of

___________________________________________________________

(Company name)

for contract work at:

LODI ENERGY CENTER, 12745 N. THORNTON ROAD, LODI, CA 95242

(Project name and location)

have been conducted as required by the California Energy Commission Decision for the
above-named project.

___________________________________________________________

(Signature of officer or agent)

Dated this __________________ day of __________________, 20 ________.

THIS AFFIDAVIT OF COMPLIANCE SHALL BE APPENDED TO THE PROJECT SECURITY
PLAN AND SHALL BE RETAINED AT ALL TIMES AT THE PROJECT SITE FOR REVIEW BY
THE CALIFORNIA ENERGY COMMISSION COMPLIANCE PROJECT MANAGER.
Lodi Energy Center Project Participant Committee

Staff Report

Date: September 5, 2018
Meeting Date: September 10, 2018
To: Lodi Energy Center Project Participant Committee
Subject: Burns and McDonnell Engineering Company, Inc. – First Amendment to Five Year Multi-Task Professional Services Agreement; Applicable to the following projects: All NCPA locations and Members, SCPPA, and SCPPA Members

Proposal
Approve the First Amendment to the Multi-Task Professional Services Agreement with Burns and McDonnell Engineering Company, Inc. for consulting services, including transmission and distribution planning, feasibility studies, forecasting, and other studies and planning services, with any non-substantial changes recommended and approved by the NCPA General Counsel, increasing the not to exceed amount from $1,000,000 to $4,000,000, for use at all facilities owned and/or operated by NCPA, its members, by the Southern California Public Power Authority (“SCPPA”), or by SCPPA members.

Background
Various consulting services are required at the NCPA, Members, SCPPA, and SCPPA Member locations from time to time, including feasibility studies, transmission and distribution planning, forecasting and resource planning, power and renewable project development, and other studies and planning services. NCPA entered into a five year Multi-Task Professional Services Agreement with Burns and McDonnell Engineering Company, Inc. effective October 26, 2016 for an amount not to exceed $1,000,000. The Agency is currently utilizing this vendor for an ongoing solar project, and multiple Members have utilized this vendor through NCPA’s Support Services Program, and this agreement is running low on funds. This amendment will increase the not to exceed amount from $1,000,000 to $4,000,000. This agreement is still available for use at any facility owned and/or operated by the Agency, its Members, SCPPA, or SCPPA Members.

Selection Process
This five year contract does not commit NCPA to any expenditure of funds. When these services are required, NCPA will bid the specific scope of work consistent with NCPA procurement policies and procedures. NCPA currently has in place other enabling agreements for similar services with Black & Veatch Construction, Inc. and Worley Parsons. NCPA will seek bids from as many qualified providers as possible and enter into additional enabling agreements as needed. The bid is awarded to the lowest cost provider. NCPA will issue purchase orders based on cost and availability of the services needed at the time the service is required.
Fiscal Impact
Upon execution, the total cost of the agreement is not-to-exceed $4,000,000, to be used out of NCPA approved budgets as services are rendered. Purchase orders referencing the terms and conditions of the Agreement will be issued following NCPA procurement policies and procedures.

Environmental Analysis
This activity would not result in a direct or reasonably foreseeable indirect change in the physical environment and is therefore not a “project” for purposes of Section 21065 the California Environmental Quality Act. No environmental review is necessary.

Submitted by:

KEN SPEER
Assistant General Manager
Generation Services

Attachments: (2)
- First Amendment to Multi-Task Professional Services Agreement with Burns and McDonnell Engineering Company, Inc.
MULTI-TASK PROFESSIONAL SERVICES AGREEMENT BETWEEN
THE NORTHERN CALIFORNIA POWER AGENCY AND
BURNS & MCDONNELL ENGINEERING COMPANY, INC.

This agreement for professional services ("Agreement") is made by and between the Northern California Power Agency, a joint powers agency with its main office located at 651 Commerce Drive, Roseville, CA 95678-6420 ("Agency") and Burns & McDonnell Engineering Company, Inc., a Missouri corporation, with its office located at 9400 Ward Parkway, Kansas City, MO 64114 ("Consultant") (together sometimes referred to as the "Parties") as of October 26, 2016 ("Effective Date") in Roseville, California.

Section 1. SERVICES. Subject to the terms and conditions set forth in this Agreement, Consultant shall provide to Agency the services described in the Scope of Work attached hereto as Exhibit A and incorporated herein ("Services"), at the time and place and in the manner specified in the appropriate Purchase Order.

1.1 Term of Agreement. The term of this Agreement shall begin on the Effective Date and shall end five (5) years from the date this Agreement was signed by Agency; provided that if Services due under a Purchase Order are still outstanding at that time, the Agreement shall end upon completion of such Services.

1.2 Standard of Performance. Consultant shall perform the Services in the manner and according to the standards observed by a competent practitioner of the profession in which Consultant is engaged in the same geographical location and for which Consultant is providing the Services ("Standard of Care"). Consultant represents that it is licensed, qualified and experienced to provide the Services set forth herein. If Consultant fails to meet the foregoing Standard of Care, Consultant will re-perform at its own cost, and without reimbursement from the Agency, the Services necessary to correct negligent errors and omissions which are caused by Consultant's failure to comply with the above standards and practices, and which are reported to Consultant within one year from the completion of such Services. This obligation to re-perform the Services necessary to correct negligent errors and omissions which are caused by Consultant's failure to comply with the above Standard of Care is Consultant's sole obligation and Agency's sole and exclusive remedy with respect to defects in the quality of the Services.

1.3 Assignment of Personnel. Consultant shall assign only competent personnel to perform the Services. In the event that Agency, in its sole discretion, at any time during the term of this Agreement, requests the reassignment of any such personnel, Consultant shall, immediately upon receiving written notice from Agency of such request, reassign such personnel.

1.4 Services Provided. Services provided under this Agreement by Consultant may include Services directly to the Agency or, as requested by the Agency and consistent with the
terms of this Agreement, to Agency members, Southern California Public Power Authority ("SCPPA") or SCPPA members.

1.5 Request for Services. At such time that Agency determines to use Consultant's Services under this Agreement, Agency shall issue a Purchase Order. The Purchase Order shall identify the specific services to be performed ("Requested Services"), may include a not-to-exceed monetary cap on Requested Services and expenditures authorized by that Purchase Order, and a time by which the Requested Services shall be completed. Consultant shall have seven business days from the date of the Agency's issuance of the Purchase Order in which to respond in writing that Consultant chooses to perform the Requested Services. If Consultant fails to respond within such time and agree to perform the Requested Services on the terms set forth in the Purchase Order, this Agreement, and its Exhibits, the Purchase Order is deemed rejected and Agency shall not be bound by the Purchase Order issued to Consultant.

Section 2. COMPENSATION. Agency hereby agrees to pay Consultant an amount NOT TO EXCEED One Million dollars ($1,000,000) for the Services, which shall include all fees, costs, expenses and other reimbursables, as set forth in Consultant's fee schedule, attached hereto and incorporated herein as Exhibit B. This dollar amount is not a guarantee that Agency will pay that full amount to the Consultant, but is merely a limit of potential Agency expenditures under this Agreement.

2.1 Invoices. Consultant shall submit invoices, not more often than once a month during the term of this Agreement, based on the cost for services performed and reimbursable costs incurred prior to the invoice date. Invoices shall contain the following information:

- The beginning and ending dates of the billing period;
- Services performed;
- The Purchase Order number authorizing the Services;
- At Agency's option, the total number of hours of work performed under the Agreement by Consultant and each employee, agent, and subcontractor of Consultant performing services hereunder; and
- At Agency's option, when the Consultant's Scope of Work identifies tasks, for each work item in each task, a copy of the applicable time entries showing the name of the person doing the work, the hours spent by each person, a brief description of the work, and each reimbursable expense, with supporting documentation, to Agency's reasonable satisfaction.

Invoices shall be sent to:
2.2 Monthly Payment. Agency shall make monthly payments, based on invoices received, for services satisfactorily performed, and for authorized reimbursable costs incurred. Agency shall have thirty (30) days from the receipt of an invoice that complies with all of the requirements above to pay Consultant.

2.3 Payment of Taxes. Consultant is solely responsible for the payment of all federal, state and local taxes, including employment taxes, incurred under this Agreement.

2.4 Authorization to Perform Services. The Consultant is not authorized to perform any Services or incur any costs whatsoever under the terms of this Agreement until receipt of written authorization from the Contract Administrator.

2.5 Timing for Submittal of Final Invoice. Consultant shall have ninety (90) days after completion of its Services to submit its final invoice. In the event Consultant fails to submit an invoice to Agency for any amounts due within the ninety (90) day period, Consultant is deemed to have waived its right to collect its final payment from Agency.

Section 3. FACILITIES AND EQUIPMENT. Except as set forth herein, Consultant shall, at its sole cost and expense, provide all facilities and equipment that may be necessary to perform the Services.

Section 4. INSURANCE REQUIREMENTS. Before beginning any work under this Agreement, Consultant, at its own cost and expense, shall procure the types and amounts of insurance listed below and shall maintain the types and amounts of insurance listed below for the period covered by this Agreement.

4.1 Workers' Compensation. If Consultant employs any person, Consultant shall maintain Statutory Workers' Compensation Insurance and Employer's Liability Insurance for any and all persons employed directly or indirectly by Consultant with limits of one million dollars ($1,000,000) per accident, each employee by disease, and policy limit by disease.

4.2 Commercial General and Automobile Liability Insurance.

4.2.1 Commercial General Insurance. Consultant shall maintain commercial general liability insurance for the term of this Agreement, including products liability, covering loss or liability, including the cost of defense of a claim, for bodily injury, death, personal injury and broad form property damage which may be caused by the operations of Consultant. The policy shall provide a limit of $1,000,000 per occurrence/$2,000,000 aggregate. Commercial general coverage shall be at least
as broad as ISO Commercial General Liability form CG 0001 (current edition) on "an occurrence" basis covering Commercial General Liability. No endorsement shall be attached limiting coverage which is materially related to the Scope of Work under this Agreement.

4.2.2 **Automobile Liability.** Consultant shall maintain automobile liability insurance form CA 0001 (current edition) for the term of this Agreement covering a loss or liability, including the cost of defense of an action, caused by the operation, maintenance or use of any vehicle (symbol 1), whether or not owned by the Consultant, on or off Agency premises. The policy shall provide a limit of $1,000,000 per each accident. This insurance shall provide contractual liability covering all motor vehicles and mobile equipment to the extent coverage may be excluded from general liability insurance.

4.2.3 **General Liability/Umbrella or Excess Insurance.** The coverage amounts set forth above may be met by a combination of underlying and umbrella/excess policies as long as in combination the limits equal or exceed those stated.

4.3 **Professional Liability Insurance.** Consultant shall maintain professional liability insurance appropriate to Consultant's profession performing work in connection with this Agreement in an amount of one million dollars ($1,000,000) per claim and two million dollars ($2,000,000) aggregate covering the Consultant's errors and omissions. Such insurance shall be on a "claims-made" basis, subject to the following conditions: (1) the retroactive date of the policy shall be on or before the Effective Date of this Agreement; (2) the policy shall be maintained for at least five (5) years after completion of the Services and, if requested by Agency, evidence of coverage shall be provided during this period; and (3) if, within five (5) years of completion of the Services, coverage is canceled or non-renewed, and not replaced with another claims-made policy form with a retroactive date prior to the Effective Date of this Agreement, Consultant shall purchase "extended reporting" coverage for a minimum of five (5) years after completion of the Services and, if requested by Agency, provide evidence of coverage during this period.

4.4 **All Policies Requirements.**

4.4.1 **Verification of coverage.** Prior to beginning any work under this Agreement, Consultant shall provide Agency with (1) a Certificate of Insurance that demonstrates compliance with all applicable insurance provisions contained herein and (2) policy endorsements to the policies referenced in Section 4.2, adding the Agency as an additional insured and declaring such insurance primary in regard to work performed pursuant to this Agreement.

4.4.2 **Notice of Cancellation of Coverage.** Consultant shall provide at least thirty (30) days prior written notice to Agency of any reduction in scope or amount below the
amounts required herein, cancellation, or modification adverse to Agency making Consultant non-compliant with the requirements herein of the policies referenced in Section 4.

4.4.3 **Additional Certificates and Endorsements.** If Consultant provides services to Agency members, SCPPA and/or SCPPA members, Agency shall have the right to require the Consultant to provide certificates of insurance and/or policy endorsements, as referenced in Section 4.4.1, naming the specific Agency member, SCPPA or Agency member for which the Services are to be performed.

4.5 **Waiver of Subrogation.** The Workers' Compensation policy shall be endorsed with a waiver of subrogation in favor of Agency for all work performed by Consultant, its employees, agents and subcontractors.

4.6 **Consultant's Obligation.** Consultant shall be solely responsible for requiring that all equipment, vehicles and other items utilized in the performance of Services are operated, provided or otherwise utilized in a manner that ensures they are and remain covered by the policies referenced in Section 4 during this Agreement. Consultant shall also require that all workers involved in the provision of Services are properly classified as employees, agents or independent contractors and are and remain covered by any and all workers' compensation insurance required by applicable law during this Agreement.

**Section 5. INDEMNIFICATION AND CONSULTANT'S RESPONSIBILITIES.**

5.1 **Effect of Insurance.** Agency's acceptance of insurance certificates and endorsements required under this Agreement does not relieve Consultant from liability under this indemnification and hold harmless clause. This indemnification and hold harmless clause shall apply to any damages or claims for damages whether or not such insurance policies shall have been determined to apply. By execution of this Agreement, Consultant acknowledges and agrees to the provisions of this Section and that it is a material element of consideration.

5.2 **Scope.** Consultant shall indemnify, defend with counsel reasonably acceptable to the Agency, and hold harmless the Agency and its officials, commissioners, officers, employees, and volunteers from and against any and all claims for bodily injury (including death) or property damage to the extent caused by the negligence, recklessness or willful misconduct of the Consultant in its performance of Services under this Agreement. Consultant shall bear all losses, costs, damages, expense and liability of every kind, nature and description that arise out of, pertain to, or relate to such claims, whether directly or indirectly ("Liabilities"). Such obligations to defend, hold harmless and indemnify the Agency shall not apply to the extent that such Liabilities are caused by the negligence, recklessness, or willful misconduct of the Agency.
Notwithstanding the foregoing, in the event Consultant defends the Agency and it is ultimately determined or agreed to that the Consultant was either not negligent or was only partially negligent with respect to the loss, liability, claim, suit, action or damages, the Agency agrees that it shall promptly reimburse Consultant for such proportion of the Consultant’s costs incurred in defending the Agency that is not attributable to the negligence of the Consultant.

Section 6.  

STATUS OF CONSULTANT. 

6.1  

Independent Contractor. Consultant is an independent contractor and not an employee of Agency. Agency shall have the right to control Consultant only insofar as the results of Consultant’s Services and assignment of personnel pursuant to Section 1; otherwise, Agency shall not have the right to control the means by which Consultant accomplishes Services rendered pursuant to this Agreement. Notwithstanding any other Agency, state, or federal policy, rule, regulation, law, or ordinance to the contrary, Consultant and any of its employees, agents, and subcontractors providing services under this Agreement shall not qualify for or become entitled to, and hereby agree to waive any and all claims to, any compensation, benefit, or any incident of employment by Agency, including but not limited to eligibility to enroll in the California Public Employees Retirement System (PERS) as an employee of Agency and entitlement to any contribution to be paid by Agency for employer contributions and/or employee contributions for PERS benefits.

Consultant shall indemnify, defend, and hold harmless Agency for the payment of any employee and/or employer contributions for PERS benefits on behalf of Consultant or its employees, agents, or subcontractors, as well as for the payment of any penalties and interest on such contributions, which would otherwise be the responsibility of Agency. Consultant and Agency acknowledge and agree that compensation paid by Agency to Consultant under this Agreement is based upon Consultant’s estimated costs of providing the Services, including salaries and benefits of employees, agents and subcontractors of Consultant.

Consultant shall indemnify, defend, and hold harmless Agency from any lawsuit, administrative action, or other claim for penalties, losses, costs, damages, expense and liability of every kind, nature and description that arise out of, pertain to, or relate to such claims, whether directly or indirectly, due to Consultant’s failure to secure workers’ compensation insurance for its employees, agents, or subcontractors.

Consultant agrees that it is responsible for the provision of group healthcare benefits to its fulltime employees under 26 U.S.C. § 4980H of the Affordable Care Act. To the extent permitted by law, Consultant shall indemnify, defend and hold harmless Agency from any penalty issued to Agency under the Affordable Care Act resulting from the performance of the Services by any employee, agent, or subcontractor of Consultant.
6.2 **Consultant Not Agent.** Except as Agency may specify in writing, Consultant shall have no authority, express or implied, to act on behalf of Agency in any capacity whatsoever as an agent. Consultant shall have no authority, express or implied, pursuant to this Agreement to bind Agency to any obligation whatsoever.

6.3 **Assignment and Subcontracting.** This Agreement contemplates personal performance by Consultant and is based upon a determination of Consultant's unique professional competence, experience, and specialized professional knowledge. A substantial inducement to Agency for entering into this Agreement was and is the personal reputation and competence of Consultant. Consultant may not assign this Agreement or any interest therein without the prior written approval of the Agency. Consultant shall not subcontract any portion of the performance contemplated and provided for herein without prior written approval of the Agency. Where written approval is granted by the Agency, Consultant shall supervise all work subcontracted by Consultant in performing the services and shall be responsible for all work performed by a subcontractor as if Consultant itself had performed such work. The subcontracting of any work to subcontractors shall not relieve Consultant from any of its obligations under this Agreement with respect to the services and Consultant is obligated to ensure that any and all subcontractors performing any services shall be insured in all respects commensurate with the size of the subcontract.

6.4 **Certification as to California Energy Commission.** If requested by the Agency, Consultant shall, at the same time it executes this Agreement, execute Exhibit C.

**Section 7. LEGAL REQUIREMENTS.**

7.1 **Governing Law.** The laws of the State of California shall govern this Agreement.

7.2 **Compliance with Applicable Laws.** Consultant and its subcontractors and agents, if any, shall comply with all laws applicable to the performance of the work hereunder.

7.3 **Licenses and Permits.** Consultant represents and warrants to Agency that Consultant and its employees, agents, and subcontractors (if any) have and will maintain at their sole expense during the term of this Agreement all licenses, permits, qualifications, and approvals of whatever nature that are legally required to practice their respective professions.

**Section 8. TERMINATION AND MODIFICATION.**

8.1 **Termination.** Agency may cancel this Agreement at any time and without cause upon ten (10) days prior written notice to Consultant.

In the event of termination, Consultant shall be entitled to compensation for Services satisfactorily completed as of the effective date of termination; Agency, however, may
condition payment of such compensation upon Consultant delivering to Agency any or all records or documents, as referenced in Section 9.1 hereof.

8.2 Amendments. The Parties may amend this Agreement only by a writing signed by all the Parties.

8.3 Survival. All obligations arising prior to the termination of this Agreement and all provisions of this Agreement allocating liability between Agency and Consultant, including any written waivers and releases, shall survive the termination of this Agreement.

8.4 Options upon Breach by Consultant. If Consultant materially breaches any of the terms of this Agreement, including but not limited to those set forth in Section 4, Agency’s remedies shall include, but not be limited to, the following:

8.4.1 Immediately terminate the Agreement;

8.4.2 Retain the plans, specifications, drawings, reports, design documents, and any other deliverable prepared by Consultant pursuant to this Agreement;

8.4.3 Retain a different consultant to complete the Services not finished by Consultant; and/or

8.4.4 Charge Consultant the difference between the costs to complete the Services that is unfinished at the time of breach and the amount that Agency would have paid Consultant pursuant hereto if Consultant had completed the Services.

Section 9. KEEPING AND STATUS OF DELIVERABLES.

9.1 Deliverables Created as Part of Consultant’s Performance. All deliverables in electronic or any other form, that Consultant prepares pursuant to this Agreement and that relate to the matters covered hereunder shall become the property of the Agency upon full payment of all amounts properly due hereunder. Consultant hereby agrees to deliver those documents to the Agency upon termination of the Agreement. Agency and Consultant agree that, unless approved by Agency in writing, Consultant shall not release to any non-parties to this Agreement any data, plans, specifications, reports and other documents. Any and all deliverables are prepared specifically, and intended to be utilized exclusively for the project and location contemplated under the Agreement. Any completion, extension, or modification of deliverables by Agency or others without participation by Consultant, or written authorization by Consultant, or any reuse by Agency of Consultant’s deliverables or work product other than for the specific purpose intended will be at Agency’s sole risk and without liability or legal exposure to Consultant. Consultant shall retain ownership of Consultant’s prior developed intellectual property (including standard drawings and specifications, computer programs and models,
9.2 Consultant’s Books and Records. Consultant shall maintain any and all records or other documents evidencing or relating to charges for Services or expenditures and disbursements charged to the Agency under this Agreement for a minimum of three (3) years, or for any longer period required by law, from the date of final payment to the Consultant to this Agreement.

9.3 Inspection and Audit of Records. Any records or documents that this Agreement requires Consultant to maintain shall be made available for inspection, audit, and/or copying at any time during regular business hours, upon oral or written request of the Agency. Under California Government Code Section 8546.7, if the amount of public funds expended under this Agreement exceeds ten thousand dollars ($10,000.00), the Agreement shall be subject to the examination and audit of the State Auditor, at the request of Agency or as part of any audit of the Agency, for a period of three (3) years after final payment under the Agreement. In no event shall Agency be entitled to audit the composition of any agreed upon fixed rates or percentage multipliers nor shall it be entitled to audit any rates, charges, costs, hours worked or expenses related to work performed on a lump sum or fixed price basis. Notwithstanding the preceding sentence, Consultant understands and agrees that Agency can make no representations or promises concerning the scope or extent of an audit by the State Auditor.

9.4 Confidential Information and Disclosure.

9.4.1 Confidential Information. The term "Confidential Information", as used herein, shall mean any and all confidential, proprietary, or trade secret information, whether written, recorded, electronic, oral or otherwise, where the Confidential Information is made available in a tangible medium of expression and marked in a prominent location as confidential, proprietary and/or trade secret information. Confidential Information shall not include information that: (a) was already known to the Receiving Party or is otherwise a matter of public knowledge, (b) was disclosed to Receiving Party by a third party without violating any confidentiality agreement, (c) was independently developed by Receiving Party without reverse engineering, as evidenced by written records thereof, or (d) was not marked as confidential Information in accordance with this section.

9.4.2 Non-Disclosure of Confidential Information. During the term of this Agreement, either party may disclose (the “Disclosing Party”) Confidential Information to the other party (the “Receiving Party”). During the term of this Agreement and five (5) years thereafter, the Receiving Party shall: (a) hold the Disclosing Party’s Confidential Information in confidence; (b) take all reasonable steps to prevent any unauthorized possession, use, copying, transfer or disclosure of such Confidential Information; (c) not use Confidential Information except as specifically required to perform or complete the Services; and (d) not disclose Confidential Information to any third party without the prior written consent of the Disclosing Party.

19.5.1 The Receiving Party shall immediately notify the Disclosing Party of any disclosure or attempted disclosure that the Receiving Party is aware of, and shall promptly use all reasonable efforts to prevent further unauthorized possession, use, copying, transfer or disclosure of such Confidential Information.

19.5.2 The obligations of the Receiving Party under this Section 9.4 shall continue to bind and apply to Confidential Information after the term of this Agreement.

19.5.3 Notwithstanding the provisions of this Section 9.4, the Receiving Party shall not be obligated to keep any Confidential Information in confidence or prevent its use or disclosure if: (a) it was known to the Receiving Party prior to receipt of the Confidential Information; (b) it was generally known to the public at the time the Receiving Party received the Confidential Information or became generally known to the public after such time; (c) it was obtained by the Receiving Party from a source other than the Disclosing Party without violation of any confidentiality agreement; or (d) the Receiving Party was independently developed without use of or reference to the Confidential Information.

9.6.1 Nothing in this Agreement shall be construed as granting to either party any right to use the other party’s proprietary, trade secret, copyrighted or patented information or formulae, other than the rights expressly granted herein.

9.6.2 In no event shall the Receiving Party be required to disclose Confidential Information pursuant to any legal obligation to disclose such Confidential Information, including, but not limited to, any public records obligation or audit requirements of the State of California.
Information; and (c) return or destroy all Confidential Information (including all copies thereof) within thirty (30) days of receipt of a written request from the Disclosing Party.

9.4.3 **Permitted Disclosure.** Notwithstanding the foregoing, the following disclosures of Confidential Information are allowed. Receiving Party shall endeavor to provide prior written notice to Disclosing Party of any permitted disclosure made pursuant to Section 9.4.3.2 or 9.4.3.3. Disclosing Party may seek a protective order, including without limitation, a temporary restraining order to prevent or contest such permitted disclosure; provided, however, that Disclosing Party shall seek such remedies at its sole expense. Neither party shall have any liability for such permitted disclosures:

9.4.3.1 Disclosure to employees, agents, consultants, contractors, subcontractors or other representatives of Receiving Party that have a need to know in connection with this Agreement.

9.4.3.2 Disclosure in response to a valid order of a court, government or regulatory agency or as may otherwise be required by law; and

9.4.3.3 Disclosure by Agency in response to a request pursuant to the California Public Records Act.

9.4.4 **Handling of Confidential Information.** Upon conclusion or termination of the Agreement, Receiving Party shall return to Disclosing Party or destroy Confidential Information (including all copies thereof), if requested by Disclosing Party in writing. Notwithstanding the foregoing, the Receiving Party may retain copies of such Confidential Information, subject to the confidentiality provisions of this Agreement: (a) for archival purposes in its computer system; (b) in its legal department files; and (c) in files of Receiving Party's representatives where such copies are necessary to comply with applicable law. Party shall not disclose the Disclosing Party's Information to any person other than those of the Receiving Party's employees, agents, consultants, contractors and subcontractors who have a need to know in connection with this Agreement.

Section 10. **MISCELLANEOUS PROVISIONS.**

10.1 **Attorneys' Fees.** If a party to this Agreement brings any action, including an action for declaratory relief, to enforce or interpret the provision of this Agreement, the prevailing party shall be entitled to reasonable attorneys' fees in addition to any other relief to which that party may be entitled. The court may set such fees in the same action or in a separate action brought for that purpose.
10.2 **Venue.** In the event that either party brings any action against the other under this Agreement, the Parties agree that trial of such action shall be vested exclusively in the state courts of California in the County of Placer or in the United States District Court for the Eastern District of California.

10.3 **Severability.** If a court of competent jurisdiction finds or rules that any provision of this Agreement is invalid, void, or unenforceable, the provisions of this Agreement not so adjudged shall remain in full force and effect. The invalidity in whole or in part of any provision of this Agreement shall not void or affect the validity of any other provision of this Agreement.

10.4 **No Implied Waiver of Breach.** The waiver of any breach of a specific provision of this Agreement does not constitute a waiver of any other breach of that term or any other term of this Agreement.

10.5 **Successors and Assigns.** The provisions of this Agreement shall inure to the benefit of and shall apply to and bind the successors and assigns of the Parties.

10.6 **Conflict of Interest.** Consultant may serve other clients, but none whose activities within the corporate limits of Agency or whose business, regardless of location, would place Consultant in a "conflict of interest," as that term is defined in the Political Reform Act, codified at California Government Code Section 81000 et seq.

Consultant shall not employ any Agency official in the work performed pursuant to this Agreement. No officer or employee of Agency shall have any financial interest in this Agreement that would violate California Government Code Sections 1090 et seq.

10.7 **Contract Administrator.** This Agreement shall be administered by Ken Speer, Assistant General Manager, or his designee, who shall act as the Agency's representative. All correspondence shall be directed to or through the representative.

10.8 **Notices.** Any written notice to Consultant shall be sent to:

Burns & McDonnell  
Attn. Mr. Adam Young, PE, Project Manager  
9400 Ward Parkway  
Kansas City, MO 64114

With a copy sent to:  
Burns & McDonnell  
Attn: General Counsel  
9400 Ward Parkway,  
Kansas City, MO 64114
Any written notice to Agency shall be sent to:

Mr. Randy S. Howard, General Manager
Northern California Power Agency
651 Commerce Drive
Roseville, CA 95678

With a copy to:

Michael F. Dean
General Counsel
Northern California Power Agency
Meyers Nave
555 Capitol Mall, Suite 1200
Sacramento, CA 95814

10.9 **Professional Seal.** Where applicable in the determination of the Agency, the first page of a technical report, first page of design specifications, and each page of construction drawings shall be stamped/sealed and signed by the licensed professional responsible for the report/design preparation.

10.10 **Integration: Incorporation.** This Agreement, including all the exhibits attached hereto, represents the entire and integrated agreement between Agency and Consultant and supersedes all prior negotiations, representations, or agreements, either written or oral. All exhibits attached hereto are incorporated by reference herein.

10.11 **Alternative Dispute Resolution.** If any dispute arises between the Parties that cannot be settled after engaging in good faith negotiations, Agency and Consultant agree to resolve the dispute in accordance with the following:

10.11.1 Each party shall designate a senior management or executive level representative to negotiate any dispute;

10.11.2 The representatives shall attempt, through good faith negotiations, to resolve the dispute by any means within their authority.

10.11.3 If the issue remains unresolved after fifteen (15) days of good faith negotiations, the Parties shall attempt to resolve the disagreement by negotiation between legal counsel. If the above process fails, the Parties shall resolve any remaining disputes through mediation to expedite the resolution of the dispute.
10.11.4 The mediation process shall provide for the selection within fifteen (15) days by both Parties of a disinterested third person as mediator, shall be commenced within thirty (30) days and shall be concluded within fifteen (15) days from the commencement of the mediation.

10.11.5 The Parties shall equally bear the costs of any third party in any alternative dispute resolution process.

10.11.6 The alternative dispute resolution process is a material condition to this Agreement and must be exhausted as an administrative prior to either Party initiating legal action. This alternative dispute resolution process is not intended to nor shall be construed to change the time periods for filing a claim or action specified by Government Code §§ 900 et seq.

10.12 **Controlling Provisions.** In the case of any conflict between the terms of this Agreement and the Exhibits hereto, a Purchase Order, or Consultant's Proposal (if any), the Agreement shall control. In the case of any conflict between the Exhibits hereto and a Purchase Order or the Consultant's Proposal, the Exhibits shall control. In the case of any conflict between the terms of a Purchase Order and the Consultant's Proposal, the Purchase Order shall control.

10.13 **Counterparts.** This Agreement may be executed in multiple counterparts, each of which shall be an original and all of which together shall constitute one agreement.

10.14 **Construction of Agreement.** Each party hereto has had an equivalent opportunity to participate in the drafting of the Agreement and/or to consult with legal counsel. Therefore, the usual construction of an agreement against the drafting party shall not apply hereto.

10.15 **No Third Party Beneficiaries.** This Agreement is made solely for the benefit of the parties hereto, with no intent to benefit any non-signator third parties. However, should Consultant provide services to an Agency member, SCPA or SCPA member (collectively for the purpose of this Section only “Member”) pursuant to Section 1.4, the parties recognize that such Member may be a third party beneficiary solely as to the Purchase Order and Requested Services relating to such Member.

10.16 **Agency Provided Information.** Consultant shall have no liability for defects in the Services attributable to Consultant's reliance upon or use of data, design criteria, drawings, specifications, or other information furnished by Agency or third parties not under contract to Consultant (collectively, for purposes of this Section 10.16, "Third Party Information"); provided, however, that: (1) this provision shall not excuse Consultant's failure to perform the Services to the Standard of Care in Section 1.2 of this Agreement; and (2) where the scope of services includes checking or verifying the accuracy of Third Party Information, this provision shall not excuse Consultant from performing such checking or verifying to the Standard of Care in Section 1.2.
10.17 **Contractor Safety.** Consultant shall be responsible for the safety of its own employees at all times during the performance of any Services. Consultant’s safety program shall include all requisite components required under Federal, state and local regulations and, if applicable, shall comply with all Agency or project site programs.

10.17.1 Consultant shall not be responsible for: (a) construction means, methods, techniques, sequences, procedures, or safety precautions and programs in connection with work related to the Services; (b) the failure of any of Agency’s other contractors or consultants or their respective employees, subcontractors, vendors, or other project participants, not under contract to Consultant, to fulfill contractual responsibilities to Agency or to comply with federal, state, or local laws, regulations, and codes; or (c) procuring permits, certificates, and licenses required for any construction; provided, however, that this Section 10.17.1 shall not apply where the Services specified in a Purchase Order specifically include these responsibilities.

10.17.2 Consultant shall not have the authority to direct, control or stop the work of Agency’s contractors or consultants or their respective employees, subcontractors or vendors; provided, however, that this Section 10.17.2 shall not apply where the Services specified in a Purchase Order specifically include these responsibilities.

10.18 **Cost Estimates.** Estimates and projections prepared by Consultant relating to construction costs and schedules, operation and maintenance costs, equipment characteristics and performance, and operating results are based on Consultant’s experience, qualifications, and judgment as a design professional. Since Consultant has no control over weather, cost and availability of labor, material and equipment, labor productivity, construction contractors’ procedures and methods, unavoidable delays, construction contractors’ methods of determining prices, economic conditions, competitive bidding or market conditions, and other factors affecting such cost opinions or projections, Consultant does not guarantee that actual rates, costs, performance, schedules, and related items will not vary from cost estimates and projections prepared by Consultant.

10.19 **Contractor Liability.** In no event shall either Party or its subcontractors or subconsultants, of any tier, be liable in contract, tort, strict liability, warranty or otherwise, for any special, incidental, exemplary or consequential damages, such as, but not limited to, delay, disruption, loss of product, loss of anticipated profits or revenue, loss of use of the equipment or system, non-operation or increased expense of operation of other equipment or systems, cost of capital, or cost of purchase or replacement equipment, systems or power. In addition, to the fullest extent permissible by law, and notwithstanding any other provision of this Agreement or any Purchase Order, the total liability, in the aggregate, of Consultant, its officers, directors, shareholders, employees, agents, subcontractors and subconsultants, and any of them, to Agency and anyone claiming by,
through or under Agency, for any and all claims, losses, liabilities, costs or damages whatsoever arising out of, resulting from or in any way related to the Services or this Agreement or any Purchase Order from any claim, including, but not limited to, tort claims, claims of negligence (of any degree), professional errors or omissions, breach of contract, breach of warranty, indemnity claims and strict liability of Consultant, its officers, directors, shareholders, employees, agents, subcontractors and subconsultants, and any of them, shall not exceed Two Million dollars ($2,000,000.00).

10.20 **Hazardous Materials.** "Hazardous Waste" means any toxic or radioactive substance so defined under applicable federal, state or local laws or regulations. "Pre-Existing Contamination" is any Hazardous Waste present at the job site that was not brought onto such site by Consultant or at the direction of Consultant. Notwithstanding anything in this Agreement to the contrary, title to, ownership of, and legal responsibility and liability for Pre-Existing Contamination shall at all times remain with Agency. Agency agrees to release, defend, indemnify, and hold Consultant harmless from and against any and all liability and claims, including attorneys' fees, that may in any manner arise in any way directly or indirectly from such Pre-Existing Contamination. This indemnification obligation shall survive the completion or termination of the Agreement.

The Parties have executed this Agreement as of the date signed by the Agency.

NORTHERN CALIFORNIA POWER AGENCY

Date 11/7/16

Randy S. Howard, General Manager

Attest:

Assistant Secretary of the Commission

Approved as to Form:

Assistant General Counsel

BURNS & MCDONNELL ENGINEERING COMPANY, INC.

Date 10/26/16

Jeff Grajek, Senior Vice President

GS-VEN-2016-053
EXHIBIT A

SCOPE OF SERVICES

Burns & McDonnell ("Consultant") shall provide the Northern California Power Agency ("Agency") and, pursuant to Section 1.4 of the Agreement, Agency members, the Southern California Public Power Authority ("SCPPA"), and SCPPA members, with consulting services related to project support and plant operations as needed. The scope of the Consulting services performed under the Agreement will be defined on an individual Purchase Order basis.

Services to include, but not be limited to the following:

- Feasibility Studies
- Business Model Development
- Forecasting and Resource Planning
- Transmission & Distribution Planning
- Technology Assessments
- Power Project Development
- Renewable Resource Development
- Valuations and Appraisals
- Cost of Service and Rate Studies
- Engineer of Record
- NERC Compliance
- Environmental Studies & Permitting
- Conceptual Design
- Cost Estimating
- Contract Planning
- Engineering Services (preliminary and detailed)
- Engineering Studies
- Execution Planning
- Operations and Maintenance Evaluation and Support
- Vendor Quality Assurance
- Construction Management
- Start-up and Commissioning Service
- Customer Information System Services
- Meter Data Management System Services
- Advanced Metering Infrastructure Services
- Smart Grid Solutions
- Technology Advisory Services
- Project Management Services
- Smart Grid Consulting Services
EXHIBIT B

COMPENSATION SCHEDULE AND HOURLY FEES

Compensation for all tasks, including hourly fees and expenses, shall not exceed the amount set forth in Section 2 of the Agreement. Consultant may increase the rates once per calendar year by an amount not to exceed three percent (3%) per year after the first year of the Agreement. Consultant shall notify Agency of any rate increase in writing at least thirty (30) calendar days prior to the effective date of the increase. The hourly rates for providing professional services and method of expense reimbursement is included on the following page within Exhibit B.

NOTE: As a public agency, NCPA shall not reimburse Consultant for travel, food and related costs in excess of those permitted by the Internal Revenue Service.
### Schedule of Hourly Professional Service Billing Rates

<table>
<thead>
<tr>
<th>Position Classification</th>
<th>Classification Level</th>
<th>Hourly Billing Rate</th>
</tr>
</thead>
<tbody>
<tr>
<td>General Office *</td>
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<td>$62.00</td>
</tr>
<tr>
<td>Technician *</td>
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<tr>
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<tr>
<td></td>
<td>17</td>
<td>240.00</td>
</tr>
</tbody>
</table>

**NOTES:**

1. Position classifications listed above refer to the firm's internal classification system for employee compensation. For example, "Associate", "Senior", etc., refer to such positions as "Associate Engineer", "Senior Architect", etc.

2. For any nonexempt personnel in positions marked with an asterisk (*), overtime will be billed at 1.5 times the hourly labor billing rates shown.

3. Project time spent by corporate officers will be billed at the Level 17 rate plus 25 percent.

4. For outside expenses incurred by Burns & McDonnell, such as authorized travel and subsistence, and for services rendered by others such as subcontractors, the client shall pay the cost to Burns & McDonnell plus 10%.

5. A technology charge of $9.95 per labor hour will be billed for normal computer usage, computer aided drafting (CAD) long distance telephone, fax, photocopy and mail services. Specialty items (such as web and video conferencing) are not included in the technology charge.

6. Monthly invoices will be submitted for payment covering services and expenses during the preceding month. Invoices are due upon receipt. A late payment charge of 1.5% per month will be added to all amounts not paid within 30 days of the invoice date.

7. The services of contract/agency and/or any personnel of a Burns & McDonnell subsidiary or affiliate shall be billed to Owner according to the rate sheet as if such personnel is a direct employee of Burns & McDonnell.

8. The rates shown above are effective for services through December 31, 2016, and are subject to revision thereafter.
EXHIBIT C

CERTIFICATION

Affidavit of Compliance for Contractors

I, ________________________________, SVP

(Name of person signing affidavit)(Title)

do hereby certify that background investigations to ascertain the accuracy of the identity and employment history of all employees of:

BURNS & McDonnell Engineering Company, Inc.

(Company name)

for contract work at:

LODI ENERGY CENTER, 12745 N. Thornton Road, Lodi, CA 95242

(Project name and location)

have been conducted as required by the California Energy Commission Decision for the above-named project.

______________________________

(Signature of officer or agent)

Dated this 26th day of October, 2016.

THIS AFFIDAVIT OF COMPLIANCE SHALL BE APPENDED TO THE PROJECT SECURITY PLAN AND SHALL BE RETAINED AT ALL TIMES AT THE PROJECT SITE FOR REVIEW BY THE CALIFORNIA ENERGY COMMISSION COMPLIANCE PROJECT MANAGER.
October 26, 2016

Ken Speer
Assistant General Manager
Northern California Power Agency
651 Commerce Drive
Roseville, CA 95678

Re: Exhibit C Certification – Affidavit of Compliance for Contractors

Dear NCPA:

As an officer of Burns & McDonnell Engineering Company, Inc., I acknowledge receipt of Exhibit C of the Multi-Task Professional Services Agreement (Agreement) titled, Certification – Affidavit of Compliance for Contractors. As requested, I have executed the Exhibit C Certification in order to finalize the Agreement.

This letter summarizes the understanding of our two parties, Northern California Power Agency (NCPA) and Burns & McDonnell Engineering Company, Inc. (Party or Parties), regarding the purpose and intent of the Exhibit C Certification.

• The Exhibit C Certification is a requirement of the California Energy Commission. It is a standard form and neither Party can edit or revise the document.
• Burns & McDonnell Engineering Company, Inc. agrees to conduct the required background investigation for any employee, contractor, or subcontractor that intends to visit the subject facility, as required pursuant to the Exhibit C Certification.
• Both Parties acknowledge that as of the Effective Date of the Agreement, no assignments regarding the subject facility have been planned or authorized and consequently, no background investigations have been required or been undertaken pursuant to the Exhibit C Certification.

If you have any comments or questions, please contact me at your earliest convenience at jgreig@burnsmcd.com or 816-822-3392.

Submitted,

[Signature]
Jeff Greig
Senior Vice President, Burns & McDonnell

9400 Ward Parkway \ Kansas City, MO 64114
O 816-333-9400 \ F 816-333-3690 \ burnsmcd.com
Northern California Power Agency  
October 26, 2016  
Page 2  

ACKNOWLEDGED:  

Northern California Power Agency

[Signature]

Name & Title

[Title]

11/7/16

Date
February 2, 2018

Linda Stone
Northern California Power Agency
651 Commerce Drive
Roseville, CA 95678

RE: Agreement for Professional Engineering Services

Dear Linda,

As indicated in our existing agreements, Burns & McDonnell annually adjusts its Schedule of Hourly Rates for Professional Services.

Enclosed is our Schedule of Hourly Professional Services Billing Rates effective for services performed for the above listed projects for January 1, 2018, through December 31, 2018.

We thank you for the opportunity to continue serving you.

Sincerely,

Chris Underwood
General Manager

CU / ad

Enclosure Attachment
cc: BMR1018
cc: Adam Young
# Schedule of Hourly Professional Service Billing Rates

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<tr>
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**NOTES:**

1. Position classifications listed above refer to the firm's internal classification system for employee compensation. For example, "Associate", "Senior", etc., refer to such positions as "Associate Engineer", "Senior Architect", etc.

2. For any nonexempt personnel in positions marked with an asterisk (*), overtime will be billed at 1.5 times the hourly labor billing rates shown.

3. Project time spent by corporate officers will be billed at the Level 17 rate plus 25 percent.

4. For outside expenses incurred by Burns & McDonnell, such as authorized travel and subsistence, and for services rendered by others such as subcontractors, the client shall pay the cost to Burns & McDonnell plus 10%.

5. A technology charge of $9.95 per labor hour will be billed for normal computer usage, computer aided drafting (CAD) long distance telephone, fax, photocopy and mail services. Specialty items (such as web and video conferencing) are not included in the technology charge.

6. Monthly invoices will be submitted for payment covering services and expenses during the preceding month(s). Invoices are due upon receipt. A late payment charge of 1.5% per month will be added to all amounts not paid within 30 days of the invoice date.

7. The services of contract/agency and/or any personnel of a Burns & McDonnell subsidiary or affiliate shall be billed to Owner according to the rate sheet as if such personnel is a direct employee of Burns & McDonnell.

8. The rates shown above are effective for services through December 31, 2018, and are subject to revision thereafter.

Form BMR1018
FIRST AMENDMENT TO MULTI-TASK PROFESSIONAL SERVICES AGREEMENT BETWEEN THE NORTHERN CALIFORNIA POWER AGENCY AND BURNS AND MCDONNELL ENGINEERING COMPANY, INC.

This First Amendment ("Amendment") to Multi-Task Professional Services Agreement is entered into by and between the Northern California Power Agency ("Agency") and Burns and McDonnell Engineering Company, Inc. (collectively referred to as "the Parties") as of ________________, 201__.

WHEREAS, the Parties entered into a five year Multi-Task Professional Services Agreement dated effective October 25, 2016, (the "Agreement") for Burns and McDonnell Engineering Company, Inc. to provide consulting services ("Work"), as more specifically detailed in the Agreement to Agency; and

WHEREAS, the Agency now desires to amend the Agreement to increase the total compensation authorized by the Agreement from a "NOT TO EXCEED" amount of $1,000,000 to a 'NOT TO EXCEED amount of $4,000,000; and

WHEREAS, the Parties have agreed to modify the Agreement as set forth above; and

WHEREAS, in accordance with Section 8.2 all changes to the Agreement must be in writing and signed by all the Parties; and

NOW, THEREFORE, the Parties agree as follows:

1. **Section 2—Compensation** of the Agreement is amended and restated to read as follows:

   Agency hereby agrees to pay Contractor an amount **NOT TO EXCEED** FOUR MILLION dollars ($4,000,000) for the Work, which shall include all fees, costs, expenses and other reimbursables, as set forth in Contractor’s fee schedule, attached hereto and incorporated herein as Exhibit B. This dollar amount is not a guarantee that Agency will pay that full amount to the Contractor, but is merely a limit of potential Agency expenditures under this Agreement.

   The remainder of Section 2 of the Agreement is unchanged.

2. This Amendment in no way alters the terms and conditions of the Agreement except as specifically set forth herein.
Date: _____________

NORTHERN CALIFORNIA POWER AGENCY

____________________________
RANDY S. HOWARD, General Manager

Attest:

__________________________
Assistant Secretary of the Commission

Approved as to Form:

__________________________
Jane E. Luckhardt, General Counsel

Date: _____________

BURNS AND MCDONNEL ENGINEERING COMPANY, INC.

____________________________
CHRIS UNDERWOOD, General Manager
Lodi Energy Center Project Participant Committee

Staff Report

AGENDA ITEM NO.: 14

Date: August 21, 2018
Meeting Date: September 10, 2018
To: Lodi Energy Center Project Participant Committee
Subject: ABB, Inc. – Five Year Multi-Task General Services Agreement; Applicable to the following projects: All NCPA locations and Members, SCPPA, and SCPPA Members

Proposal
Approve Multi-Task General Services Agreement with ABB, Inc. for generator inspection, testing, troubleshooting and repair services, with any non-substantial changes recommended and approved by the NCPA General Counsel, which shall not exceed $10,000,000 over five years for use at all facilities owned and/or operated by NCPA, its Members, by the Southern California Public Power Authority (“SCPPA”), or by SCPPA Members.

Background
In July 2018, ABB completed the acquisition of GE’s Industrial Solutions division which includes the generator rewind personnel and knowledge formerly wielded by GE. ABB has renamed this division Electrification Products Industrial Solutions (EPIS). GE (now ABB-EPIS) offers support to power plant operators through emergency services, maintenance repair and overhaul (MRO) programs and other asset monitoring services. ABB-EPIS, has acquired very experienced players in the field. NCPA has personal experience with GE’s (now ABB-EPIS) innovation solutions being used by CTs to provide synchronous generator testing modeling services and at the GEO to install control equipment at the Bear Canyon Pump Station. Most notably, in June 2017 when NCPA’s Hydroelectric facility experienced a stator ground fault in its Collierville Unit 2 Generator, GE helped get the facility back online in record time when even the original equipment manufacturer was unresponsive to requests for assistance. GE mobilized an onsite crew to bypass the problem and was able to get the unit back to production for summer generation - saving thousands by reducing plant down time.

To date, NCPA has been using small general service agreements painstakingly negotiated each time services are needed at each individual facility. The emergency repair at Hydro highlighted the need for an agreement that preempts having to negotiate a contract in an emergency situation with much less favorable terms and that extends to all facilities. NCPA has had a successful relationship with GE (now ABB-EPIS) through their reliable service and solutions-oriented teams. Authorization of this Multitask General Services Agreement would allow NCPA and its members to continue being able to call on them for emergency and general maintenance services, as needed, to maintain generation assets under the most favorable terms and conditions able to be negotiated.
Selection Process
This five year contract does not commit NCPA to any expenditure of funds. When these services are required, NCPA will bid the specific scope of work consistent with NCPA procurement policies and procedures. NCPA currently has in place (specify other enabling agreements) for similar services. NCPA will seek bids from as many qualified providers as possible and enter into additional enabling agreements as needed. The bid is awarded to the lowest cost provider. NCPA will issue purchase orders based on cost and availability of the services needed at the time the service is required.

Fiscal Impact
Upon execution, the total cost of the agreement is not-to-exceed ($10,000,000) over (five) years to be used out of NCPA approved budgets as services are rendered. Purchase orders referencing the terms and conditions of the Agreement will be issued following NCPA procurement policies and procedures.

Environmental Analysis
This activity would not result in a direct or reasonably foreseeable indirect change in the physical environment and is therefore not a “project” for purposes of Section 21065 the California Environmental Quality Act. No environmental review is necessary.

Submitted by:

KEN SPEER
Assistant General Manager
Generation Services

Attachments (2):
- Resolution
- Multi-Task General Services Agreement with ABB, Inc.
MULTI-TASK
GENERAL SERVICES AGREEMENT BETWEEN
THE NORTHERN CALIFORNIA POWER AGENCY AND
ABB INC.

This agreement for general services ("Agreement") is made by and between the Northern California Power Agency, a joint powers agency with its main office located at 651 Commerce Drive, Roseville, CA 95678-6420 ("Agency") and ABB, Inc., a corporation with its office located at 305 Gregson Drive, Cary, NC 27511 ("Contractor") (together sometimes referred to as the “Parties”) as of _____________, 201_ ("Effective Date") in Roseville, California.

Section 1. SCOPE OF WORK. Subject to the terms and conditions set forth in this Agreement, Contractor is willing to provide to Agency the range of services and/or goods described in the Scope of Work attached hereto as Exhibit A and incorporated herein ("Work").

1.1 Term of Agreement. The term of this Agreement shall begin on the Effective Date and shall end when Contractor completes the Work, or no later than five (5) years from the date this Agreement was signed by Agency, whichever is shorter.

1.2 Standard of Performance. Contractor shall perform the Work in the manner and according to the standards observed by a competent practitioner of the profession in which Contractor is engaged and for which Contractor is providing the Work. Contractor represents that it is licensed, qualified and experienced to provide the Work set forth herein.

1.3 Assignment of Personnel. Contractor shall assign only competent personnel to perform the Work. Agency may direct Contractor to remove from carrying out any part of the Work any of Contractor’s personnel where the person (1) is incompetent or negligent in the performance of their duties; or (2) is engaged in activities which are contrary or detrimental to the interests of Agency Contractor shall, immediately comply upon receiving written notice from Agency of such direction, and provide a suitable replacement for the person removed.

1.4 Work Provided. Work provided under this Agreement by Contractor may include Work directly to the Agency or, as requested by the Agency and consistent with the terms of this Agreement, to Agency members, Southern California Public Power Authority ("SCPPA") or SCPPA members.

1.5 Request for Work to be Performed. At such time that Agency determines to have Contractor perform Work under this Agreement, Agency shall issue a Purchase Order. The Purchase Order shall identify the specific Work to be performed ("Requested Work"), may include a not-to-exceed cap on monetary cap on Requested Work and all related expenditures authorized by that Purchase Order, and shall include a time by which the Requested Work shall be completed. If Contractor does not respond in writing within
seven days of the date of the Agency’s issuance of the Purchase Order that Contractor will perform the Requested Work on the terms and conditions set forth in the Purchase Order, then Contractor shall be deemed to have declined to perform the Work set forth in the Purchase Order. If Contractor agrees in writing to perform the Requested Work, the Contractor also agrees to perform the Requested Work on the terms set forth in the Purchase Order, this Agreement and its Exhibits.

Section 2. COMPENSATION. Agency hereby agrees to pay Contractor an amount NOT TO EXCEED ten million dollars ($10,000,000) for the Work, which shall include all fees, costs, expenses and other reimbursables, as set forth in Contractor’s fee schedule, attached hereto and incorporated herein as Exhibit B. This dollar amount is not a guarantee that Agency will pay that full amount to the Contractor, but is merely a limit of potential Agency expenditures under this Agreement.

2.1 Invoices. Contractor shall submit invoices, not more often than once a month during the term of this Agreement, based on the cost for services performed and reimbursable costs incurred prior to the invoice date. Invoices shall contain the following information:

- The beginning and ending dates of the billing period;
- Work performed;
- The Purchase Order number authorizing the Requested Work;
- At Agency’s option, for each work item in each task, a copy of the applicable time entries or time sheets shall be submitted showing the name of the person doing the work, the hours spent by each person, a brief description of the work, and each reimbursable expense, with supporting documentation, to Agency’s reasonable satisfaction;
- At Agency’s option, the total number of hours of work performed under the Agreement by Contractor and each employee, agent, and subcontractor of Contractor performing work hereunder.

Invoices shall be sent to:

Northern California Power Agency  
651 Commerce Drive  
Roseville, California 95678  
Attn: Accounts Payable  
AcctsPayable@ncpa.com

2.2 Payment. Unless a longer period is provided in Contractor’s written quotation, Agency shall make monthly payments, based on invoices received, for Work performed in conformance with this Agreement, and for authorized reimbursable costs incurred. Agency shall have thirty (30) days from the receipt of an invoice that complies with all of the requirements above to pay Contractor. For each calendar month, that payment is late for Work performed in conformance with this Agreement, Agency shall pay a late payment charge computed at the rate of 1.5% per month on the overdue balance, or the maximum rate permitted by law, whichever is less.
2.3 **Payment of Taxes.** Contractor is solely responsible for the payment of all federal, state and local taxes (other than sales, use or value-added tax, fees, duties and surcharges {“Agency Taxes”}), based on net income, gross income or gross receipts, and all employment taxes, incurred under this Agreement. For Agency Taxes which are to be paid by the Agency for a Purchase Order, Contractor shall so indicate in writing when responding to a Purchase Order, as well as indicating a good-faith estimate of the not-to-exceed amount of such taxes.

2.4 **Authorization to Perform Work.** The Contractor is not authorized to perform any Work or incur any costs whatsoever under the terms of this Agreement until receipt of a Purchase Order from the Contract Administrator.

2.5 **Timing for Submittal of Final Invoice.** Contractor shall have ninety (90) days after completion of the Requested Work to submit its final invoice for the Requested Work. In the event Contractor fails to submit an invoice to Agency for any amounts due within the ninety (90) day period, Contractor is deemed to have waived its right to collect its final payment for the Requested Work from Agency.

**Section 3. FACILITIES AND EQUIPMENT.** Except as set forth herein, Contractor shall, at its sole cost and expense, provide all facilities and equipment that may be necessary to perform the Work.

**Section 4. INSURANCE REQUIREMENTS.** Before beginning any Work under this Agreement, Contractor, at its own cost and expense, shall procure the types and amounts of insurance listed below and shall maintain the types and amounts of insurance listed below for the period covered by this Agreement.

4.1 **Workers’ Compensation.** If Contractor employs any person, Contractor shall maintain Statutory Workers’ Compensation Insurance and Employer’s Liability Insurance for any and all persons employed directly or indirectly by Contractor with limits of one million dollars ($1,000,000.00) per accident.

4.2 **Commercial General and Automobile Liability Insurance.**

4.2.1 **Commercial General Insurance.** Contractor shall maintain commercial general liability insurance for the term of this Agreement, including products liability, covering any loss or liability, including the cost of defense of any action, for bodily injury, death, personal injury and broad form property damage which may arise out of the operations of Contractor. The policy shall provide a limit of $1,000,000 per occurrence/$2,000,000 aggregate. Commercial general coverage shall be at least as broad as ISO Commercial General Liability form CG 0001 (current edition) on “an occurrence” basis covering comprehensive General Liability, with a self-insured retention or deductible of no more than $100,000. No endorsement shall be attached limiting the coverage.

4.2.2 **Automobile Liability.** Contractor shall maintain automobile liability insurance form CA 0001 (current edition) for the term of this Agreement covering any loss or
liability, including the cost of defense of any action, arising from the operation, maintenance or use of any vehicle (symbol 1), whether or not owned by the Contractor, on or off Agency premises. The policy shall provide a limit of $1,000,000 per each accident. This insurance shall provide contractual liability covering all motor vehicles and mobile equipment to the extent coverage may be excluded from general liability insurance.

4.2.3 **General Liability/Umbrella Insurance.** The coverage amounts set forth above may be met by a combination of underlying and umbrella policies as long as in combination the limits equal or exceed those stated.

4.3 Intentionally Omitted.

4.4 Intentionally Omitted.

4.5 **All Policies Requirements.**

4.5.1 **Verification of coverage.** Prior to beginning any work under this Agreement, Contractor shall provide Agency with (1) a Certificate of Insurance that demonstrates compliance with all applicable insurance provisions contained herein and (2) policy endorsements to the policies referenced in Section 4.2, if applicable adding the Agency as an additional insured and declaring such insurance primary in regard to work performed pursuant to this Agreement.

4.5.2 **Notice of Reduction in or Cancellation of Coverage.** Contractor shall provide at least thirty (30) days prior written notice to Agency of any reduction in scope or amount, cancellation or modification adverse to Agency of the policies referenced in Section 4.

4.5.3 Intentionally Omitted.

4.5.4 **Additional Certificates and Endorsements.** If Contractor performs Work for Agency members, SCPPA and/or SCPPA members pursuant to this Agreement, Agency shall the right to require Contractor to provide the certificates of insurance and/or policy endorsements, as referenced in Section 4.4.1, naming the specific Agency member, SCPPA and/or SCPPA member for which the Work is to be performed.

4.6 Intentionally Omitted.

4.7 **Contractor's Obligation.** Contractor shall be solely responsible for ensuring that all equipment, vehicles and other items utilized in the performance of Work are operated, provided or otherwise utilized in a manner that ensures they are and remain covered by the policies referenced in Section 4 during this Agreement. Contractor shall also ensure that all workers involved in the provision of Work are properly classified as employees,
agents or independent contractors and Contractor’s employees are and remain covered by any and all workers’ compensation insurance required by applicable law during this Agreement.

Section 5. INDEMNIFICATION AND CONTRACTOR’S RESPONSIBILITIES.

5.1 Effect of Insurance. Agency's acceptance of insurance certificates and endorsements required under this Agreement does not relieve Contractor from liability under this indemnification and hold harmless clause. This indemnification and hold harmless clause shall apply to any damages or claims for damages whether or not such insurance policies shall have been determined to apply. By execution of this Agreement, Contractor acknowledges and agrees to the provisions of this section.

5.2 Scope. Contractor agrees to protect, defend, hold harmless and indemnify Agency, Agency members, and each of their officers, Commissioners and employees from and against any third party claim, injury, liability, loss, cost and/or expense or damage, including all costs and reasonable attorney’s fees in providing a defense to any claim arising therefrom, for which Agency or Agency Members shall become liable arising from Contractor’s negligence or willful misconduct, with respect to or in any way connected with the Work performed by Contractor pursuant to this Agreement. For purposes of Contractor’s indemnity obligation, no part of the products Contractor supplies under this Agreement or Site is considered third party property.

5.3 Transfer of Title/Risk of Loss. Title to products and risk of loss shall pass to Agency upon delivery DDP.

Section 6. STATUS OF CONTRACTOR.

6.1 Independent Contractor. Contractor is an independent contractor and not an employee of Agency. Agency shall have the right to control Contractor only insofar as the results of Contractor’s Work and assignment of personnel pursuant to Section 1; otherwise, Agency shall not have the right to control the means by which Contractor accomplishes Work rendered pursuant to this Agreement. Notwithstanding any other Agency, state, or federal policy, rule, regulation, law, or ordinance to the contrary, Contractor and any of its employees, agents, and subcontractors providing services under this Agreement shall not qualify for or become entitled to, and hereby agree to waive any and all claims to, any compensation, benefit, or any incident of employment by Agency, including but not limited to eligibility to enroll in the California Public Employees Retirement System (PERS) as an employee of Agency and entitlement to any contribution to be paid by Agency for employer contributions and/or employee contributions for PERS benefits.

Contractor shall indemnify, defend, and hold harmless Agency for the payment of any employee and/or employer contributions for PERS benefits on behalf of Contractor or its employees, agents, or subcontractors, as well as for the payment of any penalties and interest on such contributions, which would otherwise be the responsibility of Agency.
Contractor and Agency acknowledge and agree that compensation paid by Agency to Contractor under this Agreement is based upon Contractor’s estimated costs of providing the Work, including salaries and benefits of employees, agents and subcontractors of Contractor.

Contractor shall indemnify, defend, and hold harmless Agency from any lawsuit, administrative action, or other claim for penalties, losses, costs, damages, expense and liability of every kind, nature and description that arise out of, pertain to, or relate to such claims, whether directly or indirectly, due to Contractor’s failure to secure workers’ compensation insurance for its employees and ensure its agents, or subcontractors providing Work under this Agreement secure workers’ compensation insurance for their employees.

Contractor agrees that it is responsible for the provision of group healthcare benefits to its fulltime employees under 26 U.S.C. § 4980H of the Affordable Care Act. To the extent permitted by law, Contractor shall indemnify, defend and hold harmless Agency from any penalty issued to Agency under the Affordable Care Act resulting from the performance of the Services by any employee, agent, or subcontractor of Contractor.

6.2 **Contractor Not Agent.** Except as Agency may specify in writing, Contractor shall have no authority, express or implied, to act on behalf of Agency in any capacity whatsoever as an agent. Contractor shall have no authority, express or implied, pursuant to this Agreement to bind Agency to any obligation whatsoever.

6.3 **Assignment and Subcontracting.** This Agreement contemplates personal performance by Contractor and is based upon a determination of Contractor’s unique professional competence, experience, and specialized professional knowledge. A substantial inducement to Agency for entering into this Agreement was and is the personal reputation and competence of Contractor. Contractor may not assign this Agreement or any interest therein without the prior written approval of the Agency. Agency may not assign this Agreement or any interest therein without the prior written approval of Contractor. Contractor shall not subcontract any portion of the performance contemplated and provided for herein, other than to the subcontractors identified in Exhibit A, without prior written approval of the Agency. Where written approval is granted by the Agency, Contractor shall supervise all work subcontracted by Contractor in performing the Work and shall be responsible for all work performed by a subcontractor as if Contractor itself had performed such work. The subcontracting of any work to subcontractors shall not relieve Contractor from any of its obligations under this Agreement with respect to the Work and Contractor is obligated to ensure that any and all subcontractors performing any Work shall be fully insured to the same extent as set forth under Section 4.

6.4 **Certification as to California Energy Commission.** If requested by the Agency, Contractor shall, at the same time it executes this Agreement, execute Exhibit C.
6.5 Certification as to California Energy Commission Regarding Hazardous Materials Transport Vendors. If requested by the Agency, Contractor shall, at the same time it executes this Agreement, execute Exhibit D.

6.6 Maintenance Labor Agreement. If the Work is subject to the terms of one or more Maintenance Labor Agreements, which are applicable only to certain types of construction, repair and/or maintenance projects, then Contractor shall execute Exhibit E and/or similar documentation as to compliance.

Section 7. LEGAL REQUIREMENTS

7.1 Governing Law. The laws of the State of California shall govern this Agreement.

7.2 Compliance with Applicable Laws. Contractor and its subcontractors and agents, if any, shall comply with all laws applicable to the performance of the work hereunder.

7.3 Licenses and Permits. Contractor represents and warrants to Agency that Contractor and its employees, agents, and subcontractors (if any) have and will maintain at their sole expense during the term of this Agreement all licenses, permits, qualifications, and approvals of whatever nature that are legally required to practice their respective professions.

7.4 Monitoring by DIR. The Work is subject to compliance monitoring and enforcement by the Department of Industrial Relations.

7.5 Registration with DIR. During the term of this Agreement, Contractor warrants that it is registered with the Department of Industrial Relations and qualified to perform Work consistent with Labor Code section 1725.5.

7.6 Prevailing Wage Rates. In accordance with California Labor Code Section 1771, not less than the general prevailing rate of per diem wages for work of a similar character in the locality in which the Work is to be performed, and not less than the general prevailing rate of per diem wages for holiday and overtime work as provided in the California Labor Code must be paid to all workers engaged in performing the Work. In accordance with California Labor Code Section 1770 and following, the Director of Industrial Relations has determined the general prevailing wage per diem rates for the locality in which the Work is to be performed; the Agency has obtained the general prevailing rate of per diem wages and the general rate for holiday and overtime work in the locality in which the Work is to be performed for each craft, classification or type of worker needed to perform the project; and copies of the prevailing rate of per diem wages are on file at the Agency and will be made available on request. Throughout the performance of the Work, Contractor must comply with all applicable laws and regulations that apply to wages earned in performance of the Work. Contractor assumes all responsibility for such payments and shall defend, indemnify and hold the Agency harmless from any and all claims made by the State of
California, the Department of Industrial Relations, any subcontractor, any worker or any other third party with regard thereto.

Additionally, in accordance with the California Administrative Code, Title 8, Group 3, Article 2, Section 16000, Publication of Prevailing Wage Rates by Awarding Bodies, copies of the applicable determination of the Director can be found on the web at: http://www.dir.ca.gov/DLSR/PWD/ and may be reviewed at any time.

Contractor shall be required to submit to the Agency during the contract period, copies of Public Works payroll reporting information per California Department of Industrial Relations, Form A-1-131 (New 2-80) concerning work performed under this Agreement.

Contractor shall comply with applicable law, including Labor Code Sections 1774 and 1775. In accordance with Section 1775, Contractor shall forfeit as a penalty to Agency $50.00 for each calendar day or portion thereof, for each worker paid less than the prevailing rates as determined by the Director of Industrial Relations for such work or craft in which such worker is employed for any Work done under the Agreement by Contractor or by any subcontractor under Contractor in violation of the provisions of the Labor Code and in particular, Labor Code Sections 1770 et seq. In addition to the penalty and pursuant to Section 1775, the difference between such prevailing wage rates and the amount paid to each worker for each calendar day or portion thereof for which each worker was paid less than the prevailing wage rate shall be paid to each worker by the Contractor.

Section 8. TERMINATION AND MODIFICATION.

8.1 Termination.

8.1.1 Agency may terminate this Agreement for cause if Contractor (i) becomes Insolvent/Bankrupt, or (ii) commits a material breach of this Agreement. However, before Agency can terminate this Agreement, Agency shall first give written notice of the alleged material breach and Contractor shall have thirty calendar days in which to cure the alleged breach.

8.1.2 Contractor may terminate this Agreement for cause if Agency (i) becomes Insolvent/Bankrupt, or (ii) commits a material breach of this Agreement, including, but not limited to, failing to make any payment when due for such Work that has been satisfactorily performed and in conformance with the Agreement. However, before Contractor can terminate this Agreement, Contractor shall first give written notice of the alleged material breach and Agency shall have thirty calendar days in which to cure the alleged breach.

8.2 Payment upon Termination of Agreement.

8.2.1 If Agency terminates this Agreement pursuant to Section 8.1, (i) Contractor shall reimburse Agency the difference between that portion of the Agreement price allocable to the terminated scope and the actual amounts reasonably incurred by Agency to complete
that scope, and (ii) Agency shall pay to Contractor the portion of the Agreement price allocable to Work performed in conformance with the Agreement before the effective date of termination. The amount due for Work performed in conformance with the Agreement shall be determined in accordance with the milestone schedule (for completed milestones) and rates set forth in this Agreement (for work toward milestones not yet achieved and where there is no milestone schedule), as applicable or, where there are no milestones and/or rates in this Agreement, at Contractor’s then-current standard time and material rates, subject to the limitation of section 8.2.1 (i) hereof. Agency, however, may condition payment of such compensation upon Contractor first delivering to Agency any or all records or documents (as referenced in Section 9.4.4 hereof).

8.2.2 If Contractor terminates this Agreement pursuant to Section 8.1, Agency shall pay to Contractor the portion of the Agreement price allocable to Work performed in conformance with the Agreement before the effective date of termination. The amount due for Work performed in conformance with the Agreement shall be determined in accordance with the milestone schedule (for completed milestones) and rates set forth in this Agreement (for work toward milestones not yet achieved and where there is no milestone schedule), as applicable or, where there are no milestones and/or rates in this Agreement, at Contractor’s then-current standard time and material rates, subject to the limitation of section 8.2.1 (i) hereof. Agency, however, may condition payment of such compensation upon Contractor first delivering to Agency any or all records or documents (as referenced in Section 9.4.4 hereof).

8.2.3 Either Agency or Contractor may terminate a Purchase Order upon twenty (20) days advance written notice if there is an excusable event (as described herein) lasting longer than one hundred and twenty (120) days. In such case, Agency shall make payment to Contractor amounts consistent with the entirety of Section 8.2.1

8.3 Amendments. The Parties may amend this Agreement only by a writing signed by all the Parties.

8.4 Survival. All obligations arising prior to the termination of this Agreement and all provisions of this Agreement allocating liability between Agency and Contractor shall survive the termination of this Agreement.

Section 9. KEEPING AND STATUS OF RECORDS.

9.1 Intellectual Property. Each party shall retain ownership of all Confidential Information and intellectual property it had prior to this Agreement. The Parties expressly agree that this Agreement does not include any developed or customized products. To the extent the Parties become aware of the need to create developed or customized Products or Services, the Parties agree to enter into a separate joint development agreement as an amendment to this Agreement.

9.2 Contractor’s Books and Records. Contractor shall maintain any and all records or other documents evidencing or relating to charges for Work or expenditures and disbursements...
charged to the Agency under this Agreement for one (1) a minimum of three (3) years, or for any longer period required by law, from the date of final payment to the Contractor under a particular Purchase Order.

9.3 Inspection and Audit of Records. Any records or documents that this Agreement requires Contractor to maintain shall be made available for inspection, audit, and/or copying at any time during regular business hours, upon oral or written request of the Agency. Under California Government Code Section 8546.7, if the amount of public funds expended under this Agreement exceeds ten thousand dollars ($10,000.00), the Agreement shall be subject to the examination and audit of the State Auditor, at the request of Agency or as part of any audit of the Agency, for a period of three (3) years after final payment to the Contractor under a particular Purchase Order.

9.4 Confidential Information and Disclosure.

9.4.1 Confidential Information. The term "Confidential Information", as used herein, shall mean any and all confidential, proprietary, or trade secret information, whether written, recorded, electronic, oral or otherwise, where the Confidential Information is made available in a tangible medium of expression and marked in a prominent location as confidential, proprietary and/or trade secret information. Confidential Information shall not include information that: (a) was already known to the Receiving Party or is otherwise a matter of public knowledge, (b) was disclosed to Receiving Party by a third party without violating any confidentiality agreement, (c) was independently developed by Receiving Party without reverse engineering, as evidenced by written records thereof, or (d) was not marked as Confidential Information in accordance with this section.

9.4.2 Non-Disclosure of Confidential Information. During the term of this Agreement, either party may disclose (the "Disclosing Party") Confidential Information to the other party (the "Receiving Party"). The Receiving Party: (a) shall hold the Disclosing Party’s Confidential Information in confidence; and (b) shall take all reasonable steps to prevent any unauthorized possession, use, copying, transfer or disclosure of such Confidential Information.

9.4.3 Permitted Disclosure. Notwithstanding the foregoing, the following disclosures of Confidential Information are allowed. Receiving Party shall endeavor to provide prior written notice to Disclosing Party of any permitted disclosure made pursuant to Section 9.4.3.2 or 9.4.3.3. Disclosing Party may seek a protective order, including without limitation, a temporary restraining order to prevent or contest such permitted disclosure; provided, however, that Disclosing Party shall seek such remedies at its sole expense. Neither party shall have any liability for such permitted disclosures:
9.4.3.1 Disclosure to employees, agents, contractors, subcontractors or other representatives of Receiving Party that have a need to know in connection with this Agreement.

9.4.3.2 Disclosure in response to a valid order of a court, government or regulatory agency or as may otherwise be required by law; and

9.4.3.3 Disclosure by Agency in response to a request pursuant to the California Public Records Act.

9.4.4 Handling of Confidential Information. Upon conclusion or termination of the Agreement, Receiving Party shall return to Disclosing Party or destroy Confidential Information (including all copies thereof), if requested by Disclosing Party in writing. Notwithstanding the foregoing, the Receiving Party may retain copies of such Confidential Information, subject to the confidentiality provisions of this Agreement: (a) for archival purposes in its computer system; (b) in its legal department files; and (c) in files of Receiving Party’s representatives where such copies are necessary to comply with applicable law. Party shall not disclose the Disclosing Party’s Information to any person other than those of the Receiving Party’s employees, agents, consultants, contractors and subcontractors who have a need to know in connection with this Agreement.

Section 10. PROJECT SITE.

10.1 Operations at the Project Site. Each Project site may include the power plant areas, all buildings, offices, and other locations where Work is to be performed, including any access roads. Contractor shall perform the Work in such a manner as to cause a minimum of interference with the operations of the Agency; if applicable, the entity for which Contractor is performing the Work, as referenced in Section 1.4; and other contractors at the Project site and to protect all persons and property thereon from damage or injury. Upon completion of the Work at a Project site, Contractor shall leave such Project site clean and free of all tools, equipment, waste materials and rubbish, stemming from or relating to Contractor’s Work.

10.2 Contractor’s Equipment, Tools, Supplies and Materials. Contractor shall be solely responsible for the transportation, loading and unloading, and storage of any equipment, tools, supplies or materials required for performing the Work, whether owned, leased or rented. Neither Agency nor, if applicable, the entity for which Contractor is performing the Work, as referenced in Section 1.4, will, be responsible for any such equipment, supplies or materials which may be lost, stolen or damaged or for any additional rental charges for such. Equipment, tools, supplies and materials left or stored at a Project site, with or without permission, is at Contractor’s sole risk. Anything left on the Project site an unreasonable length of time after the Work is completed shall be presumed to have been abandoned by the Contractor. Any transportation furnished by Agency or, if applicable, the entity for which Contractor is performing the Work, as referenced in Section 1.4, shall be...
solely as an accommodation and neither Agency nor, if applicable, the entity for which Contractor is performing the Work, as referenced in Section 1.4, shall have liability therefor. Contractor shall assume risk and is solely responsible for its owned, non-owned and hired automobiles, trucks or other motorized vehicles as well as any equipment, tools, supplies, materials or other property which is utilized by Contractor on the Project site. All materials and supplies used by Contractor in the Work shall be new and in good condition.

10.3 **Use of Agency Equipment.** Barring an emergency situation, the parties anticipate Contractor will not be using Agency equipment. Agency may provide cranes, operated by Agency or other agency contractors.

Section 11. **WARRANTY.**

11.1 **Nature of Work.** Contractor warrants that products shall be delivered free from defects in material, workmanship and title and that services shall be performed in a competent, diligent manner in accordance with any mutually agreed specifications. The warranty for products shall expire one (1) year from first use or thirty-six months from delivery, whichever is longer, except that software is warranted for ninety (90) days from installation and usability. The warranty for services shall expire one (1) year after completion of the service. Contractor shall perform all Work in accordance with applicable federal, state, and local laws, rules and regulations including engineering, construction and other codes and standards and prudent electrical utility standards, and in accordance with the terms of this Agreement.

11.2 **Deficiencies in Work.** If during the term of the applicable warranty period following completion of the Work, any equipment, supplies or other materials or Work used or provided by Contractor under this Agreement fails due to warranty defects in material and/or workmanship or other breach of this Agreement, Contractor shall, upon any reasonable written notice from Agency, replace or repair the same to Agency's in conformance with this Agreement. If despite Contractor's reasonable efforts, a non-conforming product cannot be repaired or replaced, or non-conforming services cannot be re-performed, Contractor shall refund or credit monies paid by Agency for such non-conforming products and services.

11.3 **Assignment of Warranties.** Contractor hereby assigns to Agency warranties and extended warranties, assignable from suppliers of equipment and material used in the Work.

11.4 **Access for Warranty Work.** Agency shall bear the costs of access for Contractor's remedial warranty efforts (including removal and replacement of systems, structures or other parts of Agency's facility), de-installation, decontamination, re-installation and transportation of defective products to Contractor and back to Agency. In the event of a defect or Contractor's remedial warranty efforts (including removal and replacement of systems, structures or other parts of Agency's facility), de-installation, decontamination, re-installation and transportation of defective products to Contractor and back to Agency,
Agency shall provide clear access to the defective work at the site. For purposes of this section, “access” shall mean an opportunity or ability to enter, approach, or pass to and from defective work. “Access” shall not include any uncovering, disassembly or reassembly of parts or hardware required for Contractor to perform Contractor’s warranty obligations to the extent that such uncovering, disassembly or reassembly of parts or hardware was within Contractor’s original scope of work. If any uncovering, disassembly or reassembly of parts or hardware is necessary for Contractor to perform its warranty obligations, Contractor shall reimburse Agency for any costs or expenses related to such uncovering, disassembly or reassembly or parts or hardware if such uncovering, disassembly or reassembly of parts or hardware was within Contractor’s original scope of work.

11.5 Warranty Conditions. The warranties and remedies are conditioned upon (a) proper storage, installation, use, operation, and maintenance of products provided by Contractor in writing, (b) Agency keeping accurate and complete records of operation and maintenance during the warranty period and providing Contractor access to those records, and (c) modification or repair of products or services only as authorized by Contractor in writing. Failure to meet any such conditions renders the warranty null and void. Contractor is not responsible for normal wear and tear.

11.6 Exclusive Warranty. This Article 11 provides the exclusive remedies for all claims based on failure of or defect in products or services, regardless of when the failure or defect arises, and whether a claim, however described, is based on contract, warranty, indemnity, tort/extra-contractual liability (including negligence), strict liability or otherwise. The warranties provided in this Article 11 are exclusive and are in lieu of all other warranties, conditions and guarantees whether written, oral, implied or statutory. **NO IMPLIED OR STATUTORY WARRANTY, OR WARRANTY OR CONDITION OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE APPLIES.**

Section 12. HEALTH AND SAFETY PROGRAMS. The Contractor shall establish, maintain, and enforce safe work practices, and implement an accident/incident prevention program intended to ensure safe and healthful operations under their direction. The program shall include all requisite components of such a program under Federal, State and local regulations and shall comply with all site programs established by Agency and, if applicable, the entity for which Contractor is performing the Work, as referenced in Section 1.4.

12.1 Contractor is responsible for acquiring job hazard assessments as necessary to safely perform the Work and provide a copy to Agency upon request.

12.2 Contractor is responsible for providing all employee health and safety training and personal protective equipment in accordance with potential hazards that may be encountered in performance of the Work and provide copies of the certified training records upon request by Agency. Contractor shall be responsible for proper maintenance and/or disposal of their personal protective equipment and material handling equipment.
12.3 Contractor is responsible for ensuring that its lower-tier subcontractors are aware of and will comply with the requirements set forth herein.

12.4 Agency, or its representatives, may periodically monitor the safety performance of the Contractor performing the Work. Contractors and its subcontractors shall be required to comply with the safety and health obligations as established in the Agreement. Non-compliance with safety, health, or fire requirements may result in cessation of work activities, until items in non-compliance are corrected. It is also expressly acknowledged, understood and agreed that no payment shall be due from Agency to Contractor under this Agreement at any time when, or for any Work performed when, Contractor is not in full compliance with this Section 12.

12.5 Contractor shall immediately report any injuries to the Agency site safety representative. Additionally, the Contractor shall investigate and submit to the Agency site safety representative copies of all written accident reports, and coordinate with Agency if further investigation is requested.

12.6 Contractor shall take all reasonable steps and precautions to protect the health of its employees and other site personnel with regard to the Work. Contractor shall conduct occupational health monitoring and/or sampling to determine levels of exposure of its employees to hazardous or toxic substances or environmental conditions. Copies of any sampling results will be forwarded to the Agency site safety representative upon request.

12.7 Intentionally omitted.

12.8 Contractor shall advise its employees and subcontractors that any employee who jeopardizes his/her safety and health, or the safety and health of others, may be subject to actions including removal from Work.

12.9 Contractor shall, at the sole option of the Agency, develop and provide to the Agency a Hazardous Material Spill Response Plan that includes provisions for spill containment and clean-up, emergency contact information including regulatory agencies and spill sampling and analysis procedures. Hazardous Materials shall include diesel fuel used for trucks owned or leased by the Contractor.

12.10 If Contractor is providing Work to an Agency Member, SCPPA or SCPPA member (collectively “Member” solely for the purpose of this section) pursuant to Section 1.4 hereof, then that Member shall have the same rights as the Agency under Sections 12.1, 12.2, 12.4, 12.5, and 12.6 hereof.

12.11 Contractor has no responsibility or liability for the pre-existing condition of Agency’s equipment or the Site. Prior to Contractor starting any work at Site, Agency will provide documentation that identifies the presence and condition of any Hazardous Materials existing in or about Agency’s equipment or the Site that Contractor may encounter while performing under this Agreement.
12.12 If Contractor encounters hazardous conditions in Agency’s equipment or at the Site that require special handling or disposal, Contractor is not obligated to continue work affected by the hazardous conditions. In such an event, Agency shall eliminate the hazardous conditions in accordance with applicable laws and regulations so that Contractor’s work under the Agreement may safely proceed, and Contractor shall be entitled to an equitable adjustment of the price and schedule to compensate for any increase in Contractor’s cost of, or time required for, performance of any part of the work, as mutually agreed upon by the Parties. Agency shall properly store, transport and dispose of all Hazardous Materials introduced, produced or generated by Agency or its contractors in the course of Contractor’s work at the Site. The term Hazardous Materials, as used herein, is any toxic or hazardous substance, hazardous material, dangerous or hazardous waste, dangerous good, radioactive material, petroleum or petroleum-derived products or by-products, or any other chemical, substance, material or emission, that is regulated, listed or controlled pursuant to any national, state, provincial, or local law, statute, ordinance, directive, regulation or other legal requirement of the United States (“U.S.”).

Section 13 MISCELLANEOUS PROVISIONS.

13.1 Attorneys’ Fees. If a party to this Agreement brings any action, including an action for declaratory relief, to enforce or interpret the provision of this Agreement, the prevailing party shall be entitled to reasonable attorneys’ fees in addition to any other relief to which that party may be entitled. The court may set such fees in the same action or in a separate action brought for that purpose.

13.2 Venue. In the event that either party brings any action against the other under this Agreement, the Parties agree that trial of such action shall be vested exclusively in the state courts of California in the County of Placer or in the United States District Court for the Eastern District of California.

13.3 Severability. If a court of competent jurisdiction finds or rules that any provision of this Agreement is invalid, void, or unenforceable, the provisions of this Agreement not so adjudged shall remain in full force and effect. The invalidity in whole or in part of any provision of this Agreement shall not void or affect the validity of any other provision of this Agreement.

13.4 No Implied Waiver of Breach. The waiver of any breach of a specific provision of this Agreement does not constitute a waiver of any other breach of that term or any other term of this Agreement.

13.5 Successors and Assigns. The provisions of this Agreement shall inure to the benefit of and shall apply to and bind the successors and assigns of the Parties.

13.6 Conflict of Interest. Contractor may serve other clients, but none whose activities within the corporate limits of Agency or whose business, regardless of location, would place...
Contractor in a “conflict of interest,” as that term is defined in the Political Reform Act, codified at California Government Code Section 81000 et seq.

Contractor shall not employ any Agency official in the work performed pursuant to this Agreement. No officer or employee of Agency shall have any financial interest in this Agreement that would violate California Government Code Sections 1090 et seq.

13.7 **Contract Administrator.** This Agreement shall be administered by Ken Speer, Assistant General Manager, or his/her designee, who shall act as the Agency’s representative. All correspondence shall be directed to or through the representative.

13.8 **Notices.** Any written notice to Contractor shall be sent to:

ABB, Inc.
Attention: Carl Stewart, Senior Sales Manager
305 Gregson Drive
Cary, NC 27511

Any written notice to Agency shall be sent to:

Randy S. Howard
General Manager
Northern California Power Agency
651 Commerce Drive
Roseville, CA 95678

With a copy to:

General Counsel
Northern California Power Agency
651 Commerce Drive
Roseville, CA 95678

13.9 **Professional Seal.** Where applicable in the determination of the Agency, the first page of a technical report, first page of design specifications, and each page of construction drawings shall be stamped/sealed and signed by the licensed professional responsible for the report/design preparation.

13.10 **Integration; Incorporation.** This Agreement, including all the exhibits attached hereto, represents the entire and integrated agreement between Agency and Contractor and supersedes all prior negotiations, representations, or agreements, either written or oral. All exhibits attached hereto are incorporated by reference herein.
13.11 Alternative Dispute Resolution. If any dispute arises between the Parties that cannot be settled after engaging in good faith negotiations, Agency and Contractor agree to resolve the dispute in accordance with the following:

13.11.1 Each party shall designate a senior management or executive level representative to negotiate any dispute;

13.11.2 The representatives shall attempt, through good faith negotiations, to resolve the dispute by any means within their authority.

13.11.3 If the issue remains unresolved after fifteen (15) days of good faith negotiations, the Parties shall attempt to resolve the disagreement by negotiation between legal counsel. If the above process fails, the Parties shall resolve any remaining disputes through mediation to expedite the resolution of the dispute.

13.11.4 The mediation process shall provide for the selection within fifteen (15) days by both Parties of a disinterested third person as mediator, shall be commenced within thirty (30) days and shall be concluded within fifteen (15) days from the commencement of the mediation.

13.11.5 The Parties shall equally bear the costs of any third party in any alternative dispute resolution process.

13.11.6 Subject to applicable state law, and notwithstanding the foregoing, each party shall have the right at any time, at its option and where legally available, to immediately commence an action or proceeding in a court of competent jurisdiction, subject to the terms of this Agreement including Section 13.2, to seek a restraining order, injunction, or similar order to enforce the confidentiality provisions set forth in Article 9 or to seek interim or conservatory measures.

13.12 Controlling Provisions. In the case of any conflict between the terms of this Agreement and the Exhibits hereto, a Purchase Order, or Contractor's Proposal (if any), the Agreement shall control. In the case of any conflict between the Exhibits hereto and a Purchase Order or the Contractor's Proposal, the Exhibits shall control. In the case of any conflict between the terms of a Purchase Order and the Contractor's Proposal, the Purchase Order shall control.

13.13 Counterparts. This Agreement may be executed in multiple counterparts, each of which shall be an original and all of which together shall constitute one agreement.

13.14 Construction of Agreement. Each party hereto has had an equivalent opportunity to participate in the drafting of the Agreement and/or to consult with legal counsel. Therefore, the usual construction of an agreement against the drafting party shall not apply hereto.
13.15 **No Third Party Beneficiaries.** This Agreement is made solely for the benefit of the parties hereto, with no intent to benefit any non-signatory third parties. However, should Contractor provide Work to an Agency member, SCPPA or SCPPA member (collectively for the purpose of this section only “Member”) pursuant to Section 1.4, the parties recognize that such Member may be a third party beneficiary solely as to the Purchase Order and Requested Work relating to such Member.

**Section 14. EXCUSABLE EVENTS.**

14.1 Contractor shall not be liable or considered in breach of its obligations under this Agreement to the extent that Contractor’s performance is delayed or prevented, directly or indirectly, by any cause beyond its reasonable control, or by armed conflict, acts or threats of terrorism, epidemics, strikes or other labor disturbances, or acts or omissions of any governmental authority or of the Agency or Agency’s contractors or suppliers, to the extent that Contractor could not have reasonably foreseen or anticipated the event as set forth herein..

14.2 If Contractor believes such cause or excusable event has occurred, Contractor shall give written notice thereof to Agency, including the triggering event, the length of the anticipated delay, and Contractor’s efforts to minimize the delay. The parties will each evaluate and then mutually agree in writing the extent to which Contract’s schedule or performance may be adjusted.

**Section 15. CHANGES.**

15.1 Each party may at any time propose changes in the schedule or scope of Work. Contractor is not obligated to proceed with any change until both parties agree upon such change in writing. The written change documentation will describe the changes in scope and schedule, and the resulting changes in price and other provisions, as agreed.

15.2 The scope, Purchase Order price, schedule, and other provisions will be equitably adjusted to reflect additional costs or obligations incurred by Contractor resulting from a change, after Contractor’s proposal date, in Agency’s site-specific requirements or procedures, or in industry specifications, codes, standards, applicable laws or regulations. However, no adjustment will be made on account of a general change in Contractor’s manufacturing or repair facilities resulting from a change in laws or regulations applicable to such facilities. Unless otherwise agreed by the parties, pricing for additional Work arising from such changes shall be as set forth in Exhibit B.

**Section 16. LIMITATIONS OF LIABILITY.**

16.1 The total liability of Contractor for all claims of any kind arising from or related to the formation, performance or breach of this Agreement, or any products or services, shall be (i) two times the amount of the Purchase Order for Purchase Orders of $50,000 or more or (ii) the greater of two times the amount of the Purchase Order or $50,000 for Purchase Orders under $50,000.

16.2 Contractor shall not be liable for loss of profit or revenues, loss of use of equipment or systems, interruption of business, cost of replacement power, cost of capital, downtime costs, increased operating costs, any special, consequential, incidental, indirect, or
punitive damages, or claims of Agency’s members for any of the foregoing types of damages.

16.3 All Contractor liability shall end upon expiration of the applicable warranty period, provided that Agency may continue to enforce a claim for which it has given written notice prior to that date, as applicable under this Agreement, before expiration of any statute of limitations or other legal time limitation but in no event later than one year after expiration of such warranty period.

16.4 Contractor shall not provide advice or assistance that is not required for the work scope under this Agreement.

16.5 If Agency is supplying products or services to a third party, or using products or services at a facility owned by a third party, Agency shall require that the third party agree, for the benefit of and enforceable by Contractor, to be bound by all the limitations included in this Article 16, by requiring the third party to execute the Agency’s Support Services Program Agreement or similar agreement.

16.6 For purposes of this Article 16, the term “Contractor” means Contractor, its affiliates, subcontractors and suppliers of any tier, and their respective employees. The limitations in this Article 16 shall apply regardless of whether a claim is based in contract, warranty, indemnity, tort/extra-contractual liability (including negligence), strict liability or otherwise, and shall prevail over any conflicting terms, except to the extent that such terms further restrict Contractor’s liability.

The Parties have executed this Agreement as of the date signed by the Agency.

NORTHERN CALIFORNIA POWER AGENCY

Date____________________________

RANDY HOWARD, General Manager

ABB INC.

Date____________________________

GREGORY DICKMAN, Electrification Products (EPIS) Global Commercial Leader, Lifecycle Solutions
Attest:

_______________________________
Assistant Secretary of the Commission

Approved as to Form:

_______________________________
Jane Luckhardt, General Counsel
EXHIBIT A

SCOPE OF WORK

ABB Inc. ("Contractor") shall provide the following services as requested by the Northern California Power Agency ("Agency") at any facilities owned or operated by the Agency, its Members, SCPPA, or SCPPA Members, including:

- Generator Ground Fault Detection
- Generator Inspection
- Generator Testing
- Generator Troubleshooting
- Generator Winding Cleaning
- Other maintenance services, as necessary
EXHIBIT B
COMPENSATION SCHEDULE AND HOURLY FEES

Compensation for all work, including hourly fees and expenses, shall not exceed the amount set forth in Section 2 hereof. The hourly rates and or compensation break down and an estimated amount of expenses is as follows:

Commercial Rates - Effective: July, 2018

8-Hour Daily Rates U.S. Dollar

Service Description
Weekday Saturday Sunday / Holiday
Field Engineer $2,286 $8,118 $4,074
Specialized Field Engineer $2,685 $8,118 $4,968

Service Centers

Service Technician $1,801 $2,442 $8,146
Service Tech Work Leader $2,722 $2,842 $9,300
Service Center Specialist $2,367 $8,106 $4,048

Phone Support $1,300/Case
Emergency Power Emergency Standby Enduser $2,200/Week

Tooling Rates

- Motor $70/Unit $900/week
- Vibration Test Set $245/Day $600/week
- Online Motor Test Set $250/Day $1,000/week
- Offsite Motor Test Set $299/Day $1,400/week
- Primary Current Injection Test $500/Day $1,400/week
- Boring Test Set $600/Day $2,000/week
- Power Factor Test Set $900/Day $2,000/week
- Vacuum Oil Processor $1,250/Day

Field Engineer

Service technical advice and counsel from field personnel trained in rotating equipment, manufacturing, installation, and operation practices as applicable to the equipment. Such services may include analysis, adjustment, programming, and other similar services. They do not include supervision or management of purchaser’s employees, agents or other contractors and do not include design effort.

Specialized Field Engineer

These services include installation, commissioning, repair, service, maintenance, and upgrade work associated with:
- Medium voltage motors & generators
- Synchronizing switches
- Synchronization motors & generators, including excitation
- Medium voltage drives
- Legacy drive products, including DCC/AC(200), DCC/AC(300), Innovation, DCC/AC(400), and DCC/AC(500)
- Legacy control systems including: Series S & Series 6
- Specialty power system studies, including: Harmonic, transient switching & grounding
- Shipboard and offshore work, with a minimum 14/16 hour / day billing. Platform work requires a pay differential.

Service Center

Service Technicians: Craftsmen experienced in the inspection, test, installation, service, and repair of one or more of the following equipment types:
- Transformers (Electrical, Electrical, Fluid & LTC)
- Motors, Drives, & Controls Equipment
- Switchgear
- Transformers (Mechanical, Electrical & Controls)

Service Center Work Leader: Provides onsite and in shop, hands on leadership of ABB craftmen on a per shift basis.

Service Center Specialist: Provides overall coordination and technical leadership on-site and in shop of service craftsmen and Work Leaders.

ABB’s field service engineers and consulting experts are on call to provide a wide range of service and repairs on both ABB and non-ABB equipment and engineered systems in Industrial and Balance-Of-Plan Power Plant Systems.

For more information contact your local ABB office or call our 24/7 customer service center at ABB 4345-775-817 4345-387-817

Rate Terms

1. Work greater than 8 hours per day is billed per hour:
   - Overtime Double Time
   - Field Engineer $579.00 / $579.00
   - Specialized Field Engineer $448.00 / $494.00
   - Service Technician $372.00 / $462.00
   - Service Tech Work Leader $377.00 / $462.00
   - Service Center Specialist $377.00 / $470.00

For less than 24-hour response, a 1.15 multiplier is used for daily, overtime and double time rates.

Overtime applies to billable workdays hours 9:12. Double Time applies to: Billable workdays hours greater than 10, Saturday hours greater than 8, Sundays and holidays.

2. Preparation, travel, and report writing time will be charged at the applicable rate (i.e., daily rates, overtime and double time) on a round trip basis with point of departure based on the location of the ABB Representative’s office/service center.

3. Additional travel and living expenses include:
   - Overtime stay $175.00 per day
   - Air Travel / Rental Car Charges Cost + 20%
   - Notes: Additional T&A charges may apply for high cost of living areas.

4. Travel and living expenses based on the continental U.S. will be billed at a cost plus 15% minimum, or consult with your local ABB representative for a local rate per diem.

5. Materials, subcontracts labor and equipment required to support ABB will be provided at cost + 35%

6. All equipment is F.O.B. shipping point, seller’s dock, with freight prepaid and charged 3% of material price (a minimum of 1% per shipment charge of $200 shall apply). Seller reserves the right to select the method of transportation provided for all products unless specified by the client not less than 72 hours prior to shipment. Any premium transportation or required special handling in addition shall be for the account of the Buyer.

7. Consult with local ABB office to determine applicable charges for other special tooling and/or test equipment or any services, fees or VAT that may be in addition to the above rates.

Minimum daily billing of 8 hours for all services provided including standby time. A minimum order of $500.00 shall apply for a per personnel only order.

8. Rates are for work hours worked, travel, on standby and are based on ABB’s standard terms and conditions of sale (Form BS 104 Rev 4). Price and data subject to change without notice. This quotation is not valid for FOB services, off shore or confined locations.

9. Phone Support & is a service provided on this phone by a Field Engineer for limited hardware and software troubleshooting services.

10. Employee screening costs as required by the customer will be provided as follows:
    - Custom Job Screen or Background Check $100
    - TWI Card / $250
    - ROYNT $250

11. All travel time to complete the screenings will be billed at the applicable hourly rate as set forth in 1 above plus expenses. All other special test will be billed at cost + 20%.

12. A Critical Power Emergency Standby Enduser provides access to a qualified ABB Field Engineer at the customer site on the same day the events identified by the customer. All time to support the emergency service, including travel to and from the customer site, will be billed at the applicable hourly rate as set forth in 1 above, however the 1.15 multiplier applied to work with less than 24 hr notice is waived.

** The Standard and Applicable rates shown on this sheet assume that services are being performed at a location that is not subject to Location Premium which is an additional charge that may be assessed for remote, high altitude, confined or offshore work sites. Please contact ABB to see if a Location Premium applies to your location.**
Pricing for services to be performed at NCPA Member or SCPPA locations will be quoted at the time services are requested.

NOTE: As a public agency, NCPA shall not reimburse Contractor for travel, food and related costs in excess of those permitted by the Internal Revenue Service.
EXHIBIT C

CERTIFICATION

Affidavit of Compliance for Contractors

I,

____________________________________________
(Name of person signing affidavit)(Title)

do hereby certify that background investigations to ascertain the accuracy of the identity
and employment history of all employees of

____________________________________________
(Company name)

for contract work at:

LODI ENERGY CENTER, 12745 N. THORNTON ROAD, LODI, CA 95242

(Project name and location)

have been conducted as required by the California Energy Commission Decision for the
above-named project.

____________________________________________
(Signature of officer or agent)

Dated this ____________________ day of __________________, 20 _______.

THIS AFFIDAVIT OF COMPLIANCE SHALL BE APPENDED TO THE PROJECT SECURITY PLAN AND
SHALL BE RETAINED AT ALL TIMES AT THE PROJECT SITE FOR REVIEW BY THE CALIFORNIA
ENERGY COMMISSION COMPLIANCE PROJECT MANAGER.
EXHIBIT D
CERTIFICATION
Affidavit of Compliance for Hazardous Materials Transport Vendors

I, ____________________________________________________________,

(Name of person signing affidavit)(Title)
do hereby certify that the below-named company has prepared and implemented security plans in
conformity with 49 CFR 172, subpart I and has conducted employee background investigations in
conformity with 49 CFR 172.802(a), as the same may be amended from time to time,

___________________________________________________________
(Company name)

for hazardous materials delivery to:

LODI ENERGY CENTER, 12745 N. THORNTON ROAD, LODI, CA  95242

(Project name and location)
as required by the California Energy Commission Decision for the above-named project.

___________________________________________________
(Signature of officer or agent)

Dated this ___________________ day of ___________________, 20 __.

THIS AFFIDAVIT OF COMPLIANCE SHALL BE APPENDED TO THE PROJECT SECURITY PLAN AND
SHALL BE RETAINED AT ALL TIMES AT THE PROJECT SITE FOR REVIEW BY THE CALIFORNIA
ENERGY COMMISSION COMPLIANCE PROJECT MANAGER.
EXHIBIT E

ATTACHMENT A [from MLA]
AGREEMENT TO BE BOUND

MAINTENANCE LABOR AGREEMENT ATTACHMENT
LODI ENERGY CENTER PROJECT

The undersigned hereby certifies and agrees that:

1) It is an Employer as that term is defined in Section 1.4 of the Lodi Energy Center Project Maintenance Labor Agreement ("Agreement" solely for the purposes of this Exhibit E) because it has been, or will be, awarded a contract or subcontract to assign, award or subcontract Covered Work on the Project (as defined in Section 1.2 and 2.1 of the Agreement), or to authorize another party to assign, award or subcontract Covered Work, or to perform Covered Work.

2) In consideration of the award of such contract or subcontract, and in further consideration of the promises made in the Agreement and all attachments thereto (a copy of which was received and is hereby acknowledged), it accepts and agrees to be bound by the terms and condition of the Agreement, together with any and all amendments and supplements now existing or which are later made thereto.

3) If it performs Covered Work, it will be bound by the legally establishes trust agreements designated in local master collective bargaining agreements, and hereby authorizes the parties to such local trust agreements to appoint trustees and successor trustee to administer the trust funds, and hereby ratifies and accepts the trustees so appointed as if made by the undersigned.

4) It has no commitments or agreements that would preclude its full and complete compliance with the terms and conditions of the Agreement.

5) It will secure a duly executed Agreement to be Bound, in form identical to this documents, from any Employer(s) at any tier or tiers with which it contracts to assign, award, or subcontract Covered Work, or to authorize another party to assign, award or subcontract Covered Work, or to perform Covered Work.

DATED: ___________________ Name of Employer ___________________

__________________________
(Authorized Officer & Title)

__________________________
(Address)

2890414.5
Lodi Energy Center Project Participant Committee

Staff Report

Date: August 23, 2018
Meeting Date: September 10, 2018
To: Lodi Energy Center Project Participant Committee
Subject: Nozomi Networks, Inc. – Five Year Multi-Task Consulting Services Agreement; Applicable to the following projects: All NCPA locations and Members, SCPPA, and SCPPA Members

Proposal
Approve the Multi-Task Consulting Services Agreement with Nozomi Networks, Inc. for cyber security monitoring, vulnerability testing and solutions, with any non-substantial changes recommended and approved by the NCPA General Counsel, which shall not exceed $500,000 over five (5) years for use at all facilities owned and/or operated by NCPA, its Members, by the Southern California Public Power Authority (“SCPPA”), or by SCPPA Members.

Background
NCPA has made an effort to improve their ability to defend its assets against cyber threats. In response to this identified risk, NCPA’s Operational Technology Working Group (OTWG) reached out to several vendors to conduct a long-term study to prove the concept of continuous monitoring of operational technology. The goal of monitoring is twofold. First, to be able to monitor for potential threats and secondly to detect any credible threats or security breaches made. After review of the study results, Nozomi Networks emerged as the most agile, capable and cost effective option for building a monitoring system that integrates with NCPA’s current assets and information technology (IT) structure. Nozomi Networks is a leader in the Industrial Control Systems (ICS) cyber security field and brings valuable experience and solutions to the table. Given the current climate and sensitivity to cyber security vulnerabilities and criticality of the generating assets being protected, having established relationships with vendors in the security space is important to continuous operations.

Selection Process
This five year contract does not commit NCPA to any expenditure of funds. When these services are required, NCPA will bid the specific scope of work consistent with NCPA procurement policies and procedures. NCPA will seek bids from multiple providers when services are needed and enter into additional enabling agreements as needed. The bid is awarded to the lowest cost provider. NCPA will issue purchase orders based on cost and availability of the services needed at the time the service is required.
Fiscal Impact
Upon execution, the total cost of the agreement is not-to-exceed ($500,000) over (five) years to be used out of NCPA approved budgets as services are rendered. Purchase orders referencing the terms and conditions of the Agreement will be issued following NCPA procurement policies and procedures.

Environmental Analysis
This activity would not result in a direct or reasonably foreseeable indirect change in the physical environment and is therefore not a “project” for purposes of Section 21065 the California Environmental Quality Act. No environmental review is necessary.

Submitted by:

KEN SPEER
Assistant General Manager
Generation Services

Attachments: (1)
  • Multi-Task Consulting Services Agreement with Nozomi Networks, Inc.
MULTI-TASK CONSULTING SERVICES AGREEMENT BETWEEN
THE NORTHERN CALIFORNIA POWER AGENCY AND
NOZOMI NETWORKS INC.

This Consulting Services Agreement (“Agreement”) is made by and between the Northern California Power Agency, a joint powers agency with its main office located at 651 Commerce Drive, Roseville, CA 95678-6420 (“Agency”) and Nozomi Networks Inc., a corporation with its office located at 120 2nd Street, 4th Floor, San Francisco, CA 94105 (“Consultant”) (together sometimes referred to as the “Parties”) as of ______________, 20__ (“Effective Date”) in Roseville, California.

Section 1. SERVICES. Subject to the terms and conditions set forth in this Agreement, Consultant shall provide to Agency the services described in the Scope of Services attached hereto as Exhibit A and incorporated herein (“Services”), at the time and place and in the manner specified therein.

1.1 Term of Agreement. The term of this Agreement shall begin on the Effective Date and shall end when Consultant completes the Services, or no later than five (5) year from the date this Agreement was signed by Agency, whichever is shorter.

1.2 Standard of Performance. Consultant shall perform the Services in the manner and according to the standards observed by a competent practitioner of the profession in which Consultant is engaged and for which Consultant is providing the Services. Consultant represents that it is licensed, qualified and experienced to provide the Services set forth herein.

1.3 Assignment of Personnel. Consultant shall assign only competent personnel to perform the Services. In the event that Agency, in its sole discretion, at any time during the term of this Agreement, requests the reassignment of any such personnel, Consultant shall, immediately upon receiving written notice from Agency of such request, reassign such personnel.

1.4 Services Provided. Services provided under this Agreement by Consultant may include Services directly to the Agency or, as requested by the Agency and consistent with the terms of this Agreement, to Agency members, Southern California Public Power Authority (“SCPPA”) or SCPPA members.

1.5 Request for Services. At such time that Agency determines to use Consultant's Services under this Agreement, Agency shall issue a Purchase Order. The Purchase Order shall identify the specific services to be performed (“Requested Services”), may include a not-to-exceed monetary cap on Requested Services and expenditures authorized by that Purchase Order, and a time by which the Requested Services shall be completed. Consultant shall have seven calendar days from the date of the Agency’s issuance of the Purchase Order in which to respond in writing that Consultant chooses not to perform the Requested Services. If Consultant agrees to perform the Requested Services, begins to perform the Requested Services, or does not respond within the seven day
period specified, then Consultant will have agreed to perform the Requested Services on the terms set forth in the Purchase Order, this Agreement and its Exhibits.

Section 2. **COMPENSATION.** Agency hereby agrees to pay Consultant an amount **NOT TO EXCEED** five hundred thousand dollars ($500,000) for the Services, which shall include all fees, costs, expenses and other reimbursables, as set forth in Consultant’s fee schedule, attached hereto and incorporated herein as Exhibit B. This dollar amount is not a guarantee that Agency will pay that full amount to the Consultant, but is merely a limit of potential Agency expenditures under this Agreement.

2.1 **Invoices.** Consultant shall submit invoices, not more often than once a month during the term of this Agreement, based on the cost for services performed and reimbursable costs incurred prior to the invoice date. Invoices shall contain the following information:

- The beginning and ending dates of the billing period;
- Services performed;
- The Purchase Order number authorizing the Services;
- At Agency’s option, the total number of hours of work performed under the Agreement by Consultant and each employee, agent, and subcontractor of Consultant performing services hereunder; and
- At Agency’s option, when the Consultant’s Scope of Work identifies tasks, for each work item in each task, a copy of the applicable time entries showing the name of the person doing the work, the hours spent by each person, a brief description of the work, and each reimbursable expense, with supporting documentation, to Agency’s reasonable satisfaction.

Invoices shall be sent to:

Northern California Power Agency
651 Commerce Drive
Roseville, California 95678
Attn: Accounts Payable
AcctsPayable@ncpa.com

2.2 **Monthly Payment.** Agency shall make monthly payments, based on invoices received, for services satisfactorily performed, and for authorized reimbursable costs incurred. Agency shall have thirty (30) days from the receipt of an invoice that complies with all of the requirements above to pay Consultant.

2.3 **Payment of Taxes.** Consultant is solely responsible for the payment of all federal, state and local taxes, including employment taxes, incurred under this Agreement.
2.4 **Authorization to Perform Services.** The Consultant is not authorized to perform any Services or incur any costs whatsoever under the terms of this Agreement until receipt of written authorization from the Contract Administrator.

2.5 **Timing for Submittal of Final Invoice.** Consultant shall have ninety (90) days after completion of its Services to submit its final invoice for the Requested Services. In the event Consultant fails to submit an invoice to Agency for any amounts due within the ninety (90) day period, Consultant is deemed to have waived its right to collect its final payment from Agency.

Section 3. **FACILITIES AND EQUIPMENT.** Except as set forth herein, Consultant shall, at its sole cost and expense, provide all facilities and equipment that may be necessary to perform the Services.

Section 4. **INSURANCE REQUIREMENTS.** Before beginning any work under this Agreement, Consultant, at its own cost and expense, shall procure the types and amounts of insurance listed below and shall maintain the types and amounts of insurance listed below for the period covered by this Agreement.

4.1 **Workers’ Compensation.** If Consultant employs any person, Consultant shall maintain Statutory Workers’ Compensation Insurance and Employer’s Liability Insurance for any and all persons employed directly or indirectly by Consultant with limits of not less than one million dollars ($1,000,000.00) per accident.

4.2 **Commercial General and Automobile Liability Insurance.**

4.2.1 **Commercial General Insurance.** Consultant shall maintain commercial general liability insurance for the term of this Agreement, including products liability, covering any loss or liability, including the cost of defense of any action, for bodily injury, death, personal injury and broad form property damage which may arise out of the operations of Consultant. The policy shall provide a minimum limit of $1,000,000 per occurrence/$2,000,000 aggregate. Commercial general coverage shall be at least as broad as ISO Commercial General Liability form CG 0001 (current edition) on "an occurrence" basis covering comprehensive General Liability, with a self-insured retention or deductible of no more than $100,000. No endorsement shall be attached limiting the coverage.

4.2.2 **Automobile Liability.** Consultant shall maintain automobile liability insurance form CA 0001 (current edition) for the term of this Agreement covering any loss or liability, including the cost of defense of any action, arising from the operation, maintenance or use of any vehicle (symbol 1), whether or not owned by the Consultant, on or off Agency premises. The policy shall provide a minimum limit of $1,000,000 per each accident, with a self-insured retention or deductible of no more than $100,000. This insurance shall provide contractual liability covering all motor vehicles and
mobile equipment to the extent coverage may be excluded from general liability insurance.

4.2.3 **General Liability/Umbrella Insurance.** The coverage amounts set forth above may be met by a combination of underlying and umbrella policies as long as in combination the limits equal or exceed those stated.

4.3 **Professional Liability Insurance.** Intentionally omitted.

4.4 **All Policies Requirements.**

4.4.1 **Verification of coverage.** Prior to beginning any work under this Agreement, Consultant shall provide Agency with (1) a Certificate of Insurance that demonstrates compliance with all applicable insurance provisions contained herein and (2) policy endorsements to the policies referenced in Section 4.2, adding the Agency as an additional insured and declaring such insurance primary in regard to work performed pursuant to this Agreement.

4.4.2 **Notice of Reduction in or Cancellation of Coverage.** Consultant shall provide at least thirty (30) days prior written notice to Agency of any reduction in scope or amount, cancellation, or modification adverse to Agency of the policies referenced in Section 4.

4.4.3 **Higher Limits.** If Consultant maintains higher limits than the minimums specified herein, the Agency shall be entitled to coverage for the higher limits maintained by the Consultant.

4.4.4 **Additional Certificates and Endorsements.** If Consultant provides services to Agency members, SCPPA, and/or SCPPA members pursuant to this Agreement, Consultant shall provide certificates of insurance and policy endorsements, as referenced in Section 4.4.1, naming the specific Agency member, SCPPA or SCPPA member.

4.5.5 **Waiver of Subrogation.** Consultant agrees to waive subrogation which any insurer of Consultant may acquire from Consultant by virtue of the payment of any loss. Consultant agrees to obtain any endorsement that may be necessary to effect this waiver of subrogation. In addition, the Workers’ Compensation policy shall be endorsed with a waiver of subrogation in favor of Agency for all work performed by Consultant, its employees, agents and subcontractors.

4.6 **Consultant’s Obligation.** Consultant shall be solely responsible for ensuring that all equipment, vehicles and other items utilized in the performance of Services are operated, provided or otherwise utilized in a manner that ensues they are and remain covered by the policies referenced in Section 4 during this
Agreement. Consultant shall also ensure that all workers involved in the provision of Services are properly classified as employees, agents or independent contractors and are and remain covered by any and all workers' compensation insurance required by applicable law during this Agreement.

Section 5. INDEMNIFICATION AND CONSULTANT'S RESPONSIBILITIES.

5.1 **Effect of Insurance.** Agency's acceptance of insurance certificates and endorsements required under this Agreement does not relieve Consultant from liability under this indemnification and hold harmless clause. This indemnification and hold harmless clause shall apply to any damages or claims for damages whether or not such insurance policies shall have been determined to apply. By execution of this Agreement, Consultant acknowledges and agrees to the provisions of this Section and that it is a material element of consideration.

5.2 **Scope.** Consultant shall indemnify, defend with counsel reasonably acceptable to the Agency, and hold harmless the Agency, and its officials, commissioners, officers, employees, agents and volunteers from and against all losses, liabilities, claims, demands, suits, actions, damages, expenses, penalties, fines, costs (including without limitation costs and fees of litigation), judgments and causes of action of every nature arising out of or in connection with any acts or omissions by Consultant, its officers, officials, agents, and employees, except as caused by the sole or gross negligence of Agency. Notwithstanding, should this Agreement be construed as a construction agreement under Civil Code section 2783, then the exception referenced above shall also be for the active negligence of Agency.

Section 6. STATUS OF CONSULTANT.

6.1 **Independent Contractor.** Consultant is an independent contractor and not an employee of Agency. Agency shall have the right to control Consultant only insofar as the results of Consultant's Services and assignment of personnel pursuant to Section 1; otherwise, Agency shall not have the right to control the means by which Consultant accomplishes Services rendered pursuant to this Agreement. Notwithstanding any other Agency, state, or federal policy, rule, regulation, law, or ordinance to the contrary, Consultant and any of its employees, agents, and subcontractors providing services under this Agreement shall not qualify for or become entitled to, and hereby agree to waive any and all claims to, any compensation, benefit, or any incident of employment by Agency, including but not limited to eligibility to enroll in the California Public Employees Retirement System (PERS) as an employee of Agency and entitlement to any contribution to be paid by Agency for employer contributions and/or employee contributions for PERS benefits.

Consultant shall indemnify, defend, and hold harmless Agency for the payment of any employee and/or employer contributions for PERS benefits on behalf of Consultant or its employees, agents, or subcontractors, as well as for the
payment of any penalties and interest on such contributions, which would otherwise be the responsibility of Agency. Consultant and Agency acknowledge and agree that compensation paid by Agency to Consultant under this Agreement is based upon Consultant’s estimated costs of providing the Services, including salaries and benefits of employees, agents and subcontractors of Consultant.

Consultant shall indemnify, defend, and hold harmless Agency from any lawsuit, administrative action, or other claim for penalties, losses, costs, damages, expense and liability of every kind, nature and description that arise out of, pertain to, or relate to such claims, whether directly or indirectly, due to Consultant’s failure to secure workers’ compensation insurance for its employees, agents, or subcontractors.

Consultant agrees that it is responsible for the provision of group healthcare benefits to its full-time employees under 26 U.S.C. § 4980H of the Affordable Care Act. To the extent permitted by law, Consultant shall indemnify, defend and hold harmless Agency from any penalty issued to Agency under the Affordable Care Act resulting from the performance of the Services by any employee, agent, or subcontractor of Consultant.

6.2 Consultant Not Agent. Except as Agency may specify in writing, Consultant shall have no authority, express or implied, to act on behalf of Agency in any capacity whatsoever as an agent. Consultant shall have no authority, express or implied, pursuant to this Agreement to bind Agency to any obligation whatsoever.

6.3 Assignment and Subcontracting. This Agreement contemplates personal performance by Consultant and is based upon a determination of Consultant’s unique professional competence, experience, and specialized professional knowledge. A substantial inducement to Agency for entering into this Agreement was and is the personal reputation and competence of Consultant. Consultant may not assign this Agreement or any interest therein without the prior written approval of the Agency. Consultant shall not subcontract any portion of the performance contemplated and provided for herein, other than to the subcontractors identified in Exhibit A, without prior written approval of the Agency. Where written approval is granted by the Agency, Consultant shall supervise all work subcontracted by Consultant in performing the services and shall be responsible for all work performed by a subcontractor as if Consultant itself had performed such work. The subcontracting of any work to subcontractors shall not relieve Consultant from any of its obligations under this Agreement with respect to the services and Consultant is obligated to ensure that any and all subcontractors performing any services shall be fully insured in all respects and to the same extent as set forth under Section 4, to Agency’s satisfaction.
6.4 **Certification as to California Energy Commission.** If requested by the Agency, Consultant shall, at the same time it executes this Agreement, execute Exhibit C.

**Section 7.** **LEGAL REQUIREMENTS.**

7.1 **Governing Law.** The laws of the State of California shall govern this Agreement.

7.2 **Compliance with Applicable Laws.** Consultant and its subcontractors and agents, if any, shall comply with all laws applicable to the performance of the work hereunder.

7.3 **Licenses and Permits.** Consultant represents and warrants to Agency that Consultant and its employees, agents, and subcontractors (if any) have and will maintain at their sole expense during the term of this Agreement all licenses, permits, qualifications, and approvals of whatever nature that are legally required to practice their respective professions.

**Section 8.** **TERMINATION AND MODIFICATION.**

8.1 **Termination.** Agency may cancel this Agreement at any time and without cause upon ten (10) days prior written notice to Consultant.

In the event of termination, Consultant shall be entitled to compensation for Services satisfactorily completed as of the effective date of termination; Agency, however, may condition payment of such compensation upon Consultant delivering to Agency any or all records or documents, as referenced in Section 9.1 hereof.

8.2 **Amendments.** The Parties may amend this Agreement only by a writing signed by all the Parties.

8.3 **Survival.** All obligations arising prior to the termination of this Agreement and all provisions of this Agreement allocating liability between Agency and Consultant shall survive the termination of this Agreement.

8.4 **Options upon Breach by Consultant.** If Consultant materially breaches any of the terms of this Agreement, including but not limited to those set forth in Section 4, Agency’s remedies shall include, but not be limited to, the following:

8.4.1 Immediately terminate the Agreement;

8.4.2 Retain the plans, specifications, drawings, reports, design documents, and any other work product prepared by Consultant pursuant to this Agreement;
8.4.3 Retain a different consultant to complete the Services not finished by Consultant; and/or

8.4.4 Charge Consultant the difference between the costs to complete the Services that is unfinished at the time of breach and the amount that Agency would have paid Consultant pursuant hereto if Consultant had completed the Services.

Section 9. KEEPING AND STATUS OF RECORDS.

9.1 Records Created as Part of Consultant's Performance. All reports, data, maps, models, charts, studies, surveys, photographs, memoranda, plans, studies, specifications, records, files, or any other documents or materials, in electronic or any other form, that Consultant prepares or obtains pursuant to this Agreement and that relate to the matters covered hereunder shall be the property of the Agency. Consultant hereby agrees to deliver those documents to the Agency upon termination of the Agreement. Agency and Consultant agree that, unless approved by Agency in writing, Consultant shall not release to any non-parties to this Agreement any data, plans, specifications, reports and other documents.

9.2 Consultant's Books and Records. Consultant shall maintain any and all records or other documents evidencing or relating to charges for Services or expenditures and disbursements charged to the Agency under this Agreement for a minimum of three (3) years, or for any longer period required by law, from the date of final payment to the Consultant to this Agreement.

9.3 Inspection and Audit of Records. Any records or documents that this Agreement requires Consultant to maintain shall be made available for inspection, audit, and/or copying at any time during regular business hours, upon oral or written request of the Agency. Under California Government Code Section 8546.7, if the amount of public funds expended under this Agreement exceeds ten thousand dollars ($10,000.00), the Agreement shall be subject to the examination and audit of the State Auditor, at the request of Agency or as part of any audit of the Agency, for a period of three (3) years after final payment under the Agreement.

9.4 Confidential Information and Disclosure.

9.4.1 Confidential Information. The term "Confidential Information", as used herein, shall mean any and all confidential, proprietary, or trade secret information, whether written, recorded, electronic, oral or otherwise, where the Confidential Information is made available in a tangible medium of expression and marked in a prominent location as confidential, proprietary and/or trade secret information. Confidential Information shall
not include information that: (a) was already known to the Receiving Party or is otherwise a matter of public knowledge, (b) was disclosed to Receiving Party by a third party without violating any confidentiality agreement, (c) was independently developed by Receiving Party without reverse engineering, as evidenced by written records thereof, or (d) was not marked as confidential Information in accordance with this section.

9.4.2 **Non-Disclosure of Confidential Information.** During the term of this Agreement, either party may disclose ("The Disclosing Party") confidential Information to the other party ("the Receiving Party"). The Receiving Party: (a) shall hold the Disclosing Party's Confidential Information in confident; and (b) shall take all reasonable steps to prevent any unauthorized possession, use, copying, transfer or disclosure of such Confidential Information.

9.4.3 **Permitted Disclosure.** Notwithstanding the foregoing, the following disclosures of Confidential Information are allowed. Receiving Party shall endeavor to provide prior written notice to Disclosing Party of any permitted disclosure made pursuant to Section 9.4.3.2 or 9.4.3.3. Disclosing Party may seek a protective order, including without limitation, a temporary restraining order to prevent or contest such permitted disclosure; provided, however, that Disclosing Party shall seek such remedies at its sole expense. Neither party shall have any liability for such permitted disclosures:

9.4.3.1 Disclosure to employees, agents, consultants, contractors, subcontractors or other representatives of Receiving Party that have a need to know in connection with this Agreement.

9.4.3.2 Disclosure in response to a valid order of a court, government or regulatory agency or as may otherwise be required by law; and

9.4.3.3 Disclosure by Agency in response to a request pursuant to the California Public Records Act.

9.4.4 **Handling of Confidential Information.** Upon conclusion or termination of the Agreement, Receiving Party shall return to Disclosing Party or destroy Confidential Information (including all copies thereof), if requested by Disclosing Party in writing. Notwithstanding the foregoing, the Receiving Party may retain copies of such Confidential Information, subject to the confidentiality provisions of this Agreement: (a) for archival purposes in its computer system; (b) in its legal department files; and (c) in files of Receiving Party's representatives where such copies are necessary to comply with applicable law. Party shall not disclose the Disclosing Party's Information to any person other than those of the Receiving Party's employees, agents, consultants, contractors and
Section 10. MISCELLANEOUS PROVISIONS.

10.1 Attorneys’ Fees. If a party to this Agreement brings any action, including an action for declaratory relief, to enforce or interpret the provision of this Agreement, the prevailing party shall be entitled to reasonable attorneys’ fees in addition to any other relief to which that party may be entitled. The court may set such fees in the same action or in a separate action brought for that purpose.

10.2 Venue. In the event that either party brings any action against the other under this Agreement, the Parties agree that trial of such action shall be vested exclusively in the state courts of California in the County of Placer or in the United States District Court for the Eastern District of California.

10.3 Severability. If a court of competent jurisdiction finds or rules that any provision of this Agreement is invalid, void, or unenforceable, the provisions of this Agreement not so adjudged shall remain in full force and effect. The invalidity in whole or in part of any provision of this Agreement shall not void or affect the validity of any other provision of this Agreement.

10.4 No Implied Waiver of Breach. The waiver of any breach of a specific provision of this Agreement does not constitute a waiver of any other breach of that term or any other term of this Agreement.

10.5 Successors and Assigns. The provisions of this Agreement shall inure to the benefit of and shall apply to and bind the successors and assigns of the Parties.

10.6 Conflict of Interest. Consultant may serve other clients, but none whose activities within the corporate limits of Agency or whose business, regardless of location, would place Consultant in a “conflict of interest,” as that term is defined in the Political Reform Act, codified at California Government Code Section 81000 et seq.

Consultant shall not employ any Agency official in the work performed pursuant to this Agreement. No officer or employee of Agency shall have any financial interest in this Agreement that would violate California Government Code Sections 1090 et seq.

10.7 Contract Administrator. This Agreement shall be administered by Ken Speer, Assistant General Manager, or his/her designee, who shall act as the Agency’s representative. All correspondence shall be directed to or through the representative.

10.8 Notices. Any written notice to Consultant shall be sent to:
Nozomi Networks Inc.
120 2nd Street, 4th Floor
San Francisco, CA 94105

Any written notice to Agency shall be sent to:

Randy S. Howard
General Manager
Northern California Power Agency
651 Commerce Drive
Roseville, CA 95678

With a copy to:

Jane E. Luckhardt
General Counsel
Northern California Power Agency
651 Commerce Drive
Roseville, CA 95678

10.9 **Professional Seal.** Where applicable in the determination of the Agency, the first page of a technical report, first page of design specifications, and each page of construction drawings shall be stamped/sealed and signed by the licensed professional responsible for the report/design preparation.

10.10 **Integration; Incorporation.** This Agreement, including all the exhibits attached hereto, represents the entire and integrated agreement between Agency and Consultant and supersedes all prior negotiations, representations, or agreements, either written or oral. All exhibits attached hereto are incorporated by reference herein.

10.11 **Alternative Dispute Resolution.** If any dispute arises between the Parties that cannot be settled after engaging in good faith negotiations, Agency and Consultant agree to resolve the dispute in accordance with the following:

10.11.1 Each party shall designate a senior management or executive level representative to negotiate any dispute;

10.11.2 The representatives shall attempt, through good faith negotiations, to resolve the dispute by any means within their authority.

10.11.3 If the issue remains unresolved after fifteen (15) days of good faith negotiations, the Parties shall attempt to resolve the disagreement by negotiation between legal counsel. If the above process fails, the Parties shall resolve any remaining disputes through mediation to expedite the resolution of the dispute.
10.11.4 The mediation process shall provide for the selection within fifteen (15) days by both Parties of a disinterested third person as mediator, shall be commenced within thirty (30) days and shall be concluded within fifteen (15) days from the commencement of the mediation.

10.11.5 The Parties shall equally bear the costs of any third party in any alternative dispute resolution process.

10.11.6 The alternative dispute resolution process is a material condition to this Agreement and must be exhausted as an administrative prior to either Party initiating legal action. This alternative dispute resolution process is not intended to nor shall be construed to change the time periods for filing a claim or action specified by Government Code §§ 900 et seq.

10.12 **Controlling Provisions.** In the case of any conflict between the terms of this Agreement and the Exhibits hereto, a Purchase Order, or Consultant's Proposal (if any), the Agreement shall control. In the case of any conflict between the Exhibits hereto and a Purchase Order or the Consultant's Proposal, the Exhibits shall control. In the case of any conflict between the terms of a Purchase Order and the Consultant's Proposal, the Purchase Order shall control.

10.13 **Counterparts.** This Agreement may be executed in multiple counterparts, each of which shall be an original and all of which together shall constitute one agreement.

10.14 **Construction of Agreement.** Each party hereto has had an equivalent opportunity to participate in the drafting of the Agreement and/or to consult with legal counsel. Therefore, the usual construction of an agreement against the drafting party shall not apply hereto.

10.15 **No Third Party Beneficiaries.** This Agreement is made solely for the benefit of the parties hereto, with no intent to benefit any non-signator third parties. However, should Consultant provide Services to an Agency member, SCCPA and/or a SCPPA member (collectively for the purposes of this section only "Member") pursuant to section 1.4, the parties recognize that such Member may be a third party beneficiary solely as to the Purchase Order and Requested Services relating to such Member.
The Parties have executed this Agreement as of the date signed by the Agency.

NORTHERN CALIFORNIA POWER AGENCY

Date________________________

RANDY HOWARD, General Manager

Attest:

Assistant Secretary of the Commission

Approved as to Form:

Jane E. Luckhardt, General Counsel

NOZOMI NETWORKS INC.

Date________________________

EDGARD CAPDEVIELLE, CEO
EXHIBIT A

SCOPE OF SERVICES

Nozomi Networks Inc. ("Consultant") shall provide the following services as requested by the Northern California Power Agency ("Agency") at any facilities owned or operated by the Agency, its Members, SCPPA, or SCPPA Members, including:

- Evaluate networks for cyber security vulnerabilities;
- Provide reports, suggestions and solutions for making networks more secure;
- Commissioning solutions; and
- Other consulting services as needed.
EXHIBIT B

COMPENSATION SCHEDULE AND HOURLY FEES

Compensation for all work, including hourly fees and expenses, shall not exceed the amount set forth in Section 2 hereof. The hourly rates and or compensation break down and an estimated amount of expenses is as follows:

- Hourly consulting fee: $206/hour

Travel and expenses, if applicable, will be billed at actual cost, in addition to the hourly rate described above.

Pricing for services to be performed at NCPA Member or SCPPA locations will be quoted at the time services are requested.

NOTE: As a public agency, NCPA shall not reimburse Consultant for travel, food and related costs in excess of those permitted by the Internal Revenue Service.
EXHIBIT C
CERTIFICATION

Affidavit of Compliance for Contractors

I, ________________________________________________________________

(Name of person signing affidavit)(Title)

do hereby certify that background investigations to ascertain the accuracy of the identity and employment history of all employees of

__________________________________________________________________________

(Company name)

for contract work at:

LODI ENERGY CENTER, 12745 N. THORNTON ROAD, LODI, CA  95242

(Project name and location)

have been conducted as required by the California Energy Commission Decision for the above-named project.

__________________________________________________________________________

(Signature of officer or agent)

Dated this ___________________ day of _________________, 20 _______.

THIS AFFIDAVIT OF COMPLIANCE SHALL BE APPENDED TO THE PROJECT SECURITY PLAN AND SHALL BE RETAINED AT ALL TIMES AT THE PROJECT SITE FOR REVIEW BY THE CALIFORNIA ENERGY COMMISSION COMPLIANCE PROJECT MANAGER.
**Lodi Energy Center Project Participant Committee**

**Staff Report**

**Date:** August 21, 2018  
**Meeting Date:** September 10, 2018  
**To:** Lodi Energy Center Project Participant Committee  
**Subject:** Western Hydrologics LLC – Five Year Multi-Task Consulting Services Agreement; Applicable to the following projects: All NCPA locations and Members, SCPPA, and SCPPA Members

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**Proposal**

Approve the Multi-Task Consulting Services Agreement with Western Hydrologics for forecasting, modeling and other informational tools, with any non-substantial changes recommended and approved by the NCPA General Counsel, which shall not exceed $1,000,000 over five (5) years for use at all facilities owned and/or operated by NCPA, its Members, by the Southern California Public Power Authority (“SCPPA”), or by SCPPA Members.

**Background**

Jeffrey Meyer and Jared Emery, formerly of ECORP Consulting, have formed a new entity Western Hydrologics LLP. NCPA has worked with ECORP Consulting for the last five years, however, that relationship has been almost exclusively with Jeffrey Meyer and Jared Emery. Recent NCPA work with the pair includes an operations forecasting model applicable to the North Fork Stanislaus River to produce runoff forecasts to aid in planning water releases.

**Selection Process**

This five year contract does not commit NCPA to any expenditure of funds. When these services are required, NCPA will bid the specific scope of work consistent with NCPA procurement policies and procedures. NCPA will seek bids from multiple providers when services are needed and enter into additional enabling agreements as needed. The bid is awarded to the lowest cost provider. NCPA will issue purchase orders based on cost and availability of the services needed at the time the service is required.

**Fiscal Impact**

Upon execution, the total cost of the agreement is not-to-exceed ($1,000,000) over (five) years to be used out of NCPA approved budgets as services are rendered. Purchase orders referencing the terms and conditions of the Agreement will be issued following NCPA procurement policies and procedures.
Environmental Analysis
This activity would not result in a direct or reasonably foreseeable indirect change in the physical environment and is therefore not a “project” for purposes of Section 21065 the California Environmental Quality Act. No environmental review is necessary.

Submitted by:

KEN SPEER
Assistant General Manager
Generation Services

Attachments: (1)
- Multi-Task Consulting Services Agreement with Western Hydrologics LLP
MULTI-TASK CONSULTING SERVICES AGREEMENT BETWEEN
THE NORTHERN CALIFORNIA POWER AGENCY AND
WESTERN HYDROLOGICS, LLP

This Consulting Services Agreement ("Agreement") is made by and between the Northern California Power Agency, a joint powers agency with its main office located at 651 Commerce Drive, Roseville, CA 95678-6420 ("Agency") and Western Hydrologics, LLP, a partnership with its office located at 1440 Millertown Road, Auburn, CA 95603 ("Consultant") (together sometimes referred to as the "Parties") as of ____________, 20___ ("Effective Date") in Roseville, California.

Section 1. SERVICES. Subject to the terms and conditions set forth in this Agreement, Consultant shall provide to Agency the services described in the Scope of Services attached hereto as Exhibit A and incorporated herein ("Services"), at the time and place and in the manner specified therein.

1.1 Term of Agreement. The term of this Agreement shall begin on the Effective Date and shall end when Consultant completes the Services, or no later than five (5) year from the date this Agreement was signed by Agency, whichever is shorter.

1.2 Standard of Performance. Consultant shall perform the Services in the manner and according to the standards observed by a competent practitioner of the profession in which Consultant is engaged and for which Consultant is providing the Services. Consultant represents that it is licensed, qualified and experienced to provide the Services set forth herein.

1.3 Assignment of Personnel. Consultant shall assign only competent personnel to perform the Services. In the event that Agency, in its sole discretion, at any time during the term of this Agreement, requests the reassignment of any such personnel, Consultant shall, immediately upon receiving written notice from Agency of such request, reassign such personnel.

1.4 Services Provided. Services provided under this Agreement by Consultant may include Services directly to the Agency or, as requested by the Agency and consistent with the terms of this Agreement, to Agency members, Southern California Public Power Authority ("SCPPA") or SCPPA members.

1.5 Request for Services. At such time that Agency determines to use Consultant's Services under this Agreement, Agency shall issue a Purchase Order. The Purchase Order shall identify the specific services to be performed ("Requested Services"), may include a not-to-exceed monetary cap on Requested Services and expenditures authorized by that Purchase Order, and a time by which the Requested Services shall be completed. Consultant shall have seven calendar days from the date of the Agency's issuance of the Purchase Order in which to respond in writing that Consultant chooses not to perform the Requested Services. If Consultant agrees to perform the Requested Services, begins to perform the Requested Services, or does not respond within the seven day
period specified, then Consultant will have agreed to perform the Requested Services on the terms set forth in the Purchase Order, this Agreement and its Exhibits.

Section 2. COMPENSATION. Agency hereby agrees to pay Consultant an amount NOT TO EXCEED one million dollars ($1,000,000) for the Services, which shall include all fees, costs, expenses and other reimbursables, as set forth in Consultant’s fee schedule, attached hereto and incorporated herein as Exhibit B. This dollar amount is not a guarantee that Agency will pay that full amount to the Consultant, but is merely a limit of potential Agency expenditures under this Agreement.

2.1 Invoices. Consultant shall submit invoices, not more often than once a month during the term of this Agreement, based on the cost for services performed and reimbursable costs incurred prior to the invoice date. Invoices shall contain the following information:

- The beginning and ending dates of the billing period;
- Services performed;
- The Purchase Order number authorizing the Services;
- At Agency’s option, the total number of hours of work performed under the Agreement by Consultant and each employee, agent, and subcontractor of Consultant performing services hereunder; and
- At Agency’s option, when the Consultant’s Scope of Work identifies tasks, for each work item in each task, a copy of the applicable time entries showing the name of the person doing the work, the hours spent by each person, a brief description of the work, and each reimbursable expense, with supporting documentation, to Agency’s reasonable satisfaction.

Invoices shall be sent to:

Northern California Power Agency
651 Commerce Drive
Roseville, California 95678
Attn: Accounts Payable
AcctsPayable@ncpa.com

2.2 Monthly Payment. Agency shall make monthly payments, based on invoices received, for services satisfactorily performed, and for authorized reimbursable costs incurred. Agency shall have thirty (30) days from the receipt of an invoice that complies with all of the requirements above to pay Consultant.

2.3 Payment of Taxes. Consultant is solely responsible for the payment of all federal, state and local taxes, including employment taxes, incurred under this Agreement.
2.4 **Authorization to Perform Services.** The Consultant is not authorized to perform any Services or incur any costs whatsoever under the terms of this Agreement until receipt of written authorization from the Contract Administrator.

2.5 **Timing for Submittal of Final Invoice.** Consultant shall have ninety (90) days after completion of its Services to submit its final invoice for the Requested Services. In the event Consultant fails to submit an invoice to Agency for any amounts due within the ninety (90) day period, Consultant is deemed to have waived its right to collect its final payment from Agency.

**Section 3. FACILITIES AND EQUIPMENT.** Except as set forth herein, Consultant shall, at its sole cost and expense, provide all facilities and equipment that may be necessary to perform the Services.

**Section 4. INSURANCE REQUIREMENTS.** Before beginning any work under this Agreement, Consultant, at its own cost and expense, shall procure the types and amounts of insurance listed below and shall maintain the types and amounts of insurance listed below for the period covered by this Agreement.

4.1 **Workers’ Compensation.** If Consultant employs any person, Consultant shall maintain Statutory Workers’ Compensation Insurance and Employer’s Liability Insurance for any and all persons employed directly or indirectly by Consultant with limits of not less than one million dollars ($1,000,000.00) per accident.

4.2 **Commercial General and Automobile Liability Insurance.**

4.2.1 **Commercial General Insurance.** Consultant shall maintain commercial general liability insurance for the term of this Agreement, including products liability, covering any loss or liability, including the cost of defense of any action, for bodily injury, death, personal injury and broad form property damage which may arise out of the operations of Consultant. The policy shall provide a minimum limit of $1,000,000 per occurrence/$2,000,000 aggregate. Commercial general coverage shall be at least as broad as ISO Commercial General Liability form CG 0001 (current edition) on "an occurrence" basis covering comprehensive General Liability, with a self-insured retention or deductible of no more than $100,000. No endorsement shall be attached limiting the coverage.

4.2.2 **Automobile Liability.** Consultant shall maintain automobile liability insurance form CA 0001 (current edition) for the term of this Agreement covering any loss or liability, including the cost of defense of any action, arising from the operation, maintenance or use of any vehicle (symbol 1), whether or not owned by the Consultant, on or off Agency premises. The policy shall provide a minimum limit of $1,000,000 per each accident, with a self-insured retention or deductible of no more than $100,000. This insurance shall provide contractual liability covering all motor vehicles and
mobile equipment to the extent coverage may be excluded from general liability insurance.

4.2.3 **General Liability/Umbrella Insurance.** The coverage amounts set forth above may be met by a combination of underlying and umbrella policies as long as in combination the limits equal or exceed those stated.

4.3 **Professional Liability Insurance.** Consultant shall maintain professional liability insurance appropriate to Consultant's profession performing work in connection with this Agreement in an amount not less than one million dollars ($1,000,000.00) and two million dollars ($2,000,000) aggregate covering the Consultant's errors and omissions. Any deductible or self-insured retention shall not exceed two hundred fifty thousand dollars ($250,000) per claim. Such insurance shall be on a “claims-made” basis, subject to the following conditions: (1) the retroactive date of the policy shall be on or before the Effective Date of this Agreement; (2) the policy shall be maintained for at least five (5) years after completion of the Services and, if requested by Agency, evidence of coverage shall be provided during this period; and (3) if, within five (5) years of completion of the Services, coverage is canceled or non-renewed, and not replaced with another claims-made policy form with a retroactive date prior to the Effective Date of this Agreement, Consultant shall purchase “extended reporting” coverage for a minimum of five (5) years after completion of the Services and, if requested by Agency, provide evidence of coverage during this period.

4.4 **All Policies Requirements.**

4.4.1 **Verification of coverage.** Prior to beginning any work under this Agreement, Consultant shall provide Agency with (1) a Certificate of Insurance that demonstrates compliance with all applicable insurance provisions contained herein and (2) policy endorsements to the policies referenced in Section 4.2, adding the Agency as an additional insured and declaring such insurance primary in regard to work performed pursuant to this Agreement.

4.4.2 **Notice of Reduction in or Cancellation of Coverage.** Consultant shall provide at least thirty (30) days prior written notice to Agency of any reduction in scope or amount, cancellation, or modification adverse to Agency of the policies referenced in Section 4.

4.4.3 **Higher Limits.** If Consultant maintains higher limits than the minimums specified herein, the Agency shall be entitled to coverage for the higher limits maintained by the Consultant.

4.4.4 **Additional Certificates and Endorsements.** If Consultant provides services to Agency members, SCPPA, and/or SCPPA members pursuant to this Agreement, Consultant shall provide certificates of insurance and
policy endorsements, as referenced in Section 4.4.1, naming the specific Agency member, SCPPA or SCPPA member.

4.5.5 **Waiver of Subrogation.** Consultant agrees to waive subrogation which any insurer of Consultant may acquire from Consultant by virtue of the payment of any loss. Consultant agrees to obtain any endorsement that may be necessary to effect this waiver of subrogation. In addition, the Workers’ Compensation policy shall be endorsed with a waiver of subrogation in favor of Agency for all work performed by Consultant, its employees, agents and subcontractors.

4.6 **Consultant’s Obligation.** Consultant shall be solely responsible for ensuring that all equipment, vehicles and other items utilized in the performance of Services are operated, provided or otherwise utilized in a manner that ensues they are and remain covered by the policies referenced in Section 4 during this Agreement. Consultant shall also ensure that all workers involved in the provision of Services are properly classified as employees, agents or independent contractors and are and remain covered by any and all workers’ compensation insurance required by applicable law during this Agreement.

**Section 5. INDEMNIFICATION AND CONSULTANT’S RESPONSIBILITIES.**

5.1 **Effect of Insurance.** Agency’s acceptance of insurance certificates and endorsements required under this Agreement does not relieve Consultant from liability under this indemnification and hold harmless clause. This indemnification and hold harmless clause shall apply to any damages or claims for damages whether or not such insurance policies shall have been determined to apply. By execution of this Agreement, Consultant acknowledges and agrees to the provisions of this Section and that it is a material element of consideration.

5.2 **Scope.** Consultant shall indemnify, defend with counsel reasonably acceptable to the Agency, and hold harmless the Agency and its officials, commissioners, officers, employees, and volunteers from and against any and all claims that arise out of, pertain to or relate to the negligence, recklessness or willful misconduct of the Consultant in its performance of Services under this Agreement. Consultant shall bear all losses, costs, damages, expense and liability of every kind, nature and description that arise out of, pertain to, or relate to such claims, whether directly or indirectly (“Liabilities”). Such obligations to defend, hold harmless and indemnify the Agency shall not apply to the extent that such Liabilities are caused by the sole negligence, active negligence, or willful misconduct of the Agency.

**Section 6. STATUS OF CONSULTANT.**

6.1 **Independent Contractor.** Consultant is an independent contractor and not an employee of Agency. Agency shall have the right to control Consultant only...
insofar as the results of Consultant’s Services and assignment of personnel pursuant to Section 1; otherwise, Agency shall not have the right to control the means by which Consultant accomplishes Services rendered pursuant to this Agreement. Notwithstanding any other Agency, state, or federal policy, rule, regulation, law, or ordinance to the contrary, Consultant and any of its employees, agents, and subcontractors providing services under this Agreement shall not qualify for or become entitled to, and hereby agree to waive any and all claims to, any compensation, benefit, or any incident of employment by Agency, including but not limited to eligibility to enroll in the California Public Employees Retirement System (PERS) as an employee of Agency and entitlement to any contribution to be paid by Agency for employer contributions and/or employee contributions for PERS benefits.

Consultant shall indemnify, defend, and hold harmless Agency for the payment of any employee and/or employer contributions for PERS benefits on behalf of Consultant or its employees, agents, or subcontractors, as well as for the payment of any penalties and interest on such contributions, which would otherwise be the responsibility of Agency. Consultant and Agency acknowledge and agree that compensation paid by Agency to Consultant under this Agreement is based upon Consultant’s estimated costs of providing the Services, including salaries and benefits of employees, agents and subcontractors of Consultant.

Consultant shall indemnify, defend, and hold harmless Agency from any lawsuit, administrative action, or other claim for penalties, losses, costs, damages, expense and liability of every kind, nature and description that arise out of, pertain to, or relate to such claims, whether directly or indirectly, due to Consultant’s failure to secure workers’ compensation insurance for its employees, agents, or subcontractors.

Consultant agrees that it is responsible for the provision of group healthcare benefits to its fulltime employees under 26 U.S.C. § 4980H of the Affordable Care Act. To the extent permitted by law, Consultant shall indemnify, defend and hold harmless Agency from any penalty issued to Agency under the Affordable Care Act resulting from the performance of the Services by any employee, agent, or subcontractor of Consultant.

6.2 **Consultant Not Agent.** Except as Agency may specify in writing, Consultant shall have no authority, express or implied, to act on behalf of Agency in any capacity whatsoever as an agent. Consultant shall have no authority, express or implied, pursuant to this Agreement to bind Agency to any obligation whatsoever.

6.3 **Assignment and Subcontracting.** This Agreement contemplates personal performance by Consultant and is based upon a determination of Consultant’s unique professional competence, experience, and specialized professional knowledge. A substantial inducement to Agency for entering into this Agreement
was and is the personal reputation and competence of Consultant. Consultant may not assign this Agreement or any interest therein without the prior written approval of the Agency. Consultant shall not subcontract any portion of the performance contemplated and provided for herein, other than to the subcontractors identified in Exhibit A, without prior written approval of the Agency. Where written approval is granted by the Agency, Consultant shall supervise all work subcontracted by Consultant in performing the services and shall be responsible for all work performed by a subcontractor as if Consultant itself had performed such work. The subcontracting of any work to subcontractors shall not relieve Consultant from any of its obligations under this Agreement with respect to the services and Consultant is obligated to ensure that any and all subcontractors performing any services shall be fully insured in all respects and to the same extent as set forth under Section 4, to Agency’s satisfaction.

6.4 **Certification as to California Energy Commission.** If requested by the Agency, Consultant shall, at the same time it executes this Agreement, execute Exhibit C.

**Section 7.** **LEGAL REQUIREMENTS.**

7.1 **Governing Law.** The laws of the State of California shall govern this Agreement.

7.2 **Compliance with Applicable Laws.** Consultant and its subcontractors and agents, if any, shall comply with all laws applicable to the performance of the work hereunder.

7.3 **Licenses and Permits.** Consultant represents and warrants to Agency that Consultant and its employees, agents, and subcontractors (if any) have and will maintain at their sole expense during the term of this Agreement all licenses, permits, qualifications, and approvals of whatever nature that are legally required to practice their respective professions.

**Section 8.** **TERMINATION AND MODIFICATION.**

8.1 **Termination.** Agency may cancel this Agreement at any time and without cause upon ten (10) days prior written notice to Consultant.

In the event of termination, Consultant shall be entitled to compensation for Services satisfactorily completed as of the effective date of termination; Agency, however, may condition payment of such compensation upon Consultant delivering to Agency any or all records or documents, as referenced in Section 9.1 hereof.
8.2 **Amendments.** The Parties may amend this Agreement only by a writing signed by all the Parties.

8.3 **Survival.** All obligations arising prior to the termination of this Agreement and all provisions of this Agreement allocating liability between Agency and Consultant shall survive the termination of this Agreement.

8.4 **Options upon Breach by Consultant.** If Consultant materially breaches any of the terms of this Agreement, including but not limited to those set forth in Section 4, Agency’s remedies shall include, but not be limited to, the following:

8.4.1 Immediately terminate the Agreement;

8.4.2 Retain the plans, specifications, drawings, reports, design documents, and any other work product prepared by Consultant pursuant to this Agreement;

8.4.3 Retain a different consultant to complete the Services not finished by Consultant; and/or

8.4.4 Charge Consultant the difference between the costs to complete the Services that is unfinished at the time of breach and the amount that Agency would have paid Consultant pursuant hereto if Consultant had completed the Services.

Section 9. **KEEPING AND STATUS OF RECORDS.**

9.1 **Records Created as Part of Consultant’s Performance.** All reports, data, maps, models, charts, studies, surveys, photographs, memoranda, plans, studies, specifications, records, files, or any other documents or materials, in electronic or any other form, that Consultant prepares or obtains pursuant to this Agreement and that relate to the matters covered hereunder shall be the property of the Agency. Consultant hereby agrees to deliver those documents to the Agency upon termination of the Agreement. Agency and Consultant agree that, unless approved by Agency in writing, Consultant shall not release to any non-parties to this Agreement any data, plans, specifications, reports and other documents.

9.2 **Consultant’s Books and Records.** Consultant shall maintain any and all records or other documents evidencing or relating to charges for Services or expenditures and disbursements charged to the Agency under this Agreement for a minimum of three (3) years, or for any longer period required by law, from the date of final payment to the Consultant to this Agreement.

9.3 **Inspection and Audit of Records.** Any records or documents that this Agreement requires Consultant to maintain shall be made available for
inspection, audit, and/or copying at any time during regular business hours, upon oral or written request of the Agency. Under California Government Code Section 8546.7, if the amount of public funds expended under this Agreement exceeds ten thousand dollars ($10,000.00), the Agreement shall be subject to the examination and audit of the State Auditor, at the request of Agency or as part of any audit of the Agency, for a period of three (3) years after final payment under the Agreement.

9.4 Confidential Information and Disclosure.

9.4.1 Confidential Information. The term "Confidential Information", as used herein, shall mean any and all confidential, proprietary, or trade secret information, whether written, recorded, electronic, oral or otherwise, where the Confidential Information is made available in a tangible medium of expression and marked in a prominent location as confidential, proprietary and/or trade secret information. Confidential Information shall not include information that: (a) was already known to the Receiving Party or is otherwise a matter of public knowledge, (b) was disclosed to Receiving Party by a third party without violating any confidentiality agreement, (c) was independently developed by Receiving Party without reverse engineering, as evidenced by written records thereof, or (d) was not marked as confidential Information in accordance with this section.

9.4.2 Non-Disclosure of Confidential Information. During the term of this Agreement, either party may disclose ("The Disclosing Party") confidential Information to the other party ("the Receiving Party"). The Receiving Party: (a) shall hold the Disclosing Party’s Confidential Information in confident; and (b) shall take all reasonable steps to prevent any unauthorized possession, use, copying, transfer or disclosure of such Confidential Information.

9.4.3 Permitted Disclosure. Notwithstanding the foregoing, the following disclosures of Confidential Information are allowed. Receiving Party shall endeavor to provide prior written notice to Disclosing Party of any permitted disclosure made pursuant to Section 9.4.3.2 or 9.4.3.3. Disclosing Party may seek a protective order, including without limitation, a temporary restraining order to prevent or contest such permitted disclosure; provided, however, that Disclosing Party shall seek such remedies at its sole expense. Neither party shall have any liability for such permitted disclosures:

9.4.3.1 Disclosure to employees, agents, consultants, contractors, subcontractors or other representatives of Receiving Party that have a need to know in connection with this Agreement.
9.4.3.2 Disclosure in response to a valid order of a court, government or regulatory agency or as may otherwise be required by law; and

9.4.3.3 Disclosure by Agency in response to a request pursuant to the California Public Records Act.

9.4.4 **Handling of Confidential Information.** Upon conclusion or termination of the Agreement, Receiving Party shall return to Disclosing Party or destroy Confidential Information (including all copies thereof), if requested by Disclosing Party in writing. Notwithstanding the foregoing, the Receiving Party may retain copies of such Confidential Information, subject to the confidentiality provisions of this Agreement: (a) for archival purposes in its computer system; (b) in its legal department files; and (c) in files of Receiving Party’s representatives where such copies are necessary to comply with applicable law. Party shall not disclose the Disclosing Party’s Information to any person other than those of the Receiving Party’s employees, agents, consultants, contractors and subcontractors who have a need to know in connection with this Agreement.

Section 10. **MISCELLANEOUS PROVISIONS.**

10.1 **Attorneys’ Fees.** If a party to this Agreement brings any action, including an action for declaratory relief, to enforce or interpret the provision of this Agreement, the prevailing party shall be entitled to reasonable attorneys’ fees in addition to any other relief to which that party may be entitled. The court may set such fees in the same action or in a separate action brought for that purpose.

10.2 **Venue.** In the event that either party brings any action against the other under this Agreement, the Parties agree that trial of such action shall be vested exclusively in the state courts of California in the County of Placer or in the United States District Court for the Eastern District of California.

10.3 **Severability.** If a court of competent jurisdiction finds or rules that any provision of this Agreement is invalid, void, or unenforceable, the provisions of this Agreement not so adjudged shall remain in full force and effect. The invalidity in whole or in part of any provision of this Agreement shall not void or affect the validity of any other provision of this Agreement.

10.4 **No Implied Waiver of Breach.** The waiver of any breach of a specific provision of this Agreement does not constitute a waiver of any other breach of that term or any other term of this Agreement.

10.5 **Successors and Assigns.** The provisions of this Agreement shall inure to the benefit of and shall apply to and bind the successors and assigns of the Parties.
10.6 **Conflict of Interest.** Consultant may serve other clients, but none whose activities within the corporate limits of Agency or whose business, regardless of location, would place Consultant in a “conflict of interest,” as that term is defined in the Political Reform Act, codified at California Government Code Section 81000 *et seq.*

Consultant shall not employ any Agency official in the work performed pursuant to this Agreement. No officer or employee of Agency shall have any financial interest in this Agreement that would violate California Government Code Sections 1090 *et seq.*

10.7 **Contract Administrator.** This Agreement shall be administered by Ken Speer, Assistant General Manager, or his/her designee, who shall act as the Agency’s representative. All correspondence shall be directed to or through the representative.

10.8 **Notices.** Any written notice to Consultant shall be sent to:

Jeffrey K. Meyer, Principal  
Western Hydrologic Consulting  
P.O. Box 7192  
Auburn, CA 95604

Any written notice to Agency shall be sent to:

Randy S. Howard  
General Manager  
Northern California Power Agency  
651 Commerce Drive  
Roseville, CA 95678

With a copy to:

Jane E. Luckhardt  
General Counsel  
Northern California Power Agency  
651 Commerce Drive  
Roseville, CA 95678

10.9 **Professional Seal.** Where applicable in the determination of the Agency, the first page of a technical report, first page of design specifications, and each page of construction drawings shall be stamped/sealed and signed by the licensed professional responsible for the report/design preparation.

10.10 **Integration; Incorporation.** This Agreement, including all the exhibits attached hereto, represents the entire and integrated agreement between Agency and
Consultant and supersedes all prior negotiations, representations, or agreements, either written or oral. All exhibits attached hereto are incorporated by reference herein.

10.11 Alternative Dispute Resolution. If any dispute arises between the Parties that cannot be settled after engaging in good faith negotiations, Agency and Consultant agree to resolve the dispute in accordance with the following:

10.11.1 Each party shall designate a senior management or executive level representative to negotiate any dispute;

10.11.2 The representatives shall attempt, through good faith negotiations, to resolve the dispute by any means within their authority.

10.11.3 If the issue remains unresolved after fifteen (15) days of good faith negotiations, the Parties shall attempt to resolve the disagreement by negotiation between legal counsel. If the above process fails, the Parties shall resolve any remaining disputes through mediation to expedite the resolution of the dispute.

10.11.4 The mediation process shall provide for the selection within fifteen (15) days by both Parties of a disinterested third person as mediator, shall be commenced within thirty (30) days and shall be concluded within fifteen (15) days from the commencement of the mediation.

10.11.5 The Parties shall equally bear the costs of any third party in any alternative dispute resolution process.

10.11.6 The alternative dispute resolution process is a material condition to this Agreement and must be exhausted as an administrative prior to either Party initiating legal action. This alternative dispute resolution process is not intended to nor shall be construed to change the time periods for filing a claim or action specified by Government Code §§ 900 et seq.

10.12 Controlling Provisions. In the case of any conflict between the terms of this Agreement and the Exhibits hereto, a Purchase Order, or Consultant's Proposal (if any), the Agreement shall control. In the case of any conflict between the Exhibits hereto and a Purchase Order or the Consultant's Proposal, the Exhibits shall control. In the case of any conflict between the terms of a Purchase Order and the Consultant’s Proposal, the Purchase Order shall control.

10.13 Counterparts. This Agreement may be executed in multiple counterparts, each of which shall be an original and all of which together shall constitute one agreement.
10.14 **Construction of Agreement.** Each party hereto has had an equivalent opportunity to participate in the drafting of the Agreement and/or to consult with legal counsel. Therefore, the usual construction of an agreement against the drafting party shall not apply hereto.

10.15 **No Third Party Beneficiaries.** This Agreement is made solely for the benefit of the parties hereto, with no intent to benefit any non-signator third parties. However, should Consultant provide Services to an Agency member, SCCPA and/or a SCPPA member (collectively for the purposes of this section only "Member") pursuant to section 1.4, the parties recognize that such Member may be a third party beneficiary solely as to the Purchase Order and Requested Services relating to such Member.

The Parties have executed this Agreement as of the date signed by the Agency.

NORTHERN CALIFORNIA POWER AGENCY

Date________________________

RANDY HOWARD, General Manager

Attest:

____________________________
Assistant Secretary of the Commission

Approved as to Form:

____________________________
Jane E. Luckhardt, General Counsel

WESTERN HYDROLOGICS, LLP

Date________________________

JEFFREY K. MEYER, Principal
EXHIBIT A

SCOPE OF SERVICES

Western Hydrologics, LLP ("Consultant") shall provide the following services as requested by the Northern California Power Agency ("Agency") at any facilities owned or operated by the Agency, its Members, SCPPA, or SCPPA Members, including:

- Monitoring the State Water Resource Control Board’s (SWRCB) ongoing activities and decision making process related to implementation of unimpaired flow criteria for the San Joaquin and Sacramento Rivers;
- Advising NCPA of opportunities in the public process where NCPA could provide further input to mitigate risk;
- Analyzing impacts of the proposed SWRCB unimpaired flows on the North Fork Stanislaus Hydroelectric Project and/or Central Valley Project hydropower;
- Water and runoff modeling;
- Power generation modeling;
- Water rights modeling, analysis, and/or reporting;
- Development of Technical Documents, Reports, and Presentations;
- Attendance at meetings; and
- Other misc. engineering tasks.
EXHIBIT B

COMPENSATION SCHEDULE AND HOURLY FEES

Compensation for all work, including hourly fees and expenses, shall not exceed the amount set forth in Section 2 hereof. The hourly rates and or compensation break down and an estimated amount of expenses is as follows:

WESTERN HYDROLOGICS

"Attachment A"

RATE SCHEDULE FOR PROFESSIONAL SERVICES

<table>
<thead>
<tr>
<th>Position</th>
<th>Rate</th>
</tr>
</thead>
<tbody>
<tr>
<td>Project Principal</td>
<td>$200.00</td>
</tr>
<tr>
<td>Senior Water Resources Engineer</td>
<td>$175.00</td>
</tr>
</tbody>
</table>

Expense Reimbursement/Other:
1. Computer, facsimile, and telephone are included in the billing rates, and there is no additional charge.
2. Copies (color and black and white), equipment and other direct expenses are reimbursed with a 5% administrative handling charge (excluding per diem).
3. Subcontractor expenses are reimbursed with a 5% administrative handling charge.
4. Mileage is reimbursed at current IRS rate with a 14% administrative handling charge.
5. Per Diem, depending upon location, may be charged where overnight stays are required.
6. Expert Witness Testimony, including Depositions, is billed at time and a half.
7. When non-standard billing is requested, time spent by office administrative personnel in invoice preparation is a cost to the project and charged as technical labor.

Rates effective June 2018 and are subject to change. Depending on the project requirements, titles may vary.

Pricing for services to be performed at NCPA Member or SCPPA locations will be quoted at the time services are requested.

The rates set forth above are valid from June 2018 and may be subject to an annual escalation of up to 5% per year, effective upon 30 days’ prior written notice to NCPA.

NOTE: As a public agency, NCPA shall not reimburse Consultant for travel, food and related costs in excess of those permitted by the Internal Revenue Service.
EXHIBIT C
CERTIFICATION
Affidavit of Compliance for Contractors

I, ____________________________________________________________
(Name of person signing affidavit)(Title)

do hereby certify that background investigations to ascertain the accuracy of the identity
and employment history of all employees of

_______________________________________________________________
(Company name)

for contract work at:

LODI ENERGY CENTER, 12745 N. THORNTON ROAD, LODI, CA  95242
(Project name and location)

have been conducted as required by the California Energy Commission Decision for the
above-named project.

_______________________________________________________________
(Signature of officer or agent)

Dated this ___________________ day of ___________________, 20 _______.

THIS AFFIDAVIT OF COMPLIANCE SHALL BE APPENDED TO THE PROJECT SECURITY
PLAN AND SHALL BE RETAINED AT ALL TIMES AT THE PROJECT SITE FOR REVIEW BY
THE CALIFORNIA ENERGY COMMISSION COMPLIANCE PROJECT MANAGER.
Lodi Energy Center Project Participant Committee

Staff Report

Date: September 5, 2018
Meeting Date: September 10, 2018
To: Lodi Energy Center Project Participant Committee
Subject: Rodney Bray – Five Year Multi-Task Consulting Services Agreement; Applicable to the following projects: All NCPA locations and Members, SCPPA, and SCPPA Members

Proposal
Approve the Multi-Task Consulting Services Agreement with Rodney Bray for assisting in development of new or production well workover, interpretation of well analysis reports and supervision during drilling operations, with any non-substantial changes recommended and approved by the NCPA General Counsel, which shall not exceed $500,000 over five years for use at all facilities owned and/or operated by NCPA, its members, by the Southern California Public Power Authority (“SCPPA”), or by SCPPA members.

Background
Assisting in development of new or production well workover, interpretation of well analysis reports and supervision during drilling operations are required from time to time related to project support at facilities owned and/or operated by NCPA, its Members, by the Southern California Public Power Authority (“SCPPA”), or by SCPPA Members.

Selection Process
This enabling agreement does not commit NCPA to any expenditure of funds. At the time services are required, NCPA will bid the specific scope of work consistent with NCPA procurement policies and procedures. NCPA is soliciting additional consultants for similar services and seeks bids from as many qualified providers as possible. Bids are awarded to the lowest cost provider. NCPA will issue purchase orders based on cost and availability of the services needed at the time the service is required.

Fiscal Impact
Upon execution, the total cost of the agreement is not-to-exceed $500,000 over five years to be used out of NCPA approved budgets as services are rendered. Purchase orders referencing the terms and conditions of the Agreement will be issued following NCPA procurement policies and procedures.
Environmental Analysis
This activity would not result in a direct or reasonably foreseeable indirect change in the physical environment and is therefore not a “project” for purposes of Section 21065 the California Environmental Quality Act. No environmental review is necessary.

Submitted by:

KEN SPEER
Assistant General Manager
Generation Services

Attachments: (1)
  • Multi-Task Consulting Services Agreement with Rodney Bray
MULTI-TASK CONSULTING SERVICES AGREEMENT BETWEEN
THE NORTHERN CALIFORNIA POWER AGENCY AND
RODNEY BRAY

This Consulting Services Agreement ("Agreement") is made by and between the Northern California Power Agency, a joint powers agency with its main office located at 651 Commerce Drive, Roseville, CA 95678-6420 ("Agency") and Rodney Bray, a sole proprietorship with its office located at 18940 Grange Road, Middletown, CA 95461 ("Consultant") (together sometimes referred to as the "Parties") as of ____________, 2018 ("Effective Date") in Roseville, California.

Section 1. SERVICES. Subject to the terms and conditions set forth in this Agreement, Consultant shall provide to Agency the services described in the Scope of Services attached hereto as Exhibit A and incorporated herein ("Services"), at the time and place and in the manner specified therein.

1.1 Term of Agreement. The term of this Agreement shall begin on the Effective Date and shall end when Consultant completes the Services, or no later than five (5) year from the date this Agreement was signed by Agency, whichever is shorter.

1.2 Standard of Performance. Consultant shall perform the Services in the manner and according to the standards observed by a competent practitioner of the profession in which Consultant is engaged and for which Consultant is providing the Services. Consultant represents that it is licensed, qualified and experienced to provide the Services set forth herein.

1.3 Assignment of Personnel. Consultant shall assign only competent personnel to perform the Services. In the event that Agency, in its sole discretion, at any time during the term of this Agreement, requests the reassignment of any such personnel, Consultant shall, immediately upon receiving written notice from Agency of such request, reassign such personnel.

1.4 Services Provided. Services provided under this Agreement by Consultant may include Services directly to the Agency or, as requested by the Agency and consistent with the terms of this Agreement, to Agency members, Southern California Public Power Authority ("SCPPA") or SCPPA members.

1.5 Request for Services. At such time that Agency determines to use Consultant's Services under this Agreement, Agency shall issue a Purchase Order. The Purchase Order shall identify the specific services to be performed ("Requested Services"), may include a not-to-exceed monetary cap on Requested Services and expenditures authorized by that Purchase Order, and a time by which the Requested Services shall be completed. Consultant shall have seven calendar days from the date of the Agency’s issuance of the Purchase Order in which to respond in writing that Consultant chooses not to perform the Requested Services. If Consultant agrees to perform the Requested Services, begins to perform the Requested Services, or does not respond within the seven day...
period specified, then Consultant will have agreed to perform the Requested Services on the terms set forth in the Purchase Order, this Agreement and its Exhibits.

Section 2. COMPENSATION. Agency hereby agrees to pay Consultant an amount NOT TO EXCEED FIVE HUNDRED THOUSAND dollars ($500,000) for the Services, which shall include all fees, costs, expenses and other reimbursables, as set forth in Consultant’s fee schedule, attached hereto and incorporated herein as Exhibit B. This dollar amount is not a guarantee that Agency will pay that full amount to the Consultant, but is merely a limit of potential Agency expenditures under this Agreement.

2.1 Invoices. Consultant shall submit invoices, not more often than once a month during the term of this Agreement, based on the cost for services performed and reimbursable costs incurred prior to the invoice date. Invoices shall contain the following information:

- The beginning and ending dates of the billing period;
- Services performed;
- The Purchase Order number authorizing the Services;
- At Agency’s option, the total number of hours of work performed under the Agreement by Consultant and each employee, agent, and subcontractor of Consultant performing services hereunder; and
- At Agency’s option, when the Consultant’s Scope of Work identifies tasks, for each work item in each task, a copy of the applicable time entries showing the name of the person doing the work, the hours spent by each person, a brief description of the work, and each reimbursable expense, with supporting documentation, to Agency’s reasonable satisfaction.

Invoices shall be sent to:

Northern California Power Agency
651 Commerce Drive
Roseville, California 95678
Attn: Accounts Payable
AcctsPayable@ncpa.com

2.2 Monthly Payment. Agency shall make monthly payments, based on invoices received, for services satisfactorily performed, and for authorized reimbursable costs incurred. Agency shall have thirty (30) days from the receipt of an invoice that complies with all of the requirements above to pay Consultant.

2.3 Payment of Taxes. Consultant is solely responsible for the payment of all federal, state and local taxes, including employment taxes, incurred under this Agreement.
2.4 **Authorization to Perform Services.** The Consultant is not authorized to perform any Services or incur any costs whatsoever under the terms of this Agreement until receipt of written authorization from the Contract Administrator.

2.5 **Timing for Submittal of Final Invoice.** Consultant shall have ninety (90) days after completion of its Services to submit its final invoice for the Requested Services. In the event Consultant fails to submit an invoice to Agency for any amounts due within the ninety (90) day period, Consultant is deemed to have waived its right to collect its final payment from Agency.

Section 3. **FACILITIES AND EQUIPMENT.** Except as set forth herein, Consultant shall, at its sole cost and expense, provide all facilities and equipment that may be necessary to perform the Services.

Section 4. **INSURANCE REQUIREMENTS.** Before beginning any work under this Agreement, Consultant, at its own cost and expense, shall procure the types and amounts of insurance listed below and shall maintain the types and amounts of insurance listed below for the period covered by this Agreement.

4.1 **Workers’ Compensation.** If Consultant employs any person, Consultant shall maintain Statutory Workers’ Compensation Insurance and Employer’s Liability Insurance for any and all persons employed directly or indirectly by Consultant with limits of not less than one million dollars ($1,000,000.00) per accident.

4.2 **Commercial General and Automobile Liability Insurance.**

4.2.1 **Commercial General Insurance.** Consultant shall maintain commercial general liability insurance for the term of this Agreement, including products liability, covering any loss or liability, including the cost of defense of any action, for bodily injury, death, personal injury and broad form property damage which may arise out of the operations of Consultant. The policy shall provide a minimum limit of $1,000,000 per occurrence/$2,000,000 aggregate. Commercial general coverage shall be at least as broad as ISO Commercial General Liability form CG 0001 (current edition) on "an occurrence" basis covering comprehensive General Liability, with a self-insured retention or deductible of no more than $100,000. No endorsement shall be attached limiting the coverage.

4.2.2 **Automobile Liability.** Consultant shall maintain automobile liability insurance form CA 0001 (current edition) for the term of this Agreement covering any loss or liability, including the cost of defense of any action, arising from the operation, maintenance or use of any vehicle (symbol 1), whether or not owned by the Consultant, on or off Agency premises. The policy shall provide a minimum limit of $1,000,000 per each accident, with a self-insured retention or deductible of no more than $100,000. This insurance shall provide contractual liability covering all motor vehicles and
mobile equipment to the extent coverage may be excluded from general liability insurance.

4.2.3 **General Liability/Umbrella Insurance.** The coverage amounts set forth above may be met by a combination of underlying and umbrella policies as long as in combination the limits equal or exceed those stated.

4.3 **Professional Liability Insurance.** Not Applicable

4.4 **All Policies Requirements.**

4.4.1 **Verification of coverage.** Prior to beginning any work under this Agreement, Consultant shall provide Agency with (1) a Certificate of Insurance that demonstrates compliance with all applicable insurance provisions contained herein and (2) policy endorsements to the policies referenced in Section 4.2, adding the Agency as an additional insured and declaring such insurance primary in regard to work performed pursuant to this Agreement.

4.4.2 **Notice of Reduction in or Cancellation of Coverage.** Consultant shall provide at least thirty (30) days prior written notice to Agency of any reduction in scope or amount, cancellation, or modification adverse to Agency of the policies referenced in Section 4.

4.4.3 **Higher Limits.** If Consultant maintains higher limits than the minimums specified herein, the Agency shall be entitled to coverage for the higher limits maintained by the Consultant.

4.4.4 **Additional Certificates and Endorsements.** If Consultant provides services to Agency members, SCPPA, and/or SCPPA members pursuant to this Agreement, Consultant shall provide certificates of insurance and policy endorsements, as referenced in Section 4.4.1, naming the specific Agency member, SCPPA or SCPPA member.

4.5.5 **Waiver of Subrogation.** Consultant agrees to waive subrogation which any insurer of Consultant may acquire from Consultant by virtue of the payment of any loss. Consultant agrees to obtain any endorsement that may be necessary to effect this waiver of subrogation. In addition, the Workers’ Compensation policy shall be endorsed with a waiver of subrogation in favor of Agency for all work performed by Consultant, its employees, agents and subcontractors.

4.6 **Consultant’s Obligation.** Consultant shall be solely responsible for ensuring that all equipment, vehicles and other items utilized in the performance of Services are operated, provided or otherwise utilized in a manner that ensues they are and remain covered by the policies referenced in Section 4 during this
Agreement. Consultant shall also ensure that all workers involved in the provision of Services are properly classified as employees, agents or independent contractors and are and remain covered by any and all workers' compensation insurance required by applicable law during this Agreement.

Section 5. INDEMNIFICATION AND CONSULTANT’S RESPONSIBILITIES.

5.1 Effect of Insurance. Agency’s acceptance of insurance certificates and endorsements required under this Agreement does not relieve Consultant from liability under this indemnification and hold harmless clause. This indemnification and hold harmless clause shall apply to any damages or claims for damages whether or not such insurance policies shall have been determined to apply. By execution of this Agreement, Consultant acknowledges and agrees to the provisions of this Section and that it is a material element of consideration.

5.2 Scope. Consultant shall indemnify, defend with counsel reasonably acceptable to the Agency, and hold harmless the Agency, and its officials, commissioners, officers, employees, agents and volunteers from and against all losses, liabilities, claims, demands, suits, actions, damages, expenses, penalties, fines, costs (including without limitation costs and fees of litigation), judgments and causes of action of every nature arising out of or in connection with any acts or omissions by Consultant, its officers, officials, agents, and employees, except as caused by the sole or gross negligence of Agency. Notwithstanding, should this Agreement be construed as a construction agreement under Civil Code section 2783, then the exception referenced above shall also be for the active negligence of Agency.

Section 6. STATUS OF CONSULTANT.

6.1 Independent Contractor. Consultant is an independent contractor and not an employee of Agency. Agency shall have the right to control Consultant only insofar as the results of Consultant's Services and assignment of personnel pursuant to Section 1; otherwise, Agency shall not have the right to control the means by which Consultant accomplishes Services rendered pursuant to this Agreement. Notwithstanding any other Agency, state, or federal policy, rule, regulation, law, or ordinance to the contrary, Consultant and any of its employees, agents, and subcontractors providing services under this Agreement shall not qualify for or become entitled to, and hereby agree to waive any and all claims to, any compensation, benefit, or any incident of employment by Agency, including but not limited to eligibility to enroll in the California Public Employees Retirement System (PERS) as an employee of Agency and entitlement to any contribution to be paid by Agency for employer contributions and/or employee contributions for PERS benefits.

Consultant shall indemnify, defend, and hold harmless Agency for the payment of any employee and/or employer contributions for PERS benefits on behalf of
Consultant or its employees, agents, or subcontractors, as well as for the payment of any penalties and interest on such contributions, which would otherwise be the responsibility of Agency. Consultant and Agency acknowledge and agree that compensation paid by Agency to Consultant under this Agreement is based upon Consultant’s estimated costs of providing the Services, including salaries and benefits of employees, agents and subcontractors of Consultant.

Consultant shall indemnify, defend, and hold harmless Agency from any lawsuit, administrative action, or other claim for penalties, losses, costs, damages, expense and liability of every kind, nature and description that arise out of, pertain to, or relate to such claims, whether directly or indirectly, due to Consultant’s failure to secure workers’ compensation insurance for its employees, agents, or subcontractors.

Consultant agrees that it is responsible for the provision of group healthcare benefits to its fulltime employees under 26 U.S.C. § 4980H of the Affordable Care Act. To the extent permitted by law, Consultant shall indemnify, defend and hold harmless Agency from any penalty issued to Agency under the Affordable Care Act resulting from the performance of the Services by any employee, agent, or subcontractor of Consultant.

6.2 **Consultant Not Agent.** Except as Agency may specify in writing, Consultant shall have no authority, express or implied, to act on behalf of Agency in any capacity whatsoever as an agent. Consultant shall have no authority, express or implied, pursuant to this Agreement to bind Agency to any obligation whatsoever.

6.3 **Assignment and Subcontracting.** This Agreement contemplates personal performance by Consultant and is based upon a determination of Consultant’s unique professional competence, experience, and specialized professional knowledge. A substantial inducement to Agency for entering into this Agreement was and is the personal reputation and competence of Consultant. Consultant may not assign this Agreement or any interest therein without the prior written approval of the Agency. Consultant shall not subcontract any portion of the performance contemplated and provided for herein, other than to the subcontractors identified in Exhibit A, without prior written approval of the Agency. Where written approval is granted by the Agency, Consultant shall supervise all work subcontracted by Consultant in performing the services and shall be responsible for all work performed by a subcontractor as if Consultant itself had performed such work. The subcontracting of any work to subcontractors shall not relieve Consultant from any of its obligations under this Agreement with respect to the services and Consultant is obligated to ensure that any and all subcontractors performing any services shall be fully insured in all respects and to the same extent as set forth under Section 4, to Agency’s satisfaction.
6.4 **Certification as to California Energy Commission.** If requested by the Agency, Consultant shall, at the same time it executes this Agreement, execute Exhibit C.

Section 7. **LEGAL REQUIREMENTS.**

7.1 **Governing Law.** The laws of the State of California shall govern this Agreement.

7.2 **Compliance with Applicable Laws.** Consultant and its subcontractors and agents, if any, shall comply with all laws applicable to the performance of the work hereunder.

7.3 **Licenses and Permits.** Consultant represents and warrants to Agency that Consultant and its employees, agents, and subcontractors (if any) have and will maintain at their sole expense during the term of this Agreement all licenses, permits, qualifications, and approvals of whatever nature that are legally required to practice their respective professions.

Section 8. **TERMINATION AND MODIFICATION.**

8.1 **Termination.** Agency may cancel this Agreement at any time and without cause upon ten (10) days prior written notice to Consultant.

In the event of termination, Consultant shall be entitled to compensation for Services satisfactorily completed as of the effective date of termination; Agency, however, may condition payment of such compensation upon Consultant delivering to Agency any or all records or documents, as referenced in Section 9.1 hereof.

8.2 **Amendments.** The Parties may amend this Agreement only by a writing signed by all the Parties.

8.3 **Survival.** All obligations arising prior to the termination of this Agreement and all provisions of this Agreement allocating liability between Agency and Consultant shall survive the termination of this Agreement.

8.4 **Options upon Breach by Consultant.** If Consultant materially breaches any of the terms of this Agreement, including but not limited to those set forth in Section 4, Agency’s remedies shall include, but not be limited to, the following:

8.4.1 Immediately terminate the Agreement;

8.4.2 Retain the plans, specifications, drawings, reports, design documents, and any other work product prepared by Consultant pursuant to this Agreement;
8.4.3 Retain a different consultant to complete the Services not finished by Consultant; and/or

8.4.4 Charge Consultant the difference between the costs to complete the Services that is unfinished at the time of breach and the amount that Agency would have paid Consultant pursuant hereto if Consultant had completed the Services.

Section 9. KEEPING AND STATUS OF RECORDS.

9.1 Records Created as Part of Consultant’s Performance. All reports, data, maps, models, charts, studies, surveys, photographs, memoranda, plans, studies, specifications, records, files, or any other documents or materials, in electronic or any other form, that Consultant prepares or obtains pursuant to this Agreement and that relate to the matters covered hereunder shall be the property of the Agency. Consultant hereby agrees to deliver those documents to the Agency upon termination of the Agreement. Agency and Consultant agree that, unless approved by Agency in writing, Consultant shall not release to any non-parties to this Agreement any data, plans, specifications, reports and other documents.

9.2 Consultant’s Books and Records. Consultant shall maintain any and all records or other documents evidencing or relating to charges for Services or expenditures and disbursements charged to the Agency under this Agreement for a minimum of three (3) years, or for any longer period required by law, from the date of final payment to the Consultant to this Agreement.

9.3 Inspection and Audit of Records. Any records or documents that this Agreement requires Consultant to maintain shall be made available for inspection, audit, and/or copying at any time during regular business hours, upon oral or written request of the Agency. Under California Government Code Section 8546.7, if the amount of public funds expended under this Agreement exceeds ten thousand dollars ($10,000.00), the Agreement shall be subject to the examination and audit of the State Auditor, at the request of Agency or as part of any audit of the Agency, for a period of three (3) years after final payment under the Agreement.

9.4 Confidential Information and Disclosure.

9.4.1 Confidential Information. The term "Confidential Information", as used herein, shall mean any and all confidential, proprietary, or trade secret information, whether written, recorded, electronic, oral or otherwise, where the Confidential Information is made available in a tangible medium of expression and marked in a prominent location as confidential, proprietary and/or trade secret information. Confidential Information shall not include information that: (a) was already known to the Receiving Party...
or is otherwise a matter of public knowledge, (b) was disclosed to Receiving Party by a third party without violating any confidentiality agreement, (c) was independently developed by Receiving Party without reverse engineering, as evidenced by written records thereof, or (d) was not marked as confidential Information in accordance with this section.

9.4.2 **Non-Disclosure of Confidential Information.** During the term of this Agreement, either party may disclose ("The Disclosing Party") confidential Information to the other party ("the Receiving Party"). The Receiving Party: (a) shall hold the Disclosing Party’s Confidential Information in confident; and (b) shall take all reasonable steps to prevent any unauthorized possession, use, copying, transfer or disclosure of such Confidential Information.

9.4.3 **Permitted Disclosure.** Notwithstanding the foregoing, the following disclosures of Confidential Information are allowed. Receiving Party shall endeavor to provide prior written notice to Disclosing Party of any permitted disclosure made pursuant to Section 9.4.3.2 or 9.4.3.3. Disclosing Party may seek a protective order, including without limitation, a temporary restraining order to prevent or contest such permitted disclosure; provided, however, that Disclosing Party shall seek such remedies at its sole expense. Neither party shall have any liability for such permitted disclosures:

9.4.3.1 Disclosure to employees, agents, consultants, contractors, subcontractors or other representatives of Receiving Party that have a need to know in connection with this Agreement.

9.4.3.2 Disclosure in response to a valid order of a court, government or regulatory agency or as may otherwise be required by law; and

9.4.3.3 Disclosure by Agency in response to a request pursuant to the California Public Records Act.

9.4.4 **Handling of Confidential Information.** Upon conclusion or termination of the Agreement, Receiving Party shall return to Disclosing Party or destroy Confidential Information (including all copies thereof), if requested by Disclosing Party in writing. Notwithstanding the foregoing, the Receiving Party may retain copies of such Confidential Information, subject to the confidentiality provisions of this Agreement: (a) for archival purposes in its computer system; (b) in its legal department files; and (c) in files of Receiving Party’s representatives where such copies are necessary to comply with applicable law. Party shall not disclose the Disclosing Party’s Information to any person other than those of the Receiving Party’s employees, agents, consultants, contractors and
subcontractors who have a need to know in connection with this Agreement.

Section 10. MISCELLANEOUS PROVISIONS.

10.1 Attorneys’ Fees. If a party to this Agreement brings any action, including an action for declaratory relief, to enforce or interpret the provision of this Agreement, the prevailing party shall be entitled to reasonable attorneys’ fees in addition to any other relief to which that party may be entitled. The court may set such fees in the same action or in a separate action brought for that purpose.

10.2 Venue. In the event that either party brings any action against the other under this Agreement, the Parties agree that trial of such action shall be vested exclusively in the state courts of California in the County of Placer or in the United States District Court for the Eastern District of California.

10.3 Severability. If a court of competent jurisdiction finds or rules that any provision of this Agreement is invalid, void, or unenforceable, the provisions of this Agreement not so adjudged shall remain in full force and effect. The invalidity in whole or in part of any provision of this Agreement shall not void or affect the validity of any other provision of this Agreement.

10.4 No Implied Waiver of Breach. The waiver of any breach of a specific provision of this Agreement does not constitute a waiver of any other breach of that term or any other term of this Agreement.

10.5 Successors and Assigns. The provisions of this Agreement shall inure to the benefit of and shall apply to and bind the successors and assigns of the Parties.

10.6 Conflict of Interest. Consultant may serve other clients, but none whose activities within the corporate limits of Agency or whose business, regardless of location, would place Consultant in a “conflict of interest,” as that term is defined in the Political Reform Act, codified at California Government Code Section 81000 et seq.

Consultant shall not employ any Agency official in the work performed pursuant to this Agreement. No officer or employee of Agency shall have any financial interest in this Agreement that would violate California Government Code Sections 1090 et seq.

10.7 Contract Administrator. This Agreement shall be administered by Ken Speer, Assistant General Manager, or his/her designee, who shall act as the Agency’s representative. All correspondence shall be directed to or through the representative.
10.8 **Notices.** Any written notice to Consultant shall be sent to:

Rodney Bray  
18940 Grange Road  
Middletown, CA 95461

Any written notice to Agency shall be sent to:

Randy S. Howard  
General Manager  
Northern California Power Agency  
651 Commerce Drive  
Roseville, CA  95678

With a copy to:

Jane E. Luckhardt  
General Counsel  
Northern California Power Agency  
651 Commerce Drive  
Roseville, CA  95678

10.9 **Professional Seal.** Where applicable in the determination of the Agency, the first page of a technical report, first page of design specifications, and each page of construction drawings shall be stamped/sealed and signed by the licensed professional responsible for the report/design preparation.

10.10 **Integration; Incorporation.** This Agreement, including all the exhibits attached hereto, represents the entire and integrated agreement between Agency and Consultant and supersedes all prior negotiations, representations, or agreements, either written or oral. All exhibits attached hereto are incorporated by reference herein.

10.11 **Alternative Dispute Resolution.** If any dispute arises between the Parties that cannot be settled after engaging in good faith negotiations, Agency and Consultant agree to resolve the dispute in accordance with the following:

10.11.1 Each party shall designate a senior management or executive level representative to negotiate any dispute;

10.11.2 The representatives shall attempt, through good faith negotiations, to resolve the dispute by any means within their authority.

10.11.3 If the issue remains unresolved after fifteen (15) days of good faith negotiations, the Parties shall attempt to resolve the disagreement by negotiation between legal counsel. If the above process fails,
the Parties shall resolve any remaining disputes through mediation to expedite the resolution of the dispute.

10.11.4 The mediation process shall provide for the selection within fifteen (15) days by both Parties of a disinterested third person as mediator, shall be commenced within thirty (30) days and shall be concluded within fifteen (15) days from the commencement of the mediation.

10.11.5 The Parties shall equally bear the costs of any third party in any alternative dispute resolution process.

10.11.6 The alternative dispute resolution process is a material condition to this Agreement and must be exhausted as an administrative prior to either Party initiating legal action. This alternative dispute resolution process is not intended to nor shall be construed to change the time periods for filing a claim or action specified by Government Code §§ 900 et seq.

10.12 **Controlling Provisions.** In the case of any conflict between the terms of this Agreement and the Exhibits hereto, a Purchase Order, or Consultant's Proposal (if any), the Agreement shall control. In the case of any conflict between the Exhibits hereto and a Purchase Order or the Consultant's Proposal, the Exhibits shall control. In the case of any conflict between the terms of a Purchase Order and the Consultant’s Proposal, the Purchase Order shall control.

10.13 **Counterparts.** This Agreement may be executed in multiple counterparts, each of which shall be an original and all of which together shall constitute one agreement.

10.14 **Construction of Agreement.** Each party hereto has had an equivalent opportunity to participate in the drafting of the Agreement and/or to consult with legal counsel. Therefore, the usual construction of an agreement against the drafting party shall not apply hereto.

10.15 **No Third Party Beneficiaries.** This Agreement is made solely for the benefit of the parties hereto, with no intent to benefit any non-signator third parties. However, should Consultant provide Services to an Agency member, SCCPA and/or a SCPPA member (collectively for the purposes of this section only "Member") pursuant to section 1.4, the parties recognize that such Member may be a third party beneficiary solely as to the Purchase Order and Requested Services relating to such Member.
The Parties have executed this Agreement as of the date signed by the Agency.

NORTHERN CALIFORNIA POWER AGENCY                     RODNEY BRAY

Date________________________                     Date________________________

RANDY S. HOWARD, General Manager                     RODNEY BRAY, Owner

Attest:

____________________________
Assistant Secretary of the Commission

Approved as to Form:

____________________________
Jane E. Luckhardt, General Counsel
EXHIBIT A

SCOPE OF SERVICES

Rodney Bray (“Consultant”) shall provide consulting services as requested by the Northern California Power Agency (“Agency”) at any Facilities owned or operated by NCPA, its Members, Southern California Power Authority (SCPPA) and SCPPA members.

Services to include, but not limited, to the following:

- Assist in the development of new or production well workover plans and bid packages for drilling rig operations.
- Day or night supervision at the drill rig site for all drilling activities performed at the work site.
- Supervising the operation of the drill rig and all of the contractors that will be working on the drill rig site, with an emphasis on safety and the environment. The Consultant is expected to keep track of costs while attempting to manage the drilling operation in the most fiscally responsible method possible.
- Interpretation of well analysis reports and assistance to derive best solutions.
EXHIBIT B

COMPENSATION SCHEDULE AND HOURLY FEES

Compensation for all tasks, including hourly fees and expenses, shall not exceed the amount stated in Section 2 of the Agreement. The hourly rates and or compensation break down and an estimated amount of expenses is as follows:

Rodney Bray
18940 Grange Rd.
Middletown CA 95461
Cell 707-291-6066
Email rbray55@gmail.com

2018 Rate Sheet

Geysers area prices:

1. 24 hours per day drilling supervision = $1,500 per day.
   Note: Daily rate includes vehicle mileage and meal allowance.

2. 12 hours per day drilling supervision = $1,250 per day

3. Any approved expenses will be added to invoice at cost with receipts.

4. Hourly Rate = $125 per hour with 4 hour minimum. Hourly rate only applies to office work or well planning and is not applicable for work at the job site.

Pricing for services to be performed at NCPA Member or SCPPA locations will be quoted at the time services are requested.

NOTE: As a public agency, NCPA shall not reimburse Consultant for travel, food and related costs in excess of those permitted by the Internal Revenue Service.
EXHIBIT C
CERTIFICATION
Affidavit of Compliance for Contractors

I, __________________________________________________________
(Name of person signing affidavit)(Title)

do hereby certify that background investigations to ascertain the accuracy of the identity
and employment history of all employees of

__________________________________________________________
(Company name)

for contract work at:

LODI ENERGY CENTER, 12745 N. THORNTON ROAD, LODI, CA  95242
(Project name and location)

have been conducted as required by the California Energy Commission Decision for the
above-named project.

__________________________________________________________
(Signature of officer or agent)

Dated this ___________________ day of ___________________, 20 _______.

THIS AFFIDAVIT OF COMPLIANCE SHALL BE APPENDED TO THE PROJECT SECURITY
PLAN AND SHALL BE RETAINED AT ALL TIMES AT THE PROJECT SITE FOR REVIEW BY
THE CALIFORNIA ENERGY COMMISSION COMPLIANCE PROJECT MANAGER.
Lodi Energy Center Project Participant Committee

Staff Report

Date: August 16, 2018

Meeting Date: September 10, 2018

To: Lodi Energy Center Project Participant Committee

Subject: Petrochem Insulation, Inc. – Five Year Multi-Task General Services Agreement; Applicable to the following projects: All NCPA locations and Members, SCPPA, and SCPPA Members

Proposal
Approve the Multi-Task General Services Agreement with Petrochem Insulation, Inc. for maintenance to include but not limited to insulation on steam piping and tanks, noise abatement, scaffolding, fireproofing and other necessary services, with any non-substantial changes recommended and approved by the NCPA General Counsel, which shall not exceed $500,000 over five years for use at all facilities owned and/or operated by NCPA, its members, by the Southern California Public Power Authority (“SCPPA”), or by SCPPA members.

Background
Insulation maintenance, noise abatement, scaffolding, fireproofing and other necessary services are required from time to time at facilities owned and/or operated by NCPA, its Members, by the Southern California Public Power Authority (SCPPA), or by SCPPA Members.

Selection Process
This enabling agreement does not commit NCPA to any expenditure of funds. At the time services are required, NCPA will bid the specific scope of work consistent with NCPA procurement policies and procedures. NCPA currently has similar agreements in place with Sunshine Metal Clad, Ernie & Sons Scaffolding dba Unique Scaffolding, Brand Energy Services and seeks bids from as many qualified providers as possible and enter into additional enabling agreements as needed. The bid is awarded to the lowest cost provider. NCPA will issue purchase orders based on cost and availability of the services needed at the time the service is required.

Fiscal Impact
Upon execution, the total cost of the agreement is not-to-exceed $500,000 over five years to be used out of NCPA approved budgets as services are rendered. Purchase orders referencing the terms and conditions of the Agreement will be issued following NCPA procurement policies and procedures.
Environmental Analysis
This activity would not result in a direct or reasonably foreseeable indirect change in the physical environment and is therefore not a “project” for purposes of Section 21065 the California Environmental Quality Act. No environmental review is necessary.

Submitted by:

KEN SPEER
Assistant General Manager
Generation Services

Attachments: (1)
- Multi-Task General Services Agreement with Petrochem Insulation, Inc.
MULTI-TASK
GENERAL SERVICES AGREEMENT BETWEEN
THE NORTHERN CALIFORNIA POWER AGENCY AND
PETROCHEM INSULATION, INC.

This Multi-Task General Services Agreement ("Agreement") is made by and between the Northern California Power Agency, a joint powers agency with its main office located at 651 Commerce Drive, Roseville, CA 95678-6420 ("Agency") and PetroChem Insulation, Inc., a corporation with its office located at 2300 Clayton Road, Concord, CA 94520 ("Contractor") (together sometimes referred to as the "Parties") as of ____________, 2018 ("Effective Date") in Roseville, California.

Section 1. SCOPE OF WORK. Subject to the terms and conditions set forth in this Agreement, Contractor is willing to provide to Agency the range of services and/or goods described in the Scope of Work attached hereto as Exhibit A and incorporated herein ("Work").

1.1 Term of Agreement. The term of this Agreement shall begin on the Effective Date and shall end when Contractor completes the Work, or no later than five (5) years from the date this Agreement was signed by Agency, whichever is shorter.

1.2 Standard of Performance. Contractor shall perform the Work in the manner and according to the standards observed by a competent practitioner of the profession in which Contractor is engaged and for which Contractor is providing the Work. Contractor represents that it is licensed, qualified and experienced to provide the Work set forth herein.

1.3 Assignment of Personnel. Contractor shall assign only competent personnel to perform the Work. In the event that Agency, in its sole discretion, at any time during the term of this Agreement, requests the reassignment of any such personnel, Contractor shall, immediately upon receiving written notice from Agency of such request, reassign such personnel.

1.4 Work Provided. Work provided under this Agreement by Contractor may include Work directly to the Agency or, as requested by the Agency and consistent with the terms of this Agreement, to Agency members, Southern California Public Power Authority ("SCPPA") or SCPPA members.

1.5 Request for Work to be Performed. At such time that Agency determines to have Contractor perform Work under this Agreement, Agency shall issue a Purchase Order. The Purchase Order shall identify the specific Work to be performed ("Requested Work"), may include a not-to-exceed cap on monetary cap on Requested Work and all related expenditures authorized by that Purchase Order, and shall include a time by which the Requested Work shall be completed. Contractor shall have seven calendar days from the date of the Agency’s issuance of the Purchase Order in which to respond in writing that Contractor chooses not to perform the Requested Work. If Contractor agrees to perform the Requested Work, begins to perform the Requested Work, or does not respond within the seven day period specified, then Contractor will have
agreed to perform the Requested Work on the terms set forth in the Purchase Order, this Agreement and its Exhibits.

Section 2. COMPENSATION. Agency hereby agrees to pay Contractor an amount NOT TO EXCEED FIVE HUNDRED THOUSAND dollars ($500,000) for the Work, which shall include all fees, costs, expenses and other reimbursables, as set forth in Contractor’s fee schedule, attached hereto and incorporated herein as Exhibit B. This dollar amount is not a guarantee that Agency will pay that full amount to the Contractor, but is merely a limit of potential Agency expenditures under this Agreement.

2.1 Invoices. Contractor shall submit invoices, not more often than once a month during the term of this Agreement, based on the cost for services performed and reimbursable costs incurred prior to the invoice date. Invoices shall contain the following information:

- The beginning and ending dates of the billing period;
- Work performed;
- The Purchase Order number authorizing the Requested Work;
- At Agency’s option, for each work item in each task, a copy of the applicable time entries or time sheets shall be submitted showing the name of the person doing the work, the hours spent by each person, a brief description of the work, and each reimbursable expense, with supporting documentation, to Agency’s reasonable satisfaction;
- At Agency’s option, the total number of hours of work performed under the Agreement by Contractor and each employee, agent, and subcontractor of Contractor performing work hereunder.

Invoices shall be sent to:

Northern California Power Agency
651 Commerce Drive
Roseville, California 95678
Attn: Accounts Payable
AcctsPayable@ncpa.com

2.2 Monthly Payment. Agency shall make monthly payments, based on invoices received, for Work satisfactorily performed, and for authorized reimbursable costs incurred. Agency shall have thirty (30) days from the receipt of an invoice that complies with all of the requirements above to pay Contractor.

2.3 Payment of Taxes. Contractor is solely responsible for the payment of all federal, state and local taxes, including employment taxes, incurred under this Agreement.

2.4 Authorization to Perform Work. The Contractor is not authorized to perform any Work or incur any costs whatsoever under the terms of this Agreement until receipt of a Purchase Order from the Contract Administrator.
2.5 **Timing for Submittal of Final Invoice.** Contractor shall have ninety (90) days after completion of the Requested Work to submit its final invoice for the Requested Work. In the event Contractor fails to submit an invoice to Agency for any amounts due within the ninety (90) day period, Contractor is deemed to have waived its right to collect its final payment for the Requested Work from Agency.

Section 3. **FACILITIES AND EQUIPMENT.** Except as set forth herein, Contractor shall, at its sole cost and expense, provide all facilities and equipment that may be necessary to perform the Work.

Section 4. **INSURANCE REQUIREMENTS.** Before beginning any Work under this Agreement, Contractor, at its own cost and expense, shall procure the types and amounts of insurance listed below and shall maintain the types and amounts of insurance listed below for the period covered by this Agreement.

4.1 **Workers’ Compensation.** If Contractor employs any person, Contractor shall maintain Statutory Workers’ Compensation Insurance and Employer’s Liability Insurance for any and all persons employed directly or indirectly by Contractor with limits of not less than one million dollars ($1,000,000.00) per accident.

4.2 **Commercial General and Automobile Liability Insurance.**

4.2.1 **Commercial General Insurance.** Contractor shall maintain commercial general liability insurance for the term of this Agreement, including products liability, covering any loss or liability, including the cost of defense of any action, for bodily injury, death, personal injury and broad form property damage which may arise out of the operations of Contractor. The policy shall provide a minimum limit of $1,000,000 per occurrence/$2,000,000 aggregate. Commercial general coverage shall be at least as broad as ISO Commercial General Liability form CG 0001 (current edition) on "an occurrence" basis covering comprehensive General Liability,. No endorsement shall be attached limiting the coverage.

4.2.2 **Automobile Liability.** Contractor shall maintain automobile liability insurance form CA 0001 (current edition) for the term of this Agreement covering any loss or liability, including the cost of defense of any action, arising from the operation, maintenance or use of any vehicle (symbol 1), whether or not owned by the Contractor, on or off Agency premises. The policy shall provide a minimum limit of $1,000,000 per each accident,. This insurance shall provide contractual liability covering all motor vehicles and mobile equipment to the extent coverage may be excluded from general liability insurance.

4.2.3 **General Liability/Umbrella Insurance.** The coverage amounts set forth above may be met by a combination of underlying and umbrella policies as long as in combination the limits equal or exceed those stated.
4.3 **Professional Liability Insurance.** Not Applicable

4.4 **Pollution Insurance.** Not Applicable

4.5 **All Policies Requirements.**

4.5.1 **Verification of coverage.** Prior to beginning any work under this Agreement, Contractor shall provide Agency with (1) a Certificate of Insurance that demonstrates compliance with all applicable insurance provisions contained herein and (2) policy endorsements to the policies referenced in Section 4.2 and in Section 4.4, if applicable, adding the Agency as an additional insured and declaring such insurance primary in regard to work performed pursuant to this Agreement.

4.5.2 **Notice of Reduction in or Cancellation of Coverage.** Contractor shall provide at least thirty (30) days prior written notice to Agency of any reduction in scope or amount, cancellation, or modification adverse to Agency of the policies referenced in Section 4.

4.5.3 **Higher Limits.** If Contractor maintains higher limits than the minimums specified herein, the Agency shall be entitled to coverage for the higher limits maintained by the Contractor.

4.5.4 **Additional Certificates and Endorsements.** If Contractor performs Work for Agency members, SCPPA and/or SCPPA members pursuant to this Agreement, Contractor shall provide the certificates of insurance and policy endorsements, as referenced in Section 4.5.1, naming the specific Agency member, SCPPA and/or SCPPA member for which the Work is to be performed.

4.5.5 **Waiver of Subrogation.** Contractor agrees to waive subrogation which any insurer of Contractor may acquire from Contractor by virtue of the payment of any loss. Contractor agrees to obtain any endorsement that may be necessary to effect this waiver of subrogation. In addition, the Workers’ Compensation policy shall be endorsed with a waiver of subrogation in favor of Agency for all work performed by Contractor, its employees, agents and subcontractors.

4.6 **Contractor’s Obligation.** Contractor shall be solely responsible for ensuring that all equipment, vehicles and other items utilized in the performance of Work are operated, provided or otherwise utilized in a manner that ensures they are and remain covered by the policies referenced in Section 4 during this Agreement. Contractor shall also ensure that all workers involved in the provision of Work are properly classified as employees, agents or independent contractors and are and remain covered by any and all workers’ compensation insurance required by applicable law during this Agreement.
Section 5. INDEMNIFICATION AND CONTRACTOR’S RESPONSIBILITIES.

5.1 Effect of Insurance. Agency’s acceptance of insurance certificates and endorsements required under this Agreement does not relieve Contractor from liability under this indemnification and hold harmless clause. This indemnification and hold harmless clause shall apply to any damages or claims for damages whether or not such insurance policies shall have been determined to apply. By execution of this Agreement, Contractor acknowledges and agrees to the provisions of this section and that it is a material element of consideration.

5.2 Scope. Contractor shall indemnify, defend with counsel reasonably acceptable to the Agency, and hold harmless the Agency, and its officials, commissioners, officers, employees, agents and volunteers from and against all losses, liabilities, claims, demands, suits, actions, damages, expenses, penalties, fines, costs (including without limitation costs and fees of litigation), judgments and causes of action of every nature arising out of or in connection with any acts or omissions by Contractor, its officers, officials, agents, and employees, except to the extent caused by the sole or gross negligence or willful misconduct of Agency.

Section 6. STATUS OF CONTRACTOR.

6.1 Independent Contractor. Contractor is an independent contractor and not an employee of Agency. Agency shall have the right to control Contractor only insofar as the results of Contractor's Work and assignment of personnel pursuant to Section 1; otherwise, Agency shall not have the right to control the means by which Contractor accomplishes Work rendered pursuant to this Agreement. Notwithstanding any other Agency, state, or federal policy, rule, regulation, law, or ordinance to the contrary, Contractor and any of its employees, agents, and subcontractors providing services under this Agreement shall not qualify for or become entitled to, and hereby agree to waive any and all claims to, any compensation, benefit, or any incident of employment by Agency, including but not limited to eligibility to enroll in the California Public Employees Retirement System (PERS) as an employee of Agency and entitlement to any contribution to be paid by Agency for employer contributions and/or employee contributions for PERS benefits.

Contractor shall indemnify, defend, and hold harmless Agency for the payment of any employee and/or employer contributions for PERS benefits on behalf of Contractor or its employees, agents, or subcontractors, as well as for the payment of any penalties and interest on such contributions, which would otherwise be the responsibility of Agency. Contractor and Agency acknowledge and agree that compensation paid by Agency to Contractor under this Agreement is based upon Contractor's estimated costs of providing the Work, including salaries and benefits of employees, agents and subcontractors of Contractor.

Contractor shall indemnify, defend, and hold harmless Agency from any lawsuit, administrative action, or other claim for penalties, losses, costs, damages,
expense and liability of every kind, nature and description that arise out of, 
pertain to, or relate to such claims, whether directly or indirectly, due to 
Contractor’s failure to secure workers’ compensation insurance for its 
employees, agents, or subcontractors.

Contractor agrees that it is responsible for the provision of group healthcare 
benefits to its fulltime employees under 26 U.S.C. § 4980H of the Affordable 
Care Act. To the extent permitted by law, Contractor shall indemnify, defend and 
hold harmless Agency from any penalty issued to Agency under the Affordable 
Care Act resulting from the performance of the Services by any employee, agent, 
or subcontractor of Contractor.

6.2 **Contractor Not Agent.** Except as Agency may specify in writing, Contractor 
shall have no authority, express or implied, to act on behalf of Agency in any 
capacity whatsoever as an agent. Contractor shall have no authority, express or 
implied, pursuant to this Agreement to bind Agency to any obligation whatsoever.

6.3 **Assignment and Subcontracting.** This Agreement contemplates personal 
performance by Contractor and is based upon a determination of Contractor’s 
unique professional competence, experience, and specialized professional 
knowledge. A substantial inducement to Agency for entering into this Agreement 
was and is the personal reputation and competence of Contractor. Contractor 
may not assign this Agreement or any interest therein without the prior written 
approval of the Agency. Contractor shall not subcontract any portion of the 
performance contemplated and provided for herein, other than to the 
subcontractors identified in Exhibit A, without prior written approval of the 
Agency. Where written approval is granted by the Agency, Contractor shall 
supervise all work subcontracted by Contractor in performing the Work and shall 
be responsible for all work performed by a subcontractor as if Contractor itself 
had performed such work. The subcontracting of any work to subcontractors 
shall not relieve Contractor from any of its obligations under this Agreement with 
respect to the Work and Contractor is obligated to ensure that any and all 
subcontractors performing any Work shall be fully insured in all respects and to 
the same extent as set forth under Section 4, to Agency’s satisfaction.

6.4 **Certification as to California Energy Commission.** If requested by the 
Agency, Contractor shall, at the same time it executes this Agreement, execute 
Exhibit C.

6.5 **Certification as to California Energy Commission Regarding Hazardous 
Materials Transport Vendors.** If requested by the Agency, Contractor shall, at 
the same time it executes this Agreement, execute Exhibit D.

6.6 **Maintenance Labor Agreement.** If the Work is subject to the terms of one or 
more Maintenance Labor Agreements, which are applicable only to certain types 
of construction, repair and/or maintenance projects, then Contractor shall 
execute Exhibit E and/or similar documentation as to compliance.
Section 7. **LEGAL REQUIREMENTS.**

7.1 **Governing Law.** The laws of the State of California shall govern this Agreement.

7.2 **Compliance with Applicable Laws.** Contractor and its subcontractors and agents, if any, shall comply with all laws applicable to the performance of the work hereunder.

7.3 **Licenses and Permits.** Contractor represents and warrants to Agency that Contractor and its employees, agents, and subcontractors (if any) have and will maintain at their sole expense during the term of this Agreement all licenses, permits, qualifications, and approvals of whatever nature that are legally required to practice their respective professions.

7.4 **Monitoring by DIR.** The Work is subject to compliance monitoring and enforcement by the Department of Industrial Relations.

7.5 **Registration with DIR.** During the term of this Agreement, Contractor warrants that it is registered with the Department of Industrial Relations and qualified to perform Work consistent with Labor Code section 1725.5.

7.6 **Prevailing Wage Rates.** In accordance with California Labor Code Section 1771, not less than the general prevailing rate of per diem wages for work of a similar character in the locality in which the Work is to be performed, and not less than the general prevailing rate of per diem wages for holiday and overtime work as provided in the California Labor Code must be paid to all workers engaged in performing the Work. In accordance with California Labor Code Section 1770 and following, the Director of Industrial Relations has determined the general prevailing wage per diem rates for the locality in which the Work is to be performed; the Agency has obtained the general prevailing rate of per diem wages and the general rate for holiday and overtime work in the locality in which the Work is to be performed for each craft, classification or type of worker needed to perform the project; and copies of the prevailing rate of per diem wages are on file at the Agency and will be made available on request. Throughout the performance of the Work, Contractor must comply with all applicable laws and regulations that apply to wages earned in performance of the Work. Contractor assumes all responsibility for such payments and shall defend, indemnify and hold the Agency harmless from any and all claims made by the State of California, the Department of Industrial Relations, any subcontractor, any worker or any other third party with regard thereto.

Additionally, in accordance with the California Administrative Code, Title 8, Group 3, Article 2, Section 16000, Publication of Prevailing Wage Rates by Awarding Bodies, copies of the applicable determination of the Director can be found on the web at: [http://www.dir.ca.gov/DLSR/PWD/](http://www.dir.ca.gov/DLSR/PWD/) and may be reviewed at any time.
Contractor shall be required to submit to the Agency during the contract period, copies of Public Works payroll reporting information per California Department of Industrial Relations, Form A-1-131 (New 2-80) concerning work performed under this Agreement.

Contractor shall comply with applicable law, including Labor Code Sections 1774 and 1775. In accordance with Section 1775, Contractor shall forfeit as a penalty to Agency $50.00 for each calendar day or portion thereof, for each worker paid less than the prevailing rates as determined by the Director of Industrial Relations for such work or craft in which such worker is employed for any Work done under the Agreement by Contractor or by any subcontractor under Contractor in violation of the provisions of the Labor Code and in particular, Labor Code Sections 1770 et seq. In addition to the penalty and pursuant to Section 1775, the difference between such prevailing wage rates and the amount paid to each worker for each calendar day or portion thereof for which each worker was paid less than the prevailing wage rate shall be paid to each worker by the Contractor.

Section 8. TERMINATION AND MODIFICATION.

8.1 Termination. Agency may cancel this Agreement at any time and without cause upon ten (10) days prior written notice to Contractor.

In the event of termination, Contractor shall be entitled to compensation for Work satisfactorily completed as of the effective date of termination; Agency, however, may condition payment of such compensation upon Contractor delivering to Agency any or all records or documents (as referenced in Section 9.1 hereof).

8.2 Amendments. The Parties may amend this Agreement only by a writing signed by both of the Parties.

8.3 Survival. All obligations arising prior to the termination of this Agreement and all provisions of this Agreement allocating liability between Agency and Contractor shall survive the termination of this Agreement.

8.4 Options upon Breach by Contractor. If Contractor materially breaches any of the terms of this Agreement, including but not limited to those set forth in Section 4, Agency’s remedies shall include, but not be limited to, the following:

8.4.1 Immediately terminate the Agreement;

8.4.2 Retain the plans, specifications, drawings, reports, design documents, and any other work product prepared by Contractor pursuant to this Agreement;

8.4.3 Retain a different Contractor to complete the Work not finished by Contractor; and/or
8.4.4 Charge Contractor the difference between the costs to complete the Work that is unfinished at the time of breach and the amount that Agency would have paid Contractor pursuant hereto if Contractor had completed the Work.

Section 9. KEEPING AND STATUS OF RECORDS.

9.1 Records Created as Part of Contractor's Performance. All reports, data, maps, models, charts, studies, surveys, photographs, memoranda, plans, studies, specifications, records, files, or any other documents or materials, in electronic or any other form, that Contractor prepares or obtains pursuant to this Agreement and that relate to the matters covered hereunder shall be the property of the Agency. Contractor hereby agrees to deliver those documents to the Agency upon termination of the Agreement and request of Agency. Agency and Contractor agree that, unless approved by Agency in writing, Contractor shall not release to any non-parties to this Agreement any data, plans, specifications, reports and other documents.

9.2 Contractor's Books and Records. Contractor shall maintain any and all records or other documents evidencing or relating to charges for Work or expenditures and disbursements charged to the Agency under this Agreement for a minimum of three (3) years, or for any longer period required by law, from the date of final payment to the Contractor under this Agreement.

9.3 Inspection and Audit of Records. Any records or documents that this Agreement requires Contractor to maintain shall be made available for inspection, audit, and/or copying at any time during regular business hours, upon oral or written request of the Agency. Under California Government Code Section 8546.7, if the amount of public funds expended under this Agreement exceeds ten thousand dollars ($10,000.00), the Agreement shall be subject to the examination and audit of the State Auditor, at the request of Agency or as part of any audit of the Agency, for a period of three (3) years after final payment under this Agreement.

9.4 Confidential Information and Disclosure.

9.4.1 Confidential Information. The term "Confidential Information", as used herein, shall mean any and all confidential, proprietary, or trade secret information, whether written, recorded, electronic, oral or otherwise, where the Confidential Information is made available in a tangible medium of expression and marked in a prominent location as confidential, proprietary and/or trade secret information. Confidential Information shall not include information that: (a) was already known to the Receiving Party or is otherwise a matter of public knowledge, (b) was disclosed to Receiving Party by a third party without violating any confidentiality agreement, (c) was independently developed by Receiving Party without reverse engineering, as evidenced by written records thereof, or (d) was not marked as Confidential Information in accordance with this section.
9.4.2 **Non-Disclosure of Confidential Information.** During the term of this Agreement, either party may disclose (the “Disclosing Party”) Confidential Information to the other party (the “Receiving Party”). The Receiving Party: (a) shall hold the Disclosing Party’s Confidential Information in confidence; and (b) shall take all reasonable steps to prevent any unauthorized possession, use, copying, transfer or disclosure of such Confidential Information.

9.4.3 **Permitted Disclosure.** Notwithstanding the foregoing, the following disclosures of Confidential Information are allowed. Receiving Party shall endeavor to provide prior written notice to Disclosing Party of any permitted disclosure made pursuant to Section 9.4.3.2 or 9.4.3.3. Disclosing Party may seek a protective order, including without limitation, a temporary restraining order to prevent or contest such permitted disclosure; provided, however, that Disclosing Party shall seek such remedies at its sole expense. Neither party shall have any liability for such permitted disclosures:

9.4.3.1 Disclosure to employees, agents, contractors, subcontractors or other representatives of Receiving Party that have a need to know in connection with this Agreement.

9.4.3.2 Disclosure in response to a valid order of a court, government or regulatory agency or as may otherwise be required by law; and

9.4.3.3 Disclosure by Agency in response to a request pursuant to the California Public Records Act.

9.4.4 **Handling of Confidential Information.** Upon conclusion or termination of the Agreement, Receiving Party shall return to Disclosing Party or destroy Confidential Information (including all copies thereof), if requested by Disclosing Party in writing. Notwithstanding the foregoing, the Receiving Party may retain copies of such Confidential Information, subject to the confidentiality provisions of this Agreement: (a) for archival purposes in its computer system; (b) in its legal department files; and (c) in files of Receiving Party’s representatives where such copies are necessary to comply with applicable law. Party shall not disclose the Disclosing Party’s Information to any person other than those of the Receiving Party’s employees, agents, consultants, contractors and subcontractors who have a need to know in connection with this Agreement.

**Section 10. PROJECT SITE.**

10.1 **Operations at the Project Site.** Each Project site may include the power plant areas, all buildings, offices, and other locations where Work is to be performed, including any access roads. Contractor shall perform the Work in such a manner
as to cause a minimum of interference with the operations of the Agency; if applicable, the entity for which Contractor is performing the Work, as referenced in Section 1.4; and other contractors at the Project site and to protect all persons and property thereon from damage or injury. Upon completion of the Work at a Project site, Contractor shall leave such Project site clean and free of all tools, equipment, waste materials and rubbish, stemming from or relating to Contractor's Work.

10.2 Contractor's Equipment, Tools, Supplies and Materials. Contractor shall be solely responsible for the transportation, loading and unloading, and storage of any equipment, tools, supplies or materials required for performing the Work, whether owned, leased or rented. Neither Agency nor, if applicable, the entity for which Contractor is performing the Work, as referenced in Section 1.4, will be responsible for any such equipment, supplies or materials which may be lost, stolen or damaged or for any additional rental charges for such, except to the extent loss or damage is caused by the sole or gross negligence or willful misconduct of Agency or entity. Equipment, tools, supplies and materials left or stored at a Project site, with or without permission, is at Contractor's risk, except to the extent loss or damage is caused by the sole or gross negligence or willful misconduct of Agency or entity. Anything left on the Project site an unreasonable length of time after the Work is completed shall be presumed to have been abandoned by the Contractor. Any transportation furnished by Agency or, if applicable, the entity for which Contractor is performing the Work, as referenced in Section 1.4, shall be solely as an accommodation and neither Agency nor, if applicable, the entity for which Contractor is performing the Work, as referenced in Section 1.4, shall have liability therefor. Contractor shall assume the risk and is solely responsible for its owned, non-owned and hired automobiles, trucks or other motorized vehicles as well as any equipment, tools, supplies, materials or other property which is utilized by Contractor on the Project site. All materials and supplies used by Contractor in the Work shall be new and in good condition.

10.3 Use of Agency Equipment. Contractor shall assume the risk and is solely responsible for its use of any equipment owned and property provided by Agency and, if applicable, the entity for which Contractor is performing the Work, as referenced in Section 1.4, for the performance of Work.

Section 11. WARRANTY.

11.1 Nature of Work. In addition to any and all warranties provided or implied by law or public policy, Contractor warrants that all Work shall be free from material defects in workmanship, and that Contractor shall perform all Work in accordance with applicable federal, state, and local laws, rules and regulations including engineering, construction and other codes and standards and prudent electrical utility standards, and in accordance with the terms of this Agreement.

11.2 Deficiencies in Work. In addition to all other rights and remedies which Agency may have, Agency shall have the right to require, and Contractor shall be
obligated at its own expense to perform, all further Work which may be required to correct any deficiencies which result from Contractor’s failure to perform any Work in accordance with the standards required by this Agreement. If during the term of this Agreement or the one (1) year period following completion of the Work, any equipment, supplies or other materials or Work used or provided by Contractor under this Agreement fails due to defects in material and/or workmanship or other breach of this Agreement, Contractor shall, upon any reasonable written notice from Agency, replace or repair the same to Agency’s satisfaction.

11.3 **Assignment of Warranties.** Contractor hereby assigns to Agency all additional warranties, extended warranties, or benefits like warranties, such as insurance, provided by or reasonably obtainable from suppliers of equipment and material used in the Work.

**Section 12. HEALTH AND SAFETY PROGRAMS.** The Contractor shall establish, maintain, and enforce safe work practices, and implement an accident/incident prevention program intended to ensure safe and healthful operations under their direction. The program shall include all requisite components of such a program under Federal, State and local regulations and shall comply with all site programs established by Agency and, if applicable, the entity for which Contractor is performing the Work, as referenced in Section 1.4.

12.1 Contractor is responsible for acquiring job hazard assessments as necessary to safely perform the Work and provide a copy to Agency upon request.

12.2 Contractor is responsible for providing all employee health and safety training and personal protective equipment in accordance with potential hazards that may be encountered in performance of the Work and provide copies of the certified training records upon request by Agency. Contractor shall be responsible for proper maintenance and/or disposal of their personal protective equipment and material handling equipment.

12.3 Contractor is responsible for ensuring that its lower-tier subcontractors are aware of and will comply with the requirements set forth herein.

12.4 Agency, or its representatives, may periodically monitor the safety performance of the Contractor performing the Work. Contractors and its subcontractors shall be required to comply with the safety and health obligations as established in the Agreement. Non-compliance with safety, health, or fire requirements may result in cessation of work activities, until items in non-compliance are corrected. It is also expressly acknowledged, understood and agreed that no payment shall be due from Agency to Contractor under this Agreement at any time when, or for any Work performed when, Contractor is not in full compliance with this Section 12.

12.5 Contractor shall immediately report any injuries to the Agency site safety representative. Additionally, the Contractor shall investigate and submit to the
Agency site safety representative copies of all written accident reports, and coordinate with Agency if further investigation is requested.

12.6 Contractor shall take all reasonable steps and precautions to protect the health of its employees and other site personnel with regard to the Work. Contractor shall conduct occupational health monitoring and/or sampling to determine levels of exposure of its employees to hazardous or toxic substances or environmental conditions. Copies of any sampling results will be forwarded to the Agency site safety representative upon request.

12.7 Contractor shall develop a plan to properly handle and dispose of any hazardous wastes, if any, Contractor generates in performing the Work.

12.8 Contractor shall advise its employees and subcontractors that any employee who jeopardizes his/her safety and health, or the safety and health of others, may be subject to actions including removal from Work.

12.9 Contractor shall, at the sole option of the Agency, develop and provide to the Agency a Hazardous Material Spill Response Plan that includes provisions for spill containment and clean-up, emergency contact information including regulatory agencies and spill sampling and analysis procedures. Hazardous Materials shall include diesel fuel used for trucks owned or leased by the Contractor.

12.10 If Contractor is providing Work to an Agency Member, SCPPA or SCPPA member (collectively “Member” solely for the purpose of this section) pursuant to Section 1.4 hereof, then that Member shall have the same rights as the Agency under Sections 12.1, 12.2, 12.4, 12.5, and 12.6 hereof.

Section 13. MISCELLANEOUS PROVISIONS.

13.1 **Attorneys’ Fees.** If a party to this Agreement brings any action, including an action for declaratory relief, to enforce or interpret the provision of this Agreement, the prevailing party shall be entitled to reasonable attorneys’ fees in addition to any other relief to which that party may be entitled. The court may set such fees in the same action or in a separate action brought for that purpose.

13.2 **Venue.** In the event that either party brings any action against the other under this Agreement, the Parties agree that trial of such action shall be vested exclusively in the state courts of California in the County of Placer or in the United States District Court for the Eastern District of California.

13.3 **Severability.** If a court of competent jurisdiction finds or rules that any provision of this Agreement is invalid, void, or unenforceable, the provisions of this Agreement not so adjudged shall remain in full force and effect. The invalidity in whole or in part of any provision of this Agreement shall not void or affect the validity of any other provision of this Agreement.
13.4 **No Implied Waiver of Breach.** The waiver of any breach of a specific provision of this Agreement does not constitute a waiver of any other breach of that term or any other term of this Agreement.

13.5 **Successors and Assigns.** The provisions of this Agreement shall inure to the benefit of and shall apply to and bind the successors and assigns of the Parties.

13.6 **Conflict of Interest.** Contractor may serve other clients, but none whose activities within the corporate limits of Agency or whose business, regardless of location, would place Contractor in a “conflict of interest,” as that term is defined in the Political Reform Act, codified at California Government Code Section 81000 *et seq.*

Contractor shall not employ any Agency official in the work performed pursuant to this Agreement. No officer or employee of Agency shall have any financial interest in this Agreement that would violate California Government Code Sections 1090 *et seq.*

13.7 **Contract Administrator.** This Agreement shall be administered by Ken Speer, Assistant General Manager, or his/her designee, who shall act as the Agency’s representative. All correspondence shall be directed to or through the representative.

13.8 **Notices.** Any written notice to Contractor shall be sent to:

PetroChem Insulation, Inc.
Martin Kindred
Division Manager
945 Teal Drive
Benicia, CA 94510

Any written notice to Agency shall be sent to:

Randy S. Howard
General Manager
Northern California Power Agency
651 Commerce Drive
Roseville, CA 95678

With a copy to:

Jane E. Luckhardt
General Counsel
Northern California Power Agency
651 Commerce Drive
Roseville, CA 95678
13.9 **Professional Seal.** Where applicable in the determination of the Agency, the first page of a technical report, first page of design specifications, and each page of construction drawings shall be stamped/sealed and signed by the licensed professional responsible for the report/design preparation.

13.10 **Integration; Incorporation.** This Agreement, including all the exhibits attached hereto, represents the entire and integrated agreement between Agency and Contractor and supersedes all prior negotiations, representations, or agreements, either written or oral. All exhibits attached hereto are incorporated by reference herein.

13.11 **Alternative Dispute Resolution.** If any dispute arises between the Parties that cannot be settled after engaging in good faith negotiations, Agency and Contractor agree to resolve the dispute in accordance with the following:

13.11.1 Each party shall designate a senior management or executive level representative to negotiate any dispute;

13.11.2 The representatives shall attempt, through good faith negotiations, to resolve the dispute by any means within their authority.

13.11.3 If the issue remains unresolved after fifteen (15) days of good faith negotiations, the Parties shall attempt to resolve the disagreement by negotiation between legal counsel. If the above process fails, the Parties shall resolve any remaining disputes through mediation to expedite the resolution of the dispute.

13.11.4 The mediation process shall provide for the selection within fifteen (15) days by both Parties of a disinterested third person as mediator, shall be commenced within thirty (30) days and shall be concluded within fifteen (15) days from the commencement of the mediation.

13.11.5 The Parties shall equally bear the costs of any third party in any alternative dispute resolution process.

13.11.6 The alternative dispute resolution process is a material condition to this Agreement and must be exhausted as an administrative remedy prior to either Party initiating legal action. This alternative dispute resolution process is not intended to nor shall be construed to change the time periods for filing a claim or action specified by Government Code §§ 900 et seq.

13.12 **Controlling Provisions.** In the case of any conflict between the terms of this Agreement and the Exhibits hereto, a Purchase Order, or Contractor's Proposal (if any), the Agreement shall control. In the case of any conflict between the Exhibits hereto and a Purchase Order or the Contractor's Proposal, the Exhibits shall control. In the case of any conflict between the terms of a Purchase Order and the Contractor's Proposal, the Purchase Order shall control.
13.13 **Counterparts.** This Agreement may be executed in multiple counterparts, each of which shall be an original and all of which together shall constitute one agreement.

13.14 **Construction of Agreement.** Each party hereto has had an equivalent opportunity to participate in the drafting of the Agreement and/or to consult with legal counsel. Therefore, the usual construction of an agreement against the drafting party shall not apply hereto.

13.15 **No Third Party Beneficiaries.** This Agreement is made solely for the benefit of the parties hereto, with no intent to benefit any non-signator third parties. However, should Contractor provide Work to an Agency member, SCPPA or SCPPA member (collectively for the purpose of this section only “Member”) pursuant to Section 1.4, the parties recognize that such Member may be a third party beneficiary solely as to the Purchase Order and Requested Work relating to such Member.

The Parties have executed this Agreement as of the date signed by the Agency.

NORTHERN CALIFORNIA POWER AGENCY

PETROCHEM INSULATION, INC.

Date____________________________ Date____________________________

RANDY S. HOWARD, General Manager MARTIN KINDRED, Division Manager

Attest:

_______________________________
Assistant Secretary of the Commission

Approved as to Form:

_______________________________
Jane E. Luckhardt, General Counsel
EXHIBIT A

SCOPE OF WORK

PetroChem Insulation, Inc. ("Contractor") shall perform maintenance work as requested by the Northern California Power Agency ("Agency") at any facilities owned or operated by NCPA, its Members, Southern California Power Authority (SCPPA) and SCPPA members.

Services to include, but not be limited to the following:

- Insulation on steam piping and tanks throughout the Geysers Geothermal Facility to control temperature and improve noise abatement
- Noise abatement at Bear Canyon 1 Pump Station
- Insulation services as requested
- Additional maintenance related services, including scaffolding, fireproofing, and other miscellaneous tasks.

This Scope of Work does not include any work related to lead and asbestos abatement. Such services would be subject to a separate written agreement.

No project under this Agreement shall include Work that would qualify as a Public Works Project under the California Public Contract Code.
EXHIBIT B

COMPENSATION SCHEDULE AND HOURLY FEES

Compensation for all work, including hourly fees and expenses, shall not exceed the amount set forth in Section 2 hereof. The hourly rates and or compensation break down and an estimated amount of expenses is as follows:

Compensation Schedule & Hourly Fees

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<th>2020</th>
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Rates apply to all services provided by Petrochem. Scaffold rental, material, consumables and third party services are our cost plus 15% mark-up
Travel Time is paid each way at straight time rate
Per diem: $200/day for each employee if required
Pickup Truck: $110/day Flatbed: $150/day
Pricing for any services will be performed on a Time & Material Basis (T&M) or quoted as requested by NCPA authorized personnel

Pricing for services to be performed at NCPA Member or SCPPA locations will be quoted at the time services are requested.

NOTE: As a public agency, NCPA shall not reimburse Contractor for travel, food and related costs in excess of those permitted by the Internal Revenue Service.
EXHIBIT C
CERTIFICATION
Affidavit of Compliance for Contractors

I,

__________________________________________________________

(Name of person signing affidavit)(Title)
do hereby certify that background investigations to ascertain the accuracy of the identity
and employment history of all employees of

__________________________________________________________

(Company name)

for contract work at:

LODI ENERGY CENTER, 12745 N. THORNTON ROAD, Lodi, CA 95242

(Project name and location)

have been conducted as required by the California Energy Commission Decision for the
above-named project.

__________________________________________________________

(Signature of officer or agent)

Dated this ___________________ day of ___________________, 20 _______.

THIS AFFIDAVIT OF COMPLIANCE SHALL BE APPENDED TO THE PROJECT SECURITY
PLAN AND SHALL BE RETAINED AT ALL TIMES AT THE PROJECT SITE FOR REVIEW BY
THE CALIFORNIA ENERGY COMMISSION COMPLIANCE PROJECT MANAGER.
CERTIFICATION

Affidavit of Compliance for Hazardous Materials Transport Vendors

I, ________________________________________________________________,

(Name of person signing affidavit)(Title)

do hereby certify that the below-named company has prepared and implemented security plans in conformity with 49 CFR 172, subpart I and has conducted employee background investigations in conformity with 49 CFR 172.802(a), as the same may be amended from time to time,

______________________________________________________________

(Company name)

for hazardous materials delivery to:

LODI ENERGY CENTER, 12745 N. THORNTON ROAD, LODI, CA 95242

(Project name and location)

as required by the California Energy Commission Decision for the above-named project.

______________________________________________________________

(Signature of officer or agent)

Dated this __________________ day of _________________, 20__.

THIS AFFIDAVIT OF COMPLIANCE SHALL BE APPENDED TO THE PROJECT SECURITY PLAN AND SHALL BE RETAINED AT ALL TIMES AT THE PROJECT SITE FOR REVIEW BY THE CALIFORNIA ENERGY COMMISSION COMPLIANCE PROJECT MANAGER.
EXHIBIT E

ATTACHMENT A [from MLA]
AGREEMENT TO BE BOUND

MAINTENANCE LABOR AGREEMENT ATTACHMENT
LODI ENERGY CENTER PROJECT

The undersigned hereby certifies and agrees that:

1) It is an Employer as that term is defined in Section 1.4 of the Lodi Energy Center Project Maintenance Labor Agreement ("Agreement" solely for the purposes of this Exhibit E) because it has been, or will be, awarded a contract or subcontract to assign, award or subcontract Covered Work on the Project (as defined in Section 1.2 and 2.1 of the Agreement), or to authorize another party to assign, award or subcontract Covered Work, or to perform Covered Work.

2) In consideration of the award of such contract or subcontract, and in further consideration of the promises made in the Agreement and all attachments thereto (a copy of which was received and is hereby acknowledged), it accepts and agrees to be bound by the terms and condition of the Agreement, together with any and all amendments and supplements now existing or which are later made thereto.

3) If it performs Covered Work, it will be bound by the legally established trust agreements designated in local master collective bargaining agreements, and hereby authorizes the parties to such local trust agreements to appoint trustees and successor trustee to administer the trust funds, and hereby ratifies and accepts the trustees so appointed as if made by the undersigned.

4) It has no commitments or agreements that would preclude its full and complete compliance with the terms and conditions of the Agreement.

5) It will secure a duly executed Agreement to be Bound, in form identical to this documents, from any Employer(s) at any tier or tiers with which it contracts to assign, award, or subcontract Covered Work, or to authorize another party to assign, award or subcontract Covered Work, or to perform Covered Work.

DATED: ____________________  Name of Employer __________________________

(Authorized Officer & Title) __________________________________________

(Address) __________________________________________________________
Date: September 5, 2018
Meeting Date: September 10, 2018
To: Lodi Energy Center Project Participant Committee
Subject: MFP Connect, LLC – Five Year Multi-Task Consulting Services Agreement; Applicable to the following projects: All NCPA locations and Members, SCPPA, and SCPPA Members

Proposal
Approve the Multi-Task Consulting Services Agreement with MFP Connect, LLC for the provision of energy workforce services to fill critical skills gaps on an interim basis and mentor staff for success in public power, with any non-substantial changes recommended and approved by the NCPA General Counsel, which shall not exceed $1,000,000 over five years for use at all facilities owned and/or operated by NCPA, its members, by the Southern California Public Power Authority (“SCPPA”), or by SCPPA members.

Background
With the increase in retirements from the aging work force, NCPA and the labor market overall face challenges with fewer replacement workers in specialized industries and for craft positions. To fill this gap in knowledge, MFP Connect, LLC (MFP) provides workforce solutions for the public power industry to fill vacant positions during a recruitment process and on a short-term basis for critical roles, to lead special projects, prepare compensation studies, and to mentor and train existing employees by transferring years of specialized knowledge and experience.

Selection Process
This enabling agreement does not commit NCPA to any expenditure of funds. At the time services are required, NCPA will bid the specific scope of work consistent with NCPA procurement policies and procedures. NCPA will issue purchase orders based on cost and availability of the services needed at the time the service is required.

Fiscal Impact
Upon execution, the total cost of the agreement is not to exceed $1,000,000 over five years to be used out of NCPA approved budgets or passed through to its Members through the Support Services Program as services are rendered. Purchase orders referencing the terms and conditions of the Agreement will be issued following NCPA procurement policies and procedures.
Environmental Analysis
This activity would not result in a direct or reasonably foreseeable indirect change in the physical environment and is therefore not a “project” for purposes of Section 21065 the California Environmental Quality Act. No environmental review is necessary.

Submitted by:

KEN SPEER
Assistant General Manager
Generation Services

Attachments: (1)
  • Multi-Task Consulting Services Agreement with MFP Connect, LLC
MULTI-TASK CONSULTING SERVICES AGREEMENT BETWEEN
THE NORTHERN CALIFORNIA POWER AGENCY AND
MFP CONNECT, LLC

This Consulting Services Agreement (‘Agreement’) is made by and between the
Northern California Power Agency, a joint powers agency with its main office located at 651
Commerce Drive, Roseville, CA 95678-6420 (“Agency”) and MFP Connect, LLC, a limited
liability company, with its office address P. O. Box 1310, Conifer, CO 80433 (“Consultant”)
together sometimes referred to as the “Parties”), as of ____________, 2018, (“Effective Date”) in Roseville, California.

Section 1. SERVICES. Subject to the terms and conditions set forth in this Agreement, Consultant shall provide to Agency the services described in the Scope of Services attached hereto as Exhibit A and incorporated herein (“Services”), at the time and place and in the manner specified therein.

1.1 Term of Agreement. The term of this Agreement shall begin on the Effective Date and shall end when Consultant completes the Services, or no later than five (5) year from the date this Agreement was signed by Agency, whichever is shorter.

1.2 Standard of Performance. Consultant shall perform the Services in the manner and according to the standards observed by a competent practitioner of the profession in which Consultant is engaged and for which Consultant is providing the Services. Consultant represents that it is licensed, qualified and experienced to provide the Services set forth herein.

1.3 Assignment of Personnel. Consultant shall assign only competent personnel to perform the Services. In the event that Agency, in its sole discretion, at any time during the term of this Agreement, requests the reassignment of any such personnel, Consultant shall, immediately upon receiving written notice from Agency of such request, reassign such personnel.

1.4 Services Provided. Services provided under this Agreement by Consultant may include Services directly to the Agency or, as requested by the Agency and consistent with the terms of this Agreement, to Agency members, Southern California Public Power Authority (“SCPPA”) or SCPPA members.

1.5 Request for Services. At such time that Agency determines to use Consultant’s Services under this Agreement, Agency shall issue a Purchase Order. The Purchase Order shall identify the specific services to be performed (“Requested Services”), may include a not-to-exceed monetary cap on Requested Services and expenditures authorized by that Purchase Order, and a time by which the Requested Services shall be completed. Consultant shall have seven calendar days from the date of the Agency’s issuance of the Purchase Order in which to respond in writing that Consultant chooses not to perform the Requested Services. If Consultant agrees to perform the Requested Services, begins to perform the Requested Services, or does not respond within the seven day
period specified, then Consultant will have agreed to perform the Requested Services on the terms set forth in the Purchase Order, this Agreement and its Exhibits.

Section 2. COMPENSATION. Agency hereby agrees to pay Consultant an amount NOT TO EXCEED One Million and no/100 dollars ($1,000,000.00) for the Services, which shall include all fees, costs, expenses and other reimbursables, as set forth in Consultant’s fee schedule, attached hereto and incorporated herein as Exhibit B. This dollar amount is not a guarantee that Agency will pay that full amount to the Consultant, but is merely a limit of potential Agency expenditures under this Agreement.

2.1 Invoices. Consultant shall submit invoices, not more often than once a month during the term of this Agreement, based on the cost for services performed and reimbursable costs incurred prior to the invoice date. Invoices shall contain the following information:

- The beginning and ending dates of the billing period;
- Services performed;
- The Purchase Order number authorizing the Services;
- At Agency’s option, the total number of hours of work performed under the Agreement by Consultant and each employee, agent, and subcontractor of Consultant performing services hereunder; and
- At Agency’s option, when the Consultant’s Scope of Work identifies tasks, for each work item in each task, a copy of the applicable time entries showing the name of the person doing the work, the hours spent by each person, a brief description of the work, and each reimbursable expense, with supporting documentation, to Agency’s reasonable satisfaction.

Invoices shall be sent to:

Northern California Power Agency  
651 Commerce Drive  
Roseville, California 95678  
Attn: Accounts Payable  
AcctsPayable@ncpa.com

2.2 Monthly Payment. Agency shall make monthly payments, based on invoices received, for services satisfactorily performed, and for authorized reimbursable costs incurred. Agency shall have thirty (30) days from the receipt of an invoice that complies with all of the requirements above to pay Consultant.

2.3 Payment of Taxes. Consultant is solely responsible for the payment of all federal, state and local taxes, including employment taxes, incurred under this Agreement.
2.4 **Authorization to Perform Services.** The Consultant is not authorized to perform any Services or incur any costs whatsoever under the terms of this Agreement until receipt of written authorization from the Contract Administrator.

2.5 **Timing for Submittal of Final Invoice.** Consultant shall have ninety (90) days after completion of its Services to submit its final invoice for the Requested Services. In the event Consultant fails to submit an invoice to Agency for any amounts due within the ninety (90) day period, Consultant is deemed to have waived its right to collect its final payment from Agency.

**Section 3. FACILITIES AND EQUIPMENT.** Except as set forth herein, Consultant shall, at its sole cost and expense, provide all facilities and equipment that may be necessary to perform the Services.

**Section 4. INSURANCE REQUIREMENTS.** Before beginning any work under this Agreement, Consultant, at its own cost and expense, shall procure the types and amounts of insurance listed below and shall maintain the types and amounts of insurance listed below for the period covered by this Agreement.

4.1 **Workers' Compensation.** If Consultant employs any person, Consultant shall maintain Statutory Workers' Compensation Insurance and Employer's Liability Insurance for any and all persons employed directly or indirectly by Consultant with limits of not less than one million dollars ($1,000,000.00) per accident.

4.2 **Commercial General and Automobile Liability Insurance.**

4.2.1 **Commercial General Insurance.** Consultant shall maintain commercial general liability insurance for the term of this Agreement, including products liability, covering any loss or liability, including the cost of defense of any action, for bodily injury, death, personal injury and broad form property damage which may arise out of the operations of Consultant. The policy shall provide a minimum limit of $1,000,000 per occurrence/$2,000,000 aggregate. Commercial general coverage shall be at least as broad as ISO Commercial General Liability form CG 0001 (current edition) on "an occurrence" basis covering comprehensive General Liability, with a self-insured retention or deductible of no more than $100,000. No endorsement shall be attached limiting the coverage.

4.2.2 **Automobile Liability.** Consultant shall maintain automobile liability insurance form CA 0001 (current edition) for the term of this Agreement covering any loss or liability, including the cost of defense of any action, arising from the operation, maintenance or use of any vehicle (symbol 1), whether or not owned by the Consultant, on or off Agency premises. The policy shall provide a minimum limit of $1,000,000 per each accident, with a self-insured retention or deductible of no more than $100,000. This insurance shall provide contractual liability covering all motor vehicles and
mobile equipment to the extent coverage may be excluded from general liability insurance.

4.2.3 **General Liability/Umbrella Insurance.** The coverage amounts set forth above may be met by a combination of underlying and umbrella policies as long as in combination the limits equal or exceed those stated.

4.3 **Professional Liability Insurance.** If the Agency issues a Purchase Order to Consultant for Requested Services which include engineering, architectural, design, and similar services requiring special licensing from the State of California, Consultant and/or its employee, agent, or designated subcontractor shall maintain professional liability insurance appropriate to Consultant's profession performing work in connection with the requested Services in an amount not less than one million dollars ($1,000,000.00) and two million dollars ($2,000,000) aggregate covering the Consultant's errors and omissions. Any deductible or self-insured retention shall not exceed two hundred fifty thousand dollars ($250,000) per claim. Such insurance shall be on a “claims-made” basis, subject to the following conditions: (1) the retroactive date of the policy shall be on or before the Effective Date of this Agreement; (2) the policy shall be maintained for at least five (5) years after completion of the Services and, if requested by Agency, evidence of coverage shall be provided during this period; and (3) if, within five (5) years of completion of the Services, coverage is canceled or non-renewed, and not replaced with another claims-made policy form with a retroactive date prior to the Effective Date of this Agreement, Consultant shall purchase “extended reporting” coverage for a minimum of five (5) years after completion of the Services and, if requested by Agency, provide evidence of coverage during this period.

4.4 **All Policies Requirements.**

4.4.1 **Verification of coverage.** Prior to beginning any work under this Agreement, Consultant shall provide Agency with (1) a Certificate of Insurance that demonstrates compliance with all applicable insurance provisions contained herein and (2) policy endorsements to the policies referenced in Section 4.2, adding the Agency as an additional insured and declaring such insurance primary in regard to work performed pursuant to this Agreement.

4.4.2 **Notice of Reduction in or Cancellation of Coverage.** Consultant shall provide at least thirty (30) days prior written notice to Agency of any reduction in scope or amount, cancellation, or modification adverse to Agency of the policies referenced in Section 4.

4.4.3 **Higher Limits.** If Consultant maintains higher limits than the minimums specified herein, the Agency shall be entitled to coverage for the higher limits maintained by the Consultant.
4.4.4 **Additional Certificates and Endorsements.** If Consultant provides services to Agency members, SCPPA, and/or SCPPA members pursuant to this Agreement, Consultant shall provide certificates of insurance and policy endorsements, as referenced in Section 4.4.1, naming the specific Agency member, SCPPA or SCPPA member.

4.5.5 **Waiver of Subrogation.** Consultant agrees to waive subrogation which any insurer of Consultant may acquire from Consultant by virtue of the payment of any loss. Consultant agrees to obtain any endorsement that may be necessary to effect this waiver of subrogation. In addition, the Workers' Compensation policy shall be endorsed with a waiver of subrogation in favor of Agency for all work performed by Consultant, its employees, agents and subcontractors.

4.6 **Consultant's Obligation.** Consultant shall be solely responsible for ensuring that all equipment, vehicles and other items utilized in the performance of Services are operated, provided or otherwise utilized in a manner that ensues they are and remain covered by the policies referenced in Section 4 during this Agreement. Consultant shall also ensure that all workers involved in the provision of Services are properly classified as employees, agents or independent contractors and are and remain covered by any and all workers' compensation insurance required by applicable law during this Agreement.

Section 5. **INDEMNIFICATION AND CONSULTANT'S RESPONSIBILITIES.**

5.1 **Effect of Insurance.** Agency's acceptance of insurance certificates and endorsements required under this Agreement does not relieve Consultant from liability under this indemnification and hold harmless clause. This indemnification and hold harmless clause shall apply to any damages or claims for damages whether or not such insurance policies shall have been determined to apply. By execution of this Agreement, Consultant acknowledges and agrees to the provisions of this Section and that it is a material element of consideration.

5.2 **Scope.** Consultant shall indemnify, defend with counsel reasonably acceptable to the Agency, and hold harmless the Agency, and its officials, commissioners, officers, employees, agents and volunteers from and against all losses, liabilities, claims, demands, suits, actions, damages, expenses, penalties, fines, costs (including without limitation costs and fees of litigation), judgments and causes of action of every nature arising out of or in connection with any acts or omissions by Consultant, its officers, officials, agents, and employees, except as caused by the sole or gross negligence of Agency. Notwithstanding, should this Agreement be construed as a construction agreement under Civil Code section 2783, then the exception referenced above shall also be for the active negligence of Agency.
Section 6.  **STATUS OF CONSULTANT.**

6.1 **Independent Contractor.** Consultant is an independent contractor and not an employee of Agency. Agency shall have the right to control Consultant only insofar as the results of Consultant's Services and assignment of personnel pursuant to Section 1; otherwise, Agency shall not have the right to control the means by which Consultant accomplishes Services rendered pursuant to this Agreement. Notwithstanding any other Agency, state, or federal policy, rule, regulation, law, or ordinance to the contrary, Consultant and any of its employees, agents, and subcontractors providing services under this Agreement shall not qualify for or become entitled to, and hereby agree to waive any and all claims to, any compensation, benefit, or any incident of employment by Agency, including but not limited to eligibility to enroll in the California Public Employees Retirement System (PERS) as an employee of Agency and entitlement to any contribution to be paid by Agency for employer contributions and/or employee contributions for PERS benefits.

Consultant shall indemnify, defend, and hold harmless Agency for the payment of any employee and/or employer contributions for PERS benefits on behalf of Consultant or its employees, agents, or subcontractors, as well as for the payment of any penalties and interest on such contributions, which would otherwise be the responsibility of Agency. Consultant and Agency acknowledge and agree that compensation paid by Agency to Consultant under this Agreement is based upon Consultant’s estimated costs of providing the Services, including salaries and benefits of employees, agents and subcontractors of Consultant.

Consultant shall indemnify, defend, and hold harmless Agency from any lawsuit, administrative action, or other claim for penalties, losses, costs, damages, expense and liability of every kind, nature and description that arise out of, pertain to, or relate to such claims, whether directly or indirectly, due to Consultant’s failure to secure workers’ compensation insurance for its employees, agents, or subcontractors.

Consultant agrees that it is responsible for the provision of group healthcare benefits to its fulltime employees under 26 U.S.C. § 4980H of the Affordable Care Act. To the extent permitted by law, Consultant shall indemnify, defend and hold harmless Agency from any penalty issued to Agency under the Affordable Care Act resulting from the performance of the Services by any employee, agent, or subcontractor of Consultant.

6.2 **Consultant Not Agent.** Except as Agency may specify in writing, Consultant shall have no authority, express or implied, to act on behalf of Agency in any capacity whatsoever as an agent. Consultant shall have no authority, express or implied, pursuant to this Agreement to bind Agency to any obligation whatsoever.
6.3 **Assignment and Subcontracting.** This Agreement contemplates personal performance by Consultant and is based upon a determination of Consultant’s unique professional competence, experience, and specialized professional knowledge. A substantial inducement to Agency for entering into this Agreement was and is the personal reputation and competence of Consultant. Consultant may not assign this Agreement or any interest therein without the prior written approval of the Agency. Consultant shall not subcontract any portion of the performance contemplated and provided for herein, other than to the subcontractors identified in Exhibit A, without prior written approval of the Agency. Where written approval is granted by the Agency, Consultant shall supervise all work subcontracted by Consultant in performing the services and shall be responsible for all work performed by a subcontractor as if Consultant itself had performed such work. The subcontracting of any work to subcontractors shall not relieve Consultant from any of its obligations under this Agreement with respect to the services and Consultant is obligated to ensure that any and all subcontractors performing any services shall be fully insured in all respects and to the same extent as set forth under Section 4, to Agency’s satisfaction.

6.4 **Certification as to California Energy Commission.** If requested by the Agency, Consultant shall, at the same time it executes this Agreement, execute Exhibit C.

Section 7. **LEGAL REQUIREMENTS.**

7.1 **Governing Law.** The laws of the State of California shall govern this Agreement.

7.2 **Compliance with Applicable Laws.** Consultant and its subcontractors and agents, if any, shall comply with all laws applicable to the performance of the work hereunder.

7.3 **Licenses and Permits.** Consultant represents and warrants to Agency that Consultant and its employees, agents, and subcontractors (if any) have and will maintain at their sole expense during the term of this Agreement all licenses, permits, qualifications, and approvals of whatever nature that are legally required to practice their respective professions.

Section 8. **TERMINATION AND MODIFICATION.**

8.1 **Termination.** Agency may cancel this Agreement at any time and without cause upon ten (10) days prior written notice to Consultant.

In the event of termination, Consultant shall be entitled to compensation for Services satisfactorily completed as of the effective date of termination; Agency, however, may condition payment of such compensation upon Consultant
delivering to Agency any or all records or documents, as referenced in Section 9.1 hereof.

8.2 **Amendments.** The Parties may amend this Agreement only by a writing signed by all the Parties.

8.3 **Survival.** All obligations arising prior to the termination of this Agreement and all provisions of this Agreement allocating liability between Agency and Consultant shall survive the termination of this Agreement.

8.4 **Options upon Breach by Consultant.** If Consultant materially breaches any of the terms of this Agreement, including but not limited to those set forth in Section 4, Agency’s remedies shall include, but not be limited to, the following:

8.4.1 Immediately terminate the Agreement;

8.4.2 Retain the plans, specifications, drawings, reports, design documents, and any other work product prepared by Consultant pursuant to this Agreement;

8.4.3 Retain a different consultant to complete the Services not finished by Consultant; and/or

8.4.4 Charge Consultant the difference between the costs to complete the Services that is unfinished at the time of breach and the amount that Agency would have paid Consultant pursuant hereto if Consultant had completed the Services.

Section 9. **KEEPING AND STATUS OF RECORDS.**

9.1 **Records Created as Part of Consultant’s Performance.** All reports, data, maps, models, charts, studies, surveys, photographs, memoranda, plans, studies, specifications, records, files, or any other documents or materials, in electronic or any other form, that Consultant prepares or obtains pursuant to this Agreement and that relate to the matters covered hereunder shall be the property of the Agency. Consultant hereby agrees to deliver those documents to the Agency upon termination of the Agreement. Agency and Consultant agree that, unless approved by Agency in writing, Consultant shall not release to any non-parties to this Agreement any data, plans, specifications, reports and other documents.

9.2 **Consultant’s Books and Records.** Consultant shall maintain any and all records or other documents evidencing or relating to charges for Services or expenditures and disbursements charged to the Agency under this Agreement for a minimum of three (3) years, or for any longer period required by law, from the date of final payment to the Consultant to this Agreement.
9.3 **Inspection and Audit of Records.** Any records or documents that this Agreement requires Consultant to maintain shall be made available for inspection, audit, and/or copying at any time during regular business hours, upon oral or written request of the Agency. Under California Government Code Section 8546.7, if the amount of public funds expended under this Agreement exceeds ten thousand dollars ($10,000.00), the Agreement shall be subject to the examination and audit of the State Auditor, at the request of Agency or as part of any audit of the Agency, for a period of three (3) years after final payment under the Agreement.

9.4 **Confidential Information and Disclosure.**

9.4.1 **Confidential Information.** The term "Confidential Information", as used herein, shall mean any and all confidential, proprietary, or trade secret information, whether written, recorded, electronic, oral or otherwise, where the Confidential Information is made available in a tangible medium of expression and marked in a prominent location as confidential, proprietary and/or trade secret information. Confidential Information shall not include information that: (a) was already known to the Receiving Party or is otherwise a matter of public knowledge, (b) was disclosed to Receiving Party by a third party without violating any confidentiality agreement, (c) was independently developed by Receiving Party without reverse engineering, as evidenced by written records thereof, or (d) was not marked as confidential Information in accordance with this section.

9.4.2 **Non-Disclosure of Confidential Information.** During the term of this Agreement, either party may disclose ("The Disclosing Party") confidential Information to the other party ("the Receiving Party"). The Receiving Party: (a) shall hold the Disclosing Party’s Confidential Information in confident; and (b) shall take all reasonable steps to prevent any unauthorized possession, use, copying, transfer or disclosure of such Confidential Information.

9.4.3 **Permitted Disclosure.** Notwithstanding the foregoing, the following disclosures of Confidential Information are allowed. Receiving Party shall endeavor to provide prior written notice to Disclosing Party of any permitted disclosure made pursuant to Section 9.4.3.2 or 9.4.3.3. Disclosing Party may seek a protective order, including without limitation, a temporary restraining order to prevent or contest such permitted disclosure; provided, however, that Disclosing Party shall seek such remedies at its sole expense. Neither party shall have any liability for such permitted disclosures:
9.4.3.1 Disclosure to employees, agents, consultants, contractors, subcontractors or other representatives of Receiving Party that have a need to know in connection with this Agreement.

9.4.3.2 Disclosure in response to a valid order of a court, government or regulatory agency or as may otherwise be required by law; and

9.4.3.3 Disclosure by Agency in response to a request pursuant to the California Public Records Act.

9.4.4 **Handling of Confidential Information.** Upon conclusion or termination of the Agreement, Receiving Party shall return to Disclosing Party or destroy Confidential Information (including all copies thereof), if requested by Disclosing Party in writing. Notwithstanding the foregoing, the Receiving Party may retain copies of such Confidential Information, subject to the confidentiality provisions of this Agreement: (a) for archival purposes in its computer system; (b) in its legal department files; and (c) in files of Receiving Party’s representatives where such copies are necessary to comply with applicable law. Party shall not disclose the Disclosing Party’s Information to any person other than those of the Receiving Party’s employees, agents, consultants, contractors and subcontractors who have a need to know in connection with this Agreement.

**Section 10. MISCELLANEOUS PROVISIONS.**

10.1 **Attorneys’ Fees.** If a party to this Agreement brings any action, including an action for declaratory relief, to enforce or interpret the provision of this Agreement, the prevailing party shall be entitled to reasonable attorneys’ fees in addition to any other relief to which that party may be entitled. The court may set such fees in the same action or in a separate action brought for that purpose.

10.2 **Venue.** In the event that either party brings any action against the other under this Agreement, the Parties agree that trial of such action shall be vested exclusively in the state courts of California in the County of Placer or in the United States District Court for the Eastern District of California.

10.3 **Severability.** If a court of competent jurisdiction finds or rules that any provision of this Agreement is invalid, void, or unenforceable, the provisions of this Agreement not so adjudged shall remain in full force and effect. The invalidity in whole or in part of any provision of this Agreement shall not void or affect the validity of any other provision of this Agreement.

10.4 **No Implied Waiver of Breach.** The waiver of any breach of a specific provision of this Agreement does not constitute a waiver of any other breach of that term or any other term of this Agreement.
10.5 **Successors and Assigns.** The provisions of this Agreement shall inure to the benefit of and shall apply to and bind the successors and assigns of the Parties.

10.6 **Conflict of Interest.** Consultant may serve other clients, but none whose activities within the corporate limits of Agency or whose business, regardless of location, would place Consultant in a “conflict of interest,” as that term is defined in the Political Reform Act, codified at California Government Code Section 81000 *et seq.*

Consultant shall not employ any Agency official in the work performed pursuant to this Agreement. No officer or employee of Agency shall have any financial interest in this Agreement that would violate California Government Code Sections 1090 *et seq.*

10.7 **Contract Administrator.** This Agreement shall be administered by Monty Hanks, CFO/Assistant General Manager, or his designee, who shall act as the Agency’s representative. All correspondence shall be directed to or through the representative.

10.8 **Notices.** Any written notice to Consultant shall be sent to:

Mr. Carl Mycoff, Manager  
MFP Connect, LLC  
P.O. Box 1310  
Conifer, CO  80433

Any written notice to Agency shall be sent to:

Randy S. Howard  
General Manager  
Northern California Power Agency  
651 Commerce Drive  
Roseville, CA  95678

With a copy to:

Jane E. Luckhardt  
General Counsel  
Northern California Power Agency  
651 Commerce Drive  
Roseville, CA  95678

10.9 **Professional Seal.** Where applicable in the determination of the Agency, the first page of a technical report, first page of design specifications, and each page
of construction drawings shall be stamped/sealed and signed by the licensed professional responsible for the report/design preparation.

10.10 **Integration; Incorporation.** This Agreement, including all the exhibits attached hereto, represents the entire and integrated agreement between Agency and Consultant and supersedes all prior negotiations, representations, or agreements, either written or oral. All exhibits attached hereto are incorporated by reference herein.

10.11 **Alternative Dispute Resolution.** If any dispute arises between the Parties that cannot be settled after engaging in good faith negotiations, Agency and Consultant agree to resolve the dispute in accordance with the following:

10.11.1 Each party shall designate a senior management or executive level representative to negotiate any dispute;

10.11.2 The representatives shall attempt, through good faith negotiations, to resolve the dispute by any means within their authority.

10.11.3 If the issue remains unresolved after fifteen (15) days of good faith negotiations, the Parties shall attempt to resolve the disagreement by negotiation between legal counsel. If the above process fails, the Parties shall resolve any remaining disputes through mediation to expedite the resolution of the dispute.

10.11.4 The mediation process shall provide for the selection within fifteen (15) days by both Parties of a disinterested third person as mediator, shall be commenced within thirty (30) days and shall be concluded within fifteen (15) days from the commencement of the mediation.

10.11.5 The Parties shall equally bear the costs of any third party in any alternative dispute resolution process.

10.11.6 The alternative dispute resolution process is a material condition to this Agreement and must be exhausted as an administrative prior to either Party initiating legal action. This alternative dispute resolution process is not intended to nor shall be construed to change the time periods for filing a claim or action specified by Government Code §§ 900 et seq.

10.12 **Controlling Provisions.** In the case of any conflict between the terms of this Agreement and the Exhibits hereto, a Purchase Order, or Consultant's Proposal (if any), the Agreement shall control. In the case of any conflict between the Exhibits hereto and a Purchase Order or the Consultant's Proposal, the Exhibits shall control. In the case of any conflict between the terms of a Purchase Order and the Consultant's Proposal, the Purchase Order shall control.
10.13 **Counterparts.** This Agreement may be executed in multiple counterparts, each of which shall be an original and all of which together shall constitute one agreement.

10.14 **Construction of Agreement.** Each party hereto has had an equivalent opportunity to participate in the drafting of the Agreement and/or to consult with legal counsel. Therefore, the usual construction of an agreement against the drafting party shall not apply hereto.

10.15 **No Third Party Beneficiaries.** This Agreement is made solely for the benefit of the parties hereto, with no intent to benefit any non-signator third parties. However, should Consultant provide Services to an Agency member, SCCPA and/or a SCPPA member (collectively for the purposes of this section only “Member”) pursuant to section 1.4, the parties recognize that such Member may be a third party beneficiary solely as to the Purchase Order and Requested Services relating to such Member.

The Parties have executed this Agreement as of the date signed by the Agency.

NORTHERN CALIFORNIA POWER AGENCY  MFP CONNECT, LLC

Date________________________  Date________________________

____________________________  ______________________________
Randy S. Howard, General Manager  Carl Mycoff, Manager

Attest:

____________________________
Assistant Secretary of the Commission

Approved as to Form:

____________________________
Jane E. Luckhardt, General Counsel
EXHIBIT A

SCOPE OF SERVICES

MFP Connect, LLC ("Consultant") shall provide energy workforce services to fill critical skills gaps on an interim basis and mentor staff for success in public power as requested by the Northern California Power Agency ("Agency") at facilities owned or operated by Agency, its Members, Southern California Public Power Authority (SCPPA) or SCPPA members. The services shall include but not be limited to:

- Identify specific needs for services

- Prepare Compensation Studies to provide compensation data, comprehensive market analysis and salary recommendations for executive, managerial, specialty, and craft-level roles in the utility industry

- Provide personnel services on a temporary basis
  - Fill vacant positions during a recruitment process
  - Function in short-term, but critical roles
  - Lead special projects
  - Mentor and train existing employees by transferring years of specialized knowledge and experience
EXHIBIT B

COMPENSATION SCHEDULE AND HOURLY FEES

Compensation for all tasks, including hourly fees and expenses, shall not exceed the amount set forth in Section 2 of the Agreement.

Pricing for services to be performed will be quoted at the time services are requested.

NOTE: As a public agency, NCPA shall not reimburse Consultant for travel, food and related costs in excess of those permitted by the Internal Revenue Service.
EXHIBIT C
CERTIFICATION
Affidavit of Compliance for Contractors

I, ____________________________________________________________
(Name of person signing affidavit)(Title)

do hereby certify that background investigations to ascertain the accuracy of the identity
and employment history of all employees of

__________________________________________________________
(Company name)

for contract work at:

LODI ENERGY CENTER, 12745 N. THORNTON ROAD, LODI, CA 95242
(Project name and location)

have been conducted as required by the California Energy Commission Decision for the
above-named project.

__________________________________________________________
(Signature of officer or agent)

Dated this ___________________ day of ___________________, 20 _______

THIS AFFIDAVIT OF COMPLIANCE SHALL BE APPENDED TO THE PROJECT SECURITY
PLAN AND SHALL BE RETAINED AT ALL TIMES AT THE PROJECT SITE FOR REVIEW BY
THE CALIFORNIA ENERGY COMMISSION COMPLIANCE PROJECT MANAGER.
Agreement Schedule 6.00

Contact List

Northern California Power Agency

Northern California Power Agency
Attn: Michael DeBortoli, Lodi Energy Center Manager
651 Commerce Drive
Roseville, California, 95678
Telephone: (209) 210-5000
Facsimile: (209) 333-5215
Email: michael.debortoli@ncpa.com

With copies to:

Northern California Power Agency
Attn: Ken Speer, Assistant General Manager – Generation Services
651 Commerce Drive
Roseville, California, 95678
Telephone: (916) 781-4201
Facsimile: (916) 783-7693
Email: ken.speer@ncpa.com

Northern California Power Agency
Attn: David Dockham, Assistant General Manager – Power Management
651 Commerce Drive
Roseville, California, 95678
Telephone: (916) 781-4256
Facsimile: (916) 783-4252
Email: dave.dockham@ncpa.com

City of Azusa

City of Azusa
Azusa Light & Water Department
Attn: George Morrow, Manny Robledo, Electric Utility Director
729 N. Azusa Avenue
P.O. Box 9500
Azusa, California 91702-9500
Telephone: (626) 812-5219
Facsimile: (626) 334-3163
Email: gmorrow@ci.azusa.ca.us mrobledo@azusaca.gov

Schedule 6.00
LEC Project Management and Operations Agreement
9-11-179-10-18
Bay Area Rapid Transit District

Bay Area Rapid Transit District
Attn: Connee Lloyd
300 Lakeside Drive, 16th Floor
Oakland, California 94612-3534
Telephone: (510) 464-6435 or (510) 915-2509
Facsimile: (510) 464-6118
Email: elloyd@bart.org

Modesto Irrigation District

Modesto Irrigation District
Attn: James McFall, Resource Planning and Development Manager
P.O. Box 4060
1231 Eleventh Street
Modesto, California 95352
Telephone: (209) 526-1521
Facsimile: (209) 526-7575
Email: jamesm@mid.org

California Department of Water Resources:

Department of Water Resources
Attention: John Yarbrough, Chief Power Planning and Contract Management
2135 Butano Drive, Suite 100
Sacramento, California 95835
Telephone: (916) 574-0665
Facsimile: (916) 574-0660
Email: john.yarbrough@water.ca.gov

Plumas-Sierra Rural Electric Cooperative

Plumas-Sierra REC
Attn: Bob Marshall, General Manager
73233 Highway 70
Portola, California 96122-7064
Telephone: (530) 832-4261
Facsimile: (530) 832-6070
Email: marshall@psln.com
City of Biggs

City of Biggs
Attn: Mark Sorensen, City Administrator
465 “C” Street
P.O. Box 307
Biggs, California 95917-0307
Telephone: (530) 868-5493
Facsimile: (530) 868-5239
Email: biggs1@biggs-ca.gov

City of Gridley

City of Gridley
Attn: Gary Davidson, Council Member
685 Kentucky Street
Gridley, California 95948-2117
Telephone: (530) 933-4061
Facsimile: (530) 846-3229
Email: davidsongdd@yahoo.com

City of Healdsburg

City of Healdsburg
Attn: Terry Crowley, Electric Utility Director
401 Grove Street
Healdsburg, California 95448
Telephone: (707) 431-3340
Facsimile: (707) 431-2710
Email: tcrowley@ci.healdsburg.ca.us

City of Lodi

City of Lodi
Attn: Elizabeth Kirkley, Utility Director
1331 S. Ham Lane
Lodi, California 95242
Telephone: (209) 333-6828 or (209) 200-1107
Facsimile: (209) 333-6839
Email: ekirkley@lodi.gov
City of Lompoc

City of Lompoc
Attn: Tikan Singh
100 Civic Center Plaza
P.O. Box 8001
Lompoc, California  93438-8001
Telephone:  (805) 736-1261 (switchboard)
Facsimile:  (805) 875-8399
Email:  t_singh@ci.lompoc.ca.us

Silicon Valley Power

Silicon Valley Power
Attn: John Roukema, Electric Utility Director
1500 Warburton Avenue
Santa Clara, California  95050
Telephone:  (408) 261-5490
Facsimile:  (408) 249-0217
Email:  jroukema@siliconvalleypower.com

City of Ukiah

City of Ukiah
Attn: Mel Grandi, Utility Director
300 Seminary Avenue
Ukiah, California  95482
Telephone:  (707) 463-6295 or (209) 747-0546
Facsimile:  (707) 463-6740
Email:  mgrandi@cityofukiah.com

Power and Water Resources Pooling Authority

Power and Water Resources Pooling Authority
Attn: Bruce McLaughlin
Braun, Blaisig, McLaughlin & Smith, P.C.
915 L Street, Suite 1480
Sacramento, CA  95815
Telephone:  (916) 326-5812 (main) (916) 531-5566 (direct)
Email:  mclaughlin@braunlegal.com
August 23, 2018

Randy S. Howard, General Manager
Northern California Power Agency ("NCPA")
651 Commerce Drive
Roseville, CA 95678-6411

SUBJECT: Appointment of Manny Robledo as Azusa's Representative at NCPA

Dear Mr. Howard,

Effective August 13, 2018, Mr. Manny Robledo has assumed the office of Director of Utilities with the City of Azusa ("Azusa"), and Mr. Robledo is hereby appointed as Azusa's primary representative to NCPA. As such, Mr. Robledo will serve as a member of the Lodi Energy Center Project Participant Committee and all other applicable NCPA committees and working groups. Mr. Robledo may also designate alternate representatives to represent Azusa in his absence.

Mr. Robledo's contact information is as follows:

Manny Robledo
Director of Utilities
Azusa Light and Water
mrobledo@azusaca.gov
Office: 626-812-5219
Mobile: 714-293-9363
729 N. Azusa Avenue
Azusa, CA 91702

Please don't hesitate to call me with any questions.

Sincerely,

Sergio Gonzalez
City Manager