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Minutes - DRAFT

To: NCPA Commission
From: Cary A. Padgett, Assistant Secretary to the Commission
Subject: August 23, 2018, NCPA Commission Meeting

1. *Call Meeting to Order and Introductions*

Chair Bob Lingl called the meeting to order at 9:47 am at NCPA's Roseville Office, 651 Commerce Drive, Roseville California. A quorum was present. Introductions were made. Those in attendance are shown on the attached attendance list.

2. *Approve Minutes of the July 26, 2018, Regular Commission Meeting*

Motion: A motion was made by Liz Kirkley and seconded by Jerry Serventi to approve the Minutes of the July 26, 2018, Regular Commission Meeting. The motion carried unanimously on a voice vote of those members present.

PUBLIC FORUM

Chair Lingl asked if any members of the public were present who would like to address the Commission on the agenda items. A member of the public was present, but did not address the Commission.

Barron Stavness, a member of the public, attended the meeting, but did not address the Commission on any Agenda items.

REPORTS AND COMMITTEE UPDATES

3. *General Manager's Business Progress Report and Update*

General Manager Randy Howard reported:

- Provided an overview of Hometown Connections, Inc., (HCI) Annual Meeting that was held last week.
- Provided an update on legislative and regulatory activities.
- Update on the Donnell fire and the impacts to the hydroelectric facility and surrounding area.
- Gave an update on the NCPA Disaster Recovery Center lease agreement with Consolidate Communications. Consolidate Communications would like to sell the building to NCPA if they are able to subdivide the property. If they are not able to subdivide the property, then will consider another lease agreement with NCPA.

- Gave an update on NCPA’s Support and Shared Services Agreements and provided a copy of the monthly status report.

4. *Executive Committee*

Committee Chair Lingl reported that the Committee met once since the last Commission meeting. The Committee heard reports from the General Manager and General Counsel, discussed and recommended the Commission approve the Amendment to NCPA’s Personnel Policy and Procedures Manual, and met in closed session to discuss one closed session item. No reportable action was take on the closed session item.

5. *Facilities Committee*

Assistant General Manager Tony Zimmer reported the Committee met twice since the last Commission meeting. The Committee met and discussed items 15, 16, 17, 18, 19, 20, 21, 22, 26 and 27 on today’s Agenda. The Committee recommended Commission approval of all items.

6. *Finance Committee*

Committee Chair David Hagele reported the Committee meet once since the last Commission meeting. The Committee received a report on current conditions of the financial markets from PFM, was provided an overview of two potential bond transactions for early 2019, reviewed the investment strategy on five of the portfolios under the Treasurer/Controller’s control, and discussed NCPA’s Post Employment Benefits (OPEB) Actuarial Valuation of June 30, 2017. The next regular meeting will be held on November 13 at NCPA’s Roseville office.

7. *Legal Committee*

General Counsel Jane Luckhardt reported that the Committee met once since the last Commission meeting. The Committee discussed closed session item 28 on today’s agenda. No reportable action was taken on the closed session item.

8. *Legislative & Regulatory Affairs Committee*

Committee Chair Teresa O’Neill reported the Committee met once since the last Commission meeting. The Committee heard reports from staff on state and federal legislative, regulatory, Western, and customer program activities. Gave an overview of the upcoming Annual Conference program, scheduled on September 25-28 at the Hyatt Regency Monterey. Online registration is available at www.ncpa.com. The next Committee meeting will be held on September 26 at Hyatt Regency in Monterey, California.

9. *Members’ Announcements & Meeting Reporting*

James Takehara, **Shasta Lake**, read the story for this month’s 50th Anniversary commemorative pin that was provided to the Commission. This month’s pin highlighted the Central Valley Project.

10. CONSENT CALENDAR

Prior to the roll call vote to approve the Consent Calendar, the Commissioners were polled to determine if any member wished to pull an item or abstain from one or more items on the Consent Calendar. No items were pulled from the Consent Calendar for discussion. However, Item 23 was pulled prior to the meeting and noted on the Agenda.

Motion: A motion was made by Liz Kirkley and seconded by Jerry Serventi to approve the Consent Calendar consisting of Items 10, 11, 12, 13, 14, 15, 16, 17, 18, 19, 20, 21, and 22. The motion carried by a majority of those members present on a roll call vote with the abstentions noted below for each item. *San Francisco BART and Truckee Donner were absent.*

10. ***NCPA's Financials for the Months Ended July 31, 2018*** – approval by all members.
11. ***Treasurer's Report for the Months Ended July 31, 2018*** – accept by all members.
12. ***Sale or Disposal of Surplus Property*** - note and file report by all members for the disposal of 3 copy machines and scrap metal.
Fiscal Impact: This report has no direct fiscal impact to the Agency.
13. ***Debt and Interest Rate Management Report June 30, 2018*** – accept by all members the Debt and Interest Rate Management Report for the period ending June 30, 2018.
Fiscal Impact: The total projected savings over the life of the interest rate swaps was \$13.9 million at the inception of these agreements. Total projected savings through June 30, 2018 was \$6.0 million with actual results at \$10.1 million. The difference between expected savings and actual savings is due to “basis risk”, or the difference between what NCPA pays on the variable rate bonds and the index rate used in the swap transaction. Total basis risk to date is positive, resulting in additional savings over those expected of \$4.1 million. Staff continues to monitor the potential for refinancing these bonds and terminating the swaps, however, the large mark-to-market payment due to Citibank, N.A. of over \$13.767 million (net) is making a potential refund not a feasible option at this time.
14. ***Resolution 18-71, Amendment to NCPA's Personnel Policy and Procedures Manual*** – adopt resolution by all members approving an amendment to NCPA's Personnel Policy and Procedure Manual language adding Policy 406.19, Time-Off During a State of Emergency, to address issues with displaced employees caused by such an event.
Fiscal Impact: The fiscal impact of approving this policy is difficult to quantify due to the unknown timing, frequency, or number of employees that could be impacted by such an event.
15. ***Resolution 18-59, Titan Crane & Rigging, Inc. – Five Year Multi-Task General Services Agreement for trucking and crane services; Applicable to the following projects: All NCPA Facility Locations, Members, SCPPA, and SCPPA Members*** – adopt resolution by all members authorizing the General Manager or his designee to enter into a Multi-Task General Services Agreement with Titan Crane & Rigging, Inc. for trucking and crane services, with any non-substantial changes recommended and approved by the NCPA General Counsel, which shall not exceed \$500,000.00 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.
Fiscal Impact: Upon execution, the total cost of the agreement is not to exceed \$500,000.00 to be used out of the NCPA approved budget. Purchase orders referencing the terms and conditions of the Agreement will be issued following NCPA procurement policies and procedures.
Port of Oakland abstained.
16. ***Resolution 18-60, Eaton Corporation – Five Year Multi-Task General Services Agreement for electrical services; Applicable to the following projects: All NCPA Facility Locations, Members, SCPPA, and SCPPA Members*** – adopt resolution by all members authorizing the General Manager or his designee to enter into a Multi-Task General Services Agreement with Eaton Corporation for electrical services, with any non-substantial changes recommended and approved by the NCPA General Counsel, which shall not exceed \$2,000,000.00 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.

Fiscal Impact: Upon execution, the total cost of the agreement is not to exceed \$2,000,000.00 to be used out of the NCPA approved budget. Purchase orders referencing the terms and conditions of the Agreement will be issued following NCPA procurement policies and procedures.

17. **Resolution 18-61, Montrose Air Quality Services, LLC – Five Year Multi-Task Consulting Services Agreement for rata/source/emissions testing services; Applicable to the following projects: All NCPA Facility Locations, Members, SCPPA, and SCPPA Members** – adopt resolution by all members authorizing the General Manager or his designee to enter into a Multi-Task Consulting Services Agreement with Montrose Air Quality Services, LLC for rata, source and emissions testing services, with any non-substantial changes recommended and approved by the NCPA General Counsel, which shall not exceed \$250,000.00 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.

Fiscal Impact: Upon execution, the total cost of the agreement is not to exceed \$250,000.00 to be used out of the NCPA approved budget. Purchase orders referencing the terms and conditions of the Agreement will be issued following NCPA procurement policies and procedures.

18. **Resolution 18-62, KW Emerson, Inc. – Five Year Multi-Task General Services Agreement for maintenance tasks including earth work, asphalt patching and paving, minor concrete patching and tunnel maintenance; Applicable to the following projects: All NCPA Facility Locations (with the exception of the LEC facility), Members, SCPPA and SCPPA Members** – adopt resolution by all members authorizing the General Manager or his designee to enter into a Multi-Task General Services Agreement with KW Emerson, Inc. for maintenance tasks including earth work, asphalt patching and paving, minor concrete patching and tunnel maintenance, 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 (with the exception of the Lodi Energy Center), its Members, by the Southern California Public Power Authority (“SCPPA”), or by SCPPA Members.

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.

Port of Oakland abstained.

19. **Resolution 18-63, Danick Mechanical, Inc. – Five Year Multi-Task General Services Agreement for T&M mechanical maintenance services; Applicable to the following projects: All NCPA Facility Locations, Members, SCPPA, and SCPPA Members** – adopt resolution by all members authorizing the General Manager or his designee to enter into a Multi-Task General Services Agreement with Danick Mechanical, Inc. for T&M mechanical maintenance services, with any non-substantial changes recommended and approved by the NCPA General Counsel, which shall not exceed \$1,000,000.00 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.

Fiscal Impact: T&M mechanical maintenance 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.

Port of Oakland abstained.

20. **Resolution 18-64, Electrical Maintenance Consultants – Five Year Multi-Task General Services Agreement for electrical services; Applicable to the following projects: All NCPA Facility Locations, Members, SCPPA, and SCPPA Members** – adopt resolution by all members authorizing the General Manager or his designee to enter into a Multi-Task General Services Agreement with Electrical Maintenance Consultants for electrical services, with any non-substantial changes recommended and approved by the NCPA General Counsel, which shall not exceed \$2,000,000.00 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.

Fiscal Impact: Upon execution, the total cost of the agreement is not to exceed \$2,000,000.00 to be used out of the NCPA approved budget. Purchase orders referencing the terms and conditions of the Agreement will be issued following NCPA procurement policies and procedures.
Shasta Lake abstained.

21. **Resolution 18-66, Gifford's Backhoe Services, Inc. – Five Year Multi-Task General Services Agreement for miscellaneous maintenance labor and equipment rental; Applicable to the following projects: Geysers Geothermal Plant Facility** – adopt resolution by all members authorizing the General Manager or his designee to enter into a Multi-Task General Services Agreement with Gifford's Backhoe Services, Inc., to provide miscellaneous maintenance labor and equipment rental, including trucking of fresh and fire water and vacuum truck services, 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 the NCPA Geyser Geothermal Plant Facility.
Fiscal Impact: Upon execution, the total cost of the agreement is not to exceed \$1,000,000 to be used out of the NCPA Approved budget. Purchase orders referencing the terms and conditions of the Agreement will be issued following NCPA procurement policies and procedures.
Palo Alto, Port of Oakland and Shasta Lake abstained.

22. **Resolution 18-69, CY 2019 NCPA Capacity Pool Rates** – adopt resolution by all members approving the Local Area and System Resource Adequacy capacity rates proposed herein for use in the NCPA Capacity Pool, as further described in Pooling Schedule 4, during the 2019 Resource Adequacy compliance year.
Fiscal Impact: Work associated with developing the NCPA Capacity Pool Local Area and System Resource Adequacy capacity rates was undertaken pursuant to approved Power Management budget categories, and costs associated with this effort are allocated in accordance with approved cost allocation methodologies as described in the NCPA annual budget.

23. **Item 23 was pulled from the Agenda prior to the meeting.**

DISCUSSION / ACTION ITEMS

24. **Resolution 18-52, Stanislaus Weather Modification Program - Addendum to the CEQA Initial Study and Negative Declaration (IS/ND). Applicable to NCPA Hydroelectric Facility** – adopt resolution by all members approving the Addendum to the CEQA Initial Study and Negative Declaration (IS/ND) for the Stanislaus Weather Modification Program ("Project").
Fiscal Impact: There are no costs directly associated with approval of the CEQA Addendum; however, pending Commission approval of the Addendum a separate Commission Agenda item will be brought forward seeking to extend the weather modification program. Total cost to extend the program for a five (5)-year period is not-to-exceed \$1,800,000. \$270,000 was included in the fiscal year 2018-19 Hydro budget for cloud seeding, with an additional \$50,000 allocated for the water-for-power program. Purchase orders associated with agreements executed for this program will utilize approved hydroelectric budget funds.

Scientific experts in the field of weather modification estimate the snow pack can be increased from two to more than ten percent by a well-managed weather modification program. An increase of 2% would result in approximately ten thousand (10,000) MWh per year for the NCPA Hydroelectric Project during an average snow pack year. The value of an additional 10,000 MWh's for 2019 is on the order of \$375,000 (assuming a weighted price of \$37.50 / MWh). Cost allocation will be based on project participation percentages.

Assistant General Manager Ken Speer gave a detailed presentation on the Stanislaus Weather Modification Program addendum to the CEQA initial study.

Motion: A motion was made Teresa O’Neill and seconded by John Allard to adopt resolution approving the Addendum to the CEQA Initial Study and Negative Declaration (IS/ND) for the Stanislaus Weather Modification Program (“Project”). The motion carried by a majority on a roll call vote of those members present.

San Francisco BART, Lodi and Truckee Donner were absent. Port of Oakland, Redding and Shasta Lake abstained.

25. **Resolution 18-68, Stanislaus Weather Modification Program - Proposal for Extension of Program. Applicable to NCPA Hydroelectric Facility** – adopt resolution by all members authorizing the General Manager or his designee to enter into one or more contracts as approved by the NCPA General Counsel, and to issue purchase orders, for a total not-to-exceed amount of \$1,800,000 over five (5) years for the Stanislaus Weather Modification Program.

Fiscal Impact:

Total cost of the program for a five (5)-year period is not-to-exceed \$1,800,000. Based on unit / quantity assumptions provided to contractors, the price proposal recommended for acceptance is for (\$274,793) for the winter period beginning November 1, 2018, through April 30, 2019. Additional costs could be incurred if services are requested for an additional month (through May 2019), or if actual costs (airplane flight time and consumables) are more than anticipated. The proposal also includes options for NCPA to receive services (if requested), for the next four (4) subsequent winters, at an estimated base cost per year as follows:

Base Cost	
Winter 2019-2020	\$291,637
Winter 2020-2021	\$301,399
Winter 2021-2022	\$311,979
Winter 2022-2023	\$322,956

Annual costs will not exceed \$1,800,000 over five years. \$270,000 was included in the fiscal year 2018-19 Hydro budget for cloud seeding, with an additional \$50,000 allocated for the water-for-power program. Purchase orders associated with agreements executed for this program will utilize approved hydroelectric budget funds.

Scientific experts in the field of weather modification estimate the snow pack can be increased from two to more than ten percent by a well-managed weather modification program. An increase of 2% would result in approximately ten thousand (10,000) MWh per year for the NCPA Hydroelectric Project during an average snow pack year. The value of an additional 10,000 MWh’s for 2019 is on the order of \$375,000 (assuming a weighted price of \$37.50 / MWh). Cost allocation will be based on project participation percentages.

Assistant General Manager Ken Speer gave a detailed presentation on the Stanislaus Weather Modification Program proposal extension.

Motion: A motion was made Teresa O’Neill and seconded by Greg Scharff to adopt resolution approving the Addendum to the CEQA Initial Study and Negative Declaration (IS/ND) for the Stanislaus Weather Modification Program (“Project”). The motion carried by a majority on a roll call vote of those members present.

San Francisco BART and Truckee Donner were absent. Port of Oakland, Redding and Shasta Lake abstained.

26. **Amended Resolution 18-48, Increase Authority to the General Manager to enter into agreements and issue purchase orders necessary for turbine maintenance of Alameda CT Unit 1; Applicable to the following projects: NCPA CT1 Facility** – adopt amendment to resolution by all members authorizing an increase of the authority of the General Manager of \$800,000, to enter into agreements and issue purchase orders for necessary turbine maintenance of Alameda CT Unit 1, and approval of an increase in the FY19 budget for the Alameda CT Unit 1.

Fiscal Impact: With the replacement turbine, it is expected that the Insurer will correctly push back that they are not responsible for the full cost of the project. Based on the bids received, it is estimated that the Insurer liability would be approximately \$1,712,115 (less deductible). There would be some negotiation required back and forth with the Insurer to settle on the exact amount of coverage, including whether to settle at medium repair or heavy repair. The \$2.8mm cost for the project includes \$138,750 Sales Tax (estimated), and \$161,250 contingency. After the insurance settlement, the expected final cost to members is \$1,587,885. Refunds to Members will occur after the insurance settlement is received.

The Commission approved \$2,000,000 during the June 28th commission meeting. Staff is requesting an additional \$800,000 in funding approval. The Maintenance Reserve would be used to fund the additional \$800,000, and Members would be invoiced monthly in FY2019 to replace the Reserve Fund. Invoicing will be funding needed to replace the reserve, minus any margins received from operations.

The recommended option also produces favorable financial results. The benefit comes exclusively from reduced maintenance costs. The table below shows the Net Present Value of the maintenance costs required to service the engine (assuming 160 starts per year, running to year 2030) for both the current technology installed as well as with the advanced components. Sensitivities were ran at 80 starts per year as well as running to only 2026. At 80 starts per year, while not a negative project, it would not qualify based on low economic return, however, if operation ceased in 2026, the project would still have paid for itself.

Assistant General Manager Ken Speer gave a detailed presentation on the turbine maintenance of Alameda CT Unit 1. The Commission discussed and recommended modifying the first Whereas of the Resolution by changing the failure date from July 19 to June 19, and remove Roseville as an Impacted Member on the Staff Report coversheet.

Motion: A motion was made Teresa O'Neill and seconded by Jerry Serventi to adopt resolution authorizing an increase of the authority of the General Manager of \$800,000, to enter into agreements and issue purchase orders for necessary turbine maintenance of Alameda CT Unit 1, and approval of an increase in the FY19 budget for the Alameda CT Unit 1, modify the first Whereas of the Resolution by changing the failure date from July 19 to June 19, and remove Roseville as an Impacted Member on the Staff Report coversheet. The motion carried by a majority on a roll call vote of those members present. *San Francisco BART and Truckee Donner were absent. Port of Oakland, Redding and Shasta Lake abstained.*

27. **Resolution 18-67, NCPA Wildfire Mitigation Plan. Applicable to the following projects: All NCPA Generation Facility locations** – adopt resolution by all members approving the NCPA Wildfire Mitigation Plan, to apply to all NCPA Generation facilities. This plan is to remain in effect until replaced by the NCPA Commission.

Fiscal Impact: The proposed plan is comprised of established NCPA preventive maintenance procedures and practices whose expenses are already covered in the Plant budgets.

Assistant General Manager Ken Speer provided an overview of the NCPA Wildfire Mitigation Plan.

Motion: A motion was made Roger Frith and seconded by Teresa O'Neill to adopt resolution approving the NCPA Wildfire Mitigation Plan, to apply to all NCPA Generation facilities. This plan is to remain in effect until replaced by the NCPA Commission. The motion carried by a majority on a roll call vote of those members present. *San Francisco BART and Truckee Donner were absent.*

CLOSED SESSION

Non-essential Members and NCPA staff left the meeting for Closed Session Item 28 discussion.

28. Conference with Legal Counsel – Existing litigation pursuant to Government Code Section 54956.9(d)(1): Name of case: Northern California Power Agency, City of Redding, City of Roseville, and City of Santa Clara v. the United States, Court of Federal Claims No. 14-817C.

RECONVENED TO OPEN SESSION

All meeting attendees rejoined the meeting.

REPORT FROM CLOSED SESSION

Closed Session Disclosure: General Counsel Jane Luckhardt stated no reportable action was taken on Closed Session Item 28.

NEW BUSINESS

No new business was discussed.

ADJOURNMENT

The August 23, 2018, Commission meeting was adjourned at 11:48 am.

Respectfully submitted,

CARY A. PADGETT
Assistant Secretary to the Commission

Attachments

**Northern California Power Agency
Commission Meeting of August 23, 2018
COMMISSIONER
Attendance List**

NCPA Commissioners are requested to sign, but signature by members of the public is voluntary.

MEMBER	NAME
ALAMEDA	<i>Jeppay Senavent</i>
BIGGS	<i>Ron F. Hunt</i>
GRIDLEY	<i>[Signature]</i>
HEALDSBURG	<i>[Signature]</i>
LODI	<i>William Kirkley</i>
LOMPOC	<i>BBC J</i>
PALO ALTO	<i>Hu J</i>
PORT OF OAKLAND	<i>Paul W. J</i>
PLUMAS-SIERRA REC	<i>Erinical Booz</i>
REDDING	<i>Michelle Feller</i>
ROSEVILLE	<i>[Signature]</i> <i>Bonnie Gore</i>
SAN FRANCISCO BAY AREA RAPID TRANSIT DISTRICT (BART)	
SANTA CLARA	<i>Teresa O'Neill</i>
SHASTA LAKE	<i>Damon Taylor</i>
TRUCKEE DONNER	
UKIAH	<i>M. J. Grande</i>

**Northern California Power Agency
Commission Meeting of August 23, 2018
Attendance List**

NCPA Commissioners, Alternates & Staff are requested to sign, but signature by members of the public is voluntary.

NAME	AFFILIATION
Bob Ling	Lompoc
Michael Broza	PSREC
Jane Cirincione	NCPA
for	NCPA
Tony Zimmer	NCPA
MONTY HANKS	NCPA
Roger Feith	Biggs
James Takahara	Shasta Lake
PAUL ECKERT	Gridley
Joe Mandell	Roseville
Michelle Bartolino	Roseville
Robert R. Schmitt	Roseville
Nico Proes	AMP
Kathleen Hughes	SVP / City of Santa Clara
BARRON STAVIVESC	PUBLIC
Jane Luckhardt	NCPA
Randy Howard	NCPA
Ann Padgett	NCPA



CONSENT CALENDAR

All items on the Consent Calendar are considered routine and will be approved without discussion by a single-roll call vote. Any Commissioner 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 Commissioners will be polled to determine if any Member wishes to abstain from one or more items on the Consent Calendar.

CONSENT CALENDAR ROLL-CALL APPROVAL

Commission Meeting Date: **August 23, 2018**

Consent Items Listed on the Agenda: # 10 to # _____

Consent Items Removed from the Agenda and Approved Separately:

ROLL-CALL VOTE BY MEMBERS:

Wadi / Alameda

Member	Item Numbers Abstained	Vote	Absent
Alameda		Y	
BART			X
Biggs		Y	
Gridley		Y	
Healdsburg		Y	
Lodi		Y	
Lompoc		Y	
Palo Alto	21	Y	
Port of Oakland	15, 18, 19, 21	Y	
Redding		Y	
Roseville		Y	
Santa Clara		Y	
Shasta Lake	20, 21	Y	
Truckee Donner			X
Ukiah		Y	
Plumas-Sierra		Y	

ATTEST:

Cary A. Padgett

 Cary A. Padgett
 Assistant Secretary to the Commission



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Commission Staff Report

AGENDA ITEM NO.: 5

Date: September 28, 2018
To: NCPA Commission
Subject: August 14, 2018 Special Facilities Committee Meeting Minutes and the
September 5, 2018 Facilities Committee Meeting Minutes

The attached Draft Minutes are being provided for information and to augment the oral Committee report.



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Minutes

Date: August 17, 2018
To: NCPA Facilities Committee
From: Carrie Pollo
Subject: August 14, 2018 Facilities Committee Special Meeting Minutes

- 1. Call meeting to order & Roll Call** - The meeting was called to order by Committee Chair Mike Brozo at 9:04 am. A sign-in sheet was passed around. Attending via teleconference and/or on-line presentation were Alan Hanger (Alameda), Mark Sorensen (Biggs), Paul Eckert (Gridley), Melissa Price (Lodi), Tikan Singh (Lompoc), Shiva Swaminathan (Palo Alto), and Steve Hance (Santa Clara). Those attending in person are listed on the attached Attendee Sign-in Sheet. Committee Representatives from BART, Healdsburg, Port of Oakland, TID, and Ukiah were absent. A quorum of the Committee was established.

PUBLIC FORUM

No public comment.

- 2. All Generation Services Facilities, Members, SCPPA – Electrical Maintenance Consultants MTGSA** – Staff presented background information and was seeking a recommendation for Commission approval of a Multi-Task General Services Agreement with Electrical Maintenance Consultants for electrical related 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. All purchase orders issued pursuant to the agreement will be charged against approved Annual Operating Budgets. The current agreement is expiring. This is an enabling agreement with no commitment of funds. A draft Commission Staff Report and the draft agreement were available for review.

Motion: A motion was made by William Forsythe and seconded by Melissa Price recommending Commission approval authorizing the General Manager or his designee to enter into a Multi-Task General Services Agreement with Electrical Maintenance Consultants for electrical services, with any non-substantial changes recommended and approved by the NCPA General Counsel, which shall not exceed \$2,000,000.00 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. A vote was taken by roll call: YES = Alameda, Biggs, Lodi,

Lompoc, Palo Alto, Plumas-Sierra, Roseville, and Santa Clara. The motion passed.

- 3. NCPA Combustion Turbine 1 Facilities – Alameda Unit 1** – Staff presented background information and reviewed three proposals for repairs for Alameda Unit 1, as well as options offered by vendors, and was seeking a motion for Commission approval of the staff recommended option.

Proposals were reviewed from Allied, Ethos, and Sulzer. Each vendor provided two different options which were: 1) Refurbish all parts from Unit 1; or, 2) Provide an already refurbished rotor ready to go. Option 1 is less expensive, but takes more time, while option 2 will take less time, but costs more. Staff evaluated the proposals based on lost revenue, RAAIM penalties, and RA, plus considered the use based maintenance cost differential through 2030.

After reviewing all options staff recommended the Sulzer option replacing the turbine with advance parts at a cost of \$2,638,750 plus \$161,250 contingency, for a total amount of \$2,800,000. This is \$800,000 more than previously approved by the Commission. The maintenance reserve budget will cover the extra \$800,000, with members being invoiced monthly during FY2019. The overall cost of this option is the lowest due to a reduction in cost for maintenance. The maintenance will be lower due to the advanced parts, with coatings that help preserve each part, and extend the time between maintenance outages. Regular use based maintenance will be done every other year with major maintenance scheduled every 8 years.

Motion: A motion was made by Alan Hanger and seconded by Melissa Price recommending Commission approval authorizing an increase of the authority of the General Manager to enter into agreements and issue purchase orders for necessary turbine maintenance of Alameda CT Unit 1 with an updated not to exceed amount of \$2,800,000, and approval of an increase in the FY19 budget for the Alameda CT Unit 1. Maintenance reserve will be used to fund the additional \$800,000, and members will be invoiced monthly through FY2019 (net any revenues). A vote was taken by roll call: YES = Alameda, Biggs, Gridley, Lodi, Lompoc, Plumas-Sierra, Roseville, and Santa Clara. ABSTAIN = Palo Alto. The motion passed.

ADJOURNMENT

The meeting was adjourned at 9:58 am by Committee Chair Mike Brozo.

**Northern California Power Agency
August 14, 2018 Special Facilities Committee Meeting
Attendance List**

NCPA Facilities Committee Members are requested to sign, but signature by members of the public is voluntary.

MEMBER	NAME
ALAMEDA	
BART	
BIGGS	
GRIDLEY	
HEALDSBURG	
LODI	
LOMPOC	
PALO ALTO	
PLUMAS-SIERRA REC	
PORT OF OAKLAND	
ROSEVILLE	
SANTA CLARA	
TID	
UKIAH	



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Minutes

Date: September 12, 2018
To: NCPA Facilities Committee
From: Carrie Pollo
Subject: September 5, 2018 Facilities Committee Meeting Minutes

- 1. Call meeting to order & Roll Call** – The meeting was called to order by William Forsythe, Representative from the City of Roseville. A sign-in sheet was passed around. Attending via teleconference and/or on-line presentation were Debbie Whiteman and Alan Hanger (Alameda), Paul Eckert (Gridley), Shiva Swaminathan (Palo Alto), Jared Carpenter (Port of Oakland), and Steve Hance (Santa Clara). Those attending in person are listed on the attached Attendee Sign-in Sheet. Committee Representatives from BART, Biggs, Healdsburg, Lompoc, Plumas-Sierra, Redding, TID, and Ukiah were absent. A quorum of the Committee was not established.

PUBLIC FORUM

No public comment.

- 2. Approve minutes from the August 1, 2018 Facilities Committee Meeting, and the August 14, 2018 Special Facilities Committee Meeting** – Since there was not a quorum of the Committee, no action was taken. These minutes will be taken to the next Facilities Committee Meeting on October 3, 2018 for approval.
- 3. All Generation Services Facilities, Members, SCPPA – Advanced Turbine Support, LLC MTCSA** – Staff presented background information and was seeking a recommendation for Commission approval of a Multi-Task Consulting Services Agreement with Advanced Turbine Support, LLC for borescope 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. All purchase orders issued pursuant to the agreement will be charged against approved Annual Operating Budgets. A draft Commission Staff Report and the draft agreement were available for review. This is an enabling agreement with no commitment of funds. The current agreement is expiring.

The general consensus of the Facilities Committee recommends Commission approval authorizing the General Manager or his designee to enter into a Multi-Task Consulting Services Agreement with Advanced Turbine Support, LLC for borescope inspection and non-destructive

testing services, with any non-substantial changes recommended and approved by the NCPA General Counsel, which shall not exceed \$250,000.00 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. This item will move forward to the next Commission Meeting September 28, 2018, and placed on the consent calendar.

4. **All Generation Services Facilities, Members, SCPPA – Ernie and Sons Scaffolding dba Unique Scaffold MTGSA** – Staff presented background information and was seeking a recommendation for Commission approval of a 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. All purchase orders issued pursuant to the agreement will be charged against approved Annual Operating Budgets. A draft Commission Staff Report and the draft agreement were available for review. This is an enabling agreement with no commitment of funds.

The general consensus of the Facilities Committee recommends Commission approval authorizing the General Manager or his designee to enter into a Multi-Task Consulting Services Agreement with Advanced Turbine Support, LLC for borescope inspection and non-destructive testing services, with any non-substantial changes recommended and approved by the NCPA General Counsel, which shall not exceed \$250,000.00 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. This item will move forward to the next Commission Meeting September 28, 2018, and placed on the consent calendar.

5. **All Generation Services Facilities, Members, SCPPA – Fairchild & Wells dba Fairchild and Associates MTCSA** – Staff presented background information and was seeking a recommendation for Commission approval of a Multi-Task Consulting Services Agreement with Fairchild & Wells, Inc. 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. All purchase orders issued pursuant to the agreement will be charged against approved Annual Operating Budgets. A draft Commission Staff Report and the draft agreement were available for review. This is an enabling agreement with no commitment of funds.

The general consensus of the Facilities Committee recommends Commission approval authorizing the General Manager or his designee to enter into a 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 \$500,000.00 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. This item will move forward to the next Commission Meeting September 28, 2018, and placed on the consent calendar.

6. **All Generation Services Facilities, Members, SCPPA – Burns & McDonnell First Amendment to MTPSA** – Staff presented background information and was seeking a recommendation for Commission approval of a First Amendment to the Multi-Task Professional Services Agreement Burns & McDonnell, updating the not to exceed amount of 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. All purchase orders issued pursuant to the agreement will be charged against approved Annual Operating Budgets. A draft Commission Staff Report and the draft

agreement were available for review. This is an enabling agreement with no commitment of funds. This amendment is to increase the not to exceed dollar amount only, as the agreement is currently low on funds. There is no additional time needed for the agreement.

The general consensus of the Facilities Committee recommends Commission approval authorizing the General Manager or his designee to enter into a First Amendment to Multi-Task General Services Agreement with Burns and McDonnell Engineering Company, Inc., with any non-substantial changes recommended and approved by the NCPA General Counsel, which shall not exceed \$4,000,000 over five years, for use at all facilities owned and/or operated by NCPA, its Members, SCPPA, or SCPPA Members. This item will move forward to the next Commission Meeting September 28, 2018, and placed on the consent calendar.

- 7. All Generation Services Facilities, Members, SCPPA – ABB, Inc. MTGSA –** Staff provided background information and was seeking a recommendation for Commission approval of a 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. All purchase orders issued pursuant to the agreement will be charged against approved Annual Operating Budgets. A draft Commission Staff Report and the draft agreement were available for review. This is an enabling agreement with no commitment of funds.

ABB purchased the GE Industrial Solutions group, which was instrumental in getting the plant back up and running in the past. Concerns regarding the high not to exceed amount of \$10,000,000, were discussed among the Committee. Typically NCPA agreements do not have this high of dollar amount. All POs will be processed per NCPA's Purchase Order policy with a clear amount stated on each PO. This verbiage will be added to the Staff Report. All POs over \$250,000 will come back through the Facilities Committee for a recommendation of Commission approval.

The general consensus of the Facilities Committee recommends Commission approval authorizing the General Manager or his designee to enter into a Multi-Task General Services Agreement with ABB, Inc. (formerly GE International) 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. This item will move forward to the next Commission Meeting September 28, 2018, and placed on the consent calendar.

- 8. All Generation Services Facilities, Members, SCPPA – Nozomi Networks, Inc. MTCSA –** Staff provided background information and was seeking a recommendation for Commission approval of a 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. All purchase orders issued pursuant to the agreement will be charged against approved Annual Operating Budgets. A draft Commission Staff Report and the draft agreement were available for review. This is an enabling agreement with no commitment of funds.

The general consensus of the Facilities Committee recommends Commission approval authorizing the General Manager or his designee to enter into a Multi-Task General Services Agreement with Nozomi Networks, Inc. for cyber security consulting, 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 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. This item will move forward to the next Commission Meeting September 28, 2018, and placed on the consent calendar.

- 9. All Generation Services Facilities, Members, SCPPA – Western Hydrologic Consulting, LLP MTCSA** – Staff provided background information and was seeking a recommendation for Commission approval of a Multi-Task Consulting Services Agreement with Western Hydrologic Consulting LLP, for environmental regulatory compliance reporting, 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. All purchase orders issued pursuant to the agreement will be charged against approved Annual Operating Budgets. A draft Commission Staff Report and the draft agreement were available for review. This is an enabling agreement with no commitment of funds. A new firm developed after consultants left the company ECORP, which has helped with previous work. ECORP will still be able to help with sub work.

The general consensus of the Facilities Committee recommends Commission approval authorizing the General Manager or his designee to enter into a Multi-Task Consulting Services Agreement with Western Hydrologics, LLP for regulatory compliance advice, and complex engineering modeling services, 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. This item will move forward to the next Commission Meeting September 28, 2018, and placed on the consent calendar.

- 10. All Generation Services Facilities, Members, SCPPA – Petrochem Insulation, Inc. MTGSA** – Staff presented background information and was seeking a recommendation for Commission approval of a 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. All purchase orders issued pursuant to the agreement will be charged against approved Annual Operating Budgets. A draft Commission Staff Report and the draft agreement were available for review. This is an enabling agreement with no commitment of funds.

The general consensus of the Facilities Committee recommends Commission approval authorizing the General Manager or his designee to enter into a 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. This item will move forward to the next Commission Meeting September 28, 2018, and placed on the consent calendar.

- 11. All Generation Services Facilities, Members, SCPPA – Rodney Bray MTCSA** – Staff presented background information and was seeking a recommendation for Commission approval of a 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, and SCPPA Members. All purchase

orders issued pursuant to the agreement will be charged against approved Annual Operating Budgets. A draft Commission Staff Report and the draft agreement were available for review. This is an enabling agreement with no commitment of funds.

NCPA General Manager, Randy Howard, requested this agreement not be opened up to NCPA Members or SCPPA. This recommended change will be incorporated into the Staff Report. NCPA General Counsel has tightened up all insurance requirements, especially at the plant facilities, with no flexibility. More drilling contracts will be coming through the Committee due to the P-Site Well Workovers. It was also recommended not to use any more Sole Proprietors for Geothermal work.

The general consensus of the Facilities Committee recommends Commission approval authorizing the General Manager or his designee to enter into a Multi-Task General 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. This item will move forward to the next Commission Meeting September 28, 2018, and placed on the consent calendar.

- 12. NCPA Geothermal Facility – P-Site Well Workover Project** – Staff reviewed the proposed P-Site Well Workover Project, including additional wells which may need work, with an estimated timeline, and budget for this project.

The slope at the P-Site well pad has been sliding downhill for the last 30 years. Damage on the P-Site wells is being accelerated due to external corrosion. Staff is recommending 4 P-Site well workovers during the next couple of years. Contracts need to be established for drilling on two wells, with an option to add work on two more wells. The current plan is to perform two well workovers for P-9 and P-4, beginning in Spring 2019 with completion by the end of FY 2019. Then possibly doing two more wells, P-7 and P-5, the beginning of FY 2020 while the drill rig is still on site. Keeping the drill rig on site saves mobilization and demobilization of the drill rig, which saves \$300,000. Pricing is also better for 4 wells versus 2 wells.

The funding plan needs to be developed with the current budget of \$6m. Two more wells have gone bad since the budget was approved. More money may need to be approved to have the work completed. Loss during the well workovers will be approximately 5MW in generation. Overall loss will occur within 5 years unless workovers are performed.

- 13. Generation Services 2019 Outage Schedule** – Staff reviewed the 2019 Outage Schedule for NCPA's CT, Geo, and Hydro facilities, and was seeking a recommendation for Facilities Committee approval. Major outages include the Collierville Unit 1 generator rewind at Hydro, from August 31 through December 8, as well as the Geo Plant 1 Units 1 & 2 overhauls, during April and May. Other outages include routine maintenance.

The general consensus of the Facilities Committee recommends approval of the 2019 Outage Schedule for NCPA's CT, Geo, and Hydro facilities. The outage schedule needs to be filed with the CAISO by October 15, 2018. Staff will file as soon as possible.

- 14. All NCPA Facilities, Members, SCPPA – MFP Connect, LLC MTCSA** – Staff presented background information and was seeking a recommendation for Commission approval of a five-year Multi-Task Consulting Services Agreement with MFP Connect, LLC for energy workforce

services on an interim basis 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, Southern California Public Power Authority (“SCPPA”), and SCPPA members. All purchase orders issued pursuant to the agreement will be charged against approved Annual Operating budgets and/or passed through the Support Services Program. A draft Commission Staff Report and the draft agreement were available for review. This is an enabling agreement with no commitment of funds.

The general consensus of the Facilities Committee recommends Commission approval authorizing the General Manager or his designee to enter into a Multi-Task General 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. This item will move forward to the next Commission Meeting September 28, 2018, and placed on the consent calendar.

15. RA Bidding Requirements – Staff presented and reviewed the STIG RA Bidding requirements, and the status of the Lodi CT run hours.

STIG may be sold as RA capacity to non-MSSA Load Serving Entities. Certain requirements differ for Day Ahead Markets (DAM), Hour Ahead Markets (HAM), and Real Time Markets (RTM). STIG is not a short-start unit, so is not obligated to bid into the RTM. To avoid the RTM cycling, and 5-minute ramping, NCPA elected to stop bidding STIG into the RTM when no DAM award is issued. The CAISO treated the no RTM bid as a lack of performance, with potential RAAIM penalties. This is inconsistent with the CAISO Best Practice Manual (BPM). To avoid the RAAIM penalties, NCPA reinstated the RTM bidding of STIG, until further clarification is received from CAISO. NCPA has filed a formal dispute with CAISO. Penalties will be allocated to the Member that sold the RA. NCPA will keep the Committee updated with the CAISO’s response to the formal dispute.

The Lodi CT operation of the gas turbine shall be limited to less than 200 hours during any one year, except in response to a CAISO declared system emergency, or transmission emergency. The total operation hours is limited to 877 per any calendar year. If operated in excess of the 200 hour limit, the unit is subject to emission penalties, which are approximately \$70/MWh. Currently NCPA has no offset for this penalty. The current run hours are 137. The run hours may be exhausted during the balance of CY 2018. The CT was built to provide capacity for Members. Staff recommends bidding at the maximum rate and hours. Members will need to procure capacity. NCPA will research the CAISO settlement process if the 200 run hours are exhausted for the unit.

16. Planning and Operations Update –

Plant Updates

CTs – The CT1 Alameda U2 Diesel had water leaking into the exhaust system. When inspected it was discovered there was a broken head. This was a major loss for the unit. The unit has been restored with a new head, and new cylinders. Since there is not a lot of instrumentation, the unit will be observed while running. The unit is back in service.

Hydro – The Donnell Fire has been burning for 5 weeks now, since August 1, 2018. The fire is next to New Spicer, but not affecting NCPA operations, with lots of granite around the reservoir

this is not much of a concern. There is a large fire crew camp near Lake Alpine with 30-50 personnel. The only impact is the boat ramp, as well as debris and sediment into the reservoir. Currently the fire is 85% contained. The Collierville crane refurb has been completed, and is now being used. Collierville Unit 2 is now out of service for the generator rewind, starting yesterday, September 4, and through approximately December 21. Contractors are on site, and have begun work disassembling the stator. Staff will update the Committee next month with progress of the rewind.

Geo – There were no safety issues over the past month at Geo. The generation is currently 1% over the predicted forecast for the year. The public works project for the road repairs is almost completed. Abatement will be up and running soon, and electrical work should be finished by November. Contracts are being negotiated for next year's well workovers. There is an entire management team now in place at Geo.

Solar Project – Phase 1 of this project has been completed, with 5 project participants including Alameda, Healdsburg, Lodi, Plumas-Sierra, and Redding fully engaged. Ukiah and Truckee Donner PUD are interested as well. Most members are in Phase 2B, site screening and development. The original plan was to have Phase 2B completed by September. B&M will re-evaluate the schedule, since the site screening took longer than expected. NCPA is currently awaiting IRS clarification to qualify for full ITC. The current schedule is to begin construction by the end of 2019, with service by the end of 2023.

- Scheduling services began September 1, 2018 with San Jose Clean Energy. Things are going smoothly with the integration of these services.
- NCPA has setup a meeting to engage with PG&E regarding terminating the Co-Tenancy Agreement. As well, regular monthly meetings will be scheduled going forward to discuss outstanding issues. Staff is working on a standing agenda with regular updates, and improving the process for outages.
- Meetings with South Feather Water and Power (SFWAP) continue as they express much interest in services from NCPA, when their contract expires with PG&E in 2020. These services would be very similar to Merced Irrigation District (MEID). Staff will be touring the SFWAP facilities September 19.
- NCPA would like to setup an in-person meeting with the CAISO to get answers to several pending questions, including the \$70MWh price.
- The NCPA 2019 Plant Outage Schedule will be filed at the CAISO next week.

17. Schedule Next Meeting Date – The next regular Facilities Committee meeting is scheduled for October 3, 2018.

ADJOURNMENT

The meeting was adjourned at 11:34 am.

**Northern California Power Agency
September 5, 2018 Facilities Committee Meeting
Attendance List**

NCPA Facilities Committee Members are requested to sign, but signature by members of the public is voluntary.

MEMBER	NAME
ALAMEDA	
BART	
BIGGS	
GRIDLEY	
HEALDSBURG	
LODI	<i>Siago Chang</i>
LOMPOC	
PALO ALTO	
PLUMAS-SIERRA REC	
PORT OF OAKLAND	
REDDING	
ROSEVILLE	<i>[Signature]</i>
SANTA CLARA	
TID	
UKIAH	



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Commission Staff Report

AGENDA ITEM NO.: 6

Date: September 19, 2018
To: NCPA Commission
Subject: August 14, 2018 Finance Committee Meeting Minutes

The attached Draft Minutes are being provided for information and to augment the oral Committee report.

benchmark rates. LIBOR is slated to expire at the end of 2021 and will likely be replaced by Secured Overnight Financing Rate (SOFR) which is based on actual market trades that reflect the price at which banks and other financial institutions can borrow. The Federal government has announced a yearly sequestration rate reduction. Subsidy payments to NCPA's outstanding BABs will be increased as a result. The 2018 rate reduction was 6.8% and the expected 2019 rate reduction will be 6.2%.

5. Debt and Interest Rate Management Report

Monty Hanks presented the Debt and Interest Rate Management Report for the period ending June 30, 2018. Some of the key highlights in the report include:

Geothermal Project Overview: \$29 million of outstanding bonds. When the debt falls off in 2023, those budgeted dollars may be moved to the Decommissioning Fund. This topic is currently being vetted through the Facilities Committee. **Hydroelectric Project Overview:** Fixed Rate Debt – While no new fixed rate debt was issued, staff refunded the 2008 Hydroelectric Series C bonds. The Agency has a total of \$86.4 million of outstanding variable rate debt. On average, the reset rates continue to trade at or better than the SIFMA for Series A bonds and LIBOR for Series B bonds.

NCPA had \$86.2 million of outstanding interest rate swaps, all related to the Hydroelectric Project bonds, which act as a hedge against the variable rate debt. The interest rate swaps make up approximately 27% of the outstanding Hydro Project debt portfolio. **Capital Facilities Overview:** There has been no major changes since the last report. Staff is considering shifting future debt saving budgets into a decommissioning fund. **LEC Overview:** The final maturity on the LEC is 2040. No new fixed rate debt was issued, however staff refunded the 2010 Series A bonds at the end of 2017.

Staff is recommending that the Finance Committee recommend the Commission accept and file the Debt and Interest Rate Management Report for the period ending June 30, 2018. Motion: A motion was made by Bob Orbeta (Alameda) and seconded by David Hagele approving staff's recommendation. A vote was taken by roll call: YES = David Hagele (Healdsburg), Melissa Price (Lodi), Philip McAvoy (Roseville), Ann Hatcher (Santa Clara), and Bob Orbeta (Alameda). The motion passed.

6. Review NCPA's Investment Strategy

Sondra Ainsworth provided a presentation with an overview of the investment strategy on five of the portfolios. The purpose of this strategy is continue with the preservation of principal and ensure there is sufficient liquidity to meet obligations while achieving a market rate of return on the funds. Each fund status was illustrated. The overall plan will be to bring the standards closer to their benchmarks. Staff reviews internally on a monthly basis, identifies trends, rebalances as necessary, reviews annually with the Committee and discusses portfolio suitability benchmarks.

7. Review the Other Post Employment Benefits (OPEB) Actuarial Valuation as of June 30, 2018

Sondra Ainsworth provided an update on the results of the Actuarial Valuation of Other Post Employment Benefits as of June 30, 2017. The fiduciary net positions as of June 30, 2018 is 78.4% compared to 68.1% on June 30, 2017 and 60.5% on June 30, 2015. Staff is recommending the Committee affirm funding 100% of required employer contribution as well as affirm the 15 year funding of net OPEB liability. Staff will update the OPEB funding status to the Commission. All Finance Committee members present were in favor of staff's recommendations.



Commission Staff Report

September 19, 2018

COMMISSION MEETING DATE: September 28, 2018

SUBJECT: August 2018 Financial Report (Unaudited)

AGENDA CATEGORY: Consent

FROM:	Sondra Ainsworth <i>[Signature]</i>	METHOD OF SELECTION:
	Treasurer-Controller	N/A
Division:	Administrative Services	
Department:	Accounting & Finance	

IMPACTED MEMBERS:

All Members <input checked="" type="checkbox"/>	City of Lodi <input type="checkbox"/>	City of Shasta Lake <input type="checkbox"/>
Alameda Municipal Power <input type="checkbox"/>	City of Lompoc <input type="checkbox"/>	City of Ukiah <input type="checkbox"/>
San Francisco Bay Area Rapid Transit <input type="checkbox"/>	City of Palo Alto <input type="checkbox"/>	Plumas-Sierra REC <input type="checkbox"/>
City of Biggs <input type="checkbox"/>	City of Redding <input type="checkbox"/>	Port of Oakland <input type="checkbox"/>
City of Gridley <input type="checkbox"/>	City of Roseville <input type="checkbox"/>	Truckee Donner PUD <input type="checkbox"/>
City of Healdsburg <input type="checkbox"/>	City of Santa Clara <input type="checkbox"/>	Other <input type="checkbox"/>

If other, please specify

RECOMMENDATION:

Approval by all members

NOTICE:

The disbursements of the Northern California Power Agency for the month reported herein, will be approved at the September 28, 2018 meeting of the NCPA Commission. The following page is a summary of those disbursements.

Prior to the Chairman's call to order, the Assistant Secretary to the Commission will, upon request, make available for review the detailed listing of those disbursements.

The report of budget vs. actual costs and the unaudited August 2018 financial reports are also included.

FISCAL IMPACT:

This report has no direct budget impact to the Agency.

ENVIRONMENTAL ANALYSIS:

The financial report 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 of the California Environmental Quality Act. No environmental review is necessary.

Respectfully submitted,



RANDY S. HOWARD
General Manager

Attachments: (1)

**NORTHERN CALIFORNIA POWER AGENCY
and ASSOCIATED POWER CORPORATIONS**

**Schedule of Disbursements
(Unaudited)**

For the Month of August 2018

Operations:		
Geothermal	\$	1,391,016
Hydroelectric		3,788,112
CT#1 Combustion Turbines		291,805
CT#2 STIG		754,993
Lodi Energy Center		6,805,647
NCPA Operating		23,777,770
		<hr/>
Total	\$	36,809,343
		<hr/> <hr/>

NORTHERN CALIFORNIA POWER AGENCY
 REPORT OF BUDGET VS. ACTUAL COST
 FOR THE PERIOD ENDED AUGUST 31, 2018

PERCENT OF YEAR ELAPSED 17%

	This Month	Actual Year To-Date	FY 2019 Budget	% Used	
<u>GENERATION RESOURCES</u>					
NCPA Plants					
Hydroelectric					
Other Plant Cost	\$ 2,041,106	\$ 2,935,379	\$ 16,699,691	18%	
Debt Service (Net)	2,929,735	5,859,471	35,156,824	17%	
Annual Budget Cost	4,970,841	8,794,850	51,856,515	17%	
Geothermal					
Other Plant Cost	2,084,278	4,240,714	29,488,515	14%	
Debt Service (Net)	411,408	822,816	4,936,896	17%	
Annual Budget Cost	2,495,686	5,063,530	34,425,411	15%	
Combustion Turbine No. 1	627,194	946,716	3,805,701	25%	(a)
Combustion Turbine No. 2 (Stig)					
Fuel and Pipeline Transport Charges	250,514	313,143	977,410	32%	(b)
Other Plant Cost	163,833	314,715	2,048,734	15%	
Debt Service (Net)	476,392	952,785	5,716,708	17%	
Annual Budget Cost	890,739	1,580,643	8,742,852	18%	
Lodi Energy Center					
Fuel	4,303,292	8,421,210	33,092,116	25%	(c)
Other Plant Cost	1,204,419	3,016,627	24,544,632	12%	
Debt Service (Net)	2,173,323	4,346,642	26,079,852	17%	
Annual Budget Cost	7,681,034	15,784,479	83,716,600	19%	
Member Resources - Energy	5,965,182	12,798,664	64,448,814	20%	
Member Resources - Natural Gas	535,649	817,253	3,098,278	26%	(d)
Western Resources	1,533,254	3,410,081	31,349,618	11%	
Market Power Purchases	2,294,627	3,901,871	15,539,033	25%	(e)
Load Aggregation Costs - CAISO	16,128,042	42,484,124	273,858,269	16%	
Net GHG Obligations	615,100	615,100	1,122,972	55%	(f)
	43,737,348	96,197,311	571,964,063	17%	
<u>TRANSMISSION</u>					
Independent System Operator					
Grid Management Charge	461,412	917,508	3,662,271	25%	(g)
Wheeling Access Charge	9,294,308	18,435,953	104,569,875	18%	
Ancillary Services	546,355	1,226,658	3,040,303	40%	(h)
Other Charges	-	-	1,549,274	0%	
	10,302,075	20,580,119	112,821,723	18%	
<u>MANAGEMENT SERVICES</u>					
Legislative & Regulatory					
Legislative Representation	247,316	359,170	2,023,068	18%	
Regulatory Representation	79,249	86,417	886,616	10%	
Western Representation	57,527	77,324	848,160	9%	
Member Services	26,891	53,409	438,389	12%	
Judicial Action	69,898	70,806	625,000	11%	

Management Services continued on next page

**NORTHERN CALIFORNIA POWER AGENCY
REPORT OF BUDGET VS. ACTUAL COST
FOR THE PERIOD ENDED AUGUST 31, 2018**

PERCENT OF YEAR ELAPSED 17%
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	This Month	Actual Year To-Date	FY 2019 Budget	% Used	
Power Management					
System Control & Load Dispatch	443,997	850,334	6,107,416	14%	
Forecasting, Planning, Prescheduling & Trading	196,068	369,975	2,775,167	13%	
Industry Restructuring & Regulatory Affairs	18,584	42,341	438,813	10%	
Contract Admin, Interconnection Svcs & External Affairs	75,616	136,564	1,134,623	12%	
Green Power Project	27	51	2,964	2%	
Gas Purchase Program	4,929	9,672	77,781	12%	
Market Purchase Project	6,726	13,243	112,014	12%	
Energy Risk Management	12,714	26,541	259,585	10%	
Settlements	49,361	105,178	941,392	11%	
Integrated Systems Support	2,954	40,071	272,850	15%	
Participant Pass Through Costs	239,920	104,336	1,619,170	6%	
Support Services	66,247	68,128	-	N/A	
	1,598,024	2,413,560	18,563,008	13%	
TOTAL ANNUAL BUDGET COST	55,637,447	119,190,990	703,348,794	17%	
LESS: THIRD PARTY REVENUE					
Plant ISO Energy Sales	18,021,965	39,072,341	100,456,289	39%	(i)
Member Resource ISO Energy Sales	4,839,398	10,341,766	28,186,777	37%	(j)
NCPA Contracts ISO Energy Sales	2,915,163	5,995,341	14,720,326	41%	(j)
Western Resource Energy Sales	3,151,212	9,148,224	23,182,775	39%	(j)
Load Aggregation Energy Sales	(5,373,316)	7,331,758	131,328,609	6%	
Ancillary Services Sales	558,593	1,116,707	4,409,129	25%	(k)
Transmission Sales	9,198	18,396	110,376	17%	
Western Credits, Interest and Other Income	1,185,729	3,834,296	37,414,086	10%	
	25,307,942	76,858,829	339,808,367	23%	
NET ANNUAL BUDGET COST TO PARTICIPANTS	\$ 30,329,505	\$ 42,332,161	\$ 363,540,427	12%	

- (a) Increase in costs due to greater than projected MWhs of generation. CT1 is at 115% of budgeted MWhs at 8/31/18. Fuel costs, CA ISO charges, and other variable costs have all increased as a result of increased generation.
- (b) Increase in costs due to greater than projected MWhs of generation. CT2 is at 522% of budgeted MWhs at 8/31/18. Fuel costs and CA ISO charges have increased as a result of increased generation.
- (c) Increase in costs due to greater than projected MWhs of generation. LEC is at 119% of budgeted MWhs at 8/31/18. Fuel costs and CA ISO charges have increased as a result of increased generation.
- (d) Increase due to greater than projected MWhs of generation at CT1, CT2, and LEC. See notes (a), (b), and (c).
- (e) Variance due to unbudgeted market purchases and NCPA contracts. Unbudgeted deals made after the FY19 budget including certain NextEra and Shell deals.
- (f) Purchases made several months in advance. Increase primarily due to greater than anticipated GHG allowances purchased at auction for Alameda and the City of Lodi.
- (g) Increase due to greater than projected MWhs of generation. See notes (a), (b), and (c).
- (h) Increase due to greater than projected MWhs of generation. See notes (a), (b), and (c).
- (i) Variance due to higher than anticipated ISO energy sales and higher market prices for the Lodi Energy Center (LEC), CT1, CT2, and Hydro.
- (j) Increase due to higher market prices caused by California wildfires.
- (k) Increase due to greater than projected MWhs of generation. See notes (a), (b), and (c) and corresponding increase in ancillary services costs.

COMBINED STATEMENTS OF NET POSITION

**NORTHERN CALIFORNIA POWER AGENCY
AND ASSOCIATED POWER CORPORATIONS**

UNAUDITED

	August 31,	
	2018	2017
	(in thousands)	
ASSETS		
CURRENT ASSETS		
Cash and cash equivalents	\$ 18,585	\$ 41,069
Investments	87,651	35,156
Accounts receivable		
Participants	1,743	613
Other	1,222	3,357
Interest receivable	351	172
Inventory and supplies	9,746	9,791
Prepaid expenses	1,426	828
TOTAL CURRENT ASSETS	<u>120,724</u>	<u>90,986</u>
RESTRICTED ASSETS		
Cash and cash equivalents	37,619	44,694
Investments	159,878	155,638
Interest receivable	510	449
TOTAL RESTRICTED ASSETS	<u>198,007</u>	<u>200,781</u>
ELECTRIC PLANT		
Electric plant in service	1,504,669	1,501,926
Less: accumulated depreciation	(978,626)	(947,872)
	<u>526,043</u>	<u>554,054</u>
Construction work-in-progress	182	821
TOTAL ELECTRIC PLANT	<u>526,225</u>	<u>554,875</u>
OTHER ASSETS		
Regulatory assets	230,134	234,830
Unused vendor credits	-	24
Preliminary survey and investigation costs	39	-
Investment in associated companies	265	-
TOTAL ASSETS	<u>1,075,394</u>	<u>1,081,496</u>
DEFERRED OUTFLOWS OF RESOURCES		
Excess cost on refunding of debt	40,296	46,716
Pension deferrals	19,200	13,506
TOTAL DEFERRED OUTFLOWS OF RESOURCES	<u>59,496</u>	<u>60,222</u>
TOTAL ASSETS AND DEFERRED OUTFLOWS OF RESOURCES	<u>\$ 1,134,890</u>	<u>\$ 1,141,718</u>

COMBINED STATEMENTS OF NET POSITION

**NORTHERN CALIFORNIA POWER AGENCY
AND ASSOCIATED POWER CORPORATIONS**

UNAUDITED

	August 31,	
	2018	2017
(in thousands)		
LIABILITIES		
CURRENT LIABILITIES		
Accounts payable and accrued expenses	\$ 28,757	\$ 34,956
Accounts and retentions payable - restricted for construction	50	-
Member advances	1,098	993
Operating reserves	22,119	20,427
Current portion of long-term debt	41,950	41,870
Accrued interest payable	6,187	6,875
TOTAL CURRENT LIABILITIES	100,161	105,121
NON-CURRENT LIABILITIES		
Net pension liability	76,002	64,589
Operating reserves and other deposits	148,050	141,895
Interest rate swap liability	11,109	15,173
Long-term debt, net	664,389	705,829
TOTAL NON-CURRENT LIABILITIES	899,550	927,486
TOTAL LIABILITIES	999,711	1,032,607
DEFERRED INFLOWS OF RESOURCES		
Regulatory credits	70,346	71,747
Pension deferrals	3,195	4,460
TOTAL DEFERRED INFLOWS OF RESOURCES	73,541	76,207
NET POSITION		
Net investment in capital assets	(39,494)	(41,216)
Restricted	30,406	37,934
Unrestricted	70,726	36,186
TOTAL NET POSITION	61,638	32,904
TOTAL LIABILITIES, DEFERRED INFLOWS OF RESOURCES AND NET POSITION	\$ 1,134,890	\$ 1,141,718

**COMBINED STATEMENTS OF REVENUES, EXPENSES
AND CHANGES IN NET POSITION**

**NORTHERN CALIFORNIA POWER AGENCY
AND ASSOCIATED POWER CORPORATIONS**

UNAUDITED

	Two Months Ended August 31,	
	2018	2017
	(in thousands)	
OPERATING REVENUES		
Participants	\$ 78,675	\$ 60,745
Other Third-Party	70,487	59,578
TOTAL OPERATING REVENUES	149,162	120,323
OPERATING EXPENSES		
Purchased power	67,087	70,133
Operations	16,370	9,956
Transmission	27,107	24,489
Depreciation	5,160	5,159
Maintenance	3,086	2,333
Administrative and general	2,350	2,281
TOTAL OPERATING EXPENSES	121,160	114,351
NET OPERATING REVENUES	28,002	5,972
NON OPERATING (EXPENSES) REVENUES		
Interest expense	(6,266)	(6,733)
Interest income	4,091	2,048
Other	826	763
TOTAL NON OPERATING EXPENSES	(1,349)	(3,922)
FUTURE RECOVERABLE AMOUNTS	(1,013)	(1,415)
REFUNDS TO PARTICIPANTS	(2,070)	(1,791)
INCREASE (DECREASE) IN NET POSITION	23,570	(1,156)
NET POSITION, Beginning of year	38,068	34,060
NET POSITION, Period ended	\$ 61,638	\$ 32,904

OTHER FINANCIAL INFORMATION
COMBINING STATEMENT OF NET POSITION
NORTHERN CALIFORNIA POWER AGENCY
AND ASSOCIATED POWER CORPORATIONS
(000's omitted)

August 31, 2018

	GENERATING & TRANSMISSION RESOURCES										Other Agency	Combined	
	Geothermal	Hydroelectric	Multiple Capital Facilities	CT No. One	Lodi Energy Center	Transmission No. One	Purchased Power & Transmission	Associated Member Services					
ASSETS													
CURRENT ASSETS													
Cash and cash equivalents	\$ 1	\$ -	\$ 1	\$ 1	\$ 73	\$ -	\$ -	\$ 63	\$ 18,446	\$ 87,651	\$ 18,585	\$ 87,651	
Investments	-	-	-	-	-	-	-	-	-	-	-	-	
Accounts receivable	-	-	-	-	-	-	-	152	1,591	266	1,743	1,743	
Participants	-	-	-	1	-	-	-	954	266	246	351	351	
Other	-	-	-	-	-	-	-	105	-	-	-	-	
Interest receivable	-	-	-	-	2,111	-	-	-	-	-	-	-	
Inventory and supplies	4,509	1,079	642	1,405	157	-	-	-	672	-	9,746	9,746	
Prepaid expenses	331	221	16	23	30,130	-	-	16,504	(103,273)	-	1,426	1,426	
Due from Agency and other programs*	21,849	15,853	2,843	212	32,471	-	-	17,563	5,599	-	-	-	
TOTAL CURRENT ASSETS	26,690	17,154	3,502	1,642	32,471	-	-	16,103	18,446	87,651	18,585	87,651	
RESTRICTED ASSETS													
Cash and cash equivalents	6,278	7,121	37	-	3,996	-	-	5,208	14,979	56,989	159,878	159,878	
Investments	20,342	32,489	2,028	-	26,472	-	-	21,558	243	510	510	510	
Interest receivable	84	89	5	-	89	-	-	-	-	-	-	-	
TOTAL RESTRICTED ASSETS	26,704	39,699	2,070	-	30,557	-	-	26,766	72,211	198,007	198,007	198,007	
ELECTRIC PLANT													
Electric plant in service	570,227	394,838	64,845	36,521	423,810	7,736	-	742	5,950	(3,114)	1,504,669	1,504,669	
Less: accumulated depreciation	(536,312)	(263,820)	(48,731)	(34,510)	(83,989)	(7,736)	-	(414)	-	-	(978,626)	(978,626)	
	33,915	131,018	16,114	2,011	339,821	-	-	328	2,836	-	526,043	526,043	
Construction work-in-progress	-	-	-	-	182	-	-	-	-	-	182	182	
TOTAL ELECTRIC PLANT	33,915	131,018	16,114	2,011	340,003	-	-	328	2,836	-	526,225	526,225	
OTHER ASSETS													
Regulatory assets	(166)	134,184	10,259	-	24,065	-	-	-	61,792	-	230,134	230,134	
Preliminary survey and investigation costs	-	-	-	-	-	-	-	-	-	39	39	39	
Investment in associated companies	-	-	-	-	-	-	-	-	265	-	265	265	
TOTAL ASSETS	87,143	322,055	31,945	3,653	427,096	-	-	44,329	142,703	1,075,394	1,075,394	1,075,394	
DEFERRED OUTFLOWS OF RESOURCES													
Excess cost on refunding of debt	1,585	35,758	874	-	2,079	-	-	-	-	-	40,296	40,296	
Pension deferrals	-	-	-	-	-	-	-	-	19,200	-	19,200	19,200	
TOTAL DEFERRED OUTFLOWS OF RESOURCES	1,585	35,758	874	-	2,079	-	-	-	19,200	-	59,496	59,496	
TOTAL ASSETS AND DEFERRED OUTFLOWS OF RESOURCES	\$ 88,728	\$ 357,813	\$ 32,819	\$ 3,653	\$ 429,175	\$ -	\$ -	\$ 44,329	\$ 161,903	\$ 1,134,890	\$ 1,134,890	\$ 1,134,890	

* Eliminated in Combination

OTHER FINANCIAL INFORMATION

COMBINING STATEMENT OF NET POSITION
 NORTHERN CALIFORNIA POWER AGENCY
 AND ASSOCIATED POWER CORPORATIONS
 (000's omitted)

August 31, 2018

GENERATING & TRANSMISSION RESOURCES

	Geothermal	Hydroelectric	Multiple Capital Facilities	CT No. One	Lodi Energy Center	Transmission	Purchased Power & Transmission	Associated Member Services	Other Agency	Combined
\$	121	253	-	1	4,777	-	18,943	-	4,662	28,757
	-	10	-	-	40	-	-	-	-	50
	791	-	-	-	-	-	-	307	-	1,098
	6,661	250	513	802	13,893	-	-	-	-	22,119
	5,095	21,180	4,195	-	11,480	-	-	-	-	41,950
	89	2,341	114	-	3,643	-	-	-	-	6,187
	12,757	24,034	4,822	803	33,833	-	18,943	307	4,662	100,161
	-	-	-	-	-	-	-	-	-	-
	19,895	17,325	-	-	1,718	-	28,153	8,743	76,002	148,050
	-	11,109	-	-	-	-	-	-	-	11,109
	20,100	287,107	26,005	-	331,177	-	-	-	-	664,389
	39,995	315,541	26,005	-	332,895	-	28,153	8,743	148,218	899,550
	52,752	339,575	30,827	803	366,728	-	47,096	9,050	152,880	999,711
	18,804	4,145	937	2,191	40,657	-	-	279	3,333	70,346
	18,804	4,145	937	2,191	40,657	-	-	279	3,195	73,541
	(3,033)	(17,825)	(3,839)	-	(14,797)	-	-	-	-	(39,494)
	5,830	15,924	1,955	-	15,597	-	(1,282)	(7,614)	(4)	30,406
	14,375	15,994	2,939	659	20,990	-	(1,485)	14,755	2,499	70,726
	17,172	14,093	1,055	659	21,790	-	(2,767)	7,141	2,495	61,638
	88,728	357,813	32,819	3,653	429,175	-	44,329	16,470	161,903	1,134,890

LIABILITIES

CURRENT LIABILITIES

Accounts payable and accrued expenses
 Accounts and retentions payable - restricted for construction
 Member advances
 Operating reserves
 Current portion of long-term debt
 Accrued interest payable

TOTAL CURRENT LIABILITIES

NON-CURRENT LIABILITIES

Net pension liability
 Operating reserves and other deposits
 Interest rate swap liability
 Long-term debt, net

TOTAL NON-CURRENT LIABILITIES

TOTAL LIABILITIES

DEFERRED INFLOWS OF RESOURCES

Regulatory credits
 Pension deferrals

TOTAL DEFERRED INFLOWS OF RESOURCES

NET POSITION

Net investment in capital assets
 Restricted
 Unrestricted

TOTAL NET POSITION

TOTAL LIABILITIES, DEFERRED INFLOWS
 OF RESOURCES AND NET POSITION

OTHER FINANCIAL INFORMATION

COMBINING STATEMENT OF REVENUES, EXPENSES AND CHANGES IN NET POSITION

**NORTHERN CALIFORNIA POWER AGENCY
AND ASSOCIATED POWER CORPORATIONS
(000's omitted)**

For the Two Months Ended August 31, 2018

	GENERATING & TRANSMISSION RESOURCES										Other Agency	Combined	
	Geothermal	Hydroelectric	Multiple Capital Facilities	CT No. One	Lodi Energy Center	Transmission	Purchased Power & Transmission	Associated Member Services					
OPERATING REVENUES													
Participants	2,106	\$ 5,544	1,039	\$ 620	\$ 13,289	\$ -	\$ -	\$ 3,338	\$ 12	\$ 78,675			
Other Third-Party	7,881	9,472	875	1,543	20,659	-	-	29,722	335	70,487			
TOTAL OPERATING REVENUES	9,987	15,016	1,914	2,163	33,948	-	-	82,449	3,673	149,162			
OPERATING EXPENSES													
Purchased power	45	727	27	179	574	-	-	65,535	-	67,087			
Operations	2,183	552	449	393	9,651	-	-	817	2,325	16,370			
Transmission	70	182	(3)	10	169	-	-	26,678	1	27,107			
Depreciation	658	1,594	367	32	2,436	-	-	-	16	5,160			
Maintenance	1,249	951	95	242	540	-	-	-	9	3,086			
Administrative and general	781	473	117	107	801	-	-	-	1,048	2,350			
Intercompany (sales) purchases, net*	(96)	39	10	12	42	-	-	-	(7)	-			
TOTAL OPERATING EXPENSES	4,890	4,518	1,062	975	14,213	-	-	93,030	3,392	121,160			
NET OPERATING REVENUES	5,097	10,498	852	1,188	19,735	-	-	(10,581)	281	28,002			
NON OPERATING (EXPENSES) REVENUES													
Interest expense	(89)	(3,469)	(248)	-	(2,460)	-	-	-	-	(6,266)			
Interest income	369	439	41	-	639	-	-	290	13	4,091			
Other	-	-	340	-	356	-	-	-	-	826			
TOTAL NON OPERATING (EXPENSES) REVENUES	280	(3,030)	133	-	(1,465)	-	-	290	13	(1,349)			
FUTURE RECOVERABLE AMOUNTS													
REFUNDS TO PARTICIPANTS	(383)	(557)	(349)	-	276	-	-	-	-	(1,013)			
INCREASE (DECREASE) IN NET POSITION	254	(205)	10	97	-	-	-	(572)	50	(2,070)			
NET POSITION, Beginning of year	5,248	6,706	646	1,285	18,546	-	-	(10,863)	344	23,570			
NET POSITION, Period ended	11,924	7,387	409	(626)	3,244	-	-	8,096	6,797	38,068			
NET POSITION, Beginning of year	17,172	14,093	1,055	659	21,790	-	-	(2,767)	7,141	61,638			
NET POSITION, Period ended													

* Eliminated in Combination

**NORTHERN CALIFORNIA POWER AGENCY
and ASSOCIATED POWER CORPORATIONS**

**Schedule of Disbursements
(Unaudited)**

For the Month of August 2018

Operations:

Geothermal	\$	1,391,016
Hydroelectric		3,788,112
CT#1 Combustion Turbines		291,805
CT#2 STIG		754,993
Lodi Energy Center		6,805,647
NCPA Operating		23,777,770
Total	\$	<u>36,809,343</u>



Commission Staff Report

September 19, 2018

COMMISSION MEETING DATE: September 28, 2018

SUBJECT: Treasurer's Report for Month Ended August 31, 2018

AGENDA CATEGORY: Consent

FROM:	Sondra Ainsworth <i>[Signature]</i>	METHOD OF SELECTION:
	Treasurer-Controller	N/A
Division:	Administrative Services	
Department:	Accounting & Finance	

IMPACTED MEMBERS:

All Members <input checked="" type="checkbox"/>	City of Lodi <input type="checkbox"/>	City of Shasta Lake <input type="checkbox"/>
Alameda Municipal Power <input type="checkbox"/>	City of Lompoc <input type="checkbox"/>	City of Ukiah <input type="checkbox"/>
San Francisco Bay Area Rapid Transit <input type="checkbox"/>	City of Palo Alto <input type="checkbox"/>	Plumas-Sierra REC <input type="checkbox"/>
City of Biggs <input type="checkbox"/>	City of Redding <input type="checkbox"/>	Port of Oakland <input type="checkbox"/>
City of Gridley <input type="checkbox"/>	City of Roseville <input type="checkbox"/>	Truckee Donner PUD <input type="checkbox"/>
City of Healdsburg <input type="checkbox"/>	City of Santa Clara <input type="checkbox"/>	Other <input type="checkbox"/>

If other, please specify

RECOMMENDATION:

Approval by all members.

BACKGROUND:

In compliance with Agency 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 \$3,884,815 of which approximately \$245,004 was applicable to Special and Reserve Fund Deposits, \$4,640 to Debt Service and \$3,635,171 to Operations and other.

The cash balance held at U.S. Bank includes outstanding checks that have not yet cleared. This cash balance is invested nightly in a fully collateralized (U.S. Government Securities) repurchase agreement.

Investments - The carrying value of NCPA's investment portfolio totaled \$300,851,896 at month end. The current market value of the portfolio totaled \$297,876,414.

The overall portfolio had a combined weighted average interest rate of 1.818% with a bond equivalent yield (yield to maturity) of 1.843%. Investments with a maturity greater than one year totaled \$158,403,000. August maturities totaled \$17 million and monthly receipts totaled \$56 million. During the month \$39 million 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 12 basis points (from 2.00% to 2.12%) and rates on one year T-Bills increased 5 basis points (from 2.42% to 2.47%).

To the best of my knowledge and belief, all securities held by NCPA 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.

FISCAL IMPACT:

This report has no direct budget impact to the Agency.

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.

Respectfully submitted,



RANDY S. HOWARD
General Manager

Attachment

SR: 195:18

NORTHERN CALIFORNIA POWER AGENCY

TREASURER'S REPORT

AUGUST 31, 2018

TABLE OF CONTENTS

	<u>PAGE</u>
CASH & INVESTMENT BALANCE	1
CASH ACTIVITY SUMMARY	2
INVESTMENT ACTIVITY SUMMARY	3
INTEREST RATE/YIELD ANALYSIS	4
INVESTMENT MATURITIES ANALYSIS	5
DETAIL REPORT OF INVESTMENTS	APPENDIX

**Northern California Power Agency
Treasurer's Report
Cash & Investment Balance
August 31, 2018**

	CASH	INVESTMENTS	TOTAL	PERCENT
NCPA FUNDS				
Operating	\$ 646,232	\$ 131,489,120	\$ 132,135,352	43.36%
Special Deposits	\$ 1,959,414	\$ -	\$ 1,959,414	0.64%
Construction	\$ 1,029,525	\$ 3,968,397	\$ 4,997,922	1.64%
Debt Service	\$ 4,640	\$ 14,016,507	\$ 14,021,147	4.60%
Special & Reserve	\$ 245,004	\$ 151,377,872	\$ 151,622,876	49.76%
	<u>\$ 3,884,815</u>	<u>\$ 300,851,896</u>	<u>\$ 304,736,711</u>	<u>100.00%</u>

Portfolio Investments at Market Value \$ 297,876,414

NOTE A -Investment amounts shown at book carrying value.

**Northern California Power Agency
Treasurer's Report
Cash Activity Summary
August 31, 2018**

	RECEIPTS			EXPENDITURES			CASH INCREASE / (DECREASE)
	OPS/CONSTR	INTEREST (NOTE B)	INVESTMENTS (NOTE A)	OPS/CONSTR	INVESTMENTS (NOTE B)	INTER-COMPANY/ FUND TRANSFERS	
NCPA FUNDS							
Operating	\$ 40,937,453	\$ 82,670	\$ 9,056,481	\$ (21,596,974)	\$ (28,009,533)	\$ (972,030)	\$ (501,933)
Special Deposits	15,103,923	9	-	(9,082,116)	-	(4,967,376)	1,054,440
Construction	-	-	16,000	-	-	-	16,000
Debt Service	9,455	1,816	2,392,297	(4,848,850)	(6,175,020)	6,178,805	(2,441,497)
Special & Reserve	-	121,920	5,106,941	-	(4,915,115)	(239,399)	74,347
	<u>\$ 56,050,831</u>	<u>\$ 206,415</u>	<u>\$ 16,571,719</u>	<u>\$ (35,527,940)</u>	<u>\$ (39,099,668)</u>	<u>\$ -</u>	<u>\$ (1,798,643)</u>

NOTE A -Investment amounts shown at book carrying value.

NOTE B -Net of accrued interest purchased on investments.

**Northern California Power Agency
Treasurer's Report
Investment Activity Summary
August 31, 2018**

	PURCHASED	SOLD OR MATURED	(NON-CASH)	(NON-CASH)	INVESTMENTS	
			DISC/(PREM) AMORT	GAIN/(LOSS) ON SALE	TRANSFERS	INCREASE / (DECREASE)
NCPA FUNDS						
Operating	\$ 28,009,533	\$ (9,056,481)	\$ 5,288	\$ (105,349)	\$ -	\$ 18,852,991
Special Deposits	-	-	-	-	-	-
Construction	-	(16,000)	(578)	-	-	(16,578)
Debt Service	6,175,020	(2,392,297)	14,203	-	-	3,796,926
Special & Reserve	4,915,115	(5,106,941)	(6,397)	(68,457)	-	(266,680)
	<u>\$ 39,099,668</u>	<u>\$ (16,571,719)</u>	<u>\$ 12,516</u>	<u>\$ (173,806)</u>	<u>\$ -</u>	<u>\$ 22,366,659</u>

Less Non- Cash Activity

Disc/(Prem) Amortization & Gain/(Loss) on Sale

161,290

Net Change in Investment --Before Non-Cash Activity

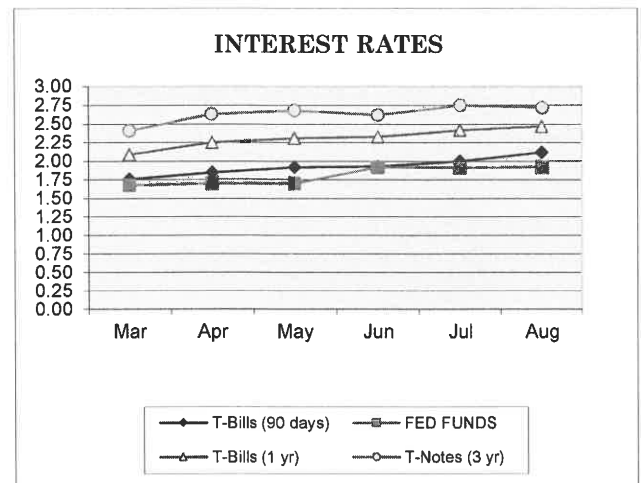
\$ 22,527,949

NOTE A -Investment amounts shown at book carrying value.

**Northern California Power Agency
Interest Rate/Yield Analysis
August 31, 2018**

	<u>WEIGHTED AVERAGE INTEREST RATE</u>	<u>BOND EQUIVALENT YIELD</u>
OVERALL COMBINED	1.818%	1.843%
OPERATING FUNDS:	1.747%	1.798%
PROJECTS:		
Geothermal	2.108%	2.235%
Capital Facilities	2.280%	2.268%
Hydroelectric	1.894%	1.929%
Lodi Energy Center	2.002%	1.667%

KEY INTEREST RATES		
	<u>CURRENT</u>	<u>PRIOR YEAR</u>
Fed Fds (Overnight)	1.92%	1.16%
T-Bills (90da.)	2.12%	1.01%
Agency Disc (90da.)	2.05%	1.01%
T-Bills (1yr.)	2.47%	1.23%
Agency Disc (1yr.)	2.27%	1.18%
T-Notes (3yr.)	2.72%	1.47%



**Northern California Power Agency
Total Portfolio
Investment Maturities Analysis
August 31, 2018**

Type	0-7 Days	8-90 Days	91-180 Days	181-270 Days	271-365 Days	1-5 Years	6-10 Years	Total	Percent
US Government Agencies	\$ -	\$ 15,587	\$17,002	\$ -	\$ 6,067	\$ 116,297	\$ 2,000	\$ 156,953	51.98%
Corporate Bonds (MTN)	-	-	-	-	-	38,960	-	38,960	12.90%
US Bank Trust Money Market	144	-	-	-	-	-	-	144	0.05%
Commercial Paper	52,615	-	-	-	-	-	-	52,615	17.43%
Investment Trusts (LAIF)	43,304	-	-	-	-	-	-	43,304	14.34%
U.S.Treasury Market Acct. *	6,004	-	-	-	-	-	-	6,004	1.99%
U.S.Treasury Bill/Note	-	2,361	306	-	137	146	-	2,950	0.98%
Certificates of Deposit	-	10	-	-	-	1,000	-	1,010	0.33%
Total Dollars	\$ 102,067	\$17,958	\$17,308	\$0	\$6,204	\$156,403	\$2,000	\$ 301,940	100.00%
Total Percents	33.80%	5.95%	5.73%	0.00%	2.05%	51.80%	0.66%	100.00%	

Investments are shown at Face Value, in thousands.

* The cash balance held at US Bank includes outstanding checks that have not yet cleared. This cash balance is invested nightly in a fully collateralized (U.S. Government Securities) repurchase agreement. Cash held by Union Bank of California is invested nightly in fully collateralized U.S. Treasury Securities.

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

Operating

Issuer	Trustee / Custodian	Stated Value	Interest Rate	Purchase Date	Purchased Price	Maturity Date	Days to Maturity	Bond* Equity Yield	Market Value	CUSIP	Investment #	Carrying Value
US Bank, N.A.	USB	50,109,900	1.250	11/26/2014	50,109,900	10/07/2018	36	0.050	50,109,900	SVS70101	70101	50,109,900
Local Agency Investm	LAIF	15,188,464	1.899	07/01/2013	15,188,464	05/30/2019	271	1.300	3,619,582	3133EFPJ0	26280	3,625,922
Union Bank of Califo	UBOC	77,282	0.002	07/01/2013	77,282	07/17/2020	871	0.001	3,990,560	3137EADG1	26231	4,008,677
US Bank	USB	646,230	0.001	06/30/2013	646,230	01/19/2021	871	0.001	4,890,425	3130ABTW6	26466	4,995,002
US Bank	USB	2,505,517	0.850	08/24/2017	2,505,517	04/01/2021	943	2.846	2,982,840	3134GSGT6	26664	3,000,000
US Bank	USB	10,000	0.050	07/07/2018	10,000	06/03/2021	1,006	2.858	487,845	437076BL5	26558	489,591
Federal Farm Credit	UBOC	3,626,000	1.290	12/21/2015	3,624,948	11/19/2018	79	1.300	488,015	717081DX8	26617	488,079
Federal Home Loan Mt	UBOC	4,000,000	1.750	06/09/2015	4,046,160	05/30/2019	271	1.450	999,650	3134GSOA6	26628	1,000,000
Federal Home Loan Ba	UBOC	4,975,000	1.600	08/28/2017	4,990,373	07/17/2020	685	1.490	2,525,657	3133EHSR5	26465	2,609,261
Federal Home Loan Ba	UBOC	2,785,000	1.400	07/19/2016	2,783,608	01/19/2021	871	1.411	3,380,230	3134GAVH4	26385	3,500,000
Federal Home Loan Mt	UBOC	3,000,000	2.530	03/29/2018	3,000,000	03/29/2021	940	2.530	196,570	3134GAVH4	26403	202,000
Home Depot Inc.	UBOC	500,000	2.000	03/21/2018	487,800	04/01/2021	1,006	2.846	493,395	87236VAE8	26601	493,887
Pfizer Inc	UBOC	500,000	1.950	06/12/2018	487,130	06/03/2021	1,006	2.858	488,015	717081DX8	26617	488,079
Federal Home Loan Mt	UBOC	1,000,000	2.500	06/28/2018	1,000,000	06/28/2021	1,031	2.990	999,650	3134GSOA6	26628	1,000,000
Federal Farm Credit	UBOC	2,602,000	1.720	08/28/2017	2,611,784	07/26/2021	1,059	1.620	2,525,657	3133EHSR5	26465	2,609,261
Federal Home Loan Mt	UBOC	3,500,000	1.500	11/23/2016	3,500,000	08/23/2021	1,087	1.500	3,380,230	3134GAVH4	26385	3,500,000
Federal Home Loan Mt	UBOC	202,000	2.200	01/30/2017	202,000	01/26/2022	1,243	2.200	196,570	3134GAVH4	26403	202,000
TD Ameritrade	UBOC	500,000	2.950	05/15/2018	493,385	04/01/2022	1,308	3.315	493,395	87236VAE8	26601	493,887
PepsiCo Inc.	UBOC	500,000	2.250	03/21/2018	487,005	05/02/2022	1,339	2.924	486,675	713448DT2	26557	488,409
Apple Inc.	UBOC	1,123,337	2.300	02/01/2018	1,121,966	05/11/2022	1,348	2.329	1,096,590	037833CQ1	26525	1,122,153
NSIar Electric Co.	UBOC	500,000	2.375	06/12/2018	484,480	10/15/2022	1,505	3.144	481,720	67021CAG2	26616	485,264
Boeing Co.	UBOC	500,000	2.200	06/12/2018	482,180	10/30/2022	1,520	3.074	483,175	097023BN4	26612	483,072
American Honda Finan	UBOC	500,000	2.600	06/12/2018	488,550	11/16/2022	1,537	3.157	487,955	02665WCAT	26614	489,117
Chevron Corp.	UBOC	500,000	2.355	03/21/2018	485,760	12/05/2022	1,556	3.008	484,555	166764AB6	26555	487,105
Visa Inc.	UBOC	400,000	2.800	08/03/2018	394,552	12/14/2022	1,565	3.135	394,484	92826CAC6	26647	394,649
Toyota Motor Credit	UBOC	1,000,000	2.700	08/03/2018	974,760	01/11/2023	1,593	3.315	976,700	89236TELS	26645	975,202
Simon Property Group	UBOC	500,000	2.750	05/15/2018	484,555	02/01/2023	1,614	3.464	487,165	828807CNS	26603	485,548
Oracle Corp.	UBOC	500,000	2.625	03/21/2018	488,010	02/15/2023	1,628	3.154	487,945	68389XBR5	26556	489,098
Exxon Mobil Corporat	UBOC	1,000,000	2.726	08/03/2018	985,450	03/01/2023	1,642	3.068	984,260	30231GAR3	26648	985,697
John Deere Capital C	UBOC	500,000	2.800	06/12/2018	489,875	03/06/2023	1,647	3.264	491,035	24422ETG4	26613	490,344
Berkshire Hathway I	UBOC	500,000	2.750	03/21/2018	492,280	03/15/2023	1,656	3.086	492,260	084670BR8	26554	492,969
United Parcel Servic	UBOC	500,000	2.500	05/15/2018	483,225	04/01/2023	1,673	3.248	484,445	911312BK1	26800	484,238
Bank of NY Mellon Co	UBOC	500,000	3.500	05/15/2018	501,255	04/28/2023	1,700	3.443	502,435	06406RA62	26802	501,190
Hershey Company	UBOC	500,000	3.375	06/12/2018	503,125	05/15/2023	1,717	3.236	503,105	427866AZ1	26815	502,986
US Bank	UBOC	1,000,000	3.400	08/03/2018	1,000,000	07/24/2023	1,787	3.399	1,000,560	90331HNV1	26846	1,000,000
Fund Total and Average		\$ 106,250,730	1.593		\$ 106,111,649		339	1.628	\$ 105,593,301			\$ 106,081,115

MPP GHG Auction Acct

Local Agency Investm

09/04/2018 4:56 pm

63,211

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07/01/2013

63,211

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1.899

63,211 SVS70045

70045

63,211



Northern California Power Agency
Treasurer's Report
08/31/2018

MPP GHG Auction Acct

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
Fund Total and Average		\$ 63,211	1.899		\$ 63,211		1	1.899	\$ 63,211			\$ 63,211

SCPA Balancing Account

Local Agency / Investm	LAI	1,785,554	1.899	07/01/2013	1,785,554		1	1.899	1,785,554	SVS70022	70022	1,785,554
Union Bank of Calif	UBOC	2,574,323	0.002	07/01/2013	2,574,323		1	0.002	2,574,323	SVS70023	70023	2,574,323
Federal National Mig	UBOC	1,462,000	1.625	12/18/2014	1,476,255	11/27/2018	87	1.369	1,460,143	3135G0Y14	26187	1,462,864
Federal National Mig	UBOC	1,847,000	1.350	07/28/2016	1,847,000	07/28/2020	696	1.350	1,799,403	3136C3T39	26357	1,847,000
Bank of NY Mellon Co	UBOC	500,000	2.050	04/03/2018	486,105	05/03/2021	975	3.000	486,635	06406FAB9	26570	487,958
Microsoft Corp.	UBOC	500,000	2.375	04/04/2018	492,295	02/12/2022	1,260	2.798	490,685	594918BA1	26574	493,111
Walt Disney Company/	UBOC	500,000	2.450	07/24/2018	487,520	03/04/2022	1,280	3.186	488,090	25468PD06	26530	487,875
TD Ameritrade	UBOC	500,000	2.950	04/03/2018	497,200	04/01/2022	1,308	3.100	493,395	87236YAE8	26571	497,488
Home Depot Inc.	UBOC	500,000	2.625	04/04/2018	494,290	06/01/2022	1,369	2.918	492,940	4370769G6	26572	484,851
Public Storage	UBOC	500,000	2.370	04/04/2018	483,705	09/15/2022	1,475	3.161	482,400	74460DAB5	26573	485,201
Visa Inc.	UBOC	250,000	2.800	07/24/2018	246,975	12/14/2022	1,565	3.096	246,553	92826CAC6	26532	247,046
Intel Corp	UBOC	500,000	2.700	06/22/2018	492,300	12/15/2022	1,566	3.070	492,485	458140AM2	26525	492,629
Toyota Motor Credit	UBOC	550,000	2.625	05/09/2018	536,294	01/10/2023	1,592	3.203	536,822	89233P7E7	26598	537,207
Cisco Systems Inc.	UBOC	500,000	2.600	06/22/2018	487,655	02/28/2023	1,641	3.170	489,660	17275RBE1	26624	488,160
Exxon Mobil Corporat	UBOC	500,000	2.726	05/09/2018	492,670	03/01/2023	1,642	3.055	492,130	30231GAR3	26599	493,144
Berkshire Hathway I	UBOC	500,000	2.750	05/09/2018	490,280	03/15/2023	1,656	3.185	492,260	084670BR8	26596	490,904
United Parcel Servic	UBOC	500,000	2.500	06/22/2018	484,780	04/01/2023	1,673	3.191	484,445	911312BK1	26627	485,391
Nike Inc	UBOC	500,000	2.250	05/09/2018	480,350	05/01/2023	1,703	3.108	480,715	654108AC7	26697	481,578
Federal Home Loan Mt	UBOC	2,500,000	2.750	05/24/2018	2,500,000	05/24/2023	1,726	3.326	2,497,200	3134GSLU7	26604	2,500,000
Simon Property Group	UBOC	500,000	2.750	07/24/2018	484,725	06/01/2023	1,734	3.438	485,760	828807DD6	26631	485,049
Federal Home Loan Mt	UBOC	1,000,000	2.700	06/14/2018	1,000,000	06/14/2023	1,747	3.316	999,060	3134GSNE1	26622	1,000,000
Federal Home Loan Mt	UBOC	2,000,000	3.000	07/23/2018	1,999,000	06/14/2023	1,747	3.300	1,992,620	3134GSNK7	26629	1,999,022
Federal Home Loan Mt	UBOC	2,600,000	2.750	08/17/2018	2,603,900	06/15/2023	1,748	3.467	2,599,558	3134GSMY8	26653	2,603,889
Pfizer Inc	UBOC	500,000	3.000	06/22/2018	496,550	06/15/2023	1,748	3.150	497,085	717081DH3	26626	486,683
Federal Home Loan Mt	UBOC	2,500,000	3.050	08/28/2018	2,501,250	08/28/2023	1,822	3.039	2,494,475	3134GSUZ6	26654	2,501,248
Fund Total and Average		\$ 26,068,877	2.254		\$ 25,920,976		1220	2.568	\$ 25,834,396			\$ 25,918,155

General Operating Reserve

Local Agency / Investm	LAI	14,817,417	1.899	07/01/2013	14,817,417		1	1.899	14,817,417	SVS70000	70002	14,817,417
Union Bank of Calif	UBOC	162,641	0.002	07/01/2013	162,641		1	0.002	162,641	SVS70019	70019	162,641
US Bank	USB	0	0.000	07/01/2013	0		1	0.000	0	SVS70051	70051	0
Federal National Mig	UBOC	5,970,000	1.625	12/23/2014	6,009,701	11/27/2018	87	1.450	5,962,418	3135G0Y14	26188	5,972,415
Federal National Mig	UBOC	4,982,000	1.750	08/28/2015	5,047,364	11/26/2019	451	1.430	4,934,671	3135G0ZV2	26246	5,001,036
Federal Farm Credit	UBOC	4,285,000	1.440	07/20/2016	4,280,715	01/19/2021	871	1.463	4,157,350	3133EGMP7	26356	4,282,729
Federal Home Loan Ba	UBOC	11,720,000	1.400	07/19/2016	11,714,140	01/19/2021	871	1.411	11,345,780	3130A8P80	26354	11,716,886
Federal National Mig	UBOC	5,162,000	1.625	05/25/2016	5,162,000	05/25/2021	997	1.625	4,996,351	3136G3NL5	26332	5,162,000



Northern California Power Agency

Treasurer's Report

08/31/2018

General Operating Reserve

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
Federal National Mig	UBOC	1,300,000	1.500	08/30/2016	1,300,000	05/28/2021	1,000	1.500	1,254,573	3138633W3	26388	1,300,000
Federal Farm Credit	UBOC	10,629,000	1.690	06/02/2016	10,629,000	06/02/2021	1,005	1.690	10,268,252	3133EGDH5	26335	10,629,000
Federal Home Loan Mt	UBOC	467,000	2.200	01/30/2017	467,000	01/26/2022	1,243	2.200	454,447	3134GAV92	26402	467,000
Microsoft Corp.	UBOC	400,000	2.375	04/26/2018	391,480	02/12/2022	1,260	2.972	392,548	594918BA1	26578	382,260
TD Ameritrade	UBOC	500,000	2.950	04/26/2018	492,950	04/01/2022	1,308	3.335	493,395	87236YAE8	26582	493,573
Apple Inc.	UBOC	4,025,452	2.300	02/01/2018	4,020,538	05/11/2022	1,348	2.329	3,929,606	037833CQ1	26524	4,021,208
Federal Home Loan Ba	UBOC	3,573,000	2.125	08/28/2017	3,634,560	06/10/2022	1,378	1.760	3,489,093	313379C69	26467	3,622,004
PepsiCo Inc.	UBOC	500,000	3.100	04/26/2018	500,310	07/17/2022	1,415	3.083	500,530	713448CX4	26580	500,285
Visa Inc.	UBOC	500,000	2.800	04/26/2018	492,600	12/14/2022	1,565	3.145	493,105	92826CAC6	26584	493,155
General Electric Co.	UBOC	500,000	3.100	04/26/2018	490,415	01/09/2023	1,591	3.545	493,340	36962G6S8	26577	491,123
Bank of NY Mellon Co	UBOC	500,000	2.950	04/26/2018	491,790	01/29/2023	1,611	3.325	491,460	06406RAE7	26575	492,389
Oracle Corp.	UBOC	500,000	2.625	04/26/2018	487,350	02/15/2023	1,628	3.195	487,945	68389XBR5	26579	488,285
Praxair Inc	UBOC	500,000	2.700	04/26/2018	488,350	02/21/2023	1,634	3.225	489,360	74005PBF0	26581	489,189
Berkshire Hathaway I	UBOC	500,000	2.750	04/26/2018	488,920	03/15/2023	1,656	3.243	492,250	09467DBR8	26576	489,707
United Parcel Servic	UBOC	500,000	2.500	04/26/2018	483,135	04/01/2023	1,673	3.245	484,445	91312BK1	26583	484,323
Fund Total and Average		\$ 71,995,510	1.791		\$ 72,052,376		726	1.770	\$ 70,590,927			\$ 71,958,615
GRAND TOTALS:		\$ 204,378,328	1.747		\$ 204,148,212		588	1.798	\$ 202,081,835			\$ 204,031,096

*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 #26332	FNMA	Callable quarterly
Investment #26335	FECB	Callable anytime
Investment #26334	FHLB	Callable anytime
Investment #26335	FHLB	Callable anytime
Investment #26336	FECB	Callable anytime
Investment #26357	FNMA	Callable quarterly
Investment #26368	FNMA	Callable quarterly
Investment #26385	FHLMC	Callable quarterly
Investment #26402	FHLMC	Callable quarterly
Investment #26403	FHLMC	Callable quarterly
Investment #26564	FHLMC	Callable until 3/29/19
Investment #26629	FHLMC	Callable quarterly starting 9/14/2018
Investment #26646	USB	Callable on 6/23/2023
Investment #26653	FHLMC	Callable on 6/15/2020



Northern California Power Agency
Treasurer's Report
08/31/2018

Geothermal Debt Service

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
Federal Home Loan Ba	USBT	236,000	2.050	07/31/2018	233,917	01/02/2019	123	2.096	233,819	313384A/B5A	26633	234,347
Federal Home Loan Ba	USBT	235,000	2.125	08/31/2018	233,280	01/02/2019	123	2.170	232,829	313384A/B5A	26655	233,294
Fund Total and Average		\$ 471,000	2.087		\$ 467,197		123	2.134	\$ 466,648			\$ 467,641

Geo 2012A Debt Service

Federal Home Loan Ba	USBT	124,000	2.050	07/31/2018	122,906	01/02/2019	123	2.096	122,854	313384A/B5A	26634	123,131
Federal Home Loan Ba	USBT	124,000	2.125	08/31/2018	123,092	01/02/2019	123	2.170	122,854	313384A/B5A	26656	123,100
Fund Total and Average		\$ 248,000	2.087		\$ 245,998		123	2.134	\$ 245,708			\$ 246,231

Geo 2016A Debt Service

U.S. Treasury	USBT	54,000	1.949	07/31/2018	53,564	12/27/2018	117	1.993	53,638	912796QQ5	26635	53,658
U.S. Treasury	USBT	55,000	2.017	08/31/2018	54,636	12/27/2018	117	2.059	54,632	912796QQ5	26657	54,639
Fund Total and Average		\$ 109,000	1.984		\$ 108,200		117	2.027	\$ 108,270			\$ 108,297

Geothermal Special Reserve

Union Bank of Calif	UBOC	0	0.002	07/01/2013	0		1	0.002	0	SVST70015	70015	0
Federal Home Loan Mt	UBOC	1,500,000	1.150	02/26/2016	1,500,000	11/26/2018	86	1.150	1,496,865	3134G8KV0	26302	1,500,000
Fund Total and Average		\$ 1,500,000	1.150		\$ 1,500,000		86	1.150	\$ 1,496,865			\$ 1,500,000

Geo Decommissioning Reserve

Local Agency Investm	LAIF	4,882,201	1.899	07/01/2013	4,882,201		1	1.899	4,882,201	SVST70027	70027	4,882,201
Union Bank of Calif	UBOC	468,486	0.002	07/01/2013	468,486		1	0.002	468,486	SVST70034	70034	468,486
Federal National Mig	UBOC	2,000,000	1.500	08/30/2016	2,000,000	05/28/2021	1,000	1.500	1,930,020	3136G33W3	26369	2,000,000
Ally Bank	UBOC	250,000	3.000	08/30/2018	250,000	08/30/2021	1,094	3.000	249,968	02007GEC2	30312	250,000
PNC Bank NA	UBOC	750,000	2.550	03/15/2018	735,450	12/09/2021	1,195	3.103	732,443	68935REY0	26553	737,247
Federal Home Loan Mt	UBOC	941,000	2.200	01/30/2017	941,000	01/28/2022	1,243	2.200	915,706	3134GAV92	26404	941,000
Apple Inc.	UBOC	861,211	2.300	11/29/2017	860,117	05/11/2022	1,348	2.329	840,706	037833CQ1	26499	860,303
Wells Fargo Bank	UBOC	250,000	3.150	08/30/2018	250,000	08/30/2022	1,459	3.150	247,860	949763TL0	30311	250,000
Great North Bank	UBOC	250,000	3.050	08/31/2018	250,000	08/31/2022	1,460	3.050	249,248	39103QAF3	30310	250,000
Walt Disney Company/	UBOC	750,000	2.350	03/15/2018	728,580	12/01/2022	1,552	3.004	723,420	25468PCW4	26551	730,677
General Electric Co.	UBOC	750,000	3.100	03/15/2018	740,385	01/09/2023	1,591	3.390	740,010	36962G6S8	26552	741,305
John Deere Capital C	UBOC	750,000	2.800	03/15/2018	739,748	01/27/2023	1,509	3.104	737,168	2442ZERT8	26550	740,719
Bank of NY Mellon Co	UBOC	750,000	2.950	03/15/2018	740,610	01/29/2023	1,611	3.229	737,190	06406RAE7	26549	741,499
IBM Credit LLC	UBOC	500,000	3.000	03/15/2018	496,820	02/06/2023	1,619	3.140	494,545	44932HAH6	26548	497,120



Northern California Power Agency
Treasurer's Report
08/31/2018

Geo Decommissioning Reserve

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
Federal Home Loan Mt	UBOC	2,000,000	2.700	06/14/2018	2,000,000	06/14/2023	1,747	3.316	1,998,120	3134GSNE1	26523	2,000,000
Enerbank USA	UBOC	250,000	3.200	08/30/2018	250,000	08/30/2023	1,824	3.200	248,638	29278TCP3	30309	250,000
Federal Farm Credit	UBOC	2,000,000	3.450	07/27/2018	1,999,300	07/23/2025	2,517	3.455	2,002,800	3133EJLT4	26644	1,999,309
Fund Total and Average		\$ 18,402,898	2.365		\$ 18,332,697		1129	2.521	\$ 18,198,529			\$ 18,339,866

GEO Debt Service Reserve Acct

U.S. Treasury	USB	56,000	1.823	02/27/2018	55,041	01/31/2019	152	1.872	55,493	912796PP8	26536	55,569
Federal Home Loan Mt	USBT	907,000	1.750	06/02/2015	920,886	06/30/2019	271	1.354	902,592	3137EADG1	26228	909,598
Federal Home Loan Mt	USBT	2,515,000	1.250	02/27/2015	2,483,839	10/02/2019	396	1.530	2,481,500	3137EADW8	26197	2,507,638
Fund Total and Average		\$ 3,478,000	1.390		\$ 3,459,766		359	1.490	\$ 3,439,585			\$ 3,472,805

Geo 2012A DSR Account

U.S. Treasury	USB	41,000	1.555	01/03/2018	40,403	12/06/2018	96	1.594	40,779	912796PE3	26511	40,830
Federal National Mtg	USBT	1,517,000	1.625	05/25/2016	1,517,000	05/25/2021	997	1.625	1,468,319	3136G3NL5	26333	1,517,000
Fund Total and Average		\$ 1,558,000	1.623		\$ 1,557,403		973	1.624	\$ 1,509,098			\$ 1,557,830
GRAND TOTALS:		\$ 25,766,898	2.108		\$ 25,671,261		922	2.235	\$ 25,464,703.			\$ 25,692,670

*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 #26302 FHLMC Callable quarterly
- Investment #26333 FNMMA Callable quarterly
- Investment #26369 FNMMA Callable quarterly
- Investment #26404 FHLMC Callable quarterly
- Investment #26644 FFCB Callable anytime starting 7/23/2021



Northern California Power Agency

Treasurer's Report

08/31/2018

Cap Facilities Debt Service

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
Federal Home Loan Mt	USBT	480,000	2.160	08/31/2018	475,565	02/01/2019	153	2.210	475,541	313396BH5A	26631	475,594
Fund Total and Average		\$ 480,000	2.160		\$ 475,565		153	2.210	\$ 475,541			\$ 475,594
Cap. Fac. Debt Svc Reserve												
U.S. Treasury	USB	37,000	1.554	01/03/2018	36,461	12/06/2018	96	1.594	36,801	912796PE3	26514	36,847
Federal National Mtg	USB	71,000	1.530	07/28/2016	71,000	07/28/2021	1,061	1.530	68,049	3136C3S97	26368	71,000
Federal Home Loan Mt	USB	1,443,000	2.375	02/13/2012	1,447,430	01/13/2022	1,230	2.340	1,425,222	3137EADB2	25845	1,444,504
Fund Total and Average		\$ 1,551,000	2.317		\$ 1,554,891		1195	2.285	\$ 1,530,072			\$ 1,552,351
GRAND TOTALS:		\$ 2,031,000	2.280		\$ 2,030,456		951	2.268	\$ 2,005,613.			\$ 2,027,945

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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 #26358 FNMA Callable quarterly



Northern California Power Agency
Treasurer's Report
08/31/2018

Capital Dev. Reserve Hydro

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
Local Agency Investm	LAF	4,779,953	1.899	07/01/2013	4,779,953		1	1.899	4,779,953	SYS70028	70028	4,779,953
Union Bank of Calif	UBCC	2,027,707	0.002	07/01/2013	2,027,707		1	0.002	2,027,707	SYS70031	70031	2,027,707
Federal National Mtg	UBCC	3,320,000	1.350	06/30/2016	3,320,000	12/30/2019	485	1.350	3,259,642	3136G3VH5	26340	3,320,000
Branch Banking & Tru	UBCC	500,000	2.625	06/13/2018	488,420	01/15/2022	1,232	3.314	490,175	07330NAQ8	26618	489,119
Exxon Mobil Corporat	UBCC	500,000	2.397	06/13/2018	490,350	03/06/2022	1,282	2.946	490,900	30231GAL1	26621	490,910
US Bank	UBCC	550,000	3.000	08/10/2018	546,607	03/15/2022	1,291	3.182	546,156	91159HHC7	26651	546,562
Public Storage	UBCC	500,000	2.370	03/14/2018	485,770	09/15/2022	1,475	3.051	482,400	74460DAB5	26546	487,236
Visa Inc.	UBCC	500,000	2.800	03/14/2018	494,470	12/14/2022	1,565	3.051	493,105	92828CAC6	26547	495,010
Toyota Motor Credit	UBCC	500,000	2.700	05/13/2018	489,100	01/11/2023	1,593	3.215	488,350	89236TEL5	26619	489,616
Oracle Corp.	UBCC	500,000	2.625	03/14/2018	488,715	02/15/2023	1,628	3.121	487,945	68389XBR5	26545	489,779
Boeing Co.	UBCC	500,000	2.800	03/14/2018	496,070	03/01/2023	1,642	2.971	493,660	097023BW4	26544	496,437
United Parcel Servic	UBCC	500,000	2.500	06/13/2018	484,900	04/01/2023	1,673	3.182	484,445	911312BK1	26620	485,582
Colgate-Palmolive Co	UBCC	550,000	2.100	08/09/2018	528,660	05/01/2023	1,703	2.985	525,195	19416QEC0	26652	528,936
Federal Home Loan Ba	UBCC	1,150,000	3.050	08/08/2018	1,145,113	06/13/2023	1,746	3.144	1,143,238	3130AEEJ5	26649	1,145,177
Federal Home Loan Mt	UBCC	1,000,000	3.250	06/08/2018	1,000,000	06/28/2023	1,761	3.249	1,000,070	3134GSSNY7	26650	1,000,000
Fund Total and Average		\$ 17,377,660	1.926		\$ 17,265,535		748	2.080	\$ 17,193,141			\$ 17,272,124
Hydro Initial Facilities												
Federal National Mtg	USB	1,529,000	1.625	12/12/2014	1,539,244	11/27/2018	87	1.450	1,527,058	3135G0Y14	26189	1,529,618
Federal Farm Credit	USB	2,437,000	1.250	02/02/2016	2,450,501	01/22/2019	143	1.080	2,427,618	3133EFVQ7	26300	2,438,779
Fund Total and Average		\$ 3,966,000	1.395		\$ 3,989,745		121	1.210	\$ 3,954,676			\$ 3,968,397
Hydro Debt Service												
Federal Home Loan Ba	USBT	1,803,000	2.050	07/31/2018	1,787,086	01/02/2019	123	2.096	1,786,340	313384AB5A	26636	1,790,371
Federal Home Loan Ba	USBT	1,802,000	2.125	08/31/2018	1,788,810	01/02/2019	123	2.170	1,785,350	313384AB5A	26658	1,788,917
Fund Total and Average		\$ 3,605,000	2.087		\$ 3,575,896		123	2.134	\$ 3,571,690			\$ 3,579,288
Hydro 2018A Debt Service												
Federal Home Loan Ba	USBT	1,036,000	2.050	07/31/2018	1,026,656	01/02/2019	123	2.096	1,026,427	313384AB5A	26637	1,028,744
Federal Home Loan Ba	USBT	1,035,000	2.125	08/31/2018	1,027,424	01/02/2019	123	2.170	1,025,437	313384AB5A	26659	1,027,485
Fund Total and Average		\$ 2,071,000	2.087		\$ 2,054,080		123	2.134	\$ 2,051,864			\$ 2,056,229
Hydro 2018B Debt Service												
Federal Home Loan Ba	USBT	115,000	2.050	07/31/2018	113,995	01/02/2019	123	2.096	113,937	313384AB5A	26638	114,195



**Northern California Power Agency
Treasurer's Report
08/31/2018**

Hydro 2018B Debt Service

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
Federal Home Loan Ba	USBT	123,000	2.125	08/31/2018	122,100	01/02/2019	123	2.170	121,863	313384AB5A	26660	122,107
Fund Total and Average		\$ 238,000	2.089		\$ 236,085		123	2.135	\$ 235,800			\$ 236,302

Hydro Debt Service Resrv 2010A

U.S. Treasury	USB	52,000	1.625	02/27/2018	51,780	06/30/2019	302	1.945	51,659	912828WS5	26537	51,864
Federal Home Loan Ba	USB	136,000	4.375	07/28/2017	142,601	07/01/2019	303	1.400	137,147	3133XU3G6	26451	138,290
Federal Farm Credit	USB	5,528,000	1.750	08/28/2015	5,546,187	08/04/2020	703	1.680	5,428,607	3133EE5Z9	26243	5,535,097
Fund Total and Average		\$ 5,715,000	1.812		\$ 5,740,568		690	1.676	\$ 5,617,413			\$ 5,725,251

Hydro 2012A Rebate Account

Federal Home Loan Mt	USB	689,000	1.875	04/28/2017	691,391	08/09/2021	1,073	1.790	673,001	3134G93A3	26432	690,641
Fund Total and Average		\$ 689,000	1.875		\$ 691,391		1073	1.790	\$ 673,001			\$ 690,641

Hydro Special Reserve

Local Agency Investm	LAIF	0	0.377	07/01/2013	0		1	0.377	0	SYST70000	70003	0
Union Bank of Califo	UBOC	0	0.002	07/01/2013	0		1	0.002	0	SYST70016	70016	0
Federal Home Loan Mt	UBOC	1,500,000	1.150	02/26/2016	1,500,000	11/26/2018	86	1.150	1,496,865	3134G8KVO	26303	1,500,000
Fund Total and Average		\$ 1,500,000	1.150		\$ 1,500,000		86	1.150	\$ 1,496,865			\$ 1,500,000

Hydro 2012 Cost of Issuance

US Bank	USB	0	0.040	07/01/2013	0		1	0.040	0	SYST9061	79061	0
Fund Total and Average		\$ 0	*** **		\$ 0		*** **	*** **	\$ 0			\$ 0

Hydro 2012 DSRA

Federal Farm Credit	USB	100,000	1.750	08/28/2015	100,329	09/04/2020	703	1.680	98,202	3133EE5Z9	26244	100,128
U.S. Treasury	USB	146,000	2.250	02/27/2018	145,992	02/15/2021	898	2.251	144,534	9128283X6	26539	145,994
Federal National Mtg	USB	94,000	1.530	07/28/2016	94,000	07/28/2021	1,061	1.530	90,093	3136G3S97	26359	94,000
Federal Home Loan Mt	USB	3,928,000	2.375	02/09/2012	3,926,232	01/13/2022	1,230	2.380	3,879,607	3137EADB2	26652	3,927,401
Fund Total and Average		\$ 4,268,000	2.337		\$ 4,266,553		1203	2.340	\$ 4,212,436			\$ 4,267,523
GRAND TOTALS:		\$ 39,429,660	1.894		\$ 39,320,353		613	1.929	\$ 39,006,886			\$ 39,285,755

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Investment #26303	FHLMC	Callible quarterly
Investment #26340	FNMA	Callible quarterly
Investment #26359	FNMA	Callible quarterly
Investment #26649	FHLB	Callible on 6/13/2019
Investment #26650	FHLMC	Callible on 12/28/2018
Investment #26651	USB	Callible on 2/15/2022



LEC GHG Auction Acct

Northern California Power Agency
 Treasurer's Report
 08/31/2018

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
Local Agency Investm		72,868	1.899	07/01/2013	72,868		1	1.899	72,868	SYST70046	70046	72,868
Fund Total and Average		\$ 72,868	1.899		\$ 72,868		1	1.899	\$ 72,868			\$ 72,868

LEC Issue#1 2010A DS Fund

US Bank Trust	USB	800	0.600	07/01/2013	800		1	0.600	800	SYST79003	79003	800
U.S. Treasury	USBT	722,000	2.055	08/31/2018	718,291	11/29/2018	89	2.094	718,433	912796QL6	26662	718,332
Federal Home Loan Ba	USBT	1,271,000	2.030	07/31/2018	1,262,041	12/03/2018	93	2.072	1,264,200	313385R73	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

US Bank Trust	USB	733	0.600	07/01/2013	733		1	0.600	733	SYST79004	79004	733
U.S. Treasury	USBT	729,000	2.055	08/31/2018	725,255	11/29/2018	89	2.094	725,399	912796QL6	26663	725,296
Federal Home Loan Ba	USBT	1,460,000	2.030	07/31/2018	1,449,709	12/03/2018	93	2.072	1,452,189	313385R73	26640	1,452,344
Fund Total and Average		\$ 2,189,733	2.038		\$ 2,175,697		92	2.079	\$ 2,178,321			\$ 2,178,373

LEC Issue #2 2010A DS Fund

US Bank Trust	USB	867	0.600	07/01/2013	867		1	0.600	867	SYST79011	79011	867
U.S. Treasury	USBT	436,000	2.055	08/31/2018	433,760	11/29/2018	89	2.094	433,846	912796QL6	26664	433,785
Federal Home Loan Ba	USBT	838,000	2.030	07/31/2018	832,093	12/03/2018	93	2.072	833,517	313385R73	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

US Bank Trust	USB	219	0.600	07/01/2013	219		1	0.600	219	SYST79012	79012	219
U.S. Treasury	USBT	350,000	2.055	08/31/2018	348,202	11/29/2018	89	2.094	348,271	912796QL6	26665	348,222
Federal Home Loan Ba	USBT	702,000	2.030	07/31/2018	697,052	12/03/2018	93	2.072	698,244	313385R73	26642	698,319
Fund Total and Average		\$ 1,052,219	2.038		\$ 1,046,473		92	2.080	\$ 1,046,734			\$ 1,046,760

LEC Issue#1 2017A DS Fund

U.S. Treasury	USBT	124,000	2.055	08/31/2018	123,363	11/29/2018	89	2.094	123,387	912796QL6	26666	123,370
Federal Home Loan Ba	USBT	248,000	2.030	07/31/2018	246,252	12/03/2018	93	2.072	246,673	313385R73	26643	246,699
Fund Total and Average		\$ 372,000	2.038		\$ 369,615		92	2.080	\$ 370,060			\$ 370,069



Northern California Power Agency
Treasurer's Report
08/31/2018

LEC Issue #1 2010 DSR 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	81,585	0.600	07/01/2013	81,585	06/30/2019	1	0.600	81,585	SY579005	79005	81,585
U.S. Treasury	USB	85,000	1.625	02/27/2018	84,641	06/30/2019	302	1.945	84,442	912828WS5	26538	84,778
Federal Farm Credit	USB	4,360,000	1.660	06/08/2016	4,360,000	05/25/2021	997	1.659	4,233,734	3133EGBZ7	26337	4,360,000
Federal Home Loan Mt	USB	150,000	1.125	07/28/2017	146,648	08/12/2021	1,076	1.699	143,321	3137EAE09	26454	147,554
Federal Home Loan Ba	USB	4,100,000	2.125	08/28/2017	4,168,306	06/10/2022	1,378	1.780	4,001,477	313379069	26463	4,153,907
Fund Total and Average		\$ 8,776,585	1.860		\$ 8,841,180		1162	1.701	\$ 8,544,559			\$ 8,827,824

LEC Iss#1 2010B BABS Subs Resv

US Bank Trust	USB	36,637	0.600	07/01/2013	36,637	07/31/2019	1	0.600	36,637	SY579006	79006	36,637
U.S. Treasury	USB	38,000	1.823	02/27/2018	37,349	07/31/2019	152	1.872	37,656	912796PP8	26534	37,707
Federal Home Loan Ba	USB	2,145,000	3.375	07/28/2017	2,255,146	06/12/2020	650	1.540	2,170,418	313370E38	26455	2,213,282
Fund Total and Average		\$ 2,219,637	3.305		\$ 2,329,132		631	1.530	\$ 2,244,711			\$ 2,287,626

LEC Issue #2 2010B DSR BABS

US Bank Trust	USB	23,064	0.600	07/01/2013	23,064	07/31/2019	1	0.600	23,064	SY579013	79013	23,064
U.S. Treasury	USB	25,000	1.823	02/27/2018	24,572	07/31/2019	152	1.872	24,774	912796PP8	26535	24,808
Federal Home Loan Ba	USB	1,025,000	4.375	07/28/2017	1,082,708	07/01/2019	303	1.400	1,041,298	3133XU9C6	26456	1,049,982
Fund Total and Average		\$ 1,073,064	4.238		\$ 1,130,344		293	1.394	\$ 1,099,136			\$ 1,097,854

LEC O & M Reserve

Local Agency Investm	UBOC	1,714,390	1.899	07/01/2013	1,714,390	07/01/2019	1	1.899	1,714,390	SY570047	70047	1,714,390
Union Bank of Calito	UBOC	47,059	0.002	07/18/2013	47,059	02/19/2019	1	0.002	47,059	SY570041	70041	47,059
Federal National Mfg	UBOC	2,933,000	1.875	08/28/2015	2,998,142	06/05/2020	171	1.220	2,927,486	3135G0Z44	26248	2,941,748
Federal Home Loan Ba	USB	3,615,000	1.540	06/30/2017	3,613,952	06/30/2020	643	1.550	3,547,363	3130A,BJ00	26440	3,614,370
Federal National Mfg	UBOC	3,000,000	1.300	06/30/2016	3,000,000	06/30/2020	668	1.300	2,929,260	3136C3UJ2	26341	3,000,000
Fund Total and Average		\$ 11,309,449	1.611		\$ 11,373,543		427	1.445	\$ 11,165,588			\$ 11,317,567
GRAND TOTALS:		\$ 30,334,222	2.002		\$ 30,585,704		574	1.667	\$ 29,963,610.			\$ 30,450,665

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Investment #26337 FCCB Callable anytime



Commission Staff Report

Date: September 19, 2018

COMMISSION MEETING DATE: September 28, 2018

SUBJECT: Advanced Turbine Support, LLC – Five Year Multi-Task Consulting Services Agreement for borescope inspection and non-destructive testing services; Applicable to the following projects: All NCPA Facility Locations, Members, SCPPA, and SCPPA Members

AGENDA CATEGORY: Consent

FROM:	Ken Speer <i>KS</i> Assistant General Manager	METHOD OF SELECTION: N/A
Division:	Generation Services	<i>If other, please describe:</i>
Department:	Combustion Turbines	

IMPACTED MEMBERS:		
All Members	<input checked="" type="checkbox"/>	City of Lodi <input type="checkbox"/>
Alameda Municipal Power	<input type="checkbox"/>	City of Shasta Lake <input type="checkbox"/>
San Francisco Bay Area Rapid Transit	<input type="checkbox"/>	City of Lompoc <input type="checkbox"/>
City of Biggs	<input type="checkbox"/>	City of Palo Alto <input type="checkbox"/>
City of Gridley	<input type="checkbox"/>	City of Redding <input type="checkbox"/>
City of Healdsburg	<input type="checkbox"/>	City of Roseville <input type="checkbox"/>
		City of Santa Clara <input type="checkbox"/>
		Plumas-Sierra REC <input type="checkbox"/>
		Port of Oakland <input type="checkbox"/>
		Truckee Donner PUD <input type="checkbox"/>
		Other <input type="checkbox"/>
<i>If other, please specify</i>		

RECOMMENDATION:

Approval of Resolution 18-73 authorizing the General Manager or his designee to enter into a Multi-Task Consulting Services Agreement with Advanced Turbine Support, LLC for borescope inspection 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 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:

Boreprobe 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.

FISCAL IMPACT:

Upon execution, the total cost of the agreement is not to exceed \$250,000 to be used out of the NCPA approved budget. Purchase orders referencing the terms and conditions of the Agreement will be issued following NCPA procurement policies and procedures.

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.

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.

COMMITTEE REVIEW:

The recommendation above was reviewed by the Facilities Committee on September 5, 2018, and was recommended for Commission approval on Consent Calendar.

The recommendation above was reviewed by the Lodi Energy Center Project Participant Committee on September 10, 2018, and was approved.

Respectfully submitted,

A handwritten signature in blue ink, appearing to read "Randy S. Howard".

RANDY S. HOWARD
General Manager

Attachments (2):

- Resolution
- Multi-Task Consulting Services Agreement with Advanced Turbine Support, LLC

RESOLUTION 18-73

**RESOLUTION OF THE NORTHERN CALIFORNIA POWER AGENCY
APPROVING A MULTI-TASK CONSULTING SERVICES AGREEMENT WITH ADVANCED
TURBINE SUPPORT, LLC**

(reference Staff Report 197:18)

WHEREAS, borescope inspections and non-destructive testing services are periodically required at facilities owned and/or operated by Northern California Power Agency (NCPA), its Members, the Southern California Public Power Authority (SCPPA), and SCPPA Members; and

WHEREAS, Advanced Turbine Support, LLC is a provider of these services; and

WHEREAS, NCPA seeks to enter into a Multi-Task Consulting Services Agreement with Advanced Turbine Support, LLC to provide such services as needed at all NCPA Generation facility locations, Member, SCPPA, and SCPPA Member facilities in an amount not to exceed \$250,000 over five years; and

WHEREAS, 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; and

NOW, THEREFORE BE IT RESOLVED, that the Commission of the Northern California Power Agency authorizes the General Manager or his designee to enter into a Multi-Task Consulting Services Agreement with Advanced Turbine Support, LLC with any non-substantial changes as approved by the NCPA General Counsel, which shall not exceed \$250,000 over five years for borescope inspections and non-destructive testing services 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.

PASSED, ADOPTED and APPROVED this ____ day of _____, 2018 by the following vote on roll call:

	<u>Vote</u>	<u>Abstained</u>	<u>Absent</u>
Alameda	_____	_____	_____
BART	_____	_____	_____
Biggs	_____	_____	_____
Gridley	_____	_____	_____
Healdsburg	_____	_____	_____
Lodi	_____	_____	_____
Lompoc	_____	_____	_____
Palo Alto	_____	_____	_____
Port of Oakland	_____	_____	_____
Redding	_____	_____	_____
Roseville	_____	_____	_____
Santa Clara	_____	_____	_____
Shasta Lake	_____	_____	_____
Truckee Donner	_____	_____	_____
Ukiah	_____	_____	_____
Plumas-Sierra	_____	_____	_____

BOB LINGL
CHAIR

ATTEST:

CARY A. PADGETT
ASSISTANT SECRETARY



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, Gainseville, 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 **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.

4.4.5 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 ensures 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

ADVANCED TURBINE SUPPORT, LLC

Date _____

Date _____

RANDY S. HOWARD
General Manager

CHRIS MCGINLEY,
Operations Manager / Controller

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:

- Borecope 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.



Commission Staff Report

Date: September 19, 2018

COMMISSION MEETING DATE: September 28, 2018

SUBJECT: Burns & McDonnell Engineering Company, Inc. – First Amendment to Five Year Multi-Task Professional Services Agreement; Applicable to the following projects: All NCPA Generation Plant Facilities, Members, Southern California Public Power Authority (“SCPPA”) or SCPPA Members.

AGENDA CATEGORY: Consent

FROM:	Ken Speer <i>KS</i> Assistant General Manager	METHOD OF SELECTION: N/A
Division:	Generation Services	<i>If other, please describe:</i>
Department:	Generation Services	

IMPACTED MEMBERS:		
All Members	<input checked="" type="checkbox"/>	City of Lodi <input type="checkbox"/>
Alameda Municipal Power	<input type="checkbox"/>	City of Shasta Lake <input type="checkbox"/>
San Francisco Bay Area Rapid Transit	<input type="checkbox"/>	City of Lompoc <input type="checkbox"/>
City of Biggs	<input type="checkbox"/>	City of Palo Alto <input type="checkbox"/>
City of Gridley	<input type="checkbox"/>	City of Redding <input type="checkbox"/>
City of Healdsburg	<input type="checkbox"/>	City of Roseville <input type="checkbox"/>
		City of Santa Clara <input type="checkbox"/>
		Plumas-Sierra REC <input type="checkbox"/>
		Port of Oakland <input type="checkbox"/>
		Truckee Donner PUD <input type="checkbox"/>
		Other <input type="checkbox"/>
<i>If other, please specify</i>		

RECOMMENDATION:

Approval of Resolution 18-74 authorizing the General Manager or his designee to enter into a First Amendment to Multi-Task Professional Services Agreement with Burns & McDonnell Engineering Company, Inc., 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 any facilities owned and/or operated by Agency, its Members, SCPPA, or SCPPA Members.

BACKGROUND:

Various consulting services are required at 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 27, 2016 (SR: 203:16, Reso: 16-72) 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.

FISCAL IMPACT:

Total cost of the project is \$4,000,000 over five years to be used out of NCPA Approved Annual Operating Budgets as services are rendered. Purchase orders referencing the terms and conditions of the agreement will be issued following NCPA Procure Policies and Procedures.

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 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. 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.

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.

COMMITTEE REVIEW:

The recommendation above was reviewed by the Facilities Committee on September 5, 2018, and was recommended for Commission approval on Consent Calendar.

The recommendation above was reviewed by the Lodi Energy Center Project Participant Committee on September 10, 2018, and was approved.

Respectfully submitted,



RANDY S. HOWARD
General Manager

Attachments (3):

- Resolution
- Multi-Task Professional Services Agreement with Burns & McDonnell Engineering Company, Inc.
- First Amendment to Multi-Task Professional Services Agreement with Burns & McDonnell Engineering Company, Inc.

RESOLUTION 18-74

**RESOLUTION OF THE NORTHERN CALIFORNIA POWER AGENCY
APPROVING A FIRST AMENDMENT TO MULTI-TASK PROFESSIONAL SERVICES
AGREEMENT WITH BURNS & MCDONNELL ENGINEERING COMPANY, INC.**

(reference Staff Report #198:18)

WHEREAS, consulting services, including feasibility studies, transmission and distribution planning, and power and renewable project development, are required from time to time at facilities owned and/or operated by Northern California Power Agency (NCPA), its Members, Southern California Public Power Authority ("SCPPA"), and SCPPA Members; and

WHEREAS, Burns & McDonnell Engineering Company, Inc. is a provider of these services; and

WHEREAS, NCPA entered into a five-year Multi-Task Professional Services Agreement with Burns & McDonnell Engineering Company, Inc. on October 26, 2016; and

WHEREAS, NCPA seeks to increase the not to exceed amount of the current agreement from \$1,000,000 to \$4,000,000; and

WHEREAS, 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; and

NOW, THEREFORE BE IT RESOLVED, that the Commission of the Northern California Power Agency authorizes the General Manager or his designee to enter into a First Amendment to the Multi-Task Professional Services Agreement with Burns & McDonnell Engineering Company, Inc. with an non-substantial changes as 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, the Southern California Public Power Authority ("SCPPA"), and SCPPA Members.

PASSED, ADOPTED and APPROVED this ____ day of _____, 2018 by the following vote on roll call:

	<u>Vote</u>	<u>Abstained</u>	<u>Absent</u>
Alameda	_____	_____	_____
San Francisco BART	_____	_____	_____
Biggs	_____	_____	_____
Gridley	_____	_____	_____
Healdsburg	_____	_____	_____
Lodi	_____	_____	_____
Lompoc	_____	_____	_____
Palo Alto	_____	_____	_____
Port of Oakland	_____	_____	_____
Redding	_____	_____	_____
Roseville	_____	_____	_____
Santa Clara	_____	_____	_____
Shasta Lake	_____	_____	_____
Truckee Donner	_____	_____	_____
Ukiah	_____	_____	_____
Plumas-Sierra	_____	_____	_____

BOB LINGL
CHAIR

ATTEST: _____
CARY A. PADGETT
ASSISTANT SECRETARY



**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 Oct. 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:

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. 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, SCPA and/or SCPA 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, SCPA 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,

copyrights, trade secrets, patented, patent pending, or other patentable technology, processes, or business practices).

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; 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, 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 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.

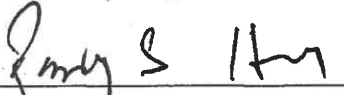
The Parties have executed this Agreement as of the date signed by the Agency.

NORTHERN CALIFORNIA POWER AGENCY

BURNS & MCDONNELL ENGINEERING
COMPANY, INC.

Date 11/7/16

Date 10/26/16


Randy S. Howard, General Manager


Jeff Greig, Senior Vice President

Attest:


Assistant Secretary of the Commission

Approved as to Form:

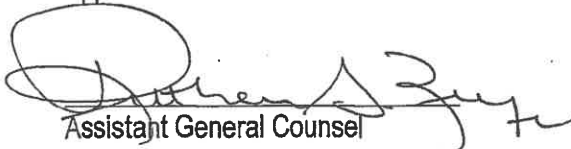

Assistant General Counsel

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

Position Classification	Classification Level	Hourly Billing Rate
General Office *	5	\$62.00
Technician *	6	76.00
Assistant *	7	87.00
	8	119.00
	9	139.00
Staff *	10	157.00
	11	171.00
Senior	12	189.00
	13	209.00
Associate	14	218.00
	15	231.00
	16	235.00
	17	240.00

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 \$8.95 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.

Form BMR1016

EXHIBIT C

CERTIFICATION

Affidavit of Compliance for Contractors

I,

Jeffrey J. Greig 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]
(Signature of officer or agent)

Dated this 26th day of October, 20 16.

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.

2676668.10



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,

A handwritten signature in black ink, appearing to read "Jeff Greig".

Jeff Greig
Senior Vice President, Burns & McDonnell



Northern California Power Agency
October 26, 2016
Page 2

ACKNOWLEDGED:

Northern California Power Agency

Jimmy S. Ivey GM

Name & 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,

A handwritten signature in black ink, appearing to read "Chris Underwood". The signature is fluid and cursive.

Chris Underwood
General Manager

CU / ad

Enclosure Attachment
cc: BMR1018
cc: Adam Young

Schedule of Hourly Professional Service Billing Rates

<u>Position Classification</u>	<u>Classification Level</u>	<u>Hourly Billing Rate</u>
General Office *	5	\$63.00
Technician *	6	79.00
Assistant *	7	91.00
	8	122.00
	9	148.00
Staff *	10	169.00
	11	185.00
Senior	12	204.00
	13	227.00
Associate	14	236.00
	15	244.00
	16	249.00
	17	252.00

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.



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 MCDONNELL ENGINEERING
COMPANY, INC.

CHRIS UNDERWOOD, General Manager



Commission Staff Report

Date: September 19, 2018

COMMISSION MEETING DATE: September 28, 2018

SUBJECT: Ernie & Sons Scaffolding dba Unique Scaffold – Five Year Multi-Task General Services Agreement for scaffolding services; Applicable to the following projects: All NCPA Facility Locations, Members, SCPPA, and SCPPA Members

AGENDA CATEGORY: Consent

FROM:	Ken Speer Assistant General Manager	METHOD OF SELECTION:	N/A
Division:	Generation Services	<i>If other, please describe:</i>	
Department:	Combustion Turbines		

IMPACTED MEMBERS:			
All Members	<input checked="" type="checkbox"/>	City of Lodi	<input type="checkbox"/>
Alameda Municipal Power	<input type="checkbox"/>	City of Lompoc	<input type="checkbox"/>
San Francisco Bay Area Rapid Transit	<input type="checkbox"/>	City of Palo Alto	<input type="checkbox"/>
City of Biggs	<input type="checkbox"/>	City of Redding	<input type="checkbox"/>
City of Gridley	<input type="checkbox"/>	City of Roseville	<input type="checkbox"/>
City of Healdsburg	<input type="checkbox"/>	City of Santa Clara	<input type="checkbox"/>
		City of Shasta Lake	<input type="checkbox"/>
		City of Ukiah	<input type="checkbox"/>
		Plumas-Sierra REC	<input type="checkbox"/>
		Port of Oakland	<input type="checkbox"/>
		Truckee Donner PUD	<input type="checkbox"/>
		Other	<input type="checkbox"/>
<i>If other, please specify</i>			

RECOMMENDATION:

Approval of Resolution 18-75 authorizing the General Manager or his designee to enter into a 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 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:

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.

FISCAL IMPACT:

Upon execution, the total cost of the agreement is not to exceed \$2,000,000 to be used out of the NCPA approved budget. Purchase orders referencing the terms and conditions of the Agreement will be issued following NCPA procurement policies and procedures.

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.

ENVIRONMENTAL ANALYSIS:

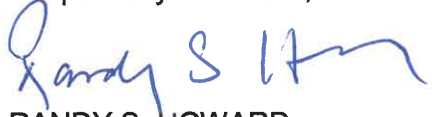
This activity would not result in a direct or reasonably foreseeable indirect change in the physical environment and is therefore not a “project” for purposes of Section 21065 the California Environmental Quality Act. No environmental review is necessary.

COMMITTEE REVIEW:

The recommendation above was reviewed by the Facilities Committee on September 5, 2018, and was recommended for Commission approval on Consent Calendar.

The recommendation above was reviewed by the Lodi Energy Center Project Participant Committee on September 10, 2018, and was approved.

Respectfully submitted,

A handwritten signature in blue ink that reads "Randy S. Howard". The signature is fluid and cursive, with the first name "Randy" being the most prominent.

RANDY S. HOWARD
General Manager

Attachments (2):

- Resolution
- Multi-Task General Services Agreement with Ernie & Sons Scaffolding dba Unique Scaffold

RESOLUTION 18-75

**RESOLUTION OF THE NORTHERN CALIFORNIA POWER AGENCY
APPROVING A MULTI-TASK GENERAL SERVICES AGREEMENT WITH ERNIE & SONS
SCAFFOLDING DBA UNIQUE SCAFFOLD**

(reference Staff Report 199:18)

WHEREAS, scaffolding services are periodically required at the facilities owned and/or operated by Northern California Power Agency (NCPA), its Members, the Southern California Public Power Authority (SCPPA), and SCPPA Members; and

WHEREAS, Ernie & Sons Scaffolding dba Unique Scaffold is a provider of these services; and

WHEREAS, NCPA seeks to enter into a Multi-Task General Services Agreement with Ernie & Sons Scaffolding dba Unique Scaffold to provide such services as needed at all NCPA Generation facility locations, Member, SCPPA, and SCPPA Member facilities in an amount not to exceed \$2,000,000 over five years; and

WHEREAS, 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; and

NOW, THEREFORE BE IT RESOLVED, that the Commission of the Northern California Power Agency authorizes the General Manager or his designee to enter into a Multi-Task General Services Agreement with Ernie & Sons Scaffolding dba Unique Scaffold with any non-substantial changes as approved by the NCPA General Counsel, which shall not exceed \$2,000,000 for scaffolding services 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.

PASSED, ADOPTED and APPROVED this ____ day of _____, 2018 by the following vote on roll call:

	<u>Vote</u>	<u>Abstained</u>	<u>Absent</u>
Alameda	_____	_____	_____
BART	_____	_____	_____
Biggs	_____	_____	_____
Gridley	_____	_____	_____
Healdsburg	_____	_____	_____
Lodi	_____	_____	_____
Lompoc	_____	_____	_____
Palo Alto	_____	_____	_____
Port of Oakland	_____	_____	_____
Redding	_____	_____	_____
Roseville	_____	_____	_____
Santa Clara	_____	_____	_____
Shasta Lake	_____	_____	_____
Truckee Donner	_____	_____	_____
Ukiah	_____	_____	_____
Plumas-Sierra	_____	_____	_____

BOB LINGL
CHAIR

ATTEST:

CARY A. PADGETT
ASSISTANT SECRETARY



**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/> 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

ERNIE & SONS SCAFFOLDING DBA
UNIQUE SCAFFOLD

Date _____

Date _____

RANDY S. HOWARD, General Manager

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.

<u>Area 3 Labor Rates</u>	<u>Straight Time</u>	<u>Overtime</u>	<u>Double Time</u>	<u>Travel Time</u>
Per Hour	\$93.60	\$120.70	\$147.47	\$93.60

* 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.

<u>Area 3 Labor Rates</u>	<u>Straight Time</u>	<u>Overtime</u>	<u>Double Time</u>	<u>Travel Time</u>
Per Hour	\$98.00	\$125.05	\$153.08	\$97.64

* 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.

<u>Area 3 Labor Rates</u>	<u>Straight Time</u>	<u>Overtime</u>	<u>Double Time</u>	<u>Travel Time</u>
Per Hour	\$101.90	\$129.40	\$158.72	\$101.12

* 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.

<u>Area 3 Labor Rates</u>	<u>Straight Time</u>	<u>Overtime</u>	<u>Double Time</u>	<u>Travel Time</u>
Per Hour	\$105.94	\$133.86	\$164.48	\$104.71

* 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.

<u>Area 3 Labor Rates</u>	<u>Straight Time</u>	<u>Overtime</u>	<u>Double Time</u>	<u>Travel Time</u>
Per Hour	\$110.13	\$138.41	\$170.38	\$108.42

- 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.

<u>Area 1 Labor Rates</u>	<u>Straight Time</u>	<u>Overtime</u>	<u>Double Time</u>	<u>Travel Time</u>
Per Hour	\$97.62	\$126.35	\$155.52	\$97.62

* 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.

<u>Area 1 Labor Rates</u>	<u>Straight Time</u>	<u>Overtime</u>	<u>Double Time</u>	<u>Travel Time</u>
Per Hour	\$101.93	\$131.48	\$161.92	\$101.93

* 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.

<u>Area 1 Labor Rates</u>	<u>Straight Time</u>	<u>Overtime</u>	<u>Double Time</u>	<u>Travel Time</u>
Per Hour	\$105.73	\$136.09	\$167.81	\$105.73

* 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.

<u>Area 1 Labor Rates</u>	<u>Straight Time</u>	<u>Overtime</u>	<u>Double Time</u>	<u>Travel Time</u>
Per Hour	\$109.66	\$140.84	\$173.87	\$109.66

* 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.

<u>Area 1 Labor Rates</u>	<u>Straight Time</u>	<u>Overtime</u>	<u>Double Time</u>	<u>Travel Time</u>
Per Hour	\$113.74	\$145.73	\$180.10	\$113.74

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

- Consumables such as wire, nails, toe-board and small tools are included in the pricing.
 - Other consumables, i.e. full sheets of plywood, safety netting, I-beams or any other items uncommonly used for day to day scaffold use will be billed at cost plus 10%.
- Freight will be billed at cost plus 10%.
- Third Party rental equipment will be billed at cost plus 10%.
- Shrink wrap material/ accessories that are used per-request will be billed per (½ roll and or full roll) 12mil 30' x 100'.

○ July 1, 2018 – June 30, 2019	\$600.18 per full roll.	\$300.09 per half roll.
○ July 1, 2019 – June 30, 2020	\$618.19 per full roll.	\$309.09 per half roll.
○ July 1, 2020 – June 30, 2021	\$636.73 per full roll.	\$318.37 per half roll.
○ July 1, 2021 – June 30, 2022	\$655.83 per full roll.	\$327.92 per half roll.
○ July 1, 2022 – June 30, 2023	\$675.51 per full roll.	\$337.75 per half roll.
- Budget pricing will be provided for all projects prior to starting work, with the exception of emergency call out work. Pricing for this work will provided in a timely manner.
- All work will be done in accordance with NCCRC Agreement.
- Unique Scaffold will coordinate directly with NCPA on work being performed and at the sole discretion of on-site Manager(s).
- Unique Scaffold's project manager's responsibilities shall include inspection and tracking of all scaffold materials being stored and erected to ensure scaffold quality is within the Cal – OSHA requirements and Industry Standard Guidelines.
- No back charge for work by others on or incidental to our work under this Agreement will be accepted by or paid by us unless we have entered into written agreement relative to said charges prior to the performance of such work.
- Bid assumes that a material stocking area will be provided in close proximity to the area being erected or dismantle.
- Bid excludes cost of site-specific safety orientation or drug testing.
- Prices quoted are based on reasonable site access, allowed and/or provided by Customer.
- Pricing is based on Union wages.
- This proposal is subject to acceptance within 60 days.
- Our rates are based on prompt payment. Invoices not paid after 30 days will be subject to California State maximum interest rate of ½% per month on unpaid balance.
- Bid assumes that a forklift (crane etc.) will be available for our use in loading and unloading trucks and moving equipment around the jobsite.
- At your request, we shall make alterations and repairs at your expense. Unless otherwise specified herein, no alterations to our work shall be made by you without our written consent. Additional Labor and/or rental beyond the original scope of work will be performed on a Time & Material basis, with additional rental equipment charges to be charged at rates mentioned above.
- Any un-scheduled work/call outs will be a minimum of 4 hours per man & a 2 hour minimum per man (with travel time (if applicable)) in the event job gets cancelled due to customer/owner schedule change and or weather.

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)



Commission Staff Report

Date: September 19, 2018

COMMISSION MEETING DATE: September 28, 2018

SUBJECT: Fairchild & Wells, Inc. dba Fairchild & Associates – Five Year Multi-Task Consulting Services Agreement for well inspections and testing services; Applicable to the following projects: All NCPA Facility Locations.

AGENDA CATEGORY: Consent

FROM:	Ken Speer <i>KS</i>	METHOD OF SELECTION:
	Assistant General Manager	N/A
Division:	Generation Services	<i>If other, please describe:</i>
Department:	Combustion Turbines	

IMPACTED MEMBERS:		
All Members	<input type="checkbox"/>	City of Lodi <input checked="" type="checkbox"/>
Alameda Municipal Power	<input checked="" type="checkbox"/>	City of Shasta Lake <input type="checkbox"/>
San Francisco Bay Area Rapid Transit	<input checked="" type="checkbox"/>	City of Lompoc <input checked="" type="checkbox"/>
City of Biggs	<input checked="" type="checkbox"/>	City of Palo Alto <input checked="" type="checkbox"/>
City of Gridley	<input checked="" type="checkbox"/>	City of Redding <input type="checkbox"/>
City of Healdsburg	<input checked="" type="checkbox"/>	City of Roseville <input checked="" type="checkbox"/>
		City of Santa Clara <input checked="" type="checkbox"/>
		Plumas-Sierra REC <input checked="" type="checkbox"/>
		Port of Oakland <input type="checkbox"/>
		Truckee Donner PUD <input type="checkbox"/>
		Other <input checked="" type="checkbox"/>
	<i>If other, please specify</i>	Turlock

RECOMMENDATION:

Approval of Resolution 18-76 authorizing the General Manager or his designee to enter into a 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 five years, for use at all facilities owned and/or operated by NCPA.

BACKGROUND:

Well inspections and testing services are required from time to time related to project support at facilities owned and/or operated by NCPA.

FISCAL IMPACT:

Upon execution, the total cost of the agreement is not to exceed \$500,000 to be used out of the NCPA approved budget. Purchase orders referencing the terms and conditions of the Agreement will be issued following NCPA procurement policies and procedures.

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.

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.

COMMITTEE REVIEW:

The recommendation above was reviewed by the Facilities Committee on September 5, 2018, and was recommended for Commission approval on Consent Calendar.

The recommendation above was reviewed by the Lodi Energy Center Project Participant Committee on September 10, 2018, and was approved.

Respectfully submitted,



RANDY S. HOWARD
General Manager

Attachments (2):

- Resolution
- Multi-Task Consulting Services Agreement with Fairchild & Wells, Inc. dba Fairchild & Associates

RESOLUTION 18-76

**RESOLUTION OF THE NORTHERN CALIFORNIA POWER AGENCY
APPROVING A MULTI-TASK CONSULTING SERVICES AGREEMENT WITH FAIRCHILD &
WELLS, INC. DBA FAIRCHILD & ASSOCIATES**

(reference Staff Report 200:18)

WHEREAS, well inspections and testing services are periodically required at the facilities owned and/or operated by Northern California Power Agency (NCPA); and

WHEREAS, Fairchild & Wells, Inc. dba Fairchild & Associates is a provider of these services; and

WHEREAS, NCPA seeks to enter into a Multi-Task Consulting Services Agreement with Fairchild & Wells, Inc. dba Fairchild & Associates to provide such services as needed at all NCPA Generation facility locations; and

WHEREAS, 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; and

NOW, THEREFORE BE IT RESOLVED, that the Commission of the Northern California Power Agency authorizes the General Manager or his designee to enter into a Multi-Task Consulting Services Agreement with Fairchild & Wells, Inc. dba Fairchild & Associates with any non-substantial changes as approved by the NCPA General Counsel, which shall not exceed \$500,000 over five years for well inspections and testing services for use at all facilities owned and/or operated by NCPA.

PASSED, ADOPTED and APPROVED this ____ day of _____, 2018 by the following vote on roll call:

	<u>Vote</u>	<u>Abstained</u>	<u>Absent</u>
Alameda	_____	_____	_____
BART	_____	_____	_____
Biggs	_____	_____	_____
Gridley	_____	_____	_____
Healdsburg	_____	_____	_____
Lodi	_____	_____	_____
Lompoc	_____	_____	_____
Palo Alto	_____	_____	_____
Port of Oakland	_____	_____	_____
Redding	_____	_____	_____
Roseville	_____	_____	_____
Santa Clara	_____	_____	_____
Shasta Lake	_____	_____	_____
Truckee Donner	_____	_____	_____
Ukiah	_____	_____	_____
Plumas-Sierra	_____	_____	_____

BOB LINGL
CHAIR

ATTEST:

CARY A. PADGETT
ASSISTANT SECRETARY



**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.
- 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. Intentionally Omitted

4.4.5 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 ensures 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:

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.

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

NORTHERN CALIFORNIA POWER AGENCY

FAIRCHILD & WELLS, INC., dba
FAIRCHILD & ASSOCIATES

Date _____

Date _____

RANDY S. HOWARD,
General Manager

JAMES W. FAIRCHILD,
President

Attest:

Assistant Secretary of the Commission

Approved as to Form:

Jane E. Luckhardt, General Counsel

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.

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
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Expenses at cost plus 10.0%

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.



Commission Staff Report

Date: September 19, 2018

COMMISSION MEETING DATE: September 28, 2018

SUBJECT: Nozomi Networks, Inc. – Five Year Multi-Task Consulting Services Agreement for cyber security consulting, vulnerability testing and solutions; Applicable to the following projects: All NCPA Facility Locations, Members, SCPPA and SCPPA Members

AGENDA CATEGORY: Consent

FROM:	Ken Speer <i>KS</i>	METHOD OF SELECTION:
	Assistant General Manager	N/A
Division:	Generation Services	<i>If other, please describe:</i>
Department:	Hydroelectric	

IMPACTED MEMBERS:		
All Members <input checked="" type="checkbox"/>	City of Lodi <input type="checkbox"/>	City of Shasta Lake <input type="checkbox"/>
Alameda Municipal Power <input type="checkbox"/>	City of Lompoc <input type="checkbox"/>	City of Ukiah <input type="checkbox"/>
San Francisco Bay Area Rapid Transit <input type="checkbox"/>	City of Palo Alto <input type="checkbox"/>	Plumas-Sierra REC <input type="checkbox"/>
City of Biggs <input type="checkbox"/>	City of Redding <input type="checkbox"/>	Port of Oakland <input type="checkbox"/>
City of Gridley <input type="checkbox"/>	City of Roseville <input type="checkbox"/>	Truckee Donner PUD <input type="checkbox"/>
City of Healdsburg <input type="checkbox"/>	City of Santa Clara <input type="checkbox"/>	Other <input type="checkbox"/>
<i>If other, please specify</i>		

RECOMMENDATION:

Approval of Resolution 18-77 authorizing the General Manager or his designee to enter into a Multi-Task Consulting Services Agreement with Nozomi Networks, Inc. for cyber security consulting, and 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 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 its ability to defend critical 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 on the concept of continuous monitoring of operational technology, specifically monitoring NCPA’s systems for potential threats as well as any credible threats or security breaches made.

After review of the study results, Nozomi Networks emerged as a 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.

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.

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 in place an enabling agreement with Siemens Energy, Inc. 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.

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.

COMMITTEE REVIEW:

The recommendation above was reviewed by the Facilities Committee on September 5, 2018, and was recommended for Commission approval on Consent Calendar.

The recommendation above was reviewed by the Lodi Energy Center Project Participant Committee on September 10, 2018, and was approved.

Respectfully submitted,

A handwritten signature in blue ink, appearing to read "Randy S. Howard".

RANDY S. HOWARD
General Manager

Attachments (2):

- Resolution
- Multi-Task Consulting Services Agreement with Nozomi Networks, Inc.

RESOLUTION 18-77

**RESOLUTION OF THE NORTHERN CALIFORNIA POWER AGENCY
APPROVING A MULTI-TASK CONSULTING SERVICES AGREEMENT WITH
NOZOMI NETWORKS, INC.**

(reference Staff Report #201:18)

WHEREAS, NCPA has endeavored to take a proactive approach to mitigating cyber security threats against Agency assets; and

WHEREAS, NCPA has conducted a thorough evaluation of vendors in the cyber security monitoring space based on vendor technical competence, capabilities, scalability, and agility in keeping pace with the ever-changing cyber security landscape; and

WHEREAS, Nozomi Networks, Inc. is a reputable, proven provider of these services; and

WHEREAS, NCPA seeks to enter into a Multi-Task Consulting Services Agreement with Nozomi Networks, Inc. to provide such services as needed at all NCPA facility locations, Members, SCPPA, and SCPPA Member facilities in an amount not to exceed \$500,000; and

WHEREAS, 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; and

NOW, THEREFORE BE IT RESOLVED, that the Commission of the Northern California Power Agency authorizes the General Manager or his designee to enter into a Multi-Task Consulting Services Agreement with Nozomi Networks, Inc. with any non-substantial changes as approved by the NCPA General Counsel, which shall not exceed \$500,000 over five years for cyber security consulting, vulnerability testing and solutions 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.

PASSED, ADOPTED and APPROVED this ____ day of _____, 2018 by the following vote on roll call:

	<u>Vote</u>	<u>Abstained</u>	<u>Absent</u>
Alameda	_____	_____	_____
San Francisco BART	_____	_____	_____
Biggs	_____	_____	_____
Gridley	_____	_____	_____
Healdsburg	_____	_____	_____
Lodi	_____	_____	_____
Lompoc	_____	_____	_____
Palo Alto	_____	_____	_____
Port of Oakland	_____	_____	_____
Redding	_____	_____	_____
Roseville	_____	_____	_____
Santa Clara	_____	_____	_____
Shasta Lake	_____	_____	_____
Truckee Donner	_____	_____	_____
Ukiah	_____	_____	_____
Plumas-Sierra	_____	_____	_____

BOB LINGL
CHAIR

ATTEST: _____
CARY A. PADGETT
ASSISTANT SECRETARY



**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.

4.4.5 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 ensures 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:

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 SCPA 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

NOZOMI NETWORKS INC.

Date _____

Date _____

RANDY HOWARD, General Manager

EDGARD CAPDEVIELLE, CEO

Attest:

Assistant Secretary of the Commission

Approved as to Form:

Jane E. Luckhardt, General Counsel

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.



Commission Staff Report

Date September 19, 2018

COMMISSION MEETING DATE: September 28, 2018

SUBJECT: Petrochem Insulation, Inc. – Five Year Multi-Task General Services Agreement; Applicable to the following Projects: All NCPA Facility Locations, Members, SCPPA, and SCPPA Members.

AGENDA CATEGORY: Consent

FROM:	Ken Speer <i>KS</i>	METHOD OF SELECTION:
	Assistant General Manager	N/A
Division:	Generation Services	<i>If other, please describe:</i>
Department:	Geothermal	

IMPACTED MEMBERS:

All Members	<input checked="" type="checkbox"/>	City of Lodi	<input type="checkbox"/>	City of Shasta Lake	<input type="checkbox"/>
Alameda Municipal Power	<input type="checkbox"/>	City of Lompoc	<input type="checkbox"/>	City of Ukiah	<input type="checkbox"/>
San Francisco Bay Area Rapid Transit	<input type="checkbox"/>	City of Palo Alto	<input type="checkbox"/>	Plumas-Sierra REC	<input type="checkbox"/>
City of Biggs	<input type="checkbox"/>	City of Redding	<input type="checkbox"/>	Port of Oakland	<input type="checkbox"/>
City of Gridley	<input type="checkbox"/>	City of Roseville	<input type="checkbox"/>	Truckee Donner PUD	<input type="checkbox"/>
City of Healdsburg	<input type="checkbox"/>	City of Santa Clara	<input type="checkbox"/>	Other	<input type="checkbox"/>

If other, please specify

RECOMMENDATION:

Approval of Resolution 18-78 authorizing the General Manager or his designee to enter into a Multi-Task General Services Agreement with Petrochem Insulation, Inc. for maintenance services, including insulation on steam piping and tanks, noise abatement, scaffolding, and fireproofing, 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.

FISCAL IMPACT:

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 in place agreements for similar services with Sunshine Metal Clad, Ernie & Sons Scaffolding dba Unique Scaffolding, and Brand Energy 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.

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.

COMMITTEE REVIEW:

The recommendation above was reviewed by the Facilities Committee on September 5, 2018, and was recommended for Commission approval on Consent Calendar.

The recommendation above was reviewed by the Lodi Energy Center Project Participant Committee on September 10, 2018, and was approved.

Respectfully submitted,

A handwritten signature in blue ink that reads "Randy S. Howard". The signature is written in a cursive style with a large initial 'R'.

RANDY S. HOWARD
General Manager

Attachments: (2)

- Resolution
- Multi-Task General Services Agreement with Petrochem Insulation, Inc.

RESOLUTION 18-78

**RESOLUTION OF THE NORTHERN CALIFORNIA POWER AGENCY
APPROVING A MULTI-TASK GENERAL SERVICES AGREEMENT WITH PETROCHEM
INSULATION, INC.**

(reference Staff Report #202:18)

WHEREAS, insulation maintenance services, including insulation on steam piping and tanks, noise abatement, scaffolding, and fireproofing 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; and

WHEREAS, Petrochem Insulation, Inc. is a provider of these services; and

WHEREAS, NCPA seeks to enter into a Multi-Task General Services Agreement with Petrochem Insulation, Inc. to provide such services as needed at all NCPA Generation facility locations, Member, SCPPA, and SCPPA Member facilities in an amount not to exceed \$500,000 over five years; and

WHEREAS, 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; and

NOW, THEREFORE BE IT RESOLVED, that the Commission of the Northern California Power Agency authorizes the General Manager or his designee to enter into a Multi-Task General Services Agreement with Petrochem Insulation, Inc. with any non-substantial changes as approved by the NCPA General Counsel, which shall not exceed \$500,000 over five years for insulation maintenance, including insulation on steam piping and tanks, noise abatement, scaffolding, and fireproofing, 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.

PASSED, ADOPTED and APPROVED this ____ day of _____, 2018 by the following vote on roll call:

	<u>Vote</u>	<u>Abstained</u>	<u>Absent</u>
Alameda	_____	_____	_____
San Francisco BART	_____	_____	_____
Biggs	_____	_____	_____
Gridley	_____	_____	_____
Healdsburg	_____	_____	_____
Lodi	_____	_____	_____
Lompoc	_____	_____	_____
Palo Alto	_____	_____	_____
Port of Oakland	_____	_____	_____
Redding	_____	_____	_____
Roseville	_____	_____	_____
Santa Clara	_____	_____	_____
Shasta Lake	_____	_____	_____
Truckee Donner	_____	_____	_____
Ukiah	_____	_____	_____
Plumas-Sierra	_____	_____	_____

BOB LINGL
CHAIR

ATTEST:

CARY A. PADGETT
ASSISTANT SECRETARY



**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/> 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, SCSPPA or SCSPPA 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

Petrochem – Hourly Labor Rates

Straight Time	2018	2019	2020	2021	2022
Superintendent	\$120	\$126	\$135	\$140	\$145
Foreman	\$115	\$120	\$126	\$135	\$140
Journeyman	\$110	\$115	\$120	\$125	\$130
Overtime	2018	2019	2020	2021	2022
Superintendent	\$165	\$175	\$182	\$192	\$200
Foreman	\$160	\$170	\$176	\$185	\$195
Journeyman	\$155	\$155	\$160	\$165	\$170
Double Time	2018	2019	2020	2021	2022
Superintendent	\$215	\$225	\$240	\$250	\$260
Foreman	\$210	\$220	\$230	\$245	\$255
Journeyman	\$205	\$215	\$226	\$238	\$250

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 SCPA 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 – NOT APPLICABLE

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)



Commission Staff Report

Date September 19, 2018

COMMISSION MEETING DATE: September 28, 2018

SUBJECT: Rodney Bray – Five Year Multi-Task Consulting Services Agreement for assisting in development of new or production well workovers, interpretation of well analysis reports and supervision during drilling operations. Applicable to the following projects: All NCPA Facility Locations.

AGENDA CATEGORY: Consent

FROM:	Ken Speer <i>KS</i>	METHOD OF SELECTION:
	Assistant General Manager	N/A
Division:	Generation Services	<i>If other, please describe:</i>
Department:	Geothermal	

IMPACTED MEMBERS:		
All Members	<input type="checkbox"/>	City of Lodi <input checked="" type="checkbox"/>
Alameda Municipal Power	<input checked="" type="checkbox"/>	City of Shasta Lake <input type="checkbox"/>
San Francisco Bay Area Rapid Transit	<input checked="" type="checkbox"/>	City of Lompoc <input checked="" type="checkbox"/>
City of Biggs	<input checked="" type="checkbox"/>	City of Palo Alto <input checked="" type="checkbox"/>
City of Gridley	<input checked="" type="checkbox"/>	City of Redding <input type="checkbox"/>
City of Healdsburg	<input checked="" type="checkbox"/>	City of Roseville <input checked="" type="checkbox"/>
		City of Santa Clara <input checked="" type="checkbox"/>
		Plumas-Sierra REC <input checked="" type="checkbox"/>
		Port of Oakland <input type="checkbox"/>
		Truckee Donner PUD <input type="checkbox"/>
		Other <input checked="" type="checkbox"/>
	<i>If other, please specify</i>	Azusa, California Department of Water Resources, Modesto Irrigation District, Power & Water Resources Pooling Authority, and Turlock

RECOMMENDATION:

Approval of Resolution 18-79 authorizing the General Manager or his designee to enter into a Multi-Task Consulting Services Agreement with Rodney Bray for assisting in development of new or production well workovers, 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.

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.

FISCAL IMPACT:

Upon execution, the total cost of the agreement is not to exceed \$500,000 to be used out of the NCPA approved budget. Purchase orders referencing the terms and conditions of the Agreement will be issued following NCPA procurement policies and procedures.

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, including Geothermal Resource Group, Steve Gamble, and Keith Powers, and will seek 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.

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.

COMMITTEE REVIEW:

The recommendation above was reviewed by the Facilities Committee on September 5, 2018, and was recommended for Commission approval on Consent Calendar.

The recommendation above was reviewed by the Lodi Energy Center Project Participant Committee on September 10, 2018, and was approved.

Respectfully submitted,



RANDY S. HOWARD
General Manager

Attachments (2):

- Resolution
- Multi-Task Consulting Services Agreement with Rodney Bray

RESOLUTION 18-79

**RESOLUTION OF THE NORTHERN CALIFORNIA POWER AGENCY
APPROVING A MULTI-TASK CONSULTING SERVICES AGREEMENT WITH
RODNEY BRAY**

(reference Staff Report #203:18)

WHEREAS, assisting in development of new or production well workovers, interpretation of well analysis reports and supervision during drilling operations are periodically required at the facilities owned and/or operated by Northern California Power Agency (NCPA); and

WHEREAS, Rodney Bray is a provider of these services; and

WHEREAS, NCPA seeks to enter into a Multi-Task Consulting Services Agreement with Rodney Bray to provide such services as needed at all NCPA Generation facility locations in an amount not to exceed \$500,000 over five years; and

WHEREAS, 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; and

NOW, THEREFORE BE IT RESOLVED, that the Commission of the Northern California Power Agency authorizes the General Manager or his designee to enter into a Multi-Task Consulting Services Agreement with Rodney Brays with any non-substantial changes as approved by the NCPA General Counsel, which shall not exceed \$500,000 over five years for assisting in development of new or production well workover, interpretation of well analysis reports and supervision during drilling operations for use at all facilities owned and/or operated by NCPA.

PASSED, ADOPTED and APPROVED this ____ day of _____, 2018 by the following vote on roll call:

	<u>Vote</u>	<u>Abstained</u>	<u>Absent</u>
Alameda	_____	_____	_____
San Francisco BART	_____	_____	_____
Biggs	_____	_____	_____
Gridley	_____	_____	_____
Healdsburg	_____	_____	_____
Lodi	_____	_____	_____
Lompoc	_____	_____	_____
Palo Alto	_____	_____	_____
Port of Oakland	_____	_____	_____
Redding	_____	_____	_____
Roseville	_____	_____	_____
Santa Clara	_____	_____	_____
Shasta Lake	_____	_____	_____
Truckee Donner	_____	_____	_____
Ukiah	_____	_____	_____
Plumas-Sierra	_____	_____	_____

BOB LINGL
CHAIR

ATTEST:

CARY A. PADGETT
ASSISTANT SECRETARY



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.
- 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. Intentionally Omitted

4.4.5 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 ensures 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.

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 and/or operated by the Agency.

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

- 24 hours per day drilling supervision = \$1,500 per day.
Note: Daily rate includes vehicle mileage and meal allowance.
- 12 hours per day drilling supervision = \$1,250 per day
- Any approved expenses will be added to invoice at cost with receipts.
- 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

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.



Commission Staff Report

Date: September 19, 2018

COMMISSION MEETING DATE: September 28, 2018

SUBJECT: Western Hydrologics, LLP – Five Year Multi-Task Consulting Services Agreement for environmental regulatory compliance reporting, forecasting/modeling and design services; Applicable to the following projects: All NCPA Facility Locations, Members, SCPPA and SCPPA Members

AGENDA CATEGORY: Consent

FROM:	Ken Speer <i>KS</i>	METHOD OF SELECTION:
	Assistant General Manager	N/A
Division:	Generation Services	<i>If other, please describe:</i>
Department:	Hydroelectric	

IMPACTED MEMBERS:		
All Members	<input checked="" type="checkbox"/>	City of Lodi <input type="checkbox"/>
Alameda Municipal Power	<input type="checkbox"/>	City of Shasta Lake <input type="checkbox"/>
San Francisco Bay Area Rapid Transit	<input type="checkbox"/>	City of Lompoc <input type="checkbox"/>
City of Biggs	<input type="checkbox"/>	City of Palo Alto <input type="checkbox"/>
City of Gridley	<input type="checkbox"/>	City of Redding <input type="checkbox"/>
City of Healdsburg	<input type="checkbox"/>	City of Roseville <input type="checkbox"/>
		City of Santa Clara <input type="checkbox"/>
		Plumas-Sierra REC <input type="checkbox"/>
		Port of Oakland <input type="checkbox"/>
		Truckee Donner PUD <input type="checkbox"/>
		Other <input type="checkbox"/>
<i>If other, please specify</i>		

RECOMMENDATION:

Approval of Resolution 18-80 authorizing the General Manager or his designee to enter into a Multi-Task Consulting Services Agreement with Western Hydrologics, LLP for regulatory compliance advice and complex engineering modeling services, 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:

Western Hydrologics, LLP principals Jeffrey Meyer and Jared Emery (formerly of ECORP Consulting) have formed their own company. While Western Hydrologics is a new entity, the founders have extensive experience in the environmental compliance space dating back to 1987, and have worked with NCPA for the last five years at ECORP Consulting. Recent NCPA work performed by Jeffrey Meyer and Jared Emery includes an operations forecasting model applicable to the North Fork Stanislaus River to produce runoff forecasts to aid in planning water releases. Approval of the Western Hydrologics agreement would allow NCPA to continue using the proven expertise of its founders.

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.

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 in place other enabling agreements for similar services with HDR Engineering, and WEST Consultants, and seeks bids from multiple qualified providers when 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.

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.

COMMITTEE REVIEW:

The recommendation above was reviewed by the Facilities Committee on September 5, 2018, and was recommended for Commission approval on Consent Calendar.

The recommendation above was reviewed by the Lodi Energy Center Project Participant Committee on September 10, 2018, and was approved.

Respectfully submitted,

A handwritten signature in blue ink, appearing to read "Randy S. Howard".

RANDY S. HOWARD
General Manager

Attachments (2):

- Resolution
- Multi-Task Consulting Services Agreement with Western Hydrologics, LLP

RESOLUTION 18-80

**RESOLUTION OF THE NORTHERN CALIFORNIA POWER AGENCY
APPROVING A MULTI-TASK CONSULTING SERVICES AGREEMENT WITH
WESTERN HYDROLOGICS, LLP**

(reference Staff Report #204:18)

WHEREAS, monitoring of environmental regulatory activities at the State Water Resources Control Board (SWRCB), runoff modeling, power generation modeling, and development of technical documents, reports and presentations are periodically required to assist in decision making and mitigation of risk at the facilities owned and/or operated by the Northern California Power Agency (NCPA), its Members, the Southern California Public Power Authority (SCPPA), and SCPPA Members; and

WHEREAS, Western Hydrologics, LLP is a provider of these services; and

WHEREAS, NCPA seeks to enter into a Multi-Task Consulting Services Agreement with Western Hydrologics, LLP to provide such services as needed at all NCPA facility locations, Members, SCPPA, and SCPPA Member facilities in an amount not to exceed \$1,000,000; and

WHEREAS, 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; and

NOW, THEREFORE BE IT RESOLVED, that the Commission of the Northern California Power Agency authorizes the General Manager or his designee to enter into a Multi-Task Consulting Services Agreement with Western Hydrologics, LLP with any non-substantial changes as approved by the NCPA General Counsel, which shall not exceed \$1,000,000 over five years for forecasting, modeling and other informational tools 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.

PASSED, ADOPTED and APPROVED this ____ day of _____, 2018 by the following vote on roll call:

	<u>Vote</u>	<u>Abstained</u>	<u>Absent</u>
Alameda	_____	_____	_____
San Francisco BART	_____	_____	_____
Biggs	_____	_____	_____
Gridley	_____	_____	_____
Healdsburg	_____	_____	_____
Lodi	_____	_____	_____
Lompoc	_____	_____	_____
Palo Alto	_____	_____	_____
Port of Oakland	_____	_____	_____
Redding	_____	_____	_____
Roseville	_____	_____	_____
Santa Clara	_____	_____	_____
Shasta Lake	_____	_____	_____
Truckee Donner	_____	_____	_____
Ukiah	_____	_____	_____
Plumas-Sierra	_____	_____	_____

BOB LINGL
CHAIR

ATTEST:

CARY A. PADGETT
ASSISTANT SECRETARY



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, SCPA or SCPA 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 ensures 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

WESTERN HYDROLOGICS, LLP

Date _____

Date _____

RANDY HOWARD, General Manager

JEFFREY K. MEYER, Principal

Attest:

Assistant Secretary of the Commission

Approved as to Form:

Jane E. Luckhardt, General Counsel

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:



"Attachment A"

RATE SCHEDULE FOR PROFESSIONAL SERVICES¹

Project Principal	\$200.00
Senior Water Resources Engineer	\$175.00

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.

¹ 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.



Commission Staff Report

Date: September 17, 2018

COMMISSION MEETING DATE: September 28, 2018

SUBJECT: MFP Connect, LLC – Five Year Multi-Task Consulting Services Agreement for Energy Workforce Services on an Interim Basis and To Mentor Staff for Success in Public Power

AGENDA CATEGORY: Consent

FROM:	Monty Hanks <i>N/A</i>	METHOD OF SELECTION:
	CFO/Assistant General Mgr.	N/A
Division:	Administrative Services	
Department:	Accounting & Finance	

IMPACTED MEMBERS:		
All Members	<input checked="" type="checkbox"/>	
Alameda Municipal Power	<input type="checkbox"/>	City of Lodi <input type="checkbox"/>
San Francisco Bay Area Rapid Transit	<input type="checkbox"/>	City of Lompoc <input type="checkbox"/>
City of Biggs	<input type="checkbox"/>	City of Palo Alto <input type="checkbox"/>
City of Gridley	<input type="checkbox"/>	City of Redding <input type="checkbox"/>
City of Healdsburg	<input type="checkbox"/>	City of Roseville <input type="checkbox"/>
		City of Santa Clara <input type="checkbox"/>
		City of Shasta Lake <input type="checkbox"/>
		City of Ukiah <input type="checkbox"/>
		Plumas-Sierra REC <input type="checkbox"/>
		Port of Oakland <input type="checkbox"/>
		Truckee Donner PUD <input type="checkbox"/>
		Other <input type="checkbox"/>
		<i>If other, please specify</i>

RECOMMENDATION:

Approval of Resolution 18-81 authorizing the General Manager or his designee to enter into a Multi-Task Consulting Services Agreement with MFP Connect, LLC (a Hometown Connections, Inc. partner) 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.

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.

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.

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.

COMMITTEE REVIEW:

The recommendation above was reviewed by the Facilities Committee on September 5, 2018, and was recommended for Commission approval on the Consent calendar.

The recommendation above was reviewed by the Lodi Energy Center Project Participant Committee on September 10, 2018, and was approved.

Respectfully submitted,



RANDY S. HOWARD
General Manager

Attachments: (2)

- Resolution
- Multi-Task Consulting Services Agreement with MFP Connect, LLC

RESOLUTION 18-81

**RESOLUTION OF THE NORTHERN CALIFORNIA POWER AGENCY
APPROVAL OF MULTI-TASK CONSULTING SERVICES AGREEMENT WITH
MFP CONNECT, LLC**

(reference Staff Report #205:18)

WHEREAS, NCPA seeks to provide options to meet the challenges it faces to fill vacant positions and transfer specialized knowledge as a result of the increase in retirements from the aging work force and fewer replacement workers in specialized areas and craft positions; and

WHEREAS, MFP Connect, LLC (a Hometown Connections, Inc. partner) 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; and

WHEREAS, NCPA seeks to enter into a Multi-Task Consulting Services Agreement with MFP Connect, LLC to provide such services as needed at all NCPA facility locations, Member locations, SCPPA, and SCPPA Member facilities in an amount not to exceed \$1,000,000 over five years; and

WHEREAS, 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; and

NOW, THEREFORE BE IT RESOLVED, that the Commission of the Northern California Power Agency authorizes the General Manager or his designee to enter into a Multi-Task Consulting Services Agreement with MFP Connect, LLC for the provision of energy workforce services 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.

PASSED, ADOPTED and APPROVED this ____ day of _____, 2018, by the following vote on roll call:

	<u>Vote</u>	<u>Abstained</u>	<u>Absent</u>
Alameda	_____	_____	_____
San Francisco BART	_____	_____	_____
Biggs	_____	_____	_____
Gridley	_____	_____	_____
Healdsburg	_____	_____	_____
Lodi	_____	_____	_____
Lompoc	_____	_____	_____
Palo Alto	_____	_____	_____
Port of Oakland	_____	_____	_____
Redding	_____	_____	_____
Roseville	_____	_____	_____
Santa Clara	_____	_____	_____
Shasta Lake	_____	_____	_____
Truckee Donner	_____	_____	_____
Ukiah	_____	_____	_____
Plumas-Sierra	_____	_____	_____

BOB LINGL
CHAIR

ATTEST: _____
CARY A. PADGETT
ASSISTANT SECRETARY



**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, including by payment of the maximum compensation to Consultant pursuant to Section 2, 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 on Services performed by Consultant under this Agreement.

2.4 Authorization to Perform Services. The Consultant is not authorized or obligated 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, including Exhibit A, 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 an "occurrence" basis, or if "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 ensures 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, its Members, Southern California Public

Power Authority (SCPPA) or SCPPA members, as applicable. 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 are 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 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, 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 requirement 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.